

- 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, 9th May, 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 Friday, 3 May.

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Agenda

1. Apologies for Absence

2. **Minutes for the Meeting held on 11 April 2024** **(Pages 3 - 8)**

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. **(ZF23/01919/FL) - Full application for widening and resurfacing of parts of the Cinder Track at the Cinder Track between Burniston and Cloughton** **(Pages 9 - 24)**
Report of the Assistant Director Planning – Community Development Services

[View Plans and Documents](#)

5. **(ZF23/02026/RG3) - Full application for alterations to surfacing of 4 no. tennis courts; erection of 6 no. floodlights, secure fencing and gates; provision of 5 no. parking spaces; and associated drainage, landscaping and footpaths at Scarborough Sports Centre, Filey Road, Scarborough, YO11 2TP** **(Pages 25 - 38)**
Report of the Assistant Director Planning – Community Development Services

[View Plans and Documents](#)

6. **Any other items**
Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.

7. **Date of Next Meeting**
Thursday, 13 June 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
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Tuesday, 30 April 2024

North Yorkshire Council

Scarborough and Whitby Area Constituency Planning Committee

Minutes of the meeting held on Thursday, 11th April, 2024 commencing at 2.00 pm.

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

In attendance: Councillor Tony Randerson

Officers present: Fiona Casson (Legal Services Manager), Daniel Child (Principal Planning Officer), Nathan Denman (Senior Planning Officer), Katja Harper (Planning Officer), St John Harris (Principal Democratic Services Officer) and David Walker (Head of Planning)

Apologies: Councillor Janet Jefferson.

Copies of all documents considered are in the Minute Book

68 Apologies for Absence

Apologies noted (see above)

69 Minutes for the Meeting held on 14 March 2024

The minutes of the meeting held on 14 March 2024 were confirmed and signed as an accurate record.

70 Declarations of Interests

Councillor Maw declared a personal interest in Agenda Item 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 since he had been the member of a Scarborough Borough Council working group which considered the introduction of adrenaline sports on the North Bay.

Councillor Phillips declared a personal interest in Agenda Item 5, (ZF23/01943/FL) - Conversion of 3 no. Retail Units to 3 no. Flats at Jazz Court, Ashmead Square, Eastfield since she had attended a recent meeting of Eastfield Town Council at which this application had been considered although she had taken no part in the discussion.

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.

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

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. Where the Committee granted planning permission contrary to the recommendation in the report the reasons for doing so and the conditions to be attached are set out below.

71 (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

Considered :-

The Assistant Director Planning - Community Development Services sought determination of a planning application for the erection of zip lines between two 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 on behalf of UKBC Ltd.

The application had been revised following deferral by the Committee at its meeting on 8 February 2024.

Rita Holmes spoke objecting to the application.

The applicant's agent, James Field, spoke in support of the application.

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

- The development's contribution to the town's tourism offer, its location within Local Plan Economic Growth allocation TOU2, and its alignment with the Adventure Sports Strategy and North Bay Masterplan
- That the determination of this application rested on weighing up the public benefits of the revised scheme against the supposed harm and policy conflicts
- The applicant's efforts to reduce the impact of the development on the setting of surrounding heritage assets and the character and appearance of the area
- Whether any restrictive covenant had any bearing on the planning decision (which it did not)
- The large space occupied by the development and its negative impact on the natural beauty of the area and its appeal to young families
- That approval of the zip lines may hinder other development in TOU2
- The important opportunity to review the success and impact of the scheme after five years which came with the proposed temporary permission

The decision:-

Having given great weight to the conservation of the Scarborough Conservation Area in accordance with officer advice, in the heritage and planning balance the public benefits of the scheme outweigh the less than substantial harm to the setting and the visual impact of the proposal. Therefore, notwithstanding the recommendation in the officer report, temporary planning permission be GRANTED, subject to delegation to officers to impose conditions to include those based on the following:

1. Time limit for commencement (3 years).
2. Permission to be for a temporary 5-year period, with a requirement for removal of the development and reinstatement of the land in accordance with a scheme to be agreed.
3. Adherence to a list of approved plans.
4. Cladding and security hoarding of the landing tower zone to be green.
5. Restriction on operating hours to those applied for and on deliveries and toilet servicing to between 07:00 and 22:00.
6. Restriction on use during events at the Open-Air Theatre.
7. Artificial lighting on the tower structures and launch and landing zones to be designed to be wild-life sensitive and minimise light pollution, in accordance with a scheme which shall be submitted and agreed. Thereafter, the approved lighting scheme not to be used outside of agreed operating hours, except in case of emergency.
8. Restriction on construction hours.

