

**Parish: Shipton**  
Ward: Easingwold  
**5**

Committee Date: 5 January 2017  
Officer dealing: Mrs Helen Conti  
Target Date: 4 January 2017  
Date of extension of time (if agreed): 6 January 2017

**16/02464/FUL**

**Retention of three existing dwellings located within converted outbuildings to the rear of Framfield House**  
**At Framfield House, Main Street, Shipton by Beningbrough**  
**For Mrs M Johnson**

## **1.0 PROPOSAL AND SITE DESCRIPTION**

- 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 units each provide a single bedroom, bathroom, kitchen and living room. The area between the units is available for parking (three spaces are proposed) and amenity space.

## **2.0 RELEVANT PLANNING & 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.

### **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 27 March 2012

### **4.0 CONSULTATIONS**

4.1 Shipton Parish Council - wishes to see the application refused and has submitted comments which are summarised as follows:

- The Parish Council wish to see that all prior decisions are enforced;
- Four separate applications regarding the units since 17 June 2013, three of the applications have been refused for various reasons. During this time the applicant would appear to have been persistently using (letting) these units without permission and therefore unlawfully for well over three years;
- Two of the reasons for refusal of previous application 14/006818/FUL have now been discounted as a result of policy changes;
- The third reason for refusal of 14/006818/FUL, the absence of parking and turning facilities within the site, is still of significance. The Parish Council is concerned that as Highways have not reported any problems with parking on the A19, that this is not relevant to this application;
- Concerns regarding vehicles parking on the footpath on the A19 near to Burrells Lane on occasion and local residents advise there are often numerous vehicles parked on Burrells Lane. A resident recently counted nine vehicles;
- Concerns that the proposed turning area will not be sufficient to allow visiting vehicles to manoeuvre and may only be able to be used to park in one of the new proposed spaces. Other properties accessed off Burrells Lane have accommodation/turning for visiting vehicles; there is no such provision at Framfield. Therefore vehicles would have to park elsewhere, possibly on Burrells Lane or on the A19 or would have to reverse onto the A19;
- Burrells Lane provides access to residential and commercial properties. British Telecommunications previously raised concerns in response to 14/02574/CLE regarding lack of parking at the units and their staff regularly finding themselves either blocked in or unable to gain access to the Telephone Exchange;
- Additional vehicles parking on Burrells Lane could affect the refuse and recycling collection which currently provides house to house collection. If the lane is regularly blocked with vehicles and the condition deteriorates further the house to house collection may be cancelled and result in collection at the end of the

lane which would have a seriously detrimental impact on residents of Burrells Lane;

- Previous decisions by Hambleton District Council have not been enforced. There has been a lack of action and many months between submission of applications and the consideration of 14/02574/CLE; and
- If the Planning Committee decides to approve this application, the Parish Council requests that a condition is imposed that none of the units can be sold separately to Framfield House; they should remain within the curtilage and ownership of Framfield House.

4.2 Highway Authority – No objection; recommends conditions.

4.3 Environmental Health Officer - No objection.

4.4 Yorkshire Water - no comments received.

4.5 Public comments - 11 comments have been received in support of the application, including two from the applicant and her husband. Of the other nine comments received three are from residents of Shipton. These comments are summarised as follows:

- Affordable housing can only be a good thing;
- Vehicle parking will enhance security at Framfield House as both property and vehicles have been subject to attack;
- It's good to see someone offering affordable housing close to York at a time when rents are rocketing and it's very difficult for anyone especially families to secure long term accommodation;
- National shortages of affordable housing, the three units are assets to the housing crisis;
- Dwellings provide valuable secure accommodation for families. The buildings are very well maintained and the inhabitants have created a friendly community spirit between themselves; and
- The dwellings provide much needed affordable homes for people and do not affect the amenity of the surrounding area.

