

Item No.	Application No. and Parish	Proposal, Location and Applicant
(1)	13/02615/COMIND Newbury Town Council	Section 73. Variation of Condition 3 [build in accord with approved plans] of planning permission reference 13/00252/comind. The Limes Guest House and 370a and 370b London Road, Newbury. Gracewell Healthcare 2 Ltd.

To view the plans and drawings relating to this application click the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=13/02615/COMIND>

Recommendation Summary: **The Head of Planning and Countryside be authorised to GRANT planning permission**

Ward Member(s): Councillors Beck and Goff.

Reason for Committee Determination: Called in by Councillor Beck given the contentious planning history of the site. Concerns from local residents at Town Council meeting in addition.

Committee Site Visit: 9th December 2013.

Contact Officer Details	
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1. Site History

13/00252/ comind. Approved June 2013. Erection of 64 bed high dependency care unit with associated works.

2. Publicity of Application

Press Notice Expired: 14/11/13

Neighbour Notification expired: 15/11/13

Site Notice Expired: 18/11/13.

3. Consultations and Representations

Newbury Town Council:	Objection / comment. Insufficient parking, future air conditioning impact, additional balconies/sun room will overlook neighbours, relocation of refuse store, scheme may now not be viable, and application should be re-submitted in its entirety.
Greenham Parish	No objections.
Thatcham Town	No objections.
Cold Ash Parish	No comments to make.
Highways:	No objections made.
Ecologist.	Additional conditions recommended regarding the protection of bats in the dwellings to be demolished, and the trees to be felled.
Tree Officer	No objections - conditional planning permission is recommended.
The Newbury Society.	Substantial changes to the original application. Whole new scheme should be considered afresh. Worried about potential parking problems around the site in the future. Failure of original applicant to consult neighbours but current applicant has done so, but some queries still remain re smells, overlooking, air conditioning, and no plans for solar panels.
Thames Water	No comments to make.
Public Protection.	No comments to make.
Correspondence	Six letters of objection received from local residents. Concerns based upon increased smells from the relocated kitchen, possible nuisance from the relocated refuse store, not enough car parking, increased overlooking from additional terrace and sun room, noise from air conditioning units, change in operator to a luxury home. Fresh application required.

4. Policy Considerations

National Planning Policy Framework 2012.

West Berkshire Core Strategy 2006 to 2026. Policies CS14, CS17, CS18.

5. Description of Development

5.1 Section 73 of the Town and Country Planning Act 1990 [as amended] allows for planning applications to be submitted in relation to existing planning permissions, where not implemented, in order to either seek deletion or variation of the condition[s] in question. Members will know that there is an extant planning permission on the site, 13/00252/comind for a 64 bed high-dependency care home. Condition 3 on that permission notes that the application must be built in strict accord with the approved plans, as attached to the permission. This applicant is now seeking to vary those plans, in order to meet the new requirements of the new owner of the site, Gracewell Healthcare, who intend to build out the permission.

5.2 The variations sought are as follows:-

- 1 - The addition of one further car parking space.
- 2 - Internal re-arrangements to accommodate 2 further bedrooms in total i.e. 66 as opposed to the permitted 64
- 3 - Internal re-arrangements to include non habitable floorspace in the second floor of the northern wing.
- 4 - Provision of two balconies at 1st floor level, including 1.8m high obscure glazing screens.
- 5 - Sun room relocated on second floor terrace.
- 6 - Some minor window locations revised.
- 7 - Provision of patio doors at ground level.
- 8 - A reduction in the buildings overall footprint on the western perimeter.

5.3 The internal re-arrangements have resulted in the kitchens and bin store being relocated from the eastern section of the south wing to the eastern section of the north wing. The other internal changes are simply refinements to suit the new operator [the original scheme was speculative], apart from the introduction of the non habitable accommodation in the north wing at the second floor, which will house staff facilities, plant room, laundry and storage, plus physiotherapy. The additional car parking space is to the east of the south wing.

5.4 Under the Town and Country Planning [Environmental Assessment Regulations] of 2011, Local Planning Authorities are required to assess whether Schedule 2 applications [inter alia] need an Environmental Statement to be submitted as part of the planning application submission. On receipt of application 13/00252/comind, the Council determined by letter on 13th March 2013, that NO environmental statement [ES] was required to be submitted. Given that a s73 application, if approved, is an entirely new planning permission, officers have again considered whether, in amending the proposed approved plans as described, this would so materially affect the nature of the development in question, that this would entail an ES being required. Having due regard to the considerations in Schedule 3 of the 2011 Regulations, it is not considered that an ES is needed, and so this comprises a negative screening opinion from the Council.

