

- Meeting:** Scarborough and Whitby Area Constituency Planning Committee
- Members:** Councillors Eric Broadbent, Janet Jefferson, Rich Maw, Clive Pearson, Heather Phillips, Subash Sharma (Vice-Chair) and Phil Trumper (Chair).
- Date:** Thursday, 11th April, 2024
- Time:** 2.00 pm
- Venue:** Scarborough Town Hall, St Nicholas Street, Scarborough, North Yorkshire YO11 2HG

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The Council operates a scheme for public speaking at planning committee meetings. Normally the following people can speak at planning committee in relation to any specific application on the agenda: speaker representing the applicant, speaker representing the objectors, parish council representative and local Division councillor. Each speaker has a maximum of three minutes to put their case. If you wish to register to speak through this scheme, then please notify St John Harris in Democratic Services by midday on Monday, 8 April 2024.

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Agenda

1. Apologies for Absence

2. **Minutes for the Meeting held on 14 March 2024** (Pages 3 - 4)
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. **(ZF23/00866/RG4) - Full Application for the Erection of zip lines between 2 no. tower structures including reception and landing areas with associated groundworks and access road, at former Marvels Leisure Park to land south of Scalby Mills Miniature Railway Station, Scarborough** (Pages 5 - 20)
Report of the Assistant Director Planning – Community Development Services
[View Plans and Documents](#)
5. **(ZF23/01943/FL) - Conversion of 3 no. Retail Units to 3 no. Flats at Jazz Court, Ashmead Square, Eastfield** (Pages 21 - 32)
Report of the Assistant Director Planning – Community Development Services
[View Plans and Documents](#)
6. **(ZF23/01919/FL) - Widening and Resurfacing of parts of the Cinder Track at Cinder Track, between Burniston and Cloughton** (Pages 33 - 46)
Report of the Assistant Director Planning – Community Development Services
[View Plans and Documents](#)
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, 9 May 2024 at 2.00pm

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

Agenda Contact Officer:

St John Harris, Principal Democratic Services Officer
Tel: 01723 383556
Email: stjohn.harris@northyorks.gov.uk

Wednesday, 3 April 2024

North Yorkshire Council

Scarborough and Whitby Area Constituency Planning Committee

Minutes of the meeting held on Thursday, 14th March, 2024 commencing at 2.00 pm.

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

Officers present: Fiona Casson (Legal Services Manager), St John Harris (Principal Democratic Services Officer), Hugh Smith (Senior Planning Officer) and David Walker (Head of Planning)

Apologies: Eric Broadbent.

Copies of all documents considered are in the Minute Book

62 Apologies for Absence

Apologies noted (see above)

63 Minutes for the Meeting held on 8 February 2024

The minutes of the meeting held on 8 February 2024 were confirmed and signed as an accurate record.

64 Declarations of Interests

Councillor Phillips declared a personal interest in Agenda Item 4, Planning Application - 23/00454/FL - Major residential development including access, landscaping, public open space and parking at land at Racecourse Road, East Ayton, Scarborough, North Yorkshire in her capacity as Chair of East Ayton Parish Council which had been consulted on the application; although Councillor Phillips had not taken part in any discussions, preferring to retain an open mind.

Planning Applications

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

Except where an alternative condition was contained in the report or an amendment made by the Committee, the conditions as set out in the report and the appropriate time limit conditions were to be attached in accordance with the relevant provisions of Section 91 and 92 of the Town and Country Planning Act 1990.

Where the Committee granted planning permission in accordance with the recommendation in a

report this was because the proposal is in accordance with the development plan, the National Planning Policy Framework or other material considerations as set out in the report unless otherwise specified below.

65 23/00454/FL - Major residential development including access, landscaping, public open space and parking at land at Racecourse Road, East Ayton, Scarborough, North Yorkshire

The Assistant Director Planning sought determination of a planning application for a major residential development including access, landscaping, public open space and parking at land at Racecourse Road, East Ayton, Scarborough, North Yorkshire on behalf of Pegasus Planning Group Ltd.

Updating the report, the planning officer advised that a local resident had submitted an objection in respect of the alignment of the proposed footway along Racecourse Road to the carriageway; however, the Highway Authority had not raised any concerns in this regard.

The applicant's agent, Matthew Good, spoke in support of the application.

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

- The risk of disruption and accumulation of mud on the carriageway as a result of the development of the three contiguous sites – this would be addressed through the Construction Management Plan
- The importance of the completion of the pumping station in good time in the course of the construction of the development – this would be addressed through condition

The decision:-

That planning permission be GRANTED subject to the conditions outlined in the report and completion of a S106 agreement with terms outlined in the report.

Voting record

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

66 Any other items

There were no urgent items of business.

67 Date of Next Meeting

Thursday, 11 April 2024 – Town Hall, Scarborough

The meeting concluded at 2.29 pm.

North Yorkshire Council

Community Development Services

Scarborough and Whitby Area Constituency Planning Committee

11 APRIL 2024

APPLICATION REFERENCE ZF23/00866/RG4

FULL APPLICATION FOR THE ERECTION OF ZIP LINES BETWEEN 2 NO TOWER STRUCTURES INCLUDING RECEPTION AND LANDING AREAS WITH ASSOCIATED GROUNDWORKS AND ACCESS ROAD, AT FORMER MARVELS LEISURE PARK TO LAND SOUTH OF SCALBY MILLS MINATURE RAILWAY STATION, SCARBOROUGH, NORTH YORKSHIRE, ON BEHALF OF UKBC LIMITED

Report of the Corporate Director – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine planning application reference ZF23/00866/RG4 for the above development at, and between, the Former Mr Marvels Leisure Park and land south of the Scalby Mills Miniature Railway Station.
- 1.2 The Corporate Director of Community Development Services considers the application raises significant planning issues of public interest. Therefore, in accordance with the North Yorkshire Council Area Constituency Planning Committees Scheme of Delegation, the application falls to be determined by the Scarborough and Whitby Constituency Area Planning Committee.

2.0 EXECUTIVE SUMMARY

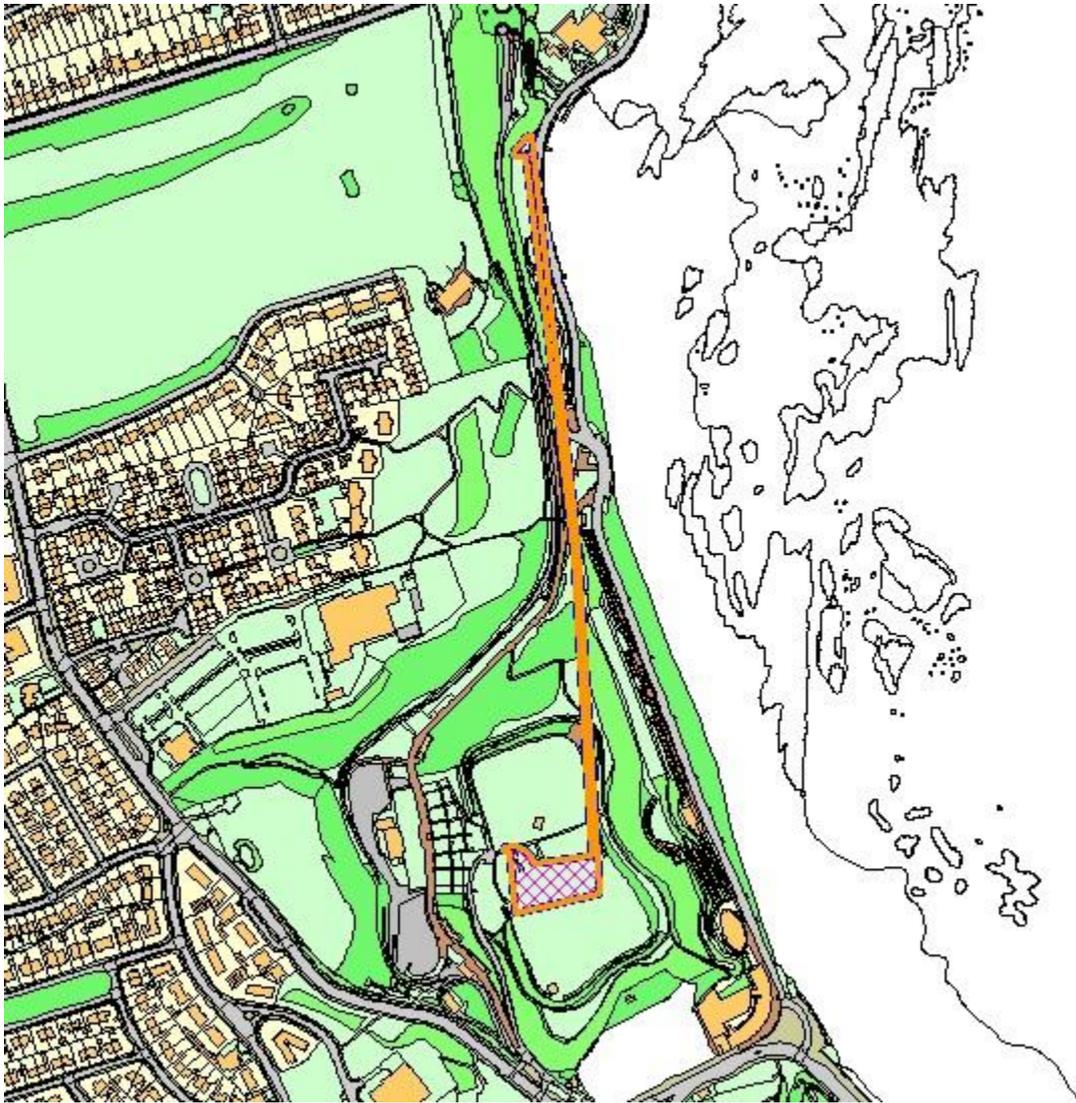
RECOMMENDATION: That planning permission be REFUSED for the reasons set out below.

- 2.1. The proposal was considered at the 8 February 2024 meeting. Consideration of the application was DEFERRED, to allow the applicant the opportunity to improve the design including the cladding of the two towers. Subsequently, your officers have given informal advice on several possible measures to reduce the impact of the proposal, such as the potential for re-siting, reduced height, or reduced length. However, for technical and commercial reasons (set out in the applicant's supporting information), these have been ruled out as unfeasible.
- 2.2. The applicant has proposed to omit most of the cladding to the launch tower, retaining only what is required for security at ground level, leaving most of the lattice tower exposed in an off-white paint finish (RAL9003). The landing tower cladding has also been amended (from blue) to a green 'contour' graphic design. Furthermore, permission is now sought for a 5-year temporary period. As suggested during the earlier debate might be helpful to fully appreciate the visual effect of the proposal, the applicant has also supplied a CGI video of how riders on the attraction might appear. Caveated that this is indicative only, together with additional supporting information, this is available to view on the Council's public access website.

