



Agenda

Meeting Scarborough and Whitby Area Planning Committee

To: Councillors Phil Trumper (Chair), Subash Sharma (Vice-Chair), Derek Bastiman, Eric Broadbent, Janet Jefferson, Rich Maw and Clive Pearson.

Date: Thursday, 13 November 2025

Time: 2.00 pm

Venue: Council Chamber, Town Hall, St Nicholas Street, Scarborough, North Yorkshire YO11 2HG

This meeting is being live broadcast and recorded and will be available to view [via our website](#) and uploaded to [our Youtube channel](#).

Business

1. **Apologies for absence**
2. **Minutes for the meeting held on 9 October 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. **ZF24/01903/OL - Outline application for residential development with all matters reserved except access at land between Resolution Way and Pembroke Way, south of Mayfield Road, Whitby, North Yorkshire** (Pages 7 - 44)
Report of the Head of Development Management – Community Development Services
5. **ZF24/01878/FLA - Variation of conditions 1 and 2 in relation to ZF24/00099/FLA, to allow removal of a tree and creation of parking area, at former site of 79 Cross Lane, Newby, Scarborough, North Yorkshire** (Pages 45 - 54)
Report of the Head of Development Management – Community Development Services
6. **ZF25/00901/RG4 - Erection of a 32-metre high Ferris wheel including supporting structure with decking, ramp access and a ticket office. Construction of an 18 hole adventure golf course on a metal deck at former Futurist Theatre, former Futurist buildings, Foreshore Road, Scarborough, North Yorkshire** (Pages 55 - 66)
Report of the Head of Development Management – Community Development Services
7. **Any other items**
Any other items which the Chair agrees should be considered as a matter of urgency

because of special circumstances.

8. Date of next meeting

Thursday, 11 December 2025 at 2.00pm

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Barry Khan
Assistant Chief Executive
Legal and Democratic Services
County Hall
Northallerton

Wednesday, 5 November 2025

North Yorkshire Council

Scarborough and Whitby Area Planning Committee

Minutes of the meeting held on Thursday, 9 October 2025 commencing at 2.00 pm.

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

Officers present: Martin Evans (Principal Planning Officer), Amy Harrap (Senior Planning Officer), St John Harris (Principal Democratic Services Officer), Frances Maxwell (Solicitor – Planning and Environment), Nick Read (Development Management Team Leader), and David Walker (Development Service Manager)

Apologies: Councillor Eric Broadbent.

Copies of all documents considered are in the Minute Book

129 Apologies for absence

Councillor Eric Broadbent

130 Minutes for the meeting held on 12 June 2025

The minutes of the meeting held on 12 June 2025 were confirmed and signed as an accurate record.

Planning Applications

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

In considering the reports 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 deferred consideration or refused planning permission the reasons for that decision are as shown in the report or as set out below.

131 Declarations of interests

There were no declarations of interests.

132 ZF24/01903/OL - Outline application for residential development with all matters reserved except access at Land Between Resolution Way And Pembroke Way, South Of Mayfield Road, Whitby, North Yorkshire

The Head of Development Management Community Development Services sought

determination of an outline planning application for residential development with all matters reserved except access at Land Between Resolution Way And Pembroke Way, South Of Mayfield Road, Whitby, North Yorkshire on behalf of Terra Green Yorkshire.

Lucy Rose spoke objecting to the application.

The applicant's agent, Annabelle Parkinson, spoke in support of the application.

Updating their report, the planning officer advised that the recommendation in the report was now amended to add a delegation to amend condition 3 to include the submitted access drawings.

During consideration of the application, the committee discussed the following issues:

- The number of local people on the housing waiting list – this figure would be provided by officers
- Concerns around the potential creation of a rat run on the site by joining two cul de sacs – this would be addressed at reserved matters stage
- Concerns around lighting and width of footpaths on the site - this would be addressed at reserved matters stage
- Biodiversity net gain - this would be addressed in detail at reserved matters stage although the submitted fixed parameters plan identified an area of scrub planting for this purpose
- Flood risk – this was addressed in the submitted fixed parameters plan. The failure of the flood sequential test was given very limited weight for the reasons set out in paragraph 10.30 of the report
- Highways – the concern that HGVs not use Ruswarp Bank to access the site during construction and why this could not be addressed by condition – the officer response was that this was for the Highway Authority to regulate using the available primary legislation such as a Traffic Regulation Order and was for consideration at reserved matters stage
- Concerns around land stability despite the submission of a desk-based slope stability risk assessment and the recommended condition specifying a ground investigation with mitigation measures if required
- The restrictive covenants on the site – not a material planning consideration
- Concern that the developer contributions specified by the Highway Authority did not cover the total cost of the Traffic Regulation Orders required. Clarification would be sought from the Highway Authority.
- Concern that without a better idea of the total number of dwellings proposed on the site, the s106 contribution specified by NHS Humber and North Yorkshire Integrated Care Board of £613.77 per dwelling may not be sufficient – more details would be provided by officers
- Whether a site visit would benefit the committee

Decision:

That consideration of the planning application be DEFERRED pending a committee site visit.

Voting record:

A vote was taken and the motion was declared carried with 5 for and 1 against.

Reason:

To gain a better understanding of the site in relation to some of the concerns raised.

The Head of Development Management – Community Development Services sought determination of a Section 73 planning application to remove Condition 4 applied to the original consent ZF23/01094/FL granting permission for an Adult Gaming Centre (AGC), to allow for a 24-hour opening to the public at Admiral, 115 - 116 Westborough, Scarborough, North Yorkshire, YO11 1LP on behalf of I Miller.

During consideration of the above application, the members expressed their support for the comments of North Yorkshire Police and Environmental Services recommending refusal of the application because of the high levels of crime and antisocial behaviour in the area and in the interests of amenity and public safety, noting too that no current businesses in the locality operated 24 hours a day, seven days a week.

The decision:

That planning permission be REFUSED.

Voting record:

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

Reasons:

The committee agreed with the reasons for refusal put forward by the planning officer as set out below:

The 24 hour opening of the Adult Gaming Centre has been restricted within the enabling consent to ensure that the use of the premises would not result in a loss of amenity to nearby residences in terms of noise and disturbance or increased levels of crime and disorder in an area already to experience existing high levels. Therefore, to extend the hours of operation would be contrary to Policy DEC 4 of the Scarborough Borough Local Plan and Section 8 of the NPPF.

134 Any other items

There were no urgent items of business.

135 Date of next meeting

Thursday, 13 November 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
13 NOVEMBER 2025

ZF24/01903/OL - Outline application for residential development with all matters reserved except access at LAND BETWEEN RESOLUTION WAY AND PEMBROKE WAY, SOUTH OF MAYFIELD ROAD, WHITBY, NORTH YORKSHIRE, ON BEHALF OF TERRA GREEN YORKSHIRE

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine an outline application for residential development with all matters reserved except access at Land Between Resolution Way and Pembroke Way, South of Mayfield Road, Whitby, North Yorkshire
- 1.2 This application is reported to Committee because a Member of the Council has made material planning representations in writing to the Corporate Director of Community Development within the publicity period and in consultation with the Chair the Corporate Director of Community Development is satisfied that it has been demonstrated that it raises significant material planning issues for the application to be considered by Committee.

2.0 SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to prior completion of a Section 106 agreement to secure the matters detailed below and the conditions detailed below.

- 2.1. This application was deferred at the 9th October Scarborough and Whitby Area Planning Committee to allow a site visit to take place on the 10th November 2025 to consider the site and the surroundings.
- 2.2. The Planning Committee raised two queries at the previous meeting. Firstly, the size of the affordable housing waiting list. The total number of active applications on the North Yorkshire Choices housing register is 6,987 of which 2,374 are for the Scarborough legacy area. Secondly, whether Traffic Regulation Order s106 contributions cover the full cost. The Local Highway Authority confirm the temporary

TRO contribution covers costs for 18 months and that installation and removal is carried out by the developer. The permanent TRO contribution covers all consultation costs. If the TRO is approved during construction then lines can be left in place and remaining money covers legal advertising. So in short, generally contributions cover costs.

- 2.3. Three further objections have been received since the application was deferred which are detailed in the representation section below. The additional comments do not result in a change to the recommendation. Members will also note changes to the flood risk section below to reflect the latest NPPF and associated guidance.
- 2.4. This is an application for outline planning permission for residential development with access to the site to be determined. Vehicular accesses are proposed from Resolution Way and Pembroke Way while pedestrian accesses are proposed from Mayfield Road and Drake Close. The site layout plan is illustrative of how the site could be developed. The site is, in the main, relatively flat and falls precipitously along its southern boundary. It is undeveloped and used for grazing sheep.
- 2.5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. SBLP Policies HC1 and HC2 support this new housing development within the Whitby development limits. The principle of residential development on the application site complies with Policies SD1, SH1, HC1 and HC2. These policies are out of date because there is a 2.7 year supply of housing land. NPPF paragraph 11d applies and there are no strong reasons to refuse the development. The adverse impacts of approving the proposal would not significantly and demonstrably outweigh the benefits, when assessed as required by the NPPF, particularly because the site is in a sustainable location, would make effective use of land and provides affordable homes that reflect local need. These development plan policies, amongst other things, support sustainably located housing development outside development limits if there is no five-year supply, which is consistent with the approach in the NPPF, hence these policies are still given significant weight. The provision of market and 30% affordable housing that meets local needs in an area without sufficient supply and that complies with local and national policies relevant to the principle of development weighs significantly in favour of the proposal. No harm to protected species would arise. A net gain in habitat units near the statutory minimum and a significant exceedance of hedgerow units is likely to be achieved which is given positive weight in the planning balance. Provision of on-site open space and contributions towards other off site open space typologies meets the needs of future residents of the development and can be accessed by existing residents which is given positive weight in the planning balance. Economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.
- 2.6. The proposal would lead to the loss of what is presumed to be best and most versatile agricultural land. Its loss would result in extremely limited harm to the agricultural economy and food security which weighs against the proposal in a very limited manner. No harmful landscape impact would arise and significant visual impacts are limited to the immediate area, whereas those from the south are moderate. This weighs moderately against the proposal. The application requires a sequential test due to being in a medium ground water flood risk area but this has

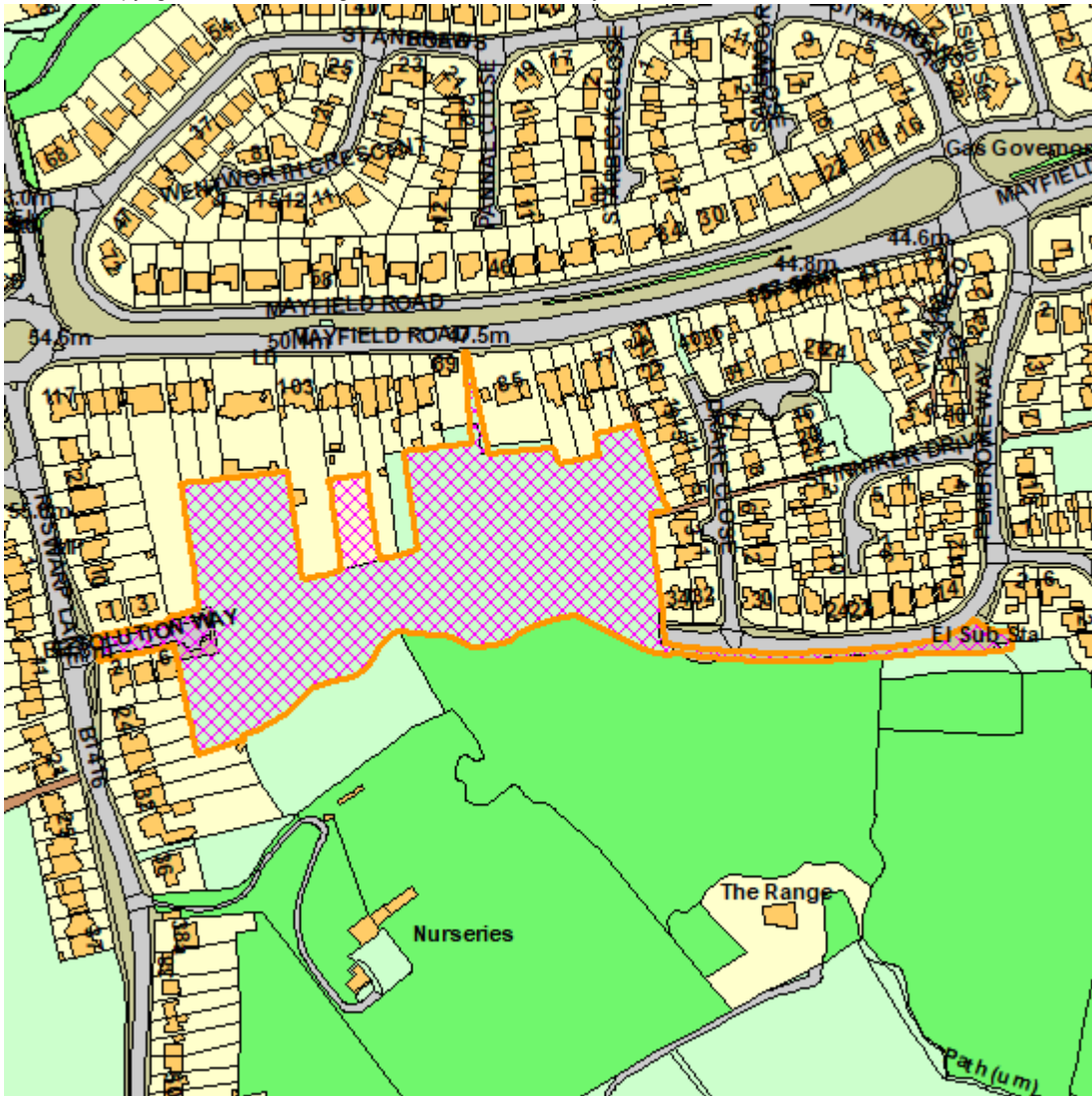
not been provided putting the scheme in conflict with flood risk policies. The actual risk from groundwater flooding would be mitigated by the condition controlling finished floor levels and external levels. The actual surface water flood risk is limited to a very small part of the site, it would be limited to an area outside of a residential plot, the implementation of a positive surface water drainage scheme and exceedance routes would reduce the likelihood of flooding occurring in this location. This means the actual flood risk implications are extremely limited. Drainage and other site specific flood risk matters are acceptable subject to condition and are neutral in the planning balance.

- 2.7. Mineral interests are not harmed which is a neutral matter in the planning balance. On and off site land stability matters are dealt with by condition so are neutral. Housing mix is secured by condition so is a neutral matter. The proposal would not harm highway safety and a series of measures are secured to accommodate existing future residents which is a neutral matter in the planning balance. Contaminated land and ground condition matters are controlled by condition so are neutral in the planning balance. Residential amenity impacts are controlled by condition so are neutral. No heritage requirements arise from the proposal. Developer contributions are secured to mitigate the health care implications of the proposal so are neutral.
- 2.8. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the presumption in favour of sustainable development at NPPF paragraph 11d. Therefore, planning permission should be granted subject to conditions and prior completion of a s106 agreement.



