

# PDA Planning

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## **181494 - Land adjacent to Spring Cottage, Headbrook, Kington**

### **Applicant's Comments on the Officer Report to Planning Committee of 16.08.23**

- Re 1.7: There was no mention of the 5 Year Housing Land Supply (5YHLS) or 'Tilted Balances' in the 2018 Planning Committee's debate nor is it mentioned as such in the debate recording, the subsequent Committee Minutes, or in the Approval Reasons.
- Re 1.8: No 'Tilted Balances' were mentioned in 2018 and therefore were not 'engaged'.
- Re 1.9: The present 5YHLS position does not alter the fundamental reasons for the 2018 Planning Committee approval; the 5YHLS was not fundamental in the reasons for the 2018 approval.
- Re 1.10: The 2018 approval was based on an up to date Local Plan/Core Strategy Policy i.e. Policy KG1 – Development in Kington, which seeks to accommodate around 200 new dwellings in the town (the LP/CS Inspector recommended a minimum of 200 dwellings); the originally approved proposal for Headbrook is for up to 35 dwellings and thus is entirely policy compliant.
- Hence, re 1.10 and 1.11, we cannot understand or agree that there has been a significant change to the planning policy context and certainly no reason for the application being referred to another Planning Committee some 4.5 years later for 'another go'.
- Re 6 and 6.1 and following to 6.15.1: This largely re-presents the original views and/or objections from Council and Statutory Consultees of 2018 and which were fully considered by the 2018 Committee and largely dismissed; there should be no difference now.
- However, the one major difference now concerns Natural England (NE) who had no objection originally in 2018, but then in July 2019 (when the scheme's S.106 Agreement was about to be signed off and a final permission issued) objected on the grounds of the 'Dutch Case' and created the subsequent embargo on all new Herefordshire development within the River Wye SAC area, resulting in nearly 4 years of development stagnation. The proposal has now passed the 'phosphates test' and the required credits have been purchased, such that nutrients neutrality has been secured and NE now has no objections whatsoever.
- Re 7 and 7.1 and following to 7.3.1: This largely re-presents the original views and/or representations/objections of other outside bodies and members of the public; all these were fully considered by the 2018 Committee and generally dismissed and again there should be no difference now.
- Re 7.1/7.1.1: In the Kington Town Council reconsultation views of 10 January 2023, there seems to be some confusion and the overall comment seems to reiterate their original objection of 2018, which was largely based on the now failed Kington Neighbourhood Plan (KNP); this seems at odds with the fact that in February 2020 the Town Council, in considering revision of KNP, now supported the Headbrook housing site under Policy KANP – Housing Delivery.
- Re 7.2/7.2.2/7.2.3: This covers the Public Consultation of May 2018 which was considered fully by the 2018 Committee and the reconsultation of December 2022/January 2023; the reconsultation resulted in very similar objections to those of 2018 which were previously fully considered by the Committee and not accepted. We provided strong rebuttal reasons, emphasising where there were errors of fact, in 2018 (Brief Statement: June 2018) and again in 2023 (Brief Statement No 3: May/June 2023), notwithstanding that there were actually 6 separate representations made in 2023 within the 'time limit' and a further 6 out of time of which 5 had already made earlier, in-time, representations.
- Re 8, Officers Appraisal and 8.1 and following to 8.12: This was all fully considered and debated by the 2018 Committee and they found that the proposal was fully sustainable and appropriate.
- Re 8.13 to 8.27: The Conservation Area at its nearest point is over 70 metres from the proposed housing and cannot be viewed against the existing mix of other commercial and residential building and the existing

landscape; this was fully considered by the 2018 Committee at a site visit and the later debate and it was found that there would be no impingement on the CA.

- Re 8.28 to 8.35: The effect of the proposal on the local landscape was fully considered by the Committee in 2018 both at the site visit and the later debate and the consensus was that there would be little harm to the local landscape and that the green space and landscape enhancement elements of the scheme would benefit the area greatly.
- Re 8.57 to 8.63: This emphasises the work that has gone on since December 2018 and July 2019 to create the nutrient neutrality required by NE and which the proposal now meets fully to the complete satisfaction of NE.
- Re 8.64: This is breathtakingly inaccurate. The S.106 Agreement was fully accepted and ready for signing off in July 2019 (despite the fact that the Council's dilatory inaction had taken since December 2018 to be ready for their signatures, while the applicants had already signed). Following the 2019 development moratorium, in November 2020 the applicants commissioned the necessary environmental work to prove the phosphates credits acceptance and in August 2022 they were invited to apply for the purchase of credits. In April 2023 the applicants paid the Council nearly £63,000 in purchase fees and the original S.106 was amended and agreed with the Council on 21 April to take account of the credits purchase; this was signed by the applicants on 27 April with a promise from the Council to complete the transactions within a few days and to issue the planning permission. By 10 May, the Council had changed the position and reneged on its promise and the applicants were informed that the Planning Application would be referred back to a new Planning Committee – hence the applicants have been waiting for a further four months until 16 August for a resolution with a current and amended S.106 ready for completion.
- Re 8.69: The refusal recommendations are nothing more than a 'cut and paste' job from the original December 2018 officer report, which was fully debated and considered by the Planning Committee, resulting in a clear-cut 11 to 1 vote to approve the planning application, subject to the completion of the S.106 Agreement.
- Re the 5YHLS debate: The 2023 assessment has yet to be published; in a Planning Appeal case at Winforton in 2022 (application 210131), the Council in their Case Statement said, regarding the Headbrook proposal:

*"The application has been assessed and found to be acceptable in all respects, except the need to carry out a positive HRA. The application was placed 'on hold' and in priority queue to be offered phosphate credits. The LPA wrote to the Applicant on 5th August 2022 to invite them to purchase credits that were now available from the Council's Integrated Wetland scheme in Luston. A formal response is required by the 26th August, however the Applicant has informally advised officers that they intend to purchase credits to mitigate for the effects of the development. This would allow for a positive HRA to be carried out. There is therefore a high likelihood that the Council will be able to grant permission in near future and that the housing will subsequently come forward thereafter"*

If the Headbrook proposal was good enough for the Council's appeal evidence in 2022 and the 5YHLS, then it should be good enough for August 2023 and should be approved by the Planning Committee as it was, overwhelmingly, in December 2018.

END

*P J Draper, DipTP (Nottm), FPCS  
On behalf of Mr & Mrs M Turner  
August 2023*