- 2.3. Full planning permission is sought for a zip line attraction between two steel-framed lattice towers. The launch tower would measure 35.5m in height and be sited on land at the location of the former Marvels Leisure Park from where the proposal would be accessed, together with ancillary reception zone structures. The landing tower would measure 19.1m in height and be sited on land between the Cleveland Way and Scalby Mills Station at the end of North Bay, together with ancillary landing zone structures.
- 2.4. The main issues are the effect of the revised proposal on the setting of heritage assets and the character and appearance of the area, and whether the public benefits of the scheme and material considerations would outweigh any identified harm.
- 2.5. In principle as the proposal is for a leisure development which would contribute towards Scarborough's tourism offer, it would broadly accord with Local Plan Policy TOU1. Furthermore, the launch tower and reception zone would be located within Local Plan Economic Growth allocation TOU2 (North Bay Leisure Parks), within which proposals for the development of new leisure or tourism facilities will be supported where they accord with the criteria of Policy TOU1.
- 2.6. However, the proposal would conflict with the related policy criteria and other development plan policies which seek to protect Scarborough's heritage and the character and appearance of the area. Whilst the proposal is acceptable in principle and would result in 'less than substantial harm' (in the language of the NPPF) to the setting of the Scarborough Conservation Area, it would result in significant harm to the character and appearance of the area and thereby conflict with the development plan overall. The amendments proposed do not alter this assessment. The removal of the cladding to the launch tower would not significantly reduce the overall visual or heritage impacts of the development. Nor would a change in colour and graphics to the landing tower. Albeit reduced by the temporary nature of the amended proposal, harm would arise even if for a 5-year period.
- 2.7. Officers' advice is that great weight should be given to conservation of heritage assets, and that significant weight should be given to the harm to the character and appearance of the area. Furthermore, it is considered that there are no public benefits or material considerations, including the tourism benefits of the scheme, which outweigh the identified harm and resultant policy conflicts to suggest that a decision should be made other than in accordance with the development plan. Refusal is therefore recommended.
- 2.8. Nevertheless, it was apparent during debate that some Members of the committee found the benefits would be significant, and the harm would be less. The case involves matters of planning judgement, and rests on the exercise of the planning and heritage balance. In making planning judgement and attaching weight to the considerations, it would be perfectly within the gift of the committee to find that the public benefits of the revised scheme would outweigh the harm and resultant policy conflicts.



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3.0 Preliminary Matters

- 3.1. Access to the case file on Public Access can be found here:- [ZF23/00866/RG4 | Erection of zip lines between 2no. tower structures including reception and landing areas with associated groundworks and access road | Former Marvels Leisure Park To Land South Of Scalby Mills Miniature Railway Station Scarborough North Yorkshire.](#)
- 3.2. The planning history of the site can be found here: - [Former Marvels Leisure Park Northstead Manor Gardens Burniston Road Scarborough North Yorkshire](#) & [The Sands Development Site Burniston Road Scarborough North Yorkshire](#)

4.0 Site and Surroundings

- 4.1 The site of the proposal is located adjacent to North Bay, between the Scarborough Conservation Area to the south and the North Yorkshire and Cleveland Heritage Coast to the North. The launch tower would be located in an elevated cliff-top location behind the Open-Air Theatre, on the site of the former Marvels Leisure Park. The landing tower would be sited adjacent to the Cleveland Way, close to the Scalby Mills Miniature Railway Station.

5.0 Description of Proposal

- 5.1 Planning permission is sought for a 5-year period for a zip line attraction with four steel wires, between two steel-framed lattice towers, across a distance of 650m in length. The launch tower would measure 35.5m in height whereas the landing tower would measure 19.1m. The cumulative site area of the launch/landing zones would measure 4238 square metres.
- 5.2 The launch zone would contain reception facilities, including steel containers, marquees, gazebos and up to 5 toilets, a staff welfare unit and wooden clad information and merchandise unit and would have a footprint of approximately 493 square metres. The landing zone would comprise the landing tower, a decked area to de-rig riders, two merchandise and information units, and a staff welfare unit, all of which would be enclosed by security hoardings and a perimeter timber fence. The submitted information indicates that development does not involve any large-scale permanent features, other than a gravel access road to the launch site.
- 5.3 Proposed maximum operating times during the peak season months of June, July and August would be between 10:00 to 19:30 Monday to Friday, 9:00 to 20:00 on Saturdays, and 09:00 to 19:00 on Sundays. During off-peak season months these hours would be reduced, with customer bookings ending at 17:00 (November, December, January, and February) or between 18:00 and 19:00 (March, April, May, September, and October). Pre-booking is to be actively encouraged and it's stated that a maximum limit of 80 participants per hour would be adhered to, but that this number is unlikely across a full day.
- 5.4 The application is supported by the following information:
- Design & Access Statement
 - Event Management Plan
 - Planning and Flood Risk Statement
 - Landscape and Visual Impact Statement
 - Heritage Impact Assessment

- Preliminary Ecological Appraisal
- Amendment in Response to Scarborough Planning Committee Meeting
- Visual Presentation Document (including CGI images)
- CGI Video

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 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 2011 to 2032 (adopted 2017) (the Local Plan)

Emerging Development Plan – Material Consideration

6.3. The North Yorkshire Local Plan is the emerging development plan for the area. However, because it is at an early stage of preparation and has not yet been consulted upon it does not therefore attract any weight.

Guidance - Material Considerations

6.4. Relevant guidance for this application is:

- National Planning Policy Framework December 2023 (The Framework)
- National Planning Practice Guidance (The PPG)

7.0 Consultation Responses

7.1. The following summarised consultation responses have been received:

7.2. Environment Agency: No response.

7.3. Historic England: Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

7.4. Ministry of Defence: This application relates to a site outside of Ministry of Defence safeguarding areas. I can therefore confirm that the Ministry of Defence has no safeguarding objections to this proposal.

7.5. Natural England: No objection (with the following advice):

- a. Nature Conservation: Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

- b. Protected Landscapes: The proposed development is for a site within or close to a defined landscape namely North Yorkshire & Cleveland [Heritage Coast]. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. Your decision should be guided by paragraph 178 [now 184] of the National Planning Policy Framework [in relation to Heritage Coasts].

7.6. North York Moors National Park Authority: No objections.

7.7. North Yorkshire Police (Designing out Crime): An analysis of crime and disorder between 1 October 2022 to 30 September 2023 for within 100m radii of the launch site and landing areas shows there were a total of 14 crimes and 8 anti-social behaviour incidents recorded by NYP. The result show both sites are located within an area with low crime and disorder levels. The applicant has considered the security of the proposal and has provided relevant information to demonstrate what measures are to be incorporated, which conforms to guidance in the National Planning Policy Framework. Improvements could be made to boundary protection and CCTV coverage should be defined and operate 24 hours a day with suitable compatible lighting, otherwise no further comments.

7.8. NYC Environmental Health: The introduction of zip lines in proximity to residential areas creates potential for amenity impacts, most notably from noise and light emissions. Further to our earlier response, the applicant has submitted information on which the following comments are made:

- a. Noise: The applicant has provided Noise Assessments and an Acoustic Feasibility Study for similar schemes. Whilst there is no standard noise assessment methodology for this type of development, and some uncertainty regarding differing and non-transferable background sound levels at residential receptors, the relatable noise assessments enable a basic understanding of operational noise in order to determine whether or not significant impacts are likely.

I would concur with the reports in so far as zip wire installations do not readily lend themselves to noise mitigation due to their height. Therefore, the zip lines as proposed are either acceptable in noise terms or they're not. Overall, taking into account a review of similar schemes and predicted noise levels at residential receptors, in the context of a busy seaside resort and operating during hours of daylight, I do not envisage significant operational noise impacts provided that:

- i) Operating hours align with those set out within the Design & Access Statement dated May 2023, sections 6.3 (off peak) and 6.3.1 (peak); and
- ii) Deliveries and toilet servicing hours align with those set out within the letter from the applicant dated 08/11/2023 (i.e. between 07:00 and 22:00).

- b. Light: The applicant has provided a letter dated 08/11/2023 seeking to address artificial light concerns raised in our earlier consultation. I am reassured that artificial light on the tower structures will not be used outside of staff departure times, unless in the event of a medical emergency. Therefore, I do not envisage significant operational artificial light impacts provided that:
 - i) Artificial light on the tower structures will not be used outside of agreed operating hours, unless in the event of a medical emergency.
- c. Construction: The proposed development is near existing residential premises and may therefore negatively impact upon residential amenity during construction due to the potential for generation of noise & vibration. Therefore, to protect residential amenity the following condition is recommended:
 - i) No construction work relating to the development, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 08:00 hours and 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays.

- 7.9. NYC Head of Venues and Attractions: The zip line should not operate on Open Air Theatre show days and the access should be closed from 21:00 on the day before any show.
- 7.10. NYC Principal Conservation Officer: The proposal would cause less than substantial harm to the setting of Scarborough Conservation Area by virtue of the height of the launch tower. The Landscape and Visual Assessment fails to address the impact on short distance views. As such, the proposal would be contrary to Local Plan Policy DEC5 and the policies of the Framework. Nevertheless, if planning permission were granted, conditions should be imposed to require precise details of the material and colour of any enclosure to the tower structures.
- 7.11. NYC Local Highway Authority: There are no Local Highway Authority objections to the proposal.
- 7.12. NYC Public Rights of Way: The route of the zip line crosses Public Right of Way No 30.19/18/3 and appropriate safety measures should be put in place at the intersection to mitigate any risk to the public, for example from debris dropped by users.

Local Representations

- 7.13. At the time of writing 224 public comments have been received, 48 in objection, 173 in support, and 3 neutral. A summary of comments made is provided below. However, comments can be viewed in full at the above weblink.

7.14. Support:

- Limited environmental and visual impact.
- The towers would be a positive addition.
- Limited effect on living conditions of neighbours due to operating times/separation distances involved.
- Beneficial addition to North Bay and character of the area following the closure of facilities, including Alpamare.
- Would raise Scarborough's profile and increase footfall.
- Tourism and linked-spend economic benefits for small businesses, hospitality and accommodation operators, and job creation.
- Needed investment to regenerate a derelict site and North Bay.
- Unique, safe, family, and all year-round visitor attraction.
- Parking would not be an issue.
- Accords with the North Bay Masterplan.

