



**SCARBOROUGH**  
BOROUGH COUNCIL

**REPORT TO PLANNING &  
DEVELOPMENT COMMITTEE**

**TO BE HELD ON THURSDAY,  
8 December 2022**

**APPLICATION REFERENCE NO:**

**22/01151/OL**

**Corporate Aims  
Better Lives, Better Homes, Better  
Places, Brighter Futures, Better  
Council**

**TARGET DATE:**

**27 December 2022**

**GRID REF:**

**503693-488285**

**REPORT OF THE HEAD OF PLANNING – HOP/22/246**

**SUBJECT: Outline application for proposed development of houses and flats with all matters reserved at Squire Of Scarborough Ltd 135 - 137 Victoria Road Scarborough North Yorkshire YO11 1SD for Squires Of Scarborough Ltd**

**1.0 THE PROPOSAL**

1.1 This application seeks outline consent for 29 open market dwellings (9 x 3-bed houses, 9 x 1-bed flats and 11 x 2-bed flats) on a 0.185ha hectare site adjacent to Victoria Road between Mill Street and Belle Vue Street currently occupied by C19 and C20 buildings of varying scale used for dwellings and (principally) retail, storage and distribution, mostly for the Squire of Scarborough carpet and flooring retailer.

1.2 All matters (access, appearance, landscaping, layout and scale) are for later consideration at the reserved matters stage; this application seeks to establish the principle of developing the land with 29 open market dwellings only.

1.3 At present the site constitutes a group of buildings of varying form, scale and massing. The major part of the Belle Vue and Victoria Street frontages are characterised by the distinctive early C20 former hall building (now forming the major part of the Squire retail offering) and the adjacent villa. That part of the site adjacent to Mill Street is mainly comprised of C20 low-slung brick-built storage buildings, with a form typical of their age.

1.4 With respect to the site's context, this is mainly characterised by C19 and early C20 residential and commercial buildings up to 3 storeys high in the distinctive late Victorian architectural style which is a defining feature of this area of the town. Many buildings are in the locally typical light buff coloured brick.

1.5 In terms of the site's planning designations and constraints, part of the site (the south-western corner) forms site BR-075 on the Council's 'Brownfield Register'. The site falls outside the Scarborough Town Centre Boundary and the Scarborough Primary Shopping Area, as defined by the Local Plan Policies Map. The site is within the

Environment Agency Flood Zone 1 (land assessed as being at the least risk of flooding). All of the land is located within the Development Limits of Scarborough as defined by the Scarborough Borough Local Plan. Further, the site is outside the Scarborough Conservation Area.

1.6 In addition to the submitted plans, the application is accompanied by a Design and Access Statement (available to view on the Council's website), which sets out the applicant's case.

1.7 A draft Section 106 agreement has been supplied with the application, although this appears to offer no firm commitments and is in fact an un-modified copy of the Council's own template document. No Heads of Terms have been supplied. Such a document would normally set out the applicant's broad commitments with respect to planning obligations.

## 2.0 SCREENING OPINION REQUIRED?

2.1 No.

## 3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 None undertaken.

## 4.0 CONSULTATIONS AND COMMENTS

4.1 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.

4.2 Highway Authority: Awaited.

4.3 Lead Local Flood Authority: Awaited.

4.4 NHS Clinical Commissioning Group: Awaited.

4.5 Local Education Authority: Awaited.

4.6 Yorkshire Water: Awaited.

4.7 SBC Environmental Heath: No comment to make.

Publicity - consultation period expired 10 November 2022

4.8 1 letter of objection to the proposals has been received by the Council. This is from a local resident and business owner and makes the following points:

- The development will lead to the loss of on-street parking on Mill Street, which is already an area of very high parking pressure for businesses and residents (including HMO occupants);
- The proposal is for 29 units with only 22 parking spaces, which is insufficient;
- The loss of the historic building facades will detract from the character of the area;
- I am concerned that the development will not be completed and the site will be left vacant;
- The development is of an excessive scale.

4.9 The Victorian Society has submitted a letter of objection to the proposal, which makes the following points:

- Although this is a non-designated heritage asset, we believe it holds a strong place among the historic setting of Scarborough;
- Demolishing buildings with no structural problems seems a harsh outcome;
- Demolition is incompatible with the Council's commitment to lower carbon emissions;
- We encourage the applicant to investigate repurposing of the buildings to allow them to remain in keeping with their setting and to reduce carbon emissions.

