

Parish: Shipton
Ward: Easingwold
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Committee date: 10 January 2019
Officer dealing: Miss Ruth Hindmarch
Target date: 14 January 2019

18/00856/FUL

**Retrospective application for conversion of outbuilding to form two dwellinghouses and provision of five parking spaces and associated turning area
At Framfield House (Outbuildings), Main Street, Shipton By Beningbrough
For Mrs M Johnson**

This application is referred to Planning Committee due to the sites extensive and complex planning history. The application was deferred at the November 2018 committee to allow consideration of Nationally Described Space Standards, amenity and access issues.

1.0 SITE, CONTEXT AND PROPOSAL

- 1.1 The site lies to the rear of Framfield House, a substantial dwelling on the western side of the A19 in the centre of Shipton. Framfield House lies on the corner of the Main Street and Burrells Lane, an unadopted access track serving several residential properties and agricultural land to the west. Burrells Lane is also a public right of way (footpath).
- 1.2 The application site comprises a group of single storey buildings originally used for ancillary domestic purposes in association with Framfield House accessed from Burrells Lane. The outbuildings are arranged along two sides at the rear of the host dwelling, forming a courtyard. A brick boundary wall forms the western boundary with the adjacent dwelling Burrell Cottage. The outbuildings are divided into three units known as Annexe, Cottage 1 and Cottage 2.
- 1.3 The applicant is seeking retrospective consent for the retention of two of the buildings known as Cottage 1 & 2 as dwellings. The third dwelling which was located in the outbuilding known as the Annexe has reverted to form part of the main dwelling of Framfield, this has been confirmed as part of a site visit.
- 1.4 The applicant is also proposing to provide an additional two parking spaces to the side of the main dwelling, accessed off Burrell's Lane, this is in addition to the three spaces within the internal courtyard.
- 1.5 Concerns have been raised regarding whether this application should have been accepted as it is similar to the previously refused schemes. It is however considered the proposal is materially different to the previously refused scheme as there is one less residential unit and there are two further parking spaces proposed. Additionally the appeal decision of 14 July 2017 is a material consideration of significant weight.
- 1.6 At Planning Committee in November Members raised a number of concerns regarding the proposal, these relate to:
 - The size of the dwellings and whether they are compliant with the Nationally Described Space Standards
 - Whether the accommodation is suitable for children
 - The potential for the cottages to be sold off as separate dwellings
 - The level of amenity space available for each property

- The safety of parking and turning areas and the potential for children playing in these areas
- Fencing of the yard to include provision of fencing to the west side of the proposed parking spaces adjacent the gable of Framfield and access to these spaces

1.7 Consideration of these issues is provided later in the report from paragraph number 5.19.

2.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

2.1 2/76/131/0024 - Conversion of outbuildings to dwellinghouse; Granted 20 May 1976 subject to the following condition:

The proposed unit shall constitute an annexe only to Framfield House and shall not be sold off or let as a separate dwelling unit

The reason for the condition was "The site is not considered suitable for general residential development".

2.2 2/77/131/0024A - Change of use of dwellinghouse to a guest house; Granted 24 November 1977.

2.3 2/79/131/0024B - Extensions to guest house to include three garages; Granted 25 April 1979 subject to the following condition:

Once the extension, hereby approved, is occupied, no paying guests shall be accommodated in bedrooms within Framfield House.

The reason for the condition was "The proposed extension, together with guest accommodation in Framfield House would not allow adequate parking and turning space within the site and this could result in parking on the trunk road which could create a hazard on the trunk road".

2.4 2/88/131/0024C - Change of use of guest house to a dwelling; Granted 1 August 1988.

2.5 13/01248/CLE - Application for Certificate of Lawfulness for use of guest accommodation as three separate dwellings; Refused 2 October 2013 for the following reason:

The evidence submitted does not sufficiently identify the units of occupation or the nature and length of occupancy in each case. It is the applicant's responsibility to provide sufficient and precise information to enable the Council to decide the issues on the balance of probabilities. In the event that such information is not provided the Council is justified in refusing to grant a Certificate. It is the Council's conclusion that the information provided in this case is not sufficient or precise to allow it to conclude that the use of three one bedroom cottages as separate residential dwellings has been continuous for a period of four years immediately prior to the Application being made.