7.15. Objections:

- Contrary to Local Plan Policies DEC1 and DEC4, and the Framework.
- Out of keeping with the quiet tourism character of North Bay, more suitable for the South Bay.
- Harm to natural coastal beauty and historic views of North Bay and the Castle.
- The scale would dominate North Bay's skyline and harm visual amenity.
- Hoarding around the towers and landing site would be an eyesore.
- Development is limited and not year-round and would not regenerate the site.
- Noise and disturbance, and potential for litter and antisocial behaviour.
- Safety concerns due to falling items from riders.
- Harm to wildlife, including migratory birds.
- Inadequate parking provision with the Open-Air Theatre and Alpamare.
- Does not provide for indoor leisure facilities.
- The site is within Flood Zone 2/3 and unsuitable.
- There is already a zip wire at Wykeham Lakes Water Park.
- Abandoned chairlift towers should be removed.
- A lease should not have been agreed until determination.
- Contrary to covenants placed upon the site.
- Contrary to the North Bay Masterplan.

7.16. Neutral:

- Regard should be had to the Planning (Listed Buildings and Conservation Areas) Act 1990.
- The benefits are uncertain.
- Should be closed during Open Air Theatre performances.
- Abandoned chairlift towers should be removed.

8.0 Environment Impact Assessment (EIA)

- 8.1. Having regard to the scale and nature of the proposal, the development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact

Assessment Regulations 2017) (as amended). Therefore, no Environment Statement is required.

9.0 Main Issues

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

- Principle of development
- Effect of the proposal on the setting of heritage assets and the character and appearance of the area
- The public benefits of the scheme
- Other matters

10.0 Assessment

Principle of Development

10.1. There is broad support for tourism development under Local Plan Policy TOU1 and the launch tower/zone would be located within Local Plan economic growth allocation TOU2 (North Bay Leisure Parks), within which new leisure or tourism facilities will be supported. The proposal is for a leisure development and as such the proposal is therefore acceptable in principle, subject to the proposal being found to be in accordance with the other policies of the Local Plan.

Effect of the proposal on the setting of heritage assets and the character and appearance of the area

- 10.2. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving the Listed Building(s) or its setting or any features of special architectural or historic interest which it possesses.
- 10.3. Local Plan Policy DEC5 states that historic rural, urban, and **coastal** environments will be conserved and, where appropriate, enhanced and their potential to contribute towards the economic regeneration, tourism offer and education of the area exploited, particularly those elements which contribute to the areas distinctive character and sense of place [emphasis added]. Local Plan Policy ENV7 seeks to protect landscape character.
- 10.4. The application site is located between Scarborough Conservation Area (SCA) and the defined landscape of the North Yorkshire & Cleveland Heritage Coast, the latter of which Natural England highlights in its consultation response. The open character of the coast and historic setting of the site gives the area its strong sense of place and seaside resort character.
- 10.5. The nearest listed building is the water chute in Northstead Manor Gardens (Grade II). The setting in which the heritage asset is experienced does not include the

application site and the Council's heritage adviser raises no objection in relation to its setting, or the setting any other listed building. However, the site is located within the setting of a Registered Park and Garden and the SCA. Your heritage advisor finds that the 35-metre-tall launch tower would harm views from the edge of the SCA, and views south towards the SCA from the launch site boundary. Further, that this harm is not convincingly justified, as is required by the Framework. Further still, that the Landscape and Visual Impact Assessment fails to address the impact on short distance views when viewed from vantage points at the northern limits of the SCA, or the impact on panoramic views of the SCA from the North Bay Promenade.

- 10.6. Amongst other things, criteria based Local Plan Policy DEC1 states that good design will be expected in order to create attractive and desirable places where people want to live, work, and invest. Criterion a) require that proposals reflect the local environment and respond positively to local context, including in terms of scale, form, height, and materials. Furthermore, that proposals take account of the need to safeguard or enhance important views and vistas.
- 10.7. Site allocation TOU2 in which the launch tower is situated is supportive of new leisure or tourism facilities, where they accord with the criteria contained within Local Plan Policy TOU1. Criteria a) of the policy requires that proposal respect the distinctive tourism character of the area, both in terms of scale and nature of the development, and, wherever possible, help reduce the seasonal nature of the tourism industry in the area. The associated text explains that tourism is fundamental to the local economy. More than 7 million visitors are attracted to the area every year by its seaside resorts, dramatic coastline and landscape, award winning beaches, built heritage and proximity to the North York Moors National Park.
- 10.8. The Scarborough Landscape Study: Volume 1 – Borough wide Landscape Character Assessment (LCA) identifies the launch site as being within the urban area, but immediately adjacent to the broad Character Type G: Coastal Cliffs, of which Character Area G3 Long Nab to North Bay is a constituent and in which the landing site would be located. Amongst the key characteristics identified are that the area has extensive intervisibility with prominent coastal landmarks such as the rock outcrop and associated dramatic cliff top ruins of Scarborough Castle (a Scheduled Monument). Also, that recreational interest and experience are provided for by the Cleveland Way which is adjacent to the landing zone. Under pressure for change, the LCA notes continued pressure for tourism and recreation that may lead to inappropriate development.
- 10.9. It is recognised that the applicant has responded positively and has sought to reduce the impact of the proposal. Nevertheless, in this landscape context the launch tower would not be a positive addition to the skyline. Whilst the cladding to the launch tower has now largely been omitted making it less solid, the exposed lattice structure would be utilitarian in appearance and significant in its scale. Sited in an elevated cliff-top location, it would be far higher than any existing structure. As such, it would be a visually dominant and alien feature which would have a transformational impact on the coastal environment and its distinctive character. The revised green colour scheme and graphics of the landing tower cladding and hoardings would be less

assertive when viewed from the Cleveland Way, and blend better against the green backdrop of the cliff base. Nevertheless, together with the associated paraphernalia the structure would not contribute positively to the open character of the seafront. Together, they would cause significant harm to visual amenity and detract from the established coastal tourism character of the area. As a result, the proposal would be contrary to Local Plan Policies DEC1, DEC5, ENV7, TOU1 and TOU2. Officers advise that in their professional opinion significant weight should be given to the identified harm and resultant development plan conflict.

- 10.10. The supplied CGI video is helpful to appreciate the likely appearance of riders on the proposed attraction. However, the identified harm is not predicated on use of the ride; it primarily arises from the siting and scale of the supporting structures. Furthermore, the video is indicative only and should therefore be treated as such (the scale elevations are what more accurately describe the proposal).
- 10.11. Permission is now sought for a temporary 5-year period. The temporary nature of the proposal would limit the duration of the harm and provide further opportunity for consideration of the effects at a later date. Nevertheless, even on a temporary basis, the proposal would result in less than substantial harm to the significance of the SCA by way of harm to its setting, and thereby conflict with Local Plan Policy DEC5. The harm is considered to be at the lower end of the less than substantial scale. Nevertheless, in accordance with the Framework (paragraph 205) great weight should be given to the asset's conservation. Following paragraph 208, the harm should be weighed against the public benefits of the proposal, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. This is returned to below.

The public benefits of the scheme

- 10.12. Although they are difficult to quantify with any precision, thereby reducing the weight that could be attributed to them, many comments in support of the scheme suggest that the proposal would be likely to attract visitors. Benefits would accrue from their associated linked spend in the local tourism economy, including on small businesses, accommodation, and hospitality providers. Officers would therefore advise that moderate weight should be given to the economic benefits. The proposal describes propose employment for 10 full-time and 40 part time works (25.05 full-time equivalent) which is not insignificant and should therefore also be afforded moderate weight.
- 10.13. Supporters of the scheme comment that the proposal would regenerate a derelict site. However, as some objectors highlight, the proposal would not result in the comprehensive redevelopment of Local Plan site allocation TOU2 North Bay Leisure Parks. Moreover in some regards, due to its layout, the proposal might actually be said to be an obstacle to the comprehensive redevelopment of the site, utilising the access and largely splitting it into two. Furthermore, although it would operate year-round, the proposal would be unlikely to help to reduce the seasonal nature of the tourism industry. Therefore, officers consider that limited weight should be afforded to the regeneration benefits of the scheme.

Other matters

Highways

- 10.14. Some objectors raise concern over the adequacy of parking provision, allied to the in-combination parking demand with existing uses. Whilst the proposal does not provide off-street parking, access would be via existing walking routes which are close to Northstead Upper and Lower Car Parks. The proposal is sustainably located, and there is nothing to suggest that the parking demand generated by the proposal could not be met by existing provision in the locality, or that the effect on the road network would be unacceptable.
- 10.15. Delivery of the launch tower would be in four sections, the landing tower in two, and the submitted design and access statement details access routes and delivery management measures. These are all matters which would be capable of being addressed by a suitably worded planning condition. Furthermore, there is no highway safety or any other objections from the Local Highway Authority. As such, it is not considered that the proposal would unduly conflict with Local Plan Policy DEC1 b). Therefore, according to Framework paragraph 115, planning permission should not be refused on highways grounds.

Living conditions of neighbours

- 10.16. Local Plan Policy DEC 4 requires that development does not give rise to unacceptable harm to the living conditions of neighbours and public objection is made on the grounds of noise and disturbance. However, subject to conditions to restrict operating, construction and delivery hours, and artificial lighting outside of agreed operating hours, there are no objections from the Council's Environmental Health consultee. In view of the separation distances between neighbouring residential property, and subject to such conditions, it is not considered the proposal would result in undue noise and disturbance for local residents or conflict with the above policy.

Biodiversity

- 10.17. The application is supported by a Preliminary Ecological Appraisal prepared by an appropriately qualified ecologist. Subject to a Great Crested Newt low impact licence, there is no evidence to suggest that protected species would be harmed, including migratory birds. The site is not a Site of Special Scientific interest or designated as a 'European' site, and Natural England as the government's chief adviser on such matters raises no biodiversity objections. As such, the proposal would not conflict with development plan policy or the Framework in this regard. The proposal incorporates wildflower planting either side of the launch zone gravel access, which would be likely to support pollinators and thereby meet the requirements of Local Plan Policy ENV5 and the Framework to achieve a net gain in biodiversity.

Public safety

- 10.18. The concerns of objectors in relation to public safety arising from the potential for items to be dropped by zip wire riders is acknowledged; the route of the zip line crosses Public Right of Way No 30.19/18/3. However, as the Council's Public Right of Way consultee comments in not objecting to the scheme, appropriate safety measures could be put in place to mitigate any risk to the public. Furthermore, the proposal sets out loose article safety measures, which would include checks and advice at registration/harnessing. Further still, a scheme of safety measures could be required by condition. In relation to concern over the potential for crime and disorder North Yorkshire Police have not responded to consultation with any concerns that would not be capable of being address by planning conditions (anti-climb security/CCTV measures). As such, the proposal would not conflict with Framework paragraph 135 f) in these regards.