6. Consideration of the Proposal

6.1 The application falls to be considered under the principal grounds of policy CS14 in the Core Strategy, which considers Design Principles in new development. For clarity, it is not the purpose of this Report to re-examine the original planning issues, which led the Council to grant planning permission for the scheme, since this has already been determined under 13/00252/comind. The report need only examine any relevant planning issues arising from the proposed material, but minor, amendments made to the original permission.

6.2 Physical changes.

a - As regards the additional car parking space, this has been inserted to reflect the additional two rooms proposed. The Highways Officer has not objected to the revision, and indeed encourages the additional space.

b - The addition of two further bedrooms is not considered to present any difficulties in relation to the scheme, indeed it represents a more efficient use of internal space, and so a brown field site, as espoused within the Core Strategy and the advice in the NPPF.

c - The applicant's architect has carefully designed the new scheme in order that there will be no additional overlooking to the north from the additional internal space in the north wing, and there is no increase in the approved ridge height here. There will be some further velux windows, but no overlooking will occur from these.

d - The insertion of the two new balconies, on the west elevation, will have 1.8m high obscure glazed screens on the west perimeter, some 14m distant from the adjacent boundary to No. 364 London Road, and will serve 2 day rooms. It is considered that there will be no harmful overlooking caused by these, and indeed, the two balconies will serve as very pleasant adjuncts to the accommodation for the Nursing Home, which is to be encouraged, in the officers' opinion.

e - The new sun room leading out from a new day room in the south wing onto the as approved roof terrace at second floor level will have no harmful impact on adjoining amenity, given the 1.8m high obscure glazed screen on the eastern section. The distance to the adjoining dwelling's boundary [No. 372] will still be 19m.

f - The window relocations are minimal. The officer has checked that all potential overlooking situations are controlled by obscure glazing.

g - The proposed patio doors at ground level will have no impact on neighbouring amenity, but will enhance internal occupier amenity, facing the internal courtyard to the west.

h - The reduction in footprint on the western elevation on the south wing will actually be an improvement, given that the approved scheme distance to No. 364 London Road is 4m and the proposed will be 6m. For information the current distance between built form is just 2m. This improvement in the visual gap to 6m between buildings will also improve the local street scene from the south in the London Road, so relieving the overall mass of the scheme in visual terms.

In summary, the application is considered to wholly comply with policy CS14 in the Core Strategy, as noted.

6.3 Objector's concerns.

6.3.1 The application has been called to Committee given the legitimate concerns of local residents over the changes to the approved scheme. Firstly, the Planning Authority cannot control the exact "type" of resident in the scheme. The planning permission is Class C2 and no further restrictions within that Use Class is possible. The intentions of the new owner / operator are thus wholly legitimate in this regard. Secondly, the Council's Public Protection Officers have not objected to the application, so any concerns over odour / smells and noise are not considered significant enough to merit rejection of the application, in the professional officers' opinion. This corresponds in particular to the relocation of the bin store and kitchens. The concerns about car parking and overlooking have been addressed above. Next, it is not considered to be appropriate to criticise the current owner in relation to the original applicant's lack of pre-application consultation with neighbours, over which they had no control. The present applicant has held a public consultation evening in October to which local residents were invited. Finally the Council cannot require the applicant to submit a "completely fresh planning application", since planning legislation does not allow for this. In any event under s73, any applications approved are in fact a freestanding new planning consent.

7. **Conclusion**

7.1 Every planning application should be determined in accordance with the three dimensions in the NPPF of economy, society, and environment. In economic terms, the construction of the major site will have substantial benefits to the local economy over the short term during the build out. Over the longer term benefits will arise with further local jobs/ demands for local services etc. In social terms there are substantial benefits for the scheme to accommodate elderly residents in need of care in a pleasant environment. Finally, in environmental terms, the scheme will still be of high quality when completed, and the proposed revisions will have minimal if any bearing on local surrounding residential amenity.

7.2 Having regard to the strong reasons to approve the application, officers are recommending conditional approval for the foregoing reasons. For information, no further s106 planning obligation is required, as the original agreement as attached to the original planning permission 13/00252/comind, allows for the approval of subsequent s73 applications.

8. **Full Recommendation**

The Head of Planning and Countryside be authorised to **GRANT** planning permission, subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and implemented strictly in accordance with the approved plans.

Reason: To enable the Local Planning Authority to review the desirability of the development to comply with Section 91 of the Town and Country Planning Act (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).should it not be started within a reasonable time.

2. No development shall commence until details of floor levels in relation to existing and proposed ground levels have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved levels.

Reason: To ensure a satisfactory relationship between the proposed building and the adjacent land in accordance with policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

3. The development hereby permitted shall be carried out in accordance with the submitted plans as amended by the plans received on 24th October 2013.

Reason: To ensure that this permission relates to the revised plans only.