4.6 One comment in objection has been received from a planning consultant on behalf of an unspecified number of neighbours to Framfield House. The grounds of objection may be summarised as:

- Similarity to previously refused applications – the scheme has not been altered enough to address the previous reasons for refusal;
- Four letters of support say the application should be granted due to a need for 'affordable' housing, but there is no mention of 'affordable' in the application and supporting statement makes a case that affordable housing provision would not be required. The letters of support are therefore contradictory and hold no merit;
- Access and parking - insufficient parking will and does lead to additional prohibited parking along the A19 and Burrells Lane;
- Location of the doorways to dwellings, garage and the current parking space for the camper van are shown on Appendix 2. The position of these are not shown on the applicant's plans. The proposed parking spaces will block the doorways of all three units and the garage.
- A store area marked on plan is used as a joiner's workshop by the applicant's husband. The workshop operates during the week and accesses the store area. Therefore the three parking spaces are unusable and even if provided would be impractical and would increase the risk of parking on Burrells Lane. Therefore

the proposal does not comply with LDF policies and has not addressed the third reason for refusal in the previously refused scheme (14/00681/FUL);

- No account is taken of the need for the owners of Framfield House to park;
- The previous planning application was refused based on only providing two parking spaces. Photographs on site show a camper van which is concern as there is no scope for parking of this vehicle on site;
- The layout of cottages and the main building create enclosed courtyard and all windows and doors of the cottages and the Annexe face onto the courtyard. Parking within this small area would give rise to unacceptable level of fumes and noise for the occupants;
- The proposal to address the previous reason for refusal relating to inadequacy of parking space, by removing the already inadequate area of amenity/open space on site, causes further detrimental impacts and does not address the second reason for refusal in the 14/00681/FUL; and
- The proposal would lead to an unacceptable level of over development on a small site and would also not constitute sustainable development.

## **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.

5.2 Points (iv) – (vi) relate to the three reasons for refusal of planning application 14/00681/FUL, which was for the same development as this application. It will therefore be necessary to consider whether those reasons for refusal still stand. In terms of consistency of decision-making, it is also important to note the position taken in the concluding paragraph of the report on application 14/00681/FUL:

“The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.”

### Principle of development

5.3 The site is within the Development Limits of Shipton, which is defined as a Secondary Village in the Settlement Hierarchy in Core Strategy 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 and annexe

- 5.4 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 three units.
- 5.5 Concerns have been raised regarding the location of the proposed parking and the close proximity of windows and doors which could give rise to unacceptable levels of fumes and noise for the occupants of the three units. However, it is not unusual to have domestic parking close to dwellings and the Environmental Health Officer has not identified any potential harm to the occupiers' amenity from this. It should be noted that application 14/00681/FUL included car parking in a similar position; the refusal of permission was based on the inadequacy of the proposed vehicle parking and turning facilities and not because of any concern over residential amenity.
- 5.6 Further concerns have been raised regarding the proposed removal of amenity space within the garden to provide parking and turning areas. Neighbours are concerned that the proposal would not provide an adequate level of open and amenity space. This was not raised as a reason for refusal in the previous scheme and no change in policy has occurred to justify this becoming a reason for refusal now. Whilst the proposed parking and turning areas would reduce the available amenity space for the occupiers of the three units there would still be some space between the parking spaces and the main dwelling of Framfield. Again, it should be noted that application 14/00681/FUL included car parking in a similar position and that the refusal of permission was not based on any concern about the amount of amenity space.

#### Impact on amenity of local residents

- 5.7 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 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

- 5.8 It is noted that while several of the support comments make reference to affordable housing, none of the three units subject of this application meet the Council's definition of affordable housing.
- 5.9 One of the reasons for refusal of the previous application 14//00681/FUL was the absence of affordable housing provision in the proposed development. Since the refusal of the application Government policy has changed through the publication a Ministerial Statement on the 28 November 2014. This makes a policy presumption against the inclusion of affordable housing in any development of fewer than 11 dwellings and against affordable housing contributions from any development of fewer than six units. As such this application cannot be required to include or contribute toward affordable housing and the reason for refusal no longer stands.

