

**REPORT SUMMARY**

<b>REFERENCE NUMBER:</b> 23/503025/FULL		
<b>APPLICATION PROPOSAL:</b> Change of use of existing care home to 11no. residential apartments, including erection of 2no. first floor extensions, an additional rear dormer, alterations to fenestration, and associated parking, landscaping, amenity space and secure bin/cycle storage.		
<b>ADDRESS:</b> The Vale Nursing Home, 191 Willington Street, Maidstone, ME15 8ED		
<b>RECOMMENDATION: GRANT PLANNING PERMISSION subject to conditions</b>		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The development is acceptable with regards to the relevant provisions of the development plan, the NPPF and all other material considerations such as are relevant.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Call in from former ward councillor Paul Cooper if officers are minded to approve (no reason given).		
<b>WARD:</b> Shepway North	<b>PARISH/TOWN COUNCIL:</b> N/A	<b>APPLICANT:</b> Charing Vale Ltd <b>AGENT:</b> Robinson Escott Planning
<b>CASE OFFICER:</b> Francis Amekor	<b>VALIDATION DATE:</b> 25/07/23	<b>DECISION DUE DATE:</b> 30/09/24
<b>ADVERTISED AS A DEPARTURE:</b> No		

**Relevant planning history**

See Appendix 1 – Copy of Committee report from 23 May 2024 meeting.

**MAIN REPORT**

**1. BACKGROUND**

- 1.01 This application was reported to Planning Committee on 23<sup>rd</sup> May and was recommended for approval subject to conditions.
- 1.02 The original committee report which sets out the relevant planning policies, representations, officer’s appraisal and recommendation is attached as an appendix to this report.
- 1.03 The Committee resolved to defer decision on the application for the following reasons:

*i)Enable Members to consider the financial viability appraisal and the independent review of that appraisal which concluded that the scheme does not appear sufficiently viable to support a contribution towards affordable housing.*

*ii) Explore the possibility of a mechanism to prevent some future occupiers from having cars and consider what impact that would have on the parking on the site and whether that would lead to the protection of the grass verge. This to include consideration of a car scheme for occupiers with no parking spaces.*

*iii) Seek further information about the permeability of the surfacing to be used for the parking area and how that permeability will be maintained going forward.*

*iv) Negotiate the incorporation of native tree cover into the site frontage to soften the visual impact and break up the car parking.*

*iv) Negotiate integral niches for wildlife.*

*v) Explore the possibility of further native tree planting along the site boundaries, particularly along the north and northeast boundaries, to create some enclosure.*

*v) Seek further information about the renewables to be used in order to understand the design and amenity impacts.*

## **2. LOCAL REPRESENTATIONS**

### **Local residents:**

- 2.01 5 representations received objecting to the application for the following summarised reasons:
- The proposed front elevation is inaccurate and appears to be a deliberate misrepresentation of what is planned.
  - The dense "shrubbery" along the Willington Street corner is something that would take years to achieve.
  - The attractive kerb edging that we have looks as if it is to be replaced by plain standard kerbing.
  - The development would have a detrimental effect on the character of the adjacent road.

## **3. CONSULTATIONS**

- 3.01 KCC Flood and Water Management
- Responded stating '*The application under the above reference number therefore falls outside the definition of major development and also falls outside of KCC's remit as statutory consultee*'.

## **4. APPRAISAL**

- 4.01 This report seeks to address the issues as set out in the Committee minutes from the meeting on 23<sup>rd</sup> May 2024. The issues raised are considered in turn below:

*i) Enable Members to consider the financial viability appraisal and the independent review of that appraisal which concluded that the scheme does not appear sufficiently viable to support a contribution towards affordable housing.*

- 4.02 The financial viability appraisal (FVA) and independent review of that appraisal was made public on 5<sup>th</sup> September 2024. The viability appraisal and verification report are attached as an appendix to this report.

