~~CONFIDENTIAL~~

APPLICATION NO:

CLP/2002/8107

LOCATION:

Thamesfield Nursing Home Wargrave Road, Remenham Henley-On-Thames.

APPLICANT:

Mis B Williams C/O Mr J R Freeth

PROPOSAL:

Application for Certificate of Lawfulness of proposed development for internal alterations to nursing home to form close care units.

EARLIEST DATE FOR DECISION: **02/01/2003**

APPLICATION WILL HAVE EXPIRED ON:

~~23/01/2003~~

24·1·03

CASE OFFICER: **Mrs B Polnik**

Application No : CLP/2002/8107

WOKINGHAM DISTRICT COUNCIL

TOWN & COUNTRY PLANNING ACT 1990, SECTION 192
AS AMENDED BY SECTION 10 OF THE PLANNING AND COMPENSATION ACT 1991

TOWN & COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER, 1995: ARTICLE 24

Certificate of Proposed Use or Development

The Wokingham District Council hereby certify that on 14 February 2003 the proposed alterations and use as described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto, and edged red is lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reasons:

1. The proposed internal alterations to create an additional 10 close care units, which would not involve any external alterations to the building, would not constitute development requiring planning permission under s55 (2) (a) of the Town & Country Planning Act 1990 (as amended).

2. The close care units are considered to fall within the same use class as the nursing home, Use Class C2, and as such would not represent a material change of use, as per s55 (2) (f) of the Town & Country Planning Act 1990 (as amended).

Signed ..... (Head of Development Control)

On behalf of Wokingham District Council, Shute End, Wokingham, Berkshire RG40 1WH

Date: 14 February 2003

FIRST SCHEDULE

Proposed internal alterations to form additional close care units.

SECOND SCHEDULE

Thamesfield Nursing Home, Wargrave Road, Remenham, Henley-on-Thames.

Notes :

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

2. It certifies that the development specified in the First Schedule taking place on the land described in the Second Schedule was lawful, on the specified date, and thus was not liable to enforcement action under Section 172 of the 1990 Act on that date.

3. This certificate applies only to the extent of the development described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.

4. The effect of the certificate is also qualified by the proviso in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

DEVELOPMENT CONTROL/BUILDING CONTROL CHECKLIST

CHECKLIST WHEN A BUILDING REGULATION APPLICATION HAS BEEN RECEIVED.

SITE DETAILS **CASE OFFICER** BP

PLANNING APPLICATION NUMBER	CLP/2002/8107
BUILDING CONTROL NUMBER	FP/2003/4156
~~APPLICANT~~/AGENT	James Smith Associates
ADDRESS OF SITE	Thamesfield Nursing Home Wargrave Road Remenham
DESCRIPTION OF PROPOSED WORK	Internal Alterations

DRAWING NUMBERS

	BC	DC
BLOCK PLAN	WTH 08	
ELEVATIONS	—	LOCATION PLAN ONLY REQUIRED
FLOOR PLANS	WTH 11	

CHECKLIST

	1ST CHECK	2ND CHECK
PERMITTED DEVELOPMENT	Planning permission not required	
APPLIC. NECESSARY-NOT RECEIVED		
APPLIC.RECEIVED & APPROVED	14.2.03 (CLP)	
APPLIC.RECEIVED-NO DECISION		
APPLIC.REFUSED		
DIFFERENCES BETWEEN DC/BC DRAWINGS	NONE	
IF YES, WHAT ARE THE DIFFERENCES ?		
DATE	24.4.03	

Certificate of lawfulness granted

PROBLEMS

	REQUESTED	RECEIVED	REMINDER
PLANNING PERMISSION NEEDED			
REVISED PLANS NEEDED			
PLANNING APPLIC.REFUSED			
WAIT FOR PLANNING DECISION			

COMMENCED ON SITE	
NO PLANNING DECISION	
NO PLANNING APPLICATION	

8107

Tel: (0118) 974 6463 (Direct Line)
Email: Matthew.Porter@wokingham.gov.uk
Fax: (0118) 974 6484
Date: 18 March 2004
My refs: CLP/2002/8107
CLP/2003/0823

Mrs S. Burton
National Care Standards Commission
Berkshie Area Office
2nd Floor
1015 Arlington Business Park
Theale
Berks
RG7 4SA

Planning Services
P.O. Box 157
Shute End, Wokingham
Berkshire RG40 1WR
Tel: (0118) 974 6000
Fax: (0118) 974 6484
Minicom No: (0118) 974 6991
DX: 33506 - Wokingham

Dear Mrs S. Burton

RE: NATIONAL CARE STANDARDS COMMISSION
APPLICATION FOR VARIATION OF THE CONDITIONS OF REGISTRATION UNDER PROVISIONS OF THE CARE STANDARDS ACT 2000 – IN RESPECT OF PROPERTY ADDRESS THAMESFIELD NURSING HOME, WARGRAVE ROAD, HENLEY-ON-THAMES, OXON, RG9 2LX

I refer to your letter received on the 18 March 2004 with reference to the above.

I write to confirm that the applicant Miss B.A Williams of Thamesfield Nursing Home, Wargrave Road, Remenham, Henley-on-Thames, RG9 2LX, has applied twice for a certificate of proposed use or development for the site. This is a formal determination as to whether development requires planning permission from Wokingham District Council.

The application references are as follows:

CLP/2002/8107: a certificate of lawful proposed development for internal alterations to form 10 close care units. Permission granted 14.02.03
CLP/2003/0823: a certificate of lawful proposed development for internal alterations to form 4 close care units. Permission granted 14.01.04

Permission was granted on both occasions because:
1. The internal alterations do not require planning permission
2. The proposed use would fall within the same use class C2 as the existing nursing home use.

It was explained by the applicant's agent Mr J.R. Feeth, 83 Sharland Close, Grove, Wantage, Oxfordshire OX12 OAF, that the occupants of the units would be cared for and nursed within the individual units and in the same way as if they were occupying a conventional nursing home bed-sitting room.

I trust this advice is of use and should you wish to discuss any matter further please do not hesitate to contact the relevant case officer:

CLP/2002/8107: Mrs B Polnik 0118 974 6450
CLP/2003/0823: Mrs A Odell 0118 974 6445

Yours Sincerely,

B. POLNIK (Mrs)

Senior Planning Officer

(Team Leader for Householder Team)

77792

PLANNING SERVICES	HPT
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DC MP	ENF
APP	
CS	
18 MAR 2004	
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	FILE:

NATIONAL care standards COMMISSION

SB/nelp/POThamesfieldVariation

Berkshire Area Office
2nd Floor
1015 Arlington Business Park
Theale, Berks
RG7 4SA

Tel: 0118 903 3230
Fax: 0118 903 3276

Planning Officer - Wokingham
Civic Offices
Wokingham District Council
Wokingham
Berkshire

17th March 2004

Dear Sir/Madam

**RE: NATIONAL CARE STANDARDS COMMISSION
APPLICATION FOR VARIATION OF THE CONDITIONS OF REGISTRATION UNDER PROVISIONS OF THE CARE STANDARDS ACT 2000 – IN RESPECT OF PROPERTY ADDRESS THAMESFIELD NURSING HOME, WARGRAVE ROAD, HENLEY-ON-THAMES, OXON, RG9 2LX**

The above has made application for variation of the conditions of registration to the National Care Standards Commission in respect of the above property which is suitable for use in respect of:

Care Service:	**Care Home**
Category of Provision:	**Care home with nursing**
Service Users:	**Old age, not falling within any other category (34)**

I would be grateful if you could provide me with any observations relating to this property and, if new build/conversion, whether planning permission has been sought or is currently in operation.

In anticipation of your kind co-operation.

Yours sincerely

pp N-E-L

Susan Burton
Lead Inspector

HEADQUARTERS: National Care Standards Commission, St Nicholas Building, St Nicholas Street, Newcastle upon Tyne NE1 1NB Tel 0191 233 3600 Fax 0191 233 3569
Chief Executive *Ron Kerr*, Chair *Anne Parker*

Decisions under Class C2	
Use	**Decision or other authority**
Probation and bail "hostel"	Elements of supervision and structure training take it outside Classes C2 and C1; thus it is *sui generis*: (1993) 8 P.A.D. 429.
Nursing home with "close care" units	Class C2: (1991) 6 P.A.D. 224; and see (1989) 4 P.A.D. 212.
Residential home for the elderly	Class C2: (1991) 6 P.A.D. 106; and see (1986) 1 P.A.D. 269 and (1990) 5 P.A.D. 225.
Conference and training centre for sailing, canoeing, rowing and windsurfing	Class C2: (1994) 9 P.A.D. 511.

1. "Care" is as defined above in relation to Class C1, but also includes the personal care of children and medical care and treatment (art. 2). According to the definition of Class C1, the element of care must be "significant" to take the use out of Class C1 and into Class C2.
2. See Chap. 5 below on housing provision.

2.32 **Class C3: *dwelling-houses*.** This new Class is: use as a dwelling-house (whether or not as a sole or main residence):

(a) by a single person or by people living together as a family; or
(b) by not more than six residents living together as a single household (including a household where care is provided for residents).

The first point is that there must be use "as a dwelling-house." "Dwelling-house" is not defined in the Order, but the expression appears in section 55(3) of the 1990 Act, and Circular 13/87 states that the expression in the Order should be interpreted in the same way.[1] A flat or a maisonette can be a dwelling-house, as can premises originally designed for some other purpose, such as a barn, warehouse or windmill, and subsequently occupied as a dwelling.[2] The expression would not appear to include movable structures, such as caravans, tents and boats, though it could cover a structure such as a caravan rendered permanently immobile, for example by being connected to mains services.[3]

To fall within Class C3 the use must be either by:

(i) a single person; or
(ii) persons living together as a family; or
(iii) not more than six people living together as a single household.

The first alternative is self-explanatory. The second poses some difficulties as to what is meant by "living together as a family." It would seem that at least two potential areas of difficulty may occur. One is the point at which an actual family relationship is so remote that the people concerned cannot be said to be living together as "a family." It is reasonable to assume that the expression must at least extend to the relationships of spouses, parents, children, grandparents, grandchildren and siblings. But could a large number of cousins, possibly only distantly related, living in the same house be said to be living as a family? The question could for example arise in the case of houses occupied by members of racial groupings where notions of "family" are wider than those of contemporary western culture. Decisions dealing with the concept of "family" in the context of the Rent Act provisions as to succession to statutory tenancies have taken a somewhat conservative view, so that in one case first cousins who had lived together on a long-term sharing basis were held not to be members of the same family, though they were clearly related from the point of view of consanguinity and stock.[4] However, it has also been stressed that "family" is to be construed in the sense of ordinary contemporary usage, and consequently the shades of meaning to be attached to the word can change as social attitudes alter.[5]

The second question is whether persons with no actual familial relationship can be said to live together as a family by assuming the roles and responsibilities *inter se* of

It will be appreciated from this brief summary that Class C1 offers very considerable freedom to move within a range of quite disparate uses. However, one category of residential use which does not appear to fall within Class C1 is "multiple paying accommodation"—this is discussed below.

Decisions under Class C1	
Use	**Decision or other authority**
Use of dwelling-house as guest-house	Open all year, run as a business, guests almost always present; primary use guest-house within C1: (1991) 6 P.A.D. 383.
Self-contained flats used to accommodate homeless families	Hostel no longer within Class C1: **Panayi v. Secretary of State for the Environment** [1985] J.P.L. 783.[13]
Nurses' home in hospital grounds	If physically and functionally separate it is likely to be subject to separate planning approval or Circ. 18/84 "consent", and hence Class C1 rather than overall hospital use; otherwise Class C2 (see below).
Probation and bail "hostel"	All "hostels" are now outside Class C1 as from April 4, 1994.

1. Use Classes Order 1987, art. 2.
2. **Mayflower Cambridge v. Secretary of State for the Environment** (1975) 30 P. & C.R. 28 at 32, *per* Lord Widgery C.J. See also **Commercial and Residential Property Development Co. v. Secretary of State for the Environment and Kensington and Chelsea Royal Borough** [1982] J.P.L. 513 at 514.
3. [1977] J.P.L. 328 (Ministerial decision); see also [1977] J.P.L. 42 (setting hotel and guest-house in contradistinction to hostel).
4. **Breachberry Ltd v. Secretary of State for the Environment and Shepway District Council** [1985] J.P.L. 180 at 182.
5. S.I. 1972 No. 238.
6. **Woohey v. Wiltshire County Council** (Divisional Court 334/81; Raymond Phillips J.; unreported); **R. v. Mabbott**, *The Times*, August 4, 1987.
7. [1994] J.P.L. 397.
8. **Commercial and Residential Property Development Co. v. Secretary of State for the Environment and Kensington and Chelsea Royal Borough** [1982] J.P.L. 513 at 514, *per* Glidewell J. For a useful article on bail and probation hostels, see A. J. R. Allen at [1990] J.P.L. 402.
9. *ibid.* It seems, however, that shared facilities are not an essential prerequisite of a hostel. In **Panayi v. Secretary of State for the Environment** (1985) 50 P. & C.R. 109; [1985] J.P.L. 783, self-contained flats used to accommodate homeless families were held to be correctly described as a hostel.
10. *ibid.*
11. See [1977] J.P.L. 42 (appeal decision); also **Mornford Investments v. Minister for Housing and Local Government** [1970] 2 All E.R. 253 (change of use from students hostel to hotel).
12. See **Thrasyvoulou v. Secretary of State for the Environment** (1986) 284 E.G. 511; on appeal, [1988] Q.B. 809 C.A.; [1990] 1 All E.R. 65 H.L..
13. Hostels now *sui generis*: S.I. 1994 No. 724.

2.31 **Class C2: *residential institutions*.** This Class comprises three limbs:

(a) use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwelling-houses))[1];
(b) use as a hospital or nursing home;
(c) use as a residential school, college or training centre.

This Class seems likely to grow in importance for demographic and social reasons. It raises many important policy considerations which are discussed elsewhere.[2]

Close care units/nursing home extensions

Inquiry: September 18, 1990
Decision letter: October 31, 1990
Inspector: D. Fenton, BA(Hons), MSc, DipTP, MRTPI
Ref.: T/APP/H0330/A/89/143824/P7
Appln. No.: 34316(F)

Act: TCPA 1990, s.78 and Sched. 6
S.I.: Town and Country Planning (Use Classes) Order 1987, No. 764
PPG: 2

Wokingham District Council *and* **Morgan**

Existing nursing home in Green Belt—site also within Conservation Area and Area of High Landscape Value—provision of close care units—relatively new concept of institutional care—residential accommodation in Class C2—relevance of Green Belt, Structure Plan and Local Plan policies—proposal to extend buildings and to enlarge care facilities found not to be objectionable in principle—extension building found to be harmful to character and appearance of the locality by reason of scale and bulk—appeal dismissed

1.0 *Facts*

1.1 Planning permission was refused by the council for extensions to an existing nursing home and for the installation of a new foul drainage disposal system at Thamesfield, Wargrave Road, Remenham.

1.2 The premises were used by the appellant as a nursing home of 50 bedrooms which provided comprehensive nursing care service. They stood in attractive well treed grounds on the bank of the River Thames, opposite Henley town centre. The site had been enlarged to incorporate adjoining buildings and approached 3 acres in extent. It had large gardens and lawns to the west, to the Thames and to the south and a substantial tree screen on the east side, to the road. From two of the main view points from across the river and when approaching the property along Wargrave Road from the south the premises appeared to be set in spacious grounds.

1.3 In contrast to the built-up area of Henley on the opposite bank of the River Thames, the eastern bank was much less densely developed.

1.4 The nursing home was set up in 1985 when its size was a little over 1,100 sq m. By the implementation of planning permissions which had been granted the premises had been extended by nearly one-half. The proposals under appeal were for the provision of 15 close care units, together with a therapy pool and conservatory.

2.0 *Planning issues*

2.1 The appeal premises were within the Metropolitan Green Belt, the Remenham Conservation Area and an Area of High Landscape Value.

2.2 The Replacement Structure Plan for Berkshire, approved in November 1988, and the Green Belt Local Plan for Berkshire, 1985, reflected and developed the restrictive national green belt policies.

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2.3 The Inspector saw the main issues in determining the appeal as first, whether the proposals were an acceptable form of development, allowed for as an exception to restrictive green belt policies and secondly, whether they would have an unacceptable impact upon the character and appearance of the area, taking into account its location within the Green Belt, a Conservation Area and an Area of High Landscape Value.

3.0 *Appellant's case*

3.1 Close care units were not, as the council had initially considered them to be, residential accommodation capable of independent occupation. Close care units were intended to provide a continuing and progressive level of care and support as required by their occupants while enabling them to maintain individual homes with their own privacy. The units would function as part of the nursing home and would be dependent upon an extension of the facilities to be provided there. Those additional facilities would be available to all Thamesfield residents. They would be residential institutions within Class C2 of the 1987 Use Classes Order and, consequently, the housing policies referred to by the council were not of direct relevance.

3.2 It was acknowledged that there was a general presumption against inappropriate development in the Green Belt and that approval should not be given for new buildings other than in very special circumstances. There were exceptions to that very restrictive approach described in paragraph 13 of Planning Policy Guidance Note 2. The exceptions included institutions standing in extensive grounds and it was contended that the principle applied to reasonable *extensions* to institutions in extensive grounds which were already established and operating within a green belt.

3.3 In terms of Structure Plan Policy and Local Plan Policy the proposal should be considered as entirely appropriate to a rural area and would thus constitute one of the extensions specifically allowed for by the Development Plan. Institutions in extensive grounds were acceptable in a green belt and green belts were essentially concerned with rural areas. It was contended therefore that the proposed development was acceptable in principle in a rural area and satisfied the requirements of the policies for development in rural areas.

4.0 *Inspector's conclusions*

4.1 The use carried on was an institutional use but it was not clear whether Thamesfield stood in extensive grounds. "Although I do not consider that it unequivocally falls within this definition I would accept, on balance, that it should be treated as such. Accordingly I consider the proposals fall within one of the exceptions allowed for in national green belt policy expressed in PPG2."

4.2 Criteria and explanatory text in Structure Plan and Local Plan policies provided guidance. "In terms of the general principle of extending the existing building I come to the view, bearing in mind the advice in PPG2, the policies in the Development Plan, and the recent history of approval of extensions by both the Council and the Secretary of State on appeal, that there is no overriding objection to the proposals in terms of green belt policies and I come to the conclusion that the proposals do not constitute

inappropriate development. Accordingly, the presumption against development in the green belt should not apply nor is it necessary to establish very special circumstances if permission is to be granted." However, the Inspector observed that the particular proposals had still to be considered in the context of the broad objectives of the green belt and the impact of the proposals on the appearance and character of the Conservation Area and the Area of High Landscape Value.

4.3 The proposals were for a major extension of the buildings and the services to be provided. They were not so much essential to the operation of a nursing home but to increase the range of care facilities. Altogether, nearly 1,800 sq m. of floor space was proposed. The site of the extension was occupied by a 2-storey dilapidated stable block and a large disused greenhouse having floor space in total of about 1,000 sq m. The total floor space of 3,400 sq m. would be about three times the accommodation provided when the nursing home was set up.

4.4 The proposals did not encroach upon the attractive open landscape setting of the nursing home because they were tucked away alongside and behind the existing buildings. The main impact on approach from the south would be from the proposed car parking area. The landscaping would partly screen the parking area but passers-by would get a sense of increased development and site activity.

4.5 The erection of the new building would necessitate the removal of the ugly 2-storey stable block and a large greenhouse and to that extent the proposal would be beneficial.

4.6 The main concern was the impact of the proposals when seen from the north-easterly approaches from Wargrave Road and the rising ground of the A423. Those proposals included a northern elevation about 64 m. long situated only a very short distance from the boundary wall. The elevation would be quite conspicuous from the highway to the north-east and being of 2 and 3 storeys in height would have considerable bulk. The length of building fronting Wargrave Road would be about 45 m. It would create a building mass of a significantly different character to that which existed. The proposals would significantly intensify and consolidate development and so change the character of the area.

5.0 *Decision: appeal dismissed*

5.1 In the Inspector's opinion

> "The consolidation of development in this loose straggle would serve to urbanise its appearance and so detract from its rural character. In significantly intensifying built development here the proposals would diminish the area's sense of openness and would reduce the current distinction between the historic centre of Henley and the primarily rural approaches and setting on this side of the river, to the detriment of the town's rural setting.
> 18. I consider it is desirable to preserve or enhance the character and appearance of this part of the Conservation Area and in my opinion the proposals would not achieve that. The existing hotchpotch of small buildings is quite different from that proposed and is more appropriate to this situation than a monolithic, bulky building, however well

designed or attractive that may be. Although the views from the northeast are less important than those from across the river they are nevertheless significant ones to the setting of Henley as one approaches or leaves the town centre.

19. I note that objections in respect of flooding and highways can be overcome by the imposition of conditions and that the sewage disposal proposals are acceptable. Whilst I find no *in principle* objection to an extension I consider that the particular proposals before me are of such scale and bulk as to have a harmful impact upon the character and appearance of this area. I have no doubt that the facilities proposed would meet a social need and I have found the merits in this case to be finely balanced. However, I have come to the view that the interests of the objectives of the Green Belt are of such force as to warrant a dismissal of your clients' appeal."

6.0 *Comment*

6.1 Although the council had initially supported a refusal of permission on housing policy grounds it was subsequently accepted that the close care units would provide residential accommodation within Class C2. The Inspector agreed.

6.2 In a finely balanced case the Inspector concluded that there was no objection *in principle* to the extension but its scale and bulk was unacceptable because it would be harmful to the Conservation Area and to the Area of High Landscape Value. A careful distinction was drawn between the provision of facilities essential to the operation of the nursing home and an increase in the range of care facilities. In the event the determination of the appeal did not turn on the distinction.

Residential care home

Inquiry: September 21, 1988
Decision letter: November 29, 1988
Inspector: R. Bradley, Solicitor
Ref.: T/APP/B1035/A/88/087673/P3
Appln. No.: NED/787/525

Acts: TCPA 1971, s.36 and Sched. 9
Local Government Act 1972, s.250(5)
S.I.: Town and Country (Use Classes) Order 1987, No. 764
Circular: 2/87

North East Derbyshire District Council *and* **Renshaw**

Nursing home for the elderly—residential care home for the mentally handicapped—nature of requirements of family home as compared with "institution"—points of planning principle determined on previous appeal—Inspector on previous appeal exercised caution on other uses within same Class—no adequate planning grounds for refusing permission—costs awarded against Council

1.0 *Facts*

1.1 The Council had refused planning permission for the change of use of a nursing home for the elderly to a residential care home for the mentally handicapped at 89 St. Lawrence Road, North Wingfield.

1.2 The appeal site which was some 15 m. deep by 20 m. wide was located on the southern side of St. Lawrence Road (A6175) which connected Clay Cross to the west with junction 29 on the M1 motorway to the east.

1.3 The appeal property was a large detached house which had originally been built as a Doctor's surgery and house. It was located within an established residential frontage. At the rear of the appeal site a development of small bungalows had recently been carried out.

1.4 Use of the appeal premises as a nursing home for the elderly was granted on appeal in August 1986 (Reference APP/B1035/A/86/43677). Part of the Council's grounds for refusal related to the situation of the appeal property on a busy road which was regarded as unsuitable for residents needing care and supervision. That reason for refusal was not proceeded with at the Inquiry and the question of need was not challenged.

2.0 *Planning issue*

2.1 The decision was thought to turn on whether the proposal would cause unacceptable harm to the residential amenities of the occupiers of neighbouring properties.

2.2 In allowing the previous appeal and granting planning permission for use as a nursing home the Inspector imposed a condition, restricting the use to that of a nursing home for the elderly and for no other

purpose including any other purpose within Class XIV of the 1972 Use Classes Order (now Class C2 of the Town and Country Planning (Use Classes) Order 1987. The Inspector then took the view that if unconditional planning permission was granted at some future time other uses within the Use Class could take place without the need for a further permission. One or more of such uses could be a source of disturbance to neighbours or create traffic conditions which could not be accommodated.

3.0 *Council's case*

3.1 The appeal property itself and the site were not suitable for institutional use. Residential care homes for the mentally handicapped were establishments that usually required large buildings in extensive grounds where the privacy expected by residents can be provided with a sufficiency of open space to allow for the playing of games and other noisy outdoor activities. Such activity in the rear of the appeal premises would be likely to cause noise and disturbance to neighbours. There was no nearby public open space which could provide an alternative facility. The development would generate additional traffic to and from the site in the form of service vehicles, staff cars and visitors' cars which would lead to additional disturbance to neighbours.

3.2 The proposed use was another example of the uses which the previous Inspector could have included in his example of uses which could cause disturbance to neighbours or create acute adverse traffic conditions. In the Council's judgment it would be undesirable to allow the proposal and if it was allowed, it would set a precedent whereby virtually any family house could be used for such a purpose.

4.0 *Appellants' case*

4.1 The appeal property was occupied by the appellants, their two children and three other mentally handicapped residents. There had been no complaints in respect of that use so far as they were aware.

4.2 The proposal was to provide accommodation for two or three additional mentally handicapped residents giving a total of nine in all.

4.3 The proposal would not cause any significant change of visual or other amenities as compared with the present source of affairs or as compared with the use of the property as a home for the elderly or as a house and doctor's surgery. Letters from local residents in relation to the appeal had indicated that there would be no grounds for complaint and with only one exception, the appeal was given their support.

4.4 It was not the appellants' intention to create an "institution" but simply a family group. Mentally handicapped people did not require any more privacy than ordinary people. It was not accepted that the playing of games or other noisy outdoor activities would be the result of the proposal.

4.5 The appellants had their own mini-bus to provide transport and all the present residents attended day care and training services Monday to Friday. Recreation took place in a special club or in public parks in the locality.

4.6 The size and nature of the property determined to a large degree the grade of mentally handicapped person who could be accommodated. They would be fairly able people of all ages between years 26–60 who were fully ambulant and who, with training and support, could live happily within their local community. Many of them had done so for years.

4.7 As to the question of traffic it was the appellants' opinion that the Council had failed to consider the proposal realistically. It was not a major commercial or business operation. As compared with former uses, a Doctor's residence and surgery, the volume of traffic would be minimal. It would be difficult to discern any difference between the level of traffic for the permitted use and the level of traffic for the proposed use. It was the appellant's view that the previous Inspector was not attempting to define types of use which would in fact cause sufficiently acute problems but rather to identify a risk that one or more do so and that was sufficient to justify the imposition of the condition so that any future uses could be dealt with on their merits.

5.0 *Inspector's conclusion*

5.1 The appeal property was both large enough and suitable for the proposal. He agreed with the previous Inspector that its location within a residential community would give it an advantage over the isolation which sometimes arose from the use of large institutions in their own grounds for that purpose.

5.2 It was noted that the Planning Officer considered there was likely to be no material difference between the environmental impact of the existing permitted use and the proposed use. A view with which the Inspector agreed.

5.3 Taking into account the presumption in favour of allowing applications for development having a regard to all material considerations, the onus was on the Council to demonstrate why the proposal should not be permitted. The Inspector could not see the use of the appeal premises for the proposed purpose as being significantly different from use as a family home. There were no valid planning reasons which could be seen why the appeal should not be allowed but he thought it appropriate to impose a similar condition restricting the use to that which had been applied for so as to ensure that any proposal for a further change of use would have to be the subject of another application and could be determined on its merits.

6.0 *Decision: appeal allowed*

6.1 In allowing the appeal the Inspector imposed a condition that

> "the property shall be used as a residential care home for the mentally handicapped and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order)."

6.2 The appellants applied for costs against the Council on the grounds that the Council's behaviour in refusing planning permission had been unreasonable. The Council's Planning Officer had recommended approval. The reasons for refusal were not supported at the Inquiry with evidence to substantiate those reasons. It should not be for the appellant to show reasons why permission should be granted. No Councillor had come forward to give evidence.

6.3 In the circumstances the appellant should not be put to the expense of an appeal without clear and proper reasons for refusal substantiated by evidence particularly having regard to the previous appeal decision.

6.4 The Council responded that the only information before them when the application was considered was one line of description. In the light of the previous decision that some uses were thought by the Inspector as capable of generating a disturbance it was thought to be proper in the circumstances to refuse permission and the Council opposed the application for costs.

6.5 The Inspector considered that the Council should have realised from the advice in Circular 2/87 that grounds for refusal should be supported by substantial evidence. That evidence had been lacking and the Council had failed to substantiate the reasons for refusal. An order for costs in favour of the appellants against the Council was made.

7.0 *Comment*

7.1 The Council's approach to the case reveals an underlying failure to grasp the essentials of the modern concept of the standard and kind of care required for handicapped persons and, in this particular case, had failed to take heed of the previous appeal decision.

A/808X/DH/P

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1504

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PASSED TO
COPIES TO
- 6 NOV 1990
ACKNOWLEDGED
No.

Your reference
JRF/1572(App.2)
Our reference
T/APP/H0330/A/89/143824/P7
Date
31 OCT 1990

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR AND MRS MORGAN
APPLICATION NO: 34316(F)

1. I have been appointed by the Secretary of State for the Environment to determine the above-mentioned appeal against the decision of the Wokingham District Council to refuse planning permission for extentions to existing nursing home and installation of new foul drainage disposal system on land at Thamesfield, Wargrave Road, Remenham. I held a local inquiry into the appeal on 18 September 1990 and I inspected the site and surroundings the following morning.

2. Your clients' property stands in attractive well treed grounds on the bank of the River Thames, opposite Henley Town Centre. It is part of a straddle of properties which runs southwards from the Henley Bridge, between the Thames and Wargrave Road, the A321. It lies within the Metropolitan Green Belt, the Remenham Conservation Area and an Area of High Landscape Value. The property is currently used by your client as a nursing home, with 50 bedrooms, offering a comprehensive nursing care service. A series of consents have been granted to them since they set up the home in 1985, which when all implemented will have increased its size from a little over 1,100 sq m by nearly a half.

