

COMMITTEE REPORT

Date: 5 January 2012 **Ward:** Clifton
Team: Householder and **Parish:** Clifton Planning Panel
 Small Scale Team

Reference: 11/02487/FUL
Application at: 25 Shipton Road Clifton York YO30 5RE
For: Construction of outdoor swimming pool with shed to house filtration plant, formation of tennis court with 2.7 metre high chain link fence enclosure, replacement greenhouse (on existing footprint) and dwarf wall and base for shed.
By: Mr Darren Broadbent
Application Type: Full Application
Target Date: 9 November 2011
Recommendation: Householder Approval

1.0 PROPOSAL

1.1 The application property is a large detached villa with substantial grounds to the rear. The gardens extend to the rear of 21 and 23 Shipton Road. The Villa is Grade II listed and located in the Clifton conservation area. The south western boundary of the conservation area runs approximately in line with the rear garden boundary of 21 Shipton Road. All of the elements of the application are proposed within the city's defined settlement limit. Land to the west is allocated as Green Belt.

1.2 The application comprises the following elements:

Erection of porous asphalt tennis court enclosed by 2.75m high chain link fencing. A small storage shed was proposed adjacent to the tennis court. The shed has now been removed from the application, however, a small retaining wall and concrete base is proposed (this has already been constructed).

Replacement of recently demolished greenhouse with new structure on the existing base, along with enhancement of adjacent existing potting shed.

Creation of outdoor unenclosed swimming pool (approximately 4m x 10m). A small shed is proposed nearby to house the filtration plant.

Planning History

1.3 Recent history of significance is:

2004 - Planning permission and listed building consent granted for works to the property including a one and two-storey side extension, garden room and new walling.

2003 and 2008 - Planning permission refused for the erection of a new dwelling on land to the west of the existing potting shed and proposed green house. The 2008 scheme was for a large bungalow. It was refused because it was considered that the erection of the proposed dwelling in this location would have a significantly detrimental impact on the character, appearance and views into and out of Clifton Conservation Area and detract from the setting of the adjacent Grade II Listed Buildings at 21, 23 and 25 Shipton Road. The applicant appealed against the decision, however, the appeal was dismissed.

2010 - Planning and listed building consent applications were submitted for works including a proposed garage to the front, an outdoor pool and a floodlit tennis court. The applications were withdrawn.

1.4 The current planning application is brought to committee at the request of Cllr Douglas. The request is made because of the home's listed status within the conservation area and the recent planning history relating to the refusal of permission for a dwelling close to the site where the tennis court is now proposed.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Conservation Area GMS Constraints: Clifton CONF

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: East Area (2) 0005

Floodzone 2 GMS Constraints: Floodzone 2

Floodzone 3 GMS Constraints: Floodzone 3

Listed Buildings GMS Constraints: Grade 2; 25 Shipton Road York YO3 6RE 0261

Listed Buildings GMS Constraints: Grade 2; Former Coach House To No 25 Shipton Road 0262

2.2 Policies:

CYGP15

Protection from flooding

CYH7

Residential extensions

CYGP1

Design

CYHE3

Conservation Areas

CYHE4

Listed Buildings

3.0 CONSULTATIONS

3.1 Internal

CONSERVATION OFFICER

3.11 The metal shed adjacent to the tennis court is unacceptable (case officer - the shed has now been removed from the scheme). Do not consider that the hard standing or dwarf wall that has been erected for the siting of the shed detracts from the setting of the ha-ha or listed building.

3.12 Consider that the location, form and proportions of the proposed swimming pool are in the spirit of the layout of formal water gardens of the Georgian/Victorian period. However, details including the colour of tiling, the level of lighting and pool cover need careful attention. Further details have been received in respect to this, however, this element should be covered by condition. The shed housing the pool's filtration plant is largely concealed from view by a mature hedge. The colour and finish of the shed should be agreed by condition.

3.13 The tennis court and chain link surrounding fence is enclosed in an informal area of the garden already compartmentalised by a hedge and shrubs and trees. The tennis court and fence is largely concealed from public view from the south west and is unlikely to detract from the existing character of the gardens and open space beyond. Conditions are recommended in respect to the type of mesh fencing used.

3.14 The greenhouse replaces a timber framed greenhouse that was in poor condition with self-seeded trees present within the structure. Consider that the greenhouse was constructed after 1948 and is therefore not a curtilage listed structure. The design of the proposed replacement greenhouse attached to the retained brick store and on the previous building footprint is unlikely to harm the setting of the Listed Building or Conservation Area.