- 4.03 The appraisal identified that the scheme would make a return of 1.49%, which is below the targeted level (20%). The appraisal indicates the resulting actual return to the developer following all costs would be significantly below target return. On this basis, the report concludes *"the development cannot viably provide additional s106 contributions"*.
- 4.04 The Financial Viability Appraisal was reviewed by consultants appointed by the Council. The review found that *"although more viable than presented within the FVA, the scheme does not appear sufficiently viable to support a contribution towards affordable housing"*.
- 4.05 The conclusions drawn by the consultants 'Dixon Searle' that *"this is a result of the moderately high Benchmark Land Value -BLV for the site, relative to the proposed quantum of development and sales values that can be generated"*.
- 4.06 The scheme provides viability justification for the inability to provide the level of affordable housing contribution required by policy LPRSP10(B) of the Local Plan Review (2024). In the absence of evidence to contradict conclusions in the Financial Viability Appraisal and the conclusions of the third party assessment, it is recommend planning permission be granted without a requirement to provide affordable housing.

*ii) Explore the possibility of a mechanism to prevent some future occupiers from having cars and consider what impact that would have on the parking on the site and whether that would lead to the protection of the grass verge. This to include consideration of a car scheme for occupiers with no parking spaces.*

- 4.07 In relation to point (ii) relating to car parking, the applicant has responded: *'The application is fully supported by the highways authority. Each of the flats would be provided with its own allocated parking space and two visitor spaces are also shown. Were a section 106 agreement to be insisted upon this would not accord with paragraph 55 of the National Planning Policy Framework which states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.*

*In this case, as the application is fully supported by the highways authority in terms of the level of parking proposed, and such an agreement would not be reasonable from a planning perspective. There is no evidence available to suggest that the level of off street car parking would meet this threshold of 'severe' impact'.*

- 4.08 The applicant is therefore not agreeable to a mechanism that would prevent some future occupiers from having cars and officers do not consider such a mechanism passes the relevant tests.
- 4.09 The NPPF at paragraph 57 identifies that Planning obligations must only be sought where they meet all of the following tests:  
a) necessary to make the development acceptable in planning terms;  
b) directly related to the development; and  
c) fairly and reasonably related in scale and kind to the development.
- 4.10 In relation to the above tests, the suggested mechanism to restrict car ownership is not necessary to make the development acceptable, and it is not reasonable in relation to the scale and kind of development proposed.
- 4.11 As indicated in the main earlier officer report, the Council's adopted off street car parking standards in this sustainable location are set at a maximum level (not

minimum). The parking provision in this scheme is acceptable and complies with the standards in the Local Plan Review. Therefore, the proposals would be unlikely to generate significant additional parking demand on local roads.

- 4.12 The suggested reduction in the number of on site parking spaces provided could displace parking onto neighbouring streets which would cause inconvenience and danger to drivers and pedestrian using local roads. In conclusion, officers advise that such a mechanism to restrict car ownership is not necessary in this case, it does not meet the relevant tests and should not be pursued.

iii) Seek further information about the permeability of the surfacing to be used for the parking area and how that permeability will be maintained going forward.

- 4.13 The applicant has submitted a surface water drainage strategy which concludes a all surface water runoff from the site would be discharged via a connection to the public water sewer system located within Wellington Street.

- 4.14 Various sustainable urban drainage (SuDS) methods, including gravel paths, water butts rain gardens, permeable surfacing and geocellular storage crates, are proposed to restrict the rate at which surface water is discharged off the site.

- 4.15 A planning condition is recommended (condition 21) to ensure permeable surfacing is used for the parking area, including a scheme of maintenance. This condition shall also secure the implementation of the sustainable surface water drainage works prior to occupation of the apartments.

iv) Negotiate the incorporation of native tree cover into the site frontage to soften the visual impact and break up the car parking.

- 4.16 The applicant has submitted a revised proposed site plan which incorporates additional landscaping to break up the expanse of hardstanding parking. The revised site plan also includes the provision of a native hedgerow along the site frontage which provides a more effective screen to the car parking areas.