Voting Record

A vote was taken and the motion was declared carried with 4 for and 2 against.

Reason:-

The public benefits of the revised scheme would outweigh any identified harm to the setting of surrounding heritage assets and the character and appearance of the area.

72 (ZF23/01943/FL) - Conversion of 3 no. Retail Units to 3 no. Flats at Jazz Court, Ashmead Square, Eastfield

Considered:-

The Assistant Director Planning – Community Development Services sought determination of a planning application for conversion of three retail units to three flats at Jazz Court, Ashmead Square, Eastfield on behalf of Sanctuary Group Ltd.

Updating the report, the planning officer advised that Strategic Housing had indicated their broad support for the scheme although recognising other policy considerations.

Local Division Member Councillor Tony Randerson spoke objecting to the application.

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

issues:-

- the importance of local facilities to support active travel and sustainable and integrated communities
- that the applicant could do more to market the retail units

The Decision :-

That planning permission be REFUSED.

Voting Record

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

Reason :-

The Committee agreed with the reasons for refusal put forward by the Senior Planning Officer as set out below:-

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.

73 (ZF23/01919/FL) - Widening and Resurfacing of parts of the Cinder Track at Cinder Track, between Burniston and Cloughton

Considered:-

The Assistant Director Planning - Community Development Services sought determination of a planning application for full planning permission for the widening and resurfacing of the Cinder Track between Burniston and Cloughton on behalf of North Yorkshire Council.

Updating the report, the planning officer advised that neither the Council's Ecologist nor Arboriculturalist had raised any objections to the application subject to appropriate conditions already detailed in the report.

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

- Whether a part of the route could remain narrower than the rest to preserve some trees (despite the submission of a landscaping scheme to mitigate and compensate for losses of vegetation whilst seeking opportunities to enhance biodiversity)
- Whether the route to be upgraded was easily accessible to wheelchair users and horseriders

The decision:-

That consideration of the application be DEFERRED pending receipt of further information about wheelchair and equestrian accessibility to the length of the Cinder Track undergoing improvement.

Voting Record

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

74 Any other items

There were no urgent items of business.

75 Date of Next Meeting

Thursday, 9 May 2024 – Town Hall, Scarborough

The meeting concluded at 3.32 pm.

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North Yorkshire Council
Community Development Services
SCARBOROUGH AND WHITBY AREA CONSTITUENCY PLANNING
COMMITTEE
9 MAY 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 Area Constituency 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).

