

Item No.	Application No. and Parish	Proposal, Location and Applicant
(2)	13/02622/COMIND Newbury Town Council.	Section 73. Variation of Condition 17 on planning permission 13/00252/comind. The Limes Guest House and 370a and 370b London Road, Newbury. Gracewell Healthcare 2 Limited.

To view the plans and drawings relating to this application click the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=13/02622/COMIND>

Recommendation Summary:	The Head of Planning and Countryside be authorised to GRANT planning permission.
Ward Member(s):	Jeff Beck and David Goff.
Reason for Committee Determination:	Called in by Councillor Beck, given past planning history of the site.
Committee Site Visit:	9 th December 2013.

Contact Officer Details	
Name:	Michael Butler
Job Title:	Principal Planning Officer.
Tel No:	(01635) 519111
E-mail Address:	mbutler@westberks.gov.uk

1. Site History

13/00252/comind - Demolition of all buildings on site and erection of 64 bed nursing home with associated facilities. Approved June 2013.

2. Publicity of Application

Press Notice Expired: 14/11/13
Site Notice Expired: 18/11/13

3. Consultations and Representations

Newbury Town Council.	Objection/comment. The Breeam 'Excellent' condition should not be relaxed.
Thatcham Town	No objections.
Greenham Parish Council	Deplores the way in which permissions are granted and then subsequent relaxations are sought on conditions. Objects to the application.
Cold Ash Parish	No comments to make.
Highways	No objections.
Public Protection.	No objections are raised. The reduction in standard to "very good" is acceptable.
Tree Officer	No objections.
Newbury Society	Not convinced of the need to reduce the Breeam standard.
Ecologist	Wishes to add in further conditions regarding bat protection in the dwellings to be demolished, and the trees to be felled.
Thames Water	No comments to make.
Building Control	Consider that the reduced standard is acceptable in the circumstances, since many of the achievable points relate to procedure as opposed to the building fabric per se.
Correspondence	Three letters of objection from local residents. The applicant should not be permitted to reduce the standard as they purchased the site in full knowledge of the 'Excellent' standard required. The additional points can be achieved albeit at additional cost. Similarly the applicants knew the physical site constraints which determine the achievability of the standard such as public transport.

4. Policy Considerations

National Planning Policy Framework 2012. Paragraphs 21 and 206.
West Berkshire Core Strategy 2006 to 2026. Policy CS15

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 regard to existing planning permissions, where not implemented, in order to seek to either vary or delete a specific condition[s]. In this instance, Members will recall that this planning application 13/00252/comind, was granted at planning committee earlier this year, for a high dependency nursing care home with 64 beds. Condition 17 on that planning permission sought to ensure that the development, once built, would achieve Breeam 'Excellent', as required by policy CS15 in the Core Strategy as adopted in 2012. The applicants are now seeking to reduce this standard down to "very good".

5.2 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 number 13/00252/comind, the Council determined by letter on the 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 reducing the Breeam excellent standard to very good, 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 Policy CS15 in the Core Strategy requires that all new non residential development in the District from 1st January 2013, achieve Breeam 'Excellent'. Accordingly, Condition 17 was applied on permission 13/00252/comind. The principal aim of the policy is to reduce carbon emissions across the District, as required by policy in the NPPF of 2012. It is understood that the original applicant Mrs Norford Jones, set out a speculative development. On the grant of planning permission, Gracewell Healthcare purchased the site. They are now the current applicants. Having considered the detailed design of the scheme as permitted, they are of the view that Breeam 'Excellent' is now unobtainable with the present design and layout, that is, a fresh application would have to be designed, submitted and granted, prior to implementation at considerable additional cost and time delay in delivering the project.

6.2 On the one hand, officers might have recommended rejection of the proposal on the grounds that, technically speaking, taking a strict view, the scheme does not comply with policy CS15 in the Core Strategy, and if permitted, might set a damaging precedent, so undermining the recently adopted policy. This would have meant that overall carbon emissions from the site would have been lower than that if "very good" is achieved.

6.3 On the other hand, in reaching a recommendation, officers have had regard to the following factors:-

a) Policy CS15 does allow for flexibility, where the need for this is satisfactorily demonstrated by the applicants. This is supported by the advice in paragraph 21 of

the NPPF which notes, *inter alia*, that “investment in business should not be overburdened by the combined requirements of planning policy expectations.” Secondly paragraph 206 of the same document, notes that planning conditions should only be imposed if they are necessary, relevant to planning, enforceable, precise and reasonable in all other respects. Given this fairly specific advice in the NPPF, officers consider that, should the application be approved, it will not comprise a departure from the extant policy CS15 nor will it set any harmful precedent. That is, the application need not be taken to District Planning Committee should it be approved. Similarly, the application has not been advertised as a formal departure.

- b) The ability to achieve Breeam ‘Excellent’ is in part focussed on the planning process, for example, what pre application local stakeholder consultation took place. It is acknowledged that this was not done on the original application, but the present applicant would not have been in a position to alter this. It is noted that they have since held a public meeting to address local concerns and set out their thinking behind the submission of this and an additional application [see elsewhere on this agenda]. Whilst this cannot rectify the earlier “omissions” it indicates that the present applicants are willing to engage with the local residents at least.
- c) Additional cost and time burdens on the deliverability of planning projects such as this are now valid material considerations in the determination of planning applications, taking guidance from the NPPF. It is a well known fact that there is a significant local and national demand for facilities for the Nation’s ageing population and this scheme will be a helpful adjunct to the District’s supply. To place such a scheme at potential risk financially, and secondly, to delay the implementation of the project, is considered not to be in the best interests of sustainable planning as espoused in the NPPF.
- d) All the officer’s technical consultees, including both building control and public protection colleagues have no objections to the reduction in standard. Indeed it is acknowledged that across the Country there are very few Nursing Homes which have achieved the Breeam ‘Excellent’ standard.
- e) Finally, given the non specific criteria applied in Breeam ‘Excellent’ as applied to residential nursing homes, some of the points assessment actually works against resident safety, such as acoustic performance internally, and type of refrigerants used - some are potentially more explosive than others. In particular [for example] the applicants note that if internal acoustic specification of walls were constructed to excellent standard, then the safety of residents could be put at risk, if crying for help. In addition by providing additional cycle spaces this would serve little purpose as residents will not be able to use them, only staff. It is accepted that photovoltaics could be used, but this would be at the expense of the roof terracing, which is considered to be a very pleasant method of increasing external amenity space for the occupiers of the Home. Additional points could be achieved if local public transport was better, but the applicants can do little about this, albeit the location is considered to be excellent in relation to local facilities across the town of Newbury and beyond, for obvious reasons.

7. Conclusion

7.1 Given all of the above factors, whilst it is partly regrettable that Breeam 'Excellent' will not be achieved, the reduction to 'very good' will still mean a very high quality development being permitted on this sustainable brown field site, without undue delay, or undue additional cost burdens on the applicants. These benefits, in officers' opinion, outweigh the policy implications and carbon emission reduction objectives of the Local Planning Authority, and so the application is considered to be satisfactory.

7.2 Finally, 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 reduction in standard will have minimal if any bearing on local surrounding residential amenity.

7.3 Accordingly, having regard to the clear reasons to support the proposal, a conditional approval is justifiable given the above reasons. For clarity, no additional s106 planning obligation is required since the original obligation attached to 13/00252/comind allows for subsequent s73 permissions to be granted.

Full Recommendation

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

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 the 8th April 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 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 newt 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 Very Good 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 Very Good 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 arboriculturist 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.

DC