3. From my inspection of the appeal site and its surroundings and from the representations made to me at the inquiry and in writing I consider that the main issues in determining your clients' appeal are firstly, whether the proposals fall to be considered as an acceptable form of development, allowed for as an exception to restrictive green belt policies and secondly, whether the proposals would have an unacceptable impact upon the character and appearance of this area, having regard to its location within the Green Belt, a Conservation Area and an Area of High Landscape Value.

4. The appeal proposals provide for 15 close care units, together with a therapy pool and conservatory. I understand that close care units are a relatively new concept in institutional care, which provide a continuing and progressive level of care and support as required, whilst enabling residents to maintain a home of their own, with their own privacy. Operationally they would function as part of the existing nursing home. They would be dependent upon and extension of the facilities provided at the nursing home. The additional facilities provided as part of the application would be available to all Thamesfield residents.

5. The Council initially approached the proposals as being for residential accommodation, capable of independent occupation. Your client explained how the

units are designed to be, and would be operated as, integral to the nursing home with residents choosing to come and live here in a care environment because of the range of progressive nursing available. Although with their own front doors, residents would be part of a care institution. At the inquiry the Council's witness accepted that the accommodation proposed fell within Class C2 of the Use Classes Order 1987, Residential Institutions, and I have no reason from the evidence before me to differ from that view. Accordingly the housing policies referred to by the Council are not of direct relevance to this case.

6. In marked contrast to the built-up area of Henley on the opposite bank of the Thames, the eastern bank is much less densely developed with a loose mix of uses and buildings spread out southwards from the bridge, mostly between the river and Wargrave Road. This area does not constitute a settlement in the normally accepted sense and nor is it recognized as such in the Structure Plan. Accordingly the very restricted policies in the Green Belt apply to this area.

7. In the Green Belt there is a general presumption against inappropriate development and approval should not be given for new buildings except in very special circumstances. However paragraph 13 of PPG2 lists the number of exceptions to this very restrictive approach, including institutions standing in extensive grounds. Although not specifically referring to them, there seems to be no reason why this exception should not be applied in principle to reasonable extensions to institutions in extensive grounds already established and operating within the Green Belt.

8. That the use carried out and proposed to be carried out is an institutional one is accepted. However, what is less clear is whether Thamesfield can be said to be standing in extensive grounds. Overall the site, having been recently enlarged to incorporate some adjoining buildings, now approaches 3 acres in extent. It has large lawns and gardens to the west, to the Thames and to the south and a substantial tree screen on the east side, to the road. Certainly from 2 of the main view points, from across the river and from approaching along Wargrave Road from the south the existing building appears to be set in spacious grounds. Although I do not consider that it unequivocally falls within this definition I would accept, on balance, that it should be treated as such. Accordingly I consider the proposals fall within one of the exceptions allowed for in national green belt policy expressed in PPG2.

9. On a more local level the Replacement Structure Plan for Berkshire, approved in November 1988 and the Green Belt Local Plan for Berkshire, 1985, reflect and develop the restrictive national green belt policies. In terms of Structure Plan Policy EN3(viii) and Local Plan Policy 1F you suggest that the proposal should be considered as wholly appropriate to a rural area and thus constitute in these terms one of the exceptions specifically allowed for by the Development Plan. In that institutions in extensive grounds are acceptable in a Green Belt and that Green Belts are essentially concerned with rural areas it can be argued that, in turn, they are acceptable uses in rural areas and therefore fall within exceptions allowed for by these policies.

10. Policy 18 of the Local Plan gives specific consideration to proposals for establishing institutional uses in existing buildings. Although that policy is not of direct applicability, the subsequent explanatory text does make reference in para 15.1.5 specifically to extensions to established institutional sites. Proposals to extend will not normally be favoured unless certain criteria are met, in terms of minimal visual impact, being essential to the function of the institution, being incapable of accommodation in the main building and not changing the character of the use of the site.

11. These criteria provide guidance rather than adopted policies and appear to me to be useful in weighing up the balance of argument. In terms of the general

principle of extending the existing building I come to the view, bearing in mind the advice in PPG2, the policies in the Development Plan, and the recent history of approval of extensions by both the Council and the Secretary of State on appeal, that there is no overriding objection to the proposals in terms of green belt policies and I come to the conclusion that the proposals do not constitute inappropriate development. Accordingly, the presumption against development in the green belt should not apply. Nor is it necessary to establish very special circumstances if permission is to be granted. Having said that, even if they are not inappropriate in principle, the particular proposals still fall to be considered in terms of the broad objectives of the Green Belt and their impact on the appearance and character of this Conservation Area and Area of High Landscape Value.

12. As I observed on my inspection of the area the narrow strip of land between the Thames and the A321, Wargrave Road, is loosely developed, with buildings interspersed with stretches of undeveloped land. Towards the junction with the A423 is a concentration of buildings, including those on the appeal site, with a public house and houses on the otherwise mostly open east side of Wargrave Road. Much of this stretch of land is well treed and the overall effect is one of loose, low density, mixed development within a rural backdrop markedly different to the urban development across the river.

13. The proposals are for a major extension of both the buildings and the services offered. As such, they are not essential to the operation of a nursing home but, rather, provide an increase range of care facilities. Nearly 1,800 sq m of floor-space is proposed. Its site is currently occupied by a 2-storey dilapidated stable block and a large disused greenhouse. In floorspace terms the net increase amounts to around 1,000 sq m. The proposals provide a northern and eastern frontage and so complete a rectangular block of buildings which would offer about 3,400 sq m of space, that is about 3 times the accommodation originally provided when your clients set up the nursing home.

14. Although of considerable size the proposals do not encroach upon the attractive open landscape setting of the nursing home, being largely tucked away alongside and behind the existing building. The principal view of the site and that most important to the Conservation Area is from across the Thames. From those viewpoints the proposals would be barely discernible, with the extensive mature tree screening effectively minimizing any material impact. The main impact when approaching from the south would result from the proposed car parking area. The existing and proposed landscaping would in part screen the car parking area though to some degree passers-by would gain the sense of increased development and activity on the site. Of much greater concern in my view is the impact of the proposals when seen from the north-easterly approaches, from Wargrave Road and the rising ground of the A423. The proposals provide for a northern elevation some 64 m in length at only a very short distance from the boundary wall. This elevation would be quite conspicuous from the highway to the north-east and at 2 and 3-storeys height would have a bulk of considerable extent. The length of building fronting Wargrave Road itself would be extended to about 45 m. The existing and proposed landscaping belt would help to diminish the effect of this aspect but would do little to screen the longer northern facade.

15. At present the site of the proposed building contains the ugly 2-storey stable block and a large greenhouse. In terms of their removal and the screening of the rear of the existing nursing home building the proposals can be said to be beneficial. However, the form and scale of the replacement, by a single very lengthy 2 and 3-storey block some 2 m or so from the existing boundary wall would create a building mass of quite different character to that currently found.

16. The proposed site is currently surrounded by buildings, including the various greenhouses and buildings associated with the adjoining nursery. To some extent these greenhouses are not such an unexpected feature in this area of mixed, loose

development. The replacement of the stable block and greenhouse by a single building of such bulk would to my view create a quite different perception of the extent that this area is built-up. The narrow gap between the building and the boundary wall leaves very little room for any effective screening. The Council indicated that some form of development of the adjoining nursery site was possible, and that this would in turn be likely to reduce the number of buildings on that site. Whatever may be the case in that respect I am of the opinion that the proposals would significantly intensify and consolidate development at this point and so change the character of this area.

17. The general purposes of a Green Belt are set out in PPG2. The Structure Plan goes on to define the primary purpose of this Green Belt as being to limit the spread of the built-up area of Greater London and to safeguard the countryside from encroachment; and the Local Plan refers to safeguarding the open or rural character of the area. In my opinion the proposals would cause material harm to some of these objectives. The consolidation of development in this loose straggle would serve to urbanise its appearance and so detract from its rural character. In significantly intensifying built development here the proposals would diminish the area's sense of openness and would reduce the current distinction between the historic centre of Henley and the primarily rural approaches and setting on this side of the river, to the detriment of the town's rural setting.

18. I consider it is desirable to preserve or enhance the character and appearance of this part of the Conservation Area and in my opinion the proposals would not achieve that. The existing hotchpotch of small buildings is quite different from that proposed and is more appropriate to this situation than a monolithic, bulky building, however well designed or attractive that may be. Although the views from the northeast are less important than those from across the river they are nevertheless significant ones to the setting of Henley as one approaches or leaves the town centre.

19. I note that objections in respect of flooding and highways can be overcome by the imposition of conditions and that the sewage disposal proposals are acceptable. Whilst I find no in principle objection to an extension I consider that the particular proposals before me are of such scale and bulk as to have a harmful impact upon the character and appearance of this area. I have no doubt that the facilities proposed would meet a social need and I have found the merits in this case to be finely balanced. However, I have come to the view that the interests of the objectives of the Green Belt are of such force as to warrant a dismissal of your clients' appeal.

20. I have taken into account all the other matters raised in the representations including the previous appeals on this site and possibility of overcoming objections by the imposition of conditions. However I do not consider that conditions could overcome the objections I have identified and none of the other matters raised outweigh the considerations that have led me to my decision.

21. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Gentlemen
Your obedient Servant

DAVID FENTON BA(Hons) MSc DipTP MRTPI
Inspector

Reference No: A/89/143824

APPEARANCES

FOR THE APPELLANTS

Mr E E Church - Solicitor, Cole and Cole Solicitors, St George's Mansion, George Street, Oxford OX1 2AR

Re-called:

Mr A C Morgan - Appellant

Mr J R Freeth DipTP - ADP (Oxford), Chartered Architects and Town Planning Consultants

FOR THE PLANNING AUTHORITY

Mr C J Lawley - Solicitor with the Council

Re-called:

Mrs D M Wells DipTP MRTPI - Principal Assistant Planning Officer

INTERESTED PERSONS

Mr S C Eve ARICS - Simon Eve and Co, Chartered Surveyors

DOCUMENTS

Document 1 - List of persons present at the inquiry.

Document 2 - Council's letter of notification of the inquiry.

Document 3 - Letter from D J Laws, dated 2 May 1990.

Document 4 - Representations made to the District Council by the Parish Council and by South Oxfordshire District Council.

Document 5 - Proof of evidence of Mr Morgan and attached appendices.

Document 6 - Proof of evidence of Mr Freeth.

Document 7 - Appendices 1 to 4 to Mr Freeth's proof.

Document 8 - Appendices 6 and 7 to Mr Freeth's proof.

Document 9 - Brochure for Thamesfield Nursing Home.

REFUSAL OF PLANNING
PERMISSION

WOKINGHAM DISTRICT COUNCIL

LOCAL GOVERNMENT ACT, 1972

TOWN AND COUNTRY PLANNING ACT, 1971

To: MR A C & MRS B A MORGAN
C/O ASSOCIATED DESIGN PARTNERSHIP
GORDON HOUSE
26 BANBURY ROAD
OXFORD, OX2 7HA

WOKINGHAM DISTRICT COUNCIL
COUNCIL OFFICES
SHUTE END
WOKINGHAM, BERKS., RG11 1BN

Application No. 34316 (F)

Proposal:
EXTENSIONS TO EXISTING NURSING HOME & PROVISION OF NEW DRAINAGE DISPOSAL SYSTEM
THAMESFIELD WARGRAVE ROAD REMENHAM

The Wokingham District Council in pursuance of their powers under the above Acts hereby REFUSE to grant planning permission in respect of the above development as described in the application and the accompanying plans submitted by you to the Council, for the following reasons:

01 The proposed development is contrary to policies of the Green Belt Local Plan for Berkshire which state that:(R232)

01 "Within the area of the Metropolitan Green Belt in Berkshire, approval will not be given, save in very special circumstances, for new building or for the change of use of land or of existing buildings for any purpose other than the following:

A Residential development in the form of infilling within settlements
B Development essential to the use of land for agriculture or forestry
C Mineral extraction
D Appropriate kinds of recreation
E Public utilities which cannot be located elsewhere
F Any other purpose wholly appropriate to a rural area.

Stringent environmental criteria will be applied in judging whether the appearance and siting of such proposals are acceptable.

Detailed interpretation of this policy will be by means of Policies 2 to 23 of this local plan."(Policy 1)

01 "Outside recognised settlements there will normally be a strong

continued/-

Application 34316 continued

presumption against allowing any residential development of a type not referred to in policies 8-10." (Policy 1)

01 "There will be a very strong presumption against allowing proposals for any development in the Green Belt other than that indicated as acceptable in earlier Policies of this Local Plan.(ie: Policy 1 as amplified by Policies 2 to 20). Only in highly exceptional cases in which the planning authorities are satisfied that the advantages in planning terms to be achieved by allowing the proposal outweigh this very strong presumption may they be prepared to consider granting permission for development of any other type".(Policy 2)

02 The proposed development is contrary to policies of the Replacement Structure Plan in the following matters:(R230)

02 Policy EN2 (General policies limiting the spread of development-Metropolitan Green belt)(RV19)

02 Policy EN3 (General policies limiting the spread of development-Metropolitan Green belt)(RV19)

02 As given in policy H6 of the Replacement Structure Plan, in the Metropolitan Green Belt, there will be a strong presumption against any housing development outside 'recognised settlements' listed in Policy EN3.

03 The District Planning Authority consider that the level of extension, which has previously been approved, at this attractive riverside property, in a Conservation Area and Green Belt location, is sufficient to allow the successful functioning of the nursing home, and the proposal to further extend the property would be detrimental to the special character of the area in which it is located.

Date..... 05 DEC 1989

.....
District Planning Officer

N.B. A statement of the applicant's rights is attached

TOWN AND COUNTRY PLANNING ACT 1971

PRE-INQUIRY STATEMENT OF THE LOCAL PLANNING AUTHORITY

in respect of an Appeal by

MR A C AND MRS B A MORGAN

against the decision of Wokingham District Council to Refuse consent for two separate schemes involving extensions to the Thamesfield Nursing Home, Wargrave Road, Remenham, Berkshire.

(1) Demolition of existing greenhouse and two storey outbuilding and erection of three storey extension to nursing home.

Local Planning Authority Ref: 33176

Department of the Environment Ref: APP/H0330/A/89/143825

(2) Extensions to existing nursing home and provision of new drainage disposal system.

Local Planning Authority Ref: 34316

Department of the Environment Ref: APP/H0330/A/89/143824

Public Inquiry to be held on 18 September 1990

1.00 SITE AND SURROUNDINGS

1.01 The two development proposals are for the same site of 1.12 ha, which comprises land to the south western side of the A321 Wargrave Road, close to its junction with the A423 Maidenhead Road east of Henley Bridge. The site area currently contains the substantial building used as Thamesfield Nursing Home together with glasshouses and a prominent two storey disused stable block, in the north eastern part of the site. The southern and western part of the site provides an attractive garden area to the Nursing Home.

1.02 The site has an extensive river frontage, facing the built up and riverside park area of Henley-on-Thames. To the north lies Cooks Nursery, which operates a small garden centre within one part of the site, with the remainder comprising derelict greenhouses. To the east lies a terrace of roadside cottages and a public house. South of the site the intensity of land use is reduced, with land used for boatyards and large detached properties in substantial garden curtilages. An area of woodland separates the nursery site from the riverside and roadside buildings in the vicinity of Henley Bridge. The appeal site itself includes numerous established trees within and on the perimeter of the site. The principal Thamesfield building is elevated approximately 1.5 metres above the lawned area of the site.

1.03 Away from the riverbank, the land rises steeply to the east, is substantially undeveloped and rural in character and is considered to be of high amenity value.

1.04 A full site description will be assisted by photographs at the time of the Inquiry. An Ordnance Survey extract at 1:2500 is attached at Appendix 1.

2.00 RELEVANT PLANNING HISTORY

2.01 Appendix 2 provides an account of the planning history of the site, which is fairly extensive. Of principle importance is the

institutional/educational use of the original buildings from the 1950's until 1984; the change of use to a nursing home for the elderly at that date and the subsequent several consents granted for major extensions to the building for that use. References to requests for demolition consent relate to the inclusion of the site within an approved Conservation Area.

2.02 Over the years there have been appeals made on five separate notices of refusal, copies of these are given in Appendix 3.

2.03 A plan will be provided to the Inquiry to demonstrate the extent and location of additions to the building originally granted consent as a nursing home.

2.04 Reference will also be made to the consistency of approach of the Local Authority in dealing with development proposals, as demonstrated by decisions on other sites in the vicinity.

3.00 PLANNING POLICY

3.01 The site lies within an area identified as Approved Green Belt within Berkshire Policies of the Replacement Structure Plan for Berkshire, approved in 1988 and the Green Belt Local Plan of 1985 are therefore relevant to consideration of the appeal proposals. For major policy purposes the same considerations apply to both schemes.

3.02 Within the Replacement Structure Plan, Policy EN2 defines the extent and primary purpose of the Green Belt in Berkshire Policy EN3 sets out "the strongest restraint on development" in this area, and provides a guide to those developments which may receive special consideration, subject to the guidance of all relevant policies of both Structure and Local Plans. It is emphasised that stringent environmental criteria will be applied in considering whether proposals are acceptable. Policy H6 considers in particular the principle of housing development in areas such as that within which the appeal site lies and states a strong presumption against such development.

3.03 The Green Belt Local Plan is a statutory approved Local Plan (1985), and contains specific policies dealing with the general presumption against inappropriate development throughout the identified area. Policy 1 sets out a short list of those developments which may be viewed as acceptable, in the same manner as Policy ENV3 of the Structure Plan. Policies 8, 9 and 10 relate to housing development outside recognised settlements (new dwellings, extensions to dwellings and replacements) while Policy 11 reiterates the strong presumption against all other residential development outside such settlements, in accordance with H6 of the Structure Plan.

3.04 The supporting information which accompanied the applications is relevant in determining the proper application of policy, as the scheme(s) were carefully described as a 'close-care' development in a statement submitted by the appellants. The interpretation of this term is given in Appendix 4 by the appellants. In a supplementary statement which formed part of the later application, the view was expressed that the proposal was for "an extension and improvement of an existing and specifically permitted institutional development". In refusing the applications the view was taken that the proposals were not an extension of an existing use but the introduction of a use of a different nature. In view of the appellants comments at the time of the application, the text of the Policy guiding consideration of institutional uses is also provided (Policy 18 of the Green Belt Local Plan) and reference will be made to the way in which this policy supports refusal of the proposal.

3.04 In addition to the above locally operated policies, Central Government advice concerning development in Green Belts, in Conservation Areas and outside urban areas is also material to the determination of these appeals and will be referred to as necessary.

3.05 Details of the above referenced policies are given in Appendix 5.

4.00 **PRINCIPAL ISSUES**

4.01 Bearing in mind the strong presumption against inappropriate development in the Green Belt, and the contribution of the appeal site to that part of the Green Belt in which it is situated, the Local Authority have considered the merits of each development proposal submitted.

4.02 It is accepted that a Nursing Home is an appropriate use for an existing building in this location, and that insofar as no demonstrable harm would result to interests of importance extensions to that building to enable the continuation of that use have been granted. The buildings now existing are considered to be sufficient to enable continuation of that use without harm to the special character of the immediate site environs. It will be noted that Conservation Area consent has been granted for demolition of the stables and glasshouses, and that this part of the site has not previously been within the remit of any other proposal in connection with the Nursing Home.

4.03 It will be demonstrated that the form and extent of development proposed would be inappropriate and detrimental to the character of this sensitive area. The benefits of shielding from view other unattractive buildings are insufficient to outweigh the clear presumption against such development on this site, which would represent an intensification of use and a compact form of development, albeit in certain respects of a higher architectural quality than buildings currently on site. The proposals also envisage the extension of the Nursing Home related use onto land previously outside the curtilage of Thamesfield, which conflicts with Green Belt policies designed to enable the best use of existing buildings, rather than to facilitate provision of institutional uses throughout the Green Belt.

4.04 The nature of the use is further viewed as differing from the existing use to a marked degree, and in fact constitutes the introduction of a new type of use involving separate residential

units with community and health care facilities available if required.

4.05 The effect which consent for either scheme would have on the future development potential of adjacent land, and the degree to which this effect would be unfortunate will also be discussed in the context of the anticipated change to the existing character of the area.

4.06 A separate statement will be submitted in advance of the Inquiry to comment on the need for and benefits of the proposed new drainage disposal system.

4.07 Conditions will be proposed which encompass the requirements of consultees including the Highway Authority and the National Rivers Authority (who raised an objection on flooding grounds), and also reflect the level of information submitted on matters of detail.

DW/SB
9.5.90

Deirdre Wells

Wokingham District Council

Proof of Evidence of

Deirdre Marilyn Wells Dip TP MRTPI

on behalf of Wokingham District Council

in respect of an appeal by

Mr A L and Mrs B A Morgan

against the decision of the Local Planning Authority to refuse consent for extensions to Thamesfield, Targrave Road, Remenham and the installation of a new foul drainage system

Department of the Environment Ref:- APP/H0330/A/89/143824

Local Authority Ref:- 343:6

Appellant's Ref:- JRF/1572

Public Inquiry to be held on 18 and 19 September 1990

I am Deirdre Wells, a Chartered Town Planner employed by Wokingham District Council as Principal Assistant Planning Officer with particular responsibility for Appeals. I have ten years relevant experience working for Local Authorities in Surrey and Berkshire and have worked in Wokingham since 1987, and am familiar with locally adopted planning policy in addition to Central Government advice.

I am not the case officer who dealt with the application the subject of appeal but I am familiar with the site, its surroundings and history.

1.00 INTRODUCTION

1.01 Since the preparation of the Authority's pre-Inquiry statement the matters the subject of appeal have been reduced by the withdrawal of the earlier scheme for development (DoE Ref: APP/H0330/A/89/ 143825 LPA Ref: 33176). The proposal before the Inquiry remains as submitted for determination as an application in August 1989, as presented on Drawings 1572/2, 3B, 11A, 12A, 12, 14, 15 and supplemented by 1572/16A and 17A prior to determination. A statement in support accompanied the application.

1.02 The Planning Officer's recommendation of refusal was endorsed by the Development Control Sub-Committee in November 1989 and a notice of refusal was issued on 5 December 1989 (Appendix 1).

1.03 During the course of consideration of the application comments were made by the National Rivers Authority and the Berkshire County Council as Highway Authority. Progress has been made in both instances.

(1) The Highway Authority requested amendments to the layout to make adequate provision for refuse vehicle turning space within the site, and also improvements to visibility splays in a northerly direction, together with clearer definition of the entrance.

As confirmed in the letter of 16 August sent to the appellant's agents, my Authority is content that satisfactory arrangements can be made in accordance with submitted drawings. The suggested conditions to be considered by the Inspector therefore include reference to this agreed provision (Appendix 2).

(2) The National Rivers Authority were consulted in respect of flood plain issues and pollution control, and raised an objection to the development on the grounds that it was

larger than was acceptable on a site within the flood plain of the Thames, where new development is to be strictly controlled.

The appellants entered into a discussion with the National Rivers Authority on the net increase in site coverage bearing in mind the demolition proposed (as presented in the letter copied in Appendix 2) and it was resolved that an area of the site is required to be lowered to provide compensation. An approximate area was suggested by the National Rivers Authority. It was pointed out to the appellants in the letter of 16 August that this would require adjustment to avoid conflict with the retention and health of important trees on the site. Amended details are awaited.

1.04 There is one other matter presented as part of the application which requires comment, as referred to in paragraph 4.06 of the pre-Inquiry statement. This is the provision of a foul drainage disposal system, specified on the application form at 'Type / Biodere unit and primary tank'.

1.05 I have taken the advice of the District Engineer on this matter. There is no public foul sewer in the vicinity of the site and all properties in the area discharge to septic tanks. This is an unsatisfactory situation at times of high water levels along the River Thames where backing up occurs. Each property suffers the consequences of its own drainage arrangements and there is no evidence that problems on the Thamesfield site have any reciprocal effect on adjoining areas.

1.06 The proposed new drainage system is recognised as an extremely effective treatment method, which permits discharge directly into a water course or surface water drain. The District Council have themselves installed such a system with the approval of the Water Authority on another site adjacent to fishing lakes. Its provision would therefore be beneficial, but only to the occupants of the appeal site, and would in no way release additional capacity for other nearby properties.

1.07 Issues to be addressed in determining this appeal may therefore be seen as being limited to the degree to which consent for the development would cause demonstrable harm to the character and amenity of the area in which the site lies, bearing in mind relevant policy constraints; in particular the sites location within a Conservation Area in the Approved Green Belt, in an area of recognised high landscape value.

2.00 SITE AND SURROUNDINGS

2.01 I have compiled a brief photographic review of the area surrounding the appeal site, which is presented as Appendix 3 to this proof of evidence. I would ask the Inquiry to take particular note of:

(i) The modest impact of the existing building on views of the river frontage, and the character of that view as an established building in an extensive garden setting;

(ii) The straggle of buildings along Wargrave Road, related to low key riverside development;

(iii) The character of the landscape to the east of the Wargrave Road as open farmland and attractive elevated woodland;

(iv) The visual prominence of buildings on the site from Wargrave Road and Remenham Hill to the north;

(v) The quality of existing landscape features and the benefit they provide to the site;

(vi) The scale of the existing building and extent of parking area;

(vii) The strong differentiation in riverside character between development on the western (South Oxfordshire) bank and the eastern bank where the site lies.

2.02 The factual details of site location have been presented at previous appeals, the Inspector's conclusion on which have been provided as Appendix 3 to the pre-Inquiry statement. To a large extent therefore the findings of fact presented in paragraph 48 (i) - (vi) (Inspector's report to Secretary of State on APP/5131/A/82/83 and 3234) remain unchanged since 1983.

2.03 The principal difference in physical details is the extension of the Thamesfield site to include an area containing buildings formerly part of the adjacent Cooks Nursery site. This has resulted in an increase of site area from 2.69 acres (1.08 ha) to 1.12 hectares. The additional area incorporates a derelict greenhouse and a substantial two storey stable block, which has had the benefit of consent for two residential flats since 1968. Conservation Area Consent has been granted for the demolition of both these buildings as Application 33175 (granted 28 June 1989). The scale and prominence of the stable block in particular is evident on the photographs presented.

2.04 A further change since 1983, as evident from subsequent site history and the appeal determination in March 1988, is that a satisfactory institutional use for the existing buildings described at that time, totalling 1115 m^2, has been found. The appellants operate a private nursing home within the premises, and have obtained several planning consents to supplement the 'original' (1983) floorspace with incremental additions although these have yet to be constructed. The Appellants plan 1572/3/B demonstrates the location of these approved additions. During the course of a more recent application, where consent was granted for extensions to increase the size of 6 bedrooms (Application 34223) Drawing No. 1242/6/C was submitted which provides helpful details of total gross increase to floorspace on the site, now all approved but not constructed (Appendix 4). In that scale of building relates to the site character I consider it is important to note the extent of approved building, net of demolition, on the site excluding the former Cooks Nursery building.

Thamesfield with annexe :			1115 m^2
Additional :	2 storey bedroom extension	A	296 m^2
	Single storey dining room	B	35 m^2
	Single storey kitchen extension	C	68.5 m^2
	3 storey link block	D	185 m^2
	3 storey bedroom extensions	E	67.2 m^2
		Total approved:	1766.7 m^2

Assuming figure of 1115 m^2 included ancillary buildings:

Demolition of (i) garage		34.8 m^2
(ii) laundry and store		100. m^2
	Total demolition	134.8 m^2

. . net increase approved for Nursing Home use = 1766.7
- 134.8

1631.9

2.05 This figure of 1632 m^2 floorspace on site compares with the original Thamesfield building of 470 m^2 (prior to addition of the annexe), and represents an increase subsequent to the approved change of use to a Nursing Home of 46%, without extension of site area. Reference will be made to this proportion in commenting on the implementation of Green Belt policy for acceptable institutional uses.

2.06 One final matter which represents a certain change in circumstances is the declared interest of the adjacent site owner (Cooks Nurseries) to explore the development potential of adjoining land to the north. This has been expressed in two applications, one of which was withdrawn following discussions and one of which was refused for the reasons set out in Appendix 5. More recently the owners agents have written to voice concern over the possible adverse effects of the Thamesfield proposal on their clients ability to develop. I understand these comments relate in particular to the intention to develop in close proximity along the majority of the shared boundary between the sites with a two

and three storey building including windows overlooking the Nursery site. (Letter from Simon Eve and Co dated 17 August 1990 copied to all parties).

3.00 JUSTIFICATION OF REASONS FOR REFUSAL

3.01 It is clear that the relevant policy framework presents an extremely restrictive scenario against which to consider new development. Major issues are:

(i) Green Belt - which policy does not provide the normal presumption in favour of development, and which carries very careful advice on what is appropriate and acceptable, in terms of both Central Government Advice and the Approved Statutory Green Belt Local Plan for Berkshire.

(ii) Conservation Area - which highlights the requirement to consider the effects of development on the contribution the site makes to the character and visual quality of the immediate area.

As can be noted from earlier appeal decisions, the site has been identified a part of an area of high landscape value. Insofar as visual amenity is implicit in the Conservation Area designation this has not formed a specific separate additional issue in refusing the application on this occasion. It must be noted however that whereas Green Belt Policy does not rely on visual amenity, that this is a relevant consideration in this particular instance.

3.02 It would be fair to say that applicable policies are defensive rather than facilitati v, and do not provide encouragement for new development.

3.03 As is necessary for proper evaluation in this sensitive location, the application has been submitted in full, and the effects of the development can be reasonably anticipated and assessed.