#### Public Open Space

- 5.10 One of the reasons application 14/00681/FUL was refused was the lack of a financial contribution to the provision of public open space and sport and recreation facilities in accordance with Policy DP37 of the Local Development Framework (LDF). Since the

refusal of the application the Community Infrastructure Levy (CIL) has been adopted, this has replaced the requirement for a financial contribution towards public open space and sport and recreational facilities and cannot be considered. The relevant CIL forms have been submitted as part of the application. Therefore the reason for refusal no longer stands.

#### Highway safety

- 5.11 One of the key issues with this application relates to concerns regarding the parking provision and turning facilities on site. There is significant concern 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; therefore while local concerns about parking on Burrells Lane are understood, the Council has not previously considered it to constitute a reason for refusal.
- 5.12 Both the Parish Council and neighbours have raised issues with parking on Burrells Lane. 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.
- 5.13 It has been suggested that parking on Burrells Lane adjacent to the site has caused obstruction of a public footpath within the lane. As indicated earlier, the lane does not form part of the application site and is not owned by the applicant. It is noted that cars are frequently parked on the land, although their ownership is unknown, so it would be difficult for the Council to prove a connection between the occupation of the units and parking on the lane. However, any obstruction of the public footpath would be a matter for the Rights of Way Authority, North Yorkshire County Council, and it is not considered appropriate for planning powers to be used in preference to more relevant statutory powers.
- 5.14 Three additional parking spaces are proposed within the site and a plan has been submitted to show the tracking of the vehicles in and out of the site in a forward gear. The Highway Authority has no objections to the proposal and recommends a condition regarding the provision of parking and turning area.
- 5.15 Concerns have been raised that the spaces will be unusable due to the close proximity of the entrance doors into the three units and this will result in cars parking outside the site. The agent's car parking layout and tracking drawing shows there is space to park and turn three cars within the site such that vehicles can enter and leave the site in a forward gear. A condition can be included to ensure the turning area and parking spaces are provided in accordance with North Yorkshire County Council's parking standards.
- 5.16 Further concerns have been highlighted that the parking plan does not make provision for parking for vehicles related to Framfield House. The Highway Authority has no objection to the parking and has made no remark about the provision of parking for Framfield House. However, it must be borne in mind that this application is only concerned with the three units. The main house pre-dates the planning system and no permission is required for its residential occupation.

## 6.0 RECOMMENDATION

6.1 That subject to any outstanding consultations the application 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-02 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.
2. Notwithstanding the provisions of classes A, B, C, D E & F of Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 (or any order revoking and re-enacting that Order), the buildings hereby approved shall not be extended or altered in any way, nor any ancillary buildings or means of enclosure erected within the land edged red on drawing 3734-PD-00 without the prior written approval of the Local Planning Authority.

The reasons are:

1. In accordance with the policy and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development
2. The Local Planning Authority would wish to retain control over the extension, improvement or alteration of this development in the interests of the appearance of the site and the amenities of residential property nearby in accordance with Local Development Framework Policy CP1, DP1, CP17 and DP32.

### Informative

1. This planning permission is liable to the Community Infrastructure Levy adopted by Hambleton District Council on 7th April 2015.
2. The applicant is advised that prior to the initial occupation of any individual dwelling hereby permitted, the following bins and recycling box conforming to European Standard EN840 should be provided by the developer for the exclusive use of the occupants of that dwelling:  
1 x 240 litre black wheeled bin for general waste  
1 x 240 litre green wheeled bin for garden waste  
1 x 240 litre black wheeled bin with a blue lid for mixed household recycling; and  
1 x 55 litre blue recycling box for glass bottles and jars.

In order to guarantee EN840 compliance the Council will only collect from bins and boxes sourced from its own Neighbourhood Services.

If the developer does not pay for bins and boxes, each new resident will be required to pay for them. In the event that no payment is made, the Council will not collect waste and recycling from the dwelling concerned.

Further details of the Council's Waste and Recycling Collection Policy and the charges for bins and boxes is available at [www.hambleton.gov.uk](http://www.hambleton.gov.uk) or by telephoning 01609 779977.

3. Previous applications have referred to the units under different descriptions to clarify:

Unit A is the Annexe

Unit B is Cottage 1

Unit C is Cottage 2