

Our Ref: WW/JB/10954
(Please reply to Banbury office)

Jude.Beckett@framptons-planning.com

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Eloise Molyneaux (She/Her,)
Casework Officer
Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Eloise

**TOWN AND COUNTRY PLANNING ACT 1990
PINS REF. APP/K2420/W/25/3361470
AT LAND AT THE CORNER OF THE GREEN AND PIPE LANE ORTON ON THE HILL, LEICESTERSHIRE**

I refer to the Council's Written Representations – and make the following submissions in response thereto:

The LPA's appeal statement focusses on two main matters; delivery of one self-build dwelling and the weight this carries in the planning balance with regards to the Borough's housing supply and self-build plot provision; and the impact on the relevant heritage assets.

Housing Land Supply and Self-Build Plots

Paragraphs 6.4-6.5 under the sub-heading "Housing Land Supply"

The Council acknowledges that both their current and imminent to-be-published updated Five-Year Housing Land Supply (FYHLS) position indicate that the Council cannot demonstrate a FYHLS.

The Council's view is that the contribution of a single dwelling to the Borough's shortfall is to be afforded limited weight in the planning balance.

The Appellant disagrees with this attribution of weight. The Council admits that the imminent updated position will continue to indicate the Borough has an ongoing significant shortfall in supply. Therefore, it is reasonable that the contribution of any housing, even a single dwelling, is a valuable addition to the Borough's need, and carries at least moderate weight in the planning balance.

enquiries@framptons-planning.com
www.framptons-planning.com

Oriel House, 42 North Bar, Banbury,
Oxfordshire, OX16 0TH
T: 01295 672310 F: 01295 275606

Paragraphs 6.18-6.21 under the sub-heading “Supply of Self-Build and Custom House Build Development”

The Council acknowledges that it has a shortfall of five self-build and custom house build dwellings in the Borough. It goes on to assess the delivery of the self-build dwelling, and its weight in the planning balance, against the requirements of the NPPF.

The Council’s position is that the provision of a single self-build dwelling is to be afforded moderate weight in the planning balance.

The Appellant’s position is that the appeal scheme would make a useful contribution towards addressing the shortfall of Self-Build and Custom Build dwellings in the Borough, which is a matter of significant weight in its favour given the Statutory Duty on the Council to grant enough permissions. The NPPF requires the delivery of an appropriate mix of housing types for the local community.

In addition, there will be some economic benefits in employing local trades people in the construction of the dwelling.

Impact on the relevant Heritage Assets

In its Appeal Statement, the Council provides a detailed summary of the relevant planning policies, site context including the view of the Orton on the Hill Conservation Area Appraisal, and reiterate the view of the Appellant’s Statement of Case and the submitted Heritage Impact Assessment.

Ultimately, the conclusion of the Council’s Statement is consistent with the original refusal reason; that being the view that this proposal has a harmful impact on the significance of the Conservation Area and the setting of the listed building Grade I Listed Church of St Edith. The level of harm is stated as being less than substantial using the language of the Framework.

The Appellant’s position outlined in the Appellant’s Statement of Case remains the same and thus does not require further detailed repetition – the view of the Appellant and the Heritage Consultant is that no harm will be caused to any heritage assets, including to the character and appearance of the Conservation Area.

Paragraph 6.34 under the sub-heading “Impact upon the Character of the Surrounding Area and the Historic Environment”

The Council, at paragraph 6.34, states the following:

“Therefore, in spite of the requirements of Paragraph 137 of the NPPF, the Appellant has failed to provide any further information to demonstrate how their proposal meets design expectations as set out in local and national policy and has not provided any response to the Council’s assessment of their development within the Delegated Report for the refused application.”

This application is an outline application. In the Applicant's Statement of Case, at paragraphs 3.1-3.5, it is made clear that the design details will be determined at Reserved Matters stage, as is the normal accepted procedure for this type of application. This application is for a self-build proposal, and as such, the design will be specified at the later Reserved Matters stage, once the 'builders' or 'designers' of the dwelling prepare such design details for the RM submission.

Nevertheless, the Statement of Case also makes clear that the proposal's design will accord with a Design Code (see Appendix 5 of original appeal submission) and will be guided by the Design and Access Statement (also submitted with the original submission). This strategy will ensure that the proposal will be of high-quality design, and will ultimately be granted approval at Reserved Matters, only when the LPA is satisfied the design details are acceptable. As above, the design details both in the original submission and Statement of Case are reasonable and comprise the proper level of detail for an outline application.

