



Appeal Decision

Site visits made on 17 and 18 September 2025

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2025

Appeal Ref: APP/Z2260/W/25/3362059

Kent House Nursing Home, Fairfield Road, Broadstairs, Kent CT10 2JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs I Toot against the decision of Thanet District Council.
 - The application Ref is F/TH/24/0302.
 - The development proposed is 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.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site lies within the zone of influence (Zoi) of the Thanet Coast and Sandwich Bay Special Protection Area and Ramsar site ("the SPA"), which is a habitats site subject to statutory protection under the Conservation of Habitats and Species Regulations 2017, as amended ("the Regulations").
3. Those Regulations place a statutory duty on me as the Competent Authority (CA) to consider the effects of the appeal proposal on the nature conservation interests of the SPA. In discharging my duty, I must undertake an Appropriate Assessment (AA) and be satisfied beyond all reasonable scientific doubt that the appeal proposal would not result in an adverse effect on the integrity of the SPA.
4. Through my AA, I sought the views of Natural England (NE) as the appropriate nature conservation body for the SPA. The main parties were given an opportunity to respond to NE's comments. Therefore, I am satisfied that their interests have not been unfairly prejudiced by my taking account of NE's comments in determining the appeal. This is reflected in my main issues below.

Main Issues

5. The main issues in this appeal are:
 - Whether the proposed development would affect the integrity of the SPA.
 - The effect of the proposed development on highway safety and the efficient operation of the highway network with particular regard to vehicle parking provision.
 - The effect of the proposed development on the living conditions of occupiers of nearby properties with particular regard to noise and disturbance.

Reasons

The integrity of the SPA

6. The SPA is habitat supporting large populations of internationally important migratory birds, in particular over-wintering Turnstones and Golden Plover. Occupiers of new housing development within its Zol are expected to visit the coastline for recreational purposes, causing increased disturbance to those internationally important populations of bird species. This has been shown to cause declining populations and harm to the integrity of the SPA, contrary to the nature conservation objectives of maintaining or restoring its natural habitats and species at favourable statuses.
7. The appeal property is described as a care home and specifically a nursing home. The Use Classes Order describes a Class C2 use as for the provision of residential accommodation and care to people in need of care including as a hospital or nursing home. In my judgement it is highly unlikely that residents of the Class C2 care home would visit the coastline with any degree of regularity and undertake the kind of activities likely to cause recreational disturbance to bird populations in the SPA.
8. Compared to the existing care home use, it is reasonable to suppose that occupants of the proposed House in Multiple Occupation (HMO) would be far more likely to visit the SPA for recreational purposes, even if occupancy levels were no greater. The Council's decision to seek financial contributions towards Library services is a strong indicator that occupiers of the proposed HMO are expected to travel and make use of the infrastructure, facilities and services in the wider area.
9. Consequently, occupation of the HMO would be likely to have a significant adverse effect on the integrity of the nature conservation interests of the SPA, both on its own and cumulatively with other housing developments in the Zol. NE has reached a similar conclusion on this matter, and it is my duty as the CA to determine through my AA whether I have certainty that measures could be put in place to avoid or mitigate those likely significant adverse effects.
10. Through Policies SP28 and SP29, the Thanet District Council Local Plan, Adopted July 2020 ("the TDCLP"), requires new residential development to mitigate its recreational pressure on habitats sites which are given the highest levels of protection. This would be achieved through securing a financial contribution towards funding the delivery of the strategic mitigation strategy in the Council's Strategic Access Management and Monitoring Plan (SAMMP).
11. However, as there is no mechanism before me to secure the requisite financial contribution towards the delivery of the SAMMP, I cannot be certain that the strategic mitigation measures would be properly secured to avoid or mitigate the likely significant adverse effects on the SPA that would arise from the appeal development's occupation. Therefore, in discharging my duty as CA under the Regulations, I am unable to conclude that the proposal would avoid or mitigate harm to the integrity of the SPA, either alone or cumulatively with other housing developments.
12. The appellants' draft Unilateral Undertaking does not intend to secure a financial contribution towards the SAMMP and has not been executed. In the context of the

Planning Practice Guidance¹, there are no exceptional circumstances that would justify imposing a planning condition to secure a planning obligation. Under the appeals procedural guide² there are no very exceptional circumstances to justify delaying a decision on this appeal to wait for a suitable planning obligation to be drafted and executed.