3.04 The proposal is to construct a substantial addition to the buildings currently forming Thamesfield Nursing Home, for a related but entirely new use. Looking first to the physical changes which would occur, there would be a new building of approximately 64 metres in length along the northern site boundary. Although the appellants have opportunity for new planting on the Wargrave Road frontage, the proximity to the boundary removes any opportunities on the northern façade minimal. As is evident from site visits and the submitted photographs the building would be clearly visible from vantage points to the north, presenting a substantial and imposing elevation and introducing a dominant scale of building in a prominent position. Views from the north are unfortunately increased by the elevation of Remenham Hill, which carries regular heavy traffic flows from the east into Henley. The appellants Drawing 1572/17/A illustrates the scale of this new building in relation to Thamesfield as existing, and also to the brick boundary wall which exists. For comparative purposes it is worth noting that the existing stable block, the demolition of which has been separately consented, extends for 19.5 metres back from the footpath, with single storey greenhouses extending over a further 33.5 metres.

3.05 Along the Wargrave Road frontage the proposed development will beset back 16 metres, and it is intended to landscape this area with dense shrub planting. The new development will however present a 26 metre wide elevation of one, two and three storey building featuring extensive roof areas, leaving a gap of 6-9 metres before the end wall of the flat roofed three storey block incarvenes. Views from Wargrave Road would in effect, when read with the backdrop of the original Thamesfield, present a built frontage of around 45 metres, three storey at each end although reducing to the centre. Again this scale of building is a significant change to that existing some of which will be open to view even after the landscaping is well established.

3.06 Views from the river frontage or the opposite bank would be limited and partially obscured by well established trees. These

views which are obtainable, particularly where three storey development with a tiled roof occurs, would give the impression that the quality of building had been consolidated, thereby reducing the existing character of these views as an established building in an extensive garden setting.

3.07 Pleasant views are currently available into the site at the entrance, and to a great extent the existing three storey annexe will screen views of the new building to its north. Some changes will be evident in this area. A vehicle access route will be constructed between the annexe and the Wargrave Road and twelve new parking spaces laid out in this area, reducing the existing shrubbery. One tree, not the subject of a Tree Preservation Order, will be lost and the lawn area reduced. Further changes to that lawn will depend on the agreement of a detailed flood compensation scheme, but a reduction in levels is almost certainly required.

3.08 The architectural style of the building reflects its function and internal division into separate bedroom units. Balconies are proposed to enable residents to have maximum benefit from the proposed new garden areas and a southerly aspect. Within the central courtyard therefore the group of buildings in total will probably not be oppressive, and will provide a sheltered, reasonably attractive environment for the purposes envisaged. However, in that the courtyard is tightly screened from external view, the bulk and scale of the entire built area of the site will not be lightened in any way, but will appear as a large square block of building.

3.09 The matter of use of the site is also material, in particular to the guidance available on appropriate development in the Green Belt, but also to scale and nature of activity on the site. The application describes the development as 'close care' a term which is in fairly common usage now. Such accommodation enables independence for elderly or disabled with easy access to medical support facilities, thereby enabling care within the personal home for a longer period than otherwise. I am not aware of any

submissions by the appellants concerning the means of access to tenure of the new residential units, for example age or infirmity qualifications, and I suggest that clarity on such matters would assist in defining the nature of the use. In determining the application my Authority took the view that the new development was not a necessary addition to an established institutional use, but constituted the introduction of residential accommodation substantially different from a nursing home, albeit benefiting from the same facilities. As such it would significantly add to the levels of activity on the site, as demonstrated by the need for car parking and therefore change the character of the use. The appellants point to the need for a minimum of 15 units for viability, which suggests this new use cannot be accommodated in a smaller building. The close-care use is therefore a strong parameter for the scale of building required.

3.10 To conclude on the changes resultant from the development, there would be unavoidable, substantial change in character and scale of building, in prominence and visibility, in architectural style and in intensity of use.

3.11 In coming to these conclusions I have borne in mind the existing site features. Certainly there are unattractive areas within the site, some of which are open to view. Many views external to the site however are obscured by existing buildings. The annexe is not of a design standard one would nowadays expect on such an attractive and sensitive site, but it is now better integrated with the other building than previously. Consents already granted enable the demolition of some of the former small ancillary buildings, to the benefit of the visual quality of the site, and effectively locate all nursing home activities in a single large L-shaped building. The development proposals now before the Inquiry would not further enhance the existing buildings, over and above what could be achieved in any event by careful landscaping, but would introduce an extensive area of new building within the grounds of the nursing home.

3.12 In the wider context I have also considered any further alterations to the site surroundings which it is reasonable to anticipate. I understand the demolition of the stable block is consequent on consent being granted for extensions to Thamesfield Conservation Area Consent has been granted for this demolition, but with no particular encouragement from those consulted that the demolition brought forward particular benefits. The building has long been an accepted part of the road frontage and it may be that improvements could be undertaken which would enable the building to positively contribute to the street scene.

3.13 It is likely that the adjacent Cooks Nursery site will change significantly in visual character in the future, with the cessation of the current operation. Planning consents for the site relate only to an agricultural use, with sales of on site produce permitted. There is no garden centre or similar approval. Discussions on recent redevelopment proposals have demonstrated that highway factors present a substantial limitation on development, due to proximity to an inefficient junction with the A423T. Taken with the visual prominence of the site and the relevant policy constraints (as on Thamesfield), it can be reasonably anticipated that site coverage by buildings will be substantially reduced from the dereliot glasshouses. Level changes however mean that any planting on that site, until very mature, would have no effect on visibility of the Thamesfield site.

3.14 Having come to the conclusions set out in 3.10 above, I have considered the development against relevant approved policy issues.

Green Belt Policy

3.15 The Green Belt Local Plan for Berkshire 1985 confirms that the site is subject to the full strength of Green Belt Policy, with Map Sheet 1 illustrating that Ranenham does not constitute a

recognised settlement. This is confirmed in Policy EN3 of the Structure Plan which duplicates the list of 'recognised settlements'. Despite the grouping of buildings along the alignment of the Wargrave Road the area is considered to be a 'straggle of development' within a rural area, a view shared by the Inspector considering the appeal in 1984 (Paragraph 9). The appeal site is therefore outside a settlement, and is to be considered against those relevant policies. Policy H6 of the Structure Plan provides a strong presumption against any housing development extraneous to recognised settlements.

3.16 Taking the Policies of the Local Plan progressively, Policy 1 provides a presumption against development in ordinary circumstances, with the possible exception of certain proposals if stringent environmental criteria are acceptable. The only opportunity for considering the appeal proposal within this guidance is in sub-section F.

> "Any other purpose wholly appropriate to a rural area."

Paragraph 6.21 amplifies this guidance to label class 'F' uses as those which are both acceptable and appropriate ie.

> "Uses which will not in principle detract from the open, rural or countryside character of the Green Belt."

Following paragraphs, while referring to the need to consider each application on all its merits, emphasises that the successful implementation of Green Belt Policy depends on consistently applying the severest restrictions on development.

3.17 Policy 11 provides a strong presumption against residential development, other than a limited range of essential new dwellings (Policy 8), acceptable extensions (Policy 9) or acceptable rebuildings or replacements (Policy 10). This policy is considered relevant in that the proposal represents the construction of 15 separate residential units, the occupation of which could be undertaken without dependence on basic facilities

already on site. It is the Authority's view that the proposal is not substantially different from a normal residential use.

3.18 If however, the Inspector takes the view, on the evidence available to the Inquiry, that the proposal represents an Institutional type of use, guidance is available within the same Local Plan on the acceptability of such development. I have examined this aspect during the preparation of this statement and paid particular regard to Policy 15 of the Green Belt Local Plan with its supporting paragraphs of interpretation. Paragraph 15.1.3 indicates that the interpretation of 'Institutional' refers to "a more or less closed, quasi-residential community, but in 15.1-5 it is made clear that:

> "Policy 15 refers solely to the introduction on to a site of completely new institutional uses, either in existing buildings or new ones."

3.19 The explanation is extremely precise in respect of extensions to established institutional uses:

> "15.1.5 Proposals to extend the buildings or facilities at sites which are already established in, or are proposed for, an institutional use (other than existing hospital sites) will not normally be favoured unless the visual impact of the new development is minimal and the use to which any new structure is to be put is demonstrably (i) essential to the function of the institution; (ii) incapable of being accommodated in the unextended main building; and (iii) not likely to change the character of the use of the site (eg by attracting significant additional traffic to it). Proposals for related residential accommodation at sites in institutional use will fall for consideration in terms of Policy 8 of this Local Plan."

3.20 If the new development is institutional therefore it falls to be tested against (i), (ii) and (iii). If ancillary residential it is considered against Policy 8 (as above). I have no evidence to suggest that the development proposed is essential to the function of the nursing home, which has previously operated successfully without such additions (i). The development, of the essential

scale put forward, could not be accommodated in the existing building other than in substitution for part of that use (ii). As set out previously the scale of development proposed is considered to substantially change the character of the use of the site, thus the additions are unacceptable (iii).

3.21 Policy 18 provides 5 criteria for assessment (of new uses) which I have examined in the interests of thoroughness.

A There is uncertainty that the use is unequivocally 'institutional'.

B A rural setting or an extensive open site is not essential.

C The existing building is to be substantially altered by major additions.

D It is arguable as to whether the grounds are 'extensive' in this context; the rural character is only evident in the southern garden area and river frontage, with boundary planting along the Wargrave Road.

E It is accepted that traffic generation would not substantially affect the rural character of the surrounding area.

The policy concludes by stating that:

"Proposals to erect new buildings to house institutional uses will normally be resisted."

3.22 Turning to National guidance, Planning Policy Guidance Note (PPG) 2 confirms the established principles of Green Belt function and reiterate the general presumption against inappropriate development. Paragraph 13 of that Guidance is very similar in content to Policy 1 of the Green Belt Local Plan, which I have previously examined. If the Inspector is convinced that the proposed development will be physically conspicuous and inappropriate then there is a very strong presumption against such

development. In addition the use intended is not required to be located in the countryside, a consideration implicit in the 'acceptable and appropriate' argument and in the term "other uses appropriate to a rural area" and in consolidating and extending building for non-essential purposes would harm the rural character to the disbenefit of this area of the Green Belt.

Conservation Area

3.23 The inclusion of the site within the Remenham Conservation Area recognises that the character and visual quality of the area is worthy of protection and enhancement. As can be noted from earlier appeal decisions, the site has long been identified as part of an extensive area of high landscape value, and in practical terms must also be considered an important riverside site open to public view from the western bank of the Thames.

3.24 The purpose and suitability of including the appeal site in the Conservation Area was a topic investigated in 1983 at the time of Appeals against proposals to erect 28 flats in replacement for Thamesfield. In reporting to the Secretary of State the Inspector concluded:

> "i. Bearing in mind the above facts I consider that the appeal site and its surroundings have strong affinities with Earley. The site is close to Henley Bridge and to other development adjoining the Bridge on the Berkshire side. Those who live in Remenham are no doubt dependent on Henley for the shopping and other services that the town provides. The open meadows and tree-lined river bank on the Remenham side to my mind compliments the built-up water front on the Henley side of the river. In my view the 2 sides together make the river in the vicinity of Henley Bridge a very special place. I would surmise that a main purpose of the Remenham Conservation Area (and probably that of its twin on the Henley side) is to preserve the character and appearance of that attractive river setting."

Paragraph 2(i) of Secretary of State's notification of decision on APP/5131/A/82/03234 and 00043.

3.25 The Secretary of State agreed with his Inspector in many respects, but placed greater weight on the Green Belt designation and the need to avoid an increase in the built area of the site.

"4. The Secretary of State recognises that the site has strong affinities with Henley and he accepts that some form of small-scale development would not necessarily be detrimental to the character and appearance of the river setting. He also agrees with the Inspector that the proposed development would not encroach on to the neighbouring countryside to the east. However, he attaches greater weight than does the Inspector to the fact that the site is within the Green Belt and he considers that, with its surroundings, it makes a useful contribution towards maintaining the openness of the area between Wargrave Road and the river which would be diminished by an increase in the built area of the site. In the Secretary of State's view, the site does not form part of a settlement and the proposed development does not come within any of the categories that may be allowed in the Green Belt."

Extract from Paragraph 4 of same decision as above.

3.26 The function of the Conservation Area on the Remenham Bank of the Thames is to preserve the character and appearance of the attractive riverside setting. There is a strong contrast between the built up and well used waterfront on the Henley bank, viewed against the rural more tranquil character of the eastern Remenham bank, where there is no towpath, a limited number of moorings and extensive garden settings to buildings. This contrast is not only evident when viewed from the river, but on driving along either the Wargrave Road or Remenham Hill there is a definite change in character between the two riverbanks, one rural the other urban. Consolidation or additions to buildings would adversely affect this character and contrast and should therefore be resisted.

3.27 The visual character of the area is dependent in part on the scale of buildings. Apart from the terrace to the east of Wargrave Road, there are no buildings which approach the scale and massing of building which is proposed on the Thamesfield site, and which I have already concluded would be clearly visible. In creating a large 'block' of building, as described around the central courtyard with no views between buildings, the scale of development would be inappropriate to the character of the Conservation Area.

4.00 SPECIAL CIRCUMSTANCES

4.01 There is opportunity to consider the special circumstances of a particular scheme in the Green Belt, even if not a form of development specified within approved policy, if there is no harm to the character, permanence and function of the Green Belt.

4.02 The Authority considered the Appellants submissions at the time of the application and are aware that support was expressed by a variety of interested persons on the general basis that the existing Nursing Home provided a valuable, high quality service to the community and that expansion of that range of services would be welcome. It is accepted that demographic changes will continue to increase the need for provision for the elderly and infirm. However there is no evidence that this need is so substantial as to set aside strong policy advice to resist unnecessary development in this location, or that it cannot be met in other more appropriate locations.

5.00 CONCLUSIONS

I have demonstrated that the appeal proposals constitute a substantial and obvious extension to the Themesfield Nursing Home, in an area where there is particularly strong policy advice to resist such inappropriate development. If approved the development would cause harm to the rural character of the area, to the visual prominence and scale of building within that area and thus to the function of the site as a valuable part of the green Belt. For all the reasons previously examined I therefore urge the Inspector to dismiss the appeal.

DW/SB
11.9.90

T/2577/HB/P

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Your reference
ARP/1242
Our reference
T/APP/H0330/A/87/077595/P4
Date
31 MAR 88

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
APPEAL BY MR A C AND MRS B A MORGAN
APPLICATION NO:- 27338

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Wokingham District Council to refuse planning permission for extensions to Nursing Home, at 'Thamesfield', Wargrave Road, Remenham, Berkshire. I have considered the written representations made by you and by the council and also those made by interested persons. I inspected the site on 21 January 1988.

2. The appeal site is located in the Remenham Conservation Area on the east bank of the River Thames facing the town of Henley. The site is in the approved East Berkshire Green Belt and is also in an Area of Great Landscape Value.

3. On the site a 2-storey neo-classical late 19th century building faces the river frontage whilst at the rear there is a modern 3-storey block. The nursing home can accommodate 48 residents and the current proposal would increase this number to 58.

4. The main part of the proposal would extend the river frontage elevation by over 60 ft, that is, double the size of the existing building. The extension would be designed to match the existing façade including all elements of decoration - string courses, cornice mouldings, projecting dressings and flat arched windows with key stones.

5. The site is extensive and contains a considerable number of trees, a line of which occupy the frontage between the house and river. The trees enjoy the protection of tree preservation orders and would not be affected by the proposal. The trees provide a limited screen to the house when viewed from the town side of the river.

6. This section of river frontage is particularly attractive, being mainly wooded and contrasting with the urban development on the other side of the river. From my inspections of the written representations and the site I consider the main issue in this appeal is whether the proposal would harm, to an unacceptable degree, the landscape character of this part of the Green Belt.

7. Since the council refused planning consent for this proposal, I note that you have submitted another application for a similar development which has not been approved. This scheme would add a further 6 bedrooms as opposed to the appeal proposal to add 10 bedrooms. The major differences between the 2 schems are that

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the approved proposal extends the river frontage facade of the main building by about half the amount of the appeal proposal, and by means of an unsymmetrical part 2 and part single storey extension. Although the council have accepted the principle of expansion by approving the smaller scheme, nevertheless it is their contention that the scale of the appeal proposal is excessive.

8 From my view of the site it is apparent that, because of the extensive perimeter tree cover around the sides and rear of the site, the main cause for concern would be the proposal when viewed from the towpath on the other side of the river. However, the proposal would extend towards the denser tree cover on the north-western site boundary and the roof of the double storey height development would be well below the top of the surrounding tree line. In my opinion the proposal would have little adverse impact on the locality and I note this view is shared by the South Oxfordshire District Council.

9. As regards design, the white painted stucco and classical features of the existing building create an elegant composition with the river, lawn, trees, and sky and an extension of similar features will continue this pleasant prospect.

10 The alterations as proposed appear to me to be acceptable; I am attaching conditions to ensure that a standard of development is achieved which is appropriate to its riverside location and to the conservation area in which the premises are situated.

11. I have taken account of all points made in the representations, including the large numbers of letters supporting the proposal, but I find none as important as those that have led me to my decision.

12. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for extensions to Nursing Home at 'Thamesfield', Wargrave Road, Remenham, Berkshire in accordance with the terms of the application (No 27338) dated 20 January 1997 and the plans submitted therewith, subject to the following conditions:-

1. the development hereby permitted shall be begun not later than 5 years from the date of this letter;

2. provision shall be made for services to be placed underground and no overhead wire or cables or other form of overhead servicing shall be placed over or used in the development of the application site;

3. all existing site levels shall be maintained in the development, unless changes in levels are first approved in writing by the council; before development commences.

4. development shall not begin until details of the floodwater works have been approved by the local planning authority and the extensions shall not be used until those works have been carried out in accordance with the approved details;

5. development shall not begin until details of vehicle parking, access and manoeuvring space have been approved by the local planning authority and the extensions shall not be used until these items have been provided in accordance with the approved details.

6. no development shall take place until there has been submitted to, and approved by, the council a scheme of landscaping which shall include details of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development;

7. all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become

seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the council gives written consent to any variation;

8. details of the design of all external lighting shall be first approved in writing by the council, before development commences;

9. details of the design and operation of any chimney or extraction system shall be first approved in writing by the council, before development commences.

13. The developer's attention is also drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970.

14. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than Section 23 of the Town and Country Planning Act 1971. Your attention is drawn to the provision of Section 277A of the Town and Country Planning Act 1971 (inserted into the Act by the Town and Country Amenities Act 1974) as amended by Paragraph 26(2) of Schedule 15 of the Local Government Planning and Land Act 1980 which requires consent to be obtained prior to the demolition of any building in a conservation area.

I am Gentlemen
Your obedient Servant

S Ward

S E WARD ARIBA MSc MRTPI
Inspector

ENC

REFUSAL OF PLANNING
PERMISSION

P
JRS

WOKINGHAM DISTRICT COUNCIL

LOCAL GOVERNMENT ACT, 1972

TOWN AND COUNTRY PLANNING ACT, 1971

To: MR A C & MRS B MORGAN
C/O ASSOCIATED SIGN P/NERSHIP
GORDON HOUSE,
276 BANBURY ROAD
OXFORD OX2 7HA

WOKINGHAM DISTRICT COUNCIL
COUNCIL OFFICES
SHUTE END
WOKINGHAM, BERKS., RG11 1BN

Application No. 27337 (F)

Proposal:
EXTENSIONS TO NURSING HOME TO PROVIDE LINK BLOCK TO ANNEXE, KITCHEN & LAUNDRY EXTENSION AND BEDROOM BLOCK WITH DINING ROOM
THAMESFIELD, WARGRAVE ROAD, REMENHAM

The Wokingham District Council in pursuance of their powers under the above Acts hereby REFUSE to grant planning permission in respect of the above development as described in the application and the accompanying plans submitted by you to the Council, for the following reasons:

01 The proposed development is contrary to policies of the Central Berkshire Structure Plan which state that:(R230)

01 "The County Council will seek to maintain a clear physical and visual distinction between built areas and the countryside." (Policy EN1)

01 "It is the County Council's policy that the local planning authorities, in considering proposals for development and in drawing up local plans to guide this development, should take full account of the need:
(a) To safeguard areas of special architectural, historic, townscape or landscape character, whether or not they are designated conservation areas.
(b) To prevent additions to existing sporadic or dispersed development which is not within an existing settlement possessing a basic range of services.
(c) To ensure, in towns, villages and suburbs that undeveloped land that has a special visual significance in relation to the character of the place is identified and safeguarded from development.
(d) To protect important open land between settlements particularly between Wokingham and Bracknell." (Policy EN2)

01

continued/-

"Within areas wholly or partly given over to rural land uses (whether or not productive) or having a rural character, the conservation of productive land and the landscape should predominate and there is a presumption against development except in the following categories:
(a) Development essential to the use of land for agriculture or forestry.
(b) Mineral extraction.
(c) Development associated with recreation of a scale and type appropriate to the countryside.
(d) Public utilities which cannot be located elsewhere.
(e) Any other purpose wholly appropriate to a rural area." (Policy EN5)

01 "The County Council proposes that the part of Central Berkshire East of Bracknell, together with the area North and East of Twyford, will form part of the Metropolitan Green Belt." (Policy EN6)

01 "Within the area covered by the Green Belt, approval will not be given, except in very special circumstances, for new building or for the change of use of land or of existing buildings for any purpose other than residential development in the form of infilling within settlements and for those categories specified in Policy EN5. Stringent environmental criteria will be applied in judging whether the appearance and siting of such proposals are acceptable." (Policy EN7)

02 The proposed development is contrary to policies of the Green Belt Local Plan for Berkshire which state that:(R232)

02 "Within the area of the Metropolitan Green Belt in Berkshire, approval will not be given, save in very special circumstances, for new building or for the change of use of land or of existing buildings for any purpose other than the following:

A Residential development in the form of infilling within settlements
B Development essential to the use of land for agriculture or forestry
C Mineral extraction
D Appropriate kinds of recreation
E Public utilities which cannot be located elsewhere
F Any other purpose wholly appropriate to a rural area.

Stringent environmental criteria will be applied in judging whether the appearance and siting of such proposals are acceptable.

Detailed interpretation of this policy will be by means of Policies 2 to 23 of this local plan."(Policy 1)

02 "Outside recognised settlements there will normally be a strong presumption against allowing any residential development of a type not referred to in policies 8-10." (Policy 11)

02 "There will be a very strong presumption against allowing proposals for any development in the Green Belt other than that indicated as

continued/-

Application 27337 continued

acceptable in earlier Policies of this Local Plan.(ie: Policy 1 as amplified by Policies 2 to 20). Only in highly exceptional cases in which the planning authorities are satisfied that the advantages in planning terms to be achieved by allowing the proposal outweigh this very strong presumption may they be prepared to consider granting permission for development of any other type".(Policy 21)

03 The proposed development is not considered to be essential to the function of the institution and will be likely to change the character of the use of the site to an unacceptable degree

04 The proposed development is contrary to the following proposed policies contained in the Review of Berkshire's Structure Plans Submission Document:- (R235)

04 Policy E EN3 (General policies limiting the spread of development- Metropolitan Green belt)(R 9)

04 Policy EN9 (Landscape requiring special protection- Other areas of special landscape importance)(R 24)

Date ..... 6 APR 1987

..... District Secretary

N.B. A statement of the applicant's rights is attached

PLANNING PERMISSION

P
JRS

WOKINGHAM DISTRICT COUNCIL

LOCAL GOVERNMENT ACT 1972

TOWN AND COUNTRY PLANNING ACT 1971

To: MR A C & MRS B A MORGAN
C/O ASSOCIATED DESIGN PARTNERSHIP
GORDON HOUSE
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WOKINGHAM DISTRICT COUNCIL
COUNCIL OFFICES
SHUTE END
WOKINGHAM, BERKS., RG11 1BN

Application No.28203 (F)

Proposal:
EXTENSIONS TO NURSING HOME FOR THE ELDERLY 1. LINK BLOCK TO ANNEXE (3 FLOORS) 2. KITCHEN/LAUNDRY EXTENSION (SINGLE STOREY) 3. BEDROOM BLOCK (2 FLOORS) & DINING ROOM
"THAMESFIELD" WARGRAVE ROAD REMENHAM

The Wokingham District Council in pursuance of their powers under the above Acts hereby GRANT Planning Permission for the carrying out of the above development in accordance with the application and the accompanying plans submitted by you to the Council subject to compliance with the following conditions the reasons for which are specified thereunder.

01 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.(5)

01 REASON This condition is deemed to be attached by virtue of Section 41(1) of the Town and Country Planning Act, 1971.(3R)

02 All the materials to be used in the elevations of the proposed development shall match those on the existing building to the satisfaction of the District Planning Authority, and this condition shall apply notwithstanding any indications as to these matters which have been given in the current application.(12)

02 REASON To ensure that the materials are in keeping with those existing.(8R)

03 Provision shall be made for services to be placed underground. No overhead wire or cables or other form of overhead servicing shall be placed over or used in the development of the application site.(13O)

03 REASON In the interests of visual amenity.(13R)

04 All the existing site levels shall be maintained in the development of the site, particularly along the boundaries, unless changes in levels

continued/

are first approved in writing by the District Planning Authority and this condition shall apply notwithstanding any indications as to this matter which may have been given in the current application.(141)

04 REASON Changes in site levels may materially affect the proposed development or adjoining property.(132R)

05 Before the development hereby permitted is occupied, it shall, subject to the conditions of this permission, be fully completed in all respects in accordance with the drawings and other details contained in the application.(147)

05 REASON In order to secure the satisfactory development of the site as approved by the District Planning Authority(137R)

06 The ground level ports giving access to the undercroft of the development hereby approved shall hereafter be retained in an open condition and shall not at any time be closed up nor shall the undercroft itself be used for storage purposes or in any way obstructed and shall be kept clear at all times.(2139)

06 REASON To permit the free flow of water across the site in times of flood.(164R)

07 The building extensions shall not be occupied until a means of vehicular access to the rear of the nursing home has been constructed in accordance with the approved plans.(2140)

07 REASON In the interests of road safety.(550R)

08 Vehicle parking shall be provided in accordance with the District Planning Authority's Parking Standards before the proposed extensions are occupied.(2141)

08 REASON In the interests of road safety.(550R)

09 A turning space for commercial vehicles shall be provided within the site to the satisfaction of the District Planning Authority before the proposed extensions are occupied.(2142)

09 REASON In the interests of road safety.(550R)

10 The vehicle parking spaces shown on the approved layout shall be marked out on site to the satisfaction of the District Planning Authority before the development is completed and the spaces shall be kept continuously available for parking.(608)

10 REASON In the interests of road safety.(550R)

11 The hardstanding area outside the front of the building shall be used for access, manoeuvring, loading, unloading and parking only.(2143)

11 REASON In the interests of road safety.(550R)

12 No tree or shrub on the site shall be felled, destroyed, damaged or

continued/-

disturbed in any way and no part thereof shall be removed without the prior approval in writing of the District Planning Authority (except for those shown to be felled or lopped on the layout hereby approved). Each tree or shrub felled, destroyed or severely damaged without such approval shall within the next planting season be replaced by another healthy, semi-mature tree or shrub as the case may be, of similar species. If within a period of 5 years any replacement tree or shrub dies, is removed or becomes seriously damaged or diseased, it shall be further replaced with another healthy tree or shrub as the case may be, of such size and species as may be agreed with the District Planning Authority.(191)

12 REASON To ensure the satisfactory retention of existing trees and shrubs and in the interests of visual amenity.(190R)

13 Before the development hereby permitted commences, the existing trees and shrubs in the vicinity of the operations hereby approved which are required to be retained on the site shall be protected from damage by the erection of fencing to coincide with the crown spreads to the satisfaction of the District Planning Authority. Such fencing shall be retained and maintained in good repair throughout the development of the site. The natural soil levels shall be maintained over the roots of the trees and shrubs and furthermore, no plant, vehicles, materials or other items shall be parked or deposited under the protected trees and shrubs. If any trenches for services are required within the fenced areas, they shall be excavated and back filled by hand, and any tree roots with a diameter of 25 mm or more shall remain unsevered and undisturbed.(2144)

13 REASON To ensure that the trees and shrubs, including the roots thereof, are not damaged during building operations.(191R)

14 In carrying out the development the applicants shall conform with the recommendations in BS5837: 1980 - Trees in relation to construction.(195)

14 REASON To ensure that the trees and shrubs, including the roots thereof, are not damaged during building operations.(191R)

15 No development shall take place until there has been submitted to and approved by the District Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.(196)

15 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the District Planning Authority gives written consent to any variation.(203)

15 All the landscaping and planting to be carried out in respect of the

continued/-

Application 28203 continued

In accordance with Section 29A of the Town and Country Planning Act 1971 your attention is drawn to Sections 4 and 7 of the Chronically Sick and Disabled Persons Act 1970 and to the Code of Practice for Access for the Disabled to Buildings being the British Standards Institution Code of Practice referred to as BS.5810; 1979.(642)

Date..... .....

02 SEP 1987 District Secretary

N.B. A statement of the applicant's rights is attached.

This permission or approval is for the purposes of the Town and Country Planning Act 1971 only. Approval may also be required under the Building Regulations.

INFORMATIVE: If this planning permission relates to the erection or extension of a building, then the following section applies:-

BERKSHIRE ACT 1986- SECTION 32: ACCESS FOR FIRE BRIGADE

(1) Except as provided in subsection (2) below, where plans for the erection or extension of a building are deposited with a district council in accordance with building regulations, the district council shall reject the plans unless, after consultation with the fire authority, they are satisfied that the plans show:-

(a) that there will be adequate means of access for the fire brigade to the building or, as the case may be, to the building as extended; and

(b) that the building or, as the case may be, the extension of the building will not render inadequate existing means of access for the fire brigade to a neighbouring building.

(2) No requirement concerning means of access to a building or to a neighbouring building shall be made under this section in the case of a building to be erected or extended in pursuance of a planning permission granted upon an application made under the Act of 1971, unless notice of the provisions of this section is endorsed on or accompanies the planning permission.

(3) Section 16(7) and (8) and section 36(2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of the said Act of 1984.

