

**North Yorkshire Council**  
**Community Development Services**  
**Strategic Committee**  
**Thursday 30 January 2025**

**ZF24/00333/RG3 - Works to the West Pier and the buildings on it, comprising: Extension and change of use of Building 1 public toilets (sui-generis), offices (Class E(g)(i) and artist's studios (sui-generis) to form restaurant (Class E(b)). Change of use of Building 2 first floor Café storage (Class E(b)) and part of office (Class E(g)(i)) to form artist's studios (sui-generis) and gallery (Class E(a)). Alterations to Building 3, and change of use of part of industrial/storage (Class B2/B8) within, to form retail (Class E(a)) unit and enlarged Café (Class E(b)). Demolition of Building 4 (storage/warehouse) and Building 5 (bait sheds). Erection of bait shed (new Building 4). Demolition of existing retail kiosks (Building 6) fronting Foreshore Road. Erection of retail kiosk (Class E(a)), public toilets (sui generis) and sub-station (sui-generis) building (new Building 7). Alterations to public realm including realignment of parking facilities to provide 81 public car parking spaces which will also be used as a flexible, temporary outdoor event space at West Pier, Scarborough, North Yorkshire, on behalf of North Yorkshire Council**

**Report of the Head of Development Management – Community Development Services**

**1.0 Purpose of the report**

- 1.1 To determine an application for full planning permission (ref: ZF24/00333/RG3) for development on the West Pier, Scarborough Harbour.
- 1.2 In accordance with the North Yorkshire Council Constitution, the application has been brought to the meeting of the Committee as the Council is the applicant.

**2.0 EXECUTIVE SUMMARY**

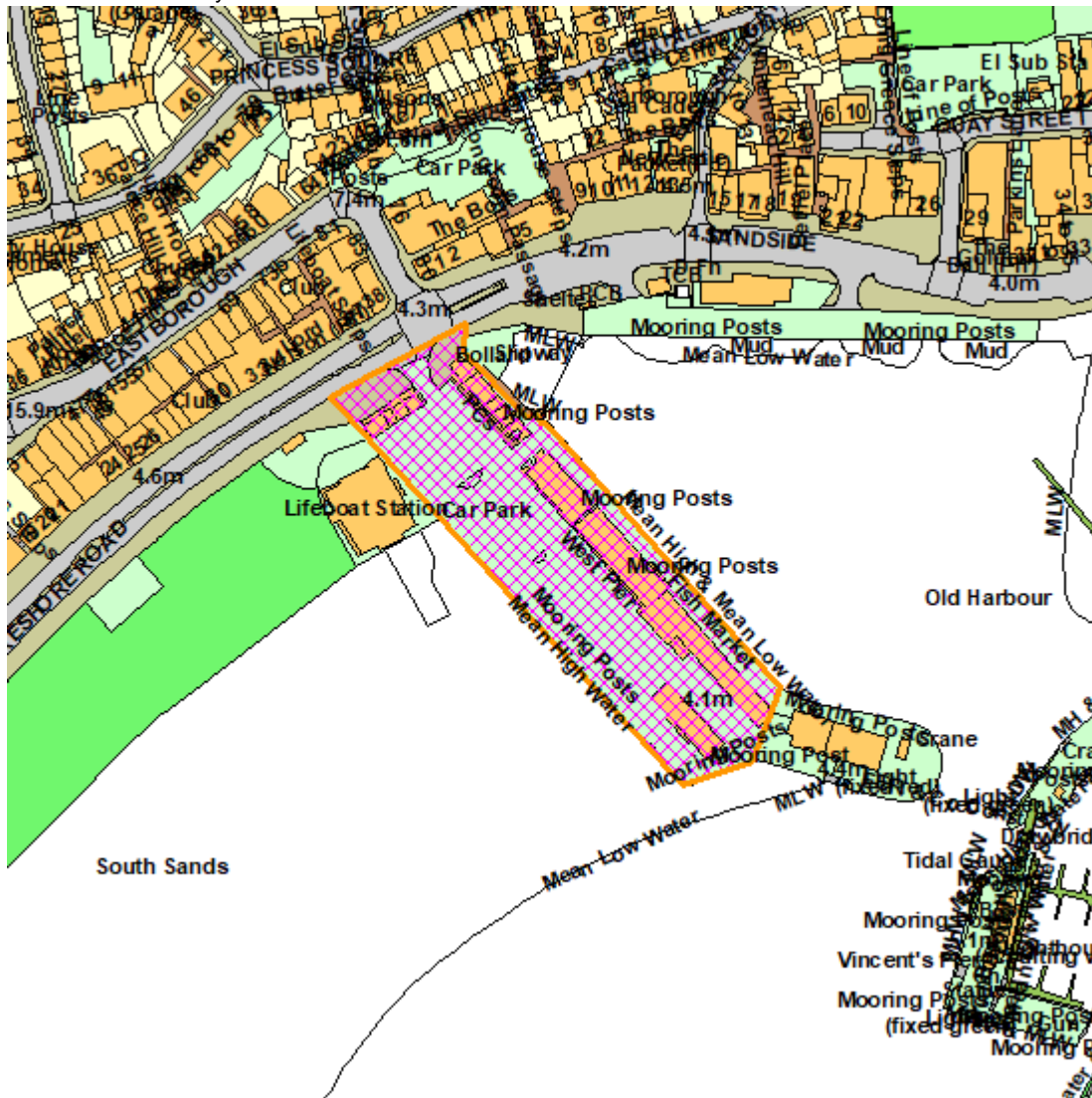
RECOMMENDATION: That planning permission is GRANTED subject to the conditions set out at the end of this report.