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3.0 Preliminary Matters

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

[ZF24/01903/OL | Outline application for residential development with all matters reserved except access | Land Between Resolution Way And Pembroke Way South Of Mayfield Road Whitby North Yorkshire](#)

3.2. There is no relevant planning history for the application site:

4.0 Site and Surroundings

- 4.1. The application site is located at the southern side of Whitby. To the north is Mayfield Road which features detached and semi-detached dwellings and tourist accommodation of various ages; to the east of the site is Drake Close and Pembroke Way which feature modern residential properties; to the south of the site is a wooded valley; to the west of the site is Ruswarp Lane and Resolution Way which feature modern residential properties.
- 4.2. The application site is approximately 2.06ha in area and irregular in shape as it extends along the roadside of Pembroke Way and between the gardens of properties fronting Mayfield Road which protrude southwards to varying degrees. Existing vehicular access to the site is from the east via Pembroke Way and to the west via Resolution Way, both via agricultural gates. The site slopes gently from a high point of approximately 52mAOD near Resolution Way to a low point of approximately 46mAOD near Pembroke Way and the southern boundary of the site. The site slopes quite precipitously towards and beyond the southern boundary of the application site. Sheep were grazing the site at the time of the officer site visit, resulting in close cropped grassland dominating the site, with occasional tussocky grass and dense scrub. The open nature of the site affords adjoining residents far reaching views over the wooded River Esk valley to the south, some of which is within the ownership of the applicant as indicated by the blue line on the site location plan.
- 4.3. A footpath with stile provides access to the site from Drake Close. The application site includes a narrow gated access to Mayfield Road, and part of Resolution Way. None of these are public rights of way on the definitive map.
- 4.4. The application site is located within the development limits of Whitby. The site is in flood zone 1 (low risk). Small parts of the site are shown to be at risk of surface water flooding in the 1 in 30 year, 1 in 100 year and 1 in 1000 year event. The site is at medium risk of groundwater flooding. The site is within the Saltwick Cloughton buffer.

5.0 Description of Proposal

5.1. This is an application for outline planning permission for residential development with all matters reserved except access. The number of dwellings is not specified in the application form. The illustrative masterplan is for illustrative purposes only to

show how the development could be developed, not how it will be developed. The application includes:

- Planning Statement JM240102
- Arboricultural Survey R3-740-03-AR-01.
- Flood Risk Assessment 971/10r1- Rev A.
- Drainage Strategy 971/10r2- Rev A.
- Drainage calculations.
- Preliminary Ecological Appraisal Report R3-740-03-EC-01.
- Biodiversity Net Gain Report R3-740-03-EC-02 with Landscape Plan General Arrangement R3-740-03-LA-01.
- Transport Assessment AMA Project Number: 22843.
- Interim Travel Plan AMA Project Number: 22843.
- Stage 1 Geo-Environmental Desk Study Report WHF/07r1.
- Site Location Plan FS-001-P3.
- Indicative Topography Plan FS-002-P2.
- Indicative Parameters Plan FS-003-P3.
- Indicative Masterplan FS-004-P3.
- Indicative Landscape Masterplan FS-005-P3.
- Indicative Site Sections FS-006-P1.
- Fixed parameters plan FS-007-P3.
- Technical Note 0971/10 Surface Water Flood Map Updates.
- Whitby landscape plan general arrangement R3-740-03-LA-01 Rev A
- Biodiversity Net Gain Report R3-740-03-EC-02 Rev 4.
- The Statutory Biodiversity Metric.
- Desk based slope stability risk assessment.
- Transport assessment addendum.
- Technical note 1 regarding slope stability.

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 application under the Planning Acts in accordance with the Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:

- Scarborough Borough Local Plan (adopted 3rd July 2017)
- Minerals and Waste Joint Plan (adopted 16 February 2022)

Emerging Development Plan - Material Consideration

- 6.3. The Emerging Development Plan for this site is:

- North Yorkshire Local Plan. The plan has not yet reached a stage that would have any impact on the proposal.

-Whitby neighbourhood plan- Whitby Town Council applied for designation of the whole of the parish as a neighbourhood area on 25 October 2022 and was subsequently designated. There is no draft to consider.

Supplementary Planning Documents (SPD)

- 6.4. Affordable Housing SPD (February 2022).
- 6.5. Green Space SPD (November 2014).
- 6.6. Education Payments SPD (May 2008, updated April 2012).

Guidance - Material Considerations

- 6.7. Relevant guidance for this application is:
 - National Planning Policy Framework 2024
 - National Planning Practice Guidance
 - National Design Guide

7.0 Consultation Responses

- 7.1. Whitby Town Council: No objections. Support subject to this application being considered at committee and not delegated to an officer - this is not a through road.
- 7.2. Whitby Civic Society: Neutral comment: We would request that the Planning Authority check the site of the proposed development against housing allocations sites and development limit in the Local Plan.
- 7.3. NYC Affordable Housing: 30% affordable housing is required; requirements are set out in the Affordable Housing SPD; units should meet minimum size standards; the tenure split will be 70% rent and 30% low-cost home ownership- shared ownership.
- 7.4. NYC Archaeologist: Some ridge and furrow is present but no objections are raised to the proposal.
- 7.5. NYC Children and Young Peoples Service: No contributions sought for primary, secondary, special or early year places.
- 7.6. NYC Environmental Health (Contaminated Land and Air Quality): A damage cost calculation should be undertaken to determine an appropriate sum to be spent on monitoring and mitigating the impact on air quality. A phase 2 ground investigation, remediation strategy and verification report should be undertaken. It is strongly advised the applicant should follow the recommendations in the 6 Alpha Associates report Preliminary Unexploded Ordnance Threat Assessment.
- 7.7. NYC Environmental Health (Private Sector Housing): No comment.
- 7.8. NYC Environmental Health (Commercial and Regulation Team): Recommends conditions regarding construction phase noise and dust management; plant and equipment; plant and mechanical extraction equipment; hours of work and equipment; site delivery hours; and lighting. An informative is provided regarding air source heat pumps.

- 7.9. NYC Head of Parks and Countryside Service (Ecology): Amendments required.
- 7.10. The proposed development would meet the BNG requirements and comply with the BNG hierarchy. The statutory 10% net gain for both area and hedgerow habitats are capable of being achieved on site. The previous loss of medium distinctive habitats including Bramble and Blackthorn will be replaced with the creation of new scrub habitat and the small area of woodland will now be retained and enhanced as this was previously subject to removal. Conditions are recommended regarding: submission of a Construction Environmental Management Plan for Biodiversity; Submission of a Landscape and Ecology Management Plan (or a BEMP); Biodiversity Net Gain Implementation; Submission of the Habitat Monitoring and Management Plan (HMMP).
- 7.11. NYC Lead Local Flood Authority: Recommends conditions regarding foul and surface water drainage; runoff rate, storage requirements and maintenance; maintenance; treatment of surface water/pollution prevention; and exceedance flow routes.
- 7.12. NYC Local Highway Authority: The LHA considers the proposal would link up two existing cul-de-sacs and commentary is provided on the internal site layout but no objection is raised to the purely indicative layout. It considers measured road speeds of 33mph on Ruswarp Lane require visibility splays of 40m which can presently be achieved. It requests such splays are shown on future layout reserved matters applications. It considers the turning head on Resolution Way should be replaced by a continuous footway from the site and that this should be conditioned. With regards to Pembroke Way, the LHA notes the proposal would increase traffic so it may decide to introduce double yellow lines at the Pembroke Way/A171 junction through its own Traffic Regulation Order process. It may do the same for the Resolution Way/Ruswarp Lane junction and Drake Close/Pembroke Way junction. Pembroke Way will become a through road therefore visibility splays for Drake Close need to be detailed on any future reserved matters application to ensure they are not obstructed. Developer contributions are sought to cover the cost of the TRO. A temporary TRO for the same locations should be installed to cover the construction period and a condition is recommended to secure this as part of a construction management plan. Comments on walking accessibility are provided. The eastern and northern pedestrian routes should be designed and designated as part of the highway. The LHA considers that if the proposal is approved it would provide a through road resulting in the existing emergency access from Drake Close to the A171 being redundant. A s106 contribution is requested to adapt the emergency vehicular access to Drake Close to a pedestrian and cyclist route only. The LHA recommends tactile crossing points are installed on the Resolution Way and Ruswarp Lane junction to encourage walking and they should be shown on the drawings. The TA requires amendments/further assessment to consider the need for enhanced pedestrian crossing of Mayfield Road which may need a contribution. The LHA requires additional information to be included to demonstrate a safe access onto the cycling network. Four nearby bus stops should be made suitable for disabled access. Relocation and improvements of existing bus stops is recommended to be secured by planning condition. Parking provision comments are provided for consideration at reserved matters stage. The LHA does not raise issue with traffic flows or junction modelling/capacity. The travel

plan needs amendments which can be secured by condition. Amendments to road signage for no through routes can be secured by condition. A construction management plan condition is recommended to discourage construction drivers from using Ruswarp Bank and keep roads clean. Construction road signs are recommended by condition.

- 7.13. No objection subject to conditions and s106 contributions.
- 7.14. NYC Tree and Woodland Section: The indication is tree removals are limited to T8, T17, T18, T19, T20 as well as G6 and G7. The landscape plan has been reviewed including the proposed compensatory tree and hedge planting. T20 appears to be positioned at a sufficient distance from the proposed dwelling to be considered for retention. All other removals are supported in light of the landscape proposals for compensatory planting. It is noted that a number of trees included in the planting proposals appear to be located within the curtilage of proposed dwellings. Consideration should be given to subjecting the Landscape Plan to a Tree Preservation Order, thus ensuring they are protected from removal once the dwellings are occupied.
- 7.15. NHS Humber and North Yorkshire Integrated Care Board The proposal will directly impact Whitby Group Practice approximately 0.9m from the site. An indicative proposal for 54 dwellings would result in an additional population of approximately 124 people. The practice does not have capacity to accommodate growth from the proposal. £33,144 is required towards improvements to capacity, by way of improvements to, reconfiguration of, or extension of Whitby Group Practice or providing additional resource for a new build health development.
- 7.16. North Yorkshire Police: The development lies within an area with relatively low crime & disorder levels. Design guidance is provided.
- 7.17. Yorkshire Water: A water supply can be provided to the site. Waste Water- a condition is recommended requiring development is carried out in accordance with the submitted drainage strategy.

Local Representations

- 7.18. Fifty-two objections have been received mostly from nearby residents. A summary of the comments is provided below, however, please see website for full comments.
- No need for the development.
 - The site is not allocated for development in the local plan.
 - There is no housing shortage in Whitby.
 - There is a lack of affordable long term rentals for those on a low income which the proposal would not help.
 - 30% affordable is not enough. Does affordable definition use average local income.
 - The Council is trying to discourage second homes and holiday lets. This should be conditioned.
 - There are enough new homes with 645 having been built since 2022.
 - 44.5% of dwellings are not a primary residence in the town.
 - Adjacent B&B's will be impacted by construction on this large building site at the end of the garden.

- Increased flood risk. The site is waterlogged. The drainage system must ensure adjacent property is not flooded.
- Where are the results of the consultation that happened last year?
- Loss of property value.
- Extra traffic. Highway safety on surrounding roads, particularly if a rat run is created. Lack of parking.
- Construction and occupation noise. Harm to shift workers sleep.
- Increased air pollution and dust.
- Threat to wildlife and protected species. Some species may not have been considered by the ecological appraisal. Bat survey results should be provided.
- Loss/impact on trees.
- Loss of green space which is used by the public and dog walkers.
- Harm to character of quiet cul-de-sac by changing it into a through road.
- Harm to residential amenity including overlooking, overshadowing, loss of light, loss of privacy, loss of view, harm to enjoyment of gardens.
- No landscaping details have been provided.
- Exacerbation of drainage problems.
- Impact on mental health due to stress.
- Lack of or exacerbation of pressure on local services such as schools, doctors, dentists, hospitals and police.
- Need more shops.
- No jobs in Whitby.
- Affordable homes could be bought as second homes.
- Land near the site is unstable/has subsided.
- Loss of farmland which is used for livestock.
- Loss of tranquillity.
- Restrictive covenants may prevent development.
- Easements may be breached.
- As this is an outline application, more houses of greater height and density could be proposed.
- Pilled foundations would harm amenity.
- Modern estate would not be in keeping with the period homes on Mayfield Road.
- A public right of way or common land may have been created on the site.
- Fencing to existing properties requires consideration.
- Light pollution to existing properties should be considered.
- Sewage may flow into the North Sea.

7.19. Neutral comments have been received from Whitby & Esk Valley Active Travel (summary):

- The Transport Assessment addendum suggests a route for cyclists to connect to the Cinder Track that is unsuitable for cyclists due to steps and the slope/terrain.
- Alternatively, contributions should be secured to enable reuse of an old bridge over the Cinder Track to enable cycle access.
- The Whitby LCWIP consultation process has already concluded that better prioritised crossing facilities over Mayfield Road are required for pedestrians. The Transport Assessment does not propose anything that prioritises sustainable modes of transport in accordance with the Local Plan. The pedestrian surveys do not reflect the need for a pedestrian crossing on Mayfield Road. The proposal should make a S106 contribution to provide a prioritised pedestrian crossing over Mayfield Road.

7.20. After the first Planning Committee, two objectors and a representative of local residents sent emails to the case officer and Committee Members raising a list of technical concerns and concerns that the whole application site and the gardens of houses to the north of the site fronting Mayfield Road contain standing water in winter and spring. Photographs of standing water were included. They also raise concern that insufficient drainage may affect the stability of the land. Residents are seeking specialist advice regarding restrictive covenants. Officers consider drainage and stability of the application site are secured by the recommended conditions. The development is not required to remedy existing standing water issues outside the application site. The technical matters raised are either dealt with by the recommended conditions or are immaterial.

8.0 **Environment Impact Assessment (EIA)**

8.1 The proposal is not schedule 1 development under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It is a type of development listed in schedule 2, 10b but does not exceed the screening threshold. Therefore, a screening opinion is not required and the proposal is not EIA development.

9.0 **Main Issues**

9.1. The key considerations in the assessment of this application are:

- Principle of development
- Loss of agricultural land
- Minerals
- Land stability
- Housing mix
- Character and appearance
- Flood risk, drainage and climate change
- Access and highway matters
- Impact upon nature conservation and protected species
- Affordable housing
- Recreational open space
- Contaminated land and ground conditions
- Residential amenity
- Archaeology
- Noise and air pollution
- Developer contributions
- Response to objections not dealt with elsewhere

10.0 **ASSESSMENT**

Principle of development

10.1. Scarborough Borough Local Plan (SBLP) Policy SD1 contains a presumption in favour of sustainable development that reflects that in the NPPF. Policy SH1 provides a settlement hierarchy and confirms the broad distribution of development in the Local Plan area will be shaped by the role and function of places. Whitby is in the second of five tiers. The application site is within the Whitby development limits as defined by the Policies Map. SBLP Settlement Hierarchy Statement 2 confirms

Whitby will be the focus for housing, employment, shopping, leisure, education, health and cultural facilities in the northern part of the former Borough.