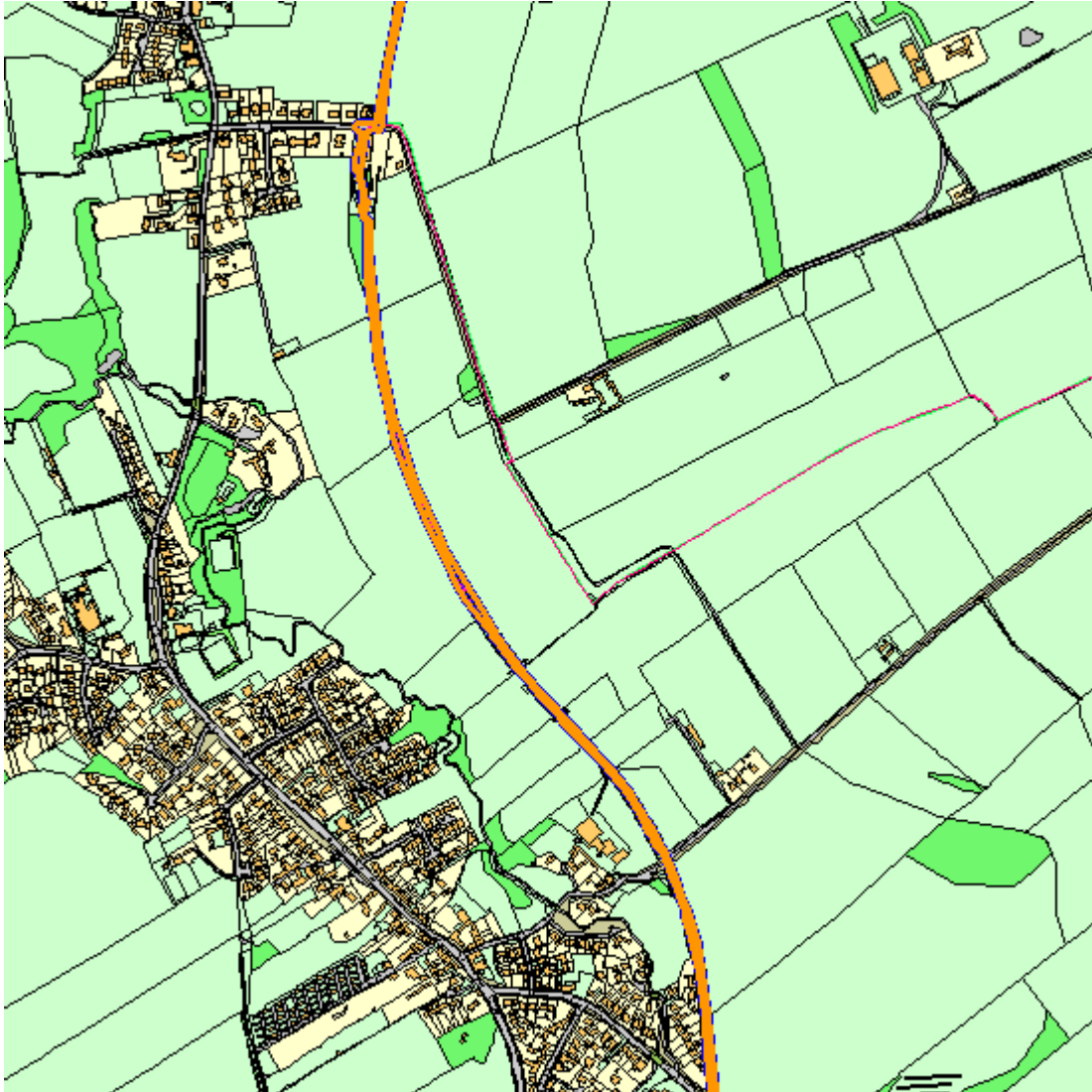
2.3 The proposal is considered to be acceptable in principle, improving and updating an existing recreational and transport corridor. Further, the scheme is considered to be acceptable with regards to landscape character, amenity, trees and biodiversity. Other detailed material considerations have been 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.



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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

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North Yorkshire Council
Community Development Services
SCARBOROUGH AND WHITBY AREA CONSTITUENCY PLANNING
COMMITTEE
9 MAY 2024

**ZF23/02026/RG3 - ALTERATIONS TO SURFACING OF 4NO. TENNIS COURTS;
ERECTION OF 6NO. FLOODLIGHTS, SECURE FENCING AND GATES;
PROVISION OF 5NO. PARKING SPACES; AND, ASSOCIATED DRAINAGE,
LANDSCAPING AND FOOTPATHS AT SCARBOROUGH SPORTS CENTRE ,
FILEY ROAD, SCARBOROUGH, NORTH YORKSHIRE, YO11 2TP ON BEHALF
OF NORTH YORKSHIRE COUNCIL (MR DAVID ROBINSON)**

Report of the Assistant Director/Planning – Community Development Services

1.0 Purpose of the Report

1.1 To determine a planning application for alterations to surfacing of 4no. tennis courts; erection of 6no. floodlights, secure fencing and gates; provision of 5no. parking spaces; and, associated on land at Scarborough Sports Centre , Filey Road, Scarborough.

1.2 This application is brought to the Area Planning Committee, noting it is an application made by the Council on its own land and has been subject to a number of objections.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be APPROVED subject to conditions stated at the end of this report.

2.1. The application relates to the upgrading of tennis courts on the southern part of the former Filey Road Sports Centre. The site is situated in the heart of the Weapონness Conservation Area, characterised by distinctive detached houses set in large gardens interspersed by a significant number of trees. Proposals include minor alterations to the courts, floodlighting of two and provision of off-site parking spaces on nearby road verges. The application does not encompass the central and northern parts of the Sports Centre where the existing buildings are situated.

