

North Yorkshire Council
Community Development Services
Scarborough and Whitby Area Planning Committee
10 OCTOBER 2024

ZF23/01872/FL - Development of embankment road crossing with culverting of watercourse, associated landscaping and amended bridleway route (alternative to bridge crossing granted outline permission in March 2013 under ref: 11/01914/OL) at Land To North Of Eastfield For Middle Deepdale Development, Northwold Road, Eastfield, Scarborough, North Yorkshire, on behalf of Keepmoat Homes (Abigail Upton)
Report of the Head of Development Management – Community Development Services

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| 1.0 | Purpose of the report |
| 1.1 | To determine planning application ZF23/01872/FL for the above development in the Deepdale valley (also known as The Dell) which subdivides the western and eastern halves of the Middle Deepdale development site to the north of Eastfield. Outline planning permission was previously granted for a new link road to span the valley by means of a bridge. This application proposes that the road would now be on an embankment of 9-13m above the valley floor in place of the bridge with the culverting of a stream, bridleway diversion and landscaping. |
| 1.2 | The application is a major development which raises significant planning considerations for key infrastructure associated with a strategic urban extension (Middle Deepdale). Furthermore, the local Division Member has requested that the application be determined by the Area Committee. Therefore, in accordance with the North Yorkshire Council Scheme of Delegation, the application has been referred to the Scarborough and Whitby Area Planning Committee. |

2.0 EXECUTIVE SUMMARY

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

- 2.1 Full planning permission is sought for the development of an embankment road crossing with the culverting of a watercourse, associated landscaping and an amended bridleway route. This would be in place of a bridge crossing previously granted outline planning permission. The embankment would carry the proposed A64-A165 link road which is an integral part of the planning permission for up to 1,350 dwellings at Middle Deepdale, Eastfield. It is located at the point where the

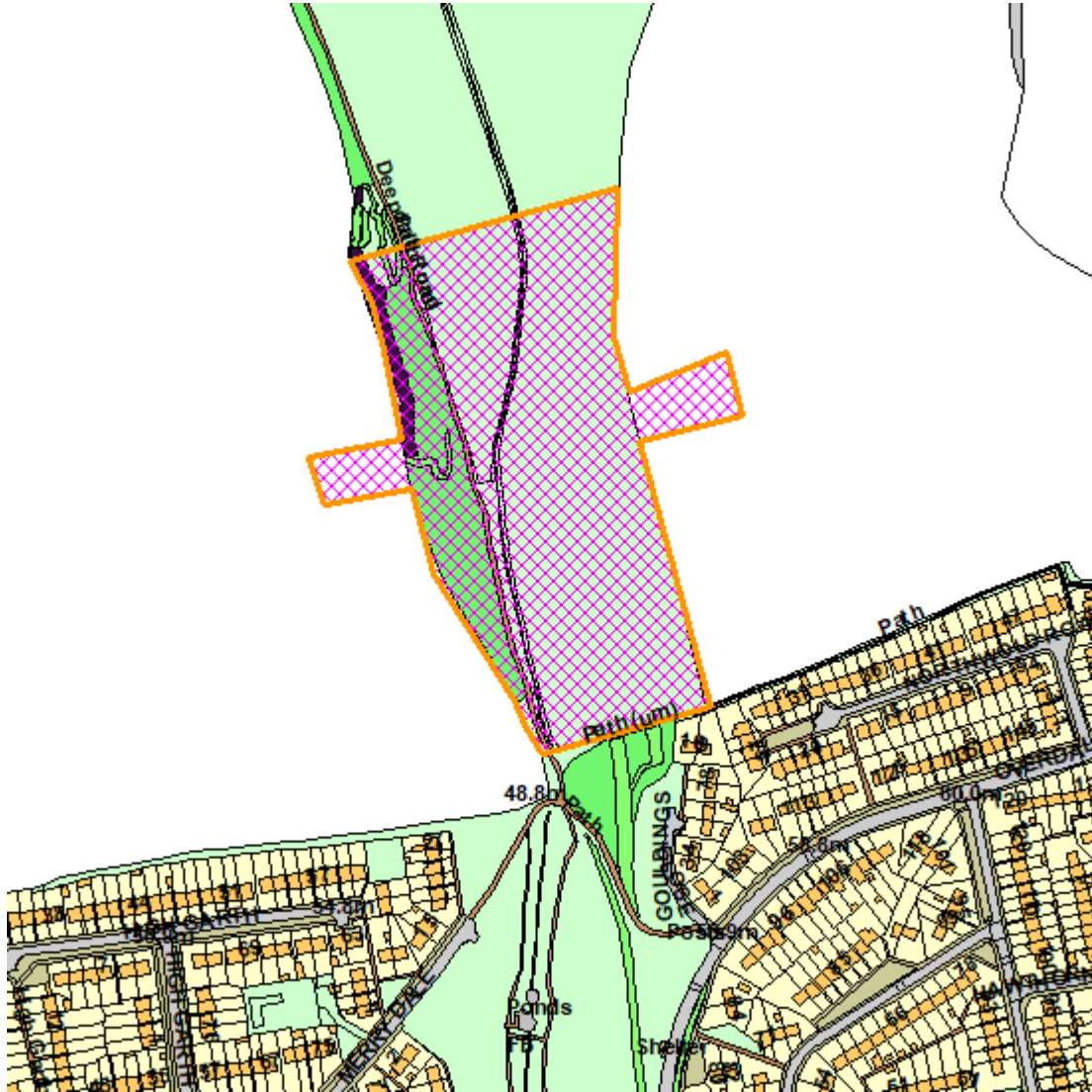
road would cross the steep sided Deepdale valley which separates the HA1 and HA2 components of the development.

- 2.2 The report explains that the road crossing is a vital item of transport infrastructure, and whatever form it takes, it would in officers' opinion cause some harm to the landscape and visual appearance to the character and appearance of the valley. However, even taking account of mitigation and other circumstances put forward by the applicant, the harm caused by the proposed embankment is considered to be significantly greater than that associated with a bridge, and likewise detract from the use of the valley and bridleway as public open space/green and wildlife corridor. There is also a lack of justification/information relating to drainage matters. For these reasons the proposals would not accord with relevant Local Plan policies and accordingly the application is recommended for REFUSAL for reasons stated at the end of this report.
- 2.3 In reaching the above conclusion, officers are very mindful of the importance of making progress on the strategically important Middle Deepdale site to deliver much-needed housing and associated critical infrastructure. On such a large and complex project, it almost inevitable that problems may arise implementing aspects of the development. It would usually be hoped that these could be solved through a process of proactive engagement between the developers, the Local Planning Authority and other key stakeholders. Unfortunately, in this case it is considered that due to the harm caused by the proposals to the valley and its environs, refusal of planning permission is the recommended course of action.



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3.0 Preliminary Matters

- 3.1 Access to the case file on Public Access can be found here: [ZF23/01872/FL | Development of embankment road crossing with culverting of watercourse, associated landscaping and amended bridleway route \(alternative to bridge crossing granted outline permission in March 2013 under ref: 11/01914/OL\) | Land To North Of Eastfield For Middle Deepdale Development Northwold Road Eastfield Scarborough North Yorkshire](#)
- 3.2 The application was publicised by the Council in accordance with statutory requirements (site notices and newspaper advertisement) with a final expiry date for comments on 11.04.2024. The applicant also undertook a separate process of community engagement during the course of the application, independent of the Local Planning Authority. The representations made by members of the public largely follow this wider publicity and a summary these follows later in the report.

Planning History/Background

- 3.3 The application relates to the steep sided Deepdale valley set between the HA1 and HA2 components of the predominantly residential development at Middle Deepdale. This was granted outline planning permission (11/01914/OL) in March 2013 for up to 1,350 dwellings and is now part developed. The current application site largely falls within Development Limits as defined by the Local Plan with the exception of its northern fringes beyond the main proposed embankment.
- 3.4 During the last decade the development of Middle Deepdale has progressed, starting at the eastern and western ends and gradually heading towards this central subdividing valley. Progress is more advanced on the eastern (HA2) side with the final phase (an estate of retirement dwellings) currently being constructed on the land sitting above the eastern valley slopes. Reserved matters approval has been approved for a detailed residential layout on land above the western valley flank (HA1), but apart from preparatory works (including archaeological investigations and part of the link road) the construction of buildings does not yet extend this far.
- 3.5 In August 2023 application 21/00052/OL was approved for circa 657 dwellings on land largely comprising the HA8 Local Plan Allocation. This is situated to north of the HA2 area and to the east of Deepdale. Full permission was granted for 107 houses on the far eastern end, which is now under construction. The remainder of the site was granted outline planning permission, consisting of residential development for approximately 550 dwellings and public open space on the OS1 Local Plan allocation. The western end of the proposed housing and the open space would sit above the eastern flank of the Deepdale valley to the north of the road crossing. At the present time a total number of just under 2,000 dwellings (+ 66 bed care home) have planning permission across the HA1, HA2 and HA8 sites.
- 3.6 The final component of housing at Middle Deepdale is proposed to the north and west of Keepmoat's HA1 site, where the Local Plan allocates areas HA9 and HA10 for residential development. It is estimated this would yield a further 550 dwellings on this Council owned land, but no application has been submitted yet. Therefore, Middle Deepdale would eventually add over 2,500 dwellings to the northern edge of Eastfield.

