

## COMMITTEE REPORT

**Date:** 5 March 2015                      **Ward:** Clifton  
**Team:** Major and                              **Parish:** Clifton Planning Panel  
                    Commercial Team

**Reference:** 13/03727/FUL  
**Application at:** Bert Keech Bowling Club Sycamore Place York YO30 7DW  
**For:** Erection of 4no. two storey dwellings and 1no. three storey dwelling  
**By:** Mr David Brown  
**Application Type:** Full Application  
**Original Target Date:** 28 January 2014  
**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 BACKGROUND TO THIS REPORT

1.1 At planning committee in August 2014 Members determined to approve the application, subject to completion of a unilateral undertaking, to secure contributions towards education provision and open space, and to fund a required traffic regulation order.

1.2 A completed unilateral undertaking is yet to be completed and the decision has not yet been issued. It is now proposed to grant permission subject to a different undertaking, due to changes in national planning advice, in the National Planning Policy Guidance (NPPG). As such the application is again being presented to members with a revised recommendation.

1.3 Based upon planning advice published in November 2014, within the NPPG, contributions should not be sought for small scale development (less than 10 houses) for contributions to pooled funding 'pots' intended to provide common types of infrastructure for the wider area. However, obligations can still be sought for site specific infrastructure – such as improving road access and the provision of adequate street lighting – where this is appropriate, to make a site acceptable in planning terms.

1.4 As such the contributions towards open space and education, which would be pooled, are no longer requested. The contribution to fund works to alter the highway are directly related to the development and are still requested.

1.5 Further information with regards the flood risk assessment and the sequential test, because the site is located in flood zone 3, is also detailed in this report.

1.6 The original committee report is at Annex 1 and should be read in conjunction with this update.

## **2.0 PROPOSAL**

### **APPLICATION SITE**

2.1 The application relates to a former bowling club (Bert Keech) located on the north side of Sycamore Place, between Elliott's hotel at 2-4 Sycamore Place and St Olave's School. The bowling facility has not been used since 2008. The club-house buildings were demolished in 2012. The site is designated as open space in the 2005 Local Plan and it is within the Clifton Conservation Area.

### **PROPOSALS**

2.2 The application is for 5 houses; a 3-storey house attached to the side of no.4 and a terrace of 4 houses which would be lower at 2.5 storey. Each house would have its own garage and in-curtilage car parking spaces. Vehicular access would be from Sycamore Place and Queen Anne's Road.

## **3.0 POLICY CONTEXT**

3.1 Development Plan – 2005 Draft Local Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006  
Conservation Area GMS Constraints: Clifton CONF

3.2 Policies:

CYH4A	Housing Windfalls
CYGP1	Design
CYGP15	Protection from flooding
CYGP7	Open Space
CYGP10	Subdivision of gardens and infill development
CYHE3	Conservation Areas
CYHE10	Archaeology
CYL1C	Provision of New Open Space in Development
CYL1B	Loss of local leisure facilities
CYED4	Developer contributions towards Educational facilities

## **4.0 CONSULTATIONS**

4.1 A summary of the consultation responses pertinent to this update are listed below.

### **Education Officer**

4.2 A contribution of £23,968 for this development was requested, for two places at the local primary school which is oversubscribed.

### **Flood Risk Management**

4.3 Officers were content that the revised plans demonstrated that the development would be safe from flood risk and would not increase flood risk elsewhere.

### **Highway Network Management**

4.4 Officers requested a financial contribution to fund works in the highway - The proposed access onto Sycamore Place will require a number of amendments to the traffic orders for the parking bays.

The development would require a traffic order to exclude future occupants of the proposed houses from the over subscribed residents parking zone.

### **Environment Agency**

4.5 The EA had no objection to the scheme, based on the revised flood risk assessment. They requested that if the scheme is supported, the LPA clearly demonstrate that the sequential and exceptions tests had been passed.