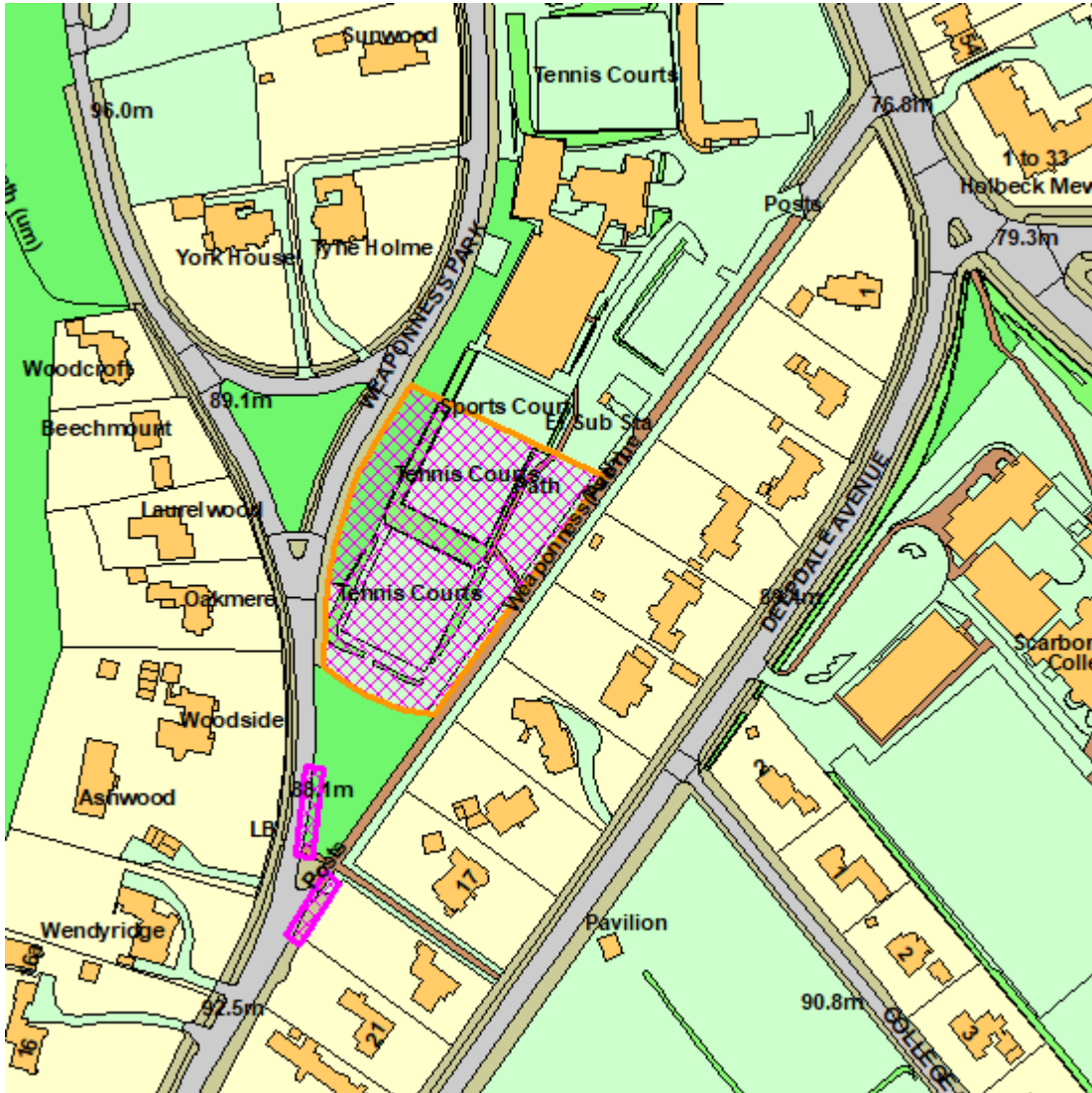
2.2. The key issues to be considered are the impact on the Weapոness Area Conservation and setting listed of the clubhouse building on the wider site, the impact on trees, neighbours and sports provision in Scarborough.

2.3. In summary, the importance of providing adequate public tennis court provision in the town and retaining the historic links to tennis on the site are considered to outweigh any limited harm arising from the proposals. It does not cover the wider former Sports Centre site, but this does not represent a valid reason to object to this application.



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3.0 Preliminary Matters

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

<https://planning.scarborough.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S5ASBLNSH8A00>

3.2 In 2018 planning and listed building applications were submitted for residential development of the wider site with relocation of tennis courts to a site off College Avenue - the applications were withdrawn.

4.0 Site and Surroundings

4.1 The site forms the southernmost part of the former Filey Road Sports Centre site. This wider 2.8ha site is centred on former sports centre buildings, comprising the Grade II listed club house (constructed 1912) and more recent linked sports hall buildings. Tennis courts occupy the northern and southern parts of the site. To the north/east facing Filey Road are a number of former grass courts, including one surrounded by a grandstand structure. This application solely relates to hard-surfaced courts to the south of the modern sports hall building. A single tarmac and floodlit sports court next to this building is unaffected by this application, which relates to the 4 courts contained within 2 fenced compounds to its south.