13. I therefore conclude through my AA that without securing the necessary mitigation the proposed development would have an adverse effect on the nature conservation interests of the SPA as a protected habitats site. No other solutions, imperative reasons of overriding public interest, or other compensatory measures have been put forward by the appellants as alternatives.
14. Consequently, the proposal would conflict with TDCLP Policies SP28 and SP29, the requirements of which are set out above, and Paragraphs 187 and 193 of the National Planning Policy Framework ("the Framework"), which require decisions to protect sites of biodiversity value and to refuse planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated, or as a last resort compensated for.

Parking and Highway safety

15. The appeal site is located in a predominantly residential area that is suburban in character and includes schools. The nearby bus stops, footpaths and a cycle lane would provide realistic opportunities for the occupiers of the proposed HMO to meet their day-to-day travel needs. As such, not owning a car would be a realistic option for future occupiers of the appeal development.
16. In accordance with Kent County Council parking standards, parking provision for HMOs is to be determined on an individual basis. This accords with Framework paragraph 112 which states that local parking standards should take account of amongst others, car ownership levels, public transport availability and accessibility.
17. To estimate likely levels of car ownership at the proposed HMO, the appellants' Parking Beat Survey (PBS) used census data of actual car ownership at flats in the local area as a proxy. This indicates that car ownership at the proposed HMO would equate to around 10 vehicles, which Kent County Council as Local Highways Authority (LHA) has described as a robust figure. Given the location of the appeal site and its accessibility to services and facilities in the town, I find no compelling basis to disagree. I therefore give considerably greater weight to the appellants' figure of likely car ownership than to the Council's approach which presumed that each occupant will have access to a car that needs to be parked in the locality, plus those of their visitors.
18. Based on the PBS, the proposed HMO would be expected to displace some 3 parked vehicles onto the public highway that could not be accommodated on the appeal site. The PBS followed the Lambeth method, which is preferred by the LHA for this area. Interested parties dispute its relevance to Broadstairs and draw my attention to other methodologies from across the country. However, the differences between them appear modest and I find no compelling reason to depart from the Lambeth methodology.

¹ Paragraph: 010 Reference ID: 21a-010-20190723

² Paragraph 18.2.1 of the Procedural Guide: Planning appeals – England

19. The PBS counted unrestricted parking spaces on nearby roads, including Fairfield Park and Fairacre. I saw vehicles parked on those roads. However, for the reasons given by the LHA, and in taking a precautionary approach, I have excluded the unrestricted parking spaces on all roads except for Fairfield Road.
20. The PBS identified space along Fairfield Road to accommodate a sizeable number of parked vehicles. Having visited the area of the appeal site I see no reason to disagree. Interested parties consider that parking spaces on the eastern side of the road between the junctions with Fairfield Park and Fair Street should be discounted as vehicles parked on them would lead to congestion and harm to highway safety. I shall have regard to those matters later in this decision. Nonetheless, those spaces are available for vehicle parking.
21. The highest number of parked vehicles recorded on Fairfield Road in a single hour by the PBS was 12 ("the peak hour"). This appears likely to reflect vehicles being parked whilst collecting children from nearby schools. At all other times, significantly fewer vehicles were parked on the road, which is unsurprising given that most homes in the area have off-street parking on driveways. Even accounting for the 3 vehicles expected to be displaced onto Fairfield Road by the appeal development, the PBS shows that parking stress would remain well below the level of 85% that is generally accepted to represent a high level of parking stress.
22. Whilst the parking conditions I observed during my site visits can only represent a snapshot in time, the number of parked vehicles I counted correlates strongly with the PBS. During my first visit to the appeal site on an early afternoon I counted 7 vehicles parked on Fairfield Road within the PBS area. My second visit was in the morning lasting from around 0745 to 0915 hours, during which I saw large numbers of young people walking towards the schools with a good number cycling in the cycle lane. At the start of that second visit no vehicles were parked on Fairfield Road. By the end of my visit 7 vehicles were parked on the road without occupants in them. I deal with short duration school drop-off parking below.
23. Based on the evidence before me the Council's estimate of the number of parking spaces required by future occupants of the proposed development and their visitors appears unrealistic. Nonetheless, if the appeal development was to displace in the region of 15 vehicles onto Fairfield Road, parking stress would not exceed that considered unacceptable during the peak hour in the PBS. At all other times the number of parked vehicles counted in the PBS ranged from 3 – 7 vehicles. This indicates that Fairfield Road has capacity to accommodate a significantly greater number of parked vehicles before parking stress levels deemed unacceptable would occur. Visitor parking would reasonably be expected to be infrequent and short in duration.
24. The Council considers that the PBS fails to take account of the schools within the vicinity of the site, particularly during mornings. It has not provided evidence of academic diaries or exam timetables and therefore they have limited relevance to my assessment of this matter. Nonetheless, as I observed during my morning visit, vehicles parked whilst dropping off school children were stationary for only a very short period before being driven away. The drivers remained in their vehicles. There were in the region of 5 to 10 vehicles parked on the road at any one time whilst dropping off children. Those vehicles were dispersed along a sizeable length