### **Publicity**

4.6 There were 16 objectors to the scheme, two comments in support and one neutral. On flood risk, the following comments were made -

- The site is in Flood Zone 3. The site shouldn't be developed, as there are a number of alternative sites for housing that are unaffected by potential flooding. There is therefore no pressing need for this site to be developed.
- The NPPF stipulates that only 'water-compatible' and 'less vulnerable' uses of land are appropriate in flood zone 3, where the site is located. Dwelling houses are within the 'more vulnerable' classification of land and are therefore not appropriate for this site. This is particularly relevant when there is not a permanent safe route to evacuate the properties in flood events.
- As development would reduce the ability of the site to store surface water, it becomes necessary to provide compensatory storage for the water on site (to avoid increased flood risk off-site). There is no indication in the FRA of how this is to be achieved and there is no apparent location on the site where it would be possible to create the necessary compensatory storage volumes at appropriate levels.

## **5.0 APPRAISAL**

5.1 Key Issues within this update are

- Flood risk
- Open Space and Education contributions

### **Flood risk**

5.2 The site is in Flood Zone 3, where the risk of flooding is high. The NPPF (National Planning Policy Framework) advises that when determining planning applications, Local Planning Authority's should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test. It must also be demonstrated that within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and the development would be safe from flood risk.

### **Sequential Test**

5.3 To pass the sequential test, it must be the case that the development could not be carried out at an alternative site, with lower flood risk. Guidance from the Environment Agency is that typically the area of search should extend over the whole of the authorities' area. Any alternative site must be reasonably available and of comparable size. Such sites would include those that are suitable, developable and deliverable, and where necessary, meet the Local Plan Policy criterion for windfall development.

5.4 The NPPF requires local planning authorities to identify a 5 year housing supply, with a buffer of 20% where there has been under delivery in previous years. The Council acknowledges that the city does not have a 5 year housing supply.

5.5 It is expected housing supply will be addressed when the new Local Plan is adopted. However a considerable amount of the housing proposed in the forthcoming plan is currently within the green belt, based on the 2005 Draft Local Plan proposals maps, and subsequently is unlikely to be deliverable at this time. In the 2014 publication draft of the Local Plan, only two of the designated sites propose 10 or less dwellings and are expected to be delivered in the short-term (1-5 years), these being York College (which has permission and is being built out by the house-builders) and Morrell House. There are not reasonably available alternative designated sites to accommodate the proposed development.

5.6 There have been a considerable amount of windfall sites at other previously developed sites in flood zone 3, where residential development has been permitted, in the interests of regeneration and to contribute towards housing need, given the lack of housing supply in the city. These have been permitted where the developments have been proven to be reasonably safe from flooding and not caused increased flood risk elsewhere. Examples include student developments at Navigation Road and the former Press Offices, 34 Piccadilly and United House Piccadilly, land at the rear of 29 Walmgate, 24 Fossgate, and land at rear of 70-72 and 22a Huntington Road (the latter being allowed on appeal) - applications 13/00349/FUL & 11/01981/FUL.

5.7 Overall, given the housing need in the city and lack of similar housing sites in the city that are reasonably available, the proposals are deemed to pass the sequential test.

### **Exception Test**

5.8 For the Exception Test to be passed it must be demonstrated that –

- The development provides wider sustainability benefits to the community that outweigh flood risk and
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

5.9 The site specific FRA demonstrates that the proposed houses can be protected from flooding and flood risk will not be increased elsewhere. The proposals pass the exception test.

### Sustainability benefits

5.10 There are demonstrable sustainability benefits. The city does not have an adequate housing supply, in terms of delivery over previous years, and as there is no up-to-date Local Plan that identifies a deliverable future supply. The development would provide family housing, for which there is an identified need, in a sustainable location, on what is now a brownfield site. The scheme has been designed so it would not harm the character and appearance of the conservation area.

### Whether the development would be safe for its lifetime and not increase flood risk elsewhere

5.11 The houses would be reasonably protected from flooding -

- The 2013 York FRA requires in such cases that development is protected from 1 in 100 year floods, finished floor levels of dwellings should either be above the existing ground level or 600mm above the 1 in 100-year (1%) flood level (11.46m AOD in this case), whichever is the higher. The proposals have a finished floor level of 10.86m AOD which is the 1 in 100 year flood level and around 1m higher than surrounding ground levels. Flood gates would protect up to the desired 11.46 AOD level, and the buildings would have flood resilient construction.
- It would be required future residents sign up to the Environment Agency Flood Warning Service.
- The means of escape would be from the rear of the houses, occupants would be aware of flood events given the amount of housing in this area already, which is in Flood Zone 3 and closer to the river and via the Environment Agency flood warning service. The means of escape off-site would not be at the desired AOD level. However, there was a similar scenario at a site on Dennison Street (off Huntington Road) where residential development was allowed on appeal (planning application 11/01981/FUL), despite no safe means of escape. The appeal was allowed on the grounds that the dwelling(s) themselves would be adequately protected, as would be the case here.