Flood risk

- 10.19. The landing tower is primarily located within Flood Zone 2 with a medium probability of sea flooding, although a small part of the landing zone would appear to be located within Flood Zone 3 with a high probability. As the submitted Flood Risk Assessment sets out, the proposal would not be inappropriate in Flood Zone 2. Furthermore, as a less vulnerable use according to the PPG it could be considered to be water-compatible development within Flood Zone 3. As a result there would not be conflict with Local Plan Policy ENV3.

Setting of the North Yorkshire Moors National Park

- 10.20. In decision making there is a legal duty under Section 11A(2) of the National Parks and Access to the Countryside Act 1949 to have regard to National Park purposes, and some objectors are concerned about the proposals impact. However, at its nearest the proposal would be approximately 1.5 miles from the boundary of the North York Moors National Park and would not unduly harm the setting. Furthermore, in response to consultation the National Park Authority raises no objection. Therefore, the proposal would not conflict with Local Plan Policy ENV6 in this regard.

North Yorkshire & Cleveland Heritage Coast

- 10.21. Framework paragraph 184 requires that within areas defined as Heritage Coast planning decisions should be consistent with the special character of the area and the importance of its conservation. In their comment Natural England refer to the site as being 'within, or close to the North Yorkshire & Cleveland Heritage Coast'. However, according to the MAGIC map which they manage (an authoritative geographical information source about the natural environment across government), the site is located outside of it.

Former chair lift structures

- 10.22. Public comment is made in relation to the former chair lift supporting structures and that they should be removed. However, these existing features are beyond the redline area of the site and therefore beyond the scope of conditions which might seek their removal. In any case, refusal is recommended. They are far smaller in scale than the proposal, and do not therefore provide a basis or justification for approval of the scheme in view of the identified harm.

North Bay Masterplan

- 10.23. A significant number of public comments raise the North Bay Masterplan, both in support and objection. However, it does not form part of the adopted development plan for the area and has no legal status. Therefore, it does not attract any weight.

Lease of the site and covenants

- 10.24. Whilst there is public concern over the lease of the site, this is immaterial to the decision. Although there may be covenants on the land, these would fall to be considered as civil matters, outside of the planning merits of the proposal.

11.0 Planning Balance and Conclusion

- 11.1. The revised proposal is acceptable in principle in accordance with Local Plan Policies TOU1 and TOU2. However, officers have concluded that having regard to the revisions, even on a temporary basis, it would result in significant harm to the character and appearance of the area, and thereby conflict with the associated criteria and Local Plan Policies DEC1 and DEC7. Furthermore, the proposal would result in less than substantial harm to the setting of the Scarborough Conservation Area. Conservation of the heritage asset should be given great weight, and, in accordance with the Framework and Local Plan Policy DEC5, the harm should be weighed against the public benefits of the proposal.
- 11.2. The proposal would not harm the setting the designated North York Moors National Park or harm the defined North Yorkshire & Cleveland Heritage Coast. It would not pose a risk to public safety or unduly harm the living conditions of neighbours or biodiversity. The proposal would not result in undue flood risk or be contrary to flood risk policy or result in any unacceptable highway impacts. These are all neutral factors in the exercise of the heritage and planning balance.
- 11.3. In terms of the public benefits, individually, moderate weight should be given to the economic and employment benefits of the scheme, and limited weight should be given to the regeneration benefits. Overall, and on balance, officers' advice is that that the combination of the public benefits of the scheme would not outweigh the less than substantial harm to the Scarborough Conservation Area. For the reasons set out above, and having regard to all the matters raised, the proposal conflicts with the development plan as a whole. There are no material considerations, including the tourism benefits of the scheme, which outweigh the identified harm and consequent

policy conflicts to suggest that a decision should be made other than in accordance with the development plan. Accordingly, refusal is recommended.

12.0 Recommendation

12.1 That planning permission be REFUSED for the following reason:

The proposal would result in significant harm to the character and appearance of the area and landscape and less than substantial harm to the setting of the Scarborough Conservation Area. As a result, the proposal would conflict with Local Plan Policies DEC1, DEC5, ENV7, TOU1 and TOU2, and the public benefits of the scheme and material considerations would not outweigh the harm and development plan conflict.

Target Determination Date: 19 April 2024

Case Officer: Mr Daniel Child

daniel.child@northyorks.gov.uk

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

11 APRIL 2024

**ZF23/01943/FL - CONVERSION OF 3 NO. RETAIL UNITS TO 3 NO. FLATS AT
JAZZ COURT, ASHMEAD SQUARE, EASTFIELD, NORTH YORKSHIRE, ON
BEHALF OF SANCTUARY GROUP LTD**

Report of the Assistant Director/Planning – Community Development Services

1.0 Site, Surroundings and Background

1.1 The application site refers to 3 x retail/commercial units which are situated on the ground floor of the Jazz Court retirement community building (extra care apartments) which provide self-contained living for people in their own homes, with care facilities available as and when required. The units are on the West-facing elevation of the building, facing onto the car park and courtyard area. The units are independent, with dedicated accesses and a large glass window on each of the respective frontages. Two of the retail units (numbers 1 and 2) both measure 67sqm, whilst retail unit 3 measures 51sqm. The agent has submitted information which argues that the units have never been occupied since they were constructed in 2014, with Ashmead Square intended to become a community hub. The site is also adjacent to the new Overdale primary school, which contains a room available for community use.

1.2 The site is part of the 'Middle Deepdale' site which is well advanced and was initially allocated in the 1999 Local Plan, with the total area being substantial in size (165 acres). The site lies at the heart of the former HA2 allocation, while the less advanced HA1 site lies to the west of the Deepdale valley. The site and area is located within the development limits of Scarborough, in the Eastfield area which forms part of the Scarborough Urban Area as indicated in the Local Plan.

1.3 The area of Eastfield is undergoing significant change, with three new housing allocations in the 2017 Local Plan in close proximity to the site. These are allocated as HA8, HA9 and HA10, with the largest being HA8 which is immediately to the North of the site. HA8 is also the largest of the Eastfield allocations, in terms of the site area which measures 22.93 hectares and outline permission has been granted for circa 650 dwellings. The cumulative total of dwellings on the 1999 Local Plan Allocations and the HA8 site, is approximately 2050 in addition to a separate 60 bedroom care home approved in 2023.

1.4 The site forms part of a planning application granted outline approval in 2013. The care home itself was approved under a separate full application (reference 12/02023/FL), in which it is described as an extra care facility consisting of 60 flats and associated communal facilities including three retail units and café/restaurant.

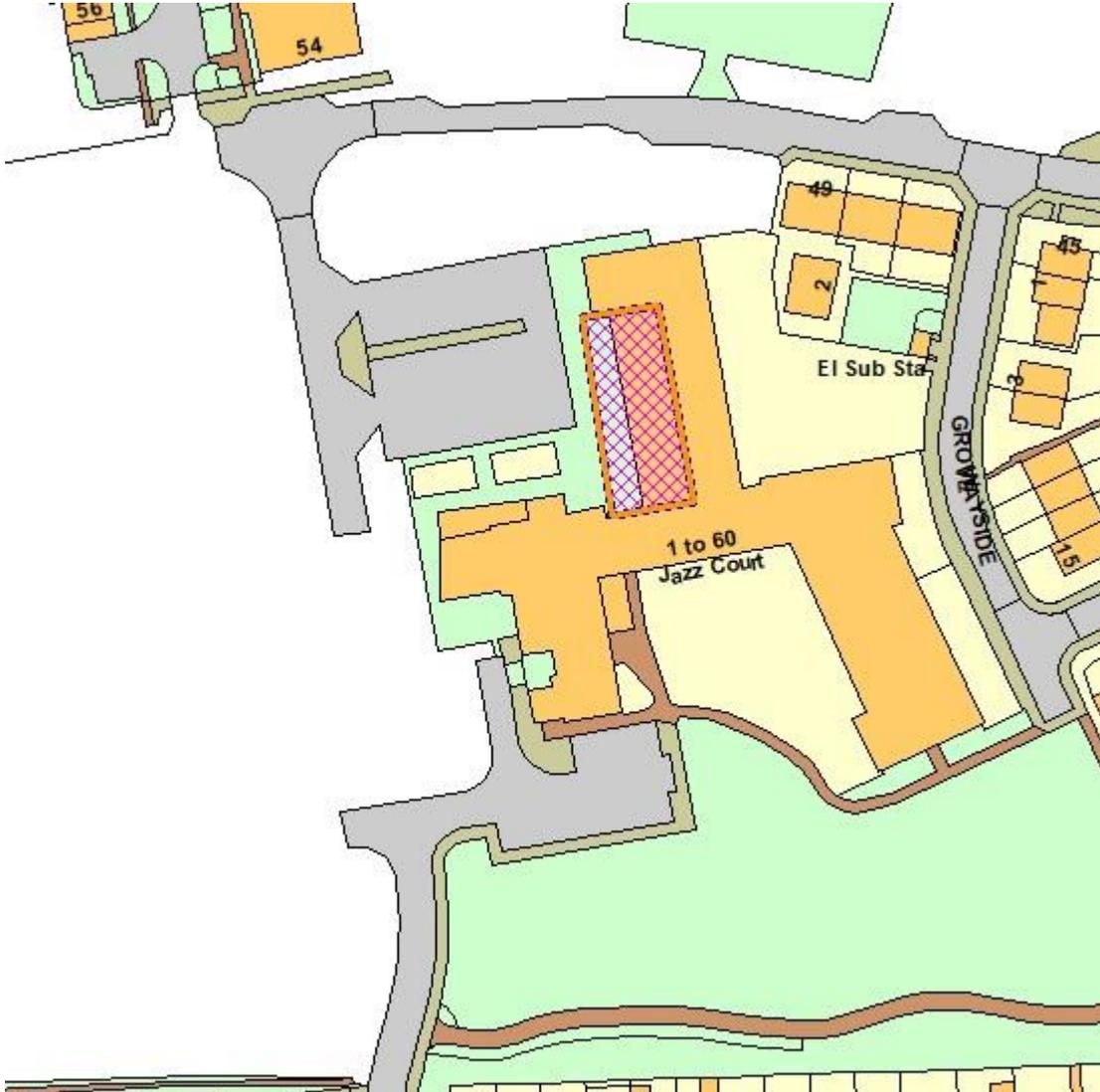
2.0 Description of Development

2.1 The application is seeking approval to change the use of the retail units (not occupied) to 3 x no residential flats to provide additional bed spaces in the care facility. Two of the units will be laid out into two-bedroom flats, respectively, whilst the other will be a 1-bedroom flat. Each will have an open plan kitchen/living/dining room, with a large bathroom which could cater for wheelchair users. To the front of each flat is a semi-private gardens with direct garden access to/from each of the respective living rooms.

2.2 The proposed development will include alterations to the frontages of the building to replace the shopfronts with patio doors, a glazed side screen and front-facing windows. The cavity will be filled with buff coloured facing brick.