## 5.0 RELEVANT SITE HISTORY

5.1 There are no entries in the planning history relevant to the determination of this 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**

- SH 1** - Settlement Hierarchy
- DEC 1** - Principles of Good Design
- DEC 4** - Protection of Amenity
- HC 1** - Supporting Housing Development
- HC 2** - New Housing Delivery
- HC 3** - Affordable Housing
- HC 10** - Health Care and Education Facilities
- HC 14** - Open Space and Sports Facilities

### **National Planning Policy Framework**

- NPPF2** - Achieving Sustainable Development
- NPPF5** - Delivering a sufficient supply of homes
- NPPF12** - Achieving well-designed places

**NPPF16** - Conserving and enhancing the historic environment

## **Scarborough Borough Supplementary Planning Documents**

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

Affordable Housing

Residential Design Guide - SPD

Education Payments

Green Space (Adopted November 2014)

## **Local Planning Policy and Guidance**

None relevant

### 7.0 ASSESSMENT

7.1 Taking into account the relevant planning policy, representations, consultation responses and all other material planning considerations, your Officers consider the key issues in the determination of this application to be:

- A) The principle of developing this site for 29 dwellings
- B) Conservation issues - potential for and desirability of reuse
- C) Affordable housing
- D) Public open space considerations
- E) Impact on amenity
- F) Education
- G) Highways
- H) Surface water and flood risk
- I) Primary health care infrastructure

A) The principle of developing this site for 29 dwellings

7.2 Policies SD1, SH1, HC1 and HC2 of the Local Plan are the starting point for consideration. These policies set out the Borough's spatial housing objectives, and they provide for the delivery of sites allocated for housing development and support for the development of appropriate sites inside the Development Limits (as they are shown on the Local Plan Policies Map).

7.3 These policies are clear in that where the proposal is for housing within the Development Limits (as in this case) the principle of development will only be supported where the proposal is otherwise in accordance with other policies in the Local Plan.

7.4 In this regard, policy DEC1 is of critical importance in this case. In general terms it requires that new development is of a high standard of design responds positively to its context.

7.5 Whilst it is important to hold in mind that the applicant's submitted drawings (which entail a site plan and elevations) are indicative only, their purpose is to demonstrate to the Committee that the site can accommodate 29 units (9 x 3-bed houses, 9 x 1-bed

flats and 11 x 2-bed flats) on the 0.185ha hectare whilst being in compliance with the Local Plan.

7.6 Your Officers would suggest that the drawings do the opposite. In the view of your Officers the drawings serve to demonstrate that the proposal amounts to significant overdevelopment of the site.

7.7 Members will note that the indicative drawings do not show all of the required parking spaces (in accordance with Highway Authority Parking Guide 30 parking spaces are required whereas 23 are shown) and the necessary 0.03 area of public open space is missing from the in design. Even with these 'spatial omissions', whilst the dwellings fronting Mill Street are shown as being an appropriate 2-storeys high, to accommodate the proposed mix of units the frontage flat buildings are 4 storeys, which is already a storey greater than the buildings in the immediate vicinity of the site.

7.8 To accommodate the 29 units the applicant is seeking on the site together with the necessary parking and open space, it is likely that the building on the Victoria Road frontage would need to be conspicuously taller than the existing buildings on the site and those in the vicinity, which would harm the character and appearance of the area in your Officers' view.

7.9 One option the applicant has sought to informally advance as a potential solution to the lack of space for on-site parking is a 'racked' parking of type Members have considered on development sites elsewhere in the town, albeit above ground rather than partially subterranean arrangement Members considered recently for another scheme. It is not evident how these could be accommodated within the site without the mechanisms forming incongruous features in their own right.

7.10 In summary, by virtue of the site's shape, size and context, the development of the site with 9 x 3-bed houses, 9 x 1-bed flats and 11 x 2-bed flats would constitute over-development of the site; to conceivably accommodate the proposed mix, including the required 0.03ha on-site open space and the necessary vehicle parking, the residential buildings would need to be of such a height that they would be conspicuously tall, and the arrangement of the site so cramped, that the development would harm the character and appearance of the area. As such, the development the development fails to constitute good design contrary to policy DEC1 of the Local Plan.