5.12 There would be no increase in flood risk elsewhere -

- There would be no loss of flood water storage on site. There would be floodable voids below the houses to store flood water. The storage area would provide space up to the 1 in 100 year flood level. Ground levels would not be raised; they would be lowered in parts of the rear gardens.
- An underground storage tank would be installed on site, which would store water and restrict its flow rate into the drainage system, thus reducing surface water run-off in relation to existing rates.

## **Education & Open Space provision**

5.13 Policy ED4 advises that in considering proposals for residential development any consequences for existing schools will be assessed. When additional provision is required as a result of the proposals, developers will be required to make appropriate financial contributions.

5.14 There is no capacity at the local primary school. As such a contribution of £23,968 was sought. However the contribution would be pooled, to finance an increase in capacity to the school in due course. According to the NPPG, the type of pooling proposed should not be sought for small scale developments for less than 10 houses. The NPPG guidance is up to date and carries more weight than local policy/guidance in this respect.

5.15 The NPPG also carries more weight than Draft 2005 Local Plan policy L1c, which relates to open space contributions which, are also pooled.

## **6.0 CONCLUSION**

6.1 The scheme would assist with housing supply in the city, which is a Government priority and there are no significant adverse effects which would conflict with planning policy. Although the site is designated as green space in the 2005 Local Plan, it has not been used in such a way for the past 5 years. The scheme has been designed to mitigate against flood risk, and there would not be undue effects upon the character and appearance of the conservation area, residential amenity and highway safety.

6.2 Approval is recommended, subject to completion of a legal agreement to secure funding of traffic orders, to amend res-parking in the area £5k. The conditions of approval and informatives would be as approved by members at the August 2014 planning committee.

**7.0 RECOMMENDATION:** Approve subject to a revised Section 106 Agreement

1 TIME2 Development start within three years

2 PLANS1 Approved plans -  
Drawings 2270 02, 100, 101, 102, 103, 104, 105, 106, 107, 108 (revision B)

3 Materials

Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out using the approved materials.

Sample panels of the brickwork to be used on the buildings shall be erected on the site and shall illustrate the colour, texture and bonding of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of construction. The panel(s) shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance and in the interests of the appearance of the conservation area.

#### 4 Large scale details

Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

- Eaves
- Dormers
- Roof-lights – manufacturer’s literature. To be conservation type with recessed fittings
- Any hand-rails / guarding to first floor terraces
- Front doors and their surrounds
- Windows and their surrounds
- Flood gates (illustrating how any housing for demountable flood barriers can be installed without detriment to the overall appearance).

Reason: In the interests of visual amenity and the character and appearance of the conservation area.

#### 5 Landscaping

Prior to occupation of the development hereby approved the hard and soft landscaping proposals and highways works, as shown on drawing 2270-100 REV A shall be implemented.

A detailed soft landscaping scheme (to include the number, species, height and position of trees and shrubs) shall be approved by the Local Planning Authority prior to completion of construction. The approved soft landscaping scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area and to enhance biodiversity in accordance with paragraphs 58 and 109 of the National Planning Policy Framework.

6 ARCH1 Archaeological programme required -

7 ARCH2 Watching brief required -

8 ARCH3 Foundation design required -



## 9 Flood risk management

The proposed finished floor levels shall be 10.86 AOD, as shown on the approved plans.