4.2 The application relates to a part of the site set away from Filey Road. It lies to the west of Weaponness Avenue, a tree lined route, which beyond the former Sports Centre entrance is essentially a pedestrian route with the rear gardens of houses on Deepdale Avenue to its east. To the west of the site is a road - Weaponness Park and its broad junction with Weaponness Drive, and to the south is a triangle of public land occupied by mature trees. The area as a whole was planned in the first half of the 20th century with houses set in large gardens with extensive often planned tree cover.

5.0 Description of Proposal

5.1 The proposal involves the resurfacing and upgrading of 4 courts to meet Lawn Tennis Association (LTA) standards. The more northerly two courts would be floodlit and made accessible for disabled tennis players. This involves 6 hooded LED floodlights of 10m height with 3 each on the side boundaries of the surrounding fenced compound. The path from Weaponness Avenue would be upgraded, including steps up to the 2 other and more elevated southerly tennis courts, which would not be floodlit.

5.2 The chain link fence surrounding the courts would be replaced by weld-mesh fencing of 3m height. There would be a marginal increase in the width of the resurfaced area by 0.5m on both compounds on their western side. On the south-western corner there would be some trimming of branches of trees, some of which

are subject of a Tree Preservation Order (TPO). A further TPO tree would be removed close to the southernmost court corner.

5.3 At total of 5 parking spaces would be provided parallel to the road on grassed verges to the south of the site. Three standard spaces would be provided on Weaponness Park close to the point where Weaponness Avenue diverges. The remaining 2 bays for disabled drivers off Weaponness Park would be at the side of the wooded triangle of open land south of the Sports Centre site.

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 the Scarborough Borough Local Plan. Relevant policies include the following:

Policy DEC1 - Principles of Good Design
Policy DEC4 - Protection of Amenity
Policy DEC5 - The Historic and Built Environment
Policy HA8 - Community Facilities
Policy HC14 - Open Space and Sports Facilities
Policy ENV5 - The Natural Environment.

Guidance - Material Considerations

6.3. Relevant guidance for this application is:

- National Planning Policy Framework 2021
- National Planning Practice Guidance
- Weaponness Conservation Area Character Appraisal (2007)

The Filey Road Sports Centre Development Brief (2011) also provides guidance for the site.

7.0 Consultation Responses

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

7.2. Environmental Health - recommends that the floodlights should be installed as indicated in application documents to ensure there is no detriment to the community from light pollution.

7.3. Highway Authority - No objection subject to conditions relating to precise details of the construction of parking bays and footways, a construction management plan and informatives relating to Highway Authority consent for works to the highway and management of the parking bays for the disabled .

Local Representations

7.4. Two representations has been received in support, two more are neutral and 18 are against. Full details can be found on the website.

The objectors state the heritage assets/listed building (Club House and grandstand) should be preserved not demolished. This plan for the tennis courts will enable demolition of the rest of the site for housing and financial gain. The Council should be transparent about plans for the remainder of the site. This historic lawn tennis venue should be restored, so it is suitable for large tournaments. The proposals would increase traffic on Filey Road. The need is questioned since the plans would not benefit the community. Increased light pollution would occur, especially during winter months. Objection to the loss of tennis courts. [Officer note: this application does not involve loss of any tennis courts or building demolition].

Other comments:

- the adjacent basketball court should be upgraded to a multi-use games area.
- Support if it includes restoration of Club House and grandstand which are in poor repair
- Re. the lighting: safeguards should made for bats & owls
- Information on booking times would help
- Daily visits by the operators and CCTV would reduce anti-social behaviour.
- Concern about new (non-disabled) parking spaces - why can't the existing sports centre car park be used. It will increase traffic, not conserve the area and block the path to Deepdale Avenue.

8.0 Environment Impact Assessment (EIA)

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

9.0 Main Issues

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

- Principle of development
- Impact on setting of Listed Building and Conservation Area
- Impact on Neighbours
- Impact on Trees
- Parking and Access
- Impact on public sports provision.

10.0 ASSESSMENT

Principle of Development

10.1. Local Plan policy HC14 states that "the improvement of existing ... facilities for sport and recreation will be supported by allowing development of new or improved sites where it would not detract from the character and appearance of the surrounding area". Policy HC8 also states that, "new and expanded community services and facilities will be supported in accessible locations, providing the scale of the development is appropriate to the area".