4. All the window(s) at indicated as being obscure glazed on the submitted amended plans shall be so glazed before occupation and the obscure glazing shall thereafter be retained in position to the satisfaction of the Local Planning Authority. Irrespective of the provisions of the Town and Planning (General Permitted Development) Order 1995 (or any subsequent revision), no additional openings shall be inserted in any of the first and second floor elevations without the permission in writing of the Local Planning Authority.

Reason: In the interests of the amenity of neighbouring properties in accordance with Policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

5. The detailed layout of the site shall comply with the Local Planning Authority's standards in respect of road and footpath design and vehicle parking and turning provision. This condition shall apply notwithstanding any indications to these matters which have been given in the current application.

Reason: In the interest of road safety and flow of traffic in accordance with Policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

6. No development shall commence until samples of the external facing materials to be used in the proposed development have been submitted on the application site only, and approved in writing by the Local Planning Authority. This condition shall apply irrespective of any indications as to the details that may have been submitted with the application, and shall where necessary include the submission of samples of glass, plastic and mortar materials. Thereafter the materials used in the development shall be in accordance with the approved samples.

Reason: In the interests of visual amenity in accordance with Policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

7. No development shall commence until a scheme for the means of treatment of the hard surfaced areas of the site has been submitted to and approved in writing by the Local Planning Authority. The Nursing Home shall not be occupied before the hard surfaced areas have been constructed in accordance with the approved scheme.

Reason: In the interests of visual amenity, in accordance with Policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

8. The hours of work for all contractors for the duration of the site development [including all demolition works] shall, unless otherwise agreed by the Local Planning Authority in writing, be limited to:

7.30am to 6.00pm on Mondays to Fridays 7.30am to 1.00pm on Saturdays and NO work shall be carried out on Sundays or Bank Holidays.

Reason: In the interests of the amenities of neighbouring occupiers in accord with policy CS14 in the West Berkshire Core Strategy 2006 to 2026.

9. The premises shall be used for a Nursing Home and for no other purposes including any other purpose in Class C2 of the Schedule of the Town and Country Planning (Use Classes) Order 2005 (as amended) or any subsequent amendment to this Order.

Reason: Any other use may not be acceptable on the site in accordance with Policy CS14 of the West Berkshire Core Strategy 2006 to 2026.

10. No development shall commence until an Air Quality Assessment has been submitted to demonstrate any likely changes in air quality exposure to air pollutants as a result of the proposed development and the exposure of receptors to the existing air pollution. The assessment is to compare the air quality following completion of the development with that expected at the time without the development. The assessment will need to include:

- 1) assess the existing air quality in the study area (existing baseline)
- 2) predict the future air quality without the development in place (future baseline)
- 3) predict the future air quality with the development in place (with development)
- 4) details of mitigation

Reason: to accord with policy CS14 in the West Berkshire Core Strategy 2006 to 2026.

11. Prior to works starting on site construction and location details of a new hibernaculum to be built in the north east corner of the site will be submitted to the local planning authority for approval. Such approved details will be implemented in full and the hibernaculum maintained thereafter.

Reason: To accord with Policy CS17 (Biodiversity and Geodiversity) of the West Berkshire Core Strategy 2006 to 2026.

12. No development or other operations shall commence on site until a detailed scheme of landscaping for the site is submitted to and approved in writing by the Local Planning Authority. The details shall include schedules of plants noting species, plant sizes and proposed numbers/densities, an implementation programme and details of written specifications including cultivation and other operations involving tree, shrub and grass establishment. The scheme shall ensure;

- a) Completion of the approved landscape scheme within the first planting season following completion of development.

b) Any trees shrubs or plants that die or become seriously damaged within five years of this development shall be replaced in the following year by plants of the same size and species.

Reason: To ensure the implementation of a satisfactory scheme of landscaping in accordance with the objectives of Policy CS18 of the West Berkshire Core Strategy 2006 to 2026.

13. No development (including site clearance and any other preparatory works) shall commence on site until a scheme for the protection of trees to be retained is submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing, and shall specify the type of protective fencing, all in accordance with B.S.5837:2012. Such fencing shall be erected prior to any development works taking place and at least 2 working days notice shall be given to the Local Planning Authority that it has been erected. It shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities or storage of materials whatsoever shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

Note: The protective fencing should be as specified at Chapter 6 and detailed in figure 2 of BS5837:2012.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase in accordance with Policy CS18 of the West Berkshire Core Strategy 2006 to 2026.

14. No development or other operations shall commence on site until details of the proposed access, hard surfacing, drainage and services providing for the protection of the root zones of trees to be retained has been submitted and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of trees identified for retention at the site in accordance with the objectives of Policy CS18 of the West Berkshire Core Strategy 2006 to 2026.