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3.0 Relevant Planning History

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

12/02023/FL - Development of new extra care facility consisting of 60 flats and associated communal facilities including three retail units and cafe/restaurant

11/01914/OL - Outline planning permission for up to 1,350 dwellings, primary school, extra care, retail development and link road - approved in 2013 and covers land surrounding Jazz Court comprising the HA1 and HA2 allocations from the previous Local Plan, dated 1999.

4.0 Planning Policy and Guidance

4.1 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

4.2 The Adopted Plan for this site is:

- Scarborough Borough Local Plan 2011 to 2032 adopted 2017
- Scarborough Borough Supplementary Planning Document (SPD) - Residential Design Guidance (2022)

Emerging Development Plan - Material Consideration

4.3 The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

4.4 Relevant Guidance for this application is:

- National Planning Policy Framework 2021
- National Design Guide

5.0 Consultation Responses

5.1 The following consultation responses have been received and have been summarised below.

Eastfield Town Council - Objections raised as the proposal will diminish any opportunity for the residents of Middle Deepdale to have a much needed and promised retail offering and no real effort has been put into bringing retail to the units. Concerns that Sanctuary are difficult to get in touch with which may have impacted the amount of quality or enquires the business has received from prospective tenants.

Environmental Health - CRT - No comments received.

Environmental Health Residential Regulation - No objections raised

Highways - No objections raised.

Local Representations

5.2 The application was advertised via site notice, 28 comments have been received objecting to the proposal. The following concerns have been raised:

- The development goes against the original intention for the development in which residents were informed that the units would be local services, or community facilities, which has not been implemented by the developer.
- The removal of the units would undoubtedly remove any remaining hope that the site would be used as a community hub.
- There are little existing local services for the existing or future residents in the area, and the proposed conversion would exacerbate this problem by introducing more residential dwellings in an area which does not need it.
- The area is not very sustainable, with no local services/shops within walking distance to the site, and the public transport links are limited. The removal of the units would harm the amenity of the existing and future residents, especially older residents.
- Concerns that the developer has not encouraged businesses enough to take on the units, suggestion that the rents should be lowered.

6.0 Environmental Impact Assessment

6.1 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.

7.0 Main Issues

7.1 The main issues are:

- Principle of Development
- Impact on Amenity
- Design & Impact on Visual Amenity
- Highways Safety

8.0 ASSESSMENT

Principle of Development

8.1 This application seeks approval to change the use of the existing retail units on the ground floor of the site (the residential care home facility) to 3 x residential flats to add residential space to the existing facility. The units are not occupied, and the application states that the units have not been occupied since the facility was

completed in 2014. Nonetheless, the main consideration is in regard to the loss of the retail units, and whether this is justified in regard to the development brief/vision of the on-going development taking place in the wider area.

8.2 In terms of local planning policy considerations, the starting point would be Scarborough Local Plan (2017) Policies SD1: Presumption in favour of sustainable development and HC8: Community facilities. The background to the development is also key in regard to the original development plan - the 1999 Local Plan allocated the site for housing and (in Policy C1) set out the community facilities should be contained in the development, including 'shopping facilities to meet the local needs of the area'.

8.3 Local Plan Policy HC8 states that the loss of community services, including local shops (subtext 6.86), will only be permitted where one or more of the following situations can be demonstrated:

- It can be demonstrated that the facility is no longer required, having been vacant and marketed for a community use without success; or
- A replacement facility of at least an equal quality and suitable scale, in an equally or more accessible location will be provided through redevelopment of the existing site; or
- The proposal would result in the significant enhancement to the capacity, nature and quality of a separate existing facility, which serves the same community.

8.4 Whilst it is clear that the existing units are not occupied, and the applicant states that they have not been occupied since the facility opened in 2014, the current planning use of the site is retail (Use Class E) and the original intended use of the units prevails in planning terms. The applicant has submitted information in regard to the units being marketed for lease for retail use. Officers consider the information submitted is limited and in part, indicates that there has been some interest from prospective tenants. The submitted statements, including the original D&A Statement and the updated statement received 1st February 2024 indicates the following:

- The site opened in 2014, and Sanctuary Housing started marketing the units, however no businesses were interested in leasing/investing with very limited footfall due to the development of the site being in its very early stages.
- Sanctuary entrusted Harris Shields (Scarborough-based Estate Agents) to market the units by approaching various local enterprises and small chains with no success. N.B. There has been no timescale or further evidence for how the units were marketed at this juncture.
- In 2019, Harris Shields received interest from various entities including an opticians, a mobility shop, a flower shop, furniture shop, a grocery shop and Scarborough Borough Council, however none of these were completed. N.B. There has been no evidence submitted to explain why this interest did not result in a lease being taken up.
- In 2022, Sanctuary instructed a local agent (unnamed) and it is stated that proactive efforts were made to approach various chains, as well as independent shops.

- Sanctuary states that the business had an offer of £18k for a business to lease all three of the units (which would be a discount from the £24.1k if the units were leased individually), but this agreement did not complete.
- The second statement (Received on 1st February) also includes a background to the business but has no relevance or justification to the case for converting the units.
- A link has also been provided to existing advertisement (dated June 2023).

8.5 Officers consider that there is a lack of evidence in regard to the aforementioned statements. Firstly, there is no clarity as to how long the units has been marketed, whether sufficient contact details have been provided or via which medium. Various agents have been referenced such as Harris Shields who were argued to be 'very proactive' in approaching various local enterprises and small chains, but there is no detail as to what this actually entailed, or which businesses were approached. Secondly, the statement indicates that in 2019 Harris Shields did in fact receive interest from a wide range of potential occupiers, however 'none of these completed'. No information has been provided as to why these potential leases did not complete and at what stage did the negotiations break down. Then in 2022, Sanctuary instructed an unnamed local agent to approach various chains and independent shops (unnamed) to no avail. Again, there is unclarity here as to which businesses were approached, by what means, and for how long. However, Sanctuary also states that the business had an offer of £18k to lease all three units which was accepted but did not complete. Again, the timeline for this offer and why it did not complete has not been clarified in either of the statements. It is appreciated that this offer is at a discount to the advertised market value of all three units independently, but nonetheless, this would indicate that there has been at least some interest in prospective tenants taking on the lease for all three units. To this end, no such justification has been submitted to show that the proposed lease costs of the units are comparable to the lease cost of other similar units in the nearby area, of similar size and quality. Officers note that the period from spring 2020 onwards will have been particularly impacted by the Covid situation, which will have presented issues for potential leasees in terms of the certainty of being able to operate and general economic position, including the ramifications for the pace and scale of development in the locality.

8.6 Little of the submitted information is supported by concrete written evidence. The statement does show that there has been at least some interest from prospective tenants at various periods since the units have completed and the reasons why these have not completed is unclear. Equally, there is evidence submitted of some negotiation between parties given the agreement to a reduced fee for all three units, but no such written dialogue has been included to support this. The only form of firm evidence which has been submitted which shows the units have been advertised is dated June 2023, less than 12 months ago at the time of writing, and therefore can only carry minimal weight given the above context and the lack of marketing evidence.

8.8 It is clear from the third party representations that the design vision of a self-sustainable, integrated and walkable neighbourhood was advertised to residents, and this was an attractive prospect to prospective tenants and buyers. It is the opinion of the Local Planning Authority that such facilities have the potential to

provide valuable facilities in the local community. The current nearest local shop is located on Eastway, approximately 1km to the South. Whilst this is a relatively short drive, it would be difficult to access by foot for many elderly residents. It is also acknowledged that the high street of Eastfield is c.1.3km from the site, and contains a variety of uses and services including a supermarket. However, the distance presents a similar issue to the OneStop in that it would be a fairly long walk, difficult for the elderly and/or people with bags of shopping.

8.9 Officers recognise that the provision of commercial uses/services in the units would rely on negotiation and deals being brokered between private enterprises, and that the retail sector is under considerable pressure. However, as a principle officers consider the aspiration to secure local facilities in the centre of the wider 'Middle Deepdale' development remains valid, and that the loss of units earmarked for such uses should only be countenanced in the face of compelling evidence, as once the potential units are lost there appears little scope for provision to be provided in the 'central hub' of the development. It is noted that housing development in the areas continues, with the housing allocation (HA8) having now commenced, which will lead to population growth and potential increased market and footfall to the area.

8.10 Additionally, the agent has presented an argument for the development that the proposed development would introduce active frontages to the units. However, the existing layout of the units would result in active frontages when/if the units are occupied.

8.11 Officers consider that the removal of the units would require substantial justification and evidence that suitable marketing shows that a genuine attempt has been made to lease the units to prospective tenants. The retail units formed a key part of the original design vision for the area as set out in the 1999 Local Plan Policies and the development brief for the site (1997). The goal was to establish a self-sufficient community which is convenient and attractive to residents. Indeed, the development as marketed as such. This will be assisted by the proposed expansion of employment opportunities in the local area, including community facilities and the encouragement of small businesses within the new residential area. The housing areas are planned to be developed as a neighbourhood with a core of facilities within the housing sites providing for the needs of new residents. The aim was, and remains, to create a mixed-use development which would be enhanced by the retail units and the small businesses who would occupy them. The S106 agreement for the wider site approved in 2013 also contained planning obligations requiring the developers to provide retail premises. On the HA2 site this has by default been provided by the shop units at Jazz Court, albeit this was granted planning permission separately from the wider Middle Deepdale development.

8.12 NPPF paragraph 8 sets the overriding objectives of the planning system with a strong emphasis - principally in paragraph 8b - on the social objective of the system to support strong, vibrant and healthy communities, with accessible services that reflect current and future needs and support communities health, social and cultural wellbeing. Additionally, paragraphs 96 and 97 of the NPPF outline that planning decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, and should plan positively for the provision and use of

shared spaces, community facilities and other local services to enhance the sustainability of communities and residential environments.

8.13 As outlined in the above paragraphs of the report, the proposed development clearly does not seek to achieve these overarching goals, and the loss of the community facilities has not been appropriately justified. It is considered that the application as submitted is not in line with the NPPF as it seeks to remove a key element of the development vision for the area, without sufficient justification for the loss.

8.14 Officers consider that the proposed development is therefore contrary to Local Plan Policies SD1 and HC8, and paragraphs 8, 96 and 97 in the NPPF as it does not contribute to sustainable development, and seeks to convert retail units into residential, without sufficient justification to warrant the loss. As a result, this is harmful to social integration, inclusivity, and sustainability.

Impact on Amenity

8.15 The conversion into living accommodation would largely be in character with the existing use of the site as a residential care home. The development would offer 2 x 2-bed units, and a single 1-bed unit. All of the proposed units are at ground floor level and are of a sufficient size to be in line with the nationally described space standards for new residential units of this size.