- 2.1 Planning permission is sought for the re-development of Scarborough Harbour's West Pier, including: the wholesale re-landscaping of the pier's western side; the demolition of the existing kiosk building fronting Foreshore Road; the demolition of the fishing industry bait shed building; the extension of the old Harbour Master's office building together with its conversion to a restaurant; and, the provision of new fishing industry and tourism related buildings and facilities on the pier.
- 2.2 Officers find the proposals to develop fishing industry and tourism facilities on the pier to be supported by Local Plan policy in principle. Benefits to the visual amenity of the area and heritage assets also weigh in favour of the proposals. There is not considered to be any fundamental conflict with flood risk policies. As such, the recommendation of Officers is that planning permission should be granted.



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### 3.0 Preliminary matters

3.1 Access to the case file on Public Access can be found here: [ZF24/00333/RG3 | Works to the West Pier and the buildings on it, comprising: Extension and change of use of Building 1 public toilets \(sui-generis\), offices \(Class E\(g\)\(i\) and artist's studios \(sui-generis\) to form restaurant \(Class E\(b\)\). Change of use of Building 2 first floor Café storage \(Class E\(b\)\) and part of office \(Class E\(g\)\(i\)\) to form artist's studios \(sui-generis\) and gallery \(Class E\(a\)\). Alterations to Building 3, and change of use of part of industrial/storage \(Class B2/B8\) within, to form retail \(Class E\(a\)\) unit and enlarged Café \(Class E\(b\)\). Demolition of Building 4 \(storage/warehouse\) and Building 5 \(bait sheds\). Erection of bait shed \(new Building 4\). Demolition of existing retail kiosks \(Building 6\) fronting Foreshore Road. Erection of retail kiosk \(Class E\(a\)\), public toilets \(sui generis\) and sub-station \(sui-generis\) building \(new Building 7\). Alterations to public realm including realignment of parking facilities to provide 81 public car parking spaces which will also be used as a flexible, temporary outdoor event space | West Pier Scarborough North Yorkshire](#)

3.2 Managers of the West Pier's facilities often refer to it as having a 'wet-side' and a 'dry-side'. The pier's harbour facing wharf is principally used by the fishing industry and is referred to as the 'wet-side', whilst the car park and tourist related activities on the pier's southern/ seaward side are known as the 'dry-side'. The 'wet-side' and 'dry-side' descriptors are used in this report.

3.3 The following additional information has been submitted during the course of the application's consideration and can be viewed on the Council's website:

-Updated Flood Risk Assessment, submitted September 2024. This document differed from the originally submitted Flood Risk Assessment only insofar as the surface water drainage arrangements were concerned. Its submission was intended to provide points of clarification to address the initial comments of the Lead Local Flood Authority and Yorkshire Water specifically. Surface water flood risk, and the implications of the September 2024 amendment, are discussed in this report.

