

## COMMITTEE REPORT

**Date:** 1 December 2016      **Ward:** Rawcliffe And Clifton Without  
**Team:** Major and Commercial Team      **Parish:** Rawcliffe Parish Council

**Reference:** 16/01848/FUL  
**Application at:** Land To Rear Of 246 Shipton Road Rawcliffe York  
**For:** Erection of two storey dwelling and detached garage/store  
**By:** Mr Dale Rhodes  
**Application Type:** Full Application  
**Target Date:** 4 November 2016  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 The proposal is for a new detached dwelling on a disused garden plot to the rear of 246 Shipton Road. The site is accessed off Rawcliffe Croft. The character of the area is residential with traditional semi-detached properties forming the majority of the housing stock. There is a regularity in the streetscene as a result of this with properties being evenly spaced and separated by garages. Even when extensions have been constructed between the properties, these are at ground floor and the visual separation at first floor is retained.

1.2 The site is heavily overgrown and 246 Shipton Road has obviously been vacant for some time and is now in a state of disrepair. The site is within flood zone 2 and 3.

1.3 The Rawcliffe and Clifton Without Ward Councillors have requested that the scheme is determined at sub-committee. They have raised concerns related to drainage and flood risk; inadequate sewage disposal; proximity to and overlooking of existing properties; and incompatibility with existing development.

### 2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Floodzone 2  
Floodzone 3

2.2 Policies:

CYGP1 Design  
CYH4A Housing Windfalls

CGP15A Development and Flood Risk

### **3.0 CONSULTATIONS**

#### INTERNAL

##### Highway Network Management

3.1 No objections subject to conditions

##### Public Protection (contaminated land)

3.2 No objections subject to conditions

#### EXTERNAL

##### Kyle and Upper Ouse IDB

3.3 No comments

##### Yorkshire Water

3.4 No objection to the proposed building stand-off from the public sewer and suggests a condition related to surface water drainage.

##### Environment Agency

3.5 Objects to the scheme as the submitted Flood Risk Assessment (FRA) does not comply with the guidelines set out in the Planning Policy Guidance in the NPPF and therefore does not present a suitable basis for assessing the flood risks associated with the proposed development. The LPA should also satisfy itself that the Sequential and Exception Tests have been carried out in an open and transparent way and in accordance with the NPPF and have been passed.

##### Rawcliffe Parish Council

3.6 Objects to the scheme for the following reasons:

- Size, scale and design of the proposed development is overbearing and unduly dominant in nature.
- The materials to be used are out of character with properties in the surrounding area
- The proposed development would be incongruous on the street scene; conflicting with the existing form of and layout of the area, to the detriment of the character, appearance and visual amenity of the area.

- The development would adversely impact on the amenity residents to the rear of the property; having an unacceptable impact on light, privacy and enjoyment of their properties.
- The application form for this development clearly states that this development that the proposal is not within 20m of a water course, when in fact the development would lie directly above a water culvert; this in turn renders the Flood Risk Assessment provided with the application unfit for purpose.
- This particular area of Rawcliffe is susceptible to flooding due to the high water table and proximity to the culvert; such a development will increase such flooding risks to surrounding properties.

### Neighbour Notification and Publicity

3.7 Letters of objection have been submitted by 11 local residents. These raise the following concerns:

- The proposal will increase flood risk. The site was left clear due to concerns about flooding and drainage.
- The proposal does not fit with the character of the area and will overlook neighbouring properties and block light.
- Overlooking to neighbouring properties.
- The design and materials of the new dwelling are out of keeping with neighbouring properties.
- The new dwelling is too close to the boundaries.
- It will impact on the sewer that crosses the site.
- Concern about noise, disturbance and highway congestion during construction.
- The proposal does nothing to improve the saleability of the existing derelict property 246 Shipton Road.
- Drainage concerns.

## **4.0 APPRAISAL**

### KEY ISSUES

- Principle of the development
- Flood risk
- Design and character of the proposal
- Amenity considerations

### POLICY CONTEXT

4.1 Central Government guidance is contained in the National Planning Policy Framework (NPPF, March 2012). Paragraph 7 of the National Planning Policy Framework says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Footnote 9 of paragraph 14 contains restrictions where this presumption in favour of sustainable

development does not apply, including land at risk of flooding. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking, such as seeking high quality design, taking full account of flood risk, conserving and enhancing the natural environment, and actively managing patterns of growth to make fullest possible use of public transport, walking and cycling.