2.6 Enforcement notices were served on two units, Annexe and Cottage 2 on 17 December 2013 and became effective on 24 January 2014. They require the use as a separate dwelling house to cease and the property to return to use as ancillary guest accommodation to the main dwelling at Framfield House. The reason for serving each notice was:

To retain control of the use of the land to ensure an acceptable level of residential amenity for existing and future occupiers; to provide appropriate levels of parking; and to ensure provision of infrastructure to meet the public open space, sports and recreational facilities needs of future occupiers.

2.7 14/00681/FUL - Retention of two dwellings located within outbuildings to the rear of Framfield House; Refused 4 August 2014 for the following reasons:

- “1. In the absence of affordable housing provision the proposed development is contrary to LDF Policy CP9, which requires 50% of developments of 2 or more dwellings to be accessible and affordable to those unable to compete in the general housing market.
2. The proposal is contrary to the Hambleton Local Development Framework Policy DP37 and the Open Space, Sport and Recreation Supplementary Planning (adopted 22 February 2011) as it makes no contribution towards the provision of public open space, sport or recreation facilities to meet the increased demand resulting from the development.
3. In the absence of satisfactory details of vehicle parking and turning facilities within the site it is considered that the proposed development gives rise to a risk of vehicles being parked on the carriageway or footway of Main Street (A19), which would have an adverse impact on the free flow of traffic on the highway, contrary to Hambleton LDF Policies CP2 and DP4.”

2.8 14/02574/CLE - Application for Certificate of lawfulness for use as three separate dwelling units for letting purposes; Refused 24.05.2016 for the reason outlined below:

The evidence submitted does not sufficiently identify the units of occupation or the nature and length of occupancy in each case. It is the applicant's responsibility to provide sufficient and precise information to enable the Council to decide the issues on the balance of probabilities. In the event that such information is not provided the Council is justified in refusing to grant a Certificate. It is the Council's conclusion that the information provided in this case is not sufficient or precise to allow it to conclude that (a) two of the cottages (Units A and C) were in continuous use as separate dwellinghouses for a period of four years immediately prior to the service of the Enforcement Notices on 17 December 2013; or (b) that the third cottage (Unit B) has been in continuous use as a separate dwellinghouse for a period of ten years immediately prior to the application being made.

2.9 16/02464/FUL – Retention of three existing dwellings located within converted outbuildings to the rear; Refused 27.01.2017 for the reason outlined below:

- “1. The site is of an inadequate size to make satisfactory provision for vehicle parking and turning for the three units and Framfield House, private amenity space for the three units and safe pedestrian access for all users. The development is therefore contrary to Hambleton Local Development Framework policies CP1, DP1 and DP3.”

17/00013/REFUSE The applicant appealed this decision; the Planning Inspector dismissed the appeal on 14 July 2017 (APP/G2713/W/17/3171484) on highway safety grounds, specifically relating to the visibility splays available at the junction of Burrell's Lane and Main Street. This is discussed at 5.9 onwards of this report.

3.0 RELEVANT PLANNING POLICIES

3.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP2 - Access
Core Strategy Policy CP4 - Settlement hierarchy
Core Strategy Policy CP8 - Type, size and tenure of housing
Core Strategy Policy CP9 - Affordable housing
Core Strategy Policy CP19 - Recreational facilities and amenity open space
Development Policies DP1 - Protecting amenity
Development Policies DP4 - Access for all
Development Policies DP8 - Development Limits
Development Policies DP15 - Promoting and maintaining affordable housing
Development Policies DP37 - Open space, sport and recreation
National Planning Policy Framework - published July 2018

4.0 CONSULTATIONS

4.1 Parish Council – The Parish Council have several issues to raise regarding this application

- a) why is the application allowed to be an ongoing concern given the site history
- b) insufficient turning area within curtilage
- c) visitor parking spaces would block the entrances of the dwellings
- d) potential drainage issues from proposed parking spaces
- e) access to and from the A19

4.2 Highway Authority – No objection subject to conditions

4.3 Environmental Health – No objection

4.4 Yorkshire Water – No comments received

4.5 Public comments

- 6 support comments have been received, one of which is from the applicants husband and two of which are from addresses within Shipton. Only Mr Johnson's representations had any comments and these related to provision of 'affordable housing' and there being plenty of space for parking and manoeuvring.
- Objections have been received from two neighbouring residents and an agent acting on behalf of one of these residents raising concern of drainage and highway impacts stating the scheme has not been amended sufficiently to address the core issue with regards to highway safety.