- 4.17 The submission indicates all existing trees at the site would be retained. Officers have requested additional tree planting within the site which is shown on the submitted plans. The indicated additional landscaping and tree planning is acceptable and would enable the development to assimilate well into the local whilst landscape whilst enhancing biodiversity.

v) Negotiate integral niches for wildlife

- 4.18 The applicant has submitted a revised Biodiversity Plan. This shows the location of a bat box, bird box, bee hotel and a log pile. The additional landscaping and tree planting would also provide some net gains for biodiversity.

- 4.19 Given the site constraints, the scope to achieve additional biodiversity enhancement is limited. The submitted details are acceptable and a planning condition is recommended (condition 5) to ensure that these features are provided.

vi) Explore the possibility of further native tree planting along the site boundaries, particularly along the north and northeast boundaries, to create some enclosure.

- 4.20 The applicant has submitted a revised proposed site plan which incorporates additional landscaping to the north and North East boundaries to enclose the car

parking area. This landscaping would assist in reducing the visual impact of the parked cars, whilst additionally enhancing biodiversity.

- 4.21 The wording of condition 7 (Landscaping) has been amended as follows:  
*"Notwithstanding the details submitted in Drawing number: BDS-VCH-P04C (Proposed Site Plan), at the end of the first planting season (October to February) following first occupation of any of the approved apartments landscaping shall be in place, and this landscaping shall be in accordance with a landscape scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The landscaping shall be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012). The landscaping shall include:*
- a) details of all existing trees, hedgerows and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed.*
  - b) details of the number, size, species, maturity, spacing and position of proposed trees and landscaping. (Including species, spacing, maturity and quantities) with new hedging at approximately 45cm spacing with 30cm between rows and consisting of 70% Hawthorn or Blackthorn, 5% Dogwood, 10% Field Maple, 10% Hazel, 2.5% Holly and 2.5% Wayfaring Tree*
  - c) a timetable of implementation of the approved scheme and*
  - d) a five [5] year landscape management plan (Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted).*
- Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development".*

*vii) Seek further information about the renewables to be used in order to understand the design and amenity impacts.*

- 4.22 The applicant has submitted a sustainability plan which confirms air source heat pumps would be installed to all ground floor flats with PV panels installed on the roof slopes to serve the first and second floor flats.
- 4.23 Within the direct sunlight range required for the PV panels to be effective, the panels are sited to reduce prominence when viewed from public vantage points. The submitted details are acceptable and it is recommended a condition is appended to ensure these are provided (condition 13).

## **5. Other matters**

- 5.01 The additional details submitted by the applicant includes a CGI of the finished frontage of the development. Objectors are concerned this is inaccurate and a deliberate misrepresentation of what is actually planned. Members are reminded officers assessment of this application is based on the submitted plans and not the CGI.
- 5.02 The details submitted shows how the parking area would be screened by additional landscape planting. Whilst this may take some time to become established this does not provide sufficient justification to refuse the application. Generally, there is a higher failure rate of planting imported at a mature age, when compared to planting established on site.
- 5.03 The other planning issues raised by neighbouring objectors are addressed in the appraisal section of the main report.

## **6. CONCLUSION**

6.01 In summary, the applicant has appropriately responded to all the reasons for deferral discussed above with submission of a Surface Water Drainage Strategy, sustainability plan, biodiversity plan and a revised proposed site plan. The details submitted are acceptable with amended and additional conditions recommended in response to them, where they pass the relevant test for conditions.

6.02 For the reasons set out in the original report the proposals are considered to comply with all relevant Development Plan policies and permission is recommended subject to conditions.

**7. RECOMMENDATION GRANT PLANNING PERMISSION subject to the following conditions**

with delegated powers to the Head of Planning and Development to be able to settle or amend any necessary planning conditions and/or informatives in line with the matters set out in the recommendation and as resolved by the Planning Committee:

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Application form

BDS-VCH-100 (Site Location Plan) BDS-VCH-P03 (Existing Elevations)

BDS-VCH-P04C (Proposed Site Plan)

BDS-VCH-P07 (Proposed Bin and Cycle Stores Floor Plan)

BDS-VCH-P08 (Biodiversity Site Plan)