10.2. The site is within the built-up area of Scarborough town close to a main bus route along Filey Road, making it accessible. Many of the former public sports facilities on the site were transferred to the Sports Village off Ashburn Road. This was not the case with tennis. As a result, Scarborough BC's Tennis Strategy considered provision within the former Borough and one its key recommendations was to provide 4 new 'pay as you play' courts in Scarborough town in order to replace the courts lost following the closure of the Sports Centre. In the event that the site were to be redeveloped, then it would still be necessary to find 4 replacement courts to comply with relevant planning policies. These current proposals therefore avoid such scenario, by bringing back 4 tennis courts in poor condition back into active use.

10.3. In summary, Policies HC14 and HC8 set out a general presumption in favour of the proposals, but is still necessary to consider the detailed implications of the proposals before making a decision.

Impact on Heritage Assets

10.4 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. It is within grounds of a listed building, so on that basis could be deemed to have affect. The listing specifically refers to the Club House and protection would also be afforded to pre-WWII curtilage structures, such as the grandstand. It does not apply to the nearest building, the large sports hall building, which effectively act as barrier between the floodlighting and the buildings of historic interest.

10.5 The more important potential impact on heritage assets would be on the Weaponness Conservation Area. 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. The main potential visual impact is the effect of the floodlighting, and new structures such as the columns and new fencing on the appearance of the area.

10.6 The Conservation Area Character appraisal (2007) identifies that it "is predominantly that of a leafy late 19th century/early 20th century residential area. There are many large, architecturally interesting, detached and semi-detached buildings set in generous grounds. The mature trees, shrubs and hedges in the private gardens partially screen the buildings and create a sense of spacious sylvan setting." It further notes the Sports Centre as one of a number of mainly open sites which contribute to the spaciousness.

10.7 The trees and hedges surrounding the site would largely screen the impact of lighting and fencing at lower levels. The submitted Lighting Assessment indicate that when in operation floodlighting would be contained thus minimising direct spillage beyond the site. It is also likely to be restricted to evenings in autumn/winter. There would be an illuminated block of space at higher levels, which would be somewhat more visible, although still often filtered/blocked by mature trees.

10.8 The location of the parking bays on the highway verge has some limited impact on the appearance of the Conservation Area, noting the open character of the wide verges, albeit vehicles could park in the area since there are no restrictions on the carriageway. It is understood that the remainder of the Sports Centre site may eventually be in separate ownership, so use of the car park next to the Club House cannot be guaranteed. Providing parking on the site would be screened, but gradients and potential impacts of works would be likely to damage trees/hedges, thus there is no straightforward solution. This is a further factor to consider as part of the wider planning balance.

10.9 Any possible negative visual impact on the appearance needs to be balanced against benefits to the character of the Conservation Area, which it is considered should be given greater weight in the decision-making process. The official listing of the Club House refers to the historic significance of the site due to its association with Lawn Tennis at the highest levels. The club hosted national and international competitions, including Davis Cup matches, in the 1940s, 1950s and 1960s and its association with internationally known tennis players, such as Fred Perry. Consequently, the proposals would ensure that modern-day LTA standards for public courts are satisfied and also maintain the historic linkage with the legacy of tennis on the site.

10.10 Clearly, this application only relates to the southern end of the Sports Centre site. Since the premises were vacated the condition of the listed Club House has declined, in part due to vandalism. Finding a beneficial use for the building and wider site is important, but is essentially a separate from consideration this application. Approval of the proposed works is not considered to prejudice the consideration of any future applications on the remainder of the site, which can be determined on their own merits.

10.11 Notwithstanding the impact of floodlighting, the continued presence of the tennis courts would also be likely to help preserve the openness of the southern part of the wider site, an important feature of this part of the Conservation Area. The previous withdrawn application in 2018 showed this area for housing which is clearly no longer the proposal. The overall balance of impacts on the Conservation Area are returned to later, when considering the proposals as a whole.

Residential Amenity

10.12 The use of the courts could in theory resume without planning permission. The main consideration would be whether new features, such as the lighting (required to meet LTA standards) would have a material impact on the nearest occupiers on Deepdale Avenue and Weaponness Park. The nearest dwelling is circa 60m away. Any additional noise/activity in the evening or from the new off-site parking bays is not considered to be sufficient to merit objection. From a crime prevention perspective active use of the site would have benefits.

10.13 The main impact on neighbours requiring assessment is the possible impact of light pollution. The application provides details of predicted light spillage with the impact being localised to the tennis courts and the immediate vicinity. Hoods would limit glare and a condition can be imposed requiring the adjustment of the lighting should a genuine problem occur. The Environment Health Officer does not object, subject to safeguards and the proposals are considered to comply with Local Plan policy DEC 4. The illuminated space beneath the floodlights would be visible from nearby dwellings, but assuming it only affects private view, as opposed to direct glare, then this is not a planning consideration.