- 3.7 A key component of the original outline permission of 2013 is the provision of a new east-west road link between the two main highways entering and leaving Scarborough within a southerly direction, namely, the A64 (trunk road) towards York and the A165 towards Bridlington. The road, which has been partially constructed would at one end join the A64 Musham Road roundabout, while the road at the eastern end is now open (Crossdale Way), and joins Eastway some 400m south of the A165 roundabout where the Park & Ride facility is located. The detailed (and amended) road layout was approved under planning permission 14/02133/RG4 in February 2015, but this did not include the detailed bridge design.
- 3.8 Planning permission 11/01914/OL proposed that the Deepdale Valley would be traversed by a bridge. Indicative drawings showed that this would take the form of a high-level bridge, so that the road would not dip and continue at roughly the same level as the higher land each side of the valley. It is emphasised that this design was not formally approved as part of the outline permission, but it showed the underside of the bridge and the road carriageway being 9.2m and 12m above the valley floor respectively. The gap beneath the bridge would be 86m wide with a pair of supporting columns some 30m from its eastern side. While the plans were indicative, they nonetheless would have been taken into account when assessing the outline application.
- 3.9 The process of approving the detailed bridge design was set out in condition 55 of the outline planning permission. This required that the bridge design be approved before occupation of 500 dwellings; a deadline which has now passed. A request to discharge this condition has not been received, and instead the applicants decided to submit this application for a road embankment.
- 3.10 Some documents supporting this current application show a bridge design for the purposes of comparison with the proposed embankment. This differs significantly from the indicative high-level bridge shown at the time of the outline application. Apart from the height, the opening across the valley would be reduced since it introduces two concrete abutments projecting from both sides of the valley to support the bridge. Discussions took place with the Highway Authority regarding technical aspects, but the design shown in images has not been approved by the Local Planning Authority, which would have taken into account wider considerations, including the appearance. These images of a bridge therefore should be given very limited weight considering the merits of the current planning application, and certainly no more than the indicative drawings submitted with the original application. The Design and Access Statement avoids use of the images, providing simpler indicative lines.
- 3.11 There are also time limits on when the link road and bridge shall be provided. Condition 30 of the 2013 outline permission required construction of the link road and bridge prior to the occupation of 800 dwellings (375 on HA1 and 425 on HA2). These figures were changed respectively to 1,015 (375 + 640) in July 2023 and similar restrictions were at the same time imposed on the development of HA8. The deadline for provision has not occurred yet, but will be reached during the course of phases now under construction. In November 2015, a contract was also entered when land was sold by the Council to the applicant, requiring the provision of the link

road and bridge within an agreed timescale. This document is entirely independent of the planning decision-making process.

4.0 Site and Surroundings

4.1 The application site covers 4.1 ha of land in the steep sided and currently undeveloped Deepdale valley set between the HA1 and HA2 components of Middle Deepdale. It includes land north and south of the proposed road crossing, as well as where the proposed road re-establishes itself on higher land either side of the valley.

4.2 Deepdale valley is mainly open grassland with occasional shrubs and takes the form of informal public open space. At the point where the road crossing is proposed it is approximately 12m deep and 120m wide with an exposed rock face a short distance to the north on its western side. A stream flows north-south along the base of the valley. A bridleway follows the valley floor at the southern end of the application site, before gradually ascending its western flank and heading towards the southern fringes of Scarborough town and Oliver's Mount.

4.3 The open green valley continues north and south from the 4.1ha area identified as the application site. To the north the valley becomes deeper and its character more wild/rural as it extends further into the green gap between Eastfield and Scarborough, and in this area it is less directly affected by human activity, due to an absence of access routes. Some 400m to the north of the application site part of the valley is designated as a Site of Importance for Nature Conservation Interest (SINC). To the south the valley becomes shallower in profile, but continues as an area of maintained public open space between housing within longer established parts of Eastfield, dating from the 1940s to 60s. This open space is also designated as The Dell Local Nature Reserve.

4.4 To the north-east of the site are open agricultural fields which now have outline/full planning permission for circa 657 dwellings (HA8). North-west of this proposed housing and perched above the valley side is public open space allocation OS1, the provision of which is linked to the new housing on HA8.

5.0 Description of Proposal

5.1 This application proposes an embankment, which at the centre of the valley would attain a height of approximately 8m. Rather than continue at the same height as land either side of the valley there would be gradient in the road carriageway either side requiring a cutting of 1m to the west and 2m to the east. The grassed slopes either side of the 15m wide highway (including footway/verge) would have a gradient of up to 1 in 2.3. In localities (notably on the southern side) the earthworks would 1-3m higher than the road. The overall width of the embankment would be approximately 70m, and this corresponds to the length of the stream, which would flow through a 1.5m x 1m box culvert.

5.2 Apart from the embankment and culvert, works are proposed to the valley floor to attenuate water flows. Stretching to the north and south of the embankment, the land would be shaped so that it is lower than the adjacent watercourse and would act as flood attenuation in the event of heavy precipitation. To the north this would measure

208m x 30m and to the south it would be 102m long, broadening out from the culvert exit to 24m maximum width. There is an existing 32m long culvert where the valley broadens out and enters The Dell public open space. This is where equipment (previously approved) would be buried under a shallow 2.5m high bund to control the flow rate in the event of potential flooding.

- 5.3 A 160m stretch of the existing bridleway would be diverted so that it follows a curved route closer to the western side of the valley. Thus, it would climb the valley side further south than at present. Due to proposed earthworks on the valley side, its route would be graded, giving it a gradient of approximately 1:12. The most recent plans now show a Toucan pedestrian/cyclist crossing over the proposed road. The land north and south of the road would also be landscaped with a patchwork of grassland, woodland, copse, scrub and hedge planting as well as reed beds and wetland planting where flood attenuation measures are proposed. A new footpath is also shown traversing the valley diagonally to the north of the embankment, from the eastern HA2 side to the elevated part of the bridleway to the north-west.

6.0 **Planning Policy and Guidance**

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

Adopted Development Plan

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

Emerging Development Plan - Material Consideration

- 6.3 The North Yorkshire Local Plan - No weight can be applied in respect of this document at the current time as it is at an early stage of preparation

Guidance - Material Considerations

- National Planning Policy Framework 2023
- National Planning Practice Guidance
- National Design Guide

7.0 **Consultation Responses**

- 7.1 The following consultation responses have been received and have been summarised below.
- 7.2 Eastfield Town Council - unanimously resolved to object strongly to this application. It is environmentally damaging; construction would also damage The Dell which is a Nature Reserve. It would exacerbate flooding through Eastfield from the watercourse. The Town Council had always supported the bridge which was part of the Outline

Planning permission. An embankment could be a safety issue for people crossing it as part of the Public Right of Way.

- 7.3 Highway Authority - In principle, no objection, subject to conditions. An appropriate construction would be achievable and able to carry a road with a vertical alignment that complies with design standards from the Design Manual for Roads and Bridges. A change from a bridge to an embankment with carriageway and footways on top would allow a direct route from the road for pedestrians to access the existing Public Right of Way (PROW) that runs along the Valley, subject to PROW diversion. To ensure a satisfactory access to the PROW, footways should be provided from both the HA1 and HA2 sides, at a gradient no greater than 5%. The current proposals for the vertical alignment of the road do not meet this requirement. To provide such gradients would require removal of part of the road already built leading towards the valley from HA2 and potentially affect the finished levels of the proposed embankment.

Confirmation from the applicant has been sought on construction traffic associated with the embankment and whilst no details have been provided at this stage it is expected there could be a significant increase in vehicle movements to and from the site during the construction phase as opposed to a bridge option. It is also not clear if the embankment could be constructed solely from within the existing HA1 and HA2 sites or if access will be needed from elsewhere on the existing highway network. Until further details are provided on the construction requirements the Highway Authority are unable to confirm if any off-site highway works are needed to facilitate access or whether mitigation on the surrounding road network would also be needed.