- 10.2. SBLP Policy HC1 encourages new opportunities for housing development by "b. supporting the development of new housing within settlements where proposals are compatible with other policies in the Local Plan". SBLP Policy HC2 confirms "Proposals for new housing development will be permitted within the defined Development Limits of settlements where in accordance with other policies in the Local Plan."
- 10.3. The principle of residential development on the application site complies with Policies SD1, SH1, HC1 and HC2.
- 10.4. NPPF paragraph 11 requires: "decisions should apply a presumption in favour of sustainable development....For decision-taking this means:
 - d) where.....the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."
- 10.5. The policies most important to determining the application are SD1, SH1, HC1 and HC2. These are out of date as defined in NPPF footnote 8 because the Scarborough legacy area only has a 2.7 year housing land supply. Therefore, permission should be granted unless exemptions d) i or ii apply. There are no protected areas or assets of particular importance, as defined in NPPF footnote 7, that provide a strong reason for refusing the development. These are "(7) The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 189) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, a National Landscape, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change." Exemption ii is more nuanced and is returned to in the conclusion. Overall, the adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits as described in paragraph 11d ii, with particular regard to the key policies. These are defined in footnote 9 as "(9) The policies referred to are those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12." These are detailed in the relevant sections below where relevant to this outline application. Therefore, the presumption in favour of sustainable development applies to the proposal.
- 10.6. It is still possible to give weight to development plan policies even if they are considered out of date. As set out in NPPF paragraph 232, due weight should be given to policies, according to their degree of consistency with the NPPF (the closer

the policies in the plan to the policies in the Framework, the greater the weight that may be given). NPPF paragraph 61 states "To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed..... The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community."

- 10.7. Policies SD1, SH1, HC1 and HC2 collectively seek to secure sustainable development and support residential development of allocated sites, sites within development limits and HC1 puts in place a mechanism for supporting sustainably located residential proposals beyond development limits if there is not a five year housing land supply. This is broadly what the NPPF aims to achieve. This basket of policies provides a way of meeting the increased housing need established through the revised Standard Method, albeit by windfall rather than plan lead allocated development. Hence, these policies are consistent with the NPPF and are given significant weight.
- 10.8. In respect of sustainability, Whitby is, arguably, the second most sustainable settlement within the former Borough area and has a wide range of services, facilities, alternatives to car based travel and employment opportunities. The site is considered as being in a sustainable location. NPPF paragraph 84 which restricts isolated dwellings does not apply, nor does paragraph 91 which relates to main town centre uses.

Loss of agricultural land

- 10.9. The site was in active agricultural use for grazing at the time of the officer site visit. Agricultural land is classified using grades 1, 2, 3a, 3b, 4 and 5. Best and most versatile agricultural land is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification. The Yorkshire and Humber Agricultural Land Classification indicates the site is entirely grade 3 'good to moderate' agricultural land. It does not differentiate between grades 3a and 3b.
- 10.10. While there are no SBLP policies related to agricultural land, the NPPF paragraph 187 requires planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land.
- 10.11. The vast majority of Whitby is classified as non-agricultural land on the Agricultural Land Classification map. Surrounding the town is a vast swathe of grade 3 land. There are small areas of grade 4 land but these are more distant from, and in a less sustainable location in relation to, Whitby, making them less preferable for development in broader sustainability terms.
- 10.12. In the absence of a site specific agricultural land quality assessment the site is assumed to be best and most versatile agricultural land, the loss of which would have an extremely limited impact on the agricultural economy and food security, which will be weighed in the planning balance.

Minerals

10.13. The site is within the Saltwick Cloughton buffer designated by the Minerals and Waste Joint Plan. Policy S01 safeguards the buffer from other forms of surface non-mineral development to protect the resource for the future. Policy S02 confirms within such areas permission for development other than minerals extraction will be granted where, amongst other things, it can be demonstrated that the mineral in the location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource. In this case, the application site adjoins dwellings on three sides which represent a very significant constraint to mineral extraction due to amenity impacts. Vehicular access would be similarly problematic for development of that nature. The site is modest in area which brings into question the viability of extraction. Overall, the constraints of the site mean potential minerals are not economically viable to exploit. Minerals impacts comply with Policy S02.

Land stability

- 10.14. SBLP Policy ENV 3 seeks to mitigate environmental risk by requiring the remediation or mitigation of unstable land to reduce unacceptable risks to the environment through development; and ensuring development does not contribute to or exacerbate coastal erosion and/or landslip. NPPF paragraph 187 requires planning decisions should contribute to and enhance the natural and local environment by preventing new development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of land instability. Paragraph 197 confirms where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. These policies are consistent with the NPPF and are given significant weight.
- 10.15. The submitted stage 1 geo-environmental desk study report assesses a larger site than that subject to this application. The report notes there are steep slopes in the south of the site and adjacent to the site, with reason to suspect historic slope movement has occurred. It recommends a slope stability analysis should be incorporated into future site investigation and depending on the results, remedial measures to ensure sufficient stability of slopes may be required.
- 10.16. The submitted technical note regarding slope stability reiterates there are suspected features indicative of historical slope movement within the blue line adjacent to the application site. The report recommends a routine assessment of slope stability for the application site should be included within any ground/geotechnical investigation which can be secured by condition.
- 10.17. Subsequently, a desk-based slope stability risk assessment has been submitted because the issue is considered central to the suitability of the site for development. The report considers superficial deposits around scarps bordering the southern boundary of the site are likely to have marginal stability and that there is a possibility of further movement of the scarps although there is no evidence this has happened in the last 80 years. The report recommends a condition to secure a ground investigation encompassing the full length of the slope suspected of movement plus a buffer zone. It should comprise boreholes to rock head and laboratory classification testing. A full topographical survey should be included. A

detailed cross section through the slope shall be provided and analysed using slope stability analysis software. If there is confirmed to be excessive risk of future slope movement, measures shall be proposed to prevent future movement and enhance stability. The report considers the risk of such movement in the adjoining blue line area, which could possibly only affect part of the red line development site, is not a barrier to development and can be addressed by planning condition.

- 10.18. This assessment is considered a reasonable initial response to the issue and will require a condition securing a full investigation and, if required, mitigation measures, along with a requirement to secure a separate planning permission for any off site works that require planning permission in their own right. An additional year has been allowed, as permitted by Section 92 of the Town and Country Planning Act 1990 (as amended), for submission of reserved matters due to potential implications arising from these potential off-site works required to enable the development.

Housing mix

- 10.19. SBLP paragraphs 6.55 to 6.57 discuss the need to provide a balanced housing market as set out in the SHMA or more up to date assessment. NPPF paragraph 61 aims to meet an area's identified housing need, including with an appropriate mix of housing types for the local community. It will be necessary to condition the housing mix be agreed with the LPA at reserved matters stage in order to prevent an overprovision of a particular house type that has a determinantal impact upon providing a balanced housing market.

Character and appearance

- 10.20. SBLP Policy ENV7 requires proposals should protect and where possible enhance the distinctiveness or special features that contribute to the landscape character of a particular area and take into account the sensitivity of the landscape to change in terms of a. the sense of openness or enclosure; b. the pattern and complexity of the landscape; c. the experience derived from a particular landscape character; d. the relationship to existing settlement edges and the cultural pattern; e. the visual sensitivities and intervisibility of the landscape. Proposals should have regard to the landscape between settlements and should prevent harmful development which results in the loss of the individual characteristics of settlements and/or the unacceptable coalescence of settlements or the wider landscape.
- 10.21. NPPF footnote 9 requires consideration of paragraph 135 which requires planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 139 resists bad design and supports good design. These policies are consistent with the NPPF and are given significant weight.
- 10.22. The site is partially within the Whitby urban area which is not assessed for landscape character and partially within the character area F1: Esk in the Scarborough Borough Landscape Study: Volume 1 Borough Wide Landscape Character Assessment. It notes the steep rolling valley sides near the river Esk but does not provide significant commentary on the character of the northern boundary of the character area where the site is located.

- 10.23. The submitted tree assessment shows the site is largely free of good quality trees, meaning it will be possible to accommodate residential development on the site without harm in this regard. A detailed tree impact assessment will be required via condition in relation to the reserved matters. The proposal would clearly lead to a significant change in the use of the site itself from agricultural use to residential development but this is not considered to justify refusal of planning permission in itself. No harmful landscape impact would arise due to the position of the site adjacent to the built form of Whitby. The site is visually contained to the west, north and east by the existing built form of Whitby. Development of the site is likely to entail development of a similar scale to the existing adjacent residential development. Significant visual impacts are limited to immediate residential receptors and views from adjacent roads and pedestrian accesses. The existing boundaries adjacent to the site are marked by a mix of well landscaped garden boundaries while others feature fence lines with little or no landscaping to soften the visual impact of the settlement edge. While all matters aside from access are reserved for future consideration, it is anticipated that when viewed from the south there will be a moderate element of visual impact arising from development of the site, particularly because of the relatively elevated position of the site above the Esk Valley to the south. Indeed, the planning statement indicates a desire to make use of the far-reaching views to the south in the eventual design of the dwellings. This will need to be balanced with appropriate boundary landscaping to soften and filter views from the south at reserved matters stage. The proposal would be viewed in the context of similar residential development from the south.
- 10.24. Overall, no harmful landscape impact would arise and significant visual impacts are limited to the immediate area, whereas those from the south are moderate. This impact needs to be weighed in the planning balance.

Flood risk, drainage and climate change

- 10.25. SBLP Policy ENV 3 confirms proposals will be expected to mitigate against the implications of environmental risk and the effects of climate change including application of sequential and exception tests; using SUDS; ensuring development has adequate provision for foul and surface water disposal; and preventing pollution of controlled waters.
- 10.26. NPPF paragraph 170 requires "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere." NPPF paragraph 173 requires a sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding. Paragraph 175 exempts applications from the sequential test if the flood risk assessment shows no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source.
- 10.27. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. NPPF paragraph 182 requires sustainable

drainage systems for this development. The development plan policies are consistent with the NPPF and are given significant weight.

- 10.28. The site is in flood zone 1 (low risk) for river and sea flooding. Small parts of the site are shown to be at risk of surface water flooding in a 1 in 30 year (high), 1 in 100 year (medium) and 1 in 1000 year (low) event. The site is at medium risk of groundwater flooding. The submitted fixed parameters plan shows the area at risk of surface water flooding and states "this will not form part of a plot". This is believed to be aimed at engaging paragraph 175 which states "The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)." Associated PPG states "In applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied."
- 10.29. The proposal does benefits from the exception in paragraph 175 because the applicant has provided a technical note regarding surface water flood map updates. It notes the area at risk of flooding is due to a localised low point and lack of positive drainage system. It notes this will be mitigated by the implementation of a positive surface water drainage system and exceedance pathways and that this would provide appropriate management for reducing the risks and or limit surface water flooding during extreme events. However, the site is at medium risk of groundwater flooding and there is no exemption from a sequential test in this situation but the test has not been provided. The failure to provide a sequential test is a conflict with flooding policies. However, the condition below that controls finished floor levels and external levels would ensure mitigation is provided to minimise the impacts of this. The actual flood risk would be limited and appropriate.
- 10.30. The actual surface flood risk is limited to a very small part of the site, it would be limited to an area outside of a residential plot, the implementation of a positive surface water drainage scheme and exceedance routes would reduce the likelihood of flooding occurring in this location. This means the actual surface water flood risk implications are extremely limited. The exceptions test is not required.
- 10.31. The initial submitted flood risk assessment considers all sources of flood risk to be low except ground water which is medium. It proposes foul water drainage to public foul sewer in Pembroke Way and as a last resort, surface water drainage to public surface water sewer in Pembroke Way. Comprehensive foul and surface water drainage conditions including maintenance details are required because of the indicative nature of the proposal. Flood risk mitigation measures are recommended including finished floor levels, external levels and dwelling construction and can be secured by condition.

- 10.32. The LLFA recommends conditions include general foul and surface water; runoff rate, storage requirements and maintenance; pollution prevention; and exceedance flow routes. All of these matters are dealt with by comprehensive foul and surface water drainage conditions and ground level/exceedance conditions. Yorkshire Water request that development be carried out in accordance with the FRA but this is inappropriate given the outline nature of the proposal. The matter would be satisfactorily dealt with by the aforementioned conditions.
- 10.33. The failure to provide a flood risk sequential test is a conflict with SBLP Policy ENV 3 and NPPF paragraph 173 but the actual flood risk is considered limited because of mitigation measures secured by condition. Foul and surface water drainage implications are considered acceptable subject to conditions.

Access and highway matters

- 10.34. SBLP Policy DEC 1 requires the proposal to provide suitable and safe vehicular access. Policy DEC 2 requires electric vehicle charging point for every new dwelling. This has been overtaken by building regulations. SBLP Policy INF 1 seeks to improve accessibility within and beyond the Borough by amongst other things, improving bus routes, services and passenger facilities; promoting sustainable modes of transport other than the private car; and protecting, managing and enhancing an integrated network of routes for those without access to a car. SBLP Policy INF 3 requires proposals to contribute towards sustainable transport by using travel plans to promote sustainable transport choices including consideration of electric vehicle charging infrastructure.
- 10.35. NPPF paragraph 109 requires transport issues should be considered from the earliest stages of development proposals, using a vision-led approach to identify transport solutions that deliver well-designed, sustainable and popular places. This should involve: ensuring patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places; understanding and addressing the potential impacts of development on transport networks; realising opportunities from existing or proposed transport infrastructure, and changing transport technology and usage - for example in relation to the scale, location or density of development that can be accommodated; identifying and pursuing opportunities to promote walking, cycling and public transport use. NPPF footnote 9 requires consideration of paragraph 110 which states requires the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 10.36. Paragraph 115 requires sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location; safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach. Paragraph 116 states "Development should only be

prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios."

- 10.37. Paragraph 117 requires development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second - so far as possible - to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use.
- 10.38. The aforementioned development plan policies are considered broadly consistent with the NPPF and are given significant weight.
- 10.39. The application form confirms approval is sought for access matters to the site but not within the site. The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines access as: "in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made."
- 10.40. The Transport Assessment is based on a proposal for 54 dwellings. Therefore, any permission would be subject to a condition limiting the number of dwellings to 54 because this is the level of highway impact considered within the application and by the LPA.
- 10.41. The TA shows the vast majority of Whitby is within 2km walking distance of the site and the whole of the town and some surrounding villages are within 5km cycling distance. There are nearby bus stops on Mayfield Road and Ruswarp Lane with regular services to Middlesbrough, Scarborough and Leeds. Whitby railway station is 1.7km away and provides five daily services to Middlesbrough. This demonstrates the site is in a sustainable location with good access to alternatives to car travel.
- 10.42. The TA shows a low frequency and severity of the collisions recorded over the most recent five-year period on the surrounding road network which shows there are no accident black spots. It considers appropriate visibility of 2.4m x 43m can be achieved at the existing junctions of Resolution Way / B1416 Ruswarp Lane; Drake Court / Pembroke Way; and Pembroke Way / A171 Mayfield Road.
- 10.43. Traffic surveys were undertaken at junctions that are predicted to experience an increase of more than 30 two-way trips as a result of the development proposals. Network peaks periods were concluded to occur between: AM Peak - 09:45 - 10:45; PM Peak - 16:30 - 17:30. Traffic growth and traffic from committed developments are considered. Trip generation from the proposal is 8 arrivals and 20 departures in the AM peak; and 18 arrivals and 9 departures in the PM peak.