## B) Conservation issues - potential for and desirability of reuse

7.11 Some of the existing buildings on the site, notably those on the Victoria Road frontage, originate from the early C20 and their facades are of significant architectural merit. Whilst not Listed and outside of the Scarborough Conservation Area, they are 'non-designated heritage assets' as defined by the National Planning Policy Framework.

7.12 Members will have noted that the Victorian Society has objected to the principle of removing these buildings and recommends instead that opportunities for re-use are explored.

7.13 Importantly, the re-use of this site for housing accords with the Local Plan in principle (albeit not for the number of units the applicant is hoping for), so it would not

be possible to withhold consent for the proposed use and require that the site be put to an alternative use with its current built form intact.

7.14 With this in mind, the issue at hand for the Committee is therefore whether re-use of the site for housing is appropriate and whether there are sufficient grounds in planning policy terms to insist on their retention and conversion rather than replacement.

7.15 . Whilst the Victoria Road facades of these buildings have a 'regular' appearance, which might indicate discrete and well-ordered buildings 'ripe' for conversion, as Members will be aware the site is a conglomeration of large, open-plan buildings and warehouses of the sort which unfortunately do not inherently lend themselves to residential conversion; this is not readily apparent from available street scene photographs which may have informed the comments of the consultee in question.

7.16 Had these buildings been the subject of formal designation it may have been that the Council could insist on their retention at least in part, but as it is your Officers would suggest that requiring retention for a residential scheme (at any cost) would not be feasible or reasonable in the context of local and national planning policy.

7.17 In short, your Local Plan policies allow for re-use of the site for residential purposes and Officers would advise that there is no policy device which could be employed to insist upon retention and conversion of the frontage buildings. That is not to suggest that should Members be minded to grant consent that an exceptionally high standard of design and some element of re-use of reclaimed features could not be insisted upon; given the architectural quality of what is being lost your Officers would suggest that such requirements would be wholly justified.

7.18 Beyond the retention of the buildings for their contribution to the street scene, the Victorian Society also suggest that the buildings ought to be retained for climate change reasons, the argument being that existing buildings are a significant store of embodied energy/ emissions and their re-use rather than new-build would be more efficient in terms of carbon emissions.

7.19 In this respect, your Officers would advise that the Council's planning policies do not directly require a 're-use before replacement' approach. In any case, for residential development your Officers would suggest that the proposition that re-use has less of a climate impact than replacement is not necessarily self-evident; it is possible that new-build units would be considerably more energy efficient over their lifetime than a conversion scheme (with its inherent design compromises from thermal and energy use perspectives), thereby offsetting their initial cost in carbon terms. The Victorian Society has not provided evidence to substantiate its position.

7.20 There is also the issue of living conditions for new residents to hold in mind. Again, it is possible that new-build units could provide more comfortable and cost-efficient living conditions for new residents versus a conversion scheme.

## C) Affordable housing

7.21 Policy HC3 of the Scarborough Borough Local Plan together with the Council's Affordable Housing Supplementary Planning Document are clear in that the provision of affordable housing on eligible developments will be expected. In accordance with policy HC3 of the Scarborough Borough Local Plan, 10% of the units (3 properties) are required to be affordable dwellings in this case.

7.22 The applicant has proposed (section 9 of the submitted application form) that none of the 29 units are affordable homes, i.e. it is made clear that this is a 100% market housing scheme. That, in its own right, clearly represents a sustainable reason for refusing planning permission.

7.23 As such, approval of the application would be contrary to policy HC3 of the Scarborough Borough Local Plan and the provisions of the Council's Affordable Housing Supplementary Planning Document, as the development fails to provide sufficient affordable housing provision. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

#### D) Public open space considerations

7.24 Policy HC14 of the Scarborough Borough Local Plan and the Council's Green Space Supplementary Planning Document (2014) together with the associated Scarborough Borough Playing Pitch Strategy (2013) are clear in that the provision of sufficient high quality open space, sports and recreation (including play) space is key to new residential development being 'sustainable development'. This stance is supported by the Government's planning policies as set out in paragraph 92 of the NPPF. It states that planning decisions should aim to achieve healthy, inclusive and safe places including through the provision of 'high quality public space'.