(4) Any person aggrieved by the action of the district council in rejecting plans under this section may appeal to a magistrates' court.

(5) In this section references to the adequacy or inadequacy of means of access for the fire brigade shall be construed as references to a means of access adequate or, as the case may be, inadequate for use for fire-fighting purposes by members of one or more fire brigades and their appliances.

29.07.2002 6:07

MISS B.A. WILLIAMS

re

Planning matters relating to Thamesfield Nursing Home, Wargrave Road, Henley-on-Thames, Oxon.

O P I N I O N

John R. Freeth, Dip. TP (Oxford), MRTPI,
Chartered Town Planner,
83, Sharland Close,
Grove,
Wantage,
Oxfordshire, OX12 0AF

MISS B.A. WILLIAMS

re

Planning matters relating to Thamesfield Nursing Home, Wargrave Road, Henley-on-Thames, Oxon.

O P I N I O N

1. I am asked to advise Miss B.A. Williams regarding changes which she wishes to make to the accommodation at, and running of, her nursing home at Wargrave Road, Henley-on-Thames. It is evident that the nursing home has been run very successfully for a number of years now but changes in the market and the nature of the care sought mean that major alterations to the buildings and to the way in which care is provided have to be made.

2. Because the facts and issues have been comprehensively and helpfully set out in my Instructions, I am only going to refer to the planning issues briefly by way of introduction. For clarity, when I refer to the home in this context I mean the whole of the land outlined on the plan which is Appendix 1 in my Instructions. Thus:

(1) it seems to me that, subject to one point that I deal with below about condition 8, the planning permission that governs the use of the home is that of 22nd November 1984 (22432) and hence the conditions attached to it (particularly nos. 6 and 8) are important.

(2) I have noted that, over the years, the home has changed the way in which care has been provided: there would have been originally a maximum of 58 residents accommodated in single or shared bedrooms. These numbers are as a result of the effect of the permissions 22432 and 27338 (31st March 1988). But since then the traditional bedrooms have been limited to 29 and the balance of the accommodation is in 24 'Close Care' units, which I will deal with below. These units come about as a result of the

permissions of 16th April 1991 (37269) and 20th October 1994 (43071).

(3) The Close Care units result from the changes in the nature of care sought and the way people prefer it to be provided. The details of these apartments (for that is what they are) are set out in the two brochures in Appendix 2 of my Instructions, the draft Lease in Appendix 4 and the plans in Appendix 5.

(4) It is now intended to change the balance of the accommodation further so that there will be, in the future, 10 traditional bedrooms and 34 Close Care units. The essential issue is whether this can be done within the ambit of the present permissions or whether new planning consents must be sought.

3. I agree with my Instructing Planning Consultant that:

(1) the planning unit is the home, as I have described it above. The subsequent planning permissions all refer either to extensions to the existing home or the redevelopment of existing buildings. Hence I do not think they could be regarded as creating any new planning units, particularly when it is clear that any new build was to be used as part of the existing home and as part of its facilities.

(2) So far as numbers go, there would not be a contravention of any conditions now existing. I am told that the maximum number of residents will be 54 after all alterations are carried out. This is well within any theoretical restriction of 58 - arrived at by taking together permissions 22431 and 27338. I say 'theoretical' because I am by no means clear that the curiously drafted condition 6 of 22431 did in fact place a 'numbers' restriction on the development and there certainly was no such restriction in permission 27338. But since the home will be within any such restrictions, assuming them to exist, I do not think this issue is worth considering further. And the condition strikes me as

too vague to be properly enforceable and may well fail the tests in Circular 11/95. But for the reason I referred to in the last but one sentence this is something that need not be considered further at the present time.

(3) So far as the building works are concerned, I agree that these come within section 55(2(a) of the Act on the basis that either they affect the interior of the building only or do not materially affect its external appearance. Hence planning permission is not required.

(4) In principle, changes of use within the same use class in the Use Classes Order 1987 do not require planning permission; see section 55(2)(f) of the Act. I agree also that the home *prima facie* falls within use class C2 and certainly so far as the existing nursing home bedroom accommodation is concerned.

The Use Classes Order issue

4. There seem to me to be a number of sub-issues here. The first is whether what is proposed falls within use class C2 or C3. That in turn depends on whether the Close Care units are 'use as a dwellinghouse' within the meaning of C3 (in this context almost inevitably, it seems to me, under sub-paragraph (a)) and whether, if so, that is enough to take them from use as a nursing home and also from C2 to C3.

5. Whether a particular unit is capable of being a dwellinghouse is a question of fact. There is no definition of it in the Use Classes order. The test is whether it can afford to those who use it the facilities required for day-to-day private domestic existence (see *Gravesham BC v. SOSE* (1982) 47 P. & C.R. 142 and *Moore v. SOSE* (1998) 77 P. & C.R. 114). I do not think there can be any doubt that the Close Care units are capable of passing this test, particularly if the facts in *Gravesham* are considered. But I do not think that this is enough.

6. Use class C2 refers to residential institutions of various sorts and uses for those purposes. The present use is capable of falling under the first two sub-paragraphs; "Use for the provision of residential accommodation and care to people in need of care (other than a use falling within class C3 ...)" and, alternatively, "Use as a .... nursing home". It will be noted that the latter does not have the qualification relating to use class C3 that applies to the former.

7. I consider it is necessary to look first at the position that obtained before the construction of the Close Care units, following the permissions in 1991 and 1994. There can be no doubt in my view that the home was then within Class XIV of the 1972 Use Classes Order as a nursing home and that the Council considered that to be the case (see condition 8 of 22432). When the 1987 UCO came into force I agree that use class C2 then applied. The most likely category seems to me to have been "use as a .... nursing home." The issue of use class C3 did not therefore arise.

8. Given the Close Care units that now exist and those to be developed in the future, is the home still within the description of "use as a ... nursing home" within use class C2? To answer that question it is necessary to look closely at how the Close Care units operate and whether there have been any other changes in the way that the home is run.

9. As I have said they are capable of falling within the definition of 'dwellinghouse' but that by itself is not a complete answer. In dealing with use class C3 the test is "*use as* a dwellinghouse" [emphasis supplied] compared with "use as a ... nursing home" or (looking at the first part of use class C2) "use for the provision of ...". The characteristics of the Close Care units seem to me to be:

(1) they are leasehold for a term of 125 years and subject to important restrictions which link them firmly to the home and its use as a nursing home.

(2) Although the definition of the 'tenant' under the lease does not appear to be restricted to elderly persons (and so the tenant could be, e.g., a trustee for an occupier) it is clear that only an 'Approved Occupier' can occupy the dwelling (other than as a temporary guest) (clause 4.7) and the 'Approved Occupier' is defined 'as at least one person or persons of' 65 years or over. There are provisions for obtaining the landlord's approval which can be withheld in respect of someone *under* 65 years (see cll. 1.3 and 1.4). Thus there is a clear restriction on occupation other than by the elderly. I will assume for simplicity that the tenant is the same as the occupier.

(3) The tenant cannot make material alterations, even of a non-structural nature, to the interior of the dwelling nor can he substantially change the layout (cl. 4.6(c)). That is a clear indication to me that the landlord is retaining a substantial measure of control over and above that of the ordinary landlord in a leasehold development and the purpose is, no doubt, to ensure that the character of the apartment remains that of one to be occupied by the elderly and those in need of care.

(4) The tenant cannot 'assign underlet or part with or share the possession or occupation of the whole or any part of the dwelling' except by an approved assignment (cl. 4.8(a), (b)). In essence, this means that if the tenant dies or cannot continue to occupy the dwelling he must give notice to the landlord; the landlord can then give notice of her intention to purchase the dwelling and there are provisions for valuation; once this has taken place the landlord can serve a 'surrender notice' upon the tenant and the landlord then purchases the tenant's interest at valuation, less 10%. There are provisions which allow the landlord to start the process for surrender without waiting for the tenant's notice. These strike me as being important restrictions on a tenant's freedom of disposition which are not readily applicable to ordinary leasehold transactions but are consistent with the landlord

retaining control over who occupies, how long any vacancy can be allowed to continue and maintaining the character of the home as a nursing home - otherwise there would be nothing to stop tenants leaving their apartments vacant and thus altering the whole character of the home.

(5) There is a further restrictions on assignment etc. (cl. 4.8(c), (d), (e)) which are important. In essence, these require the tenant to assign etc. only to an 'Approved Occupier'; give written notice to the landlord of his intention to assign and the price; this is so that the landlord can nominate Approved Occupiers from the waiting list at the same price and terms; alternatively, the landlord may require the tenant to surrender the lease in the way described above. Here again there is tight control by the landlord to ensure, I consider, that the character of the home as a nursing home remains and that those who occupy will be occupying for such purposes and in accordance with the overall scheme. These are restrictions one would not expect to see in an ordinary leasehold development.

(6) Finally, the assignee is required to enter into direct covenants with the landlord in the terms of the lease, thus preserving the character and the terms of the scheme.

(7) The 4th Schedule contains important regulations about the use of the dwelling and the home generally. The dwelling can only be used for private residential use by an Approved Occupier or such occupier and another person approved by the Landlord. No trade or business or profession can be carried from the dwelling. Nobody can be employed to carry out works, duties or perform any functions for the tenant in or about the home unless the landlord consents. And the provisions of the TCPA 1990 and any planning permissions must be complied with. Again these all allow the landlord to ensure that the character of the home remains as a nursing home.

(8) The tenant is to pay a service charge. In return for this the landlord provides a number of services some of which are specifically relevant to the character of the home as a nursing home (cll. 3 and 5). Thus the landlord is to keep open a sitting room between specified hours. Each dwelling is to have an alarm link to a central control for emergency medical/nursing cover. The landlord is to provide and maintain the gas and electricity for the dwelling and to provide hot water and heating (an unusual provision in leases of flats); is also to provide trained nursing staff on a 24 hour basis; will provide regular refuse collections from the dwelling and will provide newspaper deliveries and a library. Having provided these facilities the tenant is given the right to use them, particularly the services of the nurse and the nursing and care facilities at the home and the right to use the restaurant and bar there and any other services which may be made available by the landlord (1st Schedule part II). Again these are all clearly related to the use of the home as a nursing home and show the clear link between the dwelling and the nursing home facilities.

(9) In summary, the way in which the lease is drafted and the obligations and rights placed upon the parties seem to me to show that the Close Care units are part of the existing nursing home; are related to that function; are not independent units in any meaningful sense and do not detract from its present use as a nursing home. Because of the clear links and restrictions which I have described it seems to me to be artificial to consider them as separate planning units. Their use is plainly linked to and part of the overall nursing home use. What is more important, they do not in my view amount to a material change in use of the premises as a nursing home. In this connection, it is also perhaps worth noting that McCullough J. in *Gravesham* (at p. 146) stressed the distinction between a dwellinghouse and institutions where people may spend 24 hours a day but are plainly not dwellinghouses. Although his analogy cannot be pressed too far, it is I think of some assistance in the circumstances of this

case. It also may be relevant to take into account the quality of the user (see at p. 147) as part of taking into account all the relevant circumstances to solve what is stressed to be an issue of fact.

10. I consider therefore that there is a 'nursing home' use within class C2 of the 1987 Use Classes Order. That is sufficient for present purposes but, if it becomes necessary to consider it, there is also a 'use for the provision of residential accommodation and care to people in need of care' within the meaning of the first part of class C2. I consider that it does not fall into class C3 for the reasons given above namely, that the use is essentially an institutional nursing home use (or residential accommodation and care use) and the way in which the Close Care units are set up and run does not amount to a material change to that or those uses. I should add that I have also seen the attractive brochures which show how the apartments and ordinary rooms are part of the home (Appendix 2 to my Instructions).

11. Although I have (unsurprisingly) concentrated on a number of legal issues, it is plain that the way in which the home is run means that the occupants whether of the Close Care units or the ordinary rooms must have a Care Plan to deal with their medical needs. That emphasises the nursing aspects of the use and shows again that the home is run as a nursing home and has not changed as a result of the building of the Close care units (see Appendix 4 to my Instructions). Finally, it seems to me to be worth stressing that the way in which the nursing home is run and the way in which the residents are cared for has not changed. That seems to me to be important when considering whether there has been a material change of use or breach of condition 8.

The 1972 and 1987 Use Classes Orders

12. Condition 8 of permission 22432 provides that "the building" (this means the original building on my plan in Appendix 1) shall be used "only for the purpose of a nursing home for the elderly"

and for no other purpose whatsoever, notwithstanding Class XIV of the 1972 Use Classes Order.

13. I consider that the condition has not been breached (and will not be breached) by the construction and use of the Close Care units because it is plain that an Approved Occupier must be over 65 (see above) and hence will be 'elderly'. I have noted that the lease allows an additional occupier to be under that age but that seems to me to be *de minimis* given that the landlord has a veto on their occupancy and, of course, it must be understood that husbands and wives often do not fit neatly into the same age brackets! In any event someone, say, between 60 and 65 could still perfectly properly be regarded as 'elderly'. Finally, I have already dealt with the 'nursing home' point.

14. As my Instructing Planning Consultant has observed, condition 8 refers merely to the 1972 UCO and does not say, as many conditions do, "or any re-enactment or replacement thereof". I consider however that the effect of sections 17 and 23 of the Interpretation Act 1978 is that the reference in the planning consent to the 1972 UCO is to be read as a reference to the 1987 UCO. That is because the effect of these sections is to make references to a repealed UCO in instruments and documents like planning consents a reference to the UCO that replaces them (see particularly ss. 17(2)(a) and 23(2), (3)). Thus, the effect of condition 8 is to confine the use to that of a nursing home for the elderly notwithstanding the provisions of the remainder of the 1987 UCO Classes C2 and C3.

15. I think that my client should reserve her position on three points. The first is the validity of condition 8 in the light of the 1987 UCO. It may well be that, given the liberalisation of planning control effected by the 1987 UCO, this condition would not now be properly imposed if the tests in Circular 11/95 were properly applied. However, as my view is that the home still functions as a nursing home for the elderly within the meaning of the condition, it is not something that need be pursued at the present time. The second is the applicability of this condition to

any part of the home other than the original building. It is not immediately obvious to me that the various extensions, erected or converted as they were under other permissions, are necessarily caught by a condition applied specifically to a particular development and building. And this has added force because the condition could have been reapplied when those permissions were granted. But as the home presently operates in accordance with it, it is not something that need be pursued now. The third is the validity of any numbers restriction derived from the original permission and which I have referred to above.

Condition 8 and the Use Classes Order

16. I have already indicated that the present use is within Use Class C2 of the 1987 UCO and, in my view, is still properly described as a nursing home. The effect of condition 8 in permission 22432 is to restrict the use to the precise use described in the condition. Thus section 55(2)(f) does not override the condition. This seems to me to be the effect of *R. v. Tunbridge Wells BC, ex parte Blue Boys Development Ltd.* (1990) 59 P. & C.R. 315. The judge held that change of use and non-compliance with conditions attached to a planning consent (and terms of a section 52 agreement) were different concepts. The fact that a use can be lawfully changed within a particular class of the UCO, perhaps as the result of a change in the UCO itself, does not affect the enforceability of the condition. Hence, in this instance and subject to what I have said above about it, condition 8 will prevail even if a change in the UCO means that something is no longer development when it was before. But, as I have said already, my view is that what has been done, and what will be done, will still be a nursing home for the elderly within the meaning of the condition and hence any conflict between the UCO and the condition (if there is any) does not matter for these purposes.

17. The answers to the questions in my Instructions are:

(1) I consider that the nursing home as a whole is the relevant planning unit.

(2) In my view the intended change in the way that the premises are run would not materially change the composition or character of the existing planning unit as indicated above.

(3) In my view the Close Care units do not, in the particular circumstances of this case, have (and would not have) a different primary use to that of the nursing home accommodation. And as a variant of that answer my view is that they are not of a materially different kind or character to that of the nursing home accommodation.

(4) In my view the Close Care units are not separate planning units in the particular circumstances of this case.

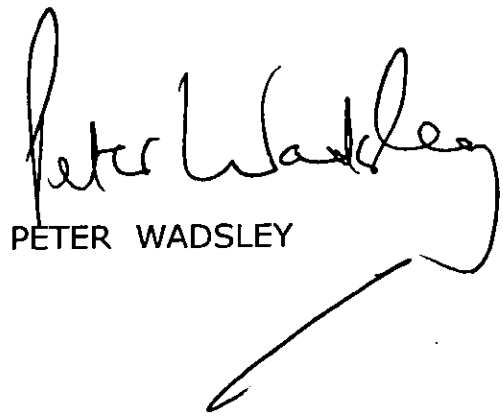
(5) The Use Class applicable to the Close Care units is C2.

(6) Section 55(2)(f) does apply in this case but it does not override all other considerations; in particular, condition 8 subject to what I say about that condition.

(7) I do not consider that these matters need be referred to the LPA for approval whether by way of an application for a new permission or for a relaxation of condition 8. I suggest that an application is made for a CLOPUD in respect of the proposed Close Care units. I cannot think that there can be much difficulty with such an application. The LPA approved the Close care units when they granted permissions for the operational development in 1991 and 1994. To do this they must have been satisfied that the new build was properly part of the existing nursing home and could be run in accordance with the existing permissions.

18. Finally, I must apologise for the delay that there has been in providing this Opinion. As I have explained, this regrettably arose through the need to prepare for and conduct a series of Public Inquiries which left no time to deal with the fairly complex issues which this case presents. If my Instructing Planning Consultant

has any queries I hope he will not hesitate to contact me whether by telephone or otherwise.



PETER WADSLEY

St. John's Chambers,
Small Street,
Bristol BS1 1DW

1st November 2002.

APPENDIX 4

Thamesfield

Wargrave Road, Henley-on-Thames, Oxon. RG9 2LX

Telephone: (Office) 01491 418100 (Matron) 01491 418133

Fax: 01491 575001

NURSING CARE AT THAMESFIELD COURT

We can supply nursing care to meet a wide range of needs. This care ranges from advice and treatment of a temporary minor ailment right through to twenty four hour full nursing care.

It is important that you understand fully the way this works.

PROCESS

1. When you take up residence, Matron will make an appointment to visit you to carry out an initial assessment, which will provide us with important information. Even if you feel you are perfectly well and wholly independant at present, this assessment is vital in order that we can offer you the best nursing care in the event of an emergency or sudden illness. The visit is designed to:-

Ensure your safety

Supply you with information

Give you an opportunity to ask questions

In this way we can provide you with a personal service.

2. Should you suddenly become ill, we have to correctly respond to your needs and it is not possible to discuss with you and your family pricing details in an emergency situation.

It is therefore important that you have confidance in us and reconize that it is our professional duty to put your best interests first when implementing nursing care.

A guidline to nursing care prices is given to you, but it is not possible to price this in terms of time alone.

It is important that you understand that:-

1. Matron and her staff have no financial interest in your care and are not involved in the cost of it.

2. Nursing Care at Thamesfield Court is extremely competitively priced in comparison with the care provided by agencies in the community.

Thamesfield
Wargrave Road, Henley-on-Thames, Oxon. RG9 2LX
Telephone: (Office) 01491 418100 (Matron) 01491 418133
Fax: 01491 575001

ASSESSMENT: THE PROCEDURE.

1. Assessment

This is carried out by Matron, who is a professional nurse who is experienced in collecting relevant information and in making observations which accurately reflect the health status and needs of the individual. This information is used to plan care.

2. Planning of Care

When you have been visited by Matron, all your needs and wishes are put together in an organized plan of care to ensure that your care is always complete and of the same quality. The provision of care is discussed and agreed with the other professionals on our team and with you.

3. Implementation.

These same professionals then begin to carry out the service which provides your care, keeping necessary accurate records to ensure continuity and provide information for evaluation.

4. Evaluation.

It is essential that the service we give you is constantly monitored and evaluated.
In this way we know whether you are happy with the service you receive and whether your health status is improving.

This procedure is known as "Individualized Nursing Care". It requires specialist professional knowledge and the time needed to put it into practice is well worth the excellant results we achieve.

Thamesfield

Wargrave Road, Henley-on-Thames, Oxon. RG9 2LX

Telephone: (Office) 01491 418100 (Matron) 01491 418133

Fax: 01491 575001

THAMESFIELD COURT

The Close Care Concept.

What We Offer.

1. Support for independent living
2. Personal security
3. Health care
4. Enhancement of quality of life.

So that you are fully informed about what we offer and have confidance in us, this information about our pricing methods is presented openly and honestly and further discussion is welcomed.

The owner of each apartment is charged for 2 separate things:-

One is the Service Charge which at the moment is £68 per week
The other is the care charge this is £25 per week and this provides for:-

Experienced staff on call 24 hours a day to provide emergency help.

Initial assessment, medical documentation and assistance with choice of services.

This enables you to lead your life as you choose, in the knowledge that in addition to what is routinely provided you can buy any of our services at short notice or on a planned basis.

The Services

1. Maintenance

1.1 Your monthly service charge pays for the grounds and public areas of the building to be continually maintained.

1.2 Your personal maintenance problems can be solved by informing the office. The maintenance manager will visit you, provide an estimate and you will be billed accordingly.

2. Domestic Services

2.1 Your monthly service charge pays for:-

Milk, newspaper and mail delivery
Refuse collection
Cleaning of public areas
Refreshment in the orangery
Meeting with the housekeeper to request/plan services

2.2 Additional domestic services which have to be paid for seperately include:-

Cleaning of your apartment.
Meals. These can be served in your apartment or the Orangery. You can order on an ' ad hoc' basis or have a regular routine. Guests are most welcome. Menu orders should be placed the day before if possible from the menu lists which are delivered to you.
Laundry. This includes collection and return of laundry.

The bills for these extra services are payable monthly

3. Social.

This is a friendly community and part of your security is knowing your neighbours and the people who organize your services.

3.1 Your weekly care charge entitles you to:-
Invitation to weekly coffee morning in the Orangery
Invitations to events of interest, visits, festive occasions, entertainment, informal gatherings.

3.2 On occasions which require tickets or transport we charge the cost of these tickets plus transport.

3.3 An escort can be arranged for things such as shopping and you will be billed accordingly.

3.4 Hairdressing and all health treatments will be available in the new salon at a very reasonable price. At the moment these services can be carried out in your apartment until the new Salon is ready.

4. Health Care.

This is a vital service and also a complex one. It is outlined in brief here. Further details are attached.

4.1 Your monthly charge pays for:-

Initial visit from Matron which will include assessment and opportunity for discussion about health promotion and services available.

Initial emergency help in the event of illness or an accident.

Support from qualified staff if you wish to have a doctor's visit. This will include liaising with the surgery and ordering, supply and monitoring of medication. (This does not include any nursing care which may be required).

Monthly visit from Matron which will include further assessment as required.

4.2 Help with daily living can be supplied according to your personal needs. This is agreed with you and a bill is presented monthly.

4.3 If regular nursing care is required, a care plan is drawn up and an all-in charge made using a support band system. (See attached information). This combines your domestic and nursing charges and facilitates a holistic service which provides you with very flexible help.

4.4. Supply of health care from other professionals includes physiotherapy, chiropody, aromatherapy. These are individually priced, but physiotherapy can be included in a support band.

4.5 As much or as little nursing care as you require now or in the future can be provided in your apartment, unless you are advised by your doctor and Matron that this is not practicable.

Charges for nursing care are presented on monthly bills.

We have and value, most highly, a reputation for providing a friendly and efficient service in all areas and actively promote an environment which enhances quality of life and provides warmth and security.

In order that we can continue to monitor and ensure excellent services for all our clients in Thamesfield Court, it is not possible to agree to these services being provided by staff other than our own.

This is particularly vital in terms of nursing care. If we are to provide safe and effective care, this cannot be fragmented between different agencies without placing you and our reputation, at risk.

We hope this information is helpful. Futher details of our assessment procedure and prices are attached.

It is important that you are aware that our services are tailored for each individual and as such, need to be flexible. We know that they are very competitively priced and have the added benefit of being instantly available on demand, from people you know and who know you.

It is also vital that you know that Matron and her staff have no financial interest in your care and are not involved in the cost of it.

Matron's decisions rest on her personal professional integrity and your needs alone.

The pricing of these services is attached and all accounts are produced by Mrs Wendy James.

Thamesfield

Wargrave Road, Henley-on-Thames, Oxon. RG9 2LX

Telephone: (Office) 01491 418100 (Matron) 01491 418133

Fax: 01491 575001

SUPPORT BAND A

The aim of this plan is to meet the needs of someone needing minimal support services from the Nursing Home.

To ensure we reach a proper assessment of your requirements and develop a co-ordinated response to the support you need it is important that we obtain as much information as you are prepared to give.

Introduction to Thamesfield Court and the facilities and services we have to offer.

Initial Assessment of your requirements.

Documentation of your requirements and registration, if appropriate, on G.P.'s list of your choice.

Trained Nurse on call 24 hours a day – Emergency Only

Daily visit by NVQ qualified Care Assistant

Refreshment service in the Orangey and Conservatory

Programme of Diversional and Social Activities

Use of Hairdressing facility at cost.

The charge for Support Band A is £120 per week.

THIS IS AN EXAMPLE ONLY

SUPPORT BAND B.

This enhanced level of support is flexible and can always be adapted to meet changing needs.

To ensure we reach a proper assessment of your requirements and develop a co-ordinated response to the support you need it is important that we obtain as much information as you are prepared to give.

Plan B includes all items mentioned in Plan A plus;

Up to 3 Assisted Baths per week.

Lunch and evening meal available each day.

Bed made daily.

Bed completely changed once a week.

Cleaning of apartment up to one hour per week.

The charge for Support Band B is £250.00 per week.

This is only a sample for demonstration purposes.

SUPPORT BAND C.

This further enhanced level of support is flexible and can be adapted to suit your individual needs.

To ensure we reach a proper assessment of your requirements and develop a co-ordinated response to the support you need it is important that we obtain as much information as you are prepared to give.

Plan C includes all items mentioned in Plan A plus;

Full Care Plan Assessment, co-ordination and monitoring.

Minimal care from 8am to 8pm with drug supervision.

All meals available - Breakfast, Morning Coffee, Lunch, Afternoon Tea, Supper, Evening Drink.

Personal Hygiene - Twice weekly assisted bath, assisted washing and dressing on other days.

Accompanied mobility daily.

Accompanied G.P. visits.

Cleaning of the Apartment up to three hours per week if required.

The charge for Support Band C is £475.00 per week.

This is only an example for demonstration purposes

SUPPORT BAND D.

This further enhanced level of support is flexible and can be adapted to suit your needs.

To ensure we reach a proper assessment of your requirements and develop a co-ordinated response to the support you need it is important that we obtain as much information as you are prepared to give.

Plan D includes all items in Plan A plus;

Full care plan assessment, co-ordination and monitoring.

Full nursing care - Registered Nurse in supervision 7 days a week.

All meals available - Breakfast, Morning Coffee, Lunch, Afternoon Tea, Supper, Evening Drink.

Full Personal Hygiene care - bathing, toileting etc.

Pressure Area Care

Full drug monitoring and administration.

Accompanied mobility daily.

Shopping twice weekly if required.

Accompanied G.P. visits.

Cleaning of the Apartment up to three hours per week.

The charge for Support Band D is £580.00 per week.

This is only an example for demonstration purposes.

SUPPORT PLAN E.

FULL CARE AND REHABILITATION.

This full care support service is flexible and can always be adopted to meet changing needs.

To ensure we reach a proper assessment of your requirements and develop a co-ordinated response to the support you need it is important that we obtain as much information as we require.

Plan E includes all items in Plan A plus;

Full care plan assessment, co-ordination and monitoring.

Full nursing care - Registered Nurse in supervision 7 days a week.

All meals available - Breakfast, Morning Coffee, Lunch, Afternoon Tea, Supper, Evening Drink.

Full Personal Hygiene Care - bathing, toileting etc.

Pressure Area care.

Full drug monitoring and administration.

Accompanied mobility daily.

Shopping twice weekly if required

Accompanied G.P. visits.

Cleaning of the Apartment up to three hours per week.

Daily Physiotherapy and rehabilitation programme, assessment, co-ordination and monitoring.

The charge for Support Band E is £650.00 per week.

This is an example only for demonstration purposes.

SUPPORT BAND F.

FULL NURSING 24 HOUR CAREPLAN.

This full nursing care plan is flexible and can be adapted to suit your individual requirements.

To ensure we reach a proper assessment of your requirements and develop a co-ordinated response to the support you need it is important that we obtain as much information that maybe required.

Plan F includes all the services mentioned in Plan A plus;

12 Hour full nursing service with G.P. supervised visits.

All meals provided - Breakfast, Morning Coffee, Lunch, Afternoon Tea, Supper, Evening Drink.

Accompanied mobility if appropriate.

Full housekeeping service for the apartment.

All shopping.

Visits throughout the night.

The charge for Support Band F is £800.00 per week.