- 10.44. The TA shows that with traffic in 2029 plus traffic from other committed development plus traffic from the proposal all junctions assessed to date are predicted to operate within capacity. The LHA raises no concerns with accident black spots or traffic flows from the development.
- 10.45. Vehicular accesses are proposed from Resolution Way and Pembroke Way, and pedestrian accesses are proposed from Mayfield Road and Drake Close. The LHA is content creation of a vehicle short cut can be prevented by the eventual layout by methods such as a curving road layout. It considers the required 40m visibility splays can be achieved at the Resolution Way/Ruswarp Lane junction. It requests these are shown on the future layout reserved matter application. However, splays are relevant to access matters which are being considered under the current application. This means the splay does not need to be shown in the subsequent layout reserved matter application. Subsequent LHA comments recommend a condition requiring 40m by 2.4m visibility splays at this junction prior to egress by vehicles. However, splays far in excess of this requirement are already provided at this existing junction over land within the highway limit. Therefore, existing visibility is sufficient hence the condition is unnecessary.
- 10.46. The LHA notes the turning head on Resolution Way would become redundant and recommends the footway is continued into the site. This is shown on the submitted access drawing AMA-22843-SK004 Rev P01 which will be conditioned. The site access drawing AMA-22843-SK003 Rev P01 from Pembroke Way will also be conditioned. Tarmac surfaced pedestrian accesses from Mayfield Road to the north and Drake Close to the east are shown on drawings AMA-22843-SK001 Rev P01 and AMA-22843-SK002 Rev P01 which will be conditioned. Wheelchair accessible chicane gates would be required by condition to the northern end of the pedestrian access to Mayfield Road to stop users overshooting onto the highway. While not recommended by the LHA, removal of the existing stile at the Drake Close access and gate at Mayfield Road can also be conditioned to facilitate access for all.
- 10.47. The LHA notes the proposal will increase traffic flows through the Pembroke Way junction and that parking near the junction is problematic particularly in summer. The LHA would seek to consult on double yellow lines around this junction, the Resolution Way/Ruswarp Lane junction, and Drake Close/Pembroke Way junction via a Traffic Regulation Order. The LHA seeks a s106 contribution of £2,500 to cover these costs. It also seeks a temporary TRO for the same locations for temporary parking restrictions at the same junctions, includes this within a construction management plan and recommends a s106 contribution of £2,000 to cover associated legal costs. The LHA requests visibility splays at the Drake Close/Pembroke Way junction are shown on any future reserved matters application. However, this is relevant to consideration of the current application. It is clear sufficient splays of 43m by 2.4m over highway land are already available at this existing junction therefore this requires no further consideration.
- 10.48. The LHA requests a contribution to adapt an existing access from Drake Close to Mayfield Road to stop its use for emergency purposes but allow continued pedestrian and cycle access. The LHA request this because if the proposed development is approved and the reserved matters provide a through route through the development and it is constructed, this emergency access will no longer be required as access to existing housing estates off Pembroke Way will be available

via the proposed development. However, the contribution is not necessary to make the development acceptable in planning terms thus fails the relevant legal test so is not sought.

- 10.49. The LHA recommends tactile crossing improvements are installed across the Resolution Way / Ruswarp Lane junction in order to promote inclusive use of the footway and sustainable mode of travel. One such crossing is shown on drawing AMA-22843-SK005 Rev P01 and can be conditioned. An additional crossing of Ruswarp Lane is required to allow residents of the site a convenient crossing point to the north bound bus stop and can be secured by condition.
- 10.50. The LHA initially recommended further assessment of the need for pedestrian crossing enhancements to the A171. The submitted information shows the expected total pedestrian trip generation is expected to be around 32 arrivals and 33 departures across a typical day. The uplift in pedestrian trips using the crossing of Mayfield Road is therefore not considered significant enough to warrant an additional crossing point of Mayfield Road and is currently well served by a recently installed refuge island crossing east of the junction with Pembroke Way. The LHA accepts this matter.
- 10.51. The LHA required further detail regarding safe access for cyclists to the cycle network. The applicant initially suggested a route to the east to access the Cinder Track but, as a local interest group and the LHA pointed out, that route was impassable for cyclists due to steps and barriers. The applicant subsequently provided a written description and map showing a different route on the highway for cyclists to reach the Cinder Track. The LHA has considered this information and has not requested anything further. Cycling matters are considered acceptable.
- 10.52. The LHA recommends four local bus stops are enhanced to make them accessible for people with disabilities. Additionally, the south bound bus stop next to Resolution Way should be moved away from the junction; the west bound bus stop near 101 Mayfield Road should be relocated to avoid increased risk of pedestrian/access conflict; the current east bound bus layby located opposite nr 101 Mayfield Road should be improved by a metalled footway and dropped kerbs installed for the access crossing the grass verge and the gap in the hedge. The applicant considers only 8 daily trips on public transport would be generated by the development and has submitted drawings showing two relocated bus stops, namely the westbound bus stop on Mayfield Road and the southbound bus stop on Ruswarp Lane.
- 10.53. The LHA notes the Pembroke Way / A171 junction is signed as a No Through Route. If the development is constructed with an internal road linking the two accesses, the sign will need to be removed but other roads will become no through routes and will therefore require a sign to be erected. The LHA goes on to recommend a condition that seeks to secure relocation of the bus stops on Ruswarp Lane and Mayfield Road; installation of raised kerbs at four bus stops; construction of a new footway across the turning head on Resolution Way and grassing the area behind it; alterations to road signage regarding through routes; installing tactile dropped kerbs to the junction of Resolution Way and Ruswarp Lane; installation of double yellow lines at three junctions for the duration of the construction period. This condition has been amended and is attached. It is

considered necessary to condition the upgrade and relocation of the four bus stops noted above in order to encourage sustainable transport.

- 10.54. The LHA is concerned that HGV construction traffic may get stuck trying to go up Ruswarp Bank. A construction management plan condition is recommended to encourage avoidance of this route, prevent mud and debris on the roads, and ensure construction phase driver warning signage in the two cul-de-sacs is erected. However, these are matters which are either unenforceable under planning legislation or more appropriately dealt with by primary highway legislation if necessary.
- 10.55. An interim travel plan has been provided. Therefore, a final travel plan will need to be conditioned as recommended by the LHA. The LHA comments recommend a travel plan monitoring fee of £5,000 should be secured by s106. However, the fee for development of up to 150 dwellings is £2,500 which is secured by s106.
- 10.56. Highway and access matters are considered to be acceptable subject to conditions and s106.

Impact upon nature conservation and protected species

- 10.57. SBLP Policy ENV 5 seeks enhancement of species, habitats or other assets thereby resulting in a net gain in biodiversity; seeks to protect designated sites; considering whether any potential adverse impacts on species and habitats can be successfully mitigated; and increasing and retaining tree cover.
- 10.58. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity value in a manner commensurate with their statutory status or identified quality in the development plan; minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 193 requires when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 10.59. The development plan policies are consistent with the NPPF and are given significant weight.
- 10.60. The submitted preliminary ecological appraisal (PEA) report outlines Whitby-Saltwick SSSI is located approximately 1.8km northeast of the site; the site also falls within the Impact Risk Zone of North York Moors SSSI; the North York Moors SSSI, Special Area of Conservation (SAC), and Special Protection Area (SPA) are located approximately 12km west of the site boundary; The Bats, Whitby Site of Importance for Nature Conservation (SINC) is located approximately 475m southeast of the site boundary; River Esk SINC is located approximately 775m southeast of the site boundary; Turnerdale Slack SINC is located approximately 860m from the site boundary; and River Esk Important Invertebrate Area (IIA) is

located approximately 80m from the site boundary. The PEA describes also habitat on and adjacent to the site and survey results.

- 10.61. The PEA recommends no mitigation in relation to designated sites. It recommends individual on-site trees are retained where possible; a Construction and Environment Management Plan (CEMP) is provided to avoid, minimise and mitigate negative construction impacts on habitats surrounding the site; construction phase amphibian, reptile, badger, breeding bird and terrestrial mammal mitigation measures are recommended which can be conditioned. Breeding bird habitat replacement is recommended and can be conditioned. A lighting scheme that is sensitive to bats is recommended, however this may conflict with the requirements of the Highway Authority to secure adoption of the highway for the benefit of future residents so the related condition excludes highway lighting. A tree with bat roost potential will be retained therefore no further survey work is required in relation to it. Bat and bird boxes, and hedgehog highways are recommended and can be conditioned.
- 10.62. Biodiversity net gain of at least 10% is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021).
- 10.63. The submitted amended Statutory Biodiversity Metric shows that the indicative proposal would result in an on-site net change of +11.23% in habitat units and +224.63% in on-site hedgerow units. It does not consider land beyond the application site.
- 10.64. The submitted Biodiversity Net Gain Report Rev 4 reiterates the above and indicates it will be possible to achieve the required net gain on site. The report recommends that a 30 Year Habitat Management and Monitoring Plan (HMMP) be conditioned as part of the planning permission to meeting the targeted conditions of post development habitats. The HMMP will detail full management prescriptions, for the 30-year period required as best practice for biodiversity net gain.
- 10.65. The Council Ecologist considers it will be possible to meet the BNG requirement on site and satisfy the hierarchy in principle based on these indicative details. On site gains are considered to be significant so must be secured, monitored and managed for a period not less than 30 years. Conditioning the parameter plan will secure areas for scrub planting and woodland retention. The Council Ecologist recommends conditions for a Construction Environmental Management Plan for Biodiversity based on the PEA; a Landscape and Ecology Management Plan (or a BEMP) to secure biodiversity enhancements; BNG implementation; and a HMMP. All but the LEMP and HMMP condition are attached because its requirements are dealt with by other conditions. A BNG monitoring fee of £2522 is required by s106 based on the Council's BNG monitoring fee calculator.
- 10.66. The impact upon nature conservation, protected species and BNG is considered acceptable subject to conditions and s106.

Affordable housing

- 10.67. SBLP Policy HC 3 requires 30% affordable housing on-site for developments of 11 or more dwellings. Where on-site affordable housing is required, a minimum of 70% of the affordable housing units should be rented and 30% intermediate, unless the Local Planning Authority is satisfied that an alternative mix meets proven local need. The Affordable Housing Supplementary Planning Document (February 2022) confirms the Strategic Housing Market Assessment 2021 identified an overall affordable housing need from 3,507 households over a 16 year period (2022-38) resulting in an annual need of 219 affordable homes across the former Borough. The SHMA demonstrated a need for both rented and intermediate affordable housing. The SPD states "3.12 In the case of outline applications, the delivery of affordable housing must be agreed in principle. The Council will require inclusion of a formula as applicable for the size of site (based on Table 3.1) for the calculation of the appropriate number, type and tenure of the affordable homes within a Section 106 Agreement at the outline application stage, which will be applied to Reserved Matters proposals."
- 10.68. NPPF paragraph 65 permits affordable housing to be sought on major developments such as this. NPPF footnote 9 requires consideration of Paragraph 66 which expects that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures. Footnote 31 states "The requirement to deliver a minimum of 25% of affordable housing as First Homes, as set out in 'Affordable Homes Update' Written Ministerial Statement dated 24 May 2021, no longer applies. Delivery of First Homes can, however, continue where local planning authorities judge that they meet local need."
- 10.69. Housing have confirmed the 30% intermediate should be Low-Cost Home Ownership- Shared Ownership. The applicant has agreed these percentages. A s106 agreement will secure this affordable housing.

Recreational Open Space

- 10.70. SBLP Policy HC14 supports the creation of high quality open space and sports facilities and the improvement of existing open spaces and facilities for sport and recreation by, amongst other things, requiring developers to make provision for open space through development, in line with the former Borough Council's adopted standards. Paragraph 6.114 confirms an emphasis should be placed on improving the quality of the green spaces that failed to meet the required standards set out within the Green Space Audit (Scarborough Borough Council, 2014). Paragraph 6.115 acknowledged the Playing Pitch Strategy (PPS) which considers, aside from a few small deficiencies, there is generally sufficient capacity in pitch stock to meet current and future levels of play. Current provision should be retained and an emphasis should be placed on improving the quality of playing pitches and ancillary / associated facilities, particularly where deficiencies have been identified through the PPS. Paragraph 6.118 confirms all new developments will be required to contribute towards the provision of new green spaces and sports facilities in line with the standards described in the Borough Council's relevant Supplementary Planning Document. Paragraph 6.121 confirms new residential development should, where possible, facilitate opportunities for local food growing and for major residential development this may include the provision of allotments on or adjacent to the site. The requirements for allotments as part of any major residential

development proposals will be assessed in relation to local provision in the area and the potential demand created by the residential development in terms of anticipated households. Paragraph 8.77 confirms formal green infrastructure assets, i.e. parks and other green spaces, will continue to be delivered at the local level through the implementation of specific standards within new developments; in line with the requirements of Policy HC 14 and the "Green Space" Supplementary Planning Document, or any subsequent update. Through new development, the Local Planning Authority will also look to improve connectivity to existing Green Infrastructure assets that are within walking distance of development sites.

- 10.71. The Green Space Supplementary Planning Document (November 2014) requires, for 11 dwellings or more, outdoor sports facilities, equipped play areas and amenity green space are provided on site or via a contribution towards off-site provision. The s106 will require the first and second typology contributions to be provided in accordance with the formula in the SPD based on the reserved matters. The amount of on-site amenity green space can be calculated at reserved matters stage and is secured by condition while in perpetuity ownership, management and maintenance can be secured by s106 in accordance with the terms of the SPD.

Contaminated land and ground conditions

- 10.72. SBLP Policy ENV 3 seeks to mitigated environmental risk by requiring the remediation or mitigation of contaminated land to reduce unacceptable risks to the environment through development.
- 10.73. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil pollution; and remediating and mitigating contaminated land, where appropriate. Paragraph 198 requires decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 10.74. NPPF paragraph 187 requires decisions should contribute to and enhance the natural and local environment by: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 198 requires decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so Council's should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life. Paragraph 199 requires decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality

Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas.

- 10.75. The submitted stage 1 geo-environmental desk study report recommends further assessment for hazardous gases, investigation of possible contaminated land and unexploded ordnance.
- 10.76. The Scientific Team recommends conditions regarding an intrusive investigation, remediation strategy and verification report for contamination. It is strongly advised that the applicant should follow the recommendations in the 6 Alpha Associates report Preliminary Unexploded Ordnance Threat Assessment. The latter relates to potential unexploded bombs in the ground arising from world war two air raids.
- 10.77. Contaminated land conditions are recommended. A detailed threat and risk assessment with risk mitigation strategy for unexploded ordnance condition is also recommended.