15. No development or other operations shall commence on site until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority and shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area. In addition, no development or other operations shall commence on site until a detailed schedule of tree works including timing and phasing of operations has been submitted and approved in writing by the Local Planning Authority. In addition, no development shall take place (including site clearance and any other preparatory works) until the applicant has secured the implementation of an arboricultural watching brief in accordance with a written scheme of site monitoring, which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the protection of trees identified for retention at the site in accordance with the objectives of Policy CS18 of the West Berkshire Core Strategy 2006 to 2026.

16. No development shall commence on site until full details of how spoil arising from the development will be used and/or disposed of have been submitted to and approved in writing by the Local Planning Authority. These details shall:

- a) Show where any spoil to remain on the site will be deposited,
- b) Show the resultant ground levels for spoil deposited on the site (compared to existing ground levels),
- c) Include measures to remove the spoil from the site.
- d) Include a timescale for the spoil removal and associated works.

All spoil arising from the development shall be used and/or disposed of in accordance with the approved details.

Reason: To ensure appropriate disposal of spoil from the development and to ensure that any change of ground levels on the site will not harm the character and amenity of the area. In accordance with the NPPF and Policies CS14 and CS19 of the West Berkshire Core Strategy 2006 - 2026.

17. The new nursing home shall achieve 'Excellent' under BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme). No building shall be occupied until a final Certificate has been issued certifying that BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating of 'Excellent' has been achieved for the development, has been issued and a copy has been provided to the Local Planning Authority.

Reason: To ensure the development contributes to sustainable construction. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS15 of the West Berkshire Core Strategy (2006-2026) and Supplementary Planning Document Quality Design (June 2006).

18. The use shall not commence until the vehicle parking and / or turning space have been surfaced, marked out and provided in accordance with the approved plan(s). The parking and/or turning space shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times.

Reason: To ensure the development is provided with adequate parking facilities, in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

19. The use shall not commence until the cycle parking has been provided for employees in accordance with the approved drawings and this area shall thereafter be kept available for the parking of cycles at all times.

Reason: To ensure the development reduces reliance on private motor vehicles and assists with the parking, storage and security of cycles. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policy CS13 of the West Berkshire Core Strategy (2006-2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

20. No development shall take place until details of the access into and out of the site have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the accesses have been constructed in accordance with the approved details.

Reason: In the interest of road safety. This condition is imposed in accordance with the National Planning Policy Framework (March 2012) and Policy CS13 of the West Berkshire Core Strategy (2006-2026).

21. The applicant / owner / operator shall submit to the Council a Travel Plan for employees before the development is commenced. The travel plan shall be approved by the Council and implemented within 3 months of the occupation of the new building hereby permitted. The plan shall then be operated in perpetuity on the site/ building.

Reason: To minimise travel to and from the site by private vehicle by employees in accord with the advice in the NPPF 2012.

22. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. The statement shall provide for:-

- (a) The parking of vehicles of site operatives and visitors
- (b) Loading and unloading of plant and materials
- (c) Storage of plant and materials used in constructing the development
- (d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing
- (e) Wheel washing facilities
- (f) Measures to control the emission of dust and dirt during construction
- (g) A scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: To safeguard the amenity of adjoining land uses and occupiers and in the interests of highway safety. This condition is imposed in accordance with the National Planning Policy Framework (March 2012), Policies CS5 and CS13 of the West Berkshire Core Strategy (2006-2026), Policy TRANS 1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007),

23. The removal of the roof tiles, soffits, lead flashing and hanging tiles on Nos. 366 & 368 shall be undertaken by hand under the supervision of a licensed ecologist. In addition, no development shall take place until a drawing showing the location of four built in bat boxes (Ibstock Type B or similar) to be incorporated in the walls of the new building has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved drawing and the bat roosts created hereafter retained. In addition, a copy of the Natural England EPS License required will be provided to the local planning authority prior to works commencing on site. No external lighting will illuminate the bat roost access points provided as part of the mitigation scheme. Removal of any tree with bat roost features will only commence after an experienced arborist or bat worker has confirmed that there are no roosting bats present. If roosting bats or evidence of their presence is found then advice from Natural England or a licensed bat worker must be sought before felling takes place. Tree, shrub and hedge removal will take place outside the bird breeding season (March - August) or immediately following confirmation by an ecologist that birds are not nesting or have dependant young.

Reason: To ensure the protection of species protected by law and to accord with Policy CS17 (Biodiversity and Geodiversity) of the West Berkshire Core Strategy 2006 to 2026 and the advice in the NPPF.

INFORMATIVE:

- 1 This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. In this application whilst there has been a need to balance conflicting considerations, the local planning authority has secured and accepted what is considered to be a development which improves the economic, social and environmental conditions of the area.
- 2 This permission should be read in conjunction with a legal agreement dated the 28th June 2013. You are advised to make yourself aware of the contents.

DC