8.16 The front of the proposed flats would feature a semi-private garden, bounded by a low height (1m high) wall. This would be intended as a boundary between public and private space within the courtyard area, but would not lead to direct segregation in terms of blocking views between the frontage of the units and the courtyard/parking area. Likewise, it would not result in significant levels of overshadowing or a loss of outlook for the proposed residential units.

8.17 The proposed development is considered to be in line with Local Plan Policy DEC4 and is acceptable in terms of the impact on amenity.

Visual Amenity

8.18 The proposed development primarily centres around the conversion of the units from retail units into 3 x residential flats to add residential space for the existing care facility. The frontages of each prospective flat would therefore be amended to remove the existing (albeit vacant) shopfronts and replace with a residential-type frontage for all units, in terms of their character and appearance.

8.19 The cavity created by the removal of the shopfront will be filled by buff brick which is similar to the existing elevation, with window types, sizes and materials which also are similar to the existing building. The detailing, orientation and appearance of the proposed frontages of the units is considered to be acceptable subject to the use of good quality, matching external materials. This can be ensured through the use of a planning condition, which could include the requirement for the development to submit further details to be approved by the Council prior to

development commencing, should the Local Planning Authority be minded to approve.

8.20 The proposed development is considered to be in compliance with Local Plan Policy DEC1 and the SPD for Residential Development and is acceptable in terms of visual amenity.

Highways Safety

8.21 There is sufficient parking provision within the car park to accommodate for the parking demand (1 x space per unit) for the proposed use. The existing retail units, when occupied, would have a greater parking demand and there are no concerns raised in terms of highways safety or parking provision.

9.0 PLANNING BALANCE AND CONCLUSION

9.1 The application seeks to convert the existing retail units into 3 x residential flats to add to the residential offering of the existing residential care home, currently operated by Sanctuary. This is considered to be inconsistent with the intended urban form and layout of the development brief of the Middle Deepdale development, which is centred around a mixed-use, integrated and self-sustainable development. Local Plan Policy SD1 and NPPF paragraph 8b requires decisions to contribute to sustainable development, of which a social objective is included. NPPF paragraphs 96 and 97 state that decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, and should plan positively for the provision and use of community facilities. Principally, decisions should seek to support strong, vibrant and healthy communities partly by fostering well-designed places with accessible services that reflect current and future needs, supporting communities' health, social and cultural well-being. Local Plan Policy HC8 reflects the importance of local shops and services, considering them to be community uses, to which the loss is only supported under certain circumstances, including evidence that the units have been sufficiently marketed.

9.2 The loss of the retail units is considered to be unjustified based upon the information submitted in support of the application, the applicant having failed to make a compelling case that the retail units have been appropriately marketed as required through Local Plan Policy HC8. As such, the principle of development is considered to be unacceptable given the unjustified loss of retail units, in an area which is centred around sustainability, integration, encouragement of small businesses and a desire for a strong sense of community.

9.3 There are no other concerns raised with the development, including amenity, highways safety, and no internal consultees have objected to the proposal. If the proposed development was deemed to be acceptable, further details in regards to external materials and landscaping would have been sought.

9.4 For the reasons referenced in paragraph 9.1 and 9.2, the proposed development is not considered to be in compliance with Local Plan Policies SD1, HC8 and NPPF paragraphs 8, 96 and 97 and is recommended for refusal.

9.5 In making this recommendation Officers must draw attention to the fact that this development is being pursued by means of the submission of a planning application. Consequently, the starting point for consideration of the proposal is the development plan, alongside other material planning considerations. Officer opinion is that the application is contrary to the development plan, and therefore refusal is recommended. In so doing, officers must also draw attention to the fact that under permitted development regulations introduced by Government in recent years, there is the potential for the development to be pursued by other mechanisms (the 'prior approval' process) that could present the local planning authority with ostensibly the same decision, albeit with a narrower, more 'technical' scope of decision, with less room for nuance and 'sustainability' considerations. Indeed, the stated aim for that particular mechanism is to enable vacant commercial units to be changed to residential use in a streamlined manner. Members are advised to bear in mind the potential for this 'fall back' position to be pursued.

10.0 RECOMMENDATION

10.1 That Permission be refused subject to the following conditions

1 The Local Planning Authority considers that the proposed development does not seek to contribute to the social objective of sustainable development, as it would result in community facilities being converted (local retail/commercial units) to residential use without sufficient evidence to demonstrate that the units have been appropriately marketed, are no longer required or will be replaced by another facility in an equally or more accessible location This is contrary to Local Plan Policies SD1 and HC8, alongside paragraphs 8, 96 and 97 of the NPPF which outlines that planning decisions should plan positively for community facilities. Such community facilities play an important role in facilitating social interaction and creating inclusive, sustainable communities that cater for local needs within a hierarchy of centres, and as outlined in the relevant local and national planning policies, should be protected.

Target Determination Date: 17 January 2024

Case Officer: Nathan Denman
nathan.denman@northyorks.gov.uk

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

11 APRIL 2024

ZF23/01919/FL - WIDENING AND RESURFACING OF PARTS OF THE CINDER TRACK AT CINDER TRACK, BETWEEN BURNISTON AND CLOUGHTON, ON BEHALF OF NORTH YORKSHIRE COUNCIL (MR CHRIS BOURNE)

Report of the Assistant Director/Planning – Community Development Services

1.0 Purpose of the report

1.1 To determine a planning application for full planning permission for the widening and resurfacing of the Cinder Track between Burniston and Cloughton.

1.2 The proposal is being considered by Members of the Scarborough and Whitby Planning Committee as the planning application has been submitted by North Yorkshire Council.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That permission be GRANTED subject to the conditions listed at the end of this report.

2.1 This application seeks planning permission for resurfacing and widening the 2.3km stretch of the Cinder Track between Burniston and Cloughton, to enhance its value for recreational activities. The proposal includes various new landscape features including benches, picnic tables, way finders at entry points, a multi-user logo on the surface at entry points and bins. The upgrade of the track will have a well-drained surface, suitable for use by pedestrians, cyclists and equestrians, with a minimum width of 3m.

2.2 The National Cycle Network Activation Programme is a programme funded by Sustrans intended to encourage travel by cycling and walking. This project will undertake improvements to National Cycle Network 1 (NCN 1) on the Cinder Track from Coastal Road (Burniston) to Salt Pans Road (Cloughton). The scheme will involve surface upgrades (resurfacing the Cinder Track with durable materials to ensure smooth and safe passage for all users throughout the year) and safety enhancements (implementing appropriate safety measures such as signage and lighting where necessary to enhance visibility and ensure the well-being of users, especially during low-light hours).

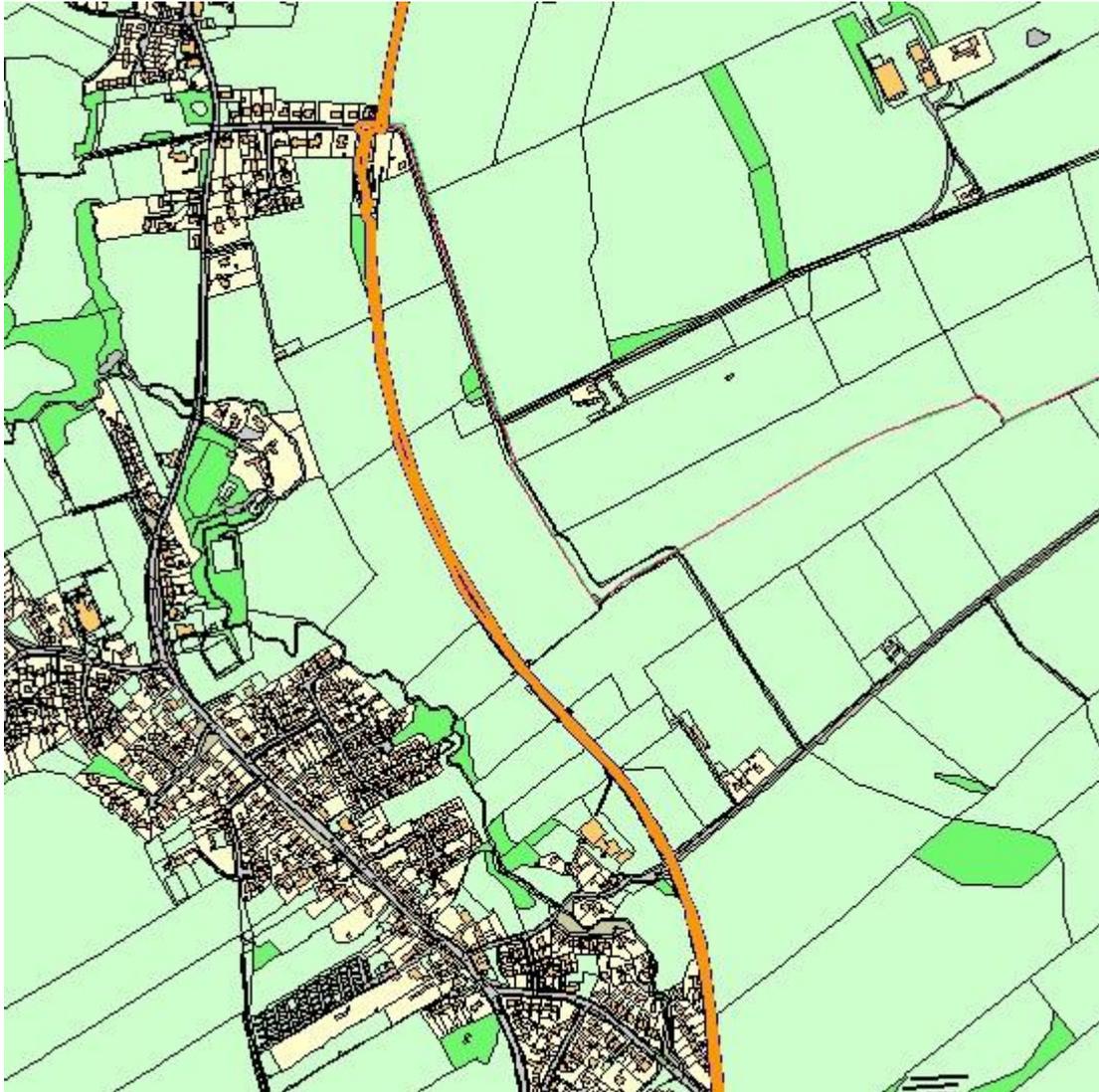
2.3 The proposal is considered to be acceptable in principle, improving and updating an existing recreational and transport corridor. Further, the scheme is considered to be acceptable with regards to landscape character, amenity, trees and biodiversity. Other detailed material considerations have been carefully assessed within the report, with revisions / further information sought throughout the application. Officers have sought advice from technical consultees; no objections have been raised to the proposal.