Residential Amenity

- 10.78. SBLP Policy DEC 4 requires 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.
- 10.79. Significant weight is given to this policy as it is broadly consistent with NPPF paragraph 135 (f) which seeks to ensure a high standard of amenity for existing and future users.
- 10.80. The nature of the proposed land use is compatible with neighbouring uses. The outline nature of the proposal means it is not possible at this stage to consider the impacts arising from the scale of buildings, their proximity to existing properties, the layout of the site and related impacts. This will be done at reserved matters stage. The loss of a private view is not a material planning consideration nor is loss of property value. The impact of the construction phase upon residential amenity can be controlled by separate environmental protection legislation. Such legislation aims to protect the majority of local residents from harmful construction impacts. Hence, shift workers that sleep during the daytime will be less protected. The occupation phase traffic implications are not considered to result in harm to residential amenity.
- 10.81. The submitted stage 1 geo-environmental desk study report highlights a possible requirement for piled foundations, this requirement would be covered by the building regulations.
- 10.82. This is a proposal for residential development adjacent to a predominantly residential area so there are no general concerns about the impact on residential amenity in principle subject to assessment of the details submitted at the reserved matters stage.

Archaeology

- 10.83. SBLP Policy DEC 6 seeks to protect, enhance and promote archaeological heritage. NPPF paragraph 207 requires that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The development plan policy is consistent with the NPPF and is given significant weight.
- 10.84. The Council Archaeologist does not consider the fragmented ridge and furrow on the site to be a constraint to development and raises no objections to the proposal. Archaeological impacts are acceptable.

Noise and air pollution

- 10.85. The SBLP Policy ENV 3 seeks to mitigated environmental risk by monitoring and seeking to maintain good ambient air quality standards. Policy DEC 4 requires consideration of noise and other forms of pollution.
- 10.86. The proposed residential use is compatible with surrounding residential and tourist accommodation in land use terms.
- 10.87. Noise and air pollution during the construction phase would be controlled separate environmental protection legislation and therefore the conditions recommended by Environmental Health (EH) regarding a construction phase noise and dust management plan; construction phase plant and equipment mitigation; and working hours are considered unnecessary.
- 10.88. EH recommends a condition regarding an external lighting scheme, However, the applicant cannot dictate the specification of highway lighting and future residents are free to put up external lighting without the need for planning permission. It would not be reasonable to withdraw permitted development rights for external lighting in this location and much would be de minimis anyway. Therefore a condition would be unreasonable.
- 10.89. EH recommends a condition regarding noise from plant and mechanical extraction equipment at the premises, and a separate condition regarding ongoing delivery/despatch hours. However, these are more commonly associated with commercial development rather than residential development, so are unnecessary.
- 10.90. EH recommends an informative regarding noise from air source heat pumps but this refers to the need for a noise impact to be submitted to the LPA which is incorrect so is not attached.
- 10.91. The Scientific Team note given the new PM2.5 objective and the 35% reduction in population exposure requirements, alongside the proposed development of 54 dwellings, as identified in the Transport Assessment, and a through road to connect Resolution Way to Pembroke Way thereby introducing more traffic movement into a residential area, a damage cost calculation should be undertaken to determine an appropriate sum to be spent on monitoring and mitigating the impact on air quality,

and the result of this calculation and provisions for mitigation submitted in support of the application.

- 10.92. The site is adjacent to a large population in the town. There is no concentration of particularly vulnerable people nearby. The air quality construction phase impact on the adjacent population would be via construction traffic and dust. The Future Homes standard will ensure heating and hot water requirements for dwellings are provided by low carbon methods which reduces the impact on air quality compared to gas boilers. The main occupation phase impact of the development on air quality is through vehicle movements. The Building Regulations require every dwelling to have electric vehicle charging points which will encourage uptake of less polluting transport options. The LHA is satisfied that it will be able, at reserved matters stage, to secure a layout that does not create an appealing through road if the surrounding road network is subject to congestion. Measures to boost sustainable transport options are secured through condition and s106 regarding bus stop improvements and a travel plan, thus reducing pollution that may otherwise have occurred. Additional traffic movements in a residential area as a result of the proposal would be minimal. The site is not in close proximity to significant pollution sources, being at the southern end of Whitby and with the prevailing south westerly wind direction coming from open countryside. Exposure and emissions during both construction and occupation phases are likely to be minimal for the reasons given above. The aforementioned mitigation measures within and outwith the planning system will prevent unacceptable air quality impacts. The condition recommended by the Scientific Team is therefore unnecessary.
- 10.93. Noise and air pollution matters are considered acceptable subject to appropriate planning conditions or, mainly, covered by other primary legislation.

Developer Contributions

- 10.94. SBLP Policy HC10 encourages access to high quality education and health care facilities by, amongst other things, securing developer contributions towards health and education provision from housing development. SBLP Policy INF 5 confirms that where new development will necessitate the provision of new or upgraded infrastructure, financial contributions will be required through the use of Planning Obligations or the introduction of a Community Infrastructure Levy. This will fund road and transport improvements, education capacity, health and community facilities, and sport, leisure and recreational facilities. The Education Payments SPD is also relevant.
- 10.95. NPPF paragraph 34 requires plans to set out the contributions expected from development. Paragraph 100 confirms "It is important that a sufficient choice of early years, school and post-16 places are available to meet the needs of existing and new communities." Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 requires planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.
- 10.96. These development plan policies are consistent with the NPPF and are given significant weight.

- 10.97. NYC Children and Young Peoples Service do not request contributions for primary, secondary, special or early year places.
- 10.98. The NHS Humber and North Yorkshire Integrated Care Board comments result in a need for a contribution of £613.77 per dwelling as approved at reserved matters stage, to be secured by s106 towards improvements to capacity, by way of improvements to, reconfiguration of, or extension of Whitby Group Practice or providing additional resource for a new build health development.
- 10.99. These contribution requests comply with the aforementioned tests and can be secured by s106 agreement.

Response to objections not dealt with elsewhere

- 10.100. There are no policy grounds to demand above the 30% affordable housing required by policy. There is no policy basis to preclude by condition the use of proposed dwellings as second homes or holiday lets. Legislation which mitigates construction phase residential amenity impacts will equally protect local B&B's. Some objectors refer to the site as being a green space used by the public. However, the site is not recognised or protected as such in the development plan, it is in private rather than public ownership with no known rights of public access or use and the site visit showed the character of the site is that of gated farmland used for grazing. As such, even if the site is accessed occasionally by the public via the stile from Drake Close this is likely trespass and does not make it a green space that that benefits from protection from development as a public open space. The change from cul-de-sacs to potential through road does not amount to a reason for refusal on character or residential amenity grounds. While NY Police have made comments on design matters that are not directly relevant to an outline application. There is no basis to secure police or dental contributions. The site is not considered to be tranquil area as set out in NPPF paragraph 198. Restrictive covenants and easements are not a material planning consideration. There are no grounds to resist an outline application for development of a modern housing estate on the site juxtaposed to period homes on Mayfield Road because the layout, design, appearance and landscaping are reserved for future consideration. Impact of these matters upon non-designated heritage assets (there is no conservation area or listed buildings near the site) may be considered subsequently and in a balanced way as described by the NPPF. There are no public rights of way or common land recorded on the site. Fencing would be considered under the landscaping reserved matter.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise. SBLP Policies HC1 and HC2 support this new housing development within the Whitby development limits. The principle of residential development on the application site complies with Policies SD1, SH1, HC1 and HC2. These policies are out of date because there is a 2.7 year supply of housing land. NPPF paragraph 11d applies and there are no strong reasons to refuse the development. The adverse impacts of approving the proposal would not

significantly and demonstrably outweigh the benefits, when assessed as required by the NPPF, particularly because the site is in a sustainable location, would make effective use of land and provides affordable homes that reflect local need. These development plan policies, amongst other things, support sustainably located housing development outside development limits if there is no five-year supply, which is consistent with the approach in the NPPF, hence these policies are still given significant weight. The provision of market and 30% affordable housing that meets local needs in an area without sufficient supply and that complies with local and national policies relevant to the principle of development weighs significantly in favour of the proposal. No harm to protected species would arise. A net gain in habitat units near the statutory minimum and a significant exceedance of hedgerow units is likely to be achieved which is given positive weight in the planning balance. Provision of on-site open space and contributions towards other off site open space typologies meets the needs of future residents of the development and can be accessed by existing residents which is given positive weight in the planning balance. Economic benefits both during the construction phase and once the houses are occupied which are afforded moderate weight.

- 11.2. The proposal would lead to the loss of what is presumed to be best and most versatile agricultural land. Its loss would result in extremely limited harm to the agricultural economy and food security which weighs against the proposal in a very limited manner. No harmful landscape impact would arise and significant visual impacts are limited to the immediate area, whereas those from the south are moderate. This weighs moderately against the proposal. The failure to provide a flood risk sequential test is a conflict with SBLP Policy ENV 3 and NPPF paragraph 173 which weighs significantly against the proposal but the actual flood risk is considered limited because of mitigation measures secured by condition. Foul and surface water drainage implications are considered acceptable subject to conditions. The actual surface water flood risk is limited to a very small part of the site, it would be limited to an area outside of a residential plot, the implementation of a positive surface water drainage scheme and exceedance routes would reduce the likelihood of flooding occurring in this location. This means the actual surface water flood risk implications are extremely limited. Drainage and other site specific flood risk matters are acceptable subject to condition and are neutral in the planning balance.
- 11.3. Mineral interests are not harmed which is a neutral matter in the planning balance. On and off site land stability matters are dealt with by condition so are neutral. Housing mix is secured by condition so is a neutral matter. The proposal would not harm highway safety and a series of measures are secured to accommodate existing future residents which is a neutral matter in the planning balance. Contaminated land and ground condition matters are controlled by condition so are neutral in the planning balance. Residential amenity impacts are controlled by condition so are neutral. No heritage requirements arise from the proposal. Noise and air pollution during the construction phase would be controlled by separate primary legislation. Developer contributions are secured to mitigate the health care implications of the proposal so are neutral.
- 11.4. There is no NPPF policy in its footnote 7 that provides a strong reason for resisting the proposal. The adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The proposal benefits from the

presumption in favour of sustainable development at NPPF paragraph 11d. Therefore, planning permission should be granted subject to conditions and prior completion of a s106 agreement.

12.0. RECOMMENDATION

- 12.1 It is recommended that planning permission be granted subject to prior completion of a section 106 agreement securing the matters listed below and the conditions listed below and a 4 year term for the submission of reserved matters:

S106:

- £2,500 towards the costs of a Traffic Regulation Order relating to parking restrictions at three junctions.
- £2,000 toward the costs of a Temporary Traffic Regulation Order relating to temporary parking restrictions at three junctions.
- £2,500 toward monitoring of the travel plan.
- £2522 biodiversity net gain monitoring fee.
- 30% Affordable housing, of which 70% shall be rented and 30% low-cost home ownership- shared ownership.
- Ownership, management and maintenance of on-site amenity green space based on the Green Space Supplementary Planning Document (November 2014).
- Off-site commuted sums towards outdoor sports facilities and equipped play areas in the area based on the number of dwellings approved at reserved matters stage to be calculated as set out in the Green Space Supplementary Planning Document (November 2014).
- £613.77 per dwelling approved at reserved matters stage towards improvements to capacity, by way of improvements to, reconfiguration of, or extension of Whitby Group Practice or providing additional resource for a new build health development.

That Permission be granted subject to conditions

- 1 Details of the access (within the site), appearance, landscaping, layout, and scale ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

- 2 This planning permission is limited to a maximum of 54 dwellings and no more than this shall be proposed at reserved matters stage.

Reason: To reflect the terms of the Transport Assessment upon which the Local Planning Authority based its decision.

- 3 Prior to the first occupation of any dwelling, access matters shall be constructed in accordance with the following approved drawings and any existing gates or stiles that inhibit access on these routes shall be removed:

-AMA-22843-SK004 Rev P01 RESOLUTION WAY SITE ACCESS
ARRANGEMENTS

-AMA-22843-SK003 Rev P01 PEMBROKE WAY SITE ACCESS
ARRANGEMENTS

-AMA-22843-SK001 Rev P01 A171 PEDESTRIAN ACCESS ARRANGEMENTS

-AMA-22843-SK002 Rev P01 DRAKE CLOSE PEDESTRIAN ACCESS
ARRANGEMENTS

Reason: To ensure suitable access is provided prior to the first occupation of any dwelling in pursuance of Scarborough Borough Local Plan Policy DEC 1.

- 4 The reserved matters application(s) shall conform with the approved fixed parameters plan number FS-007-P3.

Reason: For the sake of clarity and in the interests of proper planning.

- 5 No development shall take place until a ground investigation with mitigation measures if required, is submitted to and approved in writing by the Local Planning Authority. The investigation shall be based on the principles established in the APR Report reference WHF/07/L2/WW dated 19th May 2025. The investigation shall encompass the full length of the slope suspected of movement plus a buffer zone. It shall comprise boreholes to rock head and laboratory classification testing. A full topographical survey shall be included. A detailed cross section through the slope shall be provided along with analysis using slope stability analysis software. If there is confirmed to be a risk of future slope movement within the lifetime of the development, measures shall be proposed to prevent future movement and enhance stability. Following approval of the investigation and mitigation measures (if required), the mitigation measures shall be completed prior to the commencement of construction of other elements of the development hereby approved other than development that would enable access for such mitigation works to take place within the site. In the event that mitigation measures are required beyond the application site, and those measures require planning permission, no development shall take place until planning permission has been granted by the Local Planning Authority.

Reason: To ensure the site remains stable and suitable for residential development in pursuance of Scarborough Borough Local Plan Policy ENV 3 and the provisions of the NPPF.

- 6 The reserved matters application(s) shall provide details of the housing mix which is to be agreed in writing by the Local Planning Authority. Development shall proceed in accordance with the approved details.

Reason: To provide a balanced housing market in pursuance of Scarborough Borough Local Plan paragraphs 6.55 to 6.57, the Strategic Housing Market Assessment and the provisions of the NPPF.

- 7 The reserved matters application(s) for layout and landscaping shall include a tree survey, impact assessment and method statement in relation to the impacts of these matters upon existing on-site trees and trees near the site for approval in

writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To minimise harm to significant trees in pursuance of Scarborough Borough Local Plan Policy ENV7.

- 8 No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a scheme for the provision of surface water drainage for the whole site, including ground water pollution prevention measures, adoption/maintenance details and a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall comprise sustainable urban drainage systems, unless comprehensive justification for other methods is agreed. Thereafter the drainage scheme shall be implemented and maintained in accordance with the approved scheme.

Reason: To secure appropriate drainage in pursuance of Scarborough Borough Local Plan Policy ENV 3.

- 9 No development (excluding demolition, archaeological investigation, services diversions and any land remediation/ground improvement works) shall commence until a scheme for the provision of foul drainage for the whole site, a timetable for its implementation and adoption/maintenance details has been submitted to and approved in writing by the Local Planning Authority. Thereafter the foul drainage scheme shall be implemented and maintained in accordance with the approved scheme. There shall be no temporary storage of foul sewage on the site.

Reason: To secure appropriate drainage in pursuance of Scarborough Borough Local Plan Policy ENV 3.