-Updated bat survey, submitted October 2024. This document brings the initially submitted ecological survey work up-to-date, and it is on the basis of this updated work that the Ecologist has provided her consultation comment.

-Harbour and West Pier safety record together with details of the proposed sub-station, submitted October 2024. This information was supplied to answer safety related questions put to the applicant by the Case Officer. Its implications are discussed in this report.

-Building on the earlier September 2024 revision, a further update to the Flood Risk Assessment comprising a revised sequential/ exception test for flooding (along with associated updates to the Flood Risk Assessment and Planning Statement) was submitted by the applicant in December 2024. It is this latterly submitted version which is available to view on public access via the link provided.

3.4 Accordingly, there have been several rounds of formal consultation as explained at section 7 of this report.

### 4.0 Site and surroundings

- 4.1 Scarborough's West Pier is the westernmost element of the town's operational harbour, located in the town's South Bay. Initially completed in 1822 and now comprising a substantial man-made peninsula of land projecting into the North Sea, it joins the mainland at the junction between Eastborough, Foreshore Road and Sandside.
- 4.2 Comprising 0.81 hectares of land, the application site includes the major part of the West Pier, but excludes the northern tip. It includes an active wharf on its east (harbour) side (the wet-side), a public car park with 109 spaces and six buildings.

#### Existing buildings and their uses

- 4.3 Detailed plans in the application submission illustrate the arrangement of the existing pier together with the layout and use of its existing buildings. These are available to view via the above hyperlink and Members are encouraged to do so ahead of the meeting, but the existing buildings and their uses can be described in brief as follows at points a) to f):
- a) Building 1 - north side of pier
- 4.4 Originally the harbour offices, this is a C19 two storey 'statement building' extended in C20. The building is of red brick with stone detailing; stone copings, plinth course, door and window reveals, cills, heads, mullions and transoms. It features a first floor balcony walkway with metal railings. Building 1 is of significant architectural and historical interest and is arguably the most important building on the pier from those perspectives.
- 4.5 Building 1 currently accommodates public conveniences and storage on the ground floor together with offices and artists' studios on the upper floor.
- b) Building 2 - north side of pier with wharf access
- 4.6 Building 2 dates from around 1926 and is in a similar style with similar proportions to the original harbour offices (building 1), built in red brick with some stone feature coursing and copings, and a concrete projecting balcony walkway with metal railings. It is much simpler and less ornate than Building 1.
- 4.7 Current uses of the ground floor of building 2 include retail (wet fish sales), commercial fishing uses including freezers, holding tanks, 'catch receiving' and weighing facilities plus storage. The harbour office and facilities associated with the café in building 3 occupy much of the upper floor, but there are several vacant units.
- c) Building 3 - north side of pier with wharf access
- 4.8 Built in the late C20, building 3 continues the theme of red brick and pitched roof buildings with upper floor external walkways. This building has a more industrial appearance than buildings 1 and 2, with large arched openings serving the ground floor units.
- 4.9 The ground floor space is divided into two units used by the fishing industry, one of which houses a large chiller unit and the other is vacant. Harbour users' welfare

facilities are also located on the ground floor of building 3. There is 'through access' between the wharf and the main vehicular route along the pier via the ground floor of this building.

- 4.10 Five 'net lofts' principally used by the commercial fishing industry (which include a degree of storage, workshop and retail use) along with a café occupy the first floor.

d) Building 4 - north side of pier with wharf access

- 4.11 Building 4 is a single storey low-slung, open plan corrugated steel-clad building built in C20. It is currently unused but was last used for fish processing.

e) Building 5 - south side of pier

- 4.12 Known as the 'bait sheds', building 5 is a two storey building of brick construction sitting on the south side of the West Pier. It was constructed in the mid C20 and like buildings 1, 2 and 3 it features external walkways.