Therefore, should permission be granted it is recommended that prior to any works commencing a revised alignment for the road and footpaths across the Deepdale Valley is submitted along with a construction method statement that includes details of access for construction traffic. Proposed conditions would relate to detailed plans for the road/footway and culvert, as well as a Construction Management Plan.

- 7.4 Public Rights of Way Section (Highway Authority) - No works can commence that will permanently affect Public Bridleway 30.27/1/1, nor will we authorise a temporary closure of the route to facilitate the construction works until a diversion has been successfully processed under S.257 of the Town and County Planning Act 1990. Attention is also drawn to a separate nearby PROW (bridleway) which is not shown on submitted drawings, but is unlikely to be affected by the construction. Further legal and procedural matters relating to PROWs are also highlighted.
- 7.5 National Highways - No objection, but recommend this is subject to a condition requiring the approval of a Construction Phase Traffic Management Plan (CPTMP). An embankment would be less onerous to develop than a bridge, and CPTMP would cover matters including dust, noise, parking, traffic routes, deliveries and debris on the highway.
- 7.6 Parks & Countryside (Landscape) - Objects to the application - The impact of the road crossing on the landscape of Deep Dale is going to be profound in whatever form it takes. As stated in the earlier, more comprehensive Environmental Impact Assessment (EIA) of 2011, a high-level bridge crossing would have less impact on the landscape of Deepdale than the alternative being proposed in this application of a

combination of cuttings and embankment. One of the highlighted landscape features of Deepdale is its glacial geomorphology, and on this basis alone it is strongly recommended that the proposed cuttings and embankment proposal should be rejected in favour of a less damaging bridge.

The option of a bridge would have the added advantage of allowing the Public Right of Way to pass beneath rather than requiring a diversion and surface level road crossing with its associated implications for the safety and convenience of both users of the bridleway and the new road link. It also avoids the necessity of a long culvert for the stream. It is noted that the bridge design included for illustrative purposes in the documents submitted with this application is different to that included in the outline submission. It is recommended that a number of alternative sensitive designs be submitted for consideration and that a full landscape impact assessment be submitted. This should include a visual assessment, including illustrations of alternative designs superimposed to scale on photographs of Deep Dale, viewed in both directions to enable a full and proper consideration of alternatives to be given by viewing them in the context of the surrounding landscape. The consultation response also provides detailed comments on the proposal within the context of the submitted Landscape and Visual Impact Assessment and the EIA of 2011.

- 7.7 NYC Ecologist - objects to the application for reasons indicated below. The Preliminary Ecological Appraisal (PEA) and additional ecological surveys for bats, breeding birds, reptiles, otter, water vole and badgers, in addition to the landscape proposals have been reviewed. While the PEA provides the appropriate recommendations for mitigation and enhancement, and additional surveys have been completed, I believe there is insufficient information submitted with regards to the impact this development will have on biodiversity on site and the surrounding area to make an informed decision. Specifically, this relates to the potential loss of connectivity for biodiversity between the two designated sites adjacent to the development. Furthermore, it is unclear whether the loss of connectivity and potential related impacts to biodiversity will be temporary or permanent, and whether tailored mitigation to minimise the impacts could restore or prevent the loss of connectivity. For this reason, I would recommend the refusal of this application as it does not support current national and local policy regarding the value of wildlife networks in connecting designated habitats.

The loss of connectivity relates to the statutory designated site The Dell LNR south of the development and the non-statutory SINC site High Deepdale north of the development. While the information provided in the PEA and the additional surveys reflect current data of species in the area, it does not assess how the proposals for the embankment will have on the wider ecology and biodiversity of the site. The surveys report the absence of reptiles and roosting bats in the area, but also the presence of foraging/commuting bats, as well as a number of species of breeding birds on site and for foraging and commuting. This could indicate that a number of other species may use this site in the same way. Urban landscapes such as roads can act as a barrier to connectivity.

The draft proposal for the site submitted as part the original outline planning application (11/01914/OL) was an open bridge structure which would have retained the connectivity between the two designated sites, whereas the proposal for the embankment is essentially creating a physical barrier. This would include impact on

the movement of terrestrial animals (e.g. badgers, hedgehogs and amphibians). The landscape proposals would provide many ecological benefits which will actively encourage the migration of wildlife to the site, such as amphibians in wetland areas. The road is a barrier and no mitigation is proposed for this.

National and Local Policy not only support the protect and enhancement of designated site but also the wildlife corridors that connect them. Para. 185a of the NPPF and Local Plan policy ENV5a are highlighted. National and Local Strategy, (Biodiversity 2020 strategy: For Wildlife and Ecosystem Services and local strategy, North Yorkshire Council Climate Change Strategy) currently align with the similar missions to halt overall biodiversity loss and support healthy well-functioning ecosystems and establish coherent ecological networks, with more and better places for nature for the benefit of wildlife and people.

Proposed measures relating to badgers are agreed. The detailed landscape plan and the proposals are acceptable and there would be no net loss of habitat following the completion of works. Although, further ecological factors require consideration in the final detailed landscape design such as the type of habitats which are proposed in comparison to the pre-construction landscape and whether these will impact on the site biodiversity. For example, the impact on a number of identified breeding Birds of Conservation Concern and Species of Principle Importance.

7.8 Natural England - no comments received.

7.9 Environment Agency (EA) - No objection, subject to conditions. This followed an earlier objection which was based on concerns relating to the potential impact on the local aquifer which is a source of drinking water. The applicant subsequently indicated that stockpile testing was carried out in October 2023, which showed no elevated concentrations of contaminants in the proposed embankment construction material and that any off-site material will require screening and validation prior to use. The drainage strategy for the crossing was revised - all drainage will outfall to the Deep Dale watercourse via a wetland / reed bed which will provide suitable treatment of run-off from the road and filter strips would be incorporated into the road to mitigate pollution from that source. Regarding the impact of construction of embankment and culvert on the aquifer volume more information was provided, including details of the geology. This indicated that construction would largely remain within the superficial deposits and not extend significantly into bedrock, so significant loss of aquifer volume is not expected.

The EA recommends 3 conditions. These would cover a method statement to protect ground and surface water from pollution during construction, the approval and implementation of a remediation strategy should contamination be found during construction, and approval of a scheme of road drainage and wetland/reed beds to protect groundwater within Source Protection Zone 1 associated with public water supplies.

7.10 Lead Local Flood Authority - Requested additional information on 4 occasions. Most recently this has consisted of the following:

- An assessment and justification why other options e.g. single span bridge are not

viable and there is an overriding need to culvert the watercourse. The LLFA's Culverting Protocol has a presumption against culverting, except in specific circumstances. The applicant has not provided a review of the proposal, in relation Section 3.2 of Ciria guidance C786 to justify why other options e.g. a bridge are not viable and there is an overriding need to culvert the watercourse.

- Confirmation of landowner agreement to install the culvert and a suitable maintenance and management plan. It was previously indicated that drainage infrastructure would be adopted by the Highway Authority, but if this does not occur it is unclear who would adopt and maintain the culvert. The presumption would be the landowner, but clarity is needed, noting that unblocking or repair of the culvert could be expensive and difficult to resolve.

- A risk assessment to demonstrate what measures would be taken to ensure that the culvert does not have unauthorised access and the risk of blockage is minimised. The culvert will be of a size (1 x 1.5m) that it will be at risk of people entering the structure and blockages due to debris. These risks should be reduced - inlet/ outlet screens should not be used unless absolutely necessary; hence the need for a risk assessment and agreed maintenance regime prior to approval.

- Confirmation as to whether there is a need to carry out a water framework assessment and if so what impact, if any, such works will have on the current status of the watercourse.

- Maintenance details for the downstream watercourse/reedbeds/attenuation basin and control structure

- Temporary flood risk measures to be taken during the construction phase.

The applicant has provided adequate detail to confirm that the design head will not increase the risk of flooding downstream. The exceedance flow plan for the road is also reasonable.