- 10 The reserved matters application(s) shall include details of flood risk mitigation as set out in the Flood Risk Assessment 971/10r1- Rev A including finished floor levels, external levels, dwelling construction and exceedance flow routes for approval in writing by the Local Planning Authority. Development shall be constructed in accordance with the approved details.

Reason: To secure appropriate drainage and flood resistance and resilience in pursuance of Scarborough Borough Local Plan Policy ENV 3.

- 11 The scheme of off-site highway improvements shown on drawing AMA-22843-SK005 Rev P01 RESOLUTION WAY OFF-SITE HIGHWAY IMPROVEMENTS shall be completed prior to first occupation of any dwelling hereby approved.

Reason: In order to promote inclusive use of the footway and sustainable mode of travel prior to the first occupation of any dwelling in pursuance of Scarborough Borough Local Plan Policy INF 1.

- 12 Prior to occupation of any dwelling hereby permitted a scheme of local bus stop changes and highway improvements shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Provision of a raised kerb to the nearby north bound bus stop and provision of tactile drop kerbs on Ruswarp Lane.
- Relocation and provision of a raised kerb to the nearby south bound bus stop on Ruswarp Lane and the west bound bus stop on Mayfield Road.
- Provision of tactile drop kerbs and a metalled footway to allow access to the nearby east bound bus stop on Mayfield Road.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site. The approved scheme shall be completed prior to the first occupation of any dwelling hereby permitted.

Reason: In order to allow inclusive use of sustainable transport prior to the first occupation of any dwelling in pursuance of Scarborough Borough Local Plan Policy INF 1.

- 13 Prior to first occupation of any dwelling, details of on-site wheelchair accessible chicane gates to the northern end of the pedestrian access to Mayfield Road shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to the first occupation of the development.

Reason: To prevent access users overshooting the footway, to preserve highway safety in pursuance of Scarborough Borough Local Plan Policies INF 1 and DEC 1.

- 14 If the layout approved at reserved matters stage includes a vehicular link between Resolution Way and Pembroke Way, prior to the installation of the link, a scheme of highway signage alterations reflecting changes to no through routes and through routes on the local highway network shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to first use of the link.

Reason: To ensure appropriate road signage in the interests of highway safety and convenience in pursuance Scarborough Borough Local Plan Policy DEC 1.

- 15 Prior to the first occupation of the development, a Travel Plan must be submitted to and approved in writing by the Local Planning Authority. The Travel Plan will include: -
- agreed targets to promote sustainable travel and reduce vehicle trips and emissions within specified timescales and a programme for delivery;
 - a programme for the delivery of any proposed physical works;
 - effective measures for the on-going monitoring and review of the travel plan;
 - a commitment to delivering the Travel Plan objectives for a period of at least five years from first occupation of the development, and;
 - effective mechanisms to achieve the objectives of the Travel Plan by both present and future occupiers of the development.

The development must be carried out and operated in accordance with the approved Travel Plan. Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented

in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

Reason: To establish measures to encourage more sustainable non-car modes of transport in pursuance of Scarborough Borough Local Plan Policy INF 1.

- 16 The habitat creation and enhancement measures approved via the deemed biodiversity gain condition for this planning permission shall be completed within the first planting season following completion of the development. Within 3 months of this occurring, a report evidencing it and providing the exact date the enhancements were completed shall be submitted to the Local Planning Authority for approval in writing. If the development has commenced but completion of development is not reached, and construction works have ceased for a period of 12 months, notice shall be served to the Local Planning Authority in writing within 13 months of the last construction works on site. In the event that the development (excluding any approved on-site habitat enhancements) is not completed, the on-site enhancements shall still be implemented in full within 6 months of the 13 month date and they shall be maintained and monitored in accordance with the provisions set out in the approved HMMP in condition 17.

Reason: To ensure biodiversity gain measures are carried out and to enable the Local Planning Authority to accurately measure the 30 year management and monitoring period required for biodiversity net gain.

- 17 No development shall take place until a 30 year Habitat Management and Monitoring Plan (HMMP) for the site has been submitted to and approved in writing by the Local Planning Authority. The HMMP period shall commence from the completion date of habitat creation and enhancement measures secured by the deemed biodiversity gain condition and condition 16 of this planning permission. The HMMP shall secure the submission of regular monitoring reports with remedial actions if insufficient progress towards target conditions is being made, for agreement in writing by the Local Planning Authority. The development and biodiversity gain matters shall be managed, monitored and remedied in accordance with the approved details.

Reason: To ensure 10% biodiversity net gain is achieved.

- 18 No development shall take place until a Construction Environmental Management Plan for Biodiversity based on the Preliminary Ecological Appraisal Report reference R3-740-03-EC-01 Rev C has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity should include the following:

- Habitat protection measures.
- Pre commencement surveys for mobile protected species to inform any changes to avoidance/mitigation measures.
- Species protection measures, including where necessary individual species precautionary working method statements, where protected species are involved, measures should ensure compliance with legislation and/or licence regime (updated as needed following pre-commencement surveys).
- ECoW roles and responsibilities.

- Clear plans showing location of sensitive features, temporary exclusion zones etc.
- Clear, concise method of communicating requirements to all contractors working on site
- Sensitive lighting strategy for wildlife

The construction phase shall be carried out in accordance with the approved details.

Reason: To ensure avoidance, minimisation and mitigation of ecological impacts during construction in pursuance of Scarborough Borough Local Plan Policy ENV 5.

- 19 No development shall take place until an external lighting scheme (excluding highway lighting) to minimise bat impacts, details of bat and bird boxes, hedgehog highways and breeding bird habitat replacement and an implementation schedule has been submitted to and approved in writing by the Local Planning Authority. The agreed measures shall be installed in accordance with the approved schedule.

Reason: To secure species specific enhancements in pursuance of Scarborough Borough Local Plan Policy ENV 5.

- 20 The layout and landscaping reserved matters shall provide on-site amenity green space in accordance with the formula set out in the Green Space Supplementary Planning Document (November 2014).

Reason: In pursuance Scarborough Borough Local Plan Policy HC14 and the Green Space Supplementary Planning Document (November 2014).

- 21 No development shall take place, until an intrusive site investigation and risk assessment has been undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors, and it shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of Scarborough Borough Local Plan Policy ENV 3.

- 22 Where remediation works are shown to be necessary, no development shall take place until a detailed remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works.

Reason: In pursuance of Scarborough Borough Local Plan Policy ENV 3.

- 23 Where remediation works are shown to be necessary, prior to the occupation of the relevant property, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act.

Reason: In pursuance of Scarborough Borough Local Plan Policy ENV 3.

- 24 No development shall take place until a detailed unexploded ordnance threat and risk assessment, including mitigation measures if necessary, has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In pursuance of Scarborough Borough Local Plan Policy ENV 3.

- 25 The reserved matters application(s) shall demonstrate the proposed dwellings comply with the Nationally Described Space Standards (2015) or any successor standards or policy as a minimum.

Reason: To ensure appropriate future residential amenity in pursuance of Scarborough Borough Local Plan Policy DEC 4.

Target Determination Date: 6 March 2025

Case Officer: Martin Evans
martin.evans@northyorks.gov.uk

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North Yorkshire Council
Community Development Services
Scarborough and Whitby Area Planning Committee
13 NOVEMBER 2025

**ZF24/01878/FLA - Variation of conditions 1 and 2 in relation to ZF24/00099/FLA,
to allow removal of a tree and creation of parking area, at FORMER SITE OF 79
CROSS LANE, NEWBY, SCARBOROUGH, NORTH YORKSHIRE, ON BEHALF
OF MOHAMED GAAFAR**

**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 variation of conditions 1 and 2 in relation to ZF24/00099/FLA, to allow removal of a tree and creation of parking area.
- 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:

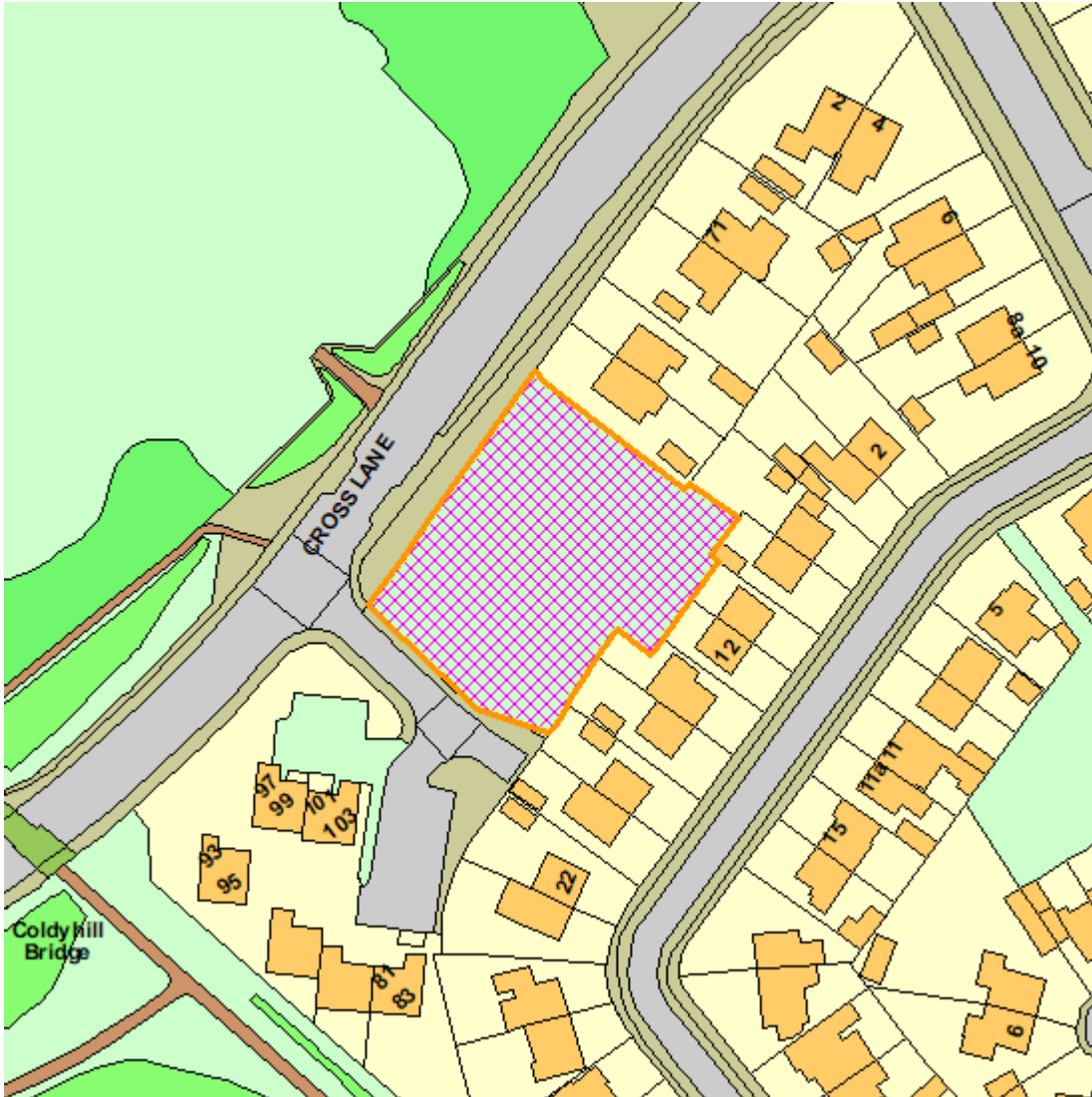
- 2.1 This application seeks full planning permission to vary conditions 1 and 2 or planning consent ref: ZF24/00099/FLA, to allow the removal of a tree and creation of a parking area within the site.
- 2.2 The application relates to the single plot within the new-build site located on the westernmost corner plot with Cross Lane. The application is part-retrospective given the tree subject to removal has already been removed from the site.
- 2.3 Condition 1 of the original consent (ref: ZF24/00099/FLA) set-out the plans within which the approved development was required to comply.
- 2.4 Condition 2 of the aforementioned consent set-out the conditions of the original approval for the site and the construction of the associated dwellings (ref: 21/01397/FL). These conditions included the requirement to retain, maintain and replace all trees for a period of 5 years.

- 2.5 The proposal seeks to vary this condition with an amended landscaping scheme which removes the Scott's Pine tree on the westernmost boundary.



N

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3.0 Preliminary Matters

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

[ZF24/01878/FLA | Variation of conditions 1 and 2 in relation to ZF24/00099/FLA, to allow removal of a tree and creation of parking area | Former Site Of 79 Cross Lane Newby Scarborough North Yorkshire](#)

4.0 Site and Surroundings

4.1 The site comprises a recently constructed development of 6no. semi-detached dwellinghouses which front on to Cross Lane, Newby.

4.2 The dwellings have small garden areas and railings to the front on their respective boundaries. There is a grass verge to the front separating the site from the public highway.

4.3 To the rear of the site each dwellinghouse has a rear garden. There is also parking provision located to the rear of the site for 2no. vehicles per dwelling.

4.4 In terms of the surrounding area; there is an established residential area to the south and north-east of the site off Newlands Park Avenue and Westfield Avenue, respectively. To the north-west of the site lies the Cross Lane Scarborough Hospital; whilst further to the west lies part of North Cliff Golf Course.

5.0 Description of Proposal

5.1 This application seeks planning permission to vary conditions 1 and 2 of planning consent ZF24/00099/FLA to allow for the creation of a vehicular access and removal of a tree within the development.

5.2 The following landscaping condition was secured with the original approval:

"All trees, shrubs and bushes shall be maintained by the owner of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good"

5.3 The reason for this condition was to maintain the interests of the appearance of the area and ecology in accordance with policies DEC 1 and ENV 5 of the Scarborough Borough Local Plan.

5.4 Given the tree subject to application has already been removed, the application is part-retrospective, and seeks to vary the landscape condition to regularise the removal of this tree (Scott's Pine tree).

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
- Residential Design Guide SPD

7.0 Consultation Responses

- 7.1 The following consultation responses have been received and have been summarised below.
- 7.2 Highway Authority: The proposed vehicle crossing conflicts with the existing pedestrian crossing on Cross Lane.

The principles outlined in the Manual for Streets (DfT, 2007), which advises that driveways should be sited to maintain adequate visibility splays and avoid obstructing junction sightlines.

The proposed driveway is located within 15 metres of a junction access, which is contrary to established highway safety guidance. Its proximity to the junction is detrimental to the existing highway network due to the following reasons:

- Compromise visibility for vehicles entering the junction.
- Increase the risk of conflict between turning traffic and vehicles accessing the driveway.
- Undermine pedestrian safety due to reduced sightlines.

Therefore the Local Highway Authority objects to the proposed application

- 7.3 Newby and Scalby Town Council: Full agreement with the objections made by the Tree and Woodland Officer.
- 7.4 Tree and Woodland: Awaited.

Local Representations

- 7.5 One local neutral representation has been received noting that the tree subject to application has already been removed.