4.2 Section 6 of the NPPF 'Delivering a wide choice of high quality homes' seeks to boost the supply of housing. 4.5 Section 7 of the NPPF requires good design. At paragraph 56, it says that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.

4.3 Section 10 'Meeting the challenge of climate change, flooding and coastal change offers advice on locating new development to avoid increased flood risk. Paragraph 103 advises that in the determination of planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas of risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the exception test, it can be demonstrated that the site is located within the site in an area of lowest flood risk, and the development is appropriately flood resilient and resistant.

4.4 Although there is no formally adopted local plan for York, the City of York Draft Local Plan (DLP) was approved for development control purposes in April 2005. Whilst it does not form part of the statutory development plan for the purposes of S38, its policies are considered to be capable of being material considerations in the determination of planning applications, where policies relevant to the application are in accordance with the NPPF. Policies considered to be compatible with the aims of the NPPF and most relevant to the development are GP1 'Design', GP15a 'Development and Flood Risk', and H4a 'Windfalls'.

4.5 At this stage, policies in the 2014 Publication Draft Local Plan are considered to carry very little weight in the decision making process (in accordance with paragraph 216 of the NPPF).

## PRINCIPLE OF THE DEVELOPMENT

4.6 The site lies within a residential area of Rawcliffe and close to a public transport route. However, the site falls within an area at high risk of flooding. In accordance with footnote 9 of paragraph 14 of the NPPF, the usual presumption in favour of sustainable development established by the NPPF does not apply. Instead, the more restrictive policies in section 10 of the Framework must be applied.

## FLOOD RISK

4.7 Paragraph 103 of the NPPF states that development should be directed to the

areas of low flood risk and that development should not result in an increase of flood risk within the site or elsewhere. Planning Practice Guidance (PPG) on Flood Risk and Coastal Change (updated 15.04.2015) explains that the aim is to steer new development to flood zone 1 and where there are no reasonably available sites in this zone, the local planning authority should take into account the flood risk vulnerability of land uses and consider reasonably available sites in flood zone 2, applying the exception test if required. The site lies in high risk flood zone 3a and, was affected by flooding in 2000. As the proposed development is classified in the NPPF as a 'more vulnerable use', the proposal would need to satisfy the sequential test in order to demonstrate that there are no suitable alternative sites at lower risk of flooding.

4.8 The proposal related to the erection of a single dwelling. Given that the area of search for the sequential test would normally be the local authority area, it is highly unlikely that no other alternative sites could be identified within flood zones 1 or 2 that could not accommodate the proposed development. On this basis the proposal would fail the sequential test. Only if the proposal passes the sequential test would the exception test then need to be applied and a site-specific flood risk assessment considered. In any event, no sequential test has been submitted with the application. In accordance with the NPPF and PPG, the lack of application of the sequential test is grounds for refusal.

4.9 The Council's Strategic Flood Risk Assessment makes the following statement in relation to the Blue Beck area, which includes the site:

Blue Beck has 1 in 80-year (1.1%) protection from the River Ouse, but has the potential to flood behind the defences due to insufficient flood storage, which persists within the catchment. No further development should be permitted in this area unless it passes the exception test, including a specific Flood Risk Assessment, in line with Environment Agency requirements.

## DESIGN AND CHARACTER

4.10 The applicant has submitted a revised scheme in response to officer's concerns about proximity to boundaries and scale of the proposal.

4.11 It is considered that the revised scheme sits well within the plot. The elements of the building closest to the neighbours at 32 and 34 Rawcliffe Croft are single storey so as keep the bulk of the building within the centre of the plot. The design of the property is modern with a shallow pitched roof and eaves at 5.0m above ground level. The highest part of the roof is in the centre of the site, again ensuring the bulk of the building is away from the boundaries.