- 4.13 Used for storage by the commercial fishing industry, it contains 14 individually accessible units on the ground floor, 7 larger units on the first floor and a single large 'sail loft' in the roof void. The hardstanding area to the south of building 5 is used for the storage of commercial fishing equipment.

f) Building 6 - north end of pier

- 4.14 This building is situated at the 'front' of the pier, parallel to Foreshore Road. It is a single storey, flat roofed kiosk-type structure built in brick, with an array of shop fronts on its north facing side. It accommodates 5 separate commercial units which currently sell seafood, confectionary, snack food and beach goods.

Site context

- 4.15 With respect to the site's context, beyond the application site to the south-west lies the RNLI Lifeboat Station. At low tide, the beach extends to the pier walls alongside the lifeboat station. More broadly, Scarborough Castle sits on the headland overlooking the harbour and is a Scheduled Monument.

- 4.16 Land uses in the near vicinity of the application site include residential, retail, restaurants, cafes, public houses, leisure facilities and operational harbour uses.

Vehicle access, boat berthing and car parking arrangements

- 4.17 Vehicular access to the West Pier, including for HGVs, runs the length of the pier on the south side of buildings 1-4 and is via a signalled junction between Eastborough, Foreshore Road, and Sandside. Pedestrian access is via the same route. The existing 109 space car park, which is occasionally used for public events, is on the pier's southern side, along with a 'manoeuvring square' adjacent to building 5 (the bait shed) for use by large vehicles. This square is marked by yellow cross-hatched lines and is generally kept free from parked vehicles, other than those associated with the commercial fishing industry.

4.18 Commercial boat berthing exists the length of the West Pier's northern (harbour side - wet-side) edge, and the strip of land to the north of buildings 1-4 running the length of the application site is used principally for activities associated with the servicing of moored commercial vessels. This area is accessible for commercial vehicles principally between buildings 1 and 2 and towards the southern end of the pier around building 4. There is also a degree of wharf access through the commercial buildings on the pier.

#### Key planning designations and constraints

- 4.19 In terms of planning designations and constraints, West Pier is a Grade II Listed Building; the pier together with the buildings and structures on it benefit from Grade II Listed status. Further, the site is within the Scarborough Conservation Area and falls within the setting of many other Listed Buildings.
- 4.20 West Pier is not located within any local, national or international ecological designations. The closest Site of Special Scientific Interest (SSSI) is North Bay to South Toll House Cliff and is 280m to the north-east. The Flamborough and Filey Coast Special Protection Area (SPA) is located 5km to the south-east.
- 4.21 The Council's Strategic Flood Risk Assessment identifies the majority of the application site as being in Flood Zone 3b, which is land at the highest risk of flooding. In this case, the flood risk stems from a combination of sea level and wave action.
- 4.22 The application site is located approximately 430m from the Scarborough Primary Shopping Area and approximately 320m from the Town Centre Area, as defined by the Local Plan Policies Map.

## 5.0 **Description of proposal**

5.1 Planning permission is sought for the development of the buildings and public realm on the 0.81 hectare portion of the West Pier comprising the application site. The development proposals are briefly summarised by the following points a) to f):

a) Building 1 - north side of pier

5.2 In addition to general repairs and restoration of the building's fabric, including wholesale replacement of windows and doors, roof repairs and the repair and replacement of damaged masonry, the following significant development is proposed:

- The demolition of the existing frontage access walkway, balcony and access stairs.
- A single storey extension to the front of the building with an approximately 61 square metre footprint. Walls would be formed of brick at the plinth level and glazed panels above. At the first floor level would be an open-air balcony accessed from within the building and directly from the pier below (via new stairs).
- The erection of a single storey flat-roofed extension to the building's southern elevation, with a footprint of approximately 15 square metres.

-The change of use of the building to a restaurant with a take-away element (via an opening in the northernmost end of the building).

b) Building 2 - north side of pier with wharf access

5.3 As with building 1, the proposal is to carry out general repairs to the fabric of building 2, including the installation of new fenestration throughout and the reinstatement of 'arched openings' in the south elevation.

5.4 In terms of the proposed use of the ground floor of the building, the following changes are proposed:

-A new retail unit is proposed in place of a freezer (last used by the commercial fishing industry) in the 'second northernmost' unit.

-The two southernmost units will be consolidated into one larger weighing and holding tank facility for the commercial fishing industry.

5.5 The northernmost ground floor unit would remain in retail use and the central unit would continue to accommodate fishing industry equipment.