Paragraphs 6.38-6.39 under the sub-heading "Impact upon the Character of the Surrounding Area and the Historic Environment"

The Council refers to the Appellant's Statement of Case, stating that:

*"Paragraphs 5.16 and 5.25 of the Appellant's Statement assert that:
"Conservation is the management of change – not the fossilisation of the existing situation."*

This specious statement oversimplifies the requirements of conservation and attempts to diminish the importance of the statutory duties of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the requirements of National Planning Policy."

The Appellant would like to clarify that this particular statement is in an overall reminder that not all development, just by virtue of being within the relevant vicinity of a heritage asset, is harmful by default. The statement does not diminish the importance of the Act, it simply serves as a reminder that 'conservation' does not equate to 'no change'.

The focus of this appeal is whether the impact on the relevant heritage assets is harmful in the individual context of the application, and, whether any harm (if found) outweighs the benefits of the proposal. The fundamental position of Appellant is that the presence of development on this site does not automatically result in harm by virtue of its existence alone, and the Act does not consider 'conservation' to be applied in such a myopic manner.

Paragraph 6.75 under the sub-heading "Impact upon the Character of the Surrounding Area and the Historic Environment"

The Council state that:

"The introduction of built form within this site would detrimentally interfere with the important view looking northwest along The Green towards the Listed Church, which is the only built form currently within this view. This would have a detracting and adverse impact

upon an observer's visual experience and appreciation of the significance of the Listed Church, which would in turn negatively impact the 'status' of the heritage asset as a landmark. In light of the above, the appeal proposal would detrimentally affect the setting of the designated heritage asset and therefore have a significantly harmful impact on the appreciation, and thus character and significance of, the Grade I Listed Church."

The Appellant fundamentally disagrees with this assertion that the proposal will 'detrimentally interfere' with the important view of the Listed Church from The Green. As it currently stands, views north along The Green comprise a long road bounded by high hedgerow. Behind this hedgerow on the left-hand side is the site, which is not visible due to the hedgerow. Furthermore, whilst proceeding along The Green, the development would be sited predominantly to the west, whilst the Church is predominantly to the north. Ergo, even without the substantial hedgerow bounding The Green on the western edge, the views of the proposal and the church would not overlap. The Appellant invites the Inspector to experience these views and determine the validity of the above description on their site visit.

The Council go on to state, at paragraph 6.76, that:

"Paragraph 4.5 of the HIA confirms that the assessment of the impact of the development on the historic environment is also dependent on the "Future hedge management on the two roadside boundaries." Paragraph 3.10 of the HIA then confirms that, "It is likely that winter views are more extensive than at the time of the site visit on 04 September.""

The Appellant would like to note that this highlighted quote is deliberately misleading, as the Council has omitted the second half of the sentence.

At paragraph 4.5 of the HIA, in full, it states:

"Visually, the settings of the three listed buildings are relatively contained by extensive tree cover and thick hedges. Even the church, which is on relatively high ground, is not particularly visible throughout the conservation area (Figure 7). It is likely that winter views are more extensive than at the time of the site visit on 4 September, but the visual envelopes of the buildings are nevertheless compact." [with my emphasis]

Thus, the HIA confirms that winter views *throughout the Conservation Area* are likely to be more extensive, due to the retraction of the foliage which bound the listed buildings. Furthermore, the HIA notes that the overall view of the listed buildings is obfuscated by the compact collection of buildings which are present in all views. As emphasised, this comment in the HIA refers to views of the listed buildings from throughout the Conservation Area, and that the listed buildings are contained by trees and hedgerow. This is not a sole reference to the boundary of the site.

Finally, and again with regards to hedgerow, the Council at paragraph 6.82 state:

"Crucially, Paragraph 5.17 of the Appellant's Statement confirmed that they have intentionally not included the hedgerows along the boundaries of the site within the red line boundaries of the appeal proposal, and they have failed to identify that these important hedgerows are within the ownership of the Appellant in the submitted plans. Therefore, the

Appellant has failed to demonstrate that they have a material influence on the management of the important hedgerows and subsequently the views into the site.”

The Appellant would like to confirm that the above assertion that the hedgerow is within their ownership is incorrect. As demonstrated in the ‘Indicative Proposed Site Plan - Land at the corner of The Green and Pipe Lane’ submitted with the original proposal, and the Land Registry Plan submitted with the ‘S106 Unilateral Undertaking SIGNED’ submitted with this appeal, the ownership line on both plans clearly indicate that there is a significant gap between the ownership boundary around the site and the road. This gap is the hedgerow, and the Appellant can confirm that she does not have a material influence on this hedgerow.