Impact on trees/ecology

10.14 Some of the trees on the site are protected by a Group Tree Preservation Order (TPO) dating from the 1960s. Due to the lapse of time not all the identified trees still exist, while there are others which are not included. Some of the trees off-site are of a greater amenity value, but are not protected by a TPO. Nonetheless, all trees are afforded some protection due to the fact that they are in the Conservation Area.

10.15 The application proposes lopping of some branches of a line of trees to the west of the southernmost court where they overhang. The application states these works are required to ensure the courts meet LTA standards. The 2 most affected trees would be non-TPOd poplars, with lesser pruning of 2 sycamores (1 included in the TPO). Noting the scale of works within the wider context of extensive retained tree cover that tree cover would be retained, no objection is raised. This is subject to the works being carried out in accordance with recognised arboricultural standards. In addition, a condition is required to ensure excavations relating to the minor enlargement of the hardstanding towards the same trees and the positioning of one of the bays for disabled drivers are hand dug to prevent root damage.

10.16 To the south of the courts a single Whitebeam would be removed. This is the last remnant of a group TPO in the south east corner of the site. It would be removed on safety grounds - a large branch has already fallen onto the court, revealing decay of the main trunk. Despite its TPO status, in amenity terms it is less important to the character of the area than other trees such as those lining adjacent routes and the planned planting on the land to the south, both of which mask the tree from public vantage points. The merits of replacement planting have been considered, but given the considerable levels of vegetation in the area, the benefits would be marginal.

10.17 An ecologist inspected the tree to be felled and it was found it does not contain sufficient cavities or potential for a bat roost. No evidence of bats was found, concluding that no further surveys are required. Floodlighting can affect bat foraging/wildlife, but given the localised nature of impact and the absence of clear demonstrable harm, no objection is raised on these grounds.

Other considerations

10.18 The Highway Authority does not raise concern regarding the proposed parking provision or traffic generation. The established lawful use is as tennis courts, so on the latter it is only the impact on the extended evening use which would be material. The fact that both parking and the access to the 2 floodlit courts would be made suitable for the disabled is welcomed, having regard to the provisions of the Equality Act. The parking bays would not block access to the pedestrian route to Deepdale Avenue.

10.19 One representation queries why the adjacent sports court is not being upgraded to a MUGA. This lies outside the application site, but it is also noted that the Sports Villlage provided a new MUGA, unlike specific tennis provision.

11.0 PLANNING BALANCE AND CONCLUSION

11.1. The consideration which requires greatest scrutiny with this application is the relevant impact on heritage assets within the context of NPPF policy tests. It is acknowledged that some limited harm with respect to the appearance of the Conservation Area may occur as a result of the lighting and parking. However, the policy and legislation refers to character and appearance, which is not confined to visual impact. The use of the site for tennis would maintain the historic legacy and therefore preserve an intrinsic characteristic of this part of the Conservation Area.

11.2. Para. 208 of the NPPF is most critical, stating, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

11.3. Given that any visual harm firstly needs to be balanced against the benefits to historic character, it is questionable whether the threshold of 'less than substantial harm' has been reached. However, even if this were applicable, it is concluded that greater weight is afforded to providing tennis courts for which need has been identified in the Tennis Strategy and on a site designed for such purposes.

11.4. Objectors have raised concern that the application will allow demolition of the rest of site. There are very strict policies to prevent loss of listed buildings and more importantly this is not part of the current proposals. The fact that a planning development brief was prepared in 2012 signalled that subject to significant safeguards that redevelopment was in principle acceptable to the Local Planning Authority. Among those caveats was to ensure that redevelopment does not negatively affect sports provision in the town and that a suitable beneficial use is found for the listed Club House. This application helps to ensure that adequate

tennis provision is secured. Objectors suggest this is a precursor to development they would oppose. It could also be argued that it removes an obstacle to any proposals which secure the future of the listed building. However, this is purely speculative, and the principal reason why this application is recommended for approval is that it would secure tennis facilities, for which there is an identified need.

11.5. Apart from sports provision or heritage-related concerns, the application is also considered to be acceptable relating to other relevant planning matters addressed in this report, or they are ones which can be suitably mitigated by conditions.