4.12 The modern design of the building is considered acceptable. While the character of the area is predominantly semi-detached dwellings, the site is set back from the highway and the property will not be clearly visible in the streetscene. The site is not within a Conservation Area and the dwelling will have little impact on the streetscene

as a result of its position. The proposal is clearly residential in nature and as such the design is appropriate.

## AMENITY CONSIDERATIONS

4.13 The proposed dwelling will provide acceptable levels of amenity for future residents. There is a rear garden and bin and cycle storage provided for the amenity of residents.

4.14 There is potential for disturbance to neighbouring residents as a result of the siting of a new dwelling in a position surrounded by rear gardens which have previously only backed on to other gardens. However the application is only for one new property and distances to the boundary are acceptable as discussed above and therefore the impacts are likely to be minimal. While the property is set back from the highway, the garden will back on to other gardens and there is good boundary treatment to provide some protection. It is unlikely that the impact on neighbouring amenity as a result of noise and disturbance from the property will be excessive.

4.15 Distances between main windows and boundaries are generally acceptable. The rear of the property is approximately 7m from the boundary with No's 244 and 246 Shipton Road. To the North, the single storey element of the building is 2m from No.32 Rawcliffe Croft at the nearest point and the two storey bulk of the building is 2.6m from the neighbouring property at the nearest point. To the East the building is 1.4m from the boundary with No.34 Rawcliffe Croft. These distances all represent the closest point of the proposed property to the boundary with the bulk of the building angling away from the boundaries. It should also be noted that the property is approximately 5m to the eaves and 6.5m to the ridge and is therefore relatively modest in height for a two storey dwelling. While the rear ground floor windows are slightly closer to the boundary than would be preferable, these could be screened by the boundary treatment, and the distance of approximately 20m between these windows and the rear windows of the properties on Shipton Road is acceptable. First floor windows are approximately 7m from the boundary at the rear which is an acceptable distance from neighbouring properties to avoid overlooking of properties or gardens. It is also noted that the size of rear garden is similar to other properties on Rawcliffe Croft with similar distances from the rear elevation to boundary as those properties.

4.16 A garden store is proposed to the front of the property in line with the existing houses on Rawcliffe Croft. This is not considered a positive addition to the streetscene however it is a form of development which is not out of keeping with the streetscene. It is sited level with the front of No.34 Rawcliffe Croft and of a form similar to a single garage but without a front garage door.

4.17 Concern has been raised about overshadowing as a result of the scheme. As stated above, the building has been brought further off the boundaries with single storey elements closest to the South-east and north-west boundaries. While there

may be some increase in overshadowing to the rear of No.32 Rawcliffe Croft in the middle of the day as a result of the proposal, this will be minimised by the scale and siting of the proposal. Overshadowing as a result of the scheme is unlikely to significantly impact on daylight to the neighbouring properties themselves or patio areas directly adjacent to those properties.

## **OTHER ISSUES**

4.18 The proposal is acceptable in terms of its parking provision and access.

4.19 The applicant has undertaken a survey of the sewer on site. The building is sited with sufficient easement that it will not impact on the sewer and Yorkshire Water have not raised any objections to this.

## **5.0 CONCLUSION**

5.1 The application has been submitted without an acceptable FRA or a Sequential and Exception test which are required for more vulnerable development in Flood Zone 3. As such the proposal is contrary to policy contained in the NPPF and therefore recommended for refusal as being contrary to relevant flood risk policy.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Refuse**

1 The application site is located within the high risk flood zone 3a. The proposal constitutes more vulnerable use. As such, the sequential test and further the exception test must be passed in order to allow such development. The applicant has failed to submit evidence of the availability of alternative sites at lower risk of flooding to allow the Local Planning Authority to assess whether the sequential test has been satisfied. As such, the proposal fails to satisfy the requirements contained in national planning policy. Furthermore, the proposal has not demonstrated that it would not result in increased flood risk on site or elsewhere. It is therefore, contrary to national planning policy contained in paragraphs 102 and 103 of the NPPF, Policy GP15a of the Draft Local Plan 2005 and the City of York Strategic Flood Risk Assessment Revision 2 (March 2013).

### **7.0 INFORMATIVES:**

#### **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 an attempt to achieve a positive outcome:

Informed the applicant about the need for sequential and exception tests.

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

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