

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).

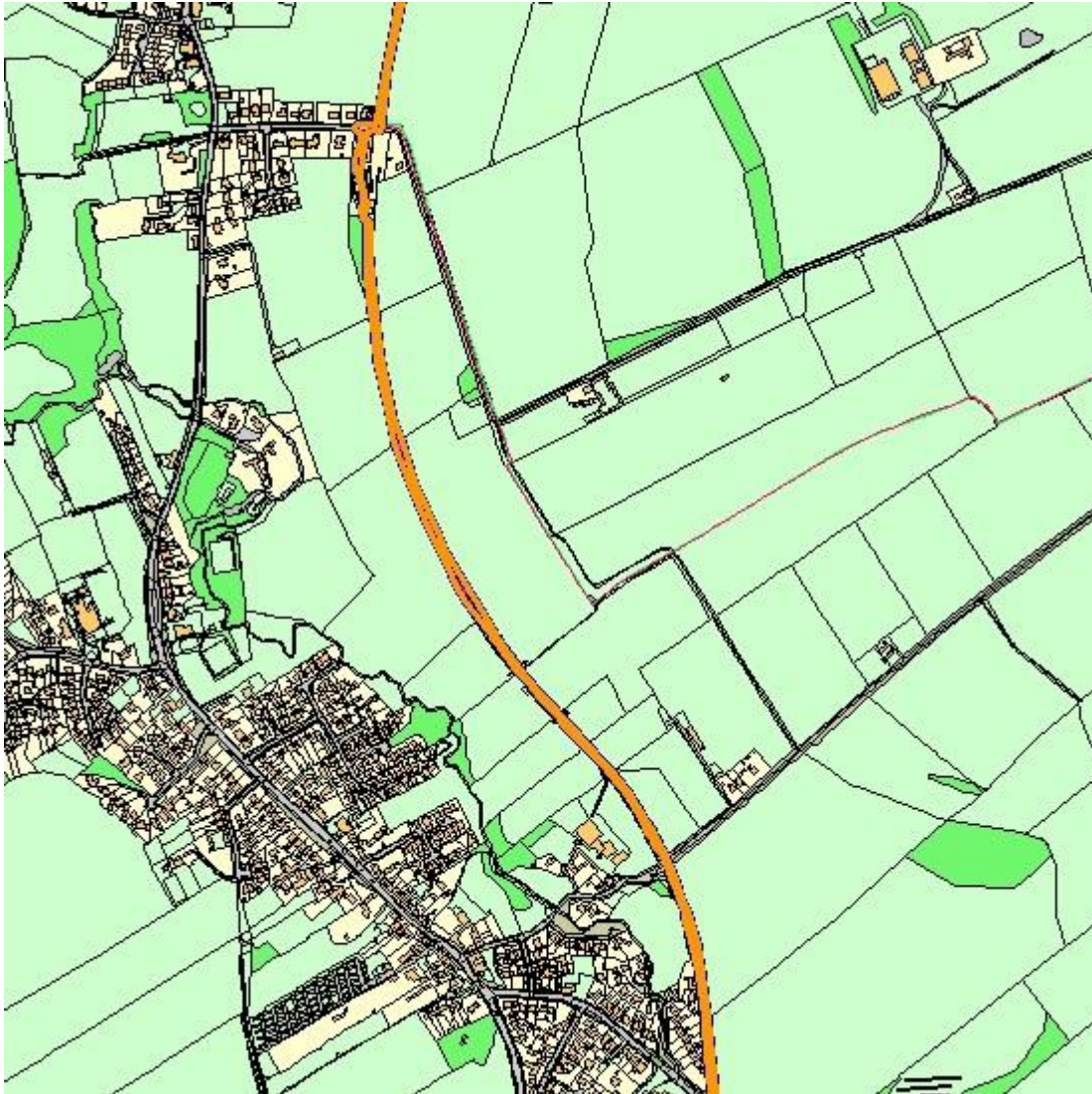
2.3 The proposal is considered to be acceptable in principle, improving and updating an existing recreational and transport corridor. Further, the scheme is considered to be acceptable with regards to landscape character, amenity, trees and biodiversity. Other detailed material considerations have been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



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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/case-files/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
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