12.0 RECOMMENDATION

12.1 That planning permission be GRANTED subject to conditions listed below:

- 1 The development hereby approved shall be carried out in strict accordance with the following plans received by the Local Planning Authority on 07/02/2024. This is unless otherwise agreed in writing by the Local Planning Authority:-

05965-5PA-B1-ST-DR-A-001000 - P03 - Location Plan
05965-5PA-B1-00-E-A-002000 - P03 - Proposed Site Plan
05965-5PA-B1-00-E-A-022000 - P03 - Groundworks Plan
05965-5PA-B1-00-E-A-022101 - P03 - Car Parking Proposal
05965-5PA-B1-00-E-A-022200 - P01 - Tree Works Plan
05965-5PA-B1-00-E-A-042000 - P03 - Proposed Elevations.

Reason: For the avoidance of doubt.

- 2 Unless otherwise first approved in writing by the Local Planning Authority the proposed weld mesh fencing shall be painted or coated in a dark colour (e.g. dark green or black) and shall not consist of exposed galvanised metal.

Reason: Having regard the appearance of the area and policies DEC1 and DEC5 of the adopted Scarborough Borough Local Plan.

- 3 Tree felling and pruning works shall be restricted to those specified as part of the application and shall be carried out in full accordance with the requirements of British Standard 3998 (2010).

Reason: To ensure the continued well-being of the trees in the interests of the amenity of the area.

- 4 Any excavation or other construction works taking place within the Root Protection Area of trees adjacent to development works shall accord with best arboricultural practice, including provisions that any excavations to take place using hand held or compressed air tools and not any mechanical digging equipment.

Reason: To ensure the continued well-being of the trees in the interests of the amenity of the area.

- 5 Except to carry out works authorised by this planning permission, trees and hedgerows in the vicinity of the development (where the crown spread is within 1 metre of any development works), shall be retained and protected during construction work as follows :-
- a. Chestnut pale or similar fencing 1.5 metres in height shall be provided around the trees to be retained before development is commenced at a minimum distance from the trunks equal to the spread of the crowns of the trees. No materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.
 - b. No burning of materials or other items shall take place within 3 metres of the crown spread of any of the trees to be retained.
 - c. No services shall be routed under the spread of the crowns of the trees to be retained without the prior written consent of the Local Planning Authority.
 - d. No retained tree shall be cut down, up-rooted, destroyed, topped or lopped without the prior written consent of the Local Planning Authority and if any tree which is to be retained dies within five years beginning with the date on which the development is commenced it shall be replaced with a tree of such size and species as may be specified in writing by the Local Planning Authority.

Reason: To ensure the continued well-being of the trees in the interests of the amenity of the area.

- 6 The use of the floodlighting hereby approved shall, except for safety reasons, only take place when the two illuminated tennis courts are in use or 30 minutes before or after such use takes place.

Reason: To protect the residential amenities of the occupiers of nearby dwellings, as well as the character and appearance of the area, having regard to policies DEC1, DEC4 and DEC5 of the adopted Scarborough Borough Local Plan.

- 7 The floodlighting hereby approved shall be provided in general accordance with the measures set out in the document prepared by Sports Lighting UK and submitted to the Local Planning Authority on 07/02/2024. This includes the provision of suitable cowling, and ensuring the angle of luminaires and their level of luminance when viewed from nearby dwellings and public roads comply with recommended standards consistent with Environmental Zone E3 as defined by the Institute of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light. If required by the Local Planning Authority, the lighting shall be adjusted/modified to ensure compliance with these criteria within 12 months of the lighting becoming operational.

Reason: To protect the residential amenities of the occupiers of nearby dwellings, as well as the character and appearance of the area, having regard to policies DEC1, DEC4 and DEC5 of the adopted Scarborough Borough Local Plan.

8 The following schemes of off-site highway mitigation measures must be completed as indicated below:

- construction of the two parking areas on Weaponness Park prior to the opening of the facility.
- resurfacing of footway linking the constructed parking bays to the tennis courts, which is adopted highway, on Weaponness Park prior to the opening of the facility. For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site. Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

Reason: To ensure that the design is appropriate in the interests of the safety and convenience of highway users.

Informatives:

It is recommended that the following matters should be agreed in writing with the Local Highway Authority in advance of development taking place:

- an Agreement under Section 278 of the Highways Act 1980 in respect of any works to the existing highway.
- a Traffic Regulation Order to introduce restrictions controlling the proposed blue badge holders bay off Weaponness Park at the applicant's expense
- a Construction Management Plan.

Target Determination Date: 1 May 2024

Case Officer: Mr Hugh Smith
hugh.smith@northyorks.gov.uk