DO NOT PART WITH

DATED 2002

B.A. WILLIAMS

-and-

LEASE of the " "
Thamesfield Court Close Care Apartment No: ...
Wargrave Road, Henley, Oxon

Kidd Rapinet
33 Queen Street
Maidenhead
Berkshire
SL6 1NB
Tel: 01628 21301
Fax: 01628 783150
Ref 04.31.:Lease.Thamesfield

PARTICULARS

THE LANDLORD	:	BETTY ANN WILLIAMS of Thamesfield, Wargrave Road, Remenham, Henley, Oxon
THE TENANT	:	
THE DWELLING	:	The "....." Apartment No. ... Thamesfield Court Wargrave Road aforesaid
THE PURCHASE PRICE	:	£..... (Pounds)
RENT PER ANNUM	:	FIFTY POUNDS (£50.00)
TERM	:	One Hundred and Twenty Five Years (125)
TERM COMMENCEMENT DATE	:	1st January 2000
SERVICE CHARGE	:	8.333% of the Service Charge Costs

THIS LEASE is made the day of 2001

BETWEEN THE LANDLORD (1) and **THE TENANT** (2)

WHEREAS:-

1. The Landlord is registered at H.M. Land Registry as proprietor with Title Absolute to the Estate and has completed or is in the course of completing the Development

2. The Landlord has granted or proposes to grant leases of individual dwellings on the Development the same or similar to this Lease

3. The Landlord has agreed to manage and maintain the Estate and to provide the Services in accordance with the provisions contained in this Lease

NOW THIS DEED WITNESSETH as follows:-

1. Definitions

1.1. **"the Landlord"** includes her successors in title the estate owner for the time being entitled to the reversion immediately expectant on the determination of the term hereby granted

1.2 **"the Tenant"** includes the Tenant's successors in title and assigns and where such expression includes two or more persons all covenants by such persons shall be construed as joint and several covenants by such persons and where the context so admits "the Tenant" shall include the survivor of such persons

1.3 **"the Specified Age"** means 65 years of age and above

1.4 **"An Approved Occupier"** means at least one person or persons of the Specified Age first approved by the Landlord such approval not to be unreasonably withheld Provided That any additional occupiers who are not of the Specified Age shall first be approved by the Landlord whose consent may be given or withheld in her complete discretion

1.5 **"the Plans"** means the plans No.1, No.2 and No. 3 annexed hereto

1.6 **"the Estate"** means the Landlord's property which includes Thamesfield Nursing Home at Wargrave Road Remenham Henley Oxon the title to which (for the whole) is registered at H.M. Land Registry under Title Number BK225827 and BK315994 (for identification only) edged in blue on Plan No.1 comprising part of Thamesfield Nursing Home its garden and grounds and the Development

1.7 **"the Development"** means the development consisting of 12 Close Care apartment dwellings and communal car parking spaces designed exclusively for occupation by the Approved Occupiers and shown edged in orange on Plan No. 1 and including the second floor of the Development shown on Plan No. 2 known or to be known as Thamesfield Court Wargrave Road Remenham aforesaid

1.8 **"the Dwelling"** means the dwelling described in the Particulars being the Apartment forming part of the Development which for the purpose of identification only is shown edged red on the Plan No.2 including the area bound by a line running vertically between the plaster and the brickwork of all external walls and internal load bearing walls and running also along the upper side of the concrete slab comprising the first floor of the apartment dwellings only (and the lower side of the concrete slab comprising the ceiling) (and the lower side of the timbers comprising the roof) including also the internal non-load bearing walls and all the Service Media exclusively serving the Dwelling

1.9 **"the Purchase Price"** means the Price described in the Particulars

1.10 **"Date of Commencement of the Term"** means the date stated in the Particulars

1.11 **"the Term"** means the term of the Lease stated in the Particulars

1.12 **"the Services"** means the Services including insurance to be provided by the Landlord

described in Clauses 5.2, 5.3, 5.4 and 5.5 and 5.6 (a) (b)(c)(e) and (f)

1.13 **"the Service Charge"** and **"the Provisional Service Charge"** shall bear the meanings and shall be construed in accordance with "the Particulars" Clause 1.14 and the Third Schedule of this Lease and shall include periodical reasonable management charges notified by the Landlord to the Tenant from time to time

1.14 **"the Service Charge Costs"** means the total expenditure incurred by the Landlord in providing the Services

1.15 **"the Main Structure"** means all exterior and all internal load bearing walls (but excluding in each case the plaster or other internal finishes thereof) all foundations floor slabs the ceiling slabs timbers and beams (but excluding the battens and/or covering or decoration affixed thereto) and the roof of the Development

1.16 **"Thamesfield"** means the Nursing Home known as Thamesfield Wargrave Road Remenham aforesaid forming part of the Estate

1.17 **"the Sitting Room"** means the communal conservatory and sitting room forming part of the Common Parts for the use of all the residents and occupiers of the Development and shown cross hatched black on Plan No.3

1.18 **"the Common Parts"** means the gardens grounds landings corridors entrances passages lifts and areas of general use and access shown hatched green on Plan No.1 and Plan No. 2 together with all other entrance halls stairways and corridors lifts and passages throughout the Development

1.19 **"the lift"** means the lift within the Development serving the Dwelling and the remainder of the Development

1.20 **"the Car Park"** means the car park spaces shown edged yellow on Plan No. 1

1.21 **"the Access Road"** means the road edged in mauve on Plan No.1

1.22 **"the Driveway"** means the road and driveway edged and hatched mauve on Plan No.1

1.23 **"the Service Media"** means all pipes wires drains cables valves conduits tubes and all other conducting and connecting media serving or intended to serve the Dwelling and the Development

1.24 **"the Interest Rate"** means 4% over the Base Rate for the time being of the Lloyds TSB Bank Plc

1.25 **"wheelchairs"** means a wheelchair or other similar equipment whether electric or otherwise

2. The Lease of the Flat

IN consideration of the Purchase Price now paid by the Tenant to the Landlord (the receipt whereof the Landlord hereby acknowledges) and the Tenant's covenants herein contained or referred to the Landlord **HEREBY DEMISES** to the Tenant **ALL THAT** the Dwelling **TOGETHER WITH** the rights set out in the First Schedule **EXCEPT AND RESERVED** as set out in the Second Schedule **TO HOLD** the same unto the Tenant for the Term from the Commencement Date **YIELDING AND PAYING** therefore yearly in advance on the first day of December in every year during the Term the Rent and the further rent calculated in accordance with the Fifth Schedule the first payment being a proportion calculated from the date hereof to the first day of December next following **SUBJECT TO** the provisions for determination and surrender hereinafter contained

3. The Service Charge

THE Tenant covenants to pay to the Landlord the Service Charge costs as the Tenant's contribution towards the costs and expenses incurred or to be incurred by the Landlord for

managing and maintaining the Development and the provision of the Services and the other obligations and services more particularly described in the relevant provisions of Clause 5 and in the Third Schedule

4. Covenants by the Tenant

THE Tenant **COVENANTS** with the Landlord as follows:-

4.1 To pay the Rent Council Rates and tax Water Rates (if applicable) and all other costs charges and assessments of an annual or periodically recurring nature in respect of the Dwelling either direct to the appropriate Authorities (where the Dwelling is separately assessed) or by way of reimbursement to the Landlord of an appropriate proportion attributable to the Dwelling

4.2 To pay for any gas and electricity or a fair proportion thereof which is supplied direct to the Dwelling (but excluding any such services supplied to the Development and included (or liable to be included) in the Service Charge) and the amount of all charges for the installation and use of the telephone (if any) at the Dwelling

4.3 To keep the interior of the Dwelling including the glass in the windows and doors (if any) and the Landlord's fixtures and fittings therein in good repair and substantial and decorative order (damage by such risks as may be covered by the Landlord's insurance only excepted to the extent that such insurance shall not have been vitiated or payment of the insurance monies refused in whole or in part as a result of the act or default of the Tenant his servants agents or invitees) and in particular to redecorate the Dwelling with at least two coats of good quality paint in colours previously approved by the Landlord and to repaper such parts of the walls of the Dwelling as have previously been papered in styles and designs previously approved by the Landlord

(such approvals not to be unreasonably withheld) and to wash clean treat and varnish the other parts of the Dwelling as have previously been so dealt with at least once every five years and in the last three months of the term howsoever determined and to yield up the Dwelling on the determination of the Term (howsoever the same may be determined) in such state of repair and decoration as required by this Clause

4.4 To permit the Landlord (at reasonable times on reasonable written notice except in the case of any emergency) to enter into the Dwelling:-

(a) to view the condition of the Dwelling

(b) to examine the same to ensure that nothing has been done or omitted to be done which constitutes a breach of any of the covenants contained in this Lease

4.5 Forthwith to repair and make good all breaches and defects of which notice shall be given by the Landlord to the Tenant and which the Tenant shall be liable to remedy repair or make good under the covenants contained in this Lease **PROVIDED THAT** if the Tenant fails to remedy repair and make good the same within two months of receipt of written notice thereof by the Landlord or such extended time as the Landlord shall consider to be reasonable the Landlord may (but shall not be obliged to) enter the Dwelling (but at the expense of the Tenant) to fulfil the Tenant's obligations under this Lease and the Tenant will pay such costs and expenses properly incurred by the Landlord on demand as rent together with interest at the Interest Rate if not paid within 14 days of written demand

4.6 (a) Not to carry out any works and not to make any alteration or additions to the exterior of the Dwelling or the remainder of the Development

(b) Not to make any structural alterations or additions to the interior of the

Dwelling nor to cause any damage to the Dwelling or the Landlord's fixtures and fittings therein

(c) Not without the Landlord's consent :-

(i) To make any material alterations or additions of a non-structural nature to the interior of the Dwelling

(ii) To substantially change the layout thereof

4.7 Save as hereinafter provided not to allow any person other than an Approved Occupier to occupy the Dwelling other than temporary guests

4.8 (a) Not to assign underlet or part with or share the possession or occupation of the whole or any part of the Dwelling save by way of an assignment pursuant to paragraph (b) or (c) of this sub-clause

(b) In the event of the death of the Tenant or in the event that the Tenant is not (whether for ill health or any other reason) able to continue to occupy the Dwelling the Tenant (or his executors or administrators) shall thereupon and in such event give notice thereof to the Landlord ("the Occupation Notice")

Provided That if the Dwelling is vacant and the Landlord has reasonable grounds to believe that the Tenant has permanently vacated the Dwellings she may by notice in writing to the Tenant (or his Executors or administrators or the person or persons who have applied for a grant of probate or letters of administration) ("the First Notice") require the Tenant to state his intentions with regard to the occupation of the Dwelling and/or to define his circumstances to the Landlord as to whether the Tenant may at that time or at some reasonable date in the future be intending to re-occupy the Dwelling and

upon receipt of such information the Landlord can by written notice require the Tenant to give an Occupation Notice to the Landlord if it is the case that the Tenant has not indicated to the Landlord that he has or intends to occupy the Dwelling at some reasonable date in the future Provided That if the Tenant does not respond within 1 month of receipt of the First Notice Then or within 3 months of the date of death of the Tenant or within 1 month of the receipt by the Landlord of the Tenant's Occupation Notice (whichever circumstances shall apply) the Landlord can give notice to the Tenant of the Landlord's intention to purchase the Dwelling ("the Landlord's Purchase Notice") by taking a surrender of the Lease whereupon

(i) The Landlord shall obtain a valuation of the Dwelling ("the Valuation")from a reputable Chartered surveyor familiar with property values in Henley and its area and submit the same to the Tenant within 3 weeks of the service of the Landlord's Purchase Notice and

(ii) The Tenant shall within 3 weeks of receipt of the Valuation either by notice in writing accept such valuation for the Dwelling or dispute the same and give notice to the Landlord ("the Tenant's Counternotice") of the Tenant's estimate of the value of the Dwelling whereupon the parties shall endeavour to negotiate and agree the value of the Dwelling but if they shall be unable to agree then the same may be referred at the instance of either party to a Chartered Surveyor (experienced as above) to be agreed by the parties But if they cannot agree upon such appointment then either party may refer the dispute to the President for

the time being of the Royal Institution of Chartered Surveyors who shall appoint a Chartered Surveyor (experienced as above) for that purpose and such Chartered Surveyor however appointed shall act as an expert and shall determine the value of the Dwelling and notify the parties in writing of his decision which shall be final and binding on the parties and the surveyor's reasonable fees for so acting and determining such valuation shall be shared equally

(iii) Upon receipt of the written valuation from the Chartered Surveyor agreed or determined in manner aforesaid the Landlord shall serve a further notice ("the Landlord's Surrender Notice") upon the Tenant whereupon the Tenant shall within a period of 6 weeks of such notice surrender this Lease to the Landlord at the price agreed or determined but less 10 per cent of the amount of such valuation and the completion of the Surrender shall take place (except as varied herein) within the Completion Period and as more particularly described or referred to in subclause 4.8 (c) below

(iv) If the Landlord does not wish to proceed with the purchase of the Dwelling it may give notice of such fact to the Tenant at any time up to the expiry of two weeks after the service of the Landlord's Purchase Notice

(c) Not to assign or part with possession of the whole of the Dwelling except to an Approved Occupier or to a person or persons taking an assignment of the Lease on behalf of or for the benefit of an Approved Occupier on terms

reasonably acceptable to the Landlord (hereinafter referred to in this Clause as a "Beneficial Owner") Provided That the Tenant shall when he has found a buyer for the Dwelling first give to the Landlord written notice ("the Tenant's Notice") of his intention to assign the Lease and of the proposed price at which the Lease is to be assigned ("the Tenant's Price") so as to give the Landlord an opportunity of nominating prospective Approved Occupiers from her waiting list and if within three weeks of receipt of the Tenant's Notice ("the Acceptance Period") the Landlord nominates a person to take an assignment of the Lease by notice in writing to the Tenant for a consideration not less than the Tenant's Price and upon the terms which are not detrimental to the Tenant Then the Tenant shall (subject to the proviso hereafter contained) complete and execute an assignment of this Lease to an Approved Occupier or Beneficial Owner as the case may be so nominated by the Landlord but if the Landlord shall not have notified the Tenant that she has a nominee within the Acceptance Period or the nominated assignee is unable to enter into a binding contract to take an assignment of the Lease within six weeks from the date of receipt of a draft contract from the Tenant's solicitors (or the Tenant) ("the Contract Period") with completion to take effect within a further period of not more than four weeks from the date of such contract or such other period (or periods) as shall be agreed between the Tenant, the Landlord and the person so nominated by the Landlord ("the Completion Period") Then it shall be lawful for the Tenant to assign the Lease of the Dwelling in accordance with the foregoing requirements of this Clause Subject Always to the provisions of

Clause 4.9 and **PROVIDED ALWAYS** that the Landlord having received a Tenants Notice may instead of nominating a prospective Approved Occupier in the manner anticipated by this sub-clause **MAY GIVE** the Tenant notice in writing within the Acceptance Period that she requires the Tenant to surrender this Lease to the Landlord whereupon the Tenant shall enter into an Agreement to Surrender (incorporating the form of Deed of Surrender as set out in the Sixth Schedule) within the Contract Period and shall complete such surrender in accordance with the terms of the said Deed of Surrender within the Completion Period on the same or not materially dissimilar terms to the those agreed between the Tenant and his prospective buyer for the Dwelling **SAVE THAT** the Landlord shall pay and the Tenant shall accept as consideration for the surrender a sum equal to 90 per cent of the Tenants Price and each party shall pay their own costs incurred in such surrender transaction

(d) On the occasion of any assignment of the Dwelling the Assignee shall enter into and execute a Deed of Licence and Covenant with the Landlord at the cost and expense of the Tenant that the Assignee (jointly and severally if there be more than one person constituting the Assignee) and his successors in title will at all times from the date of such assignment pay all rents Service Charges and all other sums payable under the terms of this Lease and observe and perform all the covenants provisions restrictions stipulations and terms hereof and observe and perform all the regulations herein contained or in future to be made and on the part of the Tenant to be observed and performed so that the Assignee shall be bound by the provisions of this Lease to the same extent as if

the Assignee was the original Tenant hereof and the Landlord shall then enter into a Deed of Release (to be prepared by the Landlord's solicitors at the cost of the Tenant) with the Tenant releasing him from all future liability under the Lease

(e) On the completion of any assignment pursuant to Clause 4.8. (c) to pay to the Landlord a sum equal to 50% of that part of the consideration for that assignment which exceeds the Tenants Price (which shall be referred to in the Tenants Notice) if that assignment is to a person nominated by the Landlord and if such sum shall not be paid by the assignor within seven days of the completion of the said assignment then it shall be due and payable by the Assignee together with interest at the Interest Rate

4.9 To give notice within 28 days to the Landlord of any assignment mortgage charge death Probate or other devolution of this Lease

4.10 To pay to the Landlord on demand all reasonable and proper costs charges and expenses (including solicitors and surveyors and other disbursements professional costs and fees) incurred by the Landlord for the purpose of or incidental to the contemplation and preparation and service of a Notice under Section 146 or 147 of the Law of Property Act 1925 (notwithstanding forfeiture may be avoided otherwise than by relief granted by the Court) and to keep the Landlord fully and effectually indemnified against all reasonable and proper costs and expenses claims and demands whatsoever in respect of the said proceedings and also to pay such costs and expenses incurred by the Landlord in respect of the preparation and service of all Notices and Schedules relating to wants of repair at any time during the term of this Lease

4.11 To allow the Landlord (on reasonable written notice except in the case of emergency) with workmen and others to enter the Dwelling for the purpose of carrying out repairs and works to the Estate the remainder of the Development the Services and the Common Parts but causing as little inconvenience to the Tenant as practicable and forthwith making good any damage caused

4.12 Not to knowingly do or permit to be done in the Dwelling or the remainder of the Development any act matter or thing whereby any insurance effected by the Landlord may be rendered void or voidable

4.13 To observe the regulations contained in the Fourth Schedule and such other reasonable and necessary regulations as may be made by the Landlord from time to time and notified in writing to the Tenant for the better management and control of the Development (and the Estate) and/or for the general benefit of the lessees of the dwellings comprised within the Development

4.14. To pay interest at the Interest Rate on all Rent Service Charges Nursing Care Health Care services and supplies and all other monies due to be paid hereunder and not paid within fourteen days of the date stipulated for payment

5. The Landlord's Covenants

THE Landlord **COVENANTS** with the Tenant as follows:-

5.1 That the Tenant paying the Service Charge and observing the Tenant's covenants and obligations herein contained shall peaceably hold and enjoy the Dwelling during the term of this Lease without interruption by the Landlord

5.2 To maintain repair decorate and renew:-

(a) the Main Structure of the Development including the roof foundations walls

supports and the exterior thereof

(b) the Common Parts the Sitting Room the Car Park and the Access Road the Driveway and the Lift

(c) the Service Media which serve in common the remaining dwellings and other premises forming part of the Development and the Estate

5.3 To keep the Sitting Room open between the hours of 9am and 9pm on Mondays to Fridays inclusive and from 10am to 8pm on Saturdays and Sundays

5.4 To keep clean and well lighted the corridors entrances landings staircases passages and lift (if any) used by the Tenant and the other Occupiers of the Development and to clean all outside surfaces of the windows of the Development (including those of the Dwelling) at least once every 6 weeks and keep the gardens and grounds in good order and condition and the gardens cultivated and to repair and maintain the footpath shown coloured brown on Plan No. 2

5.5 Install in the Dwelling and maintain an alarm link to a central control in Thamesfield to assist in the provision of emergency nursing and/or medical cover at all times

5.6 (a) To install and maintain a security system for the Development

(b) To provide and maintain a regular supply of electricity and gas to the dwelling unless prevented by circumstances beyond the reasonable control of the Landlord

(c) To provide for a supply of hot water and heating to the Dwelling at all times but having regard (as to heating) to prevailing weather conditions from time to time

(d) To use her reasonable endeavours to ensure that trained Nursing Staff are on

duty 24 hours a day throughout the year and available to attend to the reasonable needs of the Tenant subject to the payment for the provision of such services in accordance with the terms of Part II of the First Schedule Provided that the Landlord shall be under no obligation to provide these services if the Tenant has been unable or unwilling to pay for the same for the previous twenty eight days

(e) To provide for regular refuse collection from the Development and the Dwellings in receptacles to be provided by the Landlord

(f) To provide (or procure the provision of from outside sources) the services of newspaper deliveries and of a library for the benefit of the occupiers of the Apartments comprising the Development

5.7 To insure the Development against loss or damage by fire and other usual perils including subsidence heave and landslide within the terms of the usual comprehensive policy of the insurers to the full cost of rebuilding or reinstatement plus professional fees and site clearance fees and VAT where applicable in some reputable insurance office and to include insurance for the cost of reasonable alternative accommodation necessarily incurred by the Tenant in the event of the Dwelling being uninhabitable by an insured risk for such reasonable amount not exceeding twenty per cent (20%) of the sum insured for the Dwelling and a policy of insurance covering the Landlord's liability for injury to persons on the Development and the Landlord will if so requested provide one copy per annum of such insurance policies and any additional copies at the cost of the Tenant and on request produce evidence of payment of premiums thereon

5.8 If the Development should be destroyed or damaged by a risk which is covered by insurance effected by the Landlord and to the extent that the insurance has not been vitiated or the insurance monies refused in whole or in part as a result of the act or default of the Tenant the Landlord will forthwith lay out the insurance monies received by her in rebuilding or reinstating the Development subject to all Planning Building Regulations and other necessary consents first having been obtained And the Rent shall abate until the Dwelling is fit for occupation and use

5.9 Landlord's Liability

The Landlord shall not be liable to any person not a party to this Lease to perform any of the covenants herein contained whether express or implied in so far as such covenants impose obligations going beyond the common duty of care imposed by the Occupiers Liability Act 1957 or under the Defective Premises Act 1972

5.10 No liability for damage

That (so far as the law permits such agreement) the Landlord shall not incur any liability in respect of damage to person or property howsoever caused

5.11 At the reasonable request but at the cost of the Tenant to enforce the covenants in terms similar to those contained in Clause 4 on the part of the lessees of the other dwellings comprised in the Development **PROVIDED THAT** if the Landlord shall in her absolute discretion so require the Tenant shall first deposit with the Landlord such reasonable sum as the Landlord shall reasonably specify as security for the full costs and expenses arising or likely to arise in connection with such enforcement

PROVIDED THAT the Landlord may for the better management of the Development add to or vary any of the above services but not so that the overall level of the services

to be provided be diminished and **PROVIDED FURTHER** that the Landlord shall not be liable for any temporary breakdown or withdrawal of such services for causes beyond the Landlord's reasonable control

6. Provisos for re-entry

6.1 (a) If the Rent or the Service Charge shall remain unpaid for twenty one days after becoming payable (whether formally demanded or not) or

(b) If any of the covenants on the Tenant's part herein contained shall not be performed or observed

then and in such case it shall be lawful for the Landlord at any time thereafter to re-enter upon the Dwelling or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to the right of action of the Landlord in respect of any breach of the Tenant's covenants hereinbefore contained **PROVIDED ALWAYS** that the Landlord shall not commence proceedings for forfeiture of this Lease without giving reasonable prior notice in writing to a mortgagee or chargee of the Tenant of which the Landlord has received notice

6.2 If the Dwelling should at any time become unfit for occupation and use due to the occurrence of any of the risks against which the Landlord insures hereunder (and to the extent that payment of the insurance money is not refused because of any act or default of the Tenant) the Landlord will pay over to the Tenant such sum or appropriate part thereof as the Landlord receives in respect of the Dwelling from her insurers under the said insurance for the cost of reasonable alternative accommodation for the Tenant forthwith upon receiving the same for the purpose only of a

contribution to the cost to the Tenant of obtaining reasonable alternative accommodation necessarily incurred whilst the Dwelling is unfit for occupation

7. **Notices**

ANY Notice under this Lease shall be in writing and in the case of Notice by the Landlord to the Tenant may be served by leaving it or sending it by pre-paid first class post to the Dwelling or such alternative address designated by the Tenant from time to time; and in the case of a notice to be served by the Tenant on the Landlord it shall be delivered to or sent by pre-paid first class post to the Landlord at Thamesfield or such alternative address designated by the Landlord from time to time

8. **Headings**

THE paragraph headings do not form part of this Lease and shall not be taken into account in the construction or interpretation thereof

9. **Value Added Tax**

VALUE Added Tax shall (if demanded) be payable in addition to and together with any payment made pursuant to this Lease other than in respect of the Purchase Price (including the Rent) and the amount thereof at the then current rate shall be added to such payment or payments

10. **IT IS CERTIFIED** that the transaction effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds the sum of £500,000.

IN WITNESS whereof the Landlord and the Tenant have signed as a Deed the day and year first before written

THE FIRST SCHEDULE

PART I

Rights included for the Lessee

Full right and liberty in common with the Landlord and the owners and occupiers of the other dwellings comprised in the Development the Estate and the adjoining property of the Landlord and all others so entitled or to whom rights are granted by the Landlord and those lawfully authorised by the Tenant

a) to pass and repass at all times with or without vehicles over the Access Road for the purpose of access to and from the Development and parking in the Car Park

b) to park private motor vehicles in the Car Park but in the knowledge that whilst the Landlord does not guarantee the availability of car park spaces for the use of the Tenant at any particular time, the Car Park is only for the use of the tenants of the Development and those authorised by them

c) to use the Driveway on foot, with wheelchairs and with motor vehicles at all reasonable times but in the case of motor vehicles only for leaving and collecting persons and for turning and manoeuvring and for no other purpose

d) to use the Common Parts and the other areas described in clause 1.18 on foot and with wheelchairs at all reasonable times for entering and leaving the Dwelling and for the use and enjoyment of the Development

e) to use the Sitting Room at all times when it shall be open for use for recreational and social purposes

f) to pass and repass for all reasonable purposes on foot with wheelchairs over the footpaths and access paths and to use for recreational and social purposes the gardens forming part of the Common Parts and those common areas of the Estate as are necessary to obtain access to the restaurant and bar described in Part II of this Schedule and those parts of the Estate nominated by the Landlord in regulations made from time to time but so that the Tenant shall always have reasonable access on foot to and from and along the River Thames bordering the Estate except where works are being carried out or due to flooding or other adverse conditions the Landlord has determined that access should be closed for a temporary period

g) the right to use the footpath shown coloured brown on Plan No. 1 for access and recreational use only at all reasonable times

h) to the free passage and running of water soil gas telecommunications and all other services required to and from the Dwelling through the Service Media now laid or within the next eighty years of the Term hereby granted to be laid in under or through the Development and the Estate

i) the right of support and shelter from the remainder of the Development of which the Dwelling forms a part

PART II

Nursing Care and Facilities

a) the right to use the restaurant and bar situated in Thamesfield subject to the Tenant paying for any items purchased there

b) the right to the services of a trained nurse for medical care at all times of the day or night

c) the right to use the nursing and care facilities at Thamesfield by prior arrangement with the Landlord and subject to availability of rooms and if no rooms are available, the right to have nursing care and facilities at the Dwelling but subject to the advice of a medical practitioner as to the use of the Dwelling in the particular circumstances of the Tenant at that time

d) the right to use and have the benefit of such additional services and facilities as are now or may in the future be made available by the Landlord to treat the Tenant or for the provision of medical treatment the Tenant paying the rates applicable for such facilities charged by the Landlord from time to time

The Tenant paying the rates applicable for such services and facilities including a reasonable management fee charged by the Landlord from time to time within seven days of written demand

Subject in any event to the limitations and to the proviso in Clause 5.6.(d)

THE SECOND SCHEDULE

Rights excepted to the Landlord and lessees and occupiers of other Dwellings and the owners and/or occupiers of the remainder of Thamesfield and the Estate and the Landlord's adjoining property

1. The right to the free passage and running of water soil gas electricity telecommunications and other services reasonably required for the Development through the Service Media now laid or during the next eighty years of the term hereby granted to be laid in under or through the Dwelling

2. All rights of light and air and other rights and easements and benefits now enjoyed or intended to be enjoyed by any other part of the Development the Estate and any adjoining land of the Landlord over the Dwelling

3. Such rights of access to and entry upon the Dwelling by the Landlord as are reasonably necessary for the proper performance of her obligations hereunder or under covenants relating to other dwellings on the Development and similar to those herein contained

4. To permit the gas electricity and telecommunications water supply companies or other relevant or proper statutory authorities to enter upon the Dwelling (upon not less than 48 hours written notice except in the case of emergency) for the purpose of carrying out all or any of their respective functions subject to their forthwith making good any damage thereby caused

5. The right to rebuild alter or use any other part of the Development the Estate or any adjoining land or buildings in any manner whatsoever and to sell or let the same for any purpose or otherwise deal therewith notwithstanding that the access of light or air to the Dwelling is in any such case thereby diminished or any other liberty easement right or advantage belonging to the Tenant is thereby materially diminished or prejudicially affected provided that reasonable means of access to the Dwelling is maintained

6. The right of support and protection for the benefit of the remainder of Thamesfield and of all other parts of the Development as is now enjoyed from the Dwelling

THE THIRD SCHEDULE

Covenants by the Tenant given pursuant to and incorporated in this Lease by Clause 4 of this Lease

1. To pay to the Landlord quarterly and proportionately for any less period than a quarter the Service Charge (including Value Added Tax thereon to the extent that the Landlord (or her Agent) is not permitted to deduct or recover the same in her Value Added Tax input accounting procedure) incurred by the Landlord in providing supplying and maintaining (and making provision for the supply of) the Services which the Landlord has covenanted to provide in Clause 5 together with such reasonable and proper fee in respect of the management costs of the Landlord such payment to be calculated and made as follows:-

(i) a Provisional Service Charge (hereinafter called "the Provisional Service Charge") shall be payable quarterly in advance on the first day of January April July and October in each year such payment being one quarter of the Service Charge payable by the Tenant for the Dwelling shown in the most recent accounts prepared as hereinafter provided and apportioned where necessary so as to relate to a part of a year and with such reasonable adjustments made thereto to take account of an increase in the cost of providing the said services or any proposed exceptional or major expenditure in relation to any of the Services

(ii) In respect of the Landlord's accounting period current at the date hereof and in

respect of any quarterly payments falling due before the preparation (as hereinafter provided) of the first such account thereafter the Provisional Service Charge shall be the Landlord's reasonable estimation of such charge.