For ease, the Appellant suggests that the Council could condition the management of this hedgerow, which should provide comfort that it will not be unduly reduced, thus overexposing the view of the proposal site.

Paragraph 6.72 under the sub-heading “Impact upon the Character of the Surrounding Area and the Historic Environment”

The Council note that:

“In spite of the above, Paragraph 5.17 of the Appellant’s Statement suggests that the proposal would only have a, “Slight,” impact on the character of the area. Notably, the final conclusions of the Appellant’s Statement on the impact of the development on the historic environmental refer to the Shottery Conservation Area, which raises, at a minimum, the possibility that the Appellant’s Statement is based on an assessment of a scheme in Stratford-upon-Avon rather than the effect of the appeal proposal on the Orton on the Hill Conservation Area.”

The Appellant can confirm that the typing of ‘Shottery Conservation Area’ in the conclusive paragraph was a typing error. The Council’s suggestion that the Appellant’s assessment might possibly have been based on a different scheme to that of this site, Land at the corner of The Green and Pipe Lane, Orton-on-the-Hill, Leicestershire, is overstated.

I now refer to the Third Party Representation submission by Faraday Planning, and make the following submissions in response thereto:

Third Party Representation – Faraday Planning - Pages 5 and 6 under the sub-heading “Unilateral Undertaking”

Faraday Planning state that:

“Part 1 of the Schedule contained within the signed and dated unilateral undertaking submitted with the appeal relates to the marketing of the plot. Paragraph 2 of this part provides that ‘[d]evelopment shall not Commence until the Marketing Strategy has been approved in writing by the Borough Council or deemed approved in accordance with paragraph 6 of this Part 1 of this Schedule’ and Paragraph 3 provides that ‘[t]he Borough Council shall endeavour to give notice of approval or rejection of the

Marketing Strategy at the earliest possible opportunity and in any event within eight weeks of the date of receipt thereof and in the event of its rejection set out its reasons for the rejection and specify the measures required to produce an acceptable submission.’ Paragraph 3 appears to place an obligation on the Council to give notice of its approval or rejection of the Marketing Strategy within a specified timeframe. Such an obligation on the Council is not within the scope of a unilateral undertaking and it would be necessary to secure this through a bilateral agreement. Whilst paragraph 6 allows for deemed approval of the Marketing Strategy in the event that the Council does not respond in accordance with the requirements and timeframe set out at paragraph 3, there is nothing to guarantee that the Marketing Strategy would be fit-for-purpose in these circumstances.”

Seeking confirmation from the Council that the marketing strategy is suitable is not placing an obligation on them. Paragraph 6 of the Unilateral Undertaking allows for deemed approval of the marketing strategy in the event that the Council does not engage (which they are not obliged to do).

Faraday Planning go on to state, on page 5, that:

“The Planning Statement submitted with the application stated that ‘this proposal does not comprise a local needs scheme.’ Indeed, there was nothing in the application to suggest that approval was being sought for a local needs scheme. However, paragraph 5 of Part 2 of the Schedule places the following obligation on the Owner: ‘Subject to paragraph 4 of Part 3 of this Schedule not to cause or permit any Dwelling to be first Occupied other than by a Qualifying Household’ (paragraph 4 of Part 3 allows for disposal of the plot households that are not Qualifying Households where the plot has been unsuccessfully marketed to Qualifying Households for a continuous period of 12 weeks). The Schedule defines ‘Qualifying Household’ as ‘a single household provided that such household shall at all times include at last one member who will reside in the Dwelling as their sole and permanent residence who benefits from a Local Connection [...]’. The Schedule states that a person will benefit from a ‘Local Connection’ if they meet one or more of the listed criteria related to connections within the Hinckley & Bosworth Borough.”

The Appellant can confirm that this is not a Local Needs Scheme. A Local Need Scheme proposal is that which contributes to an identified need, as per for example identified by the Neighbourhood Plan, or a local community group.

Reference to “Qualifying Household” in the Unilateral Undertaking is to provide the “local” community first refusal on purchase of the dwelling. This is a material planning consideration in the public interest, as it would benefit the local community and economy.

Conditions

No comments or objections are made to the list of suggested planning conditions drafted by the Local Planning Authority at Section 8 of the Council’s written representations.

Kind regards

A handwritten signature in black ink, appearing to read "Jude Beckett".

Jude Beckett MRTPI
Frampton Town Planning Ltd