- 7.11 Yorkshire Water - No objection, subject to conditions. The proposed development is 1.9km to the closest Yorkshire Water groundwater abstraction at Cayton. Underlying the proposed development is a mix of geologies resulting in variable permeability. It is queried whether the culvert would involve works that would create a pathway for contamination to reach the aquifer [these comments pre-date later submissions]. The recommended conditions require provision of a bund around any liquid storage tanks to limit discharge to the public sewerage system, approval of a Construction Management Plan to understand the impact on the aquifer and approval of details of surface water outfall from the site.
- 7.12 Environmental Health (Commercial Regulation) - The proposed road crossing is near existing residential premises and may negatively impact upon amenity during construction due to potential dust, noise and vibration. A condition restricting the hours of construction is therefore recommended.
- 7.13 Principal Archaeologist - No objection, subject to a condition requiring an archaeological watching brief in advance of development, so that any deposits/remains are recorded. This shall accord with a scheme of archaeological

mitigation previously agreed on the outline application. The area has high archaeological potential which has been revealed over a number years as the development has progressed.

- 7.14 Architectural Liaison Officer (North Yorkshire Police) - comments on the proposed bridleway diversion that best practice indicates that this should be at least 3m wide, planting next to the bridleway should be low growing specimens to avoid pinch points, concealment, overhanging branches and unnecessary maintenance.
- 7.15 Regeneration - no comments received.
- 7.16 External Public Rights of Way bodies (Rambler's Association, British Horse Society, Byways and Bridleways Trust, Cycling UK and Open Spaces Society) - no comments received.

Local Representations

- 7.17 Objections to the application have been received from 316 members of the public and 3 representations are in support.
- 7.18 In summary, the points raised by objectors to the application are as follows, in approximate order of frequency raised:

100-200 objections:

- Negative impact on wildlife - the embankment would block a wildlife corridor, which is a habitat for a range of fauna and flora (e.g. bats, birds etc)
- The proposals would destroy an attractive green open space and route used by residents for a range of recreational activities - walking, play, dog walking, sport, appreciation of landscape/nature etc.
- The original plans and developer's promise to provide a bridge should be implemented and not the embankment.

50-100 objections:

- Negative impact on Public Right of Way (PROW) - an historic and attractive route linking Eastfield to Scarborough. Too many PROWs diverted at Middle Deepdale.
- Adverse impact on water flow/drainage/flood risk - culverting the stream would remove a natural drainage feature
- The proposal is a cost cutting exercise by the developers to the detriment of the community, especially since local facilities for residents have not been delivered. Public funding previously awarded for a bridge.

20-50 objections:

- The embankment would be an unattractive feature, subdividing the valley and blocking views along it.

- Danger to pedestrians/cyclists/horse riders/disabled where the PROW would cross a busy road

Other objections (less than 10):

- Noise impact/pollution from traffic
- Pollution of watercourse
- Hedgerows were previously removed
- Lack of options for bridge design - unattractive option is shown
- Topsoil to form embankment has already been collected by the developers
- Loss of quarry caves, possibly of Roman origin.

7.19 Other comments which are supportive or neutral regarding the application in summary are as follows (all 10 or less in total and in some cases drawn from correspondence overall objecting to the application):

- Impact of traffic - proposals prioritise cars over pedestrians
- Object to closure of Musham Bank Road - increasing journey times for residents/emergency vehicles [officer note: this is not part of this application]
- Object to the provision of a bridge
- Waste of funds
- Bridge would be magnet for vandals/graffiti/anti-social behaviour.
- PROW already crossed by busy road at Musham Bank.

8.0 Environmental Impact Assessment

8.1 The development, due to the nature of the proposals (road construction) and site area (1ha+) falls within the definition contained in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended). In such circumstances the normal expectation (but not a legal requirement) is that the applicant would seek a 'Screening Opinion' from the Local Planning Authority to determine whether an EIA is required as part of the application, but this did not take place.

8.2 Under such circumstances, government guidance is that Local Planning Authorities should still issue a Screening Decision as to whether an EIA is required. In this case a key consideration is whether there should in effect be an update to the EIA submitted in connection with planning application 11/01914/OL, decided in 2013, which relates to the development of areas HA1 and HA2 for 1,350 dwellings, as well as infrastructure, including the new road. A further factor is the cumulative impact of both the proposed embankment and the development of the HA8 area (for circa 657 dwellings), albeit an EIA was not required for the latter. While an EIA (or adoption of a consistent methodology) may make the process of comparing previously approved and current proposals a more straightforward and holistic process, it is concluded that there is sufficient information as submitted to determine the application, taking account of the criteria set out in Schedule 3 of the 2017 Regulations. Consequently, EIA is not required in connection with the current application and is reflected in the Screening Decision.

9.0 Main Issues

9.1 The main issues are:

- Principle of development
- Highways/Transport Considerations
- Landscape and Visual Impact
- Land Use, Social and Cultural Impact - notably impact on public open space and archaeology
- Ecological Impact
- Drainage and Hydrology Considerations.

9.2 The report also assesses the impact on residential amenity, the carbon footprint of the development and financial considerations, before considering the overall planning balance.

10.0 Assessment

Principle of Development

10.1 The principle of the proposed link road crossing the Deepdale valley is established by the fact it has planning permission. The key difference is that this previous approval entailed the road traversing the valley by means of a bridge, rather than the embankment now being proposed.

10.2 The link road will be a key item of transport infrastructure and was secured by the original planning permission for Middle Deepdale. As well as serving the development of ultimately of over 2,500 dwellings it would provide a key link between the A64 and A165, helping to relieve traffic flows in the wider area. Along with the proposed South Cayton development (of similar size) it is the largest recent/proposed residential development in the eastern part of North Yorkshire. The later phases of Middle Deepdale (approximately 1,500 dwellings) are contingent on provision of the road due to the condition which in effect sets a limit of 1,015 dwellings which may be developed in advance of the opening of the link road. The completion figure currently stands at approximately 850.

10.3 For the above reasons the importance of the link road therefore remains fundamental to Middle Deepdale and the wider highway network to relieve traffic flows. The principle of providing a road crossing is therefore established. The key questions arising from this application are more site-specific, principally relating to the built form of the crossing and the resultant impact on landscape/visual amenities, the role of the valley as public open space, ecology and drainage.

Highways/Transport Considerations

10.4 Neither National Highways, nor the local Highway Authority object to the application, subject to conditions. National Highways' remit is effectively restricted to the impact on the one Trunk Road in the area, namely the A64 up to the Musham Bank Roundabout, which is where the new link road would start/terminate at its western

end. The limits on the amount of development permissible before the road opens were based on the recommendations of these two bodies.

- 10.5 Considerations relating to the form of road crossing above the valley fall within the remit of the local Highway Authority (HA). This includes a technical assessment of whether submitted plans comply with design standards, such as those in the Design Manual for Roads and Bridges. While broadly in compliance, to ensure that the footway gradient leading from the eastern HA2 side does not exceed 5%, there would have to be slight increase in height of the road level. This might be in part achievable in a cutting formed on this side and/or it could increase the embankment height. Ultimately though, the HA does not object subject to conditions.
- 10.6 The HA's comment that the applicants have not provided details of how HGV deliveries of material to build the embankment would take place. Even where it comprises soil derived from the construction site itself, the steep valley sides would appear to preclude a direct delivery from within the Middle Deepdale site. As a result, the alternative would be via roads in established residential roads in Eastfield, for example, Eastway/Westway and Overdale. The two highway consultees do not object subject to condition to agree a Construction Management Plan, which could help to mitigate impacts (e.g. soil on road, damage to highway etc). The impact on residential occupiers is returned to later.
- 10.7 The Highway Authority does not object where the diverted PROW (bridleway) would physically cross the road crossing rather than passing beneath the bridge as previously proposed. Such a diversion would also have to be subject to approval under separate procedures under Section 257 of the Town and Country Planning Act if planning permission were to be approved. The plans were amended during the course of the application to incorporate a Toucan Crossing to improve safety. The land on the valley side would be graded to minimise the bridleway gradients. It is noted that an existing and undiverted part of the route has a greater gradient than this. Technical considerations such as gradient are not the sole consideration when assessing the impact on users of the PROW and more qualitative factors such as the public enjoyment of the route and its environs are considered later in the report.
- 10.8 The Designing Out Crime Officer has also suggested that planting adjacent to the bridleway avoids enclosure/concealment of walkers. This would be a factor which could be taken into account when discharging landscape conditions in the event that planning permission were to be granted. At its southern end the diverted also crosses the part of the water attenuation basin which would most regularly fill with water. This is not ideal, but ultimately could be addressed by a relatively minor amendment or condition. The route of a new path crossing the valley north of the embankment would appear quite steep, notably on the western side. However, it is not part of the diverted PROW and since its purposes would be for informal recreation (rather than essential access) an objection is not raised.
- 10.9 Some objectors have raised concern about the closure of Musham Bank Road between the A64 roundabout and Eastfield. This does not form part of this application and was previously approved under planning permission 14/02133/RG4.