5.6 At first floor level the use of the building would change significantly, with three artists' studios and an art gallery proposed along with two office units.

c) Building 3 - north side of pier with wharf access

5.7 Externally, there is proposed to be only limited changes to building 3, with the most significant alteration being to the arrangement of the ground floor fenestration; six arches will be added to the south (pier facing) elevation and six doors will be added to the wharf-side elevation (with masonry to match the existing fabric filling the two large former openings).

5.8 In terms of use, the ground floor would remain largely set over to the fishing industry, albeit with the two large industrial units sub-divided into six new units. Of these six, two would be for non-fishing related uses; one would be for retail and another for storage use by the existing café on the first floor. At the southern end, the fisherman's welfare facilities would be improved, with new shower, toilet and mess amenities.

5.9 The first floor would be split into two uses; at the northern end would be the Harbour Master's offices with allied facilities and the southern end would be a café (an expansion of the existing facility) with a new balcony to the north elevation.

b) Building 4 - north side of pier with wharf access

5.10 It is proposed that the single storey building 4 be demolished and replaced with a new two storey building, which the applicant is also calling 'building 4'.

5.11 The replacement building would be of a pitched roof design, have an overall height of approximately 10.1 metres, an eaves height of approximately 6.8 metres and a footprint of approximately 424 square metres.

- 5.12 It would have a slightly smaller footprint than the original building 4 but would be taller. Brick would form the base, topped by timber boarding with inset doors and windows. A grey steel insulated roof with a parapet would conceal gutters, and all rainwater pipes would be internal. Large ground and first-floor openings would characterise the southwest elevation. Ground floor openings would feature roller shutters and narrow sidelight windows in aluminium frames. Above, similar-sized openings would contain steel doors with taller, narrow sidelight windows. The northeast elevation would mirror the front, though most openings would include roller shutters. First-floor access would be via a steel balcony reached by an external steel stair on the northwest elevation. All steelwork would have an anthracite grey finish.
- 5.13 In terms of use of the building, there are proposed to be 10 fishing industry units on the ground floor, 20 smaller units on the first floor and one large loft unit together with a plant room and a lobby on the second floor. The ground floor units would all have 'through access' between the pier and wharf.
- c) Buildings 5 and 6 - south side of pier and north end of pier
- 5.14 Along with the original building 4, buildings 5 (bait shed) and 6 (existing kiosk building) are proposed to be demolished.
- d) New building 7 - north end of pier
- 5.15 It is proposed to replace existing building 6 with a new single storey building 7. With a flat roof design including an overhanging canopy, a maximum height of approximately 4 metres and an approximate footprint of 395 square metres, the building would have a low-slung functional appearance and would house four retail kiosks and a store, together with new public toilets, welfare facilities and an electricity sub-station.
- 5.16 Within the proposed public toilet block, there are proposed to be sixteen female toilets (of which one would be an accessible unit), nine male toilets (of which one would be an accessible unit) together with four urinals accessible via payment turnstiles, plus a fully disabled accessible toilet accessed directly from the pier. All four kiosks would have retail openings/ shop fronts on their east facing side (i.e. pier facing side).
- 5.17 In terms of the external materials of construction, the walls would be a timber effect cladding above an artificial stone plinth. Fenestration and trims would be grey coated metal. The roof would be a grey vinyl membrane.
- e) Access and parking
- 5.18 Although the main vehicular access from the highway (the junction between West Pier, Foreshore Road and Sandside) would remain largely unchanged save for minor re-profiling and new surfacing, there would be changes to how vehicles and pedestrians use the pier.
- 5.19 In terms of pedestrian access and the walkable environment, pedestrians would continue to access the pier from the existing footways adjacent to Foreshore Road



and Sandside, although owing to the removal of building 6 there would be a wider foot path access on to the pier from Foreshore Road.