of the road as opposed to being in a continuous row, leaving a sizeable number of spaces available for vehicle parking and to pass one another.

25. Some parking occurred momentarily on both sides of Fairfield Road, narrowing the width of the carriageway available for passing vehicles. This caused traffic to slow to a halt in places, creating short queues, with some vehicles having to wait for a gap in the oncoming traffic to become available before proceeding to travel along the road. By the end of my visit the short duration drop-off parking ceased. Although only a snapshot in time, I have no substantive evidence that my observations were not representative of normal conditions.
26. Parking on both sides of Fairfield Road is possible. Depending on where they are parked, the additional vehicles displaced onto the road by the appeal development could restrict the available width of the carriageway for passing vehicles. Interested parties have sought to show the effect of this by providing photographs showing how parked vehicles affected traffic flows on the section closest to the appeal site.
27. Parked vehicles interrupting and slowing the flow of traffic would be inconvenient to road users in the area. However, in my judgement the parked vehicles associated with the appeal development would not lead to a level of congestion and vehicle queuing on Fairfield Road that would amount to an unacceptably harmful effect on the free flow of traffic, nor would it result in a materially harmful effect on the safety of road users.
28. This is because such parking would be expected to be at levels based on the PBS and would affect only a short section of Fairfield Road, which I saw on my visits was subject to relatively low levels of traffic at relatively low speeds. The likely availability of parking spaces along Fairfield Road as a whole, including those indicated by the PBS, would be expected to provide gaps between parked cars for vehicles to pull into and wait for traffic to pass in the opposing direction. Space would remain for cyclists who in any case would likely use the dedicated cycle lane.
29. Although interested parties refer to Fairfield Road as frequently used as a diversionary route, the frequency of this is not substantiated by the evidence before me. Interested parties also point to the danger posed to pedestrians crossing the road between parked cars. However, the nearby signalised pedestrian crossing, which was well used during my visits, provides a safe crossing facility. Therefore, I do not consider that the parked vehicles displaced onto Fairfield Road from the appeal development would cause unacceptable harm to pedestrian safety.
30. I have limited details regarding the circumstances of a recent fatal accident near the appeal site. Unreported incidents by their very nature are not likely to be included in the publicly available statistics on road traffic collisions. As such, those incidents have limited relevance and weight to my considerations in this appeal. I have assessed the appeal proposal based on Fairfield Road as it existed at the time of my site visit. Therefore, its width prior to installation of the cycle lane has no bearing on my considerations.
31. Bringing all the above points together, I am satisfied on the evidence before me that the likely additional demand for car parking arising from the appeal development can be accommodated on the public highway without causing

unacceptable harm to highway safety, the free flow of traffic or the efficient operation of the highway network, nor would it significantly affect the ability of existing residents to park relatively close to their properties. That the LHA reached a similar conclusion on those matters carries significant weight in favour of the appeal development.

32. Consequently, the proposed development is consistent with TDCLP Policies HO19, QD02 and TP06, and Policy BSP9 of the Broadstairs and St. Peter's Neighbourhood Development Plan 2018-2031 ("the NP") insofar as HMOs will be permitted where a safe and accessible environment is provided, and where adequate on-street parking is available within the vicinity of the site having regard to parking standards, the likely accumulation of car parking, and the accessibility and availability of opportunities for public transport.
33. For the reasons given above, the appeal proposal would be consistent with Framework paragraphs 115 and 116 insofar as development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. It would also be consistent with Framework paragraph 135 insofar as it requires developments to function well, support local facilities and the transport network through optimising the potential of the site.