(iii) As soon as practicable after the expiry of each accounting period commencing with such period current at the date hereof the Landlord shall submit to the Tenant an account showing the expenses and outgoings incurred by the Landlord in providing supplying and maintaining the Services in that accounting period which shall include not only those expenses outgoings and other expenditures which have been actually disbursed incurred or made by the Landlord during that year (or part of a year) but also such reasonable provision on account of those expenses outgoings and such other expenditure which are not of an annually recurring nature (whether non- recurring or recurring by regular or irregular periods of more than one year) whenever to be disbursed incurred or made as the Landlord may in her discretion allocate to the year (or part of a year) in question as being fair and reasonable in the circumstances so as to ensure (as far as is reasonably foreseeable) that the Service Charge shall not fluctuate unduly from year to year but without any liability upon the Landlord if any such fluctuations do occur

(iv) If in relation to any accounting period the Service Charge shall be greater than the Provisional Service Charge payment made by the Tenant for that accounting period (apportioned when necessary) then the difference shall be paid by the Tenant to the Landlord on written demand and if in relation to any accounting period the Service Charge payable by the Tenant shall be less than

the Provisional Service Charge payments made by the Tenant for that period (apportioned where necessary) then the difference shall be credited against the Provisional Service Charges payment due to be paid by the Tenant for the next accounting period

(v) The Landlord may from time to time vary the accounting period or periods

2. The services referred to in this Schedule and in the Clause 5 may at the option of the Landlord where reasonably and necessarily required be extended to include

a) The provision of such further insurance reasonably and properly required by the Landlord for the benefit of the Development in addition to the insurance contemplated by Clause 5.7

b) The reasonable cost of maintaining and repairing the external drains and sewers serving the Development

c) The discharge of all rates (including water rates) taxes lighting costs and outgoings (if any) payable in respect of any part of the Development and its grounds and gardens other than those payable solely in respect of the Dwelling or the other dwellings in the Development

d) The preparation auditing and or certification by an accountant or other professional person of any accounts in respect of the costs expenses outgoings and matters referred to in this Schedule

THE FOURTH SCHEDULE

Regulations as to use of the Dwelling and facilities within the Estate

(i) Not to use the Dwelling otherwise than for private residential use in the occupation of an Approved Occupier only or an Approved Occupier and some other person in respect of whom the Landlord has given her prior written approval

(ii) Not to use or employ any person to carry out any works or duties or perform any functions for the Tenant in or about the Dwelling and the Common Parts the Access Road the Driveway and the Car Park without the prior written consent of the Landlord which may be given or withheld in her complete discretion

(iii) No trade or business or profession whatsoever shall be exercised or carried on from or upon the Dwelling

(iv) Not to affix advertisements nameplates or signs on any part or parts of the Dwelling except a discreet nameplate giving the name of the Tenant in the place or places provided by the Landlord and not except with the prior written consent of the Landlord which shall not be unreasonably withheld or delayed for one sign only of a discrete size and appearance to be located in such position as the Landlord shall in any event reasonably stipulate indicating the dwelling is for sale

(v) Not to do anything in the Dwelling or within the Development or make a noise which may be of annoyance or nuisance to owners or occupiers of other dwellings in the Development or in the neighbourhood and in particular not to play a wireless or television or other noise making equipment or instruments so as to audible outside the Dwelling between

the hours of 11 p.m. and 7 a.m.

(vi) Not to keep pets in the Dwelling except with the prior written consent of the Landlord (which will not be unreasonably withheld) provided that such consent may be withdrawn at any time if such pet causes a nuisance or annoyance to the Landlord or other owners or occupiers of other Dwellings in the Development

(vii) Not to use the Dwelling or permit the Dwelling to be used for improper purposes or purposes injurious to the reputation of the Landlord or the Development

(viii) Not to encumber with boxes or otherwise or leave any rubbish on the Development save in the refuse areas provided and in any part of the Dwelling

(ix) Not to cause any obstruction whatsoever to the Common Parts the Access Road the Driveway and the Car Park

(x) Not to use the Car Park nor permit the same to be used other than for the purpose of the parking of private motor vehicles belonging to the Tenant or to the Tenant's visitors

(xi) No boat caravan coach van lorry or anything other than a private motor vehicle shall be parked or permitted to remain on any part of the Development

(xii) Not to hang or allow to be hung any clothes or other articles on the outside of the Dwelling (otherwise than in the drying area (if any) from time to time provided)

(xiii) Not to block or permit to be blocked any waste pipe in the Dwelling and not to overload the electrical circuits and installations therein

(xiv) To comply with such additional reasonable rules and regulations as the Landlord may from time to time prescribe relating to the use of the Common Parts the Access Road the Driveway and the Car Park

(xv) To comply in all respects with the provisions of the Town and Country Planning Act 1990 as amended or modified and all planning permissions and other matters deriving authority therefrom for the time being in force in so far as they relate to the Dwelling

(xvi) Not to cause any nuisance or annoyance or create or cause excessive noise in the Sitting Room, the Patio and the gardens and grounds of the Estate and the Development which does or might disturb or cause distress to the residents of Thamesfield and the adjoining Thamesfield Court

THE FIFTH SCHEDULE

Ground Rent

From the Date of Commencement of the Term to the 25th anniversary thereof the Rent stated in the Particulars for each succeeding period of 25 years the Ground Rent shall be increased by the sum of £50.00 **PROVIDED THAT** at no time shall the Tenant be required to pay a rent at a level which would under legislation dealing with or restricting rents prohibit the charging of a premium on the grant or assignment of a lease and in such case the rent reserved by this Lease shall be **ONE POUND (£1.00)** less than the limit above which such prohibition would apply

SIXTH SCHEDULE

(The agreed form of the Agreement to Surrender the Lease incorporating Deed of Surrender)

AN AGREEMENT made the day of

1. PARTICULARS

1.1	The Landlord	(Complete full name of Landlord and address)
1.2	The Tenant	(Complete full name of Tenant and address)
1.3	The Lease	(Complete details of the Lease)
1.4	The Premises	Apartment No. .... known as "....." ..... Thamesfield, Wargrave Road, Remenham, near Henley, in Oxfordshire

2. AGREEMENT

2.1 The Tenant agrees that in consideration of the payment to it of the sum of £..... (calculated in accordance with Clause 4. 8(b) of the Lease) on the day of he will surrender all his estate interest and right in the Premises to the Landlord by executing and delivering to the Landlord a Deed in the form of the draft set out in the Schedule to the intent that the residue of the term granted by the Lease shall merge and be extinguished in the reversion immediately expectant on the term of years granted by the Lease

2.2 The Landlord agrees that she will on such date immediately accept such surrender and will if requested by the Tenant execute and deliver to the Tenant

a counterpart of a Deed in the same form as described in 2.1 above upon the delivery up and possession of the Premises by the Tenant to the Landlord

2.3 The Landlord will reimburse to the Tenant on completion such part of the rent and Service Charge paid in advance as is attributable to the period between completion of the surrender and the next following rent payment day

3. Each party will pay its own legal and surveyor's costs if any incurred in connection with the preparation and completion of this Agreement and the Deed of Surrender

THE SCHEDULE

H M LAND REGISTRY

Land Registration Acts 1925 to 1991

COUNTY AND DISTRICT : BERKSHIRE : WOKINGHAM

TITLE NO. :

PROPERTY :

DATE :

1. [ ] of [ ] ("the Tenant") as Beneficial Owner TRANSFERS SURRENDERS AND RELEASES to [ ] of [ ] ("the Landlord") in consideration of the sum of [ ] [£.....] (the receipt of which the Tenant hereby acknowledges) all his estate interest and right in and to the property comprised in the above Title Number to the intent that the residue of the term of years granted by the Registered Lease and all or any other estate right or interest of the Tenant either granted by or arising

from the Registered Lease or any deed or document supplemental thereto or otherwise shall merge and be extinguished in the reversion immediately expectant on the term of years granted by such lease

2. The Landlord releases the Tenant from all obligations contained in and liabilities arising under the Registered Lease and any supplemental deed or document thereunder from the date hereof

3. The Landlord and the Tenant agree that they will immediately lodge at H M Land Registry their respective Land Certificates to meet the application for registration of this deed and jointly apply to the Chief Land Registrar to make the necessary entries and cancellations on the Registers of the appropriate title numbers to give effect to the surrender contained in this deed

4. Certificate of value, if appropriate

5. Attestation clauses, etc.,

SIGNED as a **DEED** by the said
BETTY ANN WILLIAMS
in the presence of:-

SIGNED as a Deed by the said

In the presence of:-

13.09.02 8:07

INSTRUCTIONS TO

MR PETER WADSLEY
ST. JOHN'S CHAMBERS, SMALL STREET, BRISTOL, BS1 1DW

ISSUED BY

JOHN R FREETH DipTP(OXFORD), MRTPI
83 SHARLAND CLOSE, GROVE, WANTAGE, OX12 0AF

REQUEST FOR COUNSEL'S OPINION

13 SEPTEMBER 2002

[02.02-03]

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Appendices

1.	O.S. Extract
2.	Nursing Home Brochures.
3.	Copies of relevant planning permissions relating to the existing development.
4.	Copies of the standard lease arrangements for close care units and available care packages.
5.	Drawings of the existing and proposed arrangements.

Preamble

These instructions are issued under the provisions relating to Direct Professional Access (DPA) by John R Freeth DipTP(Oxford), MRTPI. (RTPI membership number 40885J.)

The client, for whom the opinion is requested, is Miss B A Williams of Thamesfield, Wargrave Road, Henley-on-Thames, RG9 2LX

1.0 Introduction

1.1 Miss Williams owns and operates a Nursing Home at Thamesfield, Wargrave Road, Henley-on-Thames. At Appendix 1 is an OS extract showing the location of the property and at Appendix 2 are two brochures describing the Nursing Home and the facilities it offers. The Nursing home was established c. the mid 1980's and has subsequently been substantially expanded and diversified, all with the benefit of specific planning permissions. Copies of the relevant planning permissions are included in Appendix 3.

1.2 The most major diversification has been the inclusion of "Close Care" accommodation within the Home. The concept (and practice) of "Close Care" accommodation is essentially a facility whereby an individual, or couple, in need of on-going and possibly increasing nursing care (as with progressive degenerative conditions, e.g. MS) can purchase both a place of residence and package of care services within a nursing care establishment. The level of care can be tailored to the individual's needs and increased as necessary over time. The accommodation consists of self contained residential units directly associated with, contained within and serviced by the Nursing Home. Patients cannot purchase a unit without having a requirement for nursing care and also purchasing a package of nursing care. At Appendix 4 are copies of the standard lease agreement relating to the Close Care units, and also of the "packaged" levels of care that are offered. [NB. It will be noted that "Support Band A" refers to a person "needing no support services from the Nursing Home" and this does appear as a contradiction of the requirement for nursing care. However, the units are commonly occupied by couples and whilst one partner may be in need of care it is not always the case that both do. Hence the existance and relevance of "Support Band A".]

1.3 The pattern of demand in the private nursing care industry is increasingly moving away from the traditional nursing home (with patients in individual or shared rooms) and towards the "Close Care" model. Commercially, Miss Williams needs to respond to this change in market demand and, accordingly wishes to covert some the traditional nursing home "bedroom" accommodation into additional "Close Care" units.

2.0 Context

2.1 It is apparent from a preliminary review of the relevant legislation that planning permission may not be required for the proposed close care units (see further in Section 5.0 below); and if that is so, then the uncertainties and delays associated with the need to obtain planning permission can be avoided. However, it remains necessary not only to act lawfully, but also to be able to demonstrate the lawfulness of the intended units - for example to future purchasers.

2.2 Hence it is necessary to obtain an authoritative legal opinion as to whether the intended conversions constitute development requiring planning permission. If that opinion confirms the preliminary review then an application for a Certificate of Lawfulness, supported by the opinion, will need to be made to the Local Planning Authority. Conversely, if the opinion contradicts the preliminary review, than an application for planning permission will need to be made.

3.0 The existing development at Thamesfield

3.1 The existing development at Thamesfield consists of a mixture of traditional nursing home accommodation, i.e. 29 bedrooms (all contained within the original building, the Riverside extension and Link Block - please see Appendix 1), 24 close care units (contained in new and replacement wings - please see Appendix 1) and a range of support services, including: nursing care, kitchens, dining room, lounges, occupational activities, hair salon, administration offices, etc. At Appendix 5 are drawings showing the existing nursing home bedroom arrangements.

4.0 The intended development

4.1 The intention is to re-cast the balance of the traditional and close care accommodations; so as to have 10 traditional nursing home bedrooms and a total of 34 close care units. At Appendix 5 are sketch drawings showing the proposed conversion works.

5.0 Issues relating to the need for planning permission/approval from the Local Planning Authority

5.1 The most relevant items of legislation appear to be S. 55 of the Town & Country Planning Act 1990 (the Act) and the Town & Country Planning (Use Classes) Order 1987 (the UCO). Other relevant items include the planning history of the site and, in particular, the planning permissions granted for the original change of use to a nursing home (Ref. 22432, Conditions 6 and 8 refer) and for the additional accommodation now included in the current proposals (Refs. (F)24261, & 27338).

5.2 The works and activities associated with the intended development amount to building operations restricted to the interior of the building structure, with no external alterations; and a change of use from traditional nursing home bedroom accommodation to close care units.

5.3 It is clear from S. 55(2)(a) of the Act, that the building operations involved do not constitute development for which planning permission is required.

5.4 It is also clear from S. 55(2)(f) of the Act, that changes of use within the same Use Class do not constitute development requiring planning permission.

5.5 Hence the critical issue is whether the intended change of use involves a change of Use Class or some other form of a material change of use.

5.6 The generally accepted method of assessing whether a change of use is material is to consider the planning units and primary uses involved, compare the before and after situations and assess whether there has been any change in the unit of occupation or any change in kind or character of the uses involved, particularly having regard to the matters of fact and degree involved.

5.7 The relevant planning unit in each case would appear to be the Nursing Home itself; because without it, neither the nursing home bedrooms nor the close care units can exist or function.

5.8 The primary use in each case is residential accommodation and care to people in need of care. That is Use Class C2 of the UCO. Hence it is apparent that no change in the kind of use involved will occur.

5.9 However, the character of the respective uses might be considered to be different. That is, a self contained unit of residential accommodation has different characteristics to a bedroom with an en-suite bathroom and facilities to prepare light refreshments.

5.10 Additionally, the change from bedroom accommodation to close care units might be viewed, on the facts, to be change in kind of use, i.e. to Use Class C3, and to involve the creation of separate units of occupation. Furthermore, the balance of accommodation types within the Nursing Home will change, possibly to a degree sufficient to change the character of the planning unit comprising the Nursing Home as a whole.

5.11 It is not clear therefore, whether any material change of use requiring planning permission is involved.

5.12 Notwithstanding the above, there is S.55(2)(a) of the Act to consider. The existing nursing home bedroom accommodation can only be a use within Use Class C2. The use of the proposed close care units can reasonably be described as "use for residential accommodation and care to people in need of care", i.e. Use Class C2. If that is true, then would S.55(2)(a) of the Act override the other considerations?

5.13 However, Use Class C2 includes a qualification, i.e. "(other than a uses within Class C3 (dwellinghouse))". Use Class C3 includes "Use of a dwellinghouse by not more than 6 residents living together as single household (including a household where care is provided for residents).". Hence, perhaps the critical issue is whether the close care units are Use Class C2 or C3 developments.

5.14 The close units do provide self contained units of residential accommodation and, indeed, are intended to be sold and occupied as such. However, they are directly and inextricably linked to the Nursing Home and cannot function without it.

5.15 With reference to the planning history: permission 22432, condition 6 and permission 27338 (granted on appeal) refer to 40 and 58 residents respectively being accommodated at the Nursing Home (as it existed at those respective times); and permission 22432, condition 8 restricts the use of then existing building to a nursing home for the elderly.

5.16 Part of the original building has subsequently be redeveloped, vide permission 43071(F), which relates to the second phase of close care units. This phase includes 12 units accommodating a maximum of 24 residents. Hence the 'capacity' of the remainder of the building the subject of permissions 22432 and 27338 is theoretically limited to some 34 residents. It is currently occupied by 29 residents and, following the intended development, it would be occupied by 30 residents. Thus there would appear to be no contradiction of the "intensity" control included in condition 6 of permission 22432.

5.17 Condition 8 to permission 22432 is very specific and, notwithstanding the UCO, restricts the use of the building to a single activity - a nursing home for the elderly. As "nursing home" and "residential accommodation and care to people in need of care" fall within separate recitals within Use Class C2, it would appear *prima facii* that the intended change of use would be prohibited by the condition. However, it refers to the UCO of 1972 only (i.e. there is no reference to any subsequent modifications or re-enactments thereof), which has now been superceded. The current UCO and Use Class C2, were deliberately drafted in wider terms with the express intention of reducing regulatory controls. Also, the reason given including condition 6 would appear to fail the tests specified in DOE Circular 11/95: Use of conditions etc. - particularly those relating to need and relevance. Hence, how enforceable is this condition; and to what degree can it influence contemporary development rights under Section 55(2)(f) of the Act and Use Class C2?

6.0 Requirements

6.1 What is required is Counsel's opinion as to whether or not the change from nursing home bedroom accommodation to close care units involves development requiring either planning permission or any other Planning approval from the Local Planning Authority; together with the reasoned arguments/assessments leading to the given opinion.

6.2 Particular guidance is sought in respect of the following:

- Whether or not the Nursing Home as a whole is the relevant planning unit to consider.
- Whether or not the intended change of use would materially change the composition or character of the existing Nursing Home planning unit.
- Whether or not the close care units have a different primary use to that of the nursing home accommodation, or would have a different kind of use to that accommodation
- Whether or not the use close care units would be of a materially different character to that of the nursing home accommodation
- Whether or not the close care units comprise separate planning units requiring planning permission.
- The Use Class applicable to the close care units.
- Whether or not S.55(2)(f) of the Act applies in this case; and if so, whether or not it would over-ride the other considerations.
- With reference to the conditional restrictions included in the planning history, whether or not the intended development needs to be referred to the Local Planning Authority for its approval.

JRF.

John R Freeth. *DipTP(Oxford), MRTPI*
Chartered Town Planner

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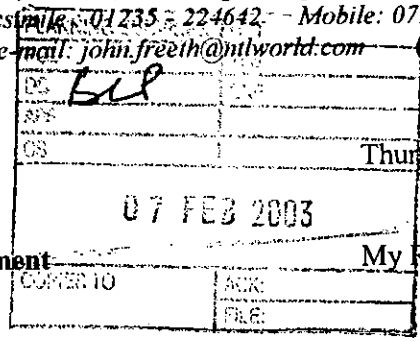


Thursday, 6 February 2003

Mrs. B Polnik
Development Control Officer
Wokingham District Council
Environmental Services Department
Planning Services
PO Box 157
Shute End, Wokingham
RG40 1WR

My Ref: JRF/0202-10

Your ref: BP/CLP/2002/8107

Dear Mrs Polnik,

Application No: CLP/2002/8107
Proposal: Certificate of proposed use or development.
Internal alterations to Nursing Home to form additional Close Care units.
At: Thamesfield, Wargrave Road, Henley-on-Thames.

I refer to the above, your letter of 5 February 2003 (faxed to me this morning) and our telephone conversation this morning.

With reference to the points you raise:

1. I confirm the nursing care provided in the close care units (existing and proposed) is provided by the Nursing Home's nursing staff.
2. I confirm the domestic services provided in respect of the close care units (again existing and proposed) are provided by the Nursing Home.

The fundamental characteristic of Close Care accommodation is that it is centred on a host nursing home – only thus can the progressive levels of care involved be provided and delivered. Close Care accommodation simply cannot exist or operate independently of a host nursing home. These matters are fully reflected in the contractual terms relating to the close care units, which are fully considered in Counsel's Opinion submitted with the application.

I trust the above provides the clarification you seek.

I understand you will now refer the case to the Council's legal staff for consideration. Please let it be known to them that if they wish to discuss or clarify any matter they are most welcome to contact me directly.

Yours sincerely,

John R Freeth.

cc. Miss B A Williams

For the Council's use only:

Application No: CLP/2002/8107

Date received: 29 NOV 2002

WOKINGHAM DISTRICT COUNCIL

Town and Country Planning Act 1990, Section 192, as amended by Section 10 of the Planning and Compensation Act 1991.

Town and Country Planning General Development (Amendment) Order, 1992.

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR A *PROPOSED* USE OR DEVELOPMENT.

---

1. Description of proposed use or development applied for:

   INTERNAL ALTERATIONS TO NURSING HOME TO FORM CLOSE CARE UNITS.

---

2. Applicant (in block capitals)

Name: MISS B. A. WILLIAMS

Address: THAMESFIELD, WARGRAVE ROAD, HENLEY-ON-THAMES

Post Code: RG9 2LX

Tel. No: 01491-418100

---

3. Agent (if any)

Name: JOHN R. FREETH DipTP(Oxford), MRTPI

Address: 83 SHARLAND CLOSE, GROVE, WANTAGE, OXON.

Post Code: OX12 0AF

Tel. No: 01235-224642

4. (1) Nature of applicant's interest in the land, e.g. owner, lessee, occupier. OWNER.

(2) If you do not have an interest: N/A.

(a) give name(s) and address(es) of anyone you know who has an interest in the land.

(b) state the nature of their interest (if known).

(c) state whether they have been informed about this application.

YES/NO

---

5. Address or exact location of the land to which this application relates:

THAMESFIELD, WARGRAVE ROAD, HENLEY-ON-THAMES. RG9 2LX

Describe here and enclose (4) copies of an OS-based plan showing the boundary of the land edged in red.

PLEASE SEE LOCATION PLAN ATTACHED.

---

6. Has the proposal been started? ~~YES~~/NO

---

7. If the proposal consists or, or includes, carrying out building or other operations give a detailed description of *all** such operations and attach such plans or drawings as are necessary to show their precise nature.
(In the case of a proposed building the plans should indicate its precise

siting and exact dimensions).
*includes the need to describe any proposal to alter or create a new access, lay out any new street, construct any associated hardstandings, means of enclosure or means of draining the land/buildings.

NO OPERATIONAL DEVELOPMENT INVOLVED, ONLY INTERNAL ALTERATIONS. PLEASE SEE ACCOMPANYING DOCUMENTATION.

---

8. If the proposal relates to a change of use of the land or building(s):

(1) give a full description of the scale and nature of the proposed use, including the processes to be carried on, any machinery to be installed, and the hours the proposed use will be carried on;
(2) fully describe the existing use or the last known use, with the date when this use ceased.

PLEASE SEE ATTACHED DOCUMENTS.

---

9. Briefly explain why you consider the existing, or last, use of the land is lawful, or why you consider that any existing buildings which it is proposed to alter or extend are lawful.
(You can use Section 12 of this application to state your case more fully).
Specify the supporting documentary evidence (such as a planning permission) which accompanies this application.

PLEASE SEE ATTACHED LETTER AND ACCOMPANYING DOCUMENTATION.

10. If you consider the *existing* or last, use is within a "use class" in the Town and Country Planning (Use Classes) Order 1987, state which one.

USE CLASS C2

---

11. If you consider the *proposed* use is within a "use class" in the Town and Country Planning (Use Classes) Order 1987, state which one.

USE CLASS C2

---

12. Is the proposed operation or use temporary or permanent? If temporary, give details.

PERMANENT

---

13. State why you consider that a Lawful Development Certificate should be granted for this proposal.

PLEASE SEE ATTACHED SUBMISSIONS.

(Continue on a separate sheet if necessary)

I/We hereby apply for a lawful use or development certificate under Section 191 of the 1990 Act in respect of the existing use, operations or activity described in this application and the documents, drawings and plans which accompany it. I/We enclose the appropriate fee of £110.00

Signed: ..... Date: 22/11/02

On behalf of: MISS B. A. WILLIAMS

(Insert name of applicant if signed by an Agent).

John R Freeth. *DipTP(Oxford), MRTPI*
Chartered Town Planner

83 Sharland Close, Grove, Wantage, Oxfordshire. OX12 0AF
Telephone & Facsimile : 01235 - 224642

The District Planning Officer
Wokingham District Council
Planning Department
PO Box 157
Council Offices
Shute End
Wokingham
Berkshire
RG40 1WR

Friday, 22 November 2002

My Ref: JRF/0202-05

Dear Sir,

Application for a Certificate of proposed use or development.
Internal alterations to Nursing Home to form additional Close Care units.
At: Thamesfield, Wargrave Road, Henley-on-Thames.

Please find enclosed for your attention my client's application in respect of the above. The application includes:

1. This letter (4 copies).
2. Completed application forms (4 copies).
3. Copy of Counsel's Opinion on the Application content, together with the associated Instructions to Counsel (4 copies, including Appendices).
4. List of drawings and the drawings so listed (4 copies).
5. Cheque for £110 in settlement of the requisite application fee.

I trust you have all the documentation needed to register, process and determine the application. However, should that not be the case, please do not hesitate to contact me as appropriate.

I believe it is clear from Counsel's Opinion that the case for the Certificate is well made and the that issue of a Certificate in the terms applied for is well justified. The most salient points being:

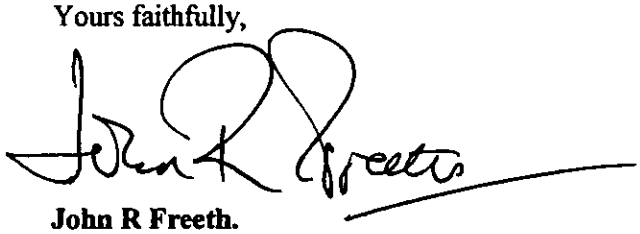
1. That the internal alterations to be undertaken, which will not involve any alteration to the external appearance of the building, do not constitute development requiring planning permission: as per Section 55(2)(a) of the Town & Country Planning Act 1990, as amended.
2. That the use of the proposed Close Care units is the same as the existing Nursing Home use, namely a nursing home for the elderly within Use Class C2. As such: no material change in use is involved, as per Section 55(2)(f) of the Town & Country Planning Act 1990, as amended; and no deviation from the conditional requirements of the planning permission granted under reference (F)22432 is involved.

Accordingly: no activity involving new development is to be undertaken, nor any activity which falls under the control of the Local Planning Authority *vide* the terms or limitations of any planning condition. Hence the application proposals may lawfully proceed without the need for any specific authorities from the Local Planning Authority.

However, if you consider any matter would benefit from further discussion, again, please do not hesitate to contact me.

I look forward to receipt of your decision as soon as possible please.

Yours faithfully,



John R Freeth.

cc. Miss B A Williams

APPENDIX 1

23.01.2002 8:07

APPENDIX 2

23.04.2002 8:37

APPENDIX 3

23.04.2002 8:37

Appendix 3 contents.

Copies of:

1. Planning Permission (F) 22432 and Agent's letters of 21/09/84 & 8/10/84.
2. Planning Permission (F) 24261.
3. Appeal decision dated 31/03/88 ref Application 27338.
4. Planning Permission 37269 (F).
5. Planning Permission 43071 (F).

Actual copies of these documents are not included with this application as the Council already has the original copies of them.

THE FOLLOWING SCANNED IMAGES ARE DOCUMENTS OF BAD QUALITY OR ARE PHOTOCOPIES.



FOR THIS REASON THEY MAY APPEAR UNREADABLE ON SCREEN

PLANNING PERMISSION

WOKINGHAM DISTRICT COUNCIL

LOCAL GOVERNMENT ACT 1972

TOWN AND COUNTRY PLANNING ACT 1990

To: MR AC & MRS MORGAN
C/O THE TOWN PLANNING STUDIO
BURY KNOWLE COACH HOUSE
NORTH PLACE, OLD HIGH STREET
HEADINGTON, OXON OX3 9HY

WOKINGHAM DISTRICT COUNCIL
COUNCIL OFFICES
SHUTE END
WOKINGHAM, BERKS., RG11 1BN

Application No 43071 (F)

Proposal:
REDEVELOPMENT OF EXISTING THREE STOREY BLOCK TO FORM 12 CLOSE UNITS CAR PARK AND FLOOD COMPENSATION SCHEME.
THAMESFIELD NURSING HOME WARGRAVE ROAD REMENHAM

The Wokingham District Council in pursuance of their powers under the above Acts hereby GRANT Planning Permission for the carrying out of the above development in accordance with the application and the accompanying plans submitted by you to the Council subject to compliance with the following conditions the reasons for which are specified thereunder.

01 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.(N4)

01 REASON This condition is deemed to be attached by virtue of Section 91(1) of the Town and Country Planning Act 1990.(N4R)

02 Prior to the commencement of development samples of the proposed materials shall be submitted to and approved by the Local Planning Authority.(N10)

02 REASON In order to ensure the satisfactory appearance of the proposal (N10R)

03 No construction work of any sort within the area covered by the application shall take place between the hours of 7.00 pm and 7.00 am on Mondays to Saturdays and no construction work at all shall take place on Sundays or Bank Holidays except with the prior written consent of the District Planning Authority.(N25)

03 REASON In the interests of amenity and to prevent undue disturbance to existing residential properties.(N25R)

04 Provision shall be made for services to be placed underground. No overhead wire or cables or other form of overhead servicing shall be placed over or used in the development of the application site.(N26)

continued/-

Application 4307 ... continued

04 REASON To prevent harm to the appearance of the locality (N26R)

05 The steel balustrading shall be painted black and shall not be painted any other colour without the prior approval of the District Planning Authority.

05 REASON To help ensure a building of satisfactory external appearance and in the interests of visual amenity.

06 The building shall not be occupied until the vehicle parking area has been surfaced and marked out in accordance with the approved plan. The spaces shall thereafter be kept available for parking at all times.

06 REASON To ensure that the development is provided with adequate parking facilities so as to minimise the incidence of roadside parking which would be a danger to other road users (N69R)

07 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the District Planning Authority gives written consent to any variation (N15)

07 REASON In the interests of visual amenity (N13R)

08 Any gates provided shall open away from the highway and be set back a distance of at least 5 metres from the nearside edge of the carriageway of the adjoining highway (N63)

08 REASON To ensure that vehicles can be driven off the highway before the gates are opened (N63R)

09 No soakaways shall be consstructed such that they penetrate the water table, and they shall not in any event exceed 2 metres in depth below existing ground level.