5.0 OBSERVATIONS

5.1 The issues to be considered include (i) the principle of additional residential units in this location; (ii) the amenity available to occupiers of properties subject to this application; (iii) the impact on the amenity of local residents; (iv) affordable housing; (v) public open space; and (vi) highway safety.

Principle of development

5.2 The site is within the Development Limits of Shipton, which is defined as a Secondary Village in the 2014 Settlement Hierarchy, previously it was listed as a Service Village in Core Strategy 2007 at Policy CP4. The site is in the centre of the village and within walking distance of facilities such as the school and the pub and

with easy access to public transport; therefore it is considered to be within a sustainable location. The principle of additional dwellings in this location is also acceptable when considered against the National Planning Policy Framework, which aims to create more sustainable patterns of development by focusing new housing development primarily in locations that are accessible by public transport to jobs, education, shopping, leisure and other services and facilities. It is considered that the proposal is therefore acceptable in principle.

Amenity of occupiers of the cottages

- 5.3 Not all sites in sustainable locations are suitable for residential use and consideration must be given to the siting and layout of the development and the quality of life available to occupiers of the two units.
- 5.4 Application 16/02464/FUL was refused by the Planning Committee with one of the issues regarding the level of amenity space available within the site for the occupiers of the then three units. During consideration of the subsequent appeal the Inspector noted 'the area of amenity is communal and modest. However, these are small, one-bedroomed dwellings unlikely to be suitable for occupation by families with children where amenity space needs would be greater'. The inspector goes on to state 'the area would provide reasonable space for occupiers to sit out and relax albeit their privacy would be limited'. Nevertheless, the Inspector considered the amenity space adequate for the needs of the occupiers of the three dwellings. The Inspector's appeal decision is an important material consideration of this application. In this proposal a reduction in the number of units from three to two has been made. The third unit now forms part of the main dwelling of Framfield and some reduction in demand on the communal amenity space might be envisaged.
- 5.5 It is acknowledged the parking for the 2 proposed residential units is within close proximity to the buildings, in this respect the Inspector noted this 'would diminish the occupiers enjoyment of their homes to some degree however it does not provide compelling grounds to dismiss the appeal'. It is also noted that as part of a previous application 14/00681/FUL the parking and amenity space arrangements were similar to that proposed now and the refusal of that permission was not based on any concern regarding amenity.

Impact on amenity of local residents

- 5.6 The units lie immediately adjacent to, and in close proximity to, neighbouring residents. The buildings are single storey with no windows overlooking adjacent properties. There is no adverse impact on neighbouring residential amenity as a result of overlooking or loss of privacy. It is not anticipated that noise and disturbance to neighbouring residents would increase to an unacceptable level, particularly bearing in mind the location of the site within the centre of the village and the number of properties in the vicinity.

Affordable Housing

- 5.7 Neither of the two units subject of this application meet the Council's definition of affordable housing.
- 5.8 The development is not of a scale that requires an affordable housing provision.

Highway safety

- 5.9 One of the key issues with this application relates to concerns regarding the parking provision and turning facilities on site. There has been concern in the past from

nearby residents that insufficient parking on site will result in cars parking on the A19 and on Burrells Lane. It is important to note that the reason for refusal of 14/00681/FUL recorded in paragraph 2.7 refers to concerns about parking on the A19 but not on Burrells Lane; and the reason for refusal of 16/02464/FUL recorded in paragraph 2.9 makes no reference to parking on Burrells Lane and therefore while local concerns about parking on Burrells Lane are understood, the Council has not previously considered it to justified a reason for refusal.