2.4 Therefore, it is recommended that the planning application be approved.



N

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3.0 Preliminary Matters

3.1 To access and view the case file on Public, please use the link below.

[ZF23/01919/FL | Widening and resurfacing of parts of the Cinder Track | Cinder Track Between Burniston And Cloughton \(scarborough.gov.uk\)](https://www.scarborough.gov.uk/cases/ZF23/01919/FL)

4.0 Site and Surroundings

4.1 The Cinder Track, 17-mile long in its entirety, follows the route of the old railway from Scarborough to Whitby, which was in use from 1885 to 1965. Following this, the track was left unused until it was eventually converted into a public access off-road route for walkers, horse riders and cyclists. It is a shared walking path, cycle path and bridleway with a surface of rough cinder, hence its name.

4.2 The application site is located between the neighbouring villages of Burniston and Cloughton. It lies to the east of Burniston village and extends for approximately 2.3km from Burniston Beck / Cow Wath Beck (to the west of Coastal Road) in the south to Salt Pans Road in the north. The existing site is currently accessed from Coastal Road, Field Lane, Station Lane and Salt Pans Road.

4.3 The site comprises an existing footpath that predominantly passes through rural agricultural landscape as well as some low density residential areas. The topography is undulating. Most structures on site are characterised by a series of local stone bridges which pass over or tunnels which pass under the Cinder Track. Generally, these are all relatively short and have arch heights of over 4 metres. Most of these structures are constructed from local stone. The site is also just over 1km East of the North Sea coastline. The immediate environment is that of hedgerows, treelines in association with the Cinder Track and watercourses which link the site with the wider countryside.

4.4 The current surfacing of the track mainly comprises earth/mud/gravel/cinder and loose chippings. In places, especially in winter, the surface can be rough and muddy.

4.5 With respect to planning designations and constraints, the site is located in the open countryside, outside of the Development Limits of any settlement defined in the adopted Local Plan. The application site is land identified by the Environment Agency as being at low (1 in 1000 year) risk of surface water flooding (Flood Zone 1).

5.0 Description of Proposal

5.1 The proposal involves resurfacing and widening the 2.3km stretch of the Cinder Track between Burniston and Cloughton.

5.2 The application proposes that the majority of the track be resurfaced utilising permeable Flexipave with some sections, where farm access is required, be resurfaced with compacted covering. This will not involve re-grading the existing surface, as it is level due to the history of being a railway track. The width of typical

cross section of the track will be widened to 3m. The Flexipave surface is suitable for equine use.

5.3 Filter drains, in form of stone filled trenches running parallel to the side of the surfaced track, would be installed to improve drainage.

5.4 Various new landscape features are proposed including benches, picnic tables, way finders at entry points, a multi-user logo on the surface at entry points and bins. Chicane gates are to be installed at a clear path gap of at least 1.5m to be able to accommodate the design purpose of a cycle track. Safety enhancements such as signage where necessary are also proposed.

5.5 The proposed development would result in the removal of nine trees comprising one moderate quality tree and eight low quality trees. It will also require the partial removal of five tree groups, which are all low quality. There will be a tidy up of vegetation in addition to wildflower or bulb planting.

5.6 Currently, the footpath allows to be used by walkers, cyclists and horse riders. There are no plans to limit the use of any of these three types of users. The use of e-bikes will also be permitted.

5.7 In addition to the plans, the application is accompanied by several supporting documents (available to view on the Council's website) including:

- Planning Statement
- Preliminary Ecological Assessment Report
- Arboriculture Survey
- Preliminary Bat Roost Assessment Report
- Landscaping Plan
- Flood Risk Assessment

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. The relevant policies are:

Policy SD 1 - Presumption in Favour of Sustainable Development
Policy DEC 4 - Protection of Amenity
Policy HC 14 - Open Space and Sports Facilities
Policy ENV 3 - Environmental Risk
Policy ENV 5 - The Natural Environment
Policy ENV 6 - Development Affecting the Countryside

Policy ENV 7 - Landscape Protection and Sensitivity
Policy ENV 8 - Green Infrastructure
Policy INF 4 - Cinder Track (The Former Scarborough to Whitby Railway Line)

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 2023
- National Design Guide

7.0 Consultation Responses

7.1 The following consultation responses have been received and have been summarised below. The full consultation comments can be viewed on the Council's website.

7.2 Burniston Parish Council: No objections in principle but observations regarding bins for dog waste, signage relating to users of the track, and if equine use is allowed

7.3 Cloughton Parish Council: No objections in principle but observations regarding the legal status of the track in respect of users, signage, bins, e-bikes, and track surface in relation to horses

7.4 Local Highway Authority: No objections

7.5 Public Rights of Way: No response

7.6 Parks and Countryside Services - Ecology: No response

7.7 Parks and Countryside Services - Arboriculture: No response

7.8 Parks and Countryside Services - Landscape: No objections

7.9 Lead Local Flood Authority: No objections. The submitted documents demonstrate a reasonable approach to the management of surface water on the site.

Local Representations

7.10 Consultation period expired on 15 February 2024. Three third party letters (1no. objection, 2no. support) have been received in response to the application, making the following comments:

- Concerns that the introduction of a tarmacked surface can lead to cyclists speeding.

- The British Horse Society welcomes and supports the widening and resurfacing of the cinder track using "Flexi-Pave as a surface material, this will benefit all users and ensure that the track can be used during the coldest of winter months.

- I fully support this proposal. The track is unusable on foot or bike after heavy rain, and certainly not accessible to those with pushchairs or wheelchairs. The upgrade work is essential to ensure locals and tourists can continue to enjoy this unique public space. In my experience, track users are considerate of each other and I see no reason why this would change.

7.11 The full local representations can be viewed on the Council's website.

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:

- The Principle of Development
- Visual impact
- Ecology
- Amenity
- Drainage

10.0 Assessment

The Principle of Development

10.1 The application site lies within the open countryside outside of the Development Limits of any settlement as defined in the Local Plan. Therefore, as a proposal for improvements to an existing site in the open countryside, policies ENV6 (Development Affecting the Countryside), HC14 (Open Space and Sports Facilities), ENV8 (Green Infrastructure) and INF4 (Cinder Track (The Former Scarborough to Whitby Railway Line)) are applicable.

10.2 Local Plan policy ENV6 places strict controls over development outside Development Limits but does make provision for appropriate recreational or tourism related activity requiring a "countryside" location. The scale of the proposal should be compatible with its surroundings and not have an unacceptable impact on the character and appearance of the open countryside or the wider landscape including the setting of the North York Moors National Park.

10.3 Local Plan policy HC14 seeks to ensure that communities have access to high quality open spaces and sporting facilities. This will be supported by allowing for the development of new or improved sites where it would not detract from the

character and appearance of the surrounding area, including the character of the landscape, where appropriate.

10.4 Local Plan policy ENV8 seeks to improve connectivity to existing Green Infrastructure assets. The policy identifies that there are a number of former railway lines that provide an important link for wildlife and have an important amenity value, providing access for walking, cycling and horse riding. For these reasons it is considered that former railway lines should be kept intact wherever practical as a means of enhancing existing Green Infrastructure.

10.5 Local Plan policy INF4 seeks to protect and develop the Cinder Track as a recreational route as well as promote as a sustainable commuting route. Likely improvements could include the attainment of a well-drained surface, suitable for use by pedestrians and cyclists, with a minimum width of 2.5m.

10.6 The National Planning Policy Framework (NPPF) is also an important consideration in assessing the principle of the development. It states (Section 8 - Promoting healthy and safe communities) that planning policies and decisions should aim to achieve healthy, inclusive and safe places - for example through the provision of safe and accessible green infrastructure, sports facilities, [...] and layouts that encourage walking and cycling. Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

10.7 The supporting documentation explains that the proposals look to progress towards providing facilities to increase the year-round attractiveness of the track and making it attractive to a wider range of people. The Cinder Track has long been an important recreational feature and is well used by walkers, cyclists and horse riders. In addition to being an asset for recreational purposes, the Cinder Track offers the opportunity for more sustainable travel modes (walking and cycling) into the towns of Scarborough and Whitby for work, education, leisure and shopping from the suburbs and nearby rural villages. Improving knowledge of the Cinder Track (signage), and improving the quality of its surface and ambience, as well as knowledge of its destinations, improves the track for longer distance cyclists and supports the local area as a destination for cycling and walking tourism. Improvements to the surface, drainage and signage will improve all users' experience, and will encourage more trips via active modes, increase exercise, renew connections across communities, increase connectivity to existing and planned employment, education and leisure opportunities.

10.8 Access to the countryside is an important element of the green infrastructure network, but also plays a key role in terms of economic benefits, social and community cohesion, sustainable transport and in terms of health and well-being. The proposed development is therefore considered to support and improve the usability of the Cinder Track, and the principle of development is considered acceptable and in line with the local and national planning policies.

Visual Impact

10.9 Both policies ENV6 and HC14 expect that development should be of a scale which is compatible with its surroundings and not have an unacceptable impact on the character and appearance of the surrounding landscape.

10.10 The proposed development follows the existing alignment of the Cinder Track between Burniston and Cloughton. Whilst this application proposes to widen the track, this is considered to offer no detrimental impact on its countryside location. Whilst the proposal involves changes by the introduction of for example benches and picnic tables, the wider context is one of rural development and these small scale structures would be in-keeping with the nature of the route itself. It is considered that the proposed development will not detract from the appearance of the surrounding landscape, make the site more prominent within it or impact upon residential amenity. As the track will continue its current use and function, its context within the local area will remain the same.

10.11 Officers note the proposed materials of the track and note that this is a typical finish for a rural track such as this. The visual effects will be relatively localised, and always seen in conjunction with the existing infrastructure on the site. In addition, the function of the newly surfaced track and associated facilities would be broadly in line with the expectation of users as part of this facility. Well thought out paths with green space, increased width and natural feel are likely to encourage walking and community safety. Consequently, though there will be some impacts on landscape and visual effects, they are likely to be moderate and not significant. Based on this, the proposal is considered to have a neutral impact on the landscape character. The impact of this proposal on trees is discussed later within the report. For matters concerning design and visual impact, Officers are satisfied that this would be acceptable.

10.12 Consequently, it is not considered that this development will harm the character and appearance of this area and, therefore complies with the requirements of Local Plan policies ENV6 and H14 in that respect.

Ecology

10.13 Local Plan policy ENV5 (The Natural Environment) requires that proposals should respond positively and seek opportunities for the enhancement of species and habitats. The NPPF states that if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.