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 and Impact on the Appearance and Character of the Area
- Highway Safety
- Biodiversity

10.0 Assessment

Design and Impact on the Appearance and Character of the Area

- 10.1 Policy DEC1, part, a i, of the Scarborough Borough Local Plan states, 'All development will be required to meet the following principles of good design by demonstrating that the proposal reflects the local environment and creates an individual sense of place with distinctive character'.
- 10.2 Paragraphs 7.15 and 7.16 of the Council's Residential Guide state, 'With respect to the streetscene, car parking should be provided to the side of dwellings. Spaces between the building frontages and street should not be dominated by the car...excessive use of parking areas in front of principal elevations should be avoided...'
- 10.3 The impact of the proposal to vary the plans and create a vehicular access to the side would be two-fold; the parked cars would obscure the frontage of the dwelling at ground-floor level, and would also prevent the occupants within the dwelling of an outlook to the front (the cars would be parked in front of the window to the living room), thus, harming the appearance of the dwelling and harming the quality of view for the enjoyment of the occupants of the dwelling.
- 10.4 The site is a new residential development, and to accept parking to the front of the host dwelling would be in direct conflict with the aforementioned section of the Council's Residential Design Guide; resulting in significant visual harm on the appearance of the site and the host dwelling. In addition to the above, this element of the proposed works was also discouraged within a pre-application response to the applicant (ref: ZF24/01812/PREAPP), with the view held that the creation of a vehicular access would result in visual harm.
- 10.5 With respect to the application to vary the approved landscaping scheme; satellite and Google Images show that the Scott's Pine tree subject to removal formed an established mature tree that was present on-site for a prolonged amount of time, with the earliest image showing its presence around 2008.

- 10.6 The height, form and presence of the tree resulted in a visually prominent tree which contributed positively to the character and appearance of the site and surrounding area. Its retention within the site provided positive landscaping and softening of the appearance of the site, and therefore, its removal from the site has resulted in adverse harm on the appearance and character of the overall site and surrounding.
- 10.7 The sum of the above would be to result in significant harm to the appearance of the westernmost dwelling, the overall appearance of the site, streetscene and the character of the surrounding area.
- 10.8 It is therefore considered that the proposal would fail to comply with Policy DEC1 of the Scarborough Borough Local Plan, the Council's Residential Design Guide, and Section 12 of the NPPF, which seek a high regard for good design.
- 10.9 The Council's Tree and Landscape Officer is providing amended observations on the proposal and his views will be reported at the meeting.

Highway Safety

- 10.10 The proposed access would take place off the cul-de-sac junction with Cross Lane, providing access to the side of the site to the westernmost corner plot. The Council's Highway Authority has responded to the consultation objecting to the proposal on several grounds; including, the proposed vehicle crossing conflicts with the existing pedestrian crossing on Cross Lane.
- 10.11 The proposed driveway would also compromise visibility for vehicles entering the junction from Cross Lane to the side of the site; would increase the risk of conflict between turning traffic and vehicles accessing the driveway, and would undermine pedestrian safety owing to reduced sightlines.
- 10.12 The sum of which would be to result in significant harm the safety of the public highway. The existing, approved parking provision meets the standards of the Highway Authority and, therefore, there is no justification for the loss of the tree to increase parking provision.
- 10.13 It is therefore considered that the proposal would be in direct conflict with Policy DEC1, part c, of the Scarborough Borough Local Plan, which seeks to ensure that new development result in safe and accessible parking arrangements.

Biodiversity

- 10.14 Policy ENV5, part d, of the Scarborough Borough Local Plan states, 'Proposals should respond positively and seek opportunities for the enhancement of species, habitats or other assets thereby resulting in a net gain in biodiversity by increasing trees and woodland through ensuring new developments include appropriate tree planting whilst retaining and integrating healthy, mature trees and hedgerows and maintaining those which make an important contribution to the setting and character of an area'.

- 10.15 The sub-text of this policy states, 'Development proposals should recognise not only the importance of protecting species-rich trees or hedgerows but the value of incorporating them in design and consider how new planting can interact with existing habitats'.
- 10.16 The proposal would permit the lawful removal of the Scott's Pine tree that was previously located on the westernmost boundary. The tree was an original tree which formed part of the landscaping scheme accompanying the original approval, in the interests of maintaining its enhancement of the appearance of the area.
- 10.17 The removal of this tree has resulted in a contravention of the original landscaping condition, and the application to vary this and allow its removal would be fundamentally at-odds with the aforementioned policy which seeks to successfully integrate existing mature trees into new development. The result of this has been to result in significant harm to the biodiversity of the site and its appearance, and thus, the proposal fails to comply Policy ENV5 of the Local Plan.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The proposed variation of conditions 1 and 2 of planning consent ref: ZF24/00099/FLA; would result in the lawful removal of a tree which contributed positively to the character and appearance of the site and surrounding area; and the creation of a vehicular access which would result in significant harm to the appearance of the site and westernmost dwellinghouse; and significant harm to the safety and convenience of users of public highway.
- 11.2 The removal of the Scott's Pine tree from the landscaping scheme would have significant harm on the biodiversity and natural species of the area, resulting in a harmful net loss of biodiversity, and is therefore, unacceptable on such grounds.
- 11.3 The development enjoys parking provision which meets the standards of the Highway Authority and there are considered to be no other factors which would justify these direct conflicts with planning policy.
- 11.4 If the Committee is minded to refuse permission, the case would be passed on to the planning enforcement team with a view to securing a suitable mature replacement tree on the site.

12.0 RECOMMENDATION

That Planning Permission is REFUSED, for the reason(s) outlined below:

- 12.1 That Permission be refused

- 1 Policy DEC1, part, a i, of the Scarborough Borough Local Plan states, 'All development will be required to meet the following principles of good design by demonstrating that the proposal reflects the local environment and creates an individual sense of place with distinctive character'.

Paragraphs 7.15 and 7.16 of the Council's Residential Guide state, 'With respect to the streetscene, car parking should be provided to the side of dwellings. Spaces

between the building frontages and street should not be dominated by the car...excessive use of parking areas in front of principal elevations should be avoided...'

The Scott's Pine tree contributed positively to the appearance of the site and character of the surrounding area. Its removal from site has resulted in significant visual harm to the development, the streetscene and the wider surroundings,

The proposed vehicular access would result in the parking of vehicles to the front of the southernmost dwellinghouse, obscuring the frontage of the host dwelling by vehicles and also the outlook for its occupants; the sum of which would be to result in significant visual harm.

It is therefore considered that the proposal would fail to comply with Policy DEC1, part a i, of the Scarborough Borough Local Plan, the Council's Residential Design Guide and Section 12 of the NPPF, which seek a high regard for good design, and thus, fails to constitute sustainable development.

- 2 Policy DEC1, part c, of the Local Plan requires new development to provide safe and accessible vehicular parking arrangements.

The Highway Authority has confirmed that the proposal to vary the approved plans and provide an access to the side of the southernmost dwellinghouse would result in an unsafe parking arrangement that lacks the required visibility splay, conflicts with the existing pedestrian crossing on Cross Lane, compromise visibility for vehicles entering the junction from Cross Lane to the side of the site and would increase the risk of conflict between turning traffic and vehicles accessing the driveway.

The sum of the above would result in significant harm to the safety and convenience of users of the public highway.

The proposal therefore fails to comply with Policy DEC1, part c, of the Scarborough Borough Local Plan, and thus, fails to constitute sustainable development.

- 3 Policy ENV5, part d, of the Scarborough Borough Local Plan states, 'Proposals should respond positively and seek opportunities for the enhancement of species, habitats or other assets thereby resulting in a net gain in biodiversity by increasing trees and woodland through ensuring new developments include appropriate tree planting whilst retaining and integrating healthy, mature trees and hedgerows and maintaining those which make an important contribution to the setting and character of an area'.

The sub-text of this policy states, 'Development proposals should recognise not only the importance of protecting species-rich trees or hedgerows but the value of incorporating them in design and consider how new planting can interact with existing habitats'.

The proposal seeks to remove an existing mature Scott's Pine tree from the original landscaping scheme. The impact on this would be to remove a significant, mature

tree which contributes positively to the natural environment and biodiversity of the development and surrounding area, resulting in significant harm.

The proposal therefore fails to comply with Policy ENV5 of the Scarborough Borough Local Plan, and thus, fails to constitute sustainable development.

Target Determination Date: 6 November 2025

Case Officer: Mr Luke Hadfield
luke.hadfield@northyorks.gov.uk

North Yorkshire Council
Community Development Services
Scarborough and Whitby Area Planning Committee
13 NOVEMBER 2025

ZF25/00901/RG4 - Erection of a 32-metre high Ferris wheel including supporting structure with decking, ramp access and a ticket office.

Construction of an 18 hole adventure golf course on a metal deck at FORMER FUTURIST THEATRE, FORMER FUTURIST BUILDINGS, FORESHORE ROAD, SCARBOROUGH, NORTH YORKSHIRE, ON BEHALF OF MR ABBOTT

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the report

- 1.1 To determine an application for planning permission (ref: ZF25/00901/RG4) for temporary development on the Former Futurist Theatre Site, Foreshore Road, Scarborough
- 1.2 The application is brought before the Area Planning Committee at the request of a Member.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That Planning Permission is GRANTED subject to the conditions set out at the end of this report

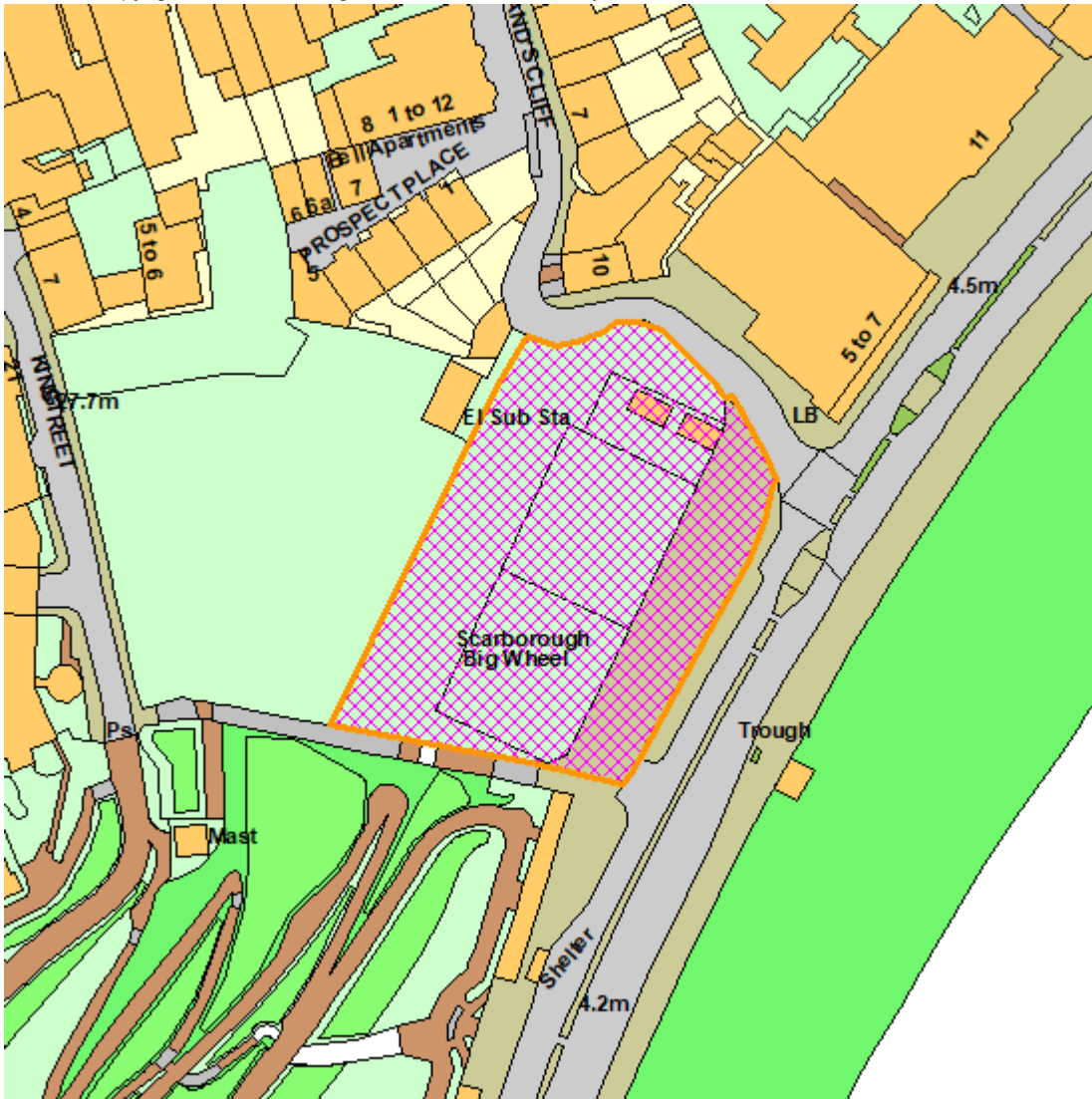
- 2.1 This application seeks temporary planning permission for a two-year period (02 November 2025 to 31 October 2027) for the continuation of existing tourist and leisure facilities - comprising a Ferris wheel and adventure golf course - on the site of the former Futurist theatre, which is outside the Scarborough Conservation Area but is visually adjacent to it and is a sensitive site due to its prominent seafront location on South Bay.
- 2.2 The principle of the temporary use is supported by Local Plan policy TOU1, which encourages tourism diversification. The key material considerations relate to the impact on the character and appearance of the area, flood risk, and residential amenity, particularly given the shift from seasonal to continuous operation for the next two years.

- 2.3 Officers consider that the residual harm to the character and setting of adjacent heritage assets, which was previously deemed 'less than substantial' for the seasonal arrangement, remains acceptable when weighed against the public and economic benefits of securing continued vibrancy and a tourism offer on a cleared, brownfield site. Flood risk is managed through the detailed Flood Risk Assessment and Emergency Plan submitted.



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3.0 Preliminary Matters

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

[ZF25/00901/RG4 | Erection of a 32-metre high Ferris wheel including supporting structure with decking, ramp access and a ticket office. Construction of an 18 hole adventure golf course on a metal deck | Former Futurist Theatre Former Futurist Buildings Foreshore Road Scarborough North Yorkshire](#)

3.2 The following relevant planning history has been identified for the application site:

- 17/01714/RG3 - Demolition of Futurist Theatre - approved with conditions 17.11.2017
- 19/01844/RG4 - Retention of 32-metre high Ferris wheel until 10/11/2019 - approved 04.10.19
- 20/00482/RG4 - Retention of 32-metre high Ferris wheel and 18 hole adventure golf course - approved from April to October until 31/10/22
- 20/02248/4RG - Retention of 32-metre high Ferris wheel from 01.11.20 - 31.03.21 - approved 22.12.2020.
- ZF23/01442/RG4 - Erection of a 32-metre high Ferris wheel including supporting structure with decking, ramp access and a ticket office. Retention of an 18 hole adventure golf course on a metal deck, on a seasonal basis until October 2025 - approved 15.04.2024

4.0 Site and Surroundings

- 4.1 The 0.134 ha site is centrally located on Foreshore Road, Scarborough South Bay, immediately surrounded by amusement arcades and seafront retail. The site itself is the cleared hardstanding of the former Futurist Theatre.
- 4.2 The site is defined by a steep grassed slope and a retaining wall to the west, rising to King Street and St Nicholas Gardens. To the north are terraces of Listed Buildings on Prospect Place and the lower part of Bland's Cliff, which is in mixed use.
- 4.3 Located outside the designated Scarborough Conservation Area (SCA), the site sits adjacent to it and within the setting of numerous Listed Buildings (e.g., on Prospect Place and the Town Hall on King Street), and distant views of Scarborough Castle (Scheduled Monument).
- 4.4 In terms of flood risk, the site is shown on the Environment Agency (EA) Flood Map for Planning to be within Flood Zone 2 (FZ2), meaning it is considered to be at medium risk of tidal/ coastal flooding.