09 REASON To prevent pollution of groundwater.

10 The flood compensation area shall be provided concurrently with the erection of the new building on the site.

10 REASON To ensure that there is no detriment to flood storage capacity on the site.

11 The siting of any site compound, temporary building, storage area and other such activity required for construction work on the site shall be carried out under a scheme to be submitted to and approved in writing by the District Planning Authority before the development of the site commences (N23)

continued/-

Application 41071 continued

11 REASON In the interests of amenity and road safety. (N23R)

12 During construction of the front boundary wall with Margrave Road, the pedestrian footpath shall remain unobstructed and any damage to that footpath shall be repaired to the satisfaction of the District Planning Authority.

12 REASON In the interests of convenience and highway safety.

INFORMATIVES:

Your attention is drawn to the informatives included in the letter from the N.R.A. to the applicant and agent dated 16.8.94. (672H)

The Developer or Agent is requested to contact the Council's Engineer regarding the following informative(s). (669)

Full details of all foul and surface water drainage proposals shall be submitted to the Council's Engineer and approved by the District Council before commencement of the development. (671)

Soak-aways shall be designed and constructed in accordance with Building Research Establishment Digest 151. (679)

All existing land drainage disturbed shall be replaced or relaid as near as possible to its original position and subject to the approval of the Engineer, shall be connected to the surface water drainage system. (687)

No public foul sewer available. (702)

No public surface water sewer available. (703)

The use of soakaways is subject to satisfactory testing in accordance with Building Research Establishment Digest No. 151. (708)

The applicant shall consult with the National Rivers Authority, Thames Region, Kings Meadow House, Reading, RG1 8DQ, in respect of construction in the vicinity of a main watercourse. (713)

The applicant shall consult with the National Rivers Authority, Thames Region, Kings Meadow House, Reading, RG1 8DQ, in respect of proposed floor levels. (714)

continued/-

Application 43071 continued

Date 20 OCT 1994

R.F.W.

District Planning Officer

N.B. A statement of the applicant's rights is attached.

This permission or approval is for the purposes of the Town and Country Planning Act 1990 only. Approval may also be required under the Building Regulations.

Note: Would you please ensure that the Red Public Notice relating to this planning application which the Council sent to you to put on display is now removed, if this has not already been done. This will avoid any confusion by local residents as to whether further applications have been made, and will assist in keeping the countryside and townscapes tidy.

INFORMATIVE: If this planning permission relates to the erection or extension of a building, then the following section applies:-

BERKSHIRE ACT 1986- SECTION 32: ACCESS FOR FIRE BRIGADE

(1) Except as provided in subsection (2) below, where plans for the erection or extension of a building are deposited with a district council in accordance with building regulations, the district council shall reject the plans unless, after consultation with the fire authority, they are satisfied that the plans show:-

(a) that there will be adequate means of access for the fire brigade to the building or, as the case may be, to the building as extended; and

(b) that the building or, as the case may be, the extension of the building will not render inadequate existing means of access for the fire brigade to a neighbouring building.

(2) No requirement concerning means of access to a building or to a neighbouring building shall be made under this section in the case of a building to be erected or extended in pursuance of a planning permission granted upon an application made under the Act of 1971, unless notice of the provisions of this section is endorsed on or accompanies the planning permission.

(3) Section 16(7) and (8) and section 36(2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of the said Act of 1984.

(4) Any person aggrieved by the action of the district council in rejecting plans under this section may appeal to a magistrates' court.

(5) In this section references to the adequacy or inadequacy of means of access for the fire brigade shall be construed as references to a means of access adequate or, as the case may be, inadequate for use for fire fighting purposes by members of one or more fire brigades and their appliances.

27 JUN 1994

Thamesfield Nursing Home.

Wargrave Road, Henley-on-Thames, Oxfordshire.

Report on decline in occupancy.

And

Recommendations for future policy.

Fiona Fieldhouse SRN, CM, EBN 941, NVQ 4
Matron.
Thamesfield Nursing Home.
June 1994

1.0 Introduction

1.1 This report was commissioned by Mrs B A Morgan following an acceleration in what had been a gradual decline in resident numbers at Thamesfield Nursing Home.

1.2 It is acknowledged that the service provided by "Thamesfield" at present is excellent, and that its reputation in the community and amongst health care professionals has never been better. It is intended that this report will explain the causes for the continual decline in resident numbers in spite of the fact "Thamesfield" is regarded as one of the best privately run nursing homes in the country.

1.3 Since January 1992 full occupancy of both wings of "Thamesfield" has been achieved briefly only twice - in June and August 1993.

1.4 My records up to the end of March 1994 (for the last complete quarter) show increasing difficulty in maintaining a level of occupancy which can sustain viability. There are clear reasons for this.

2.0 Changes in care provision.

2.1 Since the advent of the Community Care Act, which re-organised the funding of care provision for those in need of it, referrals to nursing homes by Social Services have dropped country-wide by two thirds. Of the referrals which have continued since April 1993, when the Act was finally implemented, 75% are highly dependent, and in many cases it is felt that such severe disability should be nursed in specialist units, not nursing homes at all. This category of care is highly specialised and very costly.

2.2 At "Thamesfield" the Garden Wing was originally envisaged as being suitable for the type of resident then referred by the Social Services, it was purpose built, equipped with a hoist, has easy access in and out of the building and good internal access for wheelchairs. The design of the building allows nursing to be cost-effectively concentrated to provide appropriate care.

2.3 However, since 1993 there have been no wholly DSS funded referrals. The reason for this, which is corroborated by Nursing Home Owners Associations, The Royal College of Nursing, the Social Services and the Media, is because it is the declared policy of both the present Government and the Opposition (the Labour Party) that public contributions to long term institutional residential nursing care should become a thing of the past. The common policy is that in future people in need of long term nursing care must satisfy that need in their own homes, care in a nursing home is only to be provided where there is absolutely no alternative means of care provision.

3.0 The way forward.

3.1 There clearly must be a re-thinking of caring environments for older people and other persons in need of long term care. Current thinking in the profession is that clients should be given three choices of accommodation:

* Sheltered;
* Very sheltered, or Close-care, or
* Nursing Home

There can be a progression through these types of accommodation as an individual's clinical conditions and circumstances may require.

3.2 As has been demonstrated at "Thamesfield Court", there is a buoyant demand for Close-care accommodation: not least because of the increased security this form of accommodation offers its occupants, in terms of their on-going care requirements and maintaining both their personal independence and integrity and social inter-actions. Of the enquiries received about available accommodation and vacancies at "Thamesfield" over the last 9 months, the greatest percentage has been concerned with this type of accommodation.

4.0 Conclusion

4.1 "Thamesfield" has built up an enviable reputation in the community for excellent and expert care of older people, and also other people in need of long term nursing care. It is recognised that in order to continue to serve the community "Thamesfield" must be able to provide the services that the community requires.

4.2 Long term, traditional institutional care is required for far fewer clients. People are happier and much better served being benevolently cared for in their own chosen surroundings. "Thamesfield", with its diversity of care facilities and expertise, is able to provide a package of care and accommodation, which enables individuals to maintain a significant degree of independence within a caring environment, and also to be satisfied that all the appropriate support services and expertise are available as required. The recent experience of a Close-care client suffering an acute deterioration and now needing and receiving constant nursing care, whilst sad, none-the-less bears out the appropriateness of the package offered by "Thamesfield".

4.3 Whilst the diversity of the available accommodation and care support is appropriate to current trends, the accommodation balance is not. The institutional care capacity needs to be decreased, and the Close-care capacity needs to be increased.

4.4 With a balance in the accommodation mix, and the existing diversity in care facilities and expertise, "Thamesfield" will be well placed to continue its caring role in the community.

[945ms]
End.

The District Planning Officer
Wokingham District Council
Planning Department
PO Box No. 157
Council Offices, Shute End
Wokingham
Berks. RG11 1WR

My ref.: TPS/94/5-L05

24 June 1994

DEVELOPMENT CONTROL 27 JUN 1994

Dear Sir,

Demolition of existing flat roofed 3 storey Annex building and erection of new 3 storey pitched roof building; revised car parking arrangements; flood plain compensation and betterment measures; repairs to river bank; associated landscape treatment works; and ancillary works.

At: Thamesfield Nursing Home, Wargrave Road, Remenham

Please find enclosed for your attention my clients' application for full planning permission in respect of the above. The application includes:

1. This letter - 6 copies.
2. Completed application forms, parts 1 & 2 - 6 copies.
3. Certificate of land ownership.
4. List of documents & drawings, and the items so listed- 6 copies of each.
5. Cheque for £2,100.00 in settlement of the requisite planning application fee.

The application follows extensive preliminary discussions with your Department and the National Rivers Authority and, as explained in those discussions, is concerned to achieve both a rationalisation of the more disparate elements of the existing development on the site, and a restructuring of the existing accommodation. Whilst the former objective is motivated essentially by aesthetic considerations, the latter is motivated by the on-going restructuring of the Care Industry itself and the demands made of it.

I make the following explanatory comments and submissions in support of the application.

Traditional Care Industry demands for shared and single rooms are declining, as a consequence of market function and changes in DSS policy. However, demand for Close Care units is increasing, particularly as the market is recognising the human and personal values of the progressive levels of care that can be made available as clinical disabilities progress - without any successive needs to relocate and break family and

social contacts. Included with this application are copies of a recent internal report and articles from the Care Industry Press, all of which detail these matters.

Since Mr. & Mrs. Morgan first established the Nursing Home in 1985, in what was then a neglected and disused former Education Authority hostel cum activity-centre, they have striven to achieve high standards of quality in all of their activities and indeed that "Quality" is the hallmark of Thamesfield Nursing Home. The Nursing Home has developed and grown since its establishment and has had to change with shifts in the demands and requirements of the Care Industry.

Thamesfield has reached its maximum capacity, and the only ways in which it can now "develop" are by improving quality and continuing to adapt to changing market demands. The unsatisfactory elements in the physical qualities of Thamesfield, in Mr. & Mrs. Morgan's terms, are the flat roofed 3 storey building and the car park in front of the main entrance, and it has always been an aspiration that these elements be resolved - although the economics of redevelopment have always frustrated that aspiration. However, the on-going restructuring of the Care Industry, which is reflected in the Home's increasing vacancy rates for conventional care accommodation and the rapid take up of the new Close-Care units, is enforcing a need for the Home to restructure its accommodation facilities and this has created a new economic environment in which to consider and achieve the above aspirations.

The existing Annex building contains 20 conventional patient bed-sitting rooms, and its structure and layout are such as to make it ill suited to adaptation to other forms of accommodation. Given this, together with the declining demand for such conventional accommodation and the increasing demand for Close-Care accommodation, it is the case that there is now both an operational need for and an opportunity to redevelop the Annex building, and, thereby, to achieve both improvements in the quality of Thamesfield and a restructuring of the available accommodation in line with market movements and requirements.

The details of the proposed redevelopment are shown on the deposited plans, and, so far as Mr. & Mrs. Morgan are concerned, represent the culmination of their work and efforts at Thamesfield. That is, a finished article with a balanced range of accommodation, and a high quality development of enduring aesthetic merit.

With reference to the planning issues involved in this case I make the following representations.

Although the site is located within the Metropolitan Green Belt, the existing development on the site (Use Class C2 - Residential Institution) is an appropriate use within a Green Belt - as is confirmed in PPG2 and the most recent appeal decision in

respect of the site. The proposal does not involve any change of use, but simply a rationalisation and remodelling of parts of that development's physical make up. Hence the determining issues in this case are not so much concerned with land use, but rather with environmental impact and the pragmatic questions of technical performance, eg. in terms of vehicle parking, flood plain management etc.

The proposed new structure will be larger than that it is to replace, however, aesthetically it will be more in balance and harmony with the original Thamesfield building than the existing structure and furthermore it will reflect a continuum with the recently implemented Close-car-Lyn on the site. There will be no effect on either the existing trees on the site, which will be protected for the duration of the building works, or the new landscaping works being implemented on the Wargrave Road frontage.

The proposed new vehicle parking arrangements maintain the existing level of vehicle parking provision on the site, less 2 spaces in accordance with the reduced level of occupation. The removal of the main car park from in front of the principal entrance to Thamesfield will considerably enhance the appearance and setting of the buildings in relation to the gardens and the river frontage. The relocated car park will be well contained by existing and proposed landscaping and generally will be much less conspicuous than that existing. Whilst the new car park will be located a lot closer to the neighbouring dwelling at The Lodge than any existing parking area, the two items will be separated by a landscaped area 6m wide, which is both earth mounded and heavily planted and will be retained as such. Most use of the car park will occur during the day, and night staff will be instructed to use other parking areas within the site. The reduced levels of occupancy and staffing resulting from the development will also result in reduced traffic generation and, therefore, in a reduced use of the means of access to the site.

Neither the existing building to be replaced nor the proposed new building are or will be in the flood plain (their locations being above flood level), and no loss of flood plain capacity will result from the new building. The proposed new car parking area will involve some raising of ground levels in the flood plain, however, this will be more than compensated for by the proposed compensation measures, which in fact will achieve a betterment in the flood plain's capacity - all as agreed in preliminary discussions with the National Rivers Authority.

The existing trees in the vicinity of the proposed ground works will be protected from ground compaction and water starvation by the use of a 'Geoweb' (or similar) sub-base. This honey-combe type structure enables loads to be spread over a wide area and permits water percolation. Any excavations in the vicinity of the trees will be undertaken by hand.

The shifts in the nature and structure of the Care Industry have created an unlooked for opportunity to rationalise the more disparate elements of the existing development on the site, ie. the ugly 3 storey flat roofed Annex building and the car parking in front of the principal entrance. I believe the proposed new development optimises that opportunity, by achieving a redevelopment of the Annex building and the relocation of the main car park in ways which reflect and respect the architectural style and harmony of the complex and its landscape setting, and which satisfy the appropriate technical requirements.

I believe you have all the proposals information necessary to consider the application; however, should you require any clarification or wish to discuss any matter, please do not hesitate to contact me. Similarly, should any difficulty with the proposals arise, please do let me know, so that the matter can be addressed.

Yours faithfully,

John R Freeth
For and on behalf of
The Town Planning Studio
[945L05]

PLANNING PERMISSION

JRS

WOKINGHAM DISTRICT COUNCIL

LOCAL GOVERNMENT ACT, 1972

TOWN AND COUNTRY PLANNING ACT, 1971

To: MR AND MRS A C MORGAN
C/O ASSOCIATED DESIGN PARTNERSHIP
GORDON HOUSE
276 BANBURY ROAD
OXFORD OX2 7HA

WOKINGHAM DISTRICT COUNCIL
COUNCIL OFFICES
SHUTE END
WOKINGHAM, BERKS., RG11 1BN

Application No. (F) 22432

Proposal:
CHANGE OF USE FROM CLASS X11 (EDUCATIONAL) TO NURSING HOME FOR THE ELDERLY
THAMESFIELD WARGRAVE ROAD REMENHAM

The Wokingham District Council in pursuance of their powers under the above Acts hereby GRANT Planning Permission for the carrying out of the above development in accordance with the application and the accompanying plans submitted by you to the Council subject to compliance with the following conditions the reasons for which are specified thereunder.

1. The development hereby permitted shall be commenced within five years from the date of this permission.(5)

1. REASON This condition is deemed to be attached by virtue of Section 41(1) of the Town and Country Planning Act, 1971. (3R)

2. This permission is in respect of a change of use of the premises only and any external alteration to the building shall first be approved in writing by the District Planning Authority.(287)

2. REASON For the sake of clarity, and to enable the District Planning Authority to consider any subsequent external alterations to the building (272R)

3. The access shall have a minimum width of 5.5 metres and kerb radii of 7.5 metres on the Northern side and on the Southern side 10.5 metres.(4434)

3. REASON In the interests of road safety.(550R)

4. The proposed alterations to the existing access shall be constructed to the satisfaction of the District Planning Authority.(588)

4. REASON In the interests of road safety.(550R)

5. Visibility splays of 2.4 metres by 210 metres to the south and to the north 120 metres shall be provided at the centre line of the access at the commencement of development. The visibility splays shall be kept clear of all obstructions to visibility above a height of 0.6 metres.(4435)

5. REASON In the interests of road safety.(550R)

22 NOV 1984

Continued/

Application No: 22432 continued

6. The scale or intensity of the use of the site shall be specifically as stated in the Agent's letters dated 21st September 1984 and 8th October 1984 which were submitted to explain the application and which form part thereof.(4436)

6 REASON: For the sake of clarity, and to ensure an appropriate development for this site.(273R)

7. All the existing site levels shall be maintained in the development of the site, particularly along the boundaries or in the flood plain, unless changes in levels are first approved in writing by the District Planning Authority and this condition shall apply notwithstanding any indications as to this matter which may have been given in the current application.(4437)

7 REASON: Changes in site levels may materially affect the proposed development, flood plain or adjoining property.(4438)

8. Notwithstanding the provisions of Article 3 and Class XIV of the Schedule to the Town and Country Planning (Use Classes) Order, 1972, the building shall be used only for the purpose of a nursing home for the elderly and for no other purpose whatsoever.(4439)

8 REASON: For the sake of clarity, and to ensure an appropriate development for this site.(273R)

INFORMATIVES:-

The applicant's attention is drawn to the fact that the trees on the site are the subject of a Tree Preservation Order.(631)

CHRONICALLY SICK AND DISABLED PERSONS ACT 1970 - Buildings or Premises to which the Public are to be admitted whether on payment or otherwise.

In accordance with Section 29A of the Town and Country Planning Act 1971 your attention is drawn to Sections 4 and 7 of the Chronically Sick and Disabled Persons Act 1970 and to the Code of Practice for Access for the Disabled to Buildings being the British Standards Institution Code of Practise referred to as BS:5810: 1979.(642)

The site is within the approved Green Belt and a Conservation Area and it is unlikely that the District Planning Authority would be prepared to approve further buildings on this site.(4440)

The Thames Water Authority or their Agents have requested the following informatives be attached to this permission and the Developer or Agent is requested to contact the Council's Engineer accordingly.(669)

a) Foul drainage should pass to the available soil sewer.

b) Manhole covers should be of the screw-down variety.

c) Any sink waste gullies should be built above the flood water level.

d) If oil fired central heating is to be installed, then the storage tank should be sited on an impervious base and surrounded by an oil tight bund wall, the bunded area should be capable of containing 110% of the tanks volume and should enclose all fill and draw pipes.

e) There should be no raising of ground levels.

22 NOV 1984

-Continued

1) Copy to all Consultees + Part 1 - admin to organise
2) Attach to DC file

PLANNING DEPT
PASSED TO JRS
COPIES TO EC
10 OCT 1984
ACKNOWLEDGED 10/10/84
FILE NO.

Dennis Beasley
Richard Patey
Dipl. Arch. (Oxford) R.I.B.A.
Chartered Architect
Surveyor & Planning Consultant

ASSOCIATED DESIGN PARTNERSHIP (OXFORD)

VAT Reg. No. 194 6123 53
Your Ref.
Our Ref. ARP/KR/1053
Gordon House, 276 Banbury Road, Oxford OX2 7HA
Telephone: Oxford (0865) 511181 - 2 lines

8 October 1984

Dear Sir

Re Proposed change of use - CLASS XII to Nursing Home for the elderly at 'Thamesfield', Wargrave Road, Henley Oxon. For Mr & Mrs A C Morgan. Application No 22432

Further to my recent telephone conversation with your Mr Soones, I confirm that the Applicant proposes to use the premises to accommodate 40 elderly persons and not 44 as stated in paragraph 3 of the letter which accompanied the Planning Application.

Yours faithfully

Richard Patey

For and on behalf of
A.D.P. (Oxford)

For the attention of Mr Soones
The Planning Officer
Wokingham District Council
Council Offices
Shute End
Wokingham
Berks
RG11 1BN

Dennis Beasley
Richard Patey

Dipl. Arch. (Oxford) R.I.B.A.
Chartered Architect
Surveyor & Planning Consultant

ASSOCIATED DESIGN PARTNERSHIP (OXFORD)

VAT Reg. No. 194 6123 53

Gordon House, 276 Banbury Road, Oxford OX2 7HA
Telephone Oxford (0865) 511181 2 lines

Your Ref.
Our Ref. ARP/KR/1053

21 September 1984

24 SEP 1984

22432

Dear Sir,

Re Proposed change of use - CLASS XDI to Nursing Home for the elderly at 'Thamesfield', Wargrave Road, Henley, Oxon. For Mr & Mrs A C Morgan

Please find enclosed the following completed documents and application fee which together comprise a full planning application in respect of the above.

6 copies application form Parts 1 and 2

6 copies location plan ADP/1053

6 sets floor plans ADP/1053/1-3

Certificate B

Application fee - Cheque £47

We would ask you to take in to account in connection with this application the following points.

1. We understand the County Surveyor is likely to require one parking space for every three bed spaces and one parking space for every two members of staff, e.g. a total of 23 spaces. This provision can be met within the existing parking areas and the parking spaces could be defined on the ground as indicated on the location plan ADP/1053 if you or the County Surveyor consider it necessary.

2. The proposed use does not involve any external alterations to the existing buildings.

Cont...

Associates:
Brian Jones
M.S.A.A.T.

3. Only some very minor internal alterations will be necessary to render the property suitable for accommodating 44 elderly persons. For example, removal and or additional non-loadbearing partitions, additional bathroom facilities, and possibly the introduction of a lift within the existing three storey extension.

4. The applicants have recently disposed of a nursing home for the elderly ('Glenore', Berries Road, Cookham, Nr Maidenhead), a business which they started and ran for approximately 15 years.

5. In 1982 the applicants acquired premises at 'Moor Cottage', High Street, Cookham which was converted to its present use as a home for the elderly. The applicants intend to retain Moor Cottage in its present use.

6. The applicants have spent almost three years looking for suitable premises in the Henley area for use as a nursing home for the elderly. 'Thamesfield' is considered to be ideally suited for the proposed use both in terms of its location and layout of the existing accommodation.

7. The applicants have made enquiries of the Area Health Authority, Social Services, local Doctors and other relevant organisations and the general consensus is that there is a need for a nursing home for the elderly in the Henley area. (We understand that letters to this effect and indeed letters from individuals and other organisations who wish to support this application will be sent to you direct during the next 2 to 3 weeks).

8. Your officers and or members of the planning committee are invited to inspect the applicants premises at 'Moor Cottage', High Street, Cookham, if only to see the very high standards maintained by the applicants. A similar high standard will be set and maintained at 'Thamesfield'.

9. As you know 'Thamesfield' is in a poor state of repair and requires considerable expenditure (estimated at £100/120,000) to restore the buildings externally and internally, particularly the original house, to anything like its original condition.

Cont...

ARP/KR/1053

21 September 1984

whilst the applicants are currently prospective purchasers they will have exchanged contracts (unconditionally) to purchase the property prior to the application being determined. We mention this because some general repairs and maintenance works are likely to commence following exchange of contracts (2/3 weeks time) and we would ask you not to construe such works as in anyway pre-empting the decision on this application. That said, it is of course hoped that you and members of the Planning Committee will give this application sympathetic consideration and share our view that the proposed use is satisfactory particularly having regard to the existing use.

Finally, as we explained to your Mr Thorpe the application is being submitted today in the hope that it will be processed in time to go to Planning Committee on the 5th November 1984.

Yours faithfully

For and on behalf of
A.D.P. (Oxford)

For the attention of Mr Thorpe

The Planning Officer
Wokingham District Council
Council Offices
Shute End
Wokingham
Berks.
RG11 1BN

Enc

PLANNING PERMISSION

WOKINGHAM DISTRICT COUNCIL

LOCAL GOVERNMENT ACT 1972

TOWN AND COUNTRY PLANNING ACT 1971

TO: MR AND MRS A C MORGAN
C/O ASSOCIATED DESIGN PARTNERSHIP
GORDON HOUSE
276 BANBURY ROAD
OXFORD OX2 7HA

WOKINGHAM DISTRICT COUNCIL
COUNCIL OFFICES
SHUTE END
WOKINGHAM BERKS RG11 1BN

Application No (F) 12426

Proposal
THREE/STOREY SIDE EXTENSION TO ENLARGE EXISTING BEDROOMS AND PROVIDE TWO EXTRA BEDROOMS

THAMESFIELD WARGRAVE ROAD REMENHAM

The Wokingham District Council in pursuance of their powers under the above Acts hereby GRANT Planning Permission for the carrying out of the above development in accordance with the application and the accompanying plans submitted by you to the council subject to compliance with the following conditions the reasons for which are specified thereunder.

1 The development hereby permitted shall be commenced within five years from the date of this permission.(5)

REASON This condition is deemed to be attached by virtue of Section 41(1) of the Town and Country Planning Act, 1971.(3R)

2 All materials to be used in the elevations of the proposed development shall be as stated on the application form and approved drawings and shall not be varied without the prior written permission of the District Planning Authority.(14)

REASON To ensure that the development will be of satisfactory appearance.(9R)

Date 25 SEP 1985

District Secretary

N.B. A statement of the applicant's rights is attached

This permission or approval is for the purposes of the Town and Country Planning Act 1971 only. Approval may also be required under the Building Regulations.

APPENDIX 5

29..3M.2002 8:07

LIST OF DRAWINGS

1.	0202/d01	Site Location Plan
2.	0202/d02	Ground floor layout (Original Building) - Existing
3.	0202/d03	First floor layout (Original Building) - Existing
4.	0202/d04	Ground floor layout (Original Building) - Proposed
5.	0202/d05	First floor layout (Original Building) - Proposed

65842

PLANNING
FOR
DEV BLP
APP
CS

06 FEB 2003

John R Freeth. DipTP(Oxford), MRTPI
Chartered Town Planner

83 Shurland Close, Grove, Wantage, Oxfordshire. OX12 0AF
Telephone & Facsimile: 01235 - 224642 Mobile: 07930 284300
e-mail: john.freeth@ntlworld.com

Mrs. B Polnik
Development Control Officer
Wokingham District Council
Environmental Services Department
Planning Services
PO Box 157
Shute End, Wokingham
RG40 1WR

Thursday, 6 February 2003

My Ref: JRF/0202-10

Your ref: BP/CLP/2002/8107

Dear Mrs Polnik,

Application No: CLP/2002/8107
Proposal: Certificate of proposed use or development.
Internal alterations to Nursing Home to form additional Close Care units.
At: Thamesfield, Wargrave Road, Henley-on-Thames.

I refer to the above, your letter of 5 February 2003 (faxed to me this morning) and our telephone conversation this morning.

With reference to the points you raise:

1. I confirm the nursing care provided in the close care units (existing and proposed) is provided by the Nursing Home's nursing staff.
2. I confirm the domestic services provided in respect of the close care units (again existing and proposed) are provided by the Nursing Home.

The fundamental characteristic of Close Care accommodation is that it is centred on a host nursing home – only thus can the progressive levels of care involved be provided and delivered. Close Care accommodation simply cannot exist or operate independently of a host nursing home. These matters are fully reflected in the contractual terms relating to the close care units, which are fully considered in Counsel's Opinion submitted with the application.

I trust the above provides the clarification you seek.

I understand you will now refer the case to the Council's legal staff for consideration. Please let it be known to them that if they wish to discuss or clarify any matter they are most welcome to contact me directly.

Yours sincerely,

John R Freeth

John R Freeth.

cc. Miss B A Williams

John R Freeth. *DipTP(Oxford), MRTPI*
Chartered Town Planner

83 Sharland Close, Grove, Wantage, Oxfordshire. OX12 0AF
Telephone & Facsimile: 01235 - 224642 - Mobile: 07930 284300
e-mail: john.freeth@ntlworld.com

65842

07 FEB 2003

Mrs. B Polnik
Development Control Officer
Wokingham District Council
Environmental Services Department
Planning Services
PO Box 157
Shute End, Wokingham
RG40 1WR

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I understand you will now refer the case to the Council's legal staff for consideration. Please let it be known to them that if they wish to discuss or clarify any matter they are most welcome to contact me directly.

Yours sincerely,

John R Freeth.

cc. Miss B A Williams

Tel: (0118) 974 6450 (Direct Line)
E-Mail: Basia.Polnik@wokingham.gov.uk
Date: 5th Feb 2003
My ref: BP/CLP/2002/8107

Mr J Freeth
83 Sharland Close
Grove
Wantage
Oxon. OX12 0AF

Environmental Services Department
Planning Services
P.O. Box 157
Shute End, Wokingham
Berkshire RG40 1WR
Tel: (0118) 974 6000
Fax: (0118) 974 6484
Minicom No: (0118) 974 6991
DX: 33506 – Wokingham

Dear Mr Freeth

PROPOSED CONVERSION OF PART OF NURSING HOME TO ADDITIONAL CLOSE CARE UNITS AT THAMESFIELD NURSING HOME, WARGRAVE ROAD, REMENHAM

Further to your application for a certificate of lawfulness for the above-mentioned proposal I would be grateful if you could clarify the following:

The brochure entitled Thamesfield Court Apartments, page 7, states that the level of care can range from year round emergency only care to full 24 hour nursing care. Please could you clarify whether the nursing care provided would be provided by staff in the nursing home or whether this nursing care comes from or if ,for example, you where living in you own home, a domicilairy care agency or a district nurse. In addition could you explain the domiciliary care arrangements in more detail eg is this service being provided in conjunction with the nursing home on-site or is it provided by a separate agency. If it is the latter I assume therefore that the close care units could function independently to the nursing home.

I look forward to receiving your reply in due course.

Yours sincerely

BP.

B. POLNIK (Mrs)
Senior Planning Officer

Copies faxed to eg Grt and applicant 6/2.

John R Freeth. *DipTP(Oxford), MRTPI*
Chartered Town Planner

83 Sharland Close, Grove, Wantage, Oxfordshire. OX12 0AF
Telephone & Facsimile : 01235 - 224642 Mobile: 07930 284300
e-mail: john.freeth@ntlworld.com

PLANNING SERVICES	HP 64655
FOR	TLS
BLP	EN
Rec'd by BP 21/1	
06 JAN 2002	
COPIES TO	ACK
	FILE:

09 JAN 2003 8136

Mrs. B Polnik
Development Control Officer
Wokingham District Council
Environmental Services Department
Planning Services
PO Box 157
Shute End, Wokingham
RG40 1WR

Friday, 3 January 2003

My Ref: JRF/0202-09

Your ref: CLP/2002/8107

Dear Madam,

Application No: CLP/2002/8107
Proposal: Certificate of proposed use or development.
Internal alterations to Nursing Home to form additional Close Care units.
At: Thamesfield, Wargrave Road, Henley-on-Thames.

I refer to the above and your letter of 10 December 2002, which was received over the Christmas/ New Year holiday.

It would appear that the date given for the expiry of the 8 week period is incorrect (for it to be correct the application would have to have been registered on Sunday 29 December 2002!). The application was despatched by first class post on Friday, 22 November 2002 and should have been received by the Council by Monday, 25 November 2002. As such the 8 week period will expire on Monday, 20 January 2003. rec'd 29.11.02

I shall be grateful if you will review the position and advise me accordingly.

Yours faithfully,

John R Freeth.

cc. Miss B A Williams

Please see Part I for plans.

To:
Harold Sanders
Urban Design And Conservation Officer
For info. as this is in a Conservation Area

From: Mrs B Polnik

Date: 10 December 2002 11 DEC 2002

Application Number: CLP/2002/8107

Proposal: Application for Certificate of Lawfulness of proposed development for internal alterations to nursing home to form close care units..

Site Address:
Thamesfield Nursing Home, Wargrave Road, Remenham, Henley-On-Thames.

Applicant:
Mis B Williams C/O Mr J R Freeth.

Your observations are required in respect of this application within **7 days** of the above date.

FROM THE INFORMATION PROVIDED THERE WOULD APPEAR NOT TO BE ANY IMPLICATION OR VISUAL IMPACT ON THE CONSERVATION AREA OF THE PROPOSALS THAMESFIELD NURSING HOME IS WITHIN THE REMENHAM (HENLEY BRIDGE) CONSERVATION AREA. THE BUILDING IS NOT 'LISTED'

Harold Sanders

19.12.02.

PLANNING APPLICATION COMMENTS SHEET FOR CLP/2002/8107. (Case Officer:Mrs B Polnik)

PLEASE NOTE THAT **ALL** COMMENTS SUBMITTED ARE OPEN TO PUBLIC VIEW, **THIS INCLUDES THE APPLICANT**.

WOKINGHAM UNITARY
Aiming for Excellence

THINGS WE **CAN** TAKE INTO CONSIDERATION WHEN DETERMINING A PLANNING APPLICATION;
DESIGN, APPEARANCE AND LAYOUT.
HIGHWAY SAFETY. in particular
RESIDENTIAL AMENITY (loss of attractive features within the locality; e.g. parks or woodland).
yes LOSS OF LIGHT.
OVERSHADOWING/OVERLOOKING (loss of privacy).
NOISE, DISTURBANCE, SMELL etc ONCE THE DEVELOPMENT IS IN USE (e.g. from a proposed restaurant, takeaway, public house or industrial unit).

THINGS WE **CAN'T** TAKE INTO CONSIDERATION WHEN DETERMINING A PLANNING APPLICATION;
PRIVATE PROPERTY ISSUES, FOR EXAMPLE BOUNDARY AND ACCESS DISPUTES.
LOSS OF VIEW OVER OTHER LAND. in particular
EFFECT ON PROPERTY VALUES. and and music
POTENTIAL INCONVENIENCE, NOISE AND DISTURBANCE CAUSED BY CONSTRUCTION WORKS.
and MATTERS COVERED BY OTHER LAWS (e.g. alcohol, betting, restaurant, music licensing).
MATTERS SUBJECT TO MARKET COMPETITION (we can't refuse an application on the basis that its approval would harm other commercial activity of a similar nature in the area).
and THE SPECULATIVE USE OF A DEVELOPMENT AFTER IT HAS BEEN BUILT. yes
RADIO OR TELEVISION INTERFERENCE CAUSED BY A DEVELOPMENT.
and SUBSIDENCE TO NEIGHBOURING PROPERTIES. yes yes

16 DEC 2002
COPIES TO: ACK 24/12 FILE:

COMMENTS CAN ALSO BE E-MAILED TO US AT: Development.Control@wokingham.gov.uk

COMMENTS ON APPLICATION: CLP/2002/8107

YOUR NAME: D J Laws

YOUR ADDRESS: (if these details are incorrect please amend) Correct
4 WARGRAVE ROAD
HENLEY-ON-THAMES
OXFORDSHIRE
RG9 2LT

Argent to Object

PLEASE RETURN YOUR COMPLETED FORM TO:

Environmental Services Department,
Planning Services
P.O. Box 157
Shute End, Wokingham
Berkshire RG40 1WR

I WISH TO (tick relevant box); OBJECT TO THE APPLICATION ☑
SUPPORT THE APPLICATION ☐ COMMENT ON THE APPLICATION ☐

Comments: strongly
I object to this application. It is far too close and will restrict our life here in so close a narrow (2) way lane filled at all times with traffic

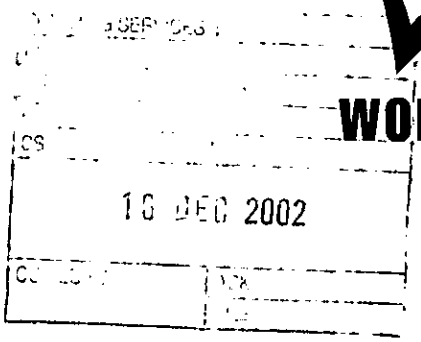
D J Laws

D J Laws

Continue over the page if more room required

Tel. 0118 974 6450
Date: 10 December 2002
Your Ref:
My Ref:Mrs B Polnik
CLP/2002/8107

The Owner / Occupier
4
WARGRAVE ROAD
HENLEY-ON-THAMES
OXFORDSHIRE
RG9 2LT



WOKINGHAM UNITARY
Aiming for Excellence

Environmental Services Department
Planning Services
P.O. Box 157
Shute End, Wokingham
Berkshire RG40 1WR
Fax: (0118) 974 6484
Minicom No: (0118) 974 6991
DX: 33506 – Wokingham

Dear Sir/Madam
Application Number: CLP/2002/8107
Site Address: Thamesfield Nursing Home, Wargrave Road, Remenham Henley-On-Thames
Proposal: Application for Certificate of Lawfulness of proposed development for internal alterations to nursing home to form close care units.

The Council has received an application to carry out the above development proposal.

If you wish to see the submitted plans and accompanying details you can do so at the District Council Planning Services reception at Shute End, Wokingham from 8.30am to 5.00pm Monday to Thursday and 8.30am to 4.00 Friday, **or** at Woodley Library, Headley Road, Woodley from 9.30am to 7.00pm Monday, Thursday and Friday, 9.30am to 5.00pm Tuesdays, 9.30am to 1.00pm Saturdays and 1.00pm to 4.00pm Sundays. The library is closed all day on Wednesdays. **If you intend to view this application at Woodley Library please allow 4 working days from the date of this letter for delivery of plans. It would be helpful if you could take this letter with you or quote application number CLP/2002/8107 to enable staff to locate the correct application.**

If you wish to comment on the proposals please reply in writing within 21 days from the date of this letter quoting Application Number **CLP/2002/8107.** Only remarks about planning matters can affect the Councils decision. In order to assist you in deciding what comments are relevant please see the attached list. These are not exhaustive. **Please note that due to the volume of planning applications we are currently dealing with it will not be possible for case officers to respond to individual questions raised in letters of comment.**

An authorised officer under delegated powers decides the majority of applications; the Development Control Committee generally decides major applications and those raising controversial issues. Where an application is to go to Committee and you have commented on the proposals, you will be advised of the date and given the opportunity to speak at the meeting. All those making comments will be notified of the decision when it is made. Comments can also be made on line using the District Council's web site at www.wokingham.gov.uk under Planning.

Please note that all comments made will be open to public inspection. If you are not the owner of the property, please pass a copy of this letter to the owner. Should you have any queries regarding this application please contact the planning case officer Mrs B Polnik on 0118 974 6450.

Yours faithfully,

Mrs B Polnik

Development Control Officer

WORK SHEET FOR : Mrs B Polnik

Application Number : CLP/2002/8107

Applicant : Mis B Williams C/O Mr J R Freeth.

Location : Thamesfield Nursing Home, Wargrave Road, Remenham, Henley-On-Thames.

Proposal : Application for Certificate of Lawfulness of proposed development for internal alterations to nursing home to form close care units.

Site Notice Displayed ? :	YES	NO	DATE
			N/A.

Date of Neighbour Notifications : .....

Date of Site Visit : .....

Date Registered : 29.11.02 ~~29/12/2002~~

Earliest Date for Decision : 02/01/2003

Latest Consultation Date/Site Notice Expiry Date : 24.1.03 ~~02/01/2003~~

This application will have expired on: 23/02/2003. You need to make a decision 1 day prior to this date for this application to count as determined in less than 8 weeks.

Consultation Responses :

Planning Issues :

Application Number: CLP/2002/8107

Appraisal :

Recomendation : Approval: ☐ **Refusal:** ☐
(tick appropriate box)

Application Number CLP/2002/8107
Conditions/Reasons for Refusal

No	Std Con	Std Reas	Non Std Conditions / Reasons for Refusal

RECORD OF SITE VISIT

SITE ADDRESS: Thamesfield Nursing Home Wargrave Road Remenham Henley-On-Thames.

APPLICATION NUMBER: CLP/2002/8107

OFFICER: Mrs B Polnik

DATE OF SITE VISIT:.....

1 SITE/STATUTORY NOTICE DISPLAYED ?

2. DESCRIPTION OF SURROUNDINGS

N/A

3. DESCRIPTION OF SITE/BUILDING

4. RELATIONSHIP TO ADJOINING PROPERTIES

5. SITE CONSTRAINTS

TREES

ACCESS/PARKING

LEVELS

BOUNDARY TREATMENT

OTHERS

(*) PRE-APP ATTACHED (*)

Application Number : CLP/2002/8107	**Map No :** 8
Case Officer : BP.	**Site Area :** 1.24
Valid Date : 29/11/02	**Received Date:** 29 NOV 2002

Level : Delegated Application

Description : Application for Certificate of Lawfulness of **proposed development for internal alterations to nursing home to form close care units.**

Location : Thamesfield Nursing Home, Wargrave Road, Remenham, Henley-On-Thames.

Parish : RE **Ward : REM**

Applicant : Mis B Williams C/O Mr J R Freeth.

Fee Required: £110 **Fee Received: £110** (10)

Additional: ..... or Refund: .....

Enforcement Section to be notified ☐ (tick if required)

Additional information required for validation;

REASON	NOTES	DATE REQ	DATE RECD
LOCATION PLANS			
BLOCK PLANS			
FORMS UNSIGNED			
S.66 MISSING/INCORRECT/ UNSIGNED			
ELEVATION PLANS			
FLOOR PLANS			
NO SCALE OR SCALE IS IMPERIAL			
ENCROACHMENT LETTER REQUIRED			
OTHER			

Is the site in a Conservation Area: ☐ Yes ☐ No I f "Yes" which one _____

Is the site a Listed Building: ☐ Yes ☐ No

Is a Statutory Advertisement required: ☐ Yes ☑ No (Confirmed with Ian)

INTERNAL CONSULTATIONS

Building Control

Heritage (Harold Sanders) – for info, as this is in a Conservation Area.

Landscape

Trees

Environmental Health

Housing

Leisure & Cultural Services

Public Rights of Way Officer

Property

Policy & Plans

Joint Strategic Planning Unit

Archaeological Officer (BABTIE)

Education

Social Services

Highways

EXTERNAL CONSULTATIONS

Adjacent DPA : _____

Adjacent Parish : _____

SEB

°British Gas

Oil pipeline

Transco

Environment Agency

Railtrack

Police Arch Officer

HERITAGE BODIES

Victorian Society
The Georgian Group
Ancient Monuments Society
Council for British Arch
RCHME
NRPB (Telecommunications)
Sport England
Society for Proct' of Ancient Bldgs
English Heritage

OTHERS

Green Belt
Conservation Area
Flood Zone
Groundwater Zone
Area of Special Landscape Importance
Thames River Valley Policy Area

NEIGHBOURS

S/N + See Map
including 1, 2, 3, 4 & 5 Ranelagh Row, Wargrave Road Henley.

Pre-app attached – return to Jan if not relevant.

**********FILE COPY**********

Tel: 0118 974 6450

Date: 10 December 2002

My ref: CLP/2002/8107

WOKINGHAM UNITARY
Aiming for Excellence

Councillor Browne
The Old Coach House
Remenham Hill
Remenham
Berks
RG9 3EP

Environmental Services Department
Planning Services
P.O. Box 157
Shute End, Wokingham
Berkshire RG40 1WR
Tel: (0118) 974 6000
Fax: (0118) 974 6484
Minicom No: (0118) 974 6991
DX: 33506 – Wokingham

Dear Councillor

Application Number: CLP/2002/8107
Thamesfield Nursing Home, Wargrave Road, Remenham, Henley-On-Thames.
Application for Certificate of Lawfulness of proposed development for internal alterations to nursing home to form close care units.

I write to let you know that the above mentioned application has been received.

At this stage a recommendation has not yet been made. This form should only be returned if it is likely that you might wish for the application to be listed for consideration by the Development Control Committee. This form must be received no later than 28 days from the date of this letter.

If you have concerns about the proposals it may be possible for these to be addressed during the consideration of the application. In these circumstances it would be helpful if you could discuss these with the case officer **Mrs B Polnik** on **0118 974 6450** in the first instance.

Yours sincerely

Trevor Watson

Development Control Manager

LISTING FORM

Case officer: **Mrs B Polnik** Application Number: **CLP/2002/8107**
Thamesfield Nursing Home, Wargrave Road, Remenham, Henley-On-Thames.
Application for Certificate of Lawfulness of proposed development for internal alterations to nursing home to form close care units.
I wish this application to be listed should the officers recommendation be for: GRANT/REFUSAL and my reasons are:

_____

_____

Should the officers recommendation be in accordance with my views I am happy for the application to be determined under delegated powers. YES/NO

Signed: _____ Date: _____

Councillor Browne

**********FILE COPY**********

**********FILE COPY**********

Tel: 0118 974 6450

Date: 10 December 2002

My ref: CLP/2002/8107

WOKINGHAM UNITARY
Aiming for Excellence

Councillor Haacke
Wayside
Remenham Hill
Henley-On-Thames
Oxon
RG9 3EG

Environmental Services Department
Planning Services
P.O. Box 157
Shute End, Wokingham
Berkshire RG40 1WR
Tel: (0118) 974 6000
Fax: (0118) 974 6484
Minicom No: (0118) 974 6991
DX: 33506 – Wokingham

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Application for Certificate of Lawfulness of proposed development for internal alterations to nursing home to form close care units.

I write to let you know that the above mentioned application has been received.

At this stage a recommendation has not yet been made. This form should only be returned if it is likely that you might wish for the application to be listed for consideration by the Development Control Committee. This form must be received no later than 28 days from the date of this letter.

If you have concerns about the proposals it may be possible for these to be addressed during the consideration of the application. In these circumstances it would be helpful if you could discuss these with the case officer **Mrs B Polnik** on **0118 974 6450** in the first instance.

Yours sincerely
Trevor Watson
Development Control Manager

LISTING FORM
Case officer: **Mrs B Polnik** Application Number: **CLP/2002/8107**
Thamesfield Nursing Home, Wargrave Road, Remenham, Henley-On-Thames.
Application for Certificate of Lawfulness of proposed development for internal alterations to nursing home to form close care units.
I wish this application to be listed should the officers recommendation be for: GRANT/REFUSAL and my reasons are:

_____

_____

Should the officers recommendation be in accordance with my views I am happy for the application to be determined under delegated powers. YES/NO

Signed: _____ Date: _____

Councillor Haacke

**********FILE COPY**********

Received by Wokingham District Council

Application No: CLP/2002/8107

Proposal:
Application for Certificate of Lawfulness of proposed development for internal alterations to nursing home to form close care units.

Location:
Thamesfield Nursing Home, Wargrave Road, Remenham, Henley-On-Thames.

The application is available for inspection at Wokingham District Council's offices during the following times:

PLANNING DEPARTMENT, SHUTE END, WOKINGHAM TEL (0118) 974 6428
8.30 - 5.00 Monday - Thursday & 8.30 - 4.00 Friday

WOODLEY LIBRARY HEADLEY ROAD WOODLEY 9.30am - 7.00pm Mon, Thurs & Fri. 9.30am - 5.00pm Tues, 9.30am - 1.00pm Saturday and 1.00pm - 4.00pm Sunday. Library closed all day Wednesday. If you intend to view this application at Woodley Library please allow 4 days from the date of this letter for delivery of plans and remember to quote application number CLP/2002/8107 to enable the library staff to locate the correct information.

Comments should be sent in writing QUOTING THE APPLICATION NUMBER to the Case Officer Mrs B Polnik P.O. Box 157 Council Offices, Shute End, Wokingham Berkshire, RG40 1WR to arrive on or before 02/01/2003. Written comments submitted will become available for public inspection.

In view of the very large number of planning applications and letters of comment received, it will not be possible for an individual reply to be issued to observations made. However any comments will be taken into account when the application is determined and you will be notified of the decision.

Trevor Watson
Development Control Manager

10 December 2002

Organisation_Name	Building_Name	address1	Postcode
		1WARGRAVE ROADHENLEY-ON-THAMES	RG9 2LT
		2WARGRAVE ROADHENLEY-ON-THAMES	RG9 2LT
		3WARGRAVE ROADHENLEY-ON-THAMES	RG9 2LT
		4WARGRAVE ROADHENLEY-ON-THAMES	RG9 2LT
		5WARGRAVE ROADHENLEY-ON-THAMES	RG9 2LT
		6WARGRAVE ROADHENLEY-ON-THAMES	RG9 2LT
EYOT BOAT CENTRE			RG9 2LX
	THAMESFIELD LODGE	THAMESFIELD LODGEWARGRAVE ROADHENLEY-O	RG9 2LX
TWO BREWERS			RG9 2LT
THAMESFIELD COURT			RG9 2ND
	PEMBROKE	PEMBROKEWARGRAVE ROADHENLEY-ON-THAMES	RG9 2LX

Thamesfield Nursing home, Wargrave Rd, Henley-On-Thame.
1,2,3,4,5 Remenham Road, " "
neighbour list CLP/2002/8107

29.NOV.2002 8107

John R Freeth. *DipTP(Oxford), MRTPI*
Chartered Town Planner

83 Sharland Close, Grove, Wantage, Oxfordshire. OX12 0AF
Telephone & Facsimile : 01235 - 224642

8107

The District Planning Officer
Wokingham District Council
Planning Department
PO Box 157
Council Offices
Shute End
Wokingham
Berkshire
RG40 1WR

Friday, 22 November 2002

My Ref: JRF/0202-05

PLANNING SERVICES	HPT
POL	TLS
APP	ENF
CS	
29 NOV 2002	
COPIES TO	ACK.
	FILE.

Dear Sir,

Application for a Certificate of proposed use or development.
Internal alterations to Nursing Home to form additional Close Care units.
At: Thamesfield, Wargrave Road, Henley-on-Thames.

Please find enclosed for your attention my client's application in respect of the above. The application includes:

1. This letter (4 copies).
2. Completed application forms (4 copies).
3. Copy of Counsel's Opinion on the Application content, together with the associated Instructions to Counsel (4 copies, including Appendices).
4. List of drawings and the drawings so listed (4 copies).
5. Cheque for £110 in settlement of the requisite application fee.

I trust you have all the documentation needed to register, process and determine the application. However, should that not be the case, please do not hesitate to contact me as appropriate.

I believe it is clear from Counsel's Opinion that the case for the Certificate is well made and the that issue of a Certificate in the terms applied for is well justified. The most salient points being:

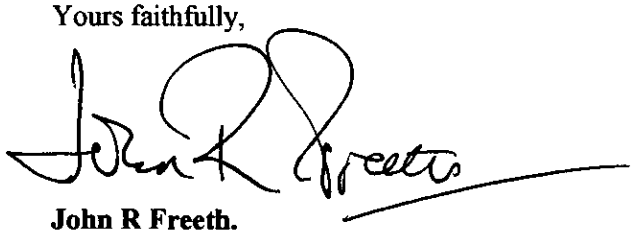
1. That the internal alterations to be undertaken, which will not involve any alteration to the external appearance of the building, do not constitute development requiring planning permission: as per Section 55(2)(a) of the Town & Country Planning Act 1990, as amended.
2. That the use of the proposed Close Care units is the same as the existing Nursing Home use, namely a nursing home for the elderly within Use Class C2. As such: no material change in use is involved, as per Section 55(2)(f) of the Town & Country Planning Act 1990, as amended; and no deviation from the conditional requirements of the planning permission granted under reference (F)22432 is involved.

Accordingly: no activity involving new development is to be undertaken, nor any activity which falls under the control of the Local Planning Authority *vide* the terms or limitations of any planning condition. Hence the application proposals may lawfully proceed without the need for any specific authorities from the Local Planning Authority.

However, if you consider any matter would benefit from further discussion, again, please do not hesitate to contact me.

I look forward to receipt of your decision as soon as possible please.

Yours faithfully,



John R Freeth.

cc. Miss B A Williams

29.NOV.2002 8107

For the Council's use only:

Application No: CLP/2002/8107

Date received: 29 NOV 2002

WOKINGHAM DISTRICT COUNCIL

Town and Country Planning Act 1990, Section 192, as amended by Section 10 of the Planning and Compensation Act 1991.

Town and Country Planning General Development (Amendment) Order, 1992.

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR A *PROPOSED* USE OR DEVELOPMENT.

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1. Description of proposed use or development applied for:

   INTERNAL ALTERATIONS TO NURSING HOME TO FORM CLOSE CARE UNITS.

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2. Applicant (in block capitals)

Name: MISS B. A. WILLIAMS

Address: THAMESFIELD, WARGRAVE ROAD, HENLEY-ON-THAMES

Post Code: RG9 2LX

Tel. No: 01491-418100

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3. Agent (if any)

Name: JOHN R. FREETH DipTP(Oxford), MRTPI

Address: 83 SHARLAND CLOSE, GROVE, WANTAGE, OXON

Post Code: OX12 0AF

Tel. No: 01235-224642

4. (1) Nature of applicant's interest in the land, e.g. owner, lessee, occupier. OWNER.

(2) If you do not have an interest: N/A.

(a) give name(s) and address(es) of anyone you know who has an interest in the land.

(b) state the nature of their interest (if known).

(c) state whether they have been informed about this application.

YES/NO

---

5. Address or exact location of the land to which this application relates:

THAMESFIELD, WARGRAVE ROAD, HENLEY-ON-THAMES. RG9 2LX

Describe here and enclose (4) copies of an OS-based plan showing the boundary of the land edged in red.

PLEASE SEE LOCATION PLAN ATTACHED.

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6. Has the proposal been started? ~~YES~~/NO

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7. If the proposal consists or, or includes, carrying out building or other operations give a detailed description of *all** such operations and attach such plans or drawings as are necessary to show their precise nature.
(In the case of a proposed building the plans should indicate its precise

siting and exact dimensions).
*includes the need to describe any proposal to alter or create a new access, lay out any new street, construct any associated hardstandings, means of enclosure or means of draining the land/buildings.

NO OPERATIONAL DEVELOPMENT INVOLVED, ONLY INTERNAL ALTERATIONS. PLEASE SEE ACCOMPANYING DOCUMENTATION.

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8. If the proposal relates to a change of use of the land or building(s):

(1) give a full description of the scale and nature of the proposed use, including the processes to be carried on, any machinery to be installed, and the hours the proposed use will be carried on;
(2) fully describe the existing use or the last known use, with the date when this use ceased.

PLEASE SEE ATTACHED DOCUMENTS.

---

9. Briefly explain why you consider the existing, or last, use of the land is lawful, or why you consider that any existing buildings which it is proposed to alter or extend are lawful.
(You can use Section 12 of this application to state your case more fully). Specify the supporting documentary evidence (such as a planning permission) which accompanies this application.

PLEASE SEE ATTACHED LETTER AND ACCOMPANYING DOCUMENTATION.

10. If you consider the *existing* or last, use is within a "use class" in the Town and Country Planning (Use Classes) Order 1987, state which one.

USE CLASS C2

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11. If you consider the *proposed* use is within a "use class" in the Town and Country Planning (Use Classes) Order 1987, state which one.

USE CLASS C2

---

12. Is the proposed operation or use temporary or permanent?
If temporary, give details.

PERMANENT

---

13. State why you consider that a Lawful Development Certificate should be granted for this proposal.

PLEASE SEE ATTACHED SUBMISSIONS.

(Continue on a separate sheet if necessary)

I/We hereby apply for a lawful use or development certificate under Section 191 of the 1990 Act in respect of the existing use, operations or activity described in this application and the documents, drawings and plans which accompany it. I/We enclose the appropriate fee of £110.00

Signed: ..... Date: 22/11/02.....

On behalf of: MISS B. A. WILLIAMS.....

(Insert name of applicant if signed by an Agent).

(8)

THAMESFIELD NURSING HOME &

ADDRESS THAMES FIELD COURT WARGRAVE ROAD PARISH RENNENHAM

PLOT No. COURT NAMED 11.11.93 BEING NEW ADDITIONS TO NURSING HOME ORD. SHEET No. SHARED

BUILDER B/11/63. O.C.C. 16 BEDROOM WING 5.3.63 C/A

Plan No.	Applicant	Description of Development	Date of Decision	Decision
16698.	Mr Payne O/L	Demolish bldg erect 2x2 storey (8 flats) 1x3 storey (12 flats) + accommodation for Staff	14.12.81	N/A Ref.
16769	"	LBC. DEM. OF BLDGS	14.1.82	N/A REF
19614.	" O/L	17 OR 19 FLATS ON SITE OF REMAINING CHALETS	20.10.83	N/A R
19615	" LAC	DEM. OF EX. BUILDINGS	20.10.83	N/A R
BR23693	MR & MRS A. MORGAN	INT. ALTS.	9.11.84	APP N/A
22432	"	CLASS XII (EDUCATIONAL) TO NURSING HOME FOR ELDERLY	15.11.84	N/A C/A
22742	"	MINOR ALTS & N. ELEVATION ALTS. TO FIRE ESCAPE	30.1.85	N/A C/A

DATE OF COMPLETION

MINISTRY DECISION 16698 & 16769 - APPEALS DISMISSED 2.2.83 19614 - APPEAL DISMISSED - 11.4.84

SPECIAL ORDERS TPO 206/81

DRAINAGE

091074

(7)

THAMESFIELD NURSING HOME & COURT

ADDRESS WARGRAVE ROAD PARISH RENNENHAM

LOT No. PH. I & PH. II 14-45 THAMESFIELD COURT ORD. SHEET No. SG. 7682 (6)

BUILDER

Plan No.	Applicant	Description of Development	Date of Decision	Decision
24261	MR & MRS A. MORGAN	3/ST. EXTENSION	11.9.85	N/A C/A
BR25326	"	"	10.10.85	APP N/A
HBK		CARPORT	EXEMPT	
27332	"	EXTENSIONS	18.3.87	REF
27338 LBC	"	DEM. OF O/BUILDINGS	18.3.87	C/A
28203	"	ALT. TO NURSING HOME	5.8.87	C/A
BRA4992	" STAGE I	2/ST. EXTENSION	24.5.88	APP
32590	"	3/ST "	15.3.89	REF
33176	CAC "	DEM. 2/ST. BLOG. & GREENHOUSE	7.6.89	C/A
33176	"	3/ST. 46.	7.6.89	REF
34223	"	ALT. TO ENSUITE BEDROOMS	27.9.89	C/A
34316	"	ALTS. TO NURSING HOME/DRAINAGE	23.11.89	REF.

DATE OF COMPLETION

MINISTRY DECISION 27332/K - APPEAL GRANTED - 7.6.88 34316 - APPEAL DISMISSED - 6.11.90

SPECIAL ORDERS

DRAINAGE

091074 BRA7828 " ALTS/EXT. TO KITCHEN/LAUNDRY 17.8.89 APP

(3)

ADDRESS Thamesfield Nursing Home & Court PARISH Remenham

PLOT No. Wargrave Road ORD. SHEET No. SU.7682 8

BUILDER

Plan No.	Applicant	Description of Development	Date of Decision	Decision
BRA 8467	MR & MRS MORGAN	BEDSITTING ROOM EXTS. TO ANNEXE	13.3.90	APP
36723	"	S/ST. EXT.	5.12.90	C/A
37269	"	EXTNS TO NURSING HOME/ NEW FOUL DRAINAGE SYSTEM	3.4.91	C/A
FP/93/1324	"	11 1BED UNITS / 2BED UNIT - ORANGERY / BASEMENT	~~6.8.93~~ 25.10.93	~~APP~~ APP
43071	" PH. II	REDEV. EX. 3/ST. BLOCK (CLOSE CARE 12 UNITS)	20.10.94	C/A
43229 CAC	"	DEM. EX. " "	20.10.94	C/A
DN 95/0035	J. MOULD	PARTIAL REMOLITION		
F 95/3351	MR & MRS A. MORGAN	12 UNITS	24.4.95	APP
99/70564/F	Miss B. Williams	S/SL/R - Conserv.	9.12.99	Ref.

DATE OF COMPLETION

MINISTRY DECISION 70564 - APPEAL DISMISSED - 10/10/00

SPECIAL ORDERS

DRAINAGE

091074 For searches on units reveal from beginning of history

1933

(4)

ADDRESS Thamesfield Nursing Home PARISH Remenham

PLOT No. Wargrave Rd ORD.SHEET No.

Planning No.	Building No.	Applicant	Description of Development	Date	Decision Building	Decision Planning
CLP/2002/8107		MISS Williams	Int alts to form close care units			

MINISTRY DECISION:

SPECIAL ORDERS: