

- Meeting:** Scarborough and Whitby Area Planning Committee
- Members:** Councillors Phil Trumper (Chair), Subash Sharma (Vice-Chair), Derek Bastiman, Eric Broadbent, Janet Jefferson, Rich Maw and Clive Pearson.
- Date:** Thursday, 8 May 2025
- Time:** 2.00 pm
- Venue:** Council Chamber, Town Hall, St Nicholas Street, Scarborough, North Yorkshire YO11 2HG

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The Council operates a scheme for public speaking at planning committee meetings. Normally the following people can speak at planning committee in relation to any specific application on the agenda: speaker representing the applicant, speaker representing the objectors, parish council representative and local Division councillor. Each speaker has a maximum of five minutes to put their case. If you wish to register to speak through this scheme, then please notify St John Harris, Principal Democratic Services Officer by midday on Friday, 2 May.

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Agenda

- 1. Apologies for Absence**
- 2. Minutes for the Meeting held on 13 March 2025** (Pages 3 - 6)
- 3. Declarations of Interests**

All Members are invited to declare at this point any interests, including the nature of those interests, or lobbying in respect of any items appearing on this agenda.

4. **ZF25/00143/FL - Installation of a new sheet piled wall approximately 1.5m seaward side of the existing sheet piled wall together with the construction of a new reinforced concrete capping beam with replacement mooring bollards at Eskside Wharf , Church Street, Whitby, North Yorkshire, YO22 4AE** (Pages 7 - 20)
Report of the Head of Development Management – Community Development Services
5. **ZF24/00625/FL - Installation of replacement windows in uPVC window frames with double glazed units at St Laurence Church Hall , Church Hill, Scalby, Scarborough, North Yorkshire, YO13 0SA** (Pages 21 - 30)
Report of the Head of Development Management – Community Development Services
6. **Any other items**
Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.
7. **Date of Next Meeting**
Thursday, 12 June 2025 at 2.00pm

Members are reminded that in order to expedite business at the meeting and enable Officers to adapt their presentations to address areas causing difficulty, they are encouraged to contact Officers prior to the meeting with questions on technical issues in reports.

Agenda Contact Officer:

St John Harris, Principal Democratic Services Officer

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Email: stjohn.harris@northyorks.gov.uk or democraticservices.east@northyorks.gov.uk

Tuesday, 29 April 2025

North Yorkshire Council

Scarborough and Whitby Area Planning Committee

Minutes of the meeting held on Thursday, 13 March 2025 commencing at 2.00 pm.

Councillor Phil Trumper in the Chair plus Councillors Subash Sharma, Derek Bastiman, Eric Broadbent, Janet Jefferson, Rich Maw and Clive Pearson.

In attendance: Councillor Neil Swannick

Officers present: Catriona Gatrell (Head of Legal Planning Property Environment), Luke Hadfield (Planning Officer), St John Harris (Principal Democratic Services Officer), Nick Read (Development Management Team Manager), David Walker (Development Service Manager)

Apologies: None.

Copies of all documents considered are in the Minute Book

108 Apologies for Absence

No apologies.

109 Minutes for the Meeting held on 13 February 2025

The minutes of the meeting held on 13 February 2025 were confirmed and signed as an accurate record.

110 Declarations of Interests

There were no declarations of interests.

Planning Applications

The Committee considered a report of the Head of Development Management – Community Development Services relating to an application for planning permission. During the meeting, Officers referred to additional information and representations which had been received.

In considering the report of the Head of Development Management – Community Development Services, regard had been paid to the policies of the relevant development plan, the National Planning Policy Framework and all other material planning considerations. Where the Committee refused planning permission the reasons for that decision are shown as set out below.

111 ZF24/01954/FL - Change of use from Bank (Class E) to adult gaming centre (sui generis) at Halifax, 67 - 68 Baxtergate, Whitby, North Yorkshire

The Head of Development Management – Community Development Services sought determination of a planning application for a change of use from Bank (Class E) to adult

gaming centre (sui generis) at Halifax, 67 - 68 Baxtergate, Whitby, North Yorkshire, YO21 1BL, on behalf of Luxury Leisure (I Miller).

Updating their report, the planning officer advised that since the report had been published, two further objections had been submitted bringing the total number of objections to 523. The applicant had also confirmed that it was company policy not to serve alcohol on any of its premises, and in respect of supervision, a minimum of two staff would be present on the premises at any one time which did not include security and door supervision.

Local Division member, Councillor Neil Swannick addressed the committee objecting to the application.

The applicant's agent, Haris Kasuji, then spoke in support of the application.

During consideration of the above application, the Committee discussed the following issues:

- Concerns regarding residential amenity that the adult gaming centre would be open 24 hours
- Concerns that approval of this application would set a precedent for the development of other similar establishments in Whitby
- Proximity to other gambling and betting premises. Comments on the application from the Police (Designing Out Crime Officer) were still awaited.
- The development was out of place and would harm the unique character of Whitby town centre
- The potential for noise nuisance through the night in a densely populated area

The decision:

That, notwithstanding the recommendation in the officer report, planning permission be REFUSED.

Voting record:

A vote was taken and the motion was declared carried unanimously.

Reasons:

- The change of use to an adult gaming centre operating on a 24 hour basis would result in an adverse impact on residential amenity contrary to policy DEC4 of the Scarborough Local Plan in that there would be increased potential for noise and disturbance at unsociable hours to occupiers of residential and holiday premises
- The change of use would result in harm to the unique character of the small family resort of Whitby

The final wording of the reasons to be determined by officers in consultation with the Chair.

112 Any other items

In respect of the current technical difficulties preventing the public submitting comments through the planning portal about the Europa Oil & Gas application to drill for gas on a site in Burniston, the Development Service Manager commented that these problems were being rectified as a priority. In the meantime, the council had provided an alternative email address for the public to submit comments, and further, comments would still be accepted after the stated deadline.

113 Date of Next Meeting

Thursday, 10 April 2025 – Town Hall, Scarborough

The meeting concluded at 2.53 pm.

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**North Yorkshire Council
Community Development Services
Scarborough and Whitby Area Planning Committee**

8 MAY 2025

ZF25/00143/FL - Installation of a new sheet piled wall approximately 1.5m seaward side of the existing sheet piled wall together with the construction of a new reinforced concrete capping beam with replacement mooring bollards. at Eskside Wharf , Church Street, Whitby, North Yorkshire, YO22 4AE on behalf of Mr Nick Franks

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the report

- 1.1 Application reference ZF25/00143/FL seeks full planning permission for a sheet piled wall proposed to be constructed in order to reinforce the existing sheet piled wall at Eskside Wharf, Church Street, Whitby. The scheme also includes a concrete capping beam connecting the original and new wall that includes replacement mooring bollards.
- 1.2 The application is submitted on behalf of North Yorkshire Council by applicant CR Reynolds Civil Engineers in relation to the proposed Council-led development outlined above. In accordance with the North Yorkshire Council Area Constituency Planning Committees Scheme of Delegation, the application shall be determined by the Scarborough and Whitby Planning Committee.

2.0 SUMMARY

RECOMMENDATION: That the planning committee be minded to approve the application subject to the conditions contained within this report and also agree to allow your Officers delegated authority to secure Biodiversity Net Gain for this scheme.

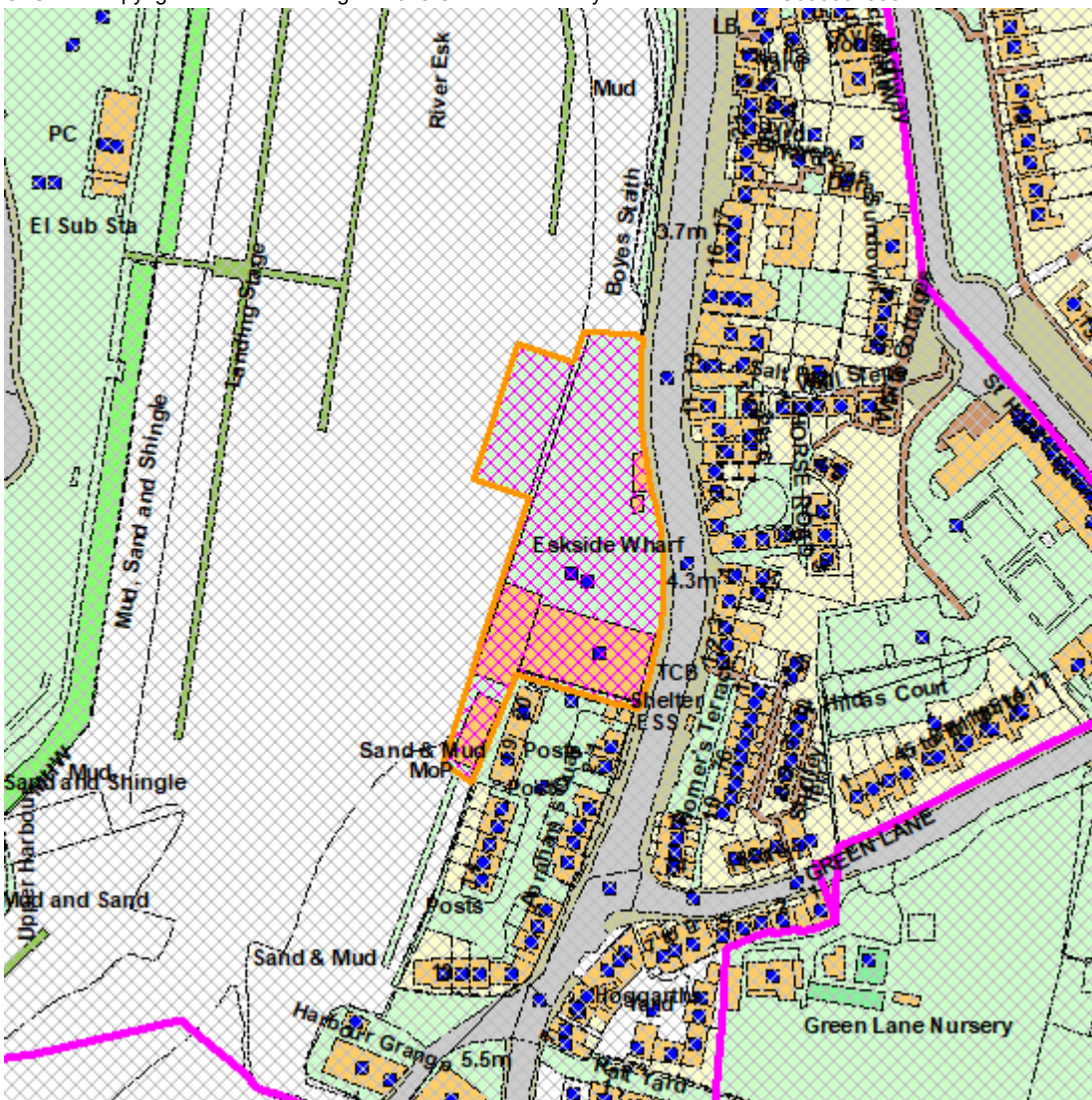
- 2.1 This application seeks planning permission for the installation of a new sheet piled wall along the wharf frontage. The wall would extend into the River Esk to be constructed parallel to the existing sheet piled wall and connected by a new reinforced concrete capping beam, which would also act as a flood defence. The scheme also includes replacement of the mooring bollards to the capping beam.
- 2.2 The Local Plan policies set a presumption in favour of the principle of the development. However, this is balanced against the impact of the development upon the characteristics of this part of the designated Whitby Conservation Area, impact upon surrounding amenities and flood risk.

2.3 Officers, in their assessment concluded that although there would be some impact upon the appearance and character of this part of the Conservation Area, this does not outweigh the policy presumption in favour of the development. Therefore, the scheme is viewed positively in that it would bring appropriate remediation to Eskside Wharf, provide additional flood defences and ensure the future retention of an important industry and employer within the town. Therefore, the scheme is presented to Members with an Officer recommendation of approval.



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3.0 Preliminary Matters

- 3.1 A valid application was received by North Yorkshire Council on 10th March 2025. The scheme was publicised within the Whitby Gazette and by 2 No. Site Notices positioned along Church Street at either end of the site. The consultation period expired 10th April 2025. An extension of time has been sought to allow for the scheme to be considered by Members and to secure Biodiversity Net Gain.
- 3.2 Access to the case file on Public Access can be found here

4.0 Site and Surroundings

- 4.1 Eskside Wharf is owned by North Yorkshire Council in Whitby Harbour. The wharf is located on the east side of the River Esk and is opposite to Endeavour Wharf, which lies on the west side of the river.
- 4.2 Eskside Wharf has historically played a part in Whitby's role as a working port and was originally designed for the loading and off-loading of cargo from sea going vessels by crane. The area is currently leased to Parkol Marine Engineering Limited who use the site for a combination of light engineering and ship building and also retain the right under licence to moor a dry dock against the Wharf edge.
- 4.3 The wharf itself is a manmade structure supported on its frontage by approximately 140 linear metres of steel sheet piles built circa 1960 using Larssen 3B sections.
- 4.4 The site is located along the western section of Church Street towards the far southern end, adjacent Abraham's Quay - a small residential development centred around a courtyard. To the east of the site lies a collection of infill and original stone buildings on the site of the original gas works that now form Parkol Marine Engineering Offices.
- 4.5 Eskside Wharf lies within the designated Whitby Conservation Area and falls within Flood Zone 3.

5.0 Description of Proposal

- 5.1 The development includes the construction of a new sheet piled wall with concrete flood wall defence. This replaces the existing sheet piled wall which will remain in situ, as the new sheet piled wall runs around the outer perimeter at a depth of 1.5 metres from the existing wall.
- 5.2 The concrete capping beam (flood defence) is proposed to be cast to the head of the new sheet piled wall linking both walls together and raising the level of the wharf by approximately 300mm to act as a flood defence. Within the new capping beam, new capstans will be installed to replace the existing mooring points.

6.0 Planning Policy and Guidance

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with

the planning policies that comprise the Development Plan unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2 The Adopted Plan for this site is:
-Scarborough Borough Local Plan 2011 to 2032 adopted 2017

Emerging Development Plan - Material Consideration

- 6.3 There is no emerging development plan which covers the application site.

Guidance - Material Considerations

- National Planning Policy Framework
- National Planning Practice Guidance
- National Design Guide
- Whitby Conservation Area - Character Appraisal and Management Plan

7.0 Consultation Responses

- 7.1 The following consultation responses have been received and have been summarised below.
- 7.2 Natural England - No comments to make.
- 7.3 The Environment Agency - No comments received.
- 7.4 Whitby Town Council - No objection
- 7.5 NYC Environmental Services (Commercial Regulation) - Recommend a condition to control associated noise, vibration and dust during construction works.
- 7.6 NYC Highway Authority - Detailed plans showing the wall connection at the north-eastern end of the site and proposed material used to adjoin to the flood defence wall requested by condition to ensure no impact upon the public highway.
- 7.7 NYC Harbour Master - No comments received.
- 7.8 NYC Ecology - No objection subject to the deemed condition (approved Biodiversity Gain Plan)/obligation being in place prior to development.

Local Representations

- 7.9 There have been no public representations received in response to the proposed development.

8.0 Environmental Impact Assessment

8.1 The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environmental Statement is therefore required.

9.0 Main Issues

9.1 The main issues are:

- Principle of Development
- Design and Appearance
- Heritage
- Amenity
- Flood Risk
- Biodiversity Net Gain

10.0 Assessment

Principle of Development

- 10.1 The proposed development of the new sheet piled wall and flood defence is borne out of necessity following a period of investigation into the structural integrity and condition of Eskside Wharf. The submission is supported by reports and plans following investigations from 2011 onwards by Alan Wood and Partners (Structural and Civil Engineers) and conclude that the deterioration of Eskside Wharf has now reached a critical point where replacement rather than continual monitoring of the wall is required.
- 10.2 Local Plan Policy INF 5 (Delivery of Infrastructure) supports the delivery of infrastructure measures, in this case, the scheme proposes a flood defence wall to the perimeter of Eskside Wharf to form a continuation of the flood defences to have already been installed along Church Street. Your Officers consider the flood defence essential infrastructure with a dual purpose - (i) safeguarding the wharf and this part of Church Street from the implications of flooding and reduce risk and also, (ii) securing both the existing and proposed wall in order to stabilise the wharf.
- 10.3 As highlighted by the Local Plan, supporting the industrial and business sector is a fundamental part of long-term economic resilience - Parkol Marine Engineering relies on the site for shipbuilding and engineering works and failure to take remedial action would jeopardise commercial activity. Local Plan Policy EG 5 (Safeguarding Employment Sites and Premises) seeks to ensure that there is an adequate supply of employment sites and premises, all sites operating within the 'B' Use Class - such as Parkol Marine Engineering - will be safeguarded. As inferred within paragraph 7.37 of the Local Plan, it is important that the Local Plan does not prevent or discourage sustainable economic growth, particularly when businesses are established within a particular location and have invested into a site and make an important contribution to the economy of the town.
- 10.4 Your Officers consider the principle of development acceptable. The scheme will not only provide the necessary infrastructure to secure the future of Eskside Wharf but will also ensure the wharf can continue to be used for industry in the town in accordance with Local Plan Policies INF 5 and EG 5.

Design and Appearance

- 10.5 The sheet piled wall will be identical to the existing wharf wall - albeit extending 1.5 metres further into the River Esk. The scheme has been designed with a concrete capping beam so as to connect the existing and proposed walls and anchor them to the wharf and also to provide a flood defence for the wharf and section of Church Street behind.
- 10.6 The wall is utilitarian in appearance and purposely designed to engineers specification as part of the remediation of Eskside Wharf. Similarly, the concrete capping beam would provide necessary flood defences extending 300mm above the wall and would form a continuation of the existing flood defences along the western section of Church Street. The Highway Authority raise no objection, however request details to ensure at the point where the wall connects to the existing flood defence that there is no surface water run - off onto the highway. Notwithstanding, the supporting Flood Risk Assessment (FRA) indicates that the capping detail is designed with a slight fall towards the River Esk for this reason your Officers do not consider it reasonable to request further detail when the design already accounts for surface water run-off as per the recommendation within the FRA.
- 10.7 The proposed scheme is conducive to the appearance of Eskside Wharf and its industrial character. Your Officers therefore, consider that the development would accord with the principles of good design as outlined within Local Plan Policy DEC 1.

Heritage

- 10.8 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty on LPAs to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in its decision making.
- 10.9 Local Plan Policy DEC 5 (The Historic and Built Environment) seeks to conserve historic rural, urban and coastal environments and their potential to contribute towards economic regeneration (amongst other things). In accordance with criterion (b) - proposals affecting a Conservation Area should preserve or enhance its character or appearance especially those elements identified in any Conservation Area Appraisal.
- 10.10 Paragraph 115 of the NPPF advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.11 The site lies within the designated Whitby Conservation Area, specifically Character Area 3 - Church Street south from Grape Lane, which is noted for its diverse character as evidenced by the presence of a mixture of traditional and modern infill development of varied architectural styles juxtaposed by the industrial nature of Eskside Wharf used for ship-building and engineering.

10.12 The wharf is a man-made structure created as a working port initially and contributes to the town's heritage and history as a ship-builder, which continues on the site at present. Whilst the works proposed would alter the appearance and character of the Conservation Area, it is not considered to be to a degree that would result in a negative impact. Your Officers consider this to be at the lower end of 'less than substantial' in terms of harm, owing to the existing industrial character and appearance of the site and since the wall mirrors the existing wall and flood defences in this location. Further, in accordance with paragraph 115 of the NPPF, the works would ensure that the wharf, which is a key component within this part of the Conservation Area is preserved for the future in accordance with Local Plan Policy DEC 5 and Section 16 of the NPPF.

Amenity

10.13 The proposed development is in relation to the existing wall to the wharf frontage, which as evidenced within the application has reached a critical point where intervening works are required to safeguard the future of the wharf. The wharf is located along Church Street, the main thoroughfare on the eastern side of Whitby surrounded by numerous residential dwellings and commercial premises. Much of Church Street already benefits from recently installed flood defences, however the alleviation measures end at the point where Eskside Wharf begins. As well as the remedial works to the wharf itself, the development seeks to continue the flood defence around the perimeter of the site in order to protect the on site industry and section of Church Street in this location.

10.14 There is potential for the construction stage of the scheme to have an impact on amenity by means of noise, disturbance and light pollution. However, the site is already in use for industrial purposes and therefore, your Officers consider the works to not be dissimilar to the working practices to already take place in this location and experienced by nearby residences and businesses. Further, a detailed plan has been submitted indicating that the northern section of the wharf will accommodate a secure site compound to manage the scheme during its construction. Colleagues in Environmental Health have raised other construction related matters such as working hours and health and safety, however these are governed by primary legislation separate from planning.

10.15 The proposed development is considered to be acceptable in terms of its impact on amenity, in accordance with Local Plan Policy DEC4.

Flood Risk

10.16 The northwest portion of the site is located in Flood Zone 3b (high probability of flooding). The primary risk to the site is fluvial and tidal flooding from the River Esk during an extreme flood event.

10.17 Local Plan Policy ENV 3 (Environmental Risk) seeks to ensure that proposals mitigate against the implications of environmental risk and climate change. This will be achieved by (amongst other things); (a) avoiding development in high risk areas by following a sequential approach in giving priority to lowest risk areas. This aligns with national planning policy with respect to flood risk and requires that new

development is not unacceptably exposed to risk from flooding, that development does not increase the risk of flooding elsewhere and that where there is to be a degree of flood risk the development is safe for its operational lifetime by meeting the Exception Test.

- 10.18 Government planning policy and guidance is clear in that only developments which are defined as 'water compatible' (as per Annex 3 of the NPPF along with Table 2, paragraph 079 of the NPPG) should be considered for approval in Flood Zone 3b. Even then, a 'sequential test' should first be applied to determine whether there are other potential sites at a lower risk of flooding which could accommodate the development.
- 10.19 Sequentially, the proposed development is intrinsically linked to Eskside Wharf and the necessary remedial works to rectify the structural defects and its further deterioration. There is no option other than to install the wall in this location and therefore your Officers consider the sequential test to have therefore been 'passed'.
- 10.20 Further, in accordance with paragraph 079 of the NPPG which allows for 'water compatible' development in Flood Zone 3b, and accounting for the fact the sequential test is judged to have been passed, from a flood risk perspective your Officers consider the proposal to be acceptable in principle.
- 10.21 The site is supported by a site-specific flood risk assessment, which advises that the proposed concrete capping beam flood defence - set to a level of +4.57m AOD (ordnance datum) would be designed to match the wall crest level of the existing flood defence wall along Church Street and is capable of being increased if required in the future.
- 10.22 Your Officers have consulted with the Environment Agency and expect their recommendation prior to the Committee Meeting and shall inform Members accordingly. Notwithstanding, your Officers consider the submission to satisfy the requirements of Local Plan Policy ENV 3 and consider that the development will be safe for its lifetime without increasing flood risk elsewhere.

Biodiversity Net Gain

- 10.23 In England, Biodiversity Net Gain (BNG) is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers must deliver a BNG of 10%. This means a development will result in more or better quality natural habitat than there was before development.
- 10.24 The development proposes to replace the existing sheet piled outer wall to Eskside Wharf with associated infrastructure, therefore the Statutory Biodiversity Metric and BNG Statement (EXO Environmental, February 2025) has been submitted in support of this application. According to the metric, the development will result in the loss of 0.15 units of intertidal artificial hard surfaces (which is vertical habitat), which will be offset using either credits from Natural England, or habitat bank units through a local habitat bank as stated in the BNG Statement (EXO Statement).

- 10.25 Should the application be approved, a S106 agreement securing off-site BNG in connection with the development is required. Your Officers are seeking legal advice in relation to this aspect of the scheme. Under usual circumstances, a S106 Agreement would be used to secure this, however as the Council are the applicant and owner we can't enter into an agreement with ourselves so we are exploring alternative methods to secure off-site BNG with Legal Services and no permission would be issued until that has been achieved. Notwithstanding, the Government's standard biodiversity net gain (BNG) condition will automatically apply to the planning permission, requiring submission and approval of a biodiversity gain plan. The Authority can only sign off the discharge of the mandatory deemed condition once the applicant has demonstrated the purchase of the necessary units via a local habitat bank, or Natural England's national credit scheme and once this has been registered with Natural England.
- 10.25 The proposed development has submitted sufficient details to demonstrate that the loss of habitat would be off-set and minimum 10% BNG would be achieved through the purchase of off-site units and is in compliance with Local Plan Policy ENV5: The Natural Environment and national legislation in regard to BNG. The proposed development is therefore considered by your Officers to be acceptable in terms of ecology/biodiversity.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The development seeks to undertake urgent remedial works to Eskside Wharf, a key feature of Whitby. The works will secure the future of the wharf and in doing so ensure that its commercial use can continue in accordance with Local Plan Policies INF 5 and EG 5.
- 11.2 The proposed development also seeks to reduce the causes and impacts of Flood Risk and is in line with Local Plan Policy ENV 3.
- 11.3 The proposed wall is purposely designed to engineers specifications to stabilise Eskside Wharf using materials and detailing compatible to the nature of the site and surrounding area. There are no other concerns raised by officers to the development in terms of amenity, highways safety or the impact on the historic environment.
- 11.4 Your Officers consider the scheme is in accordance with the development plan policies as a whole and represents sustainable development as required by the National Planning Policy Framework. The scheme is therefore recommended for approval subject to conditions and completion of an allied S106 to secure offsite Biodiversity Net Gain.

12.0 RECOMMENDATION

- 12.1 That Permission be granted subject to conditions

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

Site Location Plan received 29th January 2025;
Layout - Key Plan (Dwg No. ESKS-AWP-ZZ-ZZ-D-C-4400-P3) received 29th January 2025;
Layout Sheet 1 (Dwg No. ESKS-AWP-ZZ-ZZ-D-C-4401-P6) received 29th January 2025;
Layout Sheet 2 (Dwg No. ESKS-AWP-ZZ-ZZ-D-C-4402-P5) received 29th January 2025;
Layout Sheet 3 (Dwg No. ESKS-AWP-ZZ-ZZ-D-C-4403-P6) received 29th January 2025;
Sections Sheet 1 (Dwg No. ESKS-AWP-ZZ-ZZ-D-C-4404-P5) received 29th January 2025;
Sections Sheet 2 (Dwg No. ESKS-AWP-ZZ-ZZ-D-C-4405-P5) received 29th January 2025;
Proposed Elevation Sheet 1 (Dwg No. ESKS-AWP-ZZ-ZZ-D-C-4602-P2) received 29th January 2025;
Proposed Elevation Sheet 2 (Dwg No. ESKS-AWP-ZZ-ZZ-D-C-4603-P2) received 29th January 2025;
Flood Risk Assessment (Ref. CMH/NB/MW/50008 ESKS RPT001) received 29th January 2025;
EXO Environmental Biodiversity Statement received 29th January 2025.

Reason: For the avoidance of doubt.

Notes

- Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

 - (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
 - (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be North Yorkshire Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

[the following is suggested text for inclusion in the decision notice where the local planning authority considers that the permission falls within paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990.

The permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

In summary: Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun (the overall plan), and before each phase of development may be begun (phase plans).]

Statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or
 - (ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.
4. The permission which has been granted is for development which is exempt being:

4.1 Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- i) the application for planning permission was made before 2 April 2024;
- ii) planning permission is granted which has effect before 2 April 2024; or
- iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

4.2 Development below the de minimis threshold, meaning development which:

- i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

4.3 Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

4.4 Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

- 4.5 Self and Custom Build Development, meaning development which:
- i) consists of no more than 9 dwellings;
 - ii) is carried out on a site which has an area no larger than 0.5 hectares; and
 - iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

4.6 Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat. The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

The effect of section 73D of the Town and Country Planning Act 1990

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted. Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

Target Determination Date: 1 May 2025

Case Officer: Mrs Amy Harrap
amy.harrap@northyorks.gov.uk

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**North Yorkshire Council
Community Development Services
Scarborough and Whitby Area Planning Committee
8 MAY 2025**

ZF24/00625/FL - Installation of replacement windows in uPVC window frames with double glazed units at St Laurence Church Hall , Church Hill, Scalby, Scarborough, North Yorkshire, YO13 0SA on behalf of St Laurence's Church Rooms (Mrs Susan Truefitt)

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the report

- 1.1 To determine a planning application for the installation of 11 replacement windows in uPVC window frames with double glazed units at St Laurence Church Hall, Church Hill, Scalby.
- 1.2 The proposal is being considered by the Scarborough and Whitby Planning Committee following a request by an elected member of the Authority.