Landscape and Visual Impact

10.10 Local Plan policies DEC1, HC14, ENV6, ENV7 and ENV8 are relevant in this regard. Policy ENV7 most directly addresses the key landscape/visual considerations relating to this application. It states:

"Proposals should protect and where possible enhance the distinctiveness or special features that contribute to the landscape character of a particular area and take into account the sensitivity of the landscape to change in terms of

- a. the sense of openness or enclosure;
- b. the pattern and complexity of the landscape;
- c. the experience derived from a particular landscape character;
- d. the relationship to existing settlement edges and the cultural pattern;
- e. the visual sensitivities and intervisibility of the landscape.

Proposals should have regard to the landscape between settlements and should prevent harmful development which results in the loss of the individual characteristics of settlements and/or the unacceptable coalescence of settlements or the wider landscape including the setting of the North York Moors National Park."

10.11 National policy in the NPPF is also relevant and among the considerations in para. 180 are "protecting and enhancing valued landscapes, sites of biodiversity or value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)"; and, "recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services".

10.12 A background document when formulating Local Plan policy was the Scarborough Landscape Study of 2013. This includes a Landscape Character Assessment. In broad terms the site lies at the eastern end of the 'Limestone Foothill and Valleys' Character type which continues westwards in a swathe extending across the southern part of the North York Moors National Park. The valley cuts through a bedrock of sandstone overlain by glacial till with a mudstone underlying the upper valley floor. In common with the Tabular Hills in the National Park, the extended southern slopes of the plateau are deeply incised by a steep sided north-south valley formed during the Ice Age.

10.13 The landscape and visual impact of HA1/HA2 including the road bridge crossing was considered as part of the EIA (prepared on behalf of the developer in 2011) for application 11/01914/OL. This included an assessment of the relative merits of a bridge against an embankment. It describes Deep Dale as "a dramatic landscape feature in its own right. The steep sided valley is approximately 2.0 km long and 55m deep at its deepest point". It then quotes 'seminal work' by Kendal on glaciation in the Cleveland Hills, describing Deep Dale as a 'fine valley' and the last glacial drainage channel cutting through the escarpment' formed by a large volume of glacial meltwaters creating their characteristic steep sided profile. The EIA continues that the valley is a dramatic even spectacular landscape feature, further defined by an almost completely unspoilt aspect despite its proximity to the urban area. It is of considerable geomorphological interest due to its association with glaciation. Extensive public access at the valley's southern end and the manner it penetrates the built-up area of Eastfield underline its significance, while also noting it is not subject to any statutory landscape designation, which remains the case.

- 10.14 In para 6.5.3.13 the EIA stated, "The creation of the road link across Deep Dale has the potential for significant adverse impacts on the visual environment of Deep Dale itself. The severity of this impact would be exacerbated in the event that the road link was to be carried across Deep Dale by means of an embankment or some combination of embankments and cuttings. In such circumstances the visual integrity of Deep Dale as a landscape feature as seen and appreciated from adjacent areas of Eastfield to the south and from the bridleway no 30/19/1 as it flows through the valley itself would be effectively lost. Although a bridge option would appear to be less damaging in principle, it would nevertheless include the potential for significant visual harm were the bridge itself or its abutments and ancillary works to be designed insensitively."
- 10.15 The landscape/visual impact of a bridge on the valley were carefully considered as part of application 11/01914/OL. The Committee report stated, it "an understated solution would be the most appropriate approach in the circumstances and the scheme architect has reflected these thoughts in the Design and Access Statement. He points to one of the reasons for the realignment of the link road being to ensure the span of the bridge is minimised to reduce its impact on the Dale and that initial design studies have explored the relative merits of a simple, practical engineering solution against more radical designs that has led to the view that keeping the design simple so as to minimise its visual presence is the appropriate approach to take."
- 10.16 The report goes on to state that detailed design proposals for the bridge be approved no later than the point where the 500th house is constructed. "This timing is considered to allow sufficient time for the Local Planning Authority to consider the design submissions well in advance of the date where the bridge construction work would need to start." As part of the application the possible negative impacts of a bridge were considered, but given the essential nature of the road bridge to the project as a whole, it was approved as part of the planning balance taking on board proposed mitigation.
- 10.17 The current application is supported by a Landscape and Visual Impact Assessment (LVIA). This acknowledges the comments in the EIA, which suggest that a bridge would be less harmful than an embankment. It then seeks to make the case that the reverse is the case now, taking account of the bridge design as shown in images accompanying the application and changes in the emphasis of guidance on EIAs which place greater emphasis on biodiversity, sense of place, landscape character, green infrastructure the experience of tranquillity in the countryside, containment of light spill, enjoyment of landscapes on the urban/rural edge and the need to create attractive recreation routes. The document assesses both proposals against a range of landscape elements. In the case of topography, it concludes that both would have major adverse impacts which cannot be mitigated. For other criteria (e.g. land use, PROW and various other landscape factors), it is asserted that a potentially similar level of impact can be mitigated with the proposed 'naturalistic embankment', but not for the bridge. The applicant's case is that the embankment would accordingly be less harmful in overall landscape and visual terms than a bridge.
- 10.18 Before considering the embankment it should be noted that comparison is made between the proposed embankment and a bridge design which has never been approved. At the time of application 11/01914/OL and its EIA a high-level bridge level with land either side of the valley was presented, although it is accepted that these

drawings were illustrative. The means of agreeing a bridge design was by discharging condition 55 prior to the occupation of 500 dwellings. This did not occur with this current application effectively being submitted in its place.

- 10.19 Whilst the technical specification of the bridge has been discussed with Highways officers, planning officers were not involved and this is perhaps reflected in the design, especially from an aesthetic perspective. Compared with the high-level bridge it has a rectangular shaped aperture beneath of reduced dimensions both vertically and horizontally. Squared off abutment walls would project into the valley and these are shown as being faced with light coloured concrete and no mitigatory planting.
- 10.20 It is accepted that structural and technical requirements of a bridge would have design implications, but there has been no known dialogue or an application through which planning officers would have sought to secure a less visually intrusive scheme. Consequently, the images of the bridge design accompanying the application cannot be afforded meaningful weight when making a decision. Likewise, a detailed landscape scheme for this part of Deepdale valley area has not yet been approved and a sensible timing for its consideration would be in tandem with bridge proposals, had they been submitted. Furthermore, the Highway Authority has indicated that to achieve a suitable gradient the height of the road would need to increase, possibly further increasing the mass of the embankment.
- 10.21 Turning to the landscape and visual impact of the embankment, the impact on the geomorphology is considered to be especially harmful and the applicant's current submissions acknowledge the impact on topography would be 'major adverse'. As previously described the steep-sided valley was likely to have been formed by glacial meltwaters during the last Ice Age 20,000 years ago. The embankment would significantly alter its fundamental character by introducing an alien man-made landform which runs transversely east-west across the valley. The LVIA argues that the embankment would have a 'naturalistic' appearance. While planting or grading of slopes could soften its visual impact, it would still in essence be cosmetic and secondary to the proposed significant change to the natural geomorphology.
- 10.22 The minor stream along the valley floor is not currently a particularly prominent feature, but nonetheless is an essential element of its natural form. The creation of a channel with two adjacent attenuation basins, if suitably designed/planted would help to emphasise its presence. However, visual continuity of the watercourse would be lost when it disappears into the 70m long 1m x 1.5m box culvert beneath the embankment. This further detracts from the natural form and appearance of the valley.
- 10.23 While a bridge would also be a significant visual intervention, it would nonetheless retain the natural shape of the valley and continuity of the watercourse. The impact on the natural form of the valley is given substantial weight in the consideration of this application given that the changes would in effect be irrevocable.
- 10.24 For interrelated reasons, the visual impact of the embankment is also significant, notably at the local level. The fact that the valley is relatively concealed in the wider landscape reduces potential visual harm outside its immediate environs, but at a more local level the impacts are considered to be significant. The greatest impact is

from within the valley or from elevated positions either side. The most obvious existing visual receptor is the bridleway which runs along the valley, as well as the maintained public open space to the south through which it passes. The impact on private views from individual dwellings is not a planning consideration. While much of the valley is publicly accessible, in practice the topography, watercourse and vegetation largely limit this to the PROW at the present time.