- 5.10 Burrells Lane is an unadopted privately owned highway and as such the Highway Authority has no controls over it. Furthermore the Local Planning Authority has no controls over this land as it does not lie within the application site boundary or within the control of the applicant. The uncontrolled nature of the lane means it is possible for anybody to park there, regardless of their place of residence.
- 5.11 Concern has been raised that the proposed spaces for the residential units will be unusable due to the proximity to the dwellings and there is insufficient turning space within the curtilage. The applicant has previously demonstrated there is space to park and turn three cars within the site such that vehicles can enter and leave in forward gear. The Local Highway Authority has raised no objection in this respect and the Planning inspector did not consider the arrangement unacceptable.
- 5.12 The most recent appeal which was dismissed (APP/G2713/W/17/3171484) made reference to Burrells Lane and the issue of parking on and exiting of the lane. The Inspector took the view that car users of the site are likely to park on Burrells Lane or Main Street. The Inspector considers this to be an issue in that it would restrict visibility for a driver exiting Burrells Lane on to Main Street. The Inspector stated “the relevant visibility standard required by Manual for Streets cannot be achieved when vehicles are parked with the splays” and when vehicles are parked to the south of the junction it severely restricts the sight of approaching northbound traffic and for an emerging driver. The Inspector concludes that “whilst the proposed development would not harm pedestrian safety, it would seriously compromise highway safety”.
- 5.13 To address the issue raised within the most recent appeal the applicant has amended the scheme and provided supporting information from a Transport Consultant. This application seeks to reduce the demand for parking by reducing the number of dwellings, whilst also increasing the level of parking provision. Three parking spaces are proposed within the site as previously proposed and there are two additional spaces proposed to the northern side of Framfield in the position previously occupied by a greenhouse and a ‘Wendy house’ these would be accessed directly from Burrells Lane.
- 5.14 The submitted access, parking and road safety statement states the additional spaces proposed will discourage parking on Burrells Lane itself, most drivers are reluctant to park in front of drive entrances and blocking access, whilst providing further parking for the Framfield site. It is further stated that although this planning application contains measures to reduce demand for on-street parking it is possible that there will be times when on-street parking occurs within the visibility splays at the Burrells Lane Junction with Main Street. Manual for Streets 2 (MfS 2) indicates at paragraph 10.7.1 that ‘parking in visibility splays in built up areas is quite common, yet it does not appear to create significant problems in practice’. The MfS2 goes on to state that ‘at urban junctions where visibility is limited by buildings and parked cars, drivers of vehicles on the minor arm tend to nose out carefully until they can see oncoming traffic, and vice versa’. This is considered to be the approach taken by drivers emerging from Burrells Lane when cars parked on the nearside kerb-line of Main Street impede visibility.

- 5.15 Whilst the Inspectors decision makes reference to Manual for Streets, there is no specific reference to the relevant section on junctions within urban areas as quoted above. The supporting information submitted by the applicant shows the situation at the Burrells Lane junction is as per the MfS2 guidance. Furthermore, it is stated there is no accident record at the junction.
- 5.16 The Local Highway Authority has raised no objection to the application and reports that the parking and access arrangements are satisfactory. Despite the above points, the applicant has put forward a proposal for double yellow lines to the front of Framfield. The Local Highway Authority does not consider this necessary given the guidance in section 10.7 of Manual for Streets 2.
- 5.17 Overall, this proposal reduces the number of residential units previously proposed as well as providing additional parking, the supporting information which has been prepared by a Highway Consultant considers the proposal will not seriously compromise highway safety and shows the Burrells Lane junction is in accordance with Manual for Streets 2 guidance which the Local Highway Authority agrees with and also has no other highway objections. It is considered the submitted information shows the proposal addresses the concerns raised by the most recent appeal decision.

Residual Matters

- 5.18 Concern has been raised regarding the surface water drainage at the site, any changes to the surfacing of the central courtyard area that may have occurred in the past would not have required planning consent and its drainage cannot be controlled by the Local planning Authority. The provision of the additional parking spaces to the side of Framfield will require further changes to the surfacing and it can be conditioned that the material used is permeable or that an in curtilage soakaway drain be provided.

Further considerations following Member concern at November Committee

- 5.19 Following Member comments regarding the size of the dwellings the agent has provided an updated floor plan that indicates the size of each of the cottages; both cottages are compliant with Nationally Described Space Standards. One bedroom, 2 person, single storey properties require 50 sqm, cottage 1 is 52 sqm and cottage 2 is 50 sqm. The agent has also stated that each dwelling has a reasonably sized bedroom, kitchen, bathroom and lounge.
- 5.20 In relation to concerns regarding whether the accommodation is suitable for children, the agent has stated the applicant only rents/wishes to rent out the cottages to single adults. It is accepted there have been previous isolated examples of a young woman with a baby and a family staying for short periods however the applicant would be willing to accept a restrictive condition that controls the use of the cottages to a single adult.
- 5.21 The potential for the cottages to be sold off as separate dwellings, the agent has stated there is no intention of selling off either of the 2 cottages separately from Framfield House and if/when the applicant decides to move it is the intention to transfer/sell the land comprehensively. The agent has confirmed the applicant would be willing to accept a condition to control this or an obligation pursuant to a Section 106/unilateral undertaking. A draft of an agreement or unilateral undertaking has not been supplied at the time of writing.
- 5.22 Consideration of the level of amenity space available for each property has been largely covered earlier in the report however the agent has made some