2.0 EXECUTIVE SUMMARY

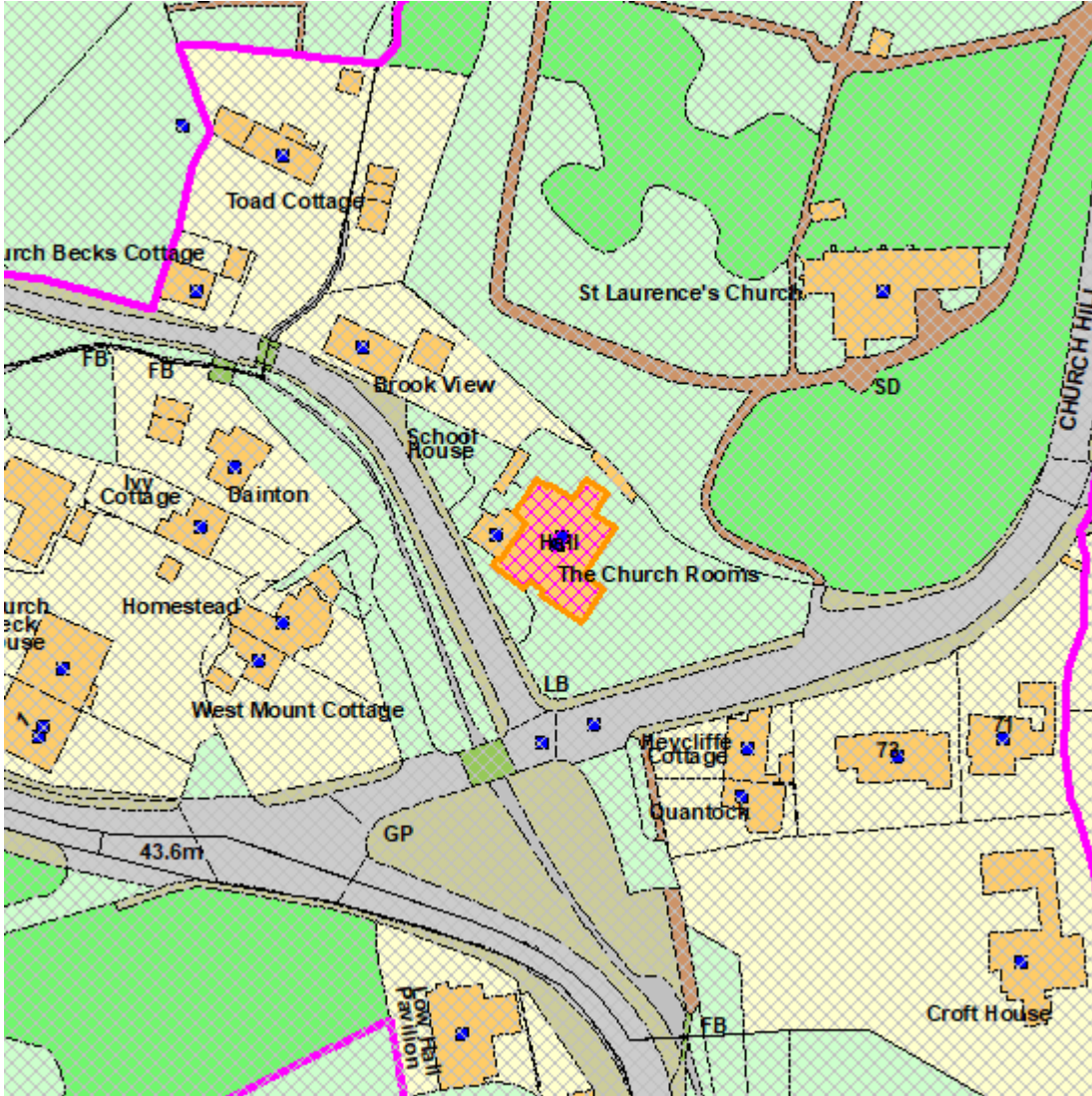
RECOMMENDATION: That planning permission be REFUSED.

- 2.1 It is considered that the replacement of 11 historic timber and metal windows with modern, uPVC units within a historic building in the Scalby Conservation Area fails to promote good design and fails to preserve or enhance the character or appearance of Scalby Conservation Area. This is contrary to Local Plan Policies DEC1 and DEC5.



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3.0 Preliminary Matters

3.1 Access to the case file on Public Access can be found here:

ZF24/00625/FL | Installation of replacement windows in uPVC window frames with double glazed units | St Laurence Church Hall Church Hill Scalby Scarborough North Yorkshire YO13 0SA

Relevant planning history

3.2 02/00388/FL - New porch, internal alterations and refurbishments, including creation of additional floor area in loft. Permitted with conditions.

3.3 ZF23/00629/FL - Installation of replacement windows in uPVC. Withdrawn.

4.0 Site and Surroundings

- 4.1 The single storey building sits on a corner plot where Carr Lane meets Church Hill. The building occupies the northern part of its curtilage, with an attached dwelling on its northwest side that forms part of the original building, that was constructed as a school. Car parking occupies the remainder of the curtilage to the south east.
- 4.2 The south east elevation is the main entrance into the building. The site is bound to the north east by the churchyard and beyond this, is the Grade II* listed building of St Laurence Church that sits on higher ground than the site.
- 4.3 The site's frontage with Church Hill is a low stone wall with metal railings. The site's western boundary with Carr Lane is a mixture of a low stone wall and railings and a boundary wall with a hedgerow above. Vehicular and pedestrian access is gained from Church Hill and there is a pedestrian only access from Carr Lane.
- 4.4 The building was originally constructed as a school. There is a large circular date stone in its southwest gable that reads 'AD 1861'. The building is constructed of natural stone walling with Ashlar stone quoins, window surrounds and plinth. It has steeply pitched roofs, with a natural slate tile finish.
- 4.5 The building appears to have been extended by a flat roof extension on its southeast elevation in the 1930s, with an additional flat roof extension on the northeast elevation in later years. It is now used as a Church Hall, for community use.
- 4.5 The site is located within the designated Scalby Conservation Area.

5.0 Description of Proposal

- 5.1 The proposal seeks the replacement of 11 windows with uPVC frames and double-glazed units within both the original section and the later rendered extensions of the building. The existing windows are timber and metal framed casements.
- 5.2 Five of the windows are located within the original section of the building. The largest windows are a three-casement design, with glazing bars and three are set in stone mullions. The remainder of the windows (6 in total) are located within the later extensions to the building. One window (no. 11 as shown on the submitted photographs) is the only existing uPVC window. The proposed uPVC replacements would follow the general layout of the existing windows in terms of frames and openings. However, the uPVC frames would be thicker than the metal framing sections.

6.0 Planning Policy and Guidance

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise.

- 6.2 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states special attention shall be paid to the desirability of preserving or enhancing the character of appearance of that area.

Adopted Development Plan

- 6.3 The Adopted Plan for this site is the Scarborough Borough Local Plan 2011 to 2032 adopted 2017. The relevant policies are:
- Policy DEC1 - Principles of Good Design
 - Policy DEC5 - The Historic and Built Environment

Emerging Development Plan - Material Consideration

- 6.4 There is no emerging development plan which covers the application site.

Guidance - Material Considerations

- National Planning Policy Framework
- Scarborough Borough Council Residential Design Guide (supplementary planning document), adopted February 2022
- Scarborough Borough Council - Scalby Conservation Area- Character Appraisal and Management Proposals, adopted January 2018

7.0 Consultation Responses

- 7.1 The following consultation responses have been received and have been summarised below.
- 7.2 Newby and Scalby Town Council - no objection.
- 7.3 Principal Building Conservation Officer - objects to the proposal.