7.25 The relevant policies and associated documents provides an evidence based assessment of what provision is required in any given locality in the four areas below:

- Parks and gardens;
- Sports facilities;
- Children's play; and
- Amenity open space.

7.26 Based on a development of 29 dwellings of the size proposed, there would be a need for an off-site contribution towards children's play facilities of £15,856, an off-site sports contribution of £10,625 and a parks and gardens contribution of £9,017.26. This is in addition to an on-site area of amenity open space of 0.03 ha.

7.27 Although with the submission of a draft Section 106 agreement (which is simply a copy of the Council's own template agreement) there is some suggestion that the applicant may be willing to make a financial contribution to the various aspects of public open space, in the absence of a completed legal obligation means to secure contributions are not in place.

7.28 As such, approval of the development would be contrary to policy HC14 of the Scarborough Borough Local Plan, the Council's Green Space Supplementary Planning Document (2014), the associated Scarborough Borough Playing Pitch Strategy (2013)

and paragraph 92 of the NPPF as the development fails to provide sufficient high quality open space together with sports and recreation (including play) space. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

#### E) Impact on amenity

7.29 Policy DEC4 of the Local Plan deals specifically with the protection of amenity. It states:

Proposals should ensure that existing and future occupants of land and buildings are provided with a good standard of amenity. Proposals for development should not give rise to unacceptable impacts by means of:

- a. Overbearing impact;
- b. Overlooking and loss of privacy;
- c. Disturbance arising from such things as noise, light pollution and other activities;
- d. Emissions including smells and other pollutants; or
- e. Overshadowing or loss of natural light.

7.30 Considering points a, b and e (overbearing, overlooking and overshadowing), issues relating to appearance, landscaping, layout and scale are all issues for consideration at the (later) reserved matters stage. However, without prejudice to Officers' concerns with the proposals as set out in this report, it is the view of your Officers that, with careful consideration, a design could be achieved (at least notionally) for consideration at the reserved matters stage which would prevent the unacceptable overbearing, overshadowing and overlooking impacts to neighbouring dwellings. Residential development, by its character and nature, even of the density proposed here, is unlikely to have undue impacts in terms of points c. and d.

7.31 However, notwithstanding these views, if Members were minded to grant consent and the scheme presented to them at the reserved matters stage raised concerns with respect to neighbourliness, then it would be within the gift of the Committee to withhold consent at that point.

#### F) Education

7.32 Policy HC10 of the Scarborough Borough Local Plan together with the Council's Education Payments Supplementary Planning Document are clear in that the provision of education places for the children living in new dwellings is key to the development being 'sustainable development'.

7.33 This stance is supported by the Government's planning policies as set out in paragraph 95 of the NPPF. It states that great weight should be attached to the need to create, expand or alter schools (to cater for new development), and 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.

7.34 The Education Authority has been consulted on the application but has not yet provided its response. It is likely that the Education Authority will request a sum be



provided by the developer to pay the cost of providing additional school places for the children likely to be living on the new development in line with the Council's Education Payments Supplementary Planning Document.

7.35 Members will be updated on the position of the Education Authority at the meeting of the Committee.

#### G) Highways

7.36 The Local Highway Authority is a statutory consultee in the planning process on matters relating to highway safety.

7.37 The Highway Authority has not yet submitted its formal response to the application. Should the Highway Authority wish to comment on the application then its observations will be reported verbally to Members at the meeting of the Committee.

7.38 Notwithstanding the lack of response from the Highway Authority, taking highway safety as an issue in isolation, it is the view of your Officers that, with careful consideration, a design could be achieved (at least notionally) for consideration at the reserved matters stage which provides for safe pedestrian and vehicular access to the site and adequate parking (albeit potentially at the expense of the development's appearance, which is covered by recommended refusal reason 1). Any scheme put forward at the reserved matters stage found to be unacceptable could be refused by the Committee at that stage.

7.39 In summary, Officers do not recommend that a discrete 'highways based' reason for refusal is necessary.

#### H) Surface water and flood risk

7.40 Policy ENV3 of the Local Plan states that development will only be permitted where adequate provision for foul and surface water disposal exists or can be provided. Section 14 of the NPPF requires Local Planning Authorities to ensure flood risk is not increased elsewhere as a result of new development.

7.41 The County Council as the Lead Local Flood Authority is the statutory consultee on matters related to surface water drainage and Yorkshire Water has a role as the statutory undertaker. Neither body has yet provided a response to the application.

