

	<b>REPORT TO PLANNING &amp; DEVELOPMENT COMMITTEE</b>  <b>TO BE HELD ON THURSDAY, 11 March 2021</b>	
<b>APPLICATION REFERENCE NO:</b>  <b>20/02781/FL</b>	<b>TARGET DATE:</b>  <b>23 February 2021</b>	<b>GRID REF:</b>  <b>504933-489189</b>

## **REPORT OF THE PLANNING SERVICES MANAGER – PSM/21/44**

**SUBJECT: Installation of sculpture for a 10 year period at Scarborough Castle Castle Road Scarborough North Yorkshire YO11 1HY for Jeanine Griffin**

### 1.0 THE PROPOSAL

1.1 Planning consent is sought to site an art sculpture for a period of 10 years within the grounds of Scarborough Castle which is an existing visitor attraction managed by English Heritage.

1.2 The sculpture would be an abstract representation of an accropode block designed by Artist, Ryan Gander OBE, and would be cast using a low carbon concrete, limestone and recycled glass mix. It would stand at a maximum of 2 metres in height and have a maximum length of 2.45 metres. It would be 'anchored' into the ground to a maximum depth of 500mm and be sited at the northernmost area of the headland, approximately 25 metres south of the nearest cliff edge.

1.3 Scarborough Castle occupies the natural headland which sits above the historic town and harbour to the south. The Castle's square Keep can be seen from both South and North Bays and further from various viewpoints inside and out of the town. Despite the prominent medieval castle ruins and walls dominating the site in the present day, it is a multi-period site with evidence of occupation and use from the Bronze Age and later during the Roman period as a signal station. The site is formally designated as a Scheduled Monument under the Ancient Monuments Act and also forms part of the designated Scarborough Conservation Area. It is within the settlement Development Limits as defined by the Scarborough Borough Local Plan.

1.4 It should be noted that the groundworks being proposed and to enable the siting of the sculpture would also require Scheduled Monument Consent to be obtained from Historic England.

### 2.0 SCREENING OPINION REQUIRED

2.1 No.

### 3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 None undertaken.

### 4.0 CONSULTATIONS AND COMMENTS

The following is a summary of the key and relevant comments received from consultees and interested parties. Their full comments and any accompanying documentation are available to view on the Council's website.

4.1 Historic England - No objection on heritage grounds to the installation of the sculpture, but consider that the lack of reference to the interpretation panel is a matter of concern, and would prefer that this was removed from the proposal. The information proposed for the panel should be presented to the public in other formats. They consider that the application meets the requirements of the National Planning Policy Framework, in particular paragraph number 189.

4.2 County Archaeologist (NYCC) - No objections but recommends that a condition be applied to any decision requiring that a scheme of archaeological mitigation recording be undertaken in response to the ground-disturbing works associated with the development proposal.

4.3 Engineering Services (SBC) - No objections to either (1) the sculpture's overall size and weight and whether this might adversely affect the stability of the cliff and (2) the proposed below ground anchoring/foundation detail.

4.4 Publicity - Consultation period expired on the 11th February 2021

4.5 One comment of support received from a member of the public informing that they consider the site to be appropriate for something with the proposed scale and impact.

### 5.0 RELEVANT SITE PLANNING HISTORY

None relevant to the consideration of this planning application.

### 6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of The Town and Country Planning Act 1990 require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise (in the case of advertisement applications the Advertisement Regulations 2007 are applicable). Attention is drawn to the following Development Plan and other planning policies and guidance which are considered to be particularly relevant to the consideration of this application:-

#### **Scarborough Borough Local Plan 2017**

**SD 1 - Presumption in Favour of Sustainable Development**

**TOU 1** - New Tourism Facilities  
**DEC 1** - Principles of Good Design  
**DEC 5** - The Historic and Built Environment  
**DEC 6** - Archaeology  
**ENV 3** - Environmental Risk