Summary of Significance

The application site falls within Scalby Conservation Area located to the west of the A171 Scarborough to Whitby Road. Scalby Conservation Area has the benefit of an adopted Character Appraisal (2008).

The CACA sets out the historical development of the settlement and provides an analysis of its general character. Broken into five distinct character areas, the application site is within Character Area 2: Church Becks. The character area is described as an attractive group of buildings of varying style, mainly built before 1910, centred around Church Beck, the stone bridge and a small village green. Groups of mature trees to the south-west of Hackness Road and Hay Lane add to the attractive appearance of the area and St Lawrence's church with its wooded burial ground acts as a backdrop to the area especially when viewed on approach from the south.

St Lawrence Church Hall (also known as The Church Rooms) lies on the north side of Church Hill to the southwest of St Lawrence's Church. Whilst the CACA does not

identify it as being a building of Townscape Merit, as it does not make an especially valuable contribution to the character of the area, this does not mean that it does not have merit and does not contribute to the character and appearance of the Conservation Area.

The building dates to 1861, built originally as a school, it features a large circular date stone in its southwest facing gable that reads 'AD 1861'. It is constructed of coursed rough faced natural stone walling with ashlar stone quoins, window surrounds and plinth. It has steeply pitched roofs covered in natural slate tiles. A dwelling is attached to the building on its northwest side and forms part of the original building.

The school was extended in the 1930s (southeast side). The extension being typical of the early 20th century, it has rendered walls and a flat roof hidden behind a parapet. The windows in the 1930s extension appear to be the originals, being constructed of a combination of timber and metal framing, finished in white paint. The DA & HS does not refer to the age of the windows in the 1861 section. These may have been renewed when the 1930s extension was built to apply a consistent fenestration design.

The school use ceased in 1950. The building was purchased by the Church and became known as the Church Rooms. It provides a community use for local residents and groups.

There is an additional rendered flat roofed extension on the building's northeast side, which accommodates a kitchen. This has a uPVC framed window. The site's western boundary with Carr Lane is defined partly of a low stone wall and railings and partly by a low boundary wall with a hedgerow above. The site's frontage with the carriageway of Church Hill (southeast boundary) is defined by a low stone wall with metal railings above.

The application site has historic (illustrative) value, as a purpose-built Victorian school, later converted to a community use. The application site has aesthetic value. It is a solidly built stone building and adds to the character and appearance of the conservation area. The 1930s extension does not detract from this value. It is an extension of its time and did not attempt to compete with the Gothic style of the school building.

The application site is in the direct setting of St Lawrence Church (listed Grade II*). St Lawrence's Church sits above the application site, with the church positioned to the northeast. The northeast boundary of the site is defined by a stone retaining wall that supports the church yard, which is at a higher level.

Proposal

It is proposed to replace eleven of the existing windows, described as timber and metal framed casements, in the rendered extensions to the building and within the original building. Casements are evident across the conservation area and reflect the move towards the 'cottagey' style of the Arts and Crafts movement which became popular in the locality.

Windows 1, 6, 8, 9 & 10 are in the 1861 section. The largest windows are a three-casement design with glazing bars and three are set in stone mullions. These tall windows have a 4/ 12 / 4 pane configuration with opening casements. When the 1930s section was constructed a consistent fenestration pattern was applied to the entire building. One window (11) is the only existing uPVC window as noted above.

The proposed uPVC replacements would follow the general layout of the existing. The large scale plan submitted - window design specification plan (windows 2,3,4,5,7 & 9) does not accurately reflect the dimensions of the stuck on external glazing bars.

Slim section metal glazing bars are characteristic of the age of construction and the inter war architectural style. It is accepted that metal window casements can deteriorate more quickly than timber, particularly if they are not subject to regular maintenance to avoid water damage. Rust quickly degrades metal and unlike timber windows, patch repairs to insert new sections, is not as easily achieved. The submission states the existing windows frames have reached the stage where they are difficult and costly to maintain. As the windows are part timber, is it timber elements which are beyond repair or the metal elements? Some casements are noted as difficult to open and others difficult to close. One photo has been provided as evidence of this.

The submission acknowledges that the uPVC frame sections proposed, a specification (Veka) has been submitted, would be thicker than the metal framing sections. The additional thickness of the frames and the thickness of the stuck on external uPVC glazing bars, and the use of a modern material in combination with the historic fabric, would detract from the aesthetic quality of the building and the wider conservation area.

The use of uPVC windows in traditional buildings in conservation areas is not supported in the adopted CACA. The proposal falls to accord with SLP Policies DEC1(a) and DEC 5(b.ii).

If replacement windows are necessary, it is recommended that replacement metal windows are considered.

Local Representations

7.4 No responses received.

8.0 Environmental Impact Assessment

8.1 The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environmental Statement is therefore required.

9.0 Main Issues

9.1 The main issues are:

- Design

- Impact upon the Scalby Conservation Area

10.0 Assessment

Design

- 10.1 Local Plan Policy DEC1 (Principles of Good Design) requires new development to meet the principles of good design by demonstrating that the detailed design responds positively to the local context, in terms of its scale, height, layout, materials, colouring, fenestration and architectural detailing.
- 10.2 Paragraph 8.38 of the Council's Residential Design Guide SPD states that, where planning permission is required for the installation of replacement windows, the guiding principle for choosing replacement units should be to ensure that they reflect the character and appearance of both the host property and the surrounding area.
- 10.3 Paragraph 8.40 also states that complete replacement should be on a like-for-like basis in terms of materials, dimensions, and appearance. Proposals to replace traditional timber windows with high quality alternative materials would only be supported in limited and exceptional cases; it is for the applicant to advance the exceptional circumstances of the particular case through the submission of a Heritage Statement.
- 10.4 A Heritage Statement has been submitted in this case and concludes the following:

" In terms of design, the proposed replacement windows are considered to accord with Policy DEC1 of the Local Plan as they have been designed to replicate the character of the existing metal and timber windows within the 1930s extension to the Church Rooms.

In relation to heritage matters, the development proposals are considered to have very little impact on the significance and heritage values of the Scalby Conservation Area. It is considered that any harm to significance is at the lower end of "less than substantial" and that the public benefits of the proposals clearly outweigh the modest harm that might arise.