5.0 Description of Proposal

- 5.1 The application seeks permission for the continued operation of development for a two-year period from 02 November 2025 to 31 October 2027.

5.2 There are two aspects to the development:

1. A temporary 32 metre high observation wheel (Ferris wheel) with supporting structure, loading deck/ramp, and integrated ticket office/ queuing area.
2. An 18-hole adventure crazy golf course with a footprint of 325 square metres mounted on a 300mm high metal deck, including themed features and storage containers/ generator screened by a decorative wall.

5.3 The previous permission was limited to seasonal use (March 1st to October 31st) in 2024 and 2025, requiring full site clearance in the intervening winter months. This application seeks continuous operation (year-round, without winter tear-down) until the final clearance date of 31 October 2027.

5.4 Hours of operation of both aspects of the development are proposed to be 11:00 to 21:30 every day, aligning with the opening hours permitted under the previous, seasonal consent

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

7.0 Consultation Responses

7.1 The consultation responses are summarised below. It should be noted that responses from Scarborough Town Council and the Council's Conservation Officer were not supplied to the Local Planning Authority during the statutory consultation period and are awaited at the time of writing. Members will be updated on any further responses at the meeting of the Committee.

7.2 Environmental Health (Regulatory Services): The officer confirmed no objection. Following a review of the submitted documentation and consideration of potential environmental health impacts (including noise and lighting), the officer concluded

that no objection was necessary, aligning with previous assessments and the ability to control residual impacts via condition.

- 7.3 Environmental Health (Scientific Team): The Scientific Officer confirmed no objection.
- 7.4 Historic England: Provided no comment, stating that they were not offering advice but suggested the Council seek the views of its specialist conservation and archaeological advisers.
- 7.5 Highway Authority: The tactile crossing immediately adjacent to the application site was temporarily removed when the Futurist theatre was demolished, with the intention that it be reinstated once a use was found for the site. This use has been ongoing - and will continue - for a significant period. The existing crossing arrangement is prejudicial to the safety and convenience of highway users. Those in need of a crossing marked with tactile paving or a central refuge are particularly impacted by the current sub-standard arrangement. The absence of a central refuge also allows for 'U-turns' by vehicles, which is dangerous in busy periods (which are frequent here). The crossing should be re-instated - it is not safe to continue with the existing arrangement for a further 2 years.

Local Representations

- 7.6 None received to date.

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:

- A) Principle of Development and Temporary Period
- B) Impact on Heritage Assets and Visual Amenity
- C) Impact on Residential Amenity
- D) Flood Risk
- E) Highways

10.0 Assessment

A) Principle of development and temporary period

- 10.1 The site is in a key tourist area of Scarborough, forming part of the South Bay seafront. Local Plan Policy TOU1 (New Tourism Facilities) supports the diversification and enhancement of existing tourism facilities where they respect the distinctive tourism character of the area and help reduce the seasonal nature of the

industry. The proposals, being an observation wheel and an adventure golf course, clearly align with the leisure and entertainment character of Foreshore Road.

- 10.2 A key consideration in this application is the request for continuous (year-round) operation until October 2027, contrasting with the seasonal (March to October) consent previously granted. In the view of Officers, the extension of the period of operation, particularly through the winter months, strengthens the proposal's compliance with Policy TOU1, which encourages reducing the seasonal nature of tourism.
- 10.3 The site is a prominent, vacant plot intended for future permanent development, as outlined in the Futurist and Town Hall Development Brief (2012). While the present development is not the permanent solution, its temporary nature and continued contribution to the area's vitality, pending a firm proposal for the permanent redevelopment, is considered acceptable in principle, aligning with Policy TOU1 and the NPPF's promotion of economic growth.
- 10.4 A temporary permission until 31 October 2027 is considered reasonable in light of the continued economic benefit and the likely lengthy lead-in time required for the permanent regeneration of the Futurist site.

B) Impact on heritage assets and visual amenity

- 10.5 In general terms, Policy DEC1 (Principles of Good Design) of the Local Plan requires that the design of new development is of a high standard. Furthermore, as the site is immediately adjacent to the Scarborough Conservation Area and within the setting of numerous listed buildings, Policy DEC5 (The Historic and Built Environment) of the Local Plan and Chapter 16 (Conserving and enhancing the historic environment) of the NPPF are highly relevant.
- 10.6 On the point of visual impact, the Local Planning Authority has previously concluded (in the 4 previous planning reports relating to the temporary planning permissions for the Ferris wheel and golf course) that the significant height of the wheel is partially offset by the steep topography behind the site, reducing its impact on the skyline, and that the slender structure lessens interference with wider views of the SCA. The impact has consistently been judged to result in less-than-substantial harm to the significance of the adjacent Conservation Area and the setting of nearby Listed Buildings. The appearance of the adventure golf course was noted to create a degree of "clutter," reinforcing the view that a permanent consent would be inappropriate.
- 10.7 In the view of Officers, there are no planning reasons at hand to suggest an alternative viewpoint on these matters is warranted this time around. The visual impact on the surroundings will not change as a result of the structures being present year round because, for example, they are not affected by the reduction of foliage or other seasonal changes.
- 10.8 Under NPPF paragraph 215, where a proposal causes less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The harm (resulting from the temporary imposition of a large structure and associated clutter on a key seafront site) is

considered to be modest and judged to be at the lower end of the 'less-than-substantial' scale.

10.9 In Officers' view, the public benefits are clear:

- Maintaining the vitality and vibrancy of the South Bay tourism offer (Policy TOU 1).
- Providing a temporary, positive use for a prominent brownfield site awaiting long-term regeneration.
- Supporting the local visitor economy and associated employment.

10.10 Given the temporary nature of the development and the limited harm identified, officers conclude that the economic and social public benefits derived from the use outweigh the less-than-substantial harm to the significance of the heritage assets. The continued presence and appearance of the equipment for a further, continuous two-year period does not materially alter this balance or increase the degree of harm previously accepted.

C) Impact on residential amenity

10.11 Policy DEC4 of the Local Plan requires that proposals do not give rise to unacceptable impacts by means of noise, light pollution, overlooking, or overbearing presence on existing and future occupants.

10.12 In terms of noise and light impacts from the development, the previous application required strict conditions, specifically limiting operation hours to 10:00 to 21:30 daily and requiring that any lights on the west-facing side of the Ferris wheel must remain switched off at all times (to protect residential properties on Prospect Place and King Street). The Environmental Health Officer has reviewed the current application and confirmed no objection, which in the view of Officers validates the continued reliance on the previous mitigation measures. It is recommended that conditions controlling hours of operation and specific lighting restrictions be imposed, and it is the view of Officers that these restrictions will continue to afford residents sufficient protection from undue noise and light impacts in the winter months (at times when the site has previously been cleared).

10.13 On the point of overlooking, the windows of the closest neighbours, at Prospect Place, are some 50m from away the wheel, whilst the gardens are at least some 40m from the wheel. Other residential properties are further away 73m to those on King Street.

10.14 The distance to the closest neighbours combined with the focus of passengers on wider views of South Bay, is considered sufficient to protect against harmful overlooking. This remains unchanged and Officers would advise that there is no conflict with Local Plan policy DEC4.

D) Flood risk

10.15 Located in Flood Zone 2 (FZ2), the site is at medium probability risk of tidal/ coastal flooding.

- 10.16 In general terms, policy ENV3 of the Local Plan requires that environmental risk is properly managed. The latest NPPF sets out the latest policy requirements for considering development proposals in areas at risk of flooding. Applicants are required to submit a Flood Risk Assessment (FRA) for development proposals in flood risk areas.
- 10.17 In line with the definitions in Annex 3 of the NPPF, the applicant's FRA classifies the adventure golf as 'water compatible' development and the Ferris wheel as 'less vulnerable' development. Neither classification is prohibited by Government policy in FZ2, but the 'less vulnerable' development is subject to the sequential test (NPPF paragraph 174).
- 10.18 The applicant's sequential test exercise concludes that alternative sites in lower flood risk zones (i.e. FZ1) that meet the functional needs of the development (seafront location with the required footprint and visibility) are not reasonably available; the site is the sequentially preferable deliverable option. As the use in 'less vulnerable' in FZ2 and the sequential test is passed, the NPPF 'exception test' is not required.
- 10.19 This notwithstanding, paragraph 181 of the NPPF requires that site-specific flood safety measures are in place for development in any area of flood risk such the development is safe for its lifetime.
- 10.20 Accounting for this requirement, the FRA details a robust Flood Emergency Plan (FEP) which includes: Environment Agency flood warning subscription with operational triggers based on threat; a clear safe evacuation route to higher ground; power isolation measures; and, staff training. Officers recommend that adherence to the FEP is a conditional requirement of any consent the Committee may grant.
- 10.21 It is also a requirement of local and national planning policy that new development does not increase the risk of flooding elsewhere. The submitted FRA confirms that the site is already impermeable, generating no new runoff, meaning there is 'no increase in runoff rate or volume' and flood risk elsewhere is not increased.
- 10.22 To conclude on the point of flood risk, there is no 'in principle' preclusion of development of the proposed type in national policy and guidance, the submitted FEP demonstrates that residual risk is safely managed for the temporary, two-year duration of the proposal and flood risk will not be increased elsewhere. The flood risk elements of Local Plan policy ENV3 and the NPPF are therefore satisfied.

E) Highways

- 10.23 The Local Highway Authority (LHA) is the statutory consultee on matters related to the safety of the public highway and the Planning Authority is reliant on its expertise in this respect.
- 10.24 In its consultation response, the LHA confirms that the temporary development itself presents no inherent highway safety objections, as it involves no new permanent access or material change in intensity of vehicle use. This is consistent with previous permissions for the same layout.

- 10.25 However, the LHA has identified a requirement for off-site mitigation works in the highway relating to an existing deficit associated with the removal of the central island and tactile paving at the pedestrian crossing point on Foreshore Road (outside the site) during the previous demolition works.
- 10.26 Given that the development has now been in situ for over 6 years, and consent is sought for a further 2 years, the LHA deems it essential that the crossing point is appropriately reinstated to ensure adequate facilities are provided for those requiring tactile crossing facilities, and as a physical barrier to prevent problem 'u turning' by vehicles outside the site. The existing sub-standard arrangements have been in place for an extended period.
- 10.27 Subject to appropriately worded conditions in this respect, it is the view of your Officers that the development will not harm the safety or convenience of users of the public highway.

11.0 PLANNING BALANCE AND CONCLUSION

- 11.1 The temporary retention and continued operation of the Ferris wheel and adventure golf course for a further continuous two-year period is supported in principle by policy TOU1 of the Local Plan on the basis of its development of the tourist offer and reducing seasonality.
- 11.2 The proposal causes a degree of less-than-substantial harm to the setting of adjacent heritage assets and the visual amenity of the seafront. However, this modest harm is outweighed in the balance by the significant public benefits of maintaining the vitality and economic use of this key, cleared brownfield site on the South Bay pending its long-term permanent redevelopment.
- 11.3 Flood risk, amenity, and highway safety issues can be satisfactorily mitigated by planning conditions.
- 11.4 Accordingly, the proposal is considered to represent sustainable development in accordance with the Development Plan and the NPPF.

12.0 RECOMMENDATION

12.1 That Permission be granted subject to conditions

- 1 Except where may be modified by the conditions of this consent, the development shall be implemented in accordance with the following plans and drawings:
- AI-00-001, Site Location Plan, 17 Jul 2025
 - AI-00-002, Existing site plan, 17 Jul 2025
 - AI-00-001, Proposed site plan, 17 Jul 2025
 - AI-20-002, Golf course layout, 17 Jul 2025
 - AI-20-003, Payment kiosks, 17 Jul 2025
 - AI-20-004, Shipping container details, 17 Jul 2025

- AI-20-005, Decorative wall details, 17 Jul 2025
- AI-20-006, Boundary treatment details, 17 Jul 2025
- Wheel technical details, 17 Jul 2025

Reason To avoid doubt.

- 2 The development hereby permitted, comprising the observation wheel, adventure golf course, ancillary decking, ticket office, storage containers, decorative screens, and generator, shall be removed in its entirety from the site before or on 31 October 2027.

Reason To ensure the site is occupied by the leisure facilities on a temporary basis only in the interests of the visual amenities of the area in accordance with Policy DEC1 of the Scarborough Borough Local Plan, pending the permanent redevelopment of the site.

- 3 The observation wheel and adventure golf course shall only operate between the hours of 11:00 and 21:30 on any given day.

Reason In the interests of the amenities of occupiers of nearby residential properties in accordance with Policy DEC4 of the Scarborough Borough Local Plan. As this is the window of daily operation permission has been sought for.

- 4 Any lights, including feature or security lighting, on the west-facing side of the observation wheel structure and ancillary equipment (including the adventure golf course) that face residential properties on Prospect Place or King Street, shall remain switched off at all times when the wheel is operational. Details of the lighting scheme shall be submitted to and approved in writing by the Local Planning Authority prior to installation of any new elements.

Reason In the interests of the amenities of occupiers of nearby residential properties in accordance with Policy DEC4 of the Scarborough Borough Local Plan.

- 5 The development shall be operated and maintained in strict accordance with the measures and protocols set out in the submitted Flood Risk Assessment (Ref: RPT-201002-C2-250910, dated September 2025) and the accompanying Flood Emergency Plan summary, including the monitoring, trigger levels, and evacuation procedures detailed therein.

Reason To ensure the temporary development is safe for its lifetime in accordance with Policy ENV3 of the Scarborough Borough Local Plan and NPPF paragraph 167.

- 6 Prior to the re-erection of the observation wheel on the application site, the provision of the following off-site highway mitigation works shall be submitted to and approved in writing by the Local Planning Authority:
 - Provision of tactile paving at the existing pedestrian crossing point on both sides of Foreshore Road immediately to the site's frontage.
 - Provision of a central crossing reserve island at the aforementioned crossing point.

The scheme shall include engineering drawings, and be supported by a full independent Stage 2 Road Safety Audit. It shall also specify an implementation plan for the works, which be complete prior to the wheel being brought back into use following its re-installation.

Reason In the interests of highway safety, to ensure safe highway crossing for development users, in accordance with policy DEC1 of the Local Plan and paragraph 120 of the NPPF.

Target Determination Date: 5 November 2025

Case Officer: Mr Daniel Metcalfe
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