Living conditions

34. The area of the appeal site is suburban in character with many residential properties, including family sized homes and some sizeable flat blocks said to be occupied by older persons. The proposed HMO would be largely indistinguishable from a flat block and consistent with the residential character of the area which would be conserved.
35. Future occupiers of the proposed HMO would likely be younger and more able to travel than occupants of the care home. However, there is no basis to consider that its occupation would cause a harmful imbalance in the age profile of the local population, and the Framework encourages mixed and balanced communities. There is also no basis on the evidence before me to consider that unacceptably high levels of noise or disturbance would be inherent to the occupation of the proposed HMO.
36. The background noise environment at the appeal site comprised mostly of audible traffic noise at relatively modest levels. The day-to-day domestic activities carried out by occupiers of the proposed HMO would not be dissimilar in character to those at the existing properties in the area. Whilst they would be concentrated in a single building, it is a sizeable structure with acceptable levels of internal accommodation and suitable facilities. The appellants advise that the external spaces around the sides and rear of the building are likely to be partly closed off. However, even if the outdoor space around the building was available to future occupiers, its use for normal domestic activities would be expected to result in modest levels of noise and disturbance.
37. Compared to the care home use, future occupiers of the proposed HMO would have different daily routines. They would be likely to come and go from the property more frequently, including during the night. However, the appeal site is served by a direct access to Fairfield Road. The road is currently used by the care home and several other nearby properties, and it would be subject to a baseline

level of activity and noise from comings and goings. Given the occupancy levels of the proposed HMO, the comings and goings of its occupiers would not, in my judgement, generate harmful levels of noise and disturbance in the locality of the appeal site. For the reasons given above, occupation of the proposed HMO would not be harmful to the living conditions of occupants of nearby properties.

38. Care home occupiers and staff have views out of the windows towards nearby properties. Against that baseline position, I share the Council's assessment that similar views for the future occupants of the HMO would not lead to a harmful loss of privacy for the occupiers of nearby properties.
39. Taking all the above into consideration, I am satisfied on the evidence before me that the proposed development would not harm the living conditions of occupiers of nearby properties with particular regard to noise and disturbance, and nor would it harm the residential character of the area. Therefore, it would be consistent with TDCLP Policies HO19 and QD03, and NP Policy BSP9, insofar as development, including HMOs, will be permitted where they do not give rise to an unacceptable impact on the living conditions of neighbouring residents through noise or general disturbance, and where they conserve and enhance local character.

Other Matters

40. The matters raised by interested parties relate mostly to the Council's refusal reasons and are addressed under my main issues above. Where they do not, they are largely addressed within the Council Officer's report. As I am dismissing the appeal it is unnecessary for me to reach a finding on them as they would not have altered the outcome of the appeal.
41. The Council has advised that significant weight should be given to the effective use of the appeal land for residential accommodation and I see no reason to take a contrary view. Occupation of the proposal is also likely to bring some economic benefits through future residents spending money in the local economy. I have attached significant weight to the benefits of the appeal proposal.
42. However, occupation of the appeal development would have a significant adverse effect on the integrity of the SPA. In the absence of any compensatory measures, imperative reasons of overriding public interest to approve the development, or alternative solutions, Regulation 63(5) of the Habitats Regulations directs me to refuse planning permission. This is a determinative matter in this appeal, irrespective of the benefits of the scheme or the absence of other harms.
43. The harm to the SPA brings the proposed development into conflict with TDCLP Policies SP28 and SP29. Given the importance placed on the protection of the SPA as a habitats site, substantial weight attaches to the conflict with those policies, sufficient to bring the development into conflict with the development plan as a whole.
44. Paragraph 11 of the Framework is relevant as the Council is unable to demonstrate a 5-year supply of housing land in its area and the Housing Delivery test results show the delivery of housing has been well below the requirement. However, under Footnote 7 to Framework Paragraph 11.d)i. the proposal's adverse effect on the SPA provides a strong reason for refusing the proposed development and therefore the so called 'tilted balance' does not apply in this instance.

Conclusion

45. The proposed development would be contrary to the development plan as a whole. The material considerations, including the benefits of the proposal and the provisions of the Framework, are insufficient to outweigh that finding. Consequently, I conclude that the appeal proposal is unacceptable, and the appeal is dismissed.

G Sylvester

INSPECTOR