The proposed design of the replacement windows will safeguard heritage significance by preserving the character and appearance of the conservation area and the setting of nearby listed buildings in line with Policy DEC5 of the Local Plan".

- 10.5 It is proposed to replace eleven of the existing timber and metal framed casement windows in both the original building and rendered extensions with uPVC.
- 10.6 The submission acknowledges that the uPVC frame sections proposed, a specification (Veka) has been submitted, would be thicker than the metal framing sections. The additional thickness of the frames, the thickness of the stuck on external uPVC glazing bar and the use of a modern material in combination with the historic fabric, is considered to detract from the character and appearance of this prominent and historic building.

- 10.7 As such, the provision of uPVC windows would be inappropriate and would have a negative impact upon the character and appearance of the historic building, failing to respond positively to the local context.
- 10.8 For the reasons set out above, it is considered that the proposal would fail to meet the requirements of Local Plan Policy DEC1 (Principles of Good Design).

Impact upon the Scalby Conservation Area

- 10.9 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in the exercise of functions under the planning acts, special attention is paid to the desirability of preserving or enhancing the character and appearance of conservation areas.
- 10.10 Local Plan Policy DEC5 (The Historic and Built Environment) states that proposals within a conservation area should preserve or enhance its character or appearance, especially those elements identified in any Conservation Area Appraisal.
- 10.11 Guidance in Section 16 of the NPPF sets out advice on the conservation of the historic environment and includes several paragraphs against which the proposals need to be assessed. Paragraph 215 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.12 Whilst the Conservation Area Character Appraisal for Scalby does not identify the application site as being a building of Townscape Merit, as it does not make an especially valuable contribution to the character of the area, this does not mean that it does not have merit and does not contribute to the character and appearance of the Scalby Conservation Area.
- 10.13 The application site has historic, illustrative value, as a purpose-built Victorian school, later converted to a community use. The application site also has aesthetic value as a solidly built stone building, with historic windows and adds to the character and appearance of the Scalby Conservation Area. The 1930s extension does not detract from this value as it is an extension of its time and did not attempt to compete with the Gothic style of the school building.
- 10.14 It is proposed to replace eleven of the existing timber and metal framed casement windows in the both the original building and rendered extensions with uPVC. Casements are evident across the Scalby Conservation Area and reflect the move towards the 'cottagey' style of the Arts and Crafts movement which became popular in the locality.
- 10.15 Five of the windows are located within the original section of the building. The largest windows are a three-casement design, with glazing bars and three are set in stone mullions. The remainder of the windows (6 in total) are located within the later extensions to the building. One window (no. 11 as shown on the submitted photographs) is the only existing uPVC window. The proposed uPVC replacements would follow the general layout of the existing windows.

- 10.16 In terms of the existing windows, the slim section metal glazing bars are characteristic of the age of construction and the inter war architectural style. It is accepted that metal window casements can deteriorate more quickly than timber. The submission states the existing windows frames have reached the stage where they are difficult and costly to maintain. It is unclear whether this refers to the metal or timber elements. Some casements are noted as difficult to open and close.
- 10.17 The submission acknowledges that the uPVC frame sections proposed, a specification (Veka) has been submitted, would be thicker than the metal framing sections. The additional thickness of the frames, the thickness of the stuck on external uPVC glazing bar and the use of a modern material in combination with the historic fabric, would detract from the aesthetic quality of the historic building and the wider Scalby Conservation Area.
- 10.18 The use of uPVC windows in traditional buildings in Conservation Areas is not supported within the adopted Conservation Area Character Appraisal for Scalby. The proposal falls to accord with Local Plan Policy DEC5 (The Historic and Built Environment).

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 It is considered that the replacement of 11 historic timber and metal windows with modern, uPVC units within a historic building in the Scalby Conservation Area fails to promote good design and fails to preserve or enhance the character or appearance of Scalby Conservation Area. This is contrary to Local Plan Policies DEC1 and DEC5. Whilst it is acknowledged that the building is used for community purposes, this does not outweigh the harm caused as outlined within the report and the following reasons for refusal.

12.0 RECOMMENDATION REFUSAL

- 12.1 That Permission be refused

- 1 It is proposed to replace eleven of the existing timber and metal framed casement windows in both the original building and rendered extensions with uPVC.

The additional thickness of the frames, the thickness of the stuck on external uPVC glazing bar and the use of a modern material in combination with the historic fabric, is considered to detract from the character and appearance of this prominent and historic building.

As such, the provision of uPVC windows would be inappropriate and would have a negative impact upon the character and appearance of the historic building, failing to respond positively to the local context.

It is considered that the proposal would fail to meet the requirements of Local Plan Policy DEC1 (Principles of Good Design).

Local Plan Policy DEC1 (Principles of Good Design) requires new development to meet the principles of good design by demonstrating that the detailed design

responds positively to the local context, in terms of its scale, height, layout, materials, colouring, fenestration and architectural detailing.

- 2 The application site has historic, illustrative value, as a purpose-built Victorian school, later converted to a community use. The application site also has aesthetic value as a solidly built stone building, with historic windows and adds to the character and appearance of the Scalby Conservation Area.

It is proposed to replace eleven of the existing timber and metal framed casement windows in the both the original building and rendered extensions with uPVC. Casements are evident across the Scalby Conservation Area and reflect the move towards the 'cottagey' style of the Arts and Crafts movement which became popular in the locality.

The additional thickness of the frames, the thickness of the stuck on external uPVC glazing bar and the use of a modern material in combination with the historic fabric, would detract from the aesthetic quality of the historic building and the wider Scalby Conservation Area.

The use of uPVC windows in traditional buildings in Conservation Areas is not supported within the adopted Conservation Area Character Appraisal for Scalby. The proposal falls to accord with Local Plan Policy DEC5 (The Historic and Built Environment).

Local Plan Policy DEC5 (The Historic and Built Environment) states that proposals within a conservation area should preserve or enhance its character or appearance, especially those elements identified in any Conservation Area Appraisal.

Target Determination Date: 10 June 2024

Case Officer: Ms Charlotte Cornforth

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