BDS-VCH-P09 (Sustainability Plan)

BDS-VCH-P01 Rev A (Existing Site Plan)

BDS-VCH-P02 Rev A (Existing Floor Plans)

BDS-VCH-P04 Rev B (Proposed Site Plan)

BDS-VCH-P05 Rev B (Proposed Floor Plans)

BDS-VCH-P06 Rev B (Proposed Elevations)

Affordable Housing Statement

Surface Water Drainage Strategy

Financial Viability Appraisal

Healthcare Viability Report

Renewable Energy Statement

Acoustic Report

Reason: To ensure the quality of the development is maintained and to prevent harm to the visual amenity of the area.

3) The development hereby approved shall not commence until a Construction Management Plan for the development has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include the following details-

(a) Routing of construction and delivery vehicles to / from site

(b) Parking and turning areas for construction and delivery vehicles and site Personnel

(c) Timing of deliveries

(d) Temporary traffic management / signage (e) Measures to control dust.

(g) Measures to prevent the discharge of surface water onto the highway. The construction works shall proceed only in accordance with the approved Construction Management Plan.

Reason: In the interests of residential amenity and highway safety.

- 4) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sunday or Bank Holiday.

Reason: In the interest of the amenities of occupiers of neighbouring properties.

- 5) The materials to be used in the development hereby approved shall be as indicated in the Design and Access Statement. The materials shall be permanently retained thereafter.

Reason: To ensure a satisfactory appearance to the development.

- 6) Prior to first occupation of any of the apartments hereby approved, the on-site ecology enhancement measures shown on drawing BDS-VCH-P08 (Biodiversity Site Plan) (received on 4th July 2024), shall be in place. All features shall be retained and maintained permanently thereafter.

Reason: To enhance ecology and biodiversity on the site.

- 7) Notwithstanding the details submitted in Drawing number: BDS-VCH-P04C (Proposed Site Plan), at the end of the first planting season (October to February) following first occupation of any of the approved apartments landscaping shall be in place, that shall be in accordance with a landscape scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The landscaping shall be designed in accordance with the principles of the Council's landscape character guidance (Maidstone Landscape Character Assessment Supplement 2012). The landscaping shall include:

- a. details of all existing trees, hedgerows, and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed.
- b. details of the number, size, species, maturity, spacing and position of proposed trees and landscaping. (Including species, spacing, maturity and quantities) with new hedging at approximately 45cm spacing with 30cm between rows and consisting of 70% Hawthorn or Blackthorn, 5% Dogwood, 10% Field Maple, 10% Hazel, 2.5% Holly and 2.5% Wayfaring Tree
- c. a timetable of implementation of the approved scheme and
- d. a five [5] year landscape management plan (Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted).

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development".

- 8) Any landscaping which fails to establish or any existing or proposed trees or plants which, within five years from planting are removed, die, or become so seriously damaged or diseased that their long-term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme.

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

- 9) Prior to first occupation of any of the apartments hereby approved external amenity space shall be provided for all the apartments including.

- a. direct access from the ground floor units
- b. defensible space in front of all ground floor windows and
- c. communal space accessible for the occupiers of the apartments at first and second floor levels

The areas of approved amenity space shall be retained and maintained in accordance with the approved details.

Reason: In the interests of landscape, visual impact, and amenity of the area and to ensure a satisfactory appearance to the development.

- 10) Prior to first occupation of any of the apartments hereby approved a management plan, including management responsibilities and maintenance schedules for the open areas of the application site (excluding private amenity space) shall be submitted to, and approved in writing by, the local planning authority. The approved management plan shall be followed thereafter.

Reason To ensure the appropriate protection of wildlife and design of supporting habitat.

- 11) Prior to first occupation of any of the apartments hereby approved, the bin storage shown on the approved plans shall be in place. These details will be retained and maintained as such thereafter.

Reason: In the interests of amenity.

- 12) Prior to first occupation of any of the apartments hereby approved, a waste collection strategy shall be in place that is in accordance with details that have previously been submitted to and approved by the Local Planning Authority. The waste strategy shall set out arrangements for the collection of waste including the collection location and measures to ensure that bins are returned to the bin storage area. These details will be maintained as such thereafter. Reason: In the interests of amenity.