- 10.25 When approaching from the south the bridleway is on the valley floor and physical mass of the embankment would be pronounced, although the presence of brambles/scrub currently limit some views in this locality. The embankment would nonetheless block views from the direction of Eastfield towards the northern end of the valley with its more dramatic steep side forms and scarp side vegetation adding to its rural character. Vehicles travelling along the road would admittedly be partially obscured by the land to the south being slightly elevated and landscaping. More fundamentally though, a bridge (even in the form illustrated with this application) would still maintain the sense of visual continuity along the valley. The impact from a bridleway which emerges from between HA2 and housing on Overdale would be similar, albeit the view would in part be more raised since it descends the eastern valley side.
- 10.26 To the north of the proposed road link, the bridleway climbs the western valley flank in the direction of Oliver's Mount. From here the diverted route would gradually attain the height of the embankment before looking down on it and at this point it is joined by another PROW skirting the north of HA1. From this direction the embankment would be less visually overpowering, but the way it would block the valley would still be readily apparent and from here there is a greater appreciation of how Deepdale fits into the broader sweep of the local landscape. The embankment would offer some opportunity to partially mask the road with planting and earthworks than a bridge, but the latter would also not have the mass of an embankment with its associated negative implications.
- 10.27 The impact from future public vantage points should also be taken into consideration, based on as yet unimplemented planning permissions. This includes the new road and its footways, new areas of public open space to the east of HA1 and west of HA8, as well as greater access to the valley itself which the original planning permission more firmly secures as public open space. As it traverses the valley, attractive views from the new road would be opened up to the north exist with a bridge and to a lesser extent with an embankment. Views to the south would be limited by the crest of the embankment. The embankment would partly obscure the northern part of the valley where it would be visible from proposed open space south-east of new housing on HA1. From OS1 (the open space associated with HA8) there would be views looking back down the valley, especially from a side valley and promontory known as Kit Rigg. The impact would be similar to views from the bridleway as it rises the opposite side of the valley, blocking views as previously described.
- 10.28 Following receipt of objections from the Council's Landscape Architect the applicant's Landscape Architect responded with a detailed rebuttal, criticising the approach taken, among other points asserting too much emphasis was placed on the 2011 EIA and subsequent changes in related guidance. This Committee report also emphasises the EIA because of its important place in the planning decision-making

process of Middle Deepdale and the fact that at that the stage the developers' professional representatives were advising that an embankment would be more harmful than a suitably designed bridge. Officers are cognisant that policy and guidance has evolved since that time. Local Planning Authorities are required to determine applications in accordance with policies that comprise the Development Plan, unless material considerations indicate otherwise. The Development Plan in this case is the adopted Local Plan and it is on the basis of its policies that the recommendation in this report is primarily made, while also taking account of other material considerations including the planning history, points drawn from the LVIA and other submissions from the applicant.

- 10.29 The LVIA contains a summary table listing potential impacts. Apart from topography, the LVIA argues that other issues of potential harm can be mitigated. In some cases, officers simply do not agree, for example on the visual impact or land use (considered later). The LVIA does not seek to afford weight to the listed considerations. This is not problematic, since it is more of the role of this report to undertake that task. At this stage, it is principally the matters covered by Policy ENV7 which are being addressed. In that context it is the impact on the natural geomorphology and views, notably along the valley which are given greatest weight. The LVIA also refers to a wider range of considerations including biodiversity, land use and noise. These points are considered later, in advance of providing a balanced conclusion.
- 10.30 The LVIA argues that the impact of lighting would be greater in connection with a bridge than an embankment. Details of lighting columns are not known yet, but even taking account of the embankment morphology and proposed planting, it is a reasonable assumption that the light sources would stand taller. Given its location on the edge of Eastfield, with residential areas due to surround the road crossing point in due course, the location is not considered to be especially light sensitive. Consequently, this factor is given limited weight in the overall planning balance.
- 10.31 Direct comparison of proposed detailed landscape proposals is difficult given that detailed landscape measures for the valley as POS have not been approved. Purely in visual/landscape term the amount of proposed planting is generous. Perhaps unsurprisingly, the patchwork approach would in part appear to be designed to try to camouflage the embankment as far as possible. While ample planting is welcome in general terms, the parameter plans approved under 11/01914/OL identified that the valley should have a country park character with a north-south axis. This would imply retention of views along the valley, but this would be impossible due to the proposed embankment.
- 10.32 In respect of Policy ENV7 the proposals are overall considered to contravene a number of the criteria (a.-e.). The sense of openness (a) which characterises the valley would be lost and likewise its pattern (b) in respect of the likewise linear sweep of the valley. The experience derived from the landscape character (c), namely its formation by natural forces during the Ice Age would be reduced. The existence of a large barrier in the valley would harm visually sensitivities and the intervisibility of the landscape (e). The proposal is also considered to be contrary to criterion c, but that is examined in the next section of this report. The proposals also fail to protect or enhance this valued landscape as stipulated in para. 180 of the NPPF.

10.33 Regarding Policy ENV6, the road crossing lies within Development Limits as defined by the Local Plan and as such it does not formally lie within the 'open countryside'. However, the Development Limit crossing the valley some 120m north of the road does not follow clearly define features on the ground and some of the viewpoints from the north which would be adversely affected lie beyond this boundary. Policy ENV6 relates to development affecting the countryside and the application is considered to be contrary to it requirements. In particular this is the section which states, 'the scale of the proposals 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'. Furthermore, it would harm criteria d. and e. of Policy DEC1 in that the design of the public would not reinforce or complement the distinctive character of the area, or ensure it is attractive due to the fact that the open character of the valley not being retained.

Land Use, Social and Cultural Impact

10.34 To an extent the issues considered in this section overlap with the previous one. In essence it considers matters raised by the latter part of Policy ENV7, in addition to Policies ENV8, HC14 and DEC1. The Deepdale valley is a defining feature of the town of Eastfield in the form a north-south green corridor running through its heart. With its recent northerly expansion this is arguably even more the case, whereby the settlement will surround the more sharply defined steep-sided sections where it gradually becomes more gorge-like in character. This is even reflected in the name of the new development - Middle Deepdale.

10.35 The part of the valley between the new housing sites is a long-established area used for informal recreation and this is reflected in the numerous objections received along these lines from Eastfield residents. Access is facilitated by the bridleway which provides an attractive walking/cycling/riding route whereby the landscape can be appreciated from a variety levels and angles. It also provides quick and easy access to a scenic area of landscape on the doorstep of both Eastfield and Scarborough and providing a green route uninterrupted by roads between the two towns.

10.36 These factors informed the original vision for Middle Deepdale. Members are invited to view online the Parameter Plans 220 and 221A approved as part of application 11/01914/OL, which will also be presented at the meeting. Development arising from this planning permission was required in broad terms to comply with these parameters. Plan 220 shows a network of green routes permeating Middle Deepdale with the broadest being an arrow pointing northwards along the green corridor through Eastfield and outwards towards the countryside along the valley. This is reaffirmed in plans contained in the Design Code for the development as approved by condition. Plan 221A identifies the same corridor as a rea which should have a 'Country Park Character (north-south access, more urban to south)'. While these documents pre-date the adopted Local Plan they very much accord with the principles in set out in Policy ENV8, which seeks to protect and enhance green infrastructure corridors.

10.37 Planning permission 11/01914/OL also included binding requirements to secure such a country park character within the section of the valley between HA1 and HA2, requiring a 3.25ha area of public open space to be provided within Deepdale. Section 106 payments relating to 11/01914/OL will also be required towards its maintenance

on the assumption that it would ultimately be adopted by the Council. At its northern end it would also link into a further area of POS - allocation OS1 secured by planning permission 21/00052/OL.

