



TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL BY

**AGAINST THE DECISION OF CHELTENHAM BOROUGH
COUNCIL TO REFUSE PLANNING PERMISSION FOR**

**AN OUTLINE APPLICATION FOR 43 DWELLINGS INCLUDING ACCESS, LAYOUT AND
SCALE, WITH ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION**

AT LAND AT OAKHURST RISE, CHARLTON KINGS, CHELTENHAM

**ON BEHALF OF WILLIAM MORRISON (CHELTENHAM LTD)
AND THE TRUSTEES OF THE CARMELITE CHARITABLE TRUST**

LPA REF: 20/00683/OUT

PINS REF: APP/B1605/W/20/3261154

SUMMARY PROOF OF EVIDENCE OF P J FRAMPTON BSC (HONS), TP, MRICS, MRTPI

PF/10093

FEBRUARY 2021

Peter J Frampton BSC (HONS), TP, MRICS, MRTPI will say:

- S1. I hold a Bachelor of Science Honours Degree in Town Planning. I am a member of the Royal Town Planning Institute and the Royal Institution of Chartered Surveyors. I am a Director in the firm of town planning consultants and chartered surveyors that bears my name, Frampton Town Planning Ltd, trading as 'Framptons'.
- S2. Framptons has offices at Oriel House, 42 North Bar, Banbury and Aylesford House, Royal Leamington Spa. I have practised in planning consultancy for over forty years. Prior to entering private practice in 1982 I held the position of a Senior Development Control Officer at Lichfield District Council.
- S3. The submitted scheme has been prepared specifically in response to the concerns raised by the Planning Inspector on the earlier proposal for 68 dwellings.
- S4. I have set out the material changes between the planning circumstances prevailing at the date of the appeal decision and today. These changes include a substantial revision to the layout of the site in order to respect the character and significance and setting of heritage assets. I have explained my understanding, as a practitioner, of the meaning of the word '*respect*' for the purposes of Policy HD4.
- S5. I have set out the background to Policy HD4 and its provision of a '*minimum of 25 dwellings*'. The Local Plan Inspector rejected the objection that development of this site, within the urban area of Cheltenham, should be confined to the western part of the site (to the west of the existing tree/'grown out' hedgerow).

- S6. The approach taken by the LPA, following the decision to refuse planning permission for the 43 new homes, suggests that *'a minimum of 25 dwellings'* should mean 26 dwellings. I consider this is a misconceived approach. I, of course, recognise that the principle of development on this site has been sensitive to the local community. Some prefer no development at all, others seek to minimise the amount of new homes to be built on this site.
- S7. The site lies wholly within the Principal Urban Area of Cheltenham. The expansion of Cheltenham is contained by the Green Belt and the AoNB. The Cheltenham Local Plan states that *'it is therefore logical to make the most of previously developed and under-used sites'* (paragraph 11.4). This logical approach does not mean that the capacity of a site is to be maximised to an extent that other interests are seriously harmed. Conversely, the logical approach does not mean that the capacity of urban land should be minimised. A valuable resource would then be wasted.
- S8. The logical approach is to ensure that developments make optimal use of the potential of each site (Framework 123). This approach is realised when the benefits from allowing the development outweigh the adverse impacts – to the extent that the criteria attached to Policy HD4 and Policies SD8 and SD9 are satisfied. Any further reduction in the number of houses would then be unnecessary to achieve compliance with planning policy. I consider this planning balance has been achieved with this scheme. The Government's current thinking is that *'making effective use of land in urban areas'* is a component of the presumption in favour of sustainable development (Draft NPPF Revision 2021 11a).
- S9. While the same weight may be applied to the public benefits I have identified in a smaller scheme, the magnitude of the benefits must be factored into the planning balance. The delivery of 25 market dwellings and 18 affordable dwellings (of which 4 would be self-build/custom-

build) has greater benefit to the public interest than a scheme of 15 market dwellings and 11 affordable dwellings (minimum of 25 means 26). Similarly, the capital receipts to the two charities, from confining the development of this site to 26 dwellings, would be unnecessarily reduced for the carrying on of their public benefit activities.

S10. CK Friends seek to advance other objections against the granting of planning permission. Mr Baxter has explained in his Evidence that this site has no biodiversity management and management is uncontrolled. No arboricultural management plan is in existence. A consequence of a grant of planning permission is a veteran tree management plan for assets that are regarded as being irreplaceable. Mr Baxter states that such management will serve to increase the lifespan of these important trees and that the benefit arising from increasing their lifespan is significant.

S11. The scheme will achieve a substantial net gain in biodiversity value. In response to the objections raised by CK Friends on grounds of alleged harm to biodiversity, I conclude that provisions of planning policy SD9 and G12, G13 and HD4 are satisfactorily addressed by this scheme.

S12. The difference between myself and the Council's Planning Witness as to 'weight' on the identified benefits of the proposal is confined to a distinction in the weight to be ascribed to the provision of self-build/custom-build (up until October 2021) housing and the provision of the Management Plans for Existing Trees and Retained Grassland. I acknowledge that, in the preparation of the Statement of Common Ground on Planning Balance with the LPA, I have not identified the additional public benefit relating to capital receipt to two charitable organisations.

S13. Even if I ascribe the same weight as the Council’s planning consultant (and exclude the weight to the charitable organisations public benefits), I am firmly of the opinion that the scheme would satisfy development plan policy for this site. As such, planning permission should be granted without delay.

S14. If, contrary to my professional opinion, the appointed Inspector concludes that there is conflict with the development plan as read as a whole – then paragraph 11d of the Framework is engaged. I have explained my reasoning why paragraph 11d (i) is not engaged – because the public benefits (similarly excluding the charitable organisations public benefits) substantially outweigh the very limited harm to the significance of the designated heritage assets. (Framework 196). Paragraph 11d(ii) is then engaged for the decision-taking. The decision-taker then needs to undertake a wider planning balance and establish whether any adverse impacts from granting planning permission would *‘significantly and demonstrably outweigh the benefits’*. I conclude that the adverse impact of granting permission would not *‘significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole’* (2019).