- 13) Prior to first occupation of any of the apartments hereby approved, a minimum of three operational electric vehicle charging points for low-emission plug-in vehicles shall be installed on the site and ready for the use by new occupants with the electric vehicle charging points thereafter retained and maintained operational as such for that purpose. The electric vehicle charging points shall be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wifi connection). Reason: To promote to promote sustainable travel choices and the reduction of CO2 emissions through use of low emissions vehicles.

- 14) Prior to first occupation of any of the apartments hereby approved, the decentralised and renewable or low-carbon sources of energy shown on drawing number: BDS-VCH-P09 (Sustainability Plan) shall be incorporated into the development hereby approved. The decentralised and renewable or low-carbon sources of energy shall be maintained thereafter.

Reason: To ensure an energy efficient form of development.

- 15) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The approved details shall be in accordance with bat conservation trust guidelines and the Institute of Lighting Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone E1. The scheme of lighting shall be installed, maintained and operated thereafter in accordance with the approved scheme.

Reason: In order to prevent undue light pollution and to protect wildlife.

- 16) Prior to the installation of any external windows a scheme to demonstrate that the internal noise levels within the residential units and the external noise levels in external amenity areas will conform to the standard identified by BS 8233 2014, Sound Insulation and Noise Reduction for Buildings - shall be submitted to and



approved in writing by the Local Planning Authority. The work specified in the approved scheme shall then be carried out in accordance with the approved details prior to occupation of the any of the relevant apartments hereby approved and retained and maintained as such thereafter.

Reason: In the interests of amenity.

- 17) Prior to first occupation of any of the apartments hereby approved, crime prevention measures shall be in place that are in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority, with the approved measures retained for the lifetime of the development.  
Reason: In the interests of amenity.
- 18) Prior to first occupation of any of the apartments hereby approved, the car and cycle parking shown on drawing BDS-VCH-P04 Rev. B (Proposed Site Plan) (received on 23rd July 2023) shall be provided and ready for use, with the car and cycle parking retained and maintained for the lifetime of the development. Reason: In the interests of amenity and sustainable travel.
- 19) Prior to the first occupation of the apartments hereby approved the parking and turning areas and cycle parking shown on drawing BDS-VCH-P04 Rev. B (Proposed Site Plan) (received on 23rd July 2023) shall be completed and thereafter shall be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them.  
Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.
- 20) The development hereby approved shall meet the higher level of water efficiency of 110 litres per person, per day as set out under the building regulations Part G2 or any superseding standard. The building shall not be occupied unless this standard has been met and this standard shall be maintained thereafter.  
Reason: To ensure a sustainable form of development.
- 21) The development hereby approved shall meet the accessible and adaptable dwellings building regulations Part M4(2) standard or any superseding standard. The dwelling shall not be occupied unless this standard has been met and the dwelling shall be thereafter retained as such.  
Reason: To ensure the development is in accordance with local and national policy and meets acceptable standards of accessible and adaptable dwellings.
- 22) None of the apartments hereby permitted shall be occupied until sustainable surface water drainage works have been implemented in accordance with details that shall have previously been submitted to and approved in writing by the local planning authority. No apartment shall be occupied until all the works necessary have been implemented in accordance with the approved details.
  - a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, including any requirement for the provision of a balancing pond and the measures taken to prevent pollution of the receiving groundwater and/or surface waters.
  - b. provide permeable surfacing for the parking area, including a scheme of maintenance.
  - c. include a timetable for its implementation in relation to the development; and,

d. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker, or any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: In the interests of pollution and flood prevention.

**INFORMATIVES**

- 1) The applicant is advised that it is their responsibility to ensure, before the development is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.
- 2) The applicant is advised that across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have highway rights' over the topsoil. Information about how to clarify the highway boundary can be found at <https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highwayland/highway-boundary-enquiries>
- 3) The applicant is advised that it is their responsibility to ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.