### **National Planning Policy Framework**

**NPPF2** - Achieving Sustainable Development  
**NPPF8** - Promoting healthy communities  
**NPPF12** - Achieving well-designed places  
**NPPF15** - Conserving and enhancing the natural environment  
**NPPF16** - Conserving and enhancing the historic environment

### **Scarborough Borough Supplementary Planning Documents**

None relevant

### **Local Planning Policy and Guidance**

None relevant

## 7.0 ASSESSMENT

### Introduction

7.1 The material planning considerations of this application for development are:

- i) Principle of Development
- ii) Visual Amenity and Heritage Assets
- iii) Buried Archaeology
- iv) Cliff stability

- i) Principle of Development

7.2 The host site is situated within the settlement Development Limits as defined by the Scarborough Borough Local Plan (2017) and Policy SD1 (Sustainable Development) of the Local Plan sets out a presumption in favour of sustainable development, stating that 'proposals that accord with the policies of this Local Plan will be permitted without delay, unless material considerations indicate otherwise'.

7.3 Policy TOU1 (New Tourism Facilities) states inter alia that, 'proposals for the development of new or the enhancement or expansion of existing tourism facilities will be permitted where they (a) respect the distinctive tourism character of the area in which the development is proposed, both in terms of scale and nature of development; and (b) wherever possible, help to reduce the seasonal nature of the tourism industry in the area.'

7.4 In principle, it is considered that the proposed introduction of a new piece of sculpture by a well-regarded artist is likely to add variety and further interest to the existing visitor attraction, which in turn could help to reduce the seasonal nature of the

destination, as required by 'b' of Policy TOU1 of the Local Plan. With regards to fulfilling the requirements of 'a' of Policy TOU1, an assessment on the development's impact on the character of the area has been assessed in the following section.

## ii) Visual Amenity and Heritage Assets

7.5 Policy DEC1 of the Scarborough Borough Local Plan and Section 12 of the National Planning Policy Framework require that new development be of a good design, taking into account the appearance and character of the area. In addition to these considerations, as the proposal site lies within the designated Scarborough Conservation Area the proposal must be considered against the terms of Section 72 of the Town and Country Planning (Listed Building and Conservation Area) Act 1990. Section 72 requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. These requirements are reiterated in both Section 16 of the National Planning Policy Framework and Policy DEC5 of the Scarborough Borough Local Plan.

7.6 Policy DEC5 states inter alia that, 'Historic rural, urban and coastal environments will be conserved and, where appropriate, enhanced and their potential to contribute towards economic regeneration, tourism offer and education of the area exploited, particularly those elements which contribute to the areas distinctive character and sense of place'. The same policy later states that, 'proposals affecting a designated heritage asset (or an archaeological site of national importance) should conserve those elements which contribute to its significance. Harm to such elements will be permitted only where this is outweighed by the public benefits of the proposals. Substantial harm or total loss to the significance of a designated heritage asset will be permitted only in exceptional circumstances'.

7.7 It should first be noted that Historic England has raised no objections to the proposal from a heritage perspective, but did raise concerns to the lack of detail provided about the design of the proposed freestanding interpretation boards referred to in the Design and Access Statement. The Applicant has since withdrawn the interpretation boards from the proposal and instead is proposing to mount interpretation boards upon an existing fence close to where the sculpture would stand. This change does not require planning permission and is therefore considered to be an appropriate reaction to Historic England's concerns.

7.8 In considering the proposed sculpture itself against the aforementioned material design and heritage considerations, whilst the design considerations of any art work are subjective, it is considered that the sculpture is in broad terms an appropriate scale for its intended purpose whilst not dominating or to the detriment of the surrounding area, which includes nationally important designated heritage assets. In fact, it is considered that the sculpture would not likely be visible from many of the surrounding public vantage points due to its modest size (maximum height of 2 metres) and siting within the castle grounds (set back a minimum of 25 metres from the cliff edge). In terms of material, the body of the sculpture would be made-up of a mix of concrete, limestone and reused glass which would take a grey colour once completed. Whilst the final finish of the sculpture would appear visually different to the dominant material used on the site (being natural stone) it is considered that it would draw attention to the artwork within its immediate vicinity (thus helping it to convey its messages about climate change and the

costal environment) without adversely affecting the designated heritage assets present in the area.