supplementary comments following members concerns. The communal amenity area in the rear courtyard was considered adequate by the Inspector in the July 2017 appeal decision; the Inspector will also have been aware of the amenity considerations of the occupiers of Framfield House and raised no issue in this regard. This proposal reduces the dwellings to the rear from 3 to 2 and the occupants of Framfield House also have access to the communal amenity area and also their garage at the western end of courtyard and this provision remains unchanged from that considered by the Inspector. The occupants of Framfield have access to the garden area to the east of the dwelling. During consideration at November's Committee concern was raised with regard to the substitution of the greenhouse and 'Wendy House' with two new parking spaces and how this may impact on the amenity of the occupiers of Framfield. The applicant considers the change will be an improvement to their amenities in providing a more practical use of this side garden area. The agent also states this change could be undertaken in any event as permitted development.

- 5.23 In terms of the safety of parking and turning areas and the potential for children playing in these areas as stated above the applicant is willing to accept a restrictive condition to allow occupancy of the cottages by single adults, this would also ensure the issue of children playing in the parking and turning areas was limited. The potential provision of fencing to the west side of the proposed parking spaces adjacent the gable of Framfield was also raised previously in order to stop children running out onto Burrells Lane, given the restrictions mentioned above the agent considered this would not be a significant issue and no additional fencing is necessary.
- 5.24 The agent has also stating that provision of these parking spaces requires only modest works in respect of removal of a short section of boundary wall and the modest regrading of the site levels to Burrells Lane, the parking space dimensions have also been increased slightly to assist with access to the spaces.

Conclusion

- 5.25 The proposal is made following a series of planning decisions most significantly the decisions of this Council on applications in 2014, 2016 and the appeal decision of 14 July 2017. The 2017 appeal decision finds highway safety would be seriously compromised due the obstruction to visibility by parked cars near to the junction of Burrells Lane and Main Street but on all other matters found the scheme to be acceptable.
- 5.26 The revised scheme for two dwellings reduces parking demand and additional parking space is also proposed. With reference to the latest highway design guidance in Manual for Streets 2 the only concern of the Inspector in the July 2017 appeal is found to be over-ruled, noting that obstruction to visibility splayed by parked cars "does not appear to create significant problems in practice".
- 5.27 Following consideration at committee in November the agent has provided additional information to address the concerns raised, has promoted conditions to address the concerns. It is considered that on the basis of the changes made the previous concerns are fully addressed and the proposal is recommended to be granted without a need for a planning obligation.

6.0 RECOMMENDATION

6.1 That subject to any outstanding consultations permission is **GRANTED** subject to the following conditions:

1. Within three months of the date of this permission the vehicle access, parking, manoeuvring and turning areas shown on drawing 3734-PD-03 F shall be constructed in accordance with the submitted drawing. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times. The surface of the additional parking spaces shall be constructed using permeable materials or there shall be provision within the curtilage of the site of a soakaway drain for surface water run-off.
2. The annexe building as shown on drawing 3724-PD-03 F shall form and shall remain part of the main dwelling as a single planning unit; and shall be used as living accommodation only by members of the family, or the occupiers, of the main dwelling.
3. The decking and grass area shown on drawing 3724-PD-03 F shall be made available at all times for the purpose of outdoor amenity of residents of Cottage 1 and Cottage 2.
4. Bin storage shall be made available within the land within the ownership or control of the applicant (edged red or blue on the location plan 3734-PD-00 Rev A) but outside of any parking or turning area and not within the designated decking and grass area.
5. Cottage 1 and Cottage 2 as shown on drawing 3724-PD-03 F shall only be occupied by one single adult (over the age of 18) at any time.

The reasons are:

1. To ensure satisfactory provision of appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.
2. To enable the Local Planning Authority to assess in the implications of any alternative occupation of the premises in accordance with Local Development Framework Policies particularly policies CP1 and DP1.
3. To ensure that the amenity space is made available to meet the reasonable needs of residents and in accordance with Local Development Framework Policies CP1 and DP1.
4. To ensure that appropriate bin storage space is made available to meet the reasonable needs of residents and in accordance with Local Development Framework Policies CP1 and DP1.
5. To ensure that the accommodation is occupied in accordance with Nationally Described Space Standards and meets the reasonable needs of the occupiers in accordance with Local Development Framework Policies CP1 and DP1.