

## COMMITTEE REPORT

**Date:** 7 January 2016                      **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 PROPOSAL

#### APPLICATION SITE

1.1 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 was designated as open space in the 2005 Local Plan and it is within the Clifton Conservation Area.

#### PROPOSALS

1.2 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.

1.3 This application originally came to Planning Committee in August 2014, when 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. The application again went to committee in March 2015, because the legal agreement had not been completed and a change in national planning policy prevented the Local Planning Authority seeking planning gain for developments of under 10 dwellings.

1.4 Before the legal agreement was completed the aforementioned Government advice was revoked following a legal challenge. It is again allowable for Local Planning Authorities to seek planning contributions where reasonable and necessary to make the development acceptable in planning terms, however no more than 5 contributions are allowed towards any particular infrastructure project.

1.5 Members are again recommended to approve the application, subject to a Section 106 agreement. The agreement would secure funding of required highway works to accommodate the development and a contribution to off site open space/sports provision in the local area.

1.6 For reference, the two previous committee reports are attached at the end of this report at Annexes 1 and 2.

## **2.0 POLICY CONTEXT**

2.1 Development Plan – 2005 Draft Local Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Clifton CONF

Schools GMS Constraints: Queen Anne 0253

2.2 Relevant 2005 Draft Local Plan 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

## **3.0 CONSULTATIONS**

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

### **EDUCATION OFFICER**

3.2 Officers advised that based on current data, no contribution towards education facilities is required.

### **FLOOD RISK MANAGEMENT**

3.3 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**

3.4 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.

## SPORTS AND ACTIVE LEISURE

3.5 There is a shortage of children's play, amenity and sports provision in the locality, as detailed in the council's audit on open space. There is a nearby project, at Water Lane for a youth sports facility, which a contribution is sought towards. There have been less than 5 contributions towards this project.

## ENVIRONMENT AGENCY

3.6 The Environment Agency 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

3.7 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.

## 4.0 APPRAISAL

4.1 Key Issues within this update are related to the proposed planning obligations. Previous committee reports have explained why the development of the site was acceptable in principle, in terms of flood risk, despite being in flood zone 3, and that there would be no undue effect on residential amenity, heritage assets and (subject to mitigation) highway safety.

## PLANNING OBLIGATIONS

### Highways

4.2 The proposed site access will necessitate alterations to existing parking restrictions on Sycamore Place. The resident's parking scheme in the area is already heavily subscribed. The development has off street parking and future residents would not be eligible for parking permits. A traffic regulation order will be required as a consequence of the development to formalise the changes. It is necessary the applicant funds these changes which are specific to the development.

### Open / space sports

4.3 The NPPF states "Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required".

4.4 The city has a shortfall of children's play facilities in this part of the city, as evidenced in the open space audit. There is a current project at Water End for youth's sports facilities towards which a contribution is sought. The level of contribution is derived from Local Plan policy L1c and the associated supplementary planning document.

4.5 The contribution required meets the tests established within the NPPG in that it is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

### Education

4.6 The NPPF states that the "Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities". Local Plan 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. The schools in the catchment currently have capacity and at this time there is no justification to seek an education contribution.

## WHETHER THE APPLICATION IS ACCEPTABLE IN PRINCIPLE

4.7 The first committee report explained that the site was previously a bowling green, which was privately owned.

The facility has been closed for around 8 years, with no public access and over the city there has been a general reduction in demand for such sports facilities.

4.8 There is no conflict with policy in terms of loss of sports facilities, because the site is privately owned and has been closed for some time, and in principle housing development on what is now a brownfield site in the urban area is compliant with national policy, which is to boost housing supply and local planning policy which relates to housing on windfall sites.

## FLOOD RISK

4.9 The site is in Flood Zone 3, where the risk of flooding is high. The NPPF 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.

4.10 The March 2015 committee report detailed how it was deemed the application passed the sequential and exception tests and demonstrated no increased flood risk.

## RESIDENTIAL AMENITY

4.11 The NPPF requires that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Local Plan policy GP1: Design requires that development proposals ensure no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

4.12 There would be no undue impact on residential amenity and this was detailed in the August 2014 committee report.

## HERITAGE ASSETS

4.13 The site is within a designated conservation area (Clifton). Within such areas, the Council has a statutory duty to consider the desirability of preserving or enhancing the character and appearance of the area. The site is also within the City Centre of Archaeological Importance.

4.14 The original committee report explained how the development, based on its layout, scale, detailing and use of materials would preserve the conservation area.

4.15 Planning conditions are required to ensure that the development accords with Local Plan policy HE10; Archaeology. It will be required that a watching brief on groundworks be undertaken. The foundation design has been provided and will not damage over 5% of archaeology.

## 5.0 CONCLUSION

5.1 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.

5.2 Approval is recommended, subject to completion of a legal agreement to secure –

- 5k to fund traffic orders, and to amend res-parking required to allow the site access
- £18, 340 open space contribution towards sports facilities at Water End

5.3 The conditions of approval and informatives would be as approved by Members at the August 2014 planning committee; apart from changes as large scale details and the foundation design have now been submitted and agreed to by officers. It is not necessary for the Local Planning Authority to agree the routing of construction traffic, which will not be able to avoid travelling through residential areas between Bootham and the site.

**6.0 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)  
Large scale details –, 213, 214, 215, 216, 217, 219, 231  
Foundation design as detailed in Dossier drawings 1303 - 300-303 and 310-313

3 Materials

The external materials to be used shall be as detailed on the approved drawings.

A sample panel 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.

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 occupation of the development and the works shall be carried out in accordance with the approved details.

- Flood gates (illustrating how any housing for demountable flood barriers can be installed without detriment to the appearance of the development).

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

#### 5 Construction Environmental Management Plan

Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include –

- Measures for minimising the creation of noise, vibration, dust and lighting during the site preparation and construction phases of the development
- Where contractors will park
- Measures employed to ensure no mud/detritus is dragged out over the adjacent highway
- Arrangements for dealing with any complaints

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.

6 ARCH1 Archaeological programme required -

7 ARCH2 Watching brief required -

#### 8 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.

## 9 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.

## 10 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.

## 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 NOISE

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.

## **7.0 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 Council's 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:**

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