- 5.20 HGV access is proposed to be retained along the application site, with vehicle access to the wet-side maintained between buildings 1 and 2 and widened to the south of new building 4. There is proposed to be dedicated HGV loading outside building 4 (which has dry-side to wet-side through access) and an HGV manoeuvring area at the south end of the pier, separated from the public car park with bollards.
- 5.21 Parking for cars would be provided in an 81-space car park, which includes four dedicated disabled spaces. An area for the parking of motorcycles is also proposed as are ten electric vehicle charging points.
- 5.22 Boat mooring arrangements on the wet-side are not proposed to change.
- f) Public realm changes
- 5.23 Whilst the wet-side area is not proposed to change (setting aside the alterations to the buildings which face it), the dry-side public realm would change considerably.
- 5.24 Visually defined by differing pavement types (there are proposed to be 16 different types across the scheme) and physically marked out by street furniture, the dry-side space is essentially arranged into 3 'zones'.
- 5.25 The first of these zones is an area at the northern end of the pier between and around buildings 1 and 7. Separated from the main vehicular route and the car parking areas on the pier by timber and steel bollards, identified by visually distinct concrete block and stone paving and featuring a range of timber benches and other street furniture, this zone is set over to pedestrians.
- 5.26 Centrally within the site is a mixed-use zone for pedestrians and car parking. With the pedestrian area (running to the north along the length of building 3) and car park separated from each other and the main vehicular route along the pier with bollards (some of which are dismountable), two buff coloured tarmac finishes will define the car parking area and block sets will define the pedestrian area. Benches and other street furniture including totem directional signs and litter bins are present in this area. Along with other parts of the pier, it is proposed that this area be used occasionally for events.
- 5.27 Surfaced with heavy duty industrial grade tarmac, the southernmost zone of the pier will be set over to HGV loading, HGV manoeuvring and public car parking. The public car park will be separated from the areas for use principally by HGVs by bollards and will be accessed via the second zone (i.e. private cars and HGVs will not mix in this zone). Save for the bollards, there is not proposed to be any street furniture in this area.

## 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

- 6.3 The new North Yorkshire Local Plan is at an early stage and no weight can be assigned to it.

#### Material Considerations

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- National Design Guide
- The Scarborough and Ryedale Strategic Flood Risk Assessment (2021)
- Environment Agency Standing Advice: preparing a Flood Risk Assessment
- The North East Inshore and North East Offshore Marine Plan

#### Statutory duties

- 6.4 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving Listed Buildings or their settings.

## 7.0 Consultation Responses

#### Consultation with technical consultees

- 7.1 There have been three rounds of consultation with technical consultees in respect of this application:

- 1) The first round of consultation asked the consultees listed below (paragraph 7.3 to 7.14) to consider the application as it was originally submitted and ended on 23 May 2024;
- 2) The second round of consultation followed the submission of additional technical information (as set out a paragraph 3.3) in respect of the management of surface water. Targeted re-consultation was carried out with the relevant consultees and the period of consultation ended on 05 September 2024.
- 3) A third round of consultation followed the submission of the information listed at paragraph 3.3 (a revised sequential/ exception test for flooding and associated updates to the Flood Risk Assessment and Planning Statement, pier safety and

sub-station details). Targeted re-consultation was again carried out with the relevant consultees and the period of consultation ended on 09 January 2025.

- 7.2 For clarity, summaries of the comments received in respect of these three consultation exercises are presented separately. Full comments are available to view via the hyperlink given at the beginning of this report.

First round of technical consultation

- 7.3 Environment Agency (EA): No objection, subject to a condition requiring the development be implemented and operated in line with the flood resilience measures specified in the submitted Flood Risk Assessment. Consideration of the sequential and exception tests for flooding are a matter for the Local Planning Authority.

- 7.4 Lead Local Flood Authority (LLFA):

-The site is in a very low risk banding for surface water (1 in 1000 year event).

-The applicant intends to discharge surface water to the public sewer. Yorkshire Water has asked why discharging to the sea is not viable as this would be preferable in line with the sustainable drainage hierarchy.

-We require an exceedance plan.

-Object until further information is supplied on the exceedance and public sewer issues.

- 7.5 Local Highway Authority:

-While the loss of 28 parking spaces was raised as a concern, there is adequate on and off parking provision in the vicinity to compensate.

-The safe pedestrian routes through the car park should be marked in a different contrasting coloured surface to that of the parking spaces.

-The running lane adjacent to buildings B2 and B3 may be better in one colour as not to resemble the parking bay striped appearance.

-