7.42 However, as the site is already covered in buildings and hard surfaces as it stands the development will not increase flood risk in the locality and it is very likely that a suitable solution for the drainage of the new development could be found. Importantly, the site is drained without issue as it stands. Conditions requiring the submission of a drainage scheme as part of the reserved matters could be required by planning condition should Members be minded to grant consent, notwithstanding the advice in this report.

#### I) Primary health care infrastructure

7.43 The NHS Clinical Commissioning Group has been formally consulted on the application. It has not yet provided its response but Members will be updated on this point at the meeting of the Committee.

## POSITIVE AND PROACTIVE STATEMENT

For the reasons set out, the application has been found to be fundamentally unacceptable. It is not considered that the proposal could have been amended to the extent necessary such that Officers would have been able to recommend approval; wholesale re-working of the scheme is necessary. It is open to the applicant to make a second application without having to pay a fee, subject to time limits and restrictions. The applicant is encouraged to engage in further pre-application discussions with the Local Planning Authority before doing so.

## RECOMMENDATION

Grant your Officers delegated authority to REFUSE planning permission for the reasons set out, plus with the agreement of the Chairman of the Planning and Development Committee any further reasons as may be deemed necessary following receipt of any outstanding consultation responses from 1) the Local Education Authority; 2) and, 2) the NHS Clinical Commissioning Group.

- 1 Policy DEC1 of the Scarborough Borough Local Plan requires that new development is of a good standard of design. Paragraph 126 of the Framework states that 'the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve' and that 'good design is a key aspect of sustainable development...'.  
  
By virtue of the site's shape, size and context, the development of the site with 9 x 3-bed houses, 9 x 1-bed flats and 11 x 2-bed flats would constitute over-development of the site; to conceivably accommodate the proposed housing mix, including the necessary 0.03ha on-site open space (as required by the Council's Green Space Supplementary Planning Document) and the required vehicle parking, the residential buildings would need to be of such a height that they would be conspicuously tall, and the arrangement of the site so cramped, that the development would harm the character and appearance of the area.  
  
As such, the development the development fails to constitute good design or sustainable development contrary to policy DEC1 of the Local Plan and Section 12 of the Framework, notably paragraph 126.

- 2 Policy HC3 of the Scarborough Borough Local Plan together with the Council's Affordable Housing Supplementary Planning Document are clear in that the provision of affordable housing on eligible developments will be expected. In accordance with policy HC3 of the Scarborough Borough Local Plan, 10% of the units are expected to be affordable dwellings in this case.

The applicant has proposed (section 9 of the submitted application form) that none of the 29 are affordable homes (i.e. this is a 100% market housing scheme).

As such, the proposal is contrary to policy HC3 of the Scarborough Borough Local Plan, the provisions of the Council's Affordable Housing Supplementary Planning Document, as the development fails to provide sufficient affordable housing provision. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the Framework.

- 3 Policy HC14 of the Scarborough Borough Local Plan and the Council's Green Space Supplementary Planning Document (2014) together with the associated Scarborough Borough Playing Pitch Strategy (2013) are clear in that the provision of sufficient high quality open space, sports and recreation (including play) space is key to new residential development being 'sustainable development'. This stance is supported by the Government's planning policies as set out in paragraph 92 of the NPPF. It states that planning decisions should aim to achieve healthy, inclusive and safe places including through the provision of 'high quality public space'.

Based on a development of 29 dwellings of the size proposed, there would be a need for an off-site contribution towards children's play facilities of £15,856, an off-site sports contribution of £10,625 and a parks and gardens contribution of £9,017.26. This is in addition to an on-site area of amenity open space of 0.03 ha.

In the absence of a completed legal obligation means to secure contributions are not in place. As such, approval of the development would be contrary to policy HC14 of the Scarborough Borough Local Plan, the Council's Green Space Supplementary Planning Document (2014), the associated Scarborough Borough Playing Pitch Strategy (2013) and paragraph 92 of the Framework as the development fails to provide sufficient high quality open space, sports and recreation (including play) space. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the Framework.

*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 DANIEL METCALFE ON 01723 383538 email [daniel.metcalfe@scarborough.gov.uk](mailto:daniel.metcalfe@scarborough.gov.uk)



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