10.14 The proposed development would result in the removal of nine trees comprising one moderate quality tree and eight low quality trees. It will also require the partial removal of five tree groups, which are all low quality. It is considered that the benefits of improving the track outweighs the loss of these trees, also given their low quality. The loss of the trees will not significantly affect the sylvan character of the area. Access to facilitate pruning will be required at various locations along the route. The precise locations are yet to be confirmed, but a vertical clearance of 3m above the footpath is anticipated to be required during the construction process for plant access and a safe working corridor. All other arboricultural features will be subject to protection measures during the construction phase in order to safeguard

them. A Landscaping Scheme has been submitted with the application to mitigate and compensate for losses whilst seeking opportunities to enhance biodiversity. This can be assured by condition.

10.15 An Arboricultural Impact Assessment has been submitted with the application. The survey makes recommendations for protection and mitigation of trees as part of the development and these can be secured by condition. Subject to these measures, it is not considered that the development will have an adverse impact on nature conservation and presents opportunities for enhancement in accordance with Policy ENV5 of the Scarborough Borough Local Plan 2017. Therefore, the Local Planning Authority has no reason to consider that the scheme is unacceptable in relation to this technical consideration.

10.16 The submitted Ecological Appraisal concluded that the development proposals are unlikely to result in any adverse impact on statutory and non-statutory designated sites and no mitigation is required to this regard. The report concludes that the proposed development is unlikely to impact upon any European protected species or associated habitats. However, the survey makes recommendations for protection and enhancement of habitat as part of the development and these can be secured by condition. Subject to these measures, it is not considered that the development will have an adverse impact on nature conservation and presents opportunities for enhancement in accordance with Policy ENV5 of the Scarborough Borough Local Plan 2017. Therefore, the Local Planning Authority has no reason to consider that the scheme is unacceptable in relation to this technical consideration.

10.17 The existing habitats on the site together with the new planting with a diversity of species will help to create and improve the diversity wildlife habitats available in the area. It is recommended that the ecological integrity of the site is maintained and enhanced for biodiversity gain. This can be achieved by implementing the submitted planting and landscaping scheme across the site. It is noted that the Council's Ecologist and the Arborist have been consulted but no comments have been received. It is therefore presumed that there are no objections in those respects.

Amenity

10.18 Policy DEC4 (Protection of Amenity) of the Local Plan concerns the protection of amenity. In this instance, the key consideration would be on neighbouring residential properties in close proximity. The policy states proposals should not give rise to unacceptable impacts by means of [amongst other things] disturbance arising from such things as noise, light pollution and other activities.

10.19 Bearing in mind this is development of an established infrastructure (fundamentally, no new uses are being introduced), Officers do not consider that there will be an undue un-neighbourly impact. As the site will continue its current use and function, its context within the local area will remain the same.

10.20 In view of the above, it is not considered that this proposal will have an adverse effect on residential amenity and meets the requirements of Local Plan policy DEC4 concerning protection of amenity.

Drainage

10.21 The site is situated in Flood Zone 1 with the least potential for flooding. In their submitted Flood Risk Assessment, the applicants have explained that the majority (98%) of the new track surfacing material is proposed to be Flexipave. Flexipave surfacing is permeable which will mimic the permeability of the existing surface and therefore not exacerbate the runoff of water to adjacent land. Where an existing section runs in a cutting, a drainage ditch will run adjacent to the track or surface water will discharge to the adjacent ground and be retained by the slope of the cutting. Where an existing section runs on an embankment, the Flexipave will be angled to fall towards a small drainage grip running parallel to the track.

10.22 The Lead Local Flood Authority has assessed the proposals and has not raised any objections.

10.23 With this in mind, Officers do not consider that the proposal would cause harm to surface water drainage and therefore it is considered to accord with the requirements of Policy ENV3 of the Scarborough Borough Local Plan.

Other Issues Raised in Consultations and Representations

10.24 The Parish Councils raise concern regarding how the shared path will work. The applicants have confirmed that the Cinder Track is a permissive footpath which is allowed to be used by walkers, cyclists and horse riders. There are no plans to limit the use of any of these three types of users. The use of e-bikes will also be permitted. When works are completed, the track should be wide enough to ensure that conflicts between users will not arise. The applicants have also confirmed that the Flexipave surface is suitable for equine use, that new and replacement bins, and signage are being provided as part of the scheme.

PRE-COMMENCEMENT CONDITIONS

There are no pre-commencement conditions recommended.

11.0 Planning Balance and Conclusion

11.1 The proposal is considered to be acceptable in principle, improving and updating an existing feature. The proposal to enhance the facilities at the Cinder Track is welcomed, as evidenced by the supporting third party letters. Landscape and environmental impacts are acceptable subject to the refinements being agreed, which will require the inclusion of planning conditions on any subsequent decision notice.

11.2 The Cinder Track is an important asset to the residents and visitors of the Scarborough and Whitby area, having a positive effect on quality of life and health and well-being. Quality routes help people keep active, feel safe, improve community cohesion, offer alternatives to car journeys and provide an enjoyable experience for residents and tourists visiting the area. Paths are particularly important for children, families and people without cars. Developing new and improving existing facilities

can help achieve benefits for local communities, and help deliver key objectives for National and Local Government.

11.3 Consequently, the development is considered to comply with the relevant policies of the Scarborough Borough Local Plan 2011 to 2032, and there are no material considerations, which would warrant the refusal of planning permission. Approval is therefore recommended, subject to the appropriate planning conditions.

12.0 RECOMMENDATION

12.1 That Permission be granted subject to conditions

1 The development hereby approved shall be carried out in strict accordance with the following:

Site Location Plan (drawing no. 70113430-WSP-PRE-CD-CH-0100 REV P01) received on the 16 November 2023,

Location Plan 1 (drawing no. 70113430-WSP-PRE-CD-CH-0101 REV P01) received on the 16 November 2023,

Location Plan 2 (drawing no. 70113430-WSP-PRE-CD-CH-0102 REV P01) received on the 16 November 2023,

Location Plan 3 (drawing no. 70113430-WSP-PRE-CD-CH-0103 REV P01) received on the 16 November 2023,

Location Plan Additional Area (drawing no. 70113430-WSP-PRE-CD-CH-0104 REV P01) received on the 1 March 2024,

General Arrangement 1 (drawing no. 70113430-WSP-HGN-CD-CH-0001 REV P02) received on the 1 March 2024,

General Arrangement 2 (drawing no. 70113430-WSP-HGN-CD-CH-0002 REV P02) received on the 1 March 2024,

General Arrangement 3 (drawing no. 70113430-WSP-HGN-CD-CH-0003 REV P02) received on the 1 March 2024,

General Arrangement Additional Area (drawing no. 70113430-WSP-HGN-CD-CH-0004 REV P01) received on the 1 March 2024,

Typical Sections (drawing no. 70113430-WSP-HGN-CD-CH-0601 REV P02) received on the 1 March 2024,

Landscape Interventions 1 - Salt Pans Road (drawing no. 70113430-WSP-DR-LA-00001 REV P01) received on the 16 November 2023,

Landscape Interventions 2 - Station Lane (drawing no. 70113430-WSP-DR-LA-00002 REV P01) received on the 16 November 2023,

Landscape Interventions 3 - Field Lane Track (drawing no. 70113430-WSP-DR-LA-00003 REV P01) received on the 16 November 2023,

Landscape Interventions 4 - Coastal Road (A165) (drawing no. 70113430-WSP-DR-LA-00004 REV P01) received on the 16 November 2023.

Reason For the avoidance of doubt.

2 The development shall be undertaken in strict accordance with the recommendations and methods outlined within the submitted 'Preliminary Ecological Appraisal' prepared by Daniel Lombard on behalf of Wold Ecology Ltd, received by the Local Planning Authority on 16 November 2023; and the mitigation measures set out in this report shall be adhered to in full. Within one calendar month of the development hereby approved being completed, the ecological mitigation measures provided within the report shall be carried out in their entirety.

Reason To ensure adequate protection is afforded to species protected by law and to ensure the development is carried out in accordance with the details set out in the supporting documentation accompanying the planning application in order to provide adequate and necessary mitigation for the adverse environmental impacts that have been identified. To ensure opportunities for biodiversity enhancement are maximised in accordance with policy ENV5 of the Scarborough Borough Local Plan 2017.

3 The development shall be undertaken in strict accordance with the recommendations and methods outlined within the submitted 'Preliminary Bat Roost Assessment Report' prepared by C. Laycock/C. Allaway on behalf of WSP, received by the Local Planning Authority on 16 November 2023; and the mitigation measures set out in this report shall be adhered to in full. Within one calendar month of the development hereby approved being completed, the ecological mitigation measures provided within the report shall be carried out in their entirety.

Reason To ensure adequate protection is afforded to species protected by law and to ensure the development is carried out in accordance with the details set out in the supporting documentation accompanying the planning application in order to provide adequate and necessary mitigation for the adverse environmental impacts that have been identified. To ensure opportunities for biodiversity enhancement are maximised in accordance with policy ENV5 of the Scarborough Borough Local Plan 2017.

4 The development shall be undertaken in strict accordance with the recommendations and methods outlined within the submitted 'Arboricultural Impact Assessment' prepared by Isaac Walls on behalf of WSP, received by the Local Planning Authority on 16 November 2023; and the mitigation measures set out in this report shall be adhered to in full.

During the first planting season following the commencement of the development, the replacement trees shall be provided in accordance with the proposals set out in the submitted tree survey document and the submitted landscape proposals. Within

28 days of being planted, the Local Planning Authority shall be notified in writing of their location, species and specification. The replacement trees shall be managed, maintained and retained for a period of 10 years after being planted and if any die, become diseased or are otherwise lost, they shall be replaced in the next planting season by replacements of the same type and species.

Reason To compensate for the loss of trees due to this development, maintain tree stocks in the local area and enhance biodiversity in accordance with policy ENV 5 of the Scarborough Borough Local Plan 2017. To ensure the character of the open landscape is protected, and in the interests of the appearance of the area.

Notes

1 Additional bat activity survey work between May and August will be required to determine the impact on bat populations. The bat activity surveys should target all trees which are to be removed. If a Natural England development licence is needed, no work shall take place until this has been obtained.

2 The Ecological Appraisal concluded that the occurrence of Great Crested Newts occurring within the application site cannot be reliably ruled out. It is recommended that a Great Crested Newt presence or absence survey is undertaken on all suitable and accessible ponds within 250m of the application site.

3 The removal of vegetation from the site must occur outside the core nesting bird season (March to September inclusive) unless a check for nesting birds is undertaken by an ecologist immediately prior to works commencing.

4 As recommended in the ecology report, compensations for the loss of habitat for nesting birds should be incorporated into the development. This includes the installation of suitable bird boxes located on trees adjacent to the Cinder Track.

Target Determination Date: 27 February 2024

Case Officer: Mrs Katja Harper
katja.harper@northyorks.gov.uk