YORK COUNCIL FLOOD RISK MANAGEMENT TEAM

3.15 The applicant has demonstrated that the development can be adequately drained therefore there are no objections. Should the scheme be approved reference should be made to the submitted documents.

3.16 Environmental Protection Unit - No objections subject to a condition requiring details of noise levels (and mitigation measures as appropriate) relating to the proposed filtration plant

3.2 External

ENVIRONMENT AGENCY

3.17 No objections subject to informative.

PLANNING PANEL

3.18 No objections.

NEIGHBOURS

21 Shipton Road - The occupier objects to the proposals. The key issues are summarised below:

3.19 21, 23 and 25 Shipton Road were built and occupied by a single extended family in 1845. The properties were arranged to enjoy views down and across the Ings. A ha-ha was erected at the end of the formal gardens to keep out grazing animals and form a barrier to flood waters. Related family members lived in the three properties until the 1950's. Since this time three unrelated families have lived in the properties, though there has been limited change in their occupancy. The nature of occupancy over the past 165 years has meant that the original buildings and their settings have been preserved well. The bottom half of the garden of 23 was sold to number 25 in the 1970's. In 1975 the formal gardens and houses were incorporated into the Clifton Conservation area. In 1983, 21,23 and 25 Shipton Road and their curtilage were grade II listed. A flood bank was built on the Ings in the 1980's but other than this the general vista is as built.

3.20 Number 21 retains a right of way along an original grassy track that runs between the coach house and stables in the rear garden of 21, between the side gardens of 23 and 25 and on to Shipton Road. The applicant has undertaken works to this track including excavation at the area where the retaining wall and hard surfacing have been created for the shed.

3.21 It is considered that views from the house and garden of number 21 towards the lngs are essential to its character. The rear boundary is only marked by a ha-ha and low fence. It is considered that the link between town and country is essential to its historic character. Consider that the proposed development conflicts with this.

3.22 Consider that the scale and design of the shed is inappropriate (case officer - this element has now been removed).

3.23 Excavation works to the track break the historic unity of the group of houses, damages roots and puts at risk the wellbeing of the ha-ha.

3.24 The proposed surfacing of the tennis court would be an inappropriate intrusion and the surrounding hedging that has been planted will break the continuity of views to the wider space.

3.25 Disagree with the Conservation officer's view that the greenhouse pre-dates 1948 and therefore should not be considered as a curtilage listed structure.

3.26 Consider that the location of the swimming pool should be re-considered and that the design and underwater lighting is unconvincing and harmful to the setting of the listed building.

3.27 Number 25 has been much altered and extended in recent years. Consider that cumulatively these changes are harmful. Particular concern that the changes and modifications are threatening the setting of number 21.

3.28 Regard should be had to the Planning Inspector's comments on an appeal relating to the refusal of consent for a proposed new house near the site of the tennis court (08/00311/FUL) that was dismissed 16 November 2009. (case officer comment - the Inspector stated in his appeal decision that "the unique setting provided by the extensive gardens and the open space beyond, retaining the distinctive relationship between town and country at the edge of the built-up area, makes an important contribution to the character of the listed buildings and of the edge of the conservation area.").

3.29 Case officer comment - The letter of objection makes reference in several places to advice within PPG 15 (Planning Policy Guidance Note 15 (Planning and the Historic Environment)). Readers of the letter should note that this guidance has been cancelled and replaced by Planning Policy Statement 5: Planning for the Historic Environment (PPS5) published on 23 March 2010. However it is not considered that this has a significant bearing on the thrust of the neighbour's objections.

4.0 APPRAISAL

4.1 The key issues in assessing the planning application are:

- The impact on neighbours living conditions.
- Flood risk.
- Visual Impact including the impact on the conservation area.

4.2 Local Plan Policy GP1 'Design' states that development proposals will be expected to respect or enhance the local environment and be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and vegetation. Developments should ensure that residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.3 Planning Policy Statement 1 sets out the Government's overarching planning policies. It sets out the importance of good design in making places better for people and emphasises that development that is inappropriate in context or fails to take the opportunities available for improving an area should not be accepted.

4.4 The site is within Clifton Conservation Area. When determining planning applications within conservation areas, the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character and appearance of the area. Central Government advice contained within Planning Policy Statement 5 "Planning for the Historic Environment" emphasises the importance of conserving heritage assets (including conservation areas) to a degree proportionate to the importance of the heritage asset. Local Plan Policy HE2 states that within or adjoining conservation areas development proposals must respect adjacent buildings, open spaces, landmarks and settings and have regard to local scale, proportion, detail and materials. Proposals will be required to maintain or enhance existing urban spaces, views, landmarks and other townscape elements which contribute to the character or appearance of the area.