- 10.38 It is fully accepted that the road crossing, in whatever form, would have some negative impacts on the enjoyment of the open space and bridleway. However, the embankment would create an artificial barrier, subdividing the POS visually and physically, as well as diminishing the appreciation of the natural topography and views along the valley. Clearly the presence of the road on a bridge would be readily apparent visually and audibly. However, users of the bridleway would experience the road even more directly at the pedestrian crossing point. The proposed landscaping and access by the new path to land north of the embankment, would not adequately compensate for the harm caused to public open space and green corridor.
- 10.39 The proposals are therefore considered to be contrary to Local Plan policy HC14 whereby new and improved sites for open space should not detract from the character and appearance of the surrounding area, including the character of the landscape. The impact on the green corridor would be unacceptable in contravention of policy ENV8. As previously explained the proposals are considered to breach a range of requirements covered by policy ENV5 and from a cultural aspect this includes the derived from the landscape (criterion c). A key feature of the northern edge of Eastfield are the northward views and access along Deepdale. The embankment would diminish the relationship of this attractive landscape to the settlement edge and its cultural pattern (criterion c). Furthermore, it would harm criteria d. of Policy DEC1 in that the design of the public realm would not reinforce or complement the distinctive character of the area, or ensure it is attractive to walkers/cyclists due to the fact that the open character of the valley would not being retained.
- 10.40 The history of Eastfield goes back much further than its development in the post WWII period. Both prehistoric and Roman remains have been found in the area. Indeed, the discovery of a Roman villa within HA1 was of great archaeological significance. In that case, the applicant amended the housing layout and helped to ensure that the remains could be investigated and preserved.
- 10.41 The Council Archaeologist has considered this current application in the context of a previously agreed scheme of archaeological mitigation which is written into a condition on the outline application. This sets out several different strategies depending on the significance of the archaeological remains. This part of the masterplan area falls within the watching brief and strip map and record areas where we would expect remains of later prehistoric and Roman settlement. A scheme of archaeological mitigation recording is recommended for ground disturbing works. This would comprise an archaeological strip, map and record/watching brief to be undertaken in advance of development, to ensure that a detailed record is made of any deposits/remains that will be disturbed. This could be secured by condition. The embankment would largely avoid concealment of the rock-face on the valley side, which is understood to have been exposed by historic quarrying, but nonetheless now forms a distinctive feature in its own right.

Ecological Impact

- 10.42 The comments of the Council Ecologist are reported in para. 7.7 above. Local Plan Policy ENV5 is a key consideration, together with NPPF paragraphs 185 and 186. The application is accompanied by a Preliminary Ecological Assessment (PEA), as well as survey for individual species or types of species, including bats, badgers, reptiles, water voles and otters. The presence of the last three was not detected and no objection is raised in respect of badgers. Foraging and commuting bats, as well as a range of bird species several are Birds of Conservation Concern and Species of Principle Importance.
- 10.43 The main concern with the application is the fact that the embankment and road (unlike a bridge) would create a significant barrier, most obviously for terrestrial animals, but with possible implications for the bats and birds. Land to the south of the site is statutorily designated as The Dell Local Nature Reserve, while further north is the non-statutory High Deepdale Site of Importance for Nature Conservation. The PEA acknowledges that the proposed works may risk cutting off connectivity and further surveys are recommended to better understand the impacts. While additional surveys, as described above, were undertaken they do not specifically address this concern. This would require the impact to be identified, evaluated and (if possible) mitigated. Rather than directly addressing this point, the application appears to place greater emphasis on more general enhancement of biodiversity through creating a varied habitat including planting and wetlands, thus attracting a range of wildlife.
- 10.44 Policy ENV5 indicates proposals should seek opportunities for the enhancement of species, habitats or other assets, thereby resulting in a net gain in biodiversity by a range of means. This includes avoiding unacceptable impact on any designated site unless the impact can be outweighed by a greater benefit as commensurate to the designation. Within the context of the application site itself, the habitat currently consists of predominantly low scrub, such as bramble with sparse areas of small trees and taller scrub such as hawthorn. If the (non-designated) application site is viewed in isolation it is acknowledged that the proposals would offer some biodiversity gain. However, its role as a wildlife corridor between two designated sites and the impact on the sites themselves is not thoroughly evaluated, and even if some mitigation is possible, it is difficult to understand how it may be suitable given the size/type of the barriers created by the combined embankment and road.
- 10.45 Having considered the overall balance of relevant factors, the application is considered to be contrary to Policy ENV5. Para. 185 of the NPPF indicates that plans should safeguard designated sites, wildlife corridors and stepping stones which connect them. This would have helped underpin the formulation of policy ENV5.

Drainage/Hydrology

- 10.46 The site itself is in Flood Risk Zone 1 (low risk), but the impact of the proposals on the Deepdale watercourse still need to be assessed. The submitted Flood Risk Assessment (FRA) that the section of road carried by the embankment would be drained separately from roads and residential areas both sides of the valley. The road would be the only new impermeable surface to be taken into account when calculating the volume of attenuation required to limit flows of surface water. There would be two key points where watercourse flows would be constrained. Firstly, where it enters the proposed culvert beneath the embankment, and secondly where

a downstream control structure would restrict flows when leaving the southern site boundary at specified rates (litres/second).

- 10.47 The FRA states that the attenuation capacity of the valley is approximately 1,900 m³ larger than the volume required to accommodate flows from the HA1, HA2 and HA8 developments. This would be within elongated basins north and south of the embankment. The LLFA is satisfied that the design would not increase flood risk downstream, including populated areas of Eastfield through which the watercourse passes.
- 10.48 The LLFA also cites its protocol which generally presumes against the use of culverts, which in this case would be 70m long. While this and Ciria guidance are not adopted planning policy they nonetheless inform the statutory consultee, the LLFA, and as such are material. The guidance does not prohibit the use culverts in all cases, but unlike a road bridge over a watercourse, for example, they require justification in recognition of the fact that culverts may cause issues relating to maintenance, public safety, water quality and biodiversity. In this case it is clearly desirable to incorporate safety measures to prevent members of the public (especially children) entering the two culvert 1x1.5m openings. This would normally involve installation of a mesh, but this can lead to debris building up and obstructing water flow. Apart from increasing the volume of water on the northern upstream side of the embankment, the LLFA such culvert blockages can be both difficult and costly to prevent/safely remove. There is a lack of information of how this would be achieved and who would be responsible.
- 10.49 It is noted that the LLFA has not formally objected to the application, but on four occasions its response has been to recommend that additional information is provided before any planning permission is granted. Officers believe that this should be viewed within the context of the application as a whole, where the proposal is considered to be unacceptable on matters unrelated to drainage. The LLFA has highlighted specific concerns commonly associated with culverts relating to the interaction of safety measures with the control of water flow and maintenance, which have not been adequately addressed. In terms of planning policy, paragraph 173 of the NPPF is more directly applicable than the relevant Local Plan policy (ENV3), in that it states that 'development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; [and] any residual risk can be safely managed.' Taking this range of factors into account, Officers conclude that a further reason for refusal be included relating to the lack of justification and information in respect of the case for the culvert.
- 10.50 Most of the application site is in Source Protection Zone (SPZ) 1 (with smaller areas in SPZ2), where Local Plan policy ENV4 seeks to protect groundwater and its abstraction. The aquifer underlying the site is used as a source of public water. Paragraph 180 of the NPPF also seeks to protect groundwater resources. The Environment Agency (EA) initially objected because there was inadequate information to demonstrate that pollution risks to potable water supply could be safely managed.

- 10.51 The applicant's drainage engineer responded by stating that material stockpiled on site had been tested in 2023 and no elevated concentrations of contaminants had been found; furthermore, any other material brought in for constructing the embankment would be similarly tested. Run-off from the road would flow through a reed bed/wetland and together with filter strips would reduce any pollutants to acceptable levels. The culvert would not follow the line of the existing watercourse and it is stated that the construction would largely remain within the superficial clay deposits and not extend significantly into the underlying bedrock aquifer and 'significant impacts on the loss of aquifer volume are not expected'.
- 10.52 The EA was satisfied with the explanations provided by the applicant, subject to conditions. Yorkshire Water (YW) also commented on the impact on groundwater, including whether construction works would affect the aquifer. No response was received on the applicant's submissions on this point, but it was not a point of objection since YW simply recommended conditions and the EA were subsequently satisfied on this point. No objection is therefore raised in respect of Policy ENV4.

Residential Amenity/Noise

- 10.53 Local Plan policy DEC4 relates to the protection of residential amenity and as explained below the embankment would not cause a direct breach, assuming safeguards are put into place. At the present time the nearest dwellings are 170m away although in due course housing will be closer in the region of 30m distant. The elevated position of housing relative to the proposed earthworks ensure that from a residential amenity perspective at least they would not be unduly overbearing.
- 10.54 It is argued in the LVIA that the proposals would improve the tranquillity of the landscape. Noise from road traffic using the previously approved bridge was not a concern raised at the time of the original application. The Environmental Health Officer has also not objected. Mounding on the southern more urban side of the embankment top may reduce noise to some degree in relative terms, but it is not a continuous feature. A bridge would be more open, but the impact of overhead noise would also have to be balanced against the fact that users of the bridleway would have to cross the link road directly rather than passing beneath the bridge.
- 10.55 Much of the material to build the embankment would be obtained from the Middle Deepdale construction sites. In the absence of evidence to the contrary, it is assumed that it would have to be carried by HGVs to the valley along residential roads such as Westway, Eastway and Overdale. In contrast, while a bridge is likely to require some works from the valley floor and despite being more technically difficult to construct, the main structure would probably be craned in from above with less noise/dust on local residents. It is your officers firm understanding that a reason for refusal based on disturbance during the construction phase would be difficult to sustain. If approved, a condition could be imposed for a Construction Management Plan, which could include mitigation e.g., restricting hours of construction, and measures to reduce mud on roads and dust etc.