7.9 Notwithstanding the above, it is worth noting that this 21st century addition to the site would only be present for a temporary 10 year period and when considered alongside the public benefits of the sculpture (and wider Wild Eye project) as detailed in the submitted Public Benefit Statement, it is considered that the reasoning behind the chosen design and location is sound and is justified when assessed against all of the terms of the statutory heritage legislative requirements, Local Plan Policies DEC1 and DEC5, and Sections 12 and 16 of the National Planning Policy Framework.

iii) Buried Archaeology

7.10 Policy DEC6 of the Local Plan is concerned with the protection of buried archaeological remains. Given the proposal involves the excavation of ground to allow for the installation of an anchoring system which would provide structural stability to the sculpture, the County Archaeologist has recommended that a Condition be applied to any positive decision requiring appropriate archaeological mitigation. This is due to the site having very high archaeological potential. However, as the host site is protected by Part I of the Ancient Monuments and Archaeological Areas Act 1979, and the investigation for archaeological purposes is provided for in designated areas by Part II of that Act, it is considered not to be necessary to duplicate any archaeological requirements of the aforementioned Act in a planning condition. However, Officers consider it appropriate to attach an informative to the decision notice which notifies the applicant's legal responsibilities relating to the fulfilment of the terms of the Ancient Monuments and Archaeological Areas Act 1979.

iv) Cliff stability

7.11 Policy ENV3 (Environmental Risk) of the Local Plan, amongst other things, seeks to ensure that development does not contribute to or exacerbate coastal erosion and/or landslip and ensures development is not exposed to the risks of coastal erosion and/or coastal flooding. The Council's Engineer has no objections to the proposal and considers that the siting and anchoring of the sculpture would not adversely affect the stability of the cliff.

## POSITIVE AND PROACTIVE STATEMENT

During the course of the application the Local Planning Authority discussed the proposal with the Agent and was able to secure clarification on a few minor issues. By both parties acting positively and proactively it avoided an officer recommendation of refusal to the Planning Committee.

## RECOMMENDATION

**PERMISSION BE GRANTED**, subject to the following condition(s)

1 The development hereby permitted shall be carried out in accordance with the following plans and documents:

- Site Location Plan showing proposed siting of the sculpture received by the Local Planning Authority on the 29th December 2020,
- 6.No drawings showing the elevations and dimensions of the sculpture received by the Local Planning Authority on the 15th December 2020,
- Design and Access Statement detailing scale, materials and proposed method of installation of both the sculpture and supporting ground anchors received by the Local Planning Authority on the 15th December 2020,
- Supporting statement titled 'Wild Eye Sculptures - Amended Interpretation Signage Approach' received by the Local Planning Authority on the 8th February 2021.

Reason: To avoid doubt.

- 2 The sculpture and anchoring system hereby permitted shall be fully removed from its fixed position within the site and the ground made good within 10 years from the date of this decision notice.

Reason: The application has been assessed against the relevant legislative and policy requirements based on the proposal to site the development for a period of 10 years only, and the Local Planning Authority has not considered the impact the development would have should it remain for more than 10 years. This condition is therefore applied in the interest of preserving the special architectural and historic interest of the site which forms part of the designated Scarborough Conservation Area.

## Notes

- 1 It is advised that the development site is protected by Part I of the Ancient Monuments and Archaeological Areas Act 1979, and the investigation for archaeological purposes is provided for in designated areas by Part II of that Act. This means that Scheduled Monument consent may be required from Historic England prior to any groundworks commencing and the failure to obtain the necessary consents is likely to be an offence.

*David Walker*

## **Background Papers:**

Those documents referred to in this report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MR STEPHEN GANDOLFI ON 01723 383685 email [stephen.gandolfi@scarborough.gov.uk](mailto:stephen.gandolfi@scarborough.gov.uk)



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