4.5 The application property and number 21 and 23 Shipton Road are all grade II listed. Local Plan Policy HE4 states that development will only be allowed within the vicinity of listed buildings where there is no adverse effect on the character, appearance or setting of the building.

THE IMPACT ON NEIGHBOURS LIVING CONDITIONS

4.6 Because the application property and surrounding homes have large gardens, the proposals will be sufficient distances from adjacent dwellings to ensure that they have limited impact on the living conditions of neighbours when in their homes.

4.7 The key issues is assessing the impact on neighbours' enjoyment of their gardens. The shed housing the filtration plant will border the sports clubs playing fields, however, it will be relatively close to the garden of 27 Shipton Road. As the filtration plant could generate some noise, officers of the Environmental Protection Unit have requested that details of the noise levels of the proposed equipment are restricted by condition.

4.8 The swimming pool will be located approximately 20m from the nearest garden boundary. Although people using it might create noise it is not considered that a domestic pool should create levels of noise unduly different than many other games or activities that might take place in a large garden. York sports club's playing fields are located immediately to the rear of 27 Shipton Road and it would be envisaged that noise associated with existing sports such as rugby and cricket are part of the established character.

4.9 The tennis court is located at the end of the garden of 21 Shipton Road. It is sited around 75m from the house. It is not considered that its use for domestic purposes will create levels of noise inappropriate to a residential area. In association with the application the owner intends to grow the hedgerow between the tennis court and the rear garden of 21 Shipton Road. This will help to introduce privacy for users of the tennis court and the rear section of garden of number 21.

FLOOD RISK

4.10 The application property, proposed site of the swimming pool and nearby homes are all located in flood zone 2. Half of the tennis court is located in flood zone 3 (highest risk). The Council's drainage engineers are satisfied that on the basis of the information submitted the proposals will not increase flood risk elsewhere. A BRE percolation test has been carried out and observed by a Council's drainage engineer.

VISUAL IMPACT INCLUDING THE IMPACT ON THE CONSERVATION AREA.

4.11 Issues relating to the setting of the listed building are contained in the report relating to the Listed Building Consent Application (reference 11/02488/LBC). The swimming pool and associated shed are located in the conservation area. The proposed tennis court, and nearby conservatory are just outside the south-western boundary of the conservation area, though because of their proximity, they will impact on its setting.

4.12 The impact that each of the proposed elements will have on the conservation area is assessed separately below:

SWIMMING POOL AND SHED

4.13 As the pool has no surrounding walling or enclosure it will not be prominent from the wider area. The swimming pool's proposed shape, size and location is intended to reflect that of a formal pond. It is noted that the design of this part of the rear garden is formal and largely symmetrical. The conservation officer considers that subject to the colour and material of the swimming pool tiling being subdued it would be acceptable. It is noted that for much of the year the pool will be covered. This element has been conditioned to ensure that the cover is of a simple low profile design and any lighting is not unduly bright.

4.14 The proposed shed is located relatively discretely near the edge of the garden.

REPLACEMENT GREENHOUSE

4.15 It is understood that the greenhouse replaces a timber greenhouse constructed after 1948. The design of the new greenhouse is Victorian in style and has white aluminium frames on a brick plinth. It is not considered that its design or location would detract from the appearance of the conservation area.

TENNIS COURT

4.16 The tennis court is proposed to be located on an area of the applicant's garden that is sited beyond the end of the rear garden of number 21. It is intended to have a porous asphalt surface. A 2.75m green chain link fence is proposed around the outside of the court

4.17 The site of the tennis court is surrounded by vegetation. The section of beech hedgerow to the south-west is established and will largely screen the 2.75m fencing from the open land towards the river. The other hedging though recently planted will in the future provide a good visual screen to the fencing.

4.18 The occupier of number 21 has expressed concerns in respect of the impact that the hedging that has been planted to the north west of the court (south-west of his garden) will have on views towards the Ings including from the rear of his home. It is noted that in his appeal decision from 2008 relating to the proposed new dwelling on land in this area, the Inspector made reference to the need to have regard to private views from the homes located in the conservation area. However it is considered that the proposed tennis court is very different in character to the previously proposed house. It is an outdoor sports facility that would typically be associated with a large villa with much garden space.

4.19 The only significant development above ground is fencing. However, this will be chain-link allowing a reasonable view through. There is a drop in levels between the rear garden of 21 Shipton Road and the surface of the tennis court of around 1m or so, meaning that the top of the 2.75m fencing will be around 1.7m above the ground level of the adjacent garden. The applicant has agreed to a condition that the recently planted hedge between the proposed court and 21 Shipton Road is maintained at a height between 2.5m and 3.2m above the surface height of the court. This will mean that that the hedge would reach a maximum height of around 2.2m above the garden. It is not considered that this is unreasonable. It is considered that the compromise reached is a positive one that meets the reasonable desires of both parties.