Carbon Footprint

- 10.56 The application is accompanied by an Embodied Carbon Assessment. This seeks to compare the carbon footprint of two options i.e., the proposed embankment against

the bridge design as shown in the application documents. It concludes that the bridge has higher embodied carbon emissions of 4,592 tonnes CO₂e compared to 215 tonnes CO₂e for the road embankment over 100 years.

- 10.57 At a national level, there is no specific requirement for embodied carbon to be addressed in policies or decision-making. Unlike some local planning authorities (e.g., in London) there is not established guidance/policy by which whole life-cycle carbon assessments shall be evaluated. Policy DEC1 states that good design includes reducing carbon emissions from development and the accompanying text refers to designs which reduce energy consumption. However, there is no direct reference to embodied carbon. This contrasts with matters such as landscape, visual impact and protection of public open space, which are clearly covered by Local Plan policies.
- 10.58 Officers would not want to diminish the importance of seeking to reduce the carbon footprint of development and the impact on climate change. Nonetheless, calculating and analysing such an assessment is a highly technical exercise. The fact that the comparative figures for a bridge are based on a design, which has never been approved under the planning process casts doubt on the methodology used to calculate its carbon footprint. Combined with the absence of development plan policies on this matter, this restricts the relative significance that can be assigned to the calculated figures with implications to the weight which can be given to this in the decision-making process compared to matters clearly covered by adopted policies.
- 10.59 Even assuming the embodied carbon footprint of the embankment is lower than a bridge, it is not considered to outweigh the potentially irreparable harm to the landscape form of the valley and its value as a green wildlife corridor. These factors are afforded more weight and are considerations fully supported by adopted Local Plan policies.

Economic/Financial Considerations

- 10.60 A considerable number of objectors have asserted that a reason for the change from a bridge to an embankment is the cost, thus increasing developer profit. In itself this would not be a reason to refuse an application, but clearly where a cheaper solution is adopted, the amendments still need to be assessed against the same raft of local and national planning policies. Financial viability may be a valid planning consideration, but only if there is full disclosure of the economic case in the form of a Viability Assessment.
- 10.61 It must be emphasised that the planning application submissions do not seek to argue that financial viability is a material consideration. It therefore cannot be given weight in the decision-making process. Furthermore, officers do not believe that its examination in detail would be a fruitful exercise in this case. It would be a complex process, covering numerous applications over a period of 12-13 years. More importantly, even if a genuine and verifiable case were to be made on viability grounds, there would in officers' opinion be plenty of other aspects of the development which might be explored before countenancing the approval of such an environmentally harmful proposal.

11.0 Planning Balance and Conclusion

- 11.1 In your officer's opinion the proposals the proposed embankment would significantly detract from the character and appearance of the Deepdale valley landscape and its environs. It would also detract from the use of the valley and the bridleway as an area of public open space and its importance as a wildlife corridor. There is also a lack of justification/information relating to drainage matters. As previously explained, this would be contrary to a number of Local Plan policies, most directly ENV5, ENV7, ENV8, DEC1 and HC14.
- 11.2 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that determination of the application must be made in accordance with the development plan (i.e, the adopted Local Plan) unless material considerations indicate otherwise. Before concluding that the conflict with Local Plan is sufficient grounds to refuse planning permission, it is necessary to consider whether there are other material considerations which would should be given greater weight so as to justify approval of planning permission.
- 11.3 The applicants have presented the application based on the assertion that the impact of the proposals complies with relevant development plan policies. They have not as such sought to argue the case that there are factors which should outweigh conflict with such policies. Nonetheless, the Design and Access Statement does cite 5 drivers for the project as follows:
- It is less impacting on the environment of the valley in terms of construction works
 - It will have visual and ecological benefits over a bridge.
 - It is a more sustainable proposal than a bridge, in terms of its carbon emissions
 - It will be much quicker to build than a bridge
 - It will be less onerous to maintain over its lifetime.
- 11.4 Members will gather from the preceding report that officers disagree with the first two points. The report also discusses the relative weight to be assigned to case put forward on embodied carbon and this does not outweigh the harm to planning interests/policies. A case has not been made on viability grounds, but likewise it would be highly unlikely to overcome the serious concerns raised by this application. The final two points are not considered to be ones which can be assigned significant weight in the decision-making process.
- 11.5 Making progress on the development of Middle Deepdale is of key strategic importance within the context of the Scarborough area and the eastern part of North Yorkshire. This is on a number of fronts, including the provision of much needed housing, associated infrastructure, provision of the link road, and creating a cohesive new community which helps in the regeneration of Eastfield. On such a large and complex project, it almost inevitable that problems may arise implementing aspects of the development. It would usually be hoped that these could be solved through a process of proactive engagement between the developers, the Local Planning Authority and other key stakeholders. Unfortunately, in this case the harm caused by the proposals to the valley and its environs is considered to be such that the application cannot be supported by officers and refusal of planning permission is the recommended course of action.

12.0 RECOMMENDATION

12.1 That planning permission be refused for the following reasons:

1. The proposed embankment would significantly detract from the character and appearance of the Deepdale valley and its environs. This is due to the works significantly changing the original geomorphological form of the valley, adversely affecting its elongated open gorge-like character/landscape pattern. From a range of existing and proposed public vantage points it would diminish the experience of this distinctive and visually sensitive landscape, curtail key views from within the valley and form an obtrusive feature within the valley and from its surroundings. It would also obscure a key natural feature by culverting the stream along part of the valley. For these reasons the development is considered to be contrary to local and national planning, notably policy ENV7 of the adopted Scarborough Borough Local Plan. For the same reasons it would detract from the character and appearance open countryside to the north of the proposed embankment and as such would harm the interests, which Policy ENV6 of the same Local Plan seeks to protect. In reaching these conclusions the Local Planning Authority has had regard to the fact that planning permission exists for a road bridge in this location, as well as proposed landscape measures and other mitigation and considerations put forward as part of the application.
2. The site lies within an existing area of public open space, the further of enhancement of which is secured by previous planning permissions. The proposed embankment would artificially subdivide this open space, the attractiveness of which is largely derived from its distinctive landscape form as referred to in Reason for Refusal 1. Similarly, it would form an unnatural barrier in the north-south green corridor which is an essential part Eastfield's character, while also restricting views up the valley which form part of its setting linking the town to the area of unspoilt countryside to the north. Public access is enhanced by the bridleway which runs through the application site. However, its proposed diversion, directly crossing the proposed A64(T) - A165 link road, would together with the diminished experience of the landscape and harm to visual sensitivities, detract from the recreational enjoyment of this route and the wider public realm. For these reasons the development is considered to be contrary to policies ENV7, ENV8, HC14 and DEC1 (especially criterion d.) of the adopted Scarborough Borough Local Plan. In reaching this conclusion the Local Planning Authority has had regard to the fact that planning permission exists for a road bridge in this location, proposed landscape measures and other mitigation and considerations put forward as part of the application.
3. The application site is set within the Deepdale valley between The Dell Local Nature Reserve to the south and the High Deepdale Site of Importance for Nature Conservation to the north. The proposed embankment and road would act as a barrier, resulting in a loss of connectivity for biodiversity along the valley and between the two designated sites. The proposal is therefore considered to have an unacceptable impact on wildlife networks, notably the corridor between these designated sites. The proposals are therefore considered to be contrary to Policy ENV5 (notably criterion a.) of the adopted Scarborough Borough Local Plan and the principles contained in paragraph 185a of the NPPF. In reaching this conclusion the Local Planning Authority has had regard to the landscape proposals and other measures intended to mitigate impacts on wildlife or promote biodiversity, but

ultimately concerns raised here are given greater weight in the consideration of the application from an ecological perspective.

4. Inadequate justification and information have been provided to make the case for approval of the proposed culverting of the watercourse on the site. In particular, it has not been demonstrated that measures to prevent public entry into the culvert can be provided in a manner which does not adequately prevent the build-up of debris, obstructing water flow. There is also a lack of clarity on long-term maintenance or other measures to mitigate the risks associated with this and the consequent increased flood risk. In the absence of this information, the proposals are considered to be contrary to the principles set out in paragraph 173 of the National Planning Policy Framework.

Target Determination Date: 30 January 2024

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