The following measures to manage flood risk, as established in the revised AAH Flood Risk Assessment AAH/0111/12FRA dated April 2014, shall be installed/undertaken prior to occupation and maintained for the lifetime of the development -

- Provision of demountable flood gates at entrances to the houses.
- No sleeping accommodation at ground floor level.
- Residents sign up to the Environment Agency flood warning service.
- The creation of a floodable void/compensatory flood storage under the houses, with apertures no higher than existing ground level. There shall be no loss of flood water storage on site and calculations shall be provided to demonstrate such prior to commencement of the development.
- A maintenance agreement shall be put in place, and adhered to at all times, to ensure that the proposed floodable voids do not become blocked with silts or stagnant water and therefore remain available for the storage of flood water for the lifetime of the development.
- On-site surface water drainage storage capacity with restricted run-off rates.

Reason: To prevent flood risk.

## 10 Foul and surface water drainage

Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Details to include:

- Peak surface water run-off from the proposed development must be restricted to a maximum 5.5 lit/sec.
- Site specific details of the flow control device manhole limiting the surface water to the 5.5 lit/sec.
- Storage volume calculations, using computer modelling must be provided, and must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 20% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required. The full range of modelling should be provided.
- Site specific details of the storage facility to accommodate the 1:30 year storm and details of how and where the volume above the 1:30 year storm and up to the 1:100 year storm will be stored.

- Proposed ground and finished floor levels to Ordnance Datum shall be shown on plans. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Reason: To reduce flood risk and to ensure the proper drainage of the site.

INFORMATIVE: Consent should be sought from Yorkshire Water to connect additional foul and surface water into their sewers.

## 11 Electric Vehicle Charging Points

Prior to occupation of the houses hereby approved at least one electric vehicle charging point shall be provided within the curtilage of each unit.

Reason: to promote and facilitate the uptake of electric vehicles / scooters on the site in line with the Council's Low Emission Strategy (LES) and the National Planning Policy Framework (NPPF). In particular in this case given the likelihood that future occupants would own private cars.

INFORMATIVE: Electric Vehicle Recharging Point means a free-standing waterproof recharging unit capable of charging two electric vehicles simultaneously with the capacity to charge at both 3kw (13A) and 7kw (32A) that has sufficient enabling cabling to upgrade that unit and to provide for an additional Electrical Vehicle Recharging Point.

For further information on how to comply with this condition please contact City of York Council's Low Emission Officer Derek McCreadie.

## 12 Highway Management

Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority and the development carried out accordingly. The statement shall include at least the following information;

- The routing that will be promoted by the contractors to minimise disruption to the highway network.
- Where contractors will park.
- Measures employed to ensure no mud/detritus is dragged out over the adjacent highway.

Reason: To ensure that the development can be carried out in a manner that will not unduly be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

### 13 Construction Environmental Management Plan

Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of local residents from noise dust and vibration.

### 14 NOISE7

The hours of construction, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

15 The garages hereby approved shall be used for domestic vehicles / cycles and storage only and shall not be converted or altered in any way without planning permission.

Reason: To ensure that adequate storage and secure cycle parking provision is retained in accordance with policies GP1 and T4 of the City of York Draft Local Plan, and to provide space for floodwater storage.

### 16 Permitted development rights

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order), development of the type described in Classes A, B, C, D, E and F; of Schedule 2 Part 1 of that Order shall not be erected or constructed.

There shall be no changes to the design of the front boundary gates and railings.

Reason: In the interests of the amenities of the adjoining residents, the appearance of the conservation area and to avoid increasing flood risk, the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 1995.

17 The flat roof area to house 1 (at first floor level) shall not be used as an outside amenity area.

Reason: To ensure no undue impact on neighbour's amenity.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: pre-application advice, requested revised plans, the use of planning conditions.

#### **2. LEGAL AGREEMENT**

Your attention is drawn to the existence of a legal obligation under Section 106 of the Town and Country Planning Act 1990 relating to this development

#### **3. CONTROL OF POLLUTION ACT**

The developer's attention is 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.

#### **4. RESIDENTS PARKING**

The applicant is asked to note that the development/property (as proposed), is not considered eligible for inclusion within the Residents Parking Zone, and it will be removed from such under the Traffic Regulations 1984. Upon commencement of development on the site the applicant is requested to contact the Councils Network Management Section (tel 01904 551450), in order that the amendments to the Residents Parking Scheme can be implemented prior to the occupation of the development.

#### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323