4.19 The applicant had erected a relatively large metal shed adjacent to the tennis court. This has now been removed and deleted from the application. A low dwarf wall and concrete hardstanding remains. It is not considered that this would impact on views from number 21 and is not of a scale or nature to be considered to have an adverse impact on the setting of the ha-ha.

GRASS TRACK

4.20 The occupier of number 21 has written to express his views relating to excavation work affecting the grass track that runs between the end of his garden and the proposed tennis court. It is not considered that the current planning application has a direct bearing on the issue.

5.0 CONCLUSION

5.1 It is considered that subject to appropriate planting being maintained the tennis court will not have an unacceptable impact on the appearance of the conservation area, or neighbours' reasonable living conditions. The swimming pool has been designed to complement the formal layout of the area of 25 Shipton Road's rear garden closest to the house. Subject to the use of appropriate materials and lighting it is not considered that the pool will detract from the appearance of the conservation area. The pool and court are both designed for private use and it is not considered that any additional noise that is generated will be out of character with what could be expected in a garden of a large family house. The pool and tennis court have both been designed so that they do not increase flood risk either through raising ground levels or increasing surface water run off.

5.2 It is recommended that the application be approved subject to the suggested planning conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Householder Approval

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out in accordance with the following plans and details:-

- Shed drawing 3935(05)13
- Greenhouse drawing 3935(05)15
- Proposed site plan drawing 3935(05)11
- Flood Risk Assessment 3935/LA/FRA
- Proposed Pool & Associated Plant 3935(05)12
- Proposed Tennis Court & Greenhouse 3935(05)17
- Design of Infiltration Scheme by Survey Site Services dated 10/11/2011
- Email from Ian Atkinson 23 November 2011 16:35 removing tennis shed from scheme.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Prior to the erection of the tennis court and surrounding fencing, details of the court surface (including colour) and the fencing and supports shall be submitted to and agreed in writing with the Local Planning Authority. The works shall be completed in accordance with the approved details.

Reason: To preserve the appearance of the conservation area.

4 Notwithstanding the submitted information, details of the following elements of the swimming pool shall be submitted to and agreed in writing with the Local Planning Authority:

Pool tiling; Pool cover; Pool lighting; Perimeter surfacing

The works shall thereafter be implemented as approved and maintained as agreed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the setting of the listed building and appearance of the conservation area.

5 Details of the materials and colour of the shed housing the filtration plant for the pool shall be submitted to and agreed in writing by the Local Planning Authority prior to its construction. The shed shall be erected in accordance with the approved details.

Reason: To preserve the setting of the conservation area.

6 Details of all machinery, plant and equipment to be installed relating to the swimming pool, which is audible outside the site boundary, and the proposed noise mitigation measures, shall be submitted to the local planning authority. These details shall include maximum ($L_{Amax}(f)$) and average (L_{Aeq}) sound levels (A weighted), and octave band noise levels they produce. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be appropriately maintained thereafter.

Reason: to protect the amenity of nearby occupiers of premises.

7 Vegetation planted and retained between the north-eastern boundary of the tennis court and the rear garden boundary of 21 Shipton Road and the vegetation running along the south-western side of the court shall be retained and maintained at a height of between 2.5m and 3.2m when measured from the ground floor level of the adjacent tennis court.

Reason: To help retain the privacy of the adjacent occupiers and screen the tennis court fencing without unduly impacting on the openness of the area.

7.0 INFORMATIVES: Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on neighbours' living conditions, flood risk and the character, appearance and setting of Clifton conservation area and nearby listed buildings and structures. As such the proposal complies with Policies GP1, HE3, HE4 and GP15a of the City of York Development Control Local Plan and Central Government advice contained within Planning Policy Statement 5 Planning for the Historic Environment.

2. ENVIRONMENT AGENCY INFORMATIVE

The Environment Agency require that there must be no raising of ground levels to facilitate construction of the tennis court and that any landscaping must be done through cut and fill of material on a like for like basis.

3. YORKSHIRE WATER INFORMATIVE

Yorkshire water should be contacted in advance of any building works as a special discharge licence will be required for the swimming pool. The filter backwash should be discharged to the foul water drainage system.

4. CONSTRUCTION INFORMATIVE

The developer's attention should also be drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be attached to any planning approval, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00, Saturday 09.00 to 13.00 , Not at all on Sundays and Bank Holidays.

b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

f) There shall be no bonfires on the site.

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