



6th January 2026

Our Ref: 24.5080

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Matthew Roberts

By email only to matthew.roberts@threerivers.gov.uk

Dear Matthew

Re: Land East of Oxhey Lane, Carpenters Park (ref: 25/1020/FUL)

Thank you for sharing the Legal Opinion from Dr Alex Williams. We are pleased that his conclusions are aligned with our case and Lord Banner's opinion that the Site constitutes Grey Belt. This letter sets out our response in relation to Question 8 which relates to the affordable component of the housing with care.

Question 8 reads:

Q8. Should a C2 use proposing an Extra Care facility (the level of care which is likely to be secured by legal agreement) on Green Belt land which is considered 'grey belt' specifically provide affordable housing, having regard to the Golden Rules?

We note that Dr Alex Williams has recommended that our thoughts are sought on whether an affordable element is required for the housing with care in order to comply with the Golden Rules.

Policy Requirements

Paragraph 156 of the NPPF sets out the Golden Rules and part (a) requires affordable housing which reflects either: (i) development plan policies produced in accordance with paragraphs 67-68 of this Framework; or (ii) until such policies are in place, the policy set out in paragraph 157. Paragraph 157 is applicable in this case, which states:

"Before development plan policies for affordable housing are updated in line with paragraphs 67-68 of this Framework, the affordable housing contribution required to satisfy the Golden Rules is 15 percentage points above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50%. In the absence of a pre-existing requirement for affordable housing, a 50% affordable housing contribution should apply by default. The use of site-specific viability assessment for land within or released from the Green Belt should be subject to the approach set out in national planning practice guidance on viability."



As you know, Policy CP4 'Affordable Housing' of the Core Strategy requires 45% of all new housing to be affordable, with all new development resulting in a net gain of one or more dwellings expected to contribute to the provision of affordable housing. There is no reference in the policy or the supporting text to this requirement applying to Use Class C2.

The Affordable Housing SPD (2011) provides further clarity on how this policy is applied to C2 uses:

"The principle is that any residential use that involves individual units of self contained residential accommodation, with their own front doors, will be regarded as residential and Policy CP4 will apply. This includes sheltered or age restricted accommodation where it provides self contained accommodation, even if there is a warden or administrator on site some or all of the time. However, if the residential accommodation has shared facilities and is not therefore self contained, as in the case of some supported housing and residential care homes, it is regarded as an institutional use and Policy CP4 will not apply."

This therefore confirms that if certain criteria are met, namely that there is provision of shared facilities then the affordable requirement set out in Policy CP4 is not applicable.

In this case, the housing with care would include shared facilities such as a café/bistro, lounges, activities room, library, and hair salon/treatment room. As residents' support needs increase, a variety of services, including domiciliary care registered with the Care Quality Commission (CQC), will be available to assist them within their own homes, ensuring they can continue to live independently and age in place for as long as they are able. The provision of shared facilities is therefore integral to how residents will live in the housing with care homes. On this basis, we are of the view that this use constitutes an institutional use, meaning that the affordable requirement set out in Policy CP4 would not be applicable.

This approach is supported by the assessment of the planning application at Bury Lane, Rickmansworth (ref: 21/1971/FUL) which comprised assisted living (a very similar product to housing with care) where officers confirmed that no affordable housing required as set out within Paragraph 7.1.23 of the Officer Report:

"Whilst the individual units would have their own self-contained accommodation (i.e. kitchenette, bathroom, lounge and bedroom) and could therefore be regarded as dwellings, the use of the units is heavily reliant on the communal facilities and extra care which is provided as a complete package, the latter of which is a prerequisite of occupation; hence the C2 classification. As a result, as a matter of planning judgement it is considered that the development does not result in a net gain of a dwelling but instead would provide an extra care development of 45 units comprising apartments and associated communal facilities, an institutional use. Consequently the building as a whole is to be considered rather than the individual units and given that the shared facilities are intrinsic to the use of the units, Policy CP4 is not considered to apply in this instance."

In this case, given the fact that there is no policy requirement for affordable housing for housing with care, the Golden Rules affordable housing requirement is 15% above the requirement of zero, equating to 15%.



Relevant Cases

This approach is supported by the Appeal Decision at Wilton Park in Beaconsfield (ref: APP/N0410/W/24/3348677) which was allowed on 14th February 2025. The proposals involved assisted living units and a care home (both Class C2 uses). The Inspector found 15% affordable housing for the assisted living units was appropriate given the Golden Rules' 15% uplift applied to the current requirement of zero. Paragraphs 22 and 23 of the Appeal Decision state:

"It follows that the highest existing affordable housing requirement which would apply to the development under the Core Strategy and SPD is zero percent. The 50% provision referred to by paragraph 157 of the Framework does not apply to the appeal scheme either by default – because there is an existing affordable housing policy requirement – or by uplift, since the existing policy requirement for C2 use is zero.

Affordable housing equating to 15% of the assisted living part of the scheme, paid as a commuted sum, is included as an optional clause in the completed s106 agreement, dated 12 February 2025. This reflects the Golden Rules' 15 percentage point uplift applied to the current zero requirement. This is a reasonable approach."

It is considered that the same stance should be applied here given the policy requirement of zero for housing with care. It is also considered that an off-site contribution is the most appropriate way of securing the affordable housing due to operational challenges with a mixed tenure housing with care scheme.

Summary

In summary, 15% affordable housing is proposed for the housing with care to meet the Golden Rules requirement. It is proposed that this takes the form of a financial contribution to off-site provision given the operational challenges of on-site affordable housing with care.

We trust that this letter is helpful in setting out our position, but please let us know if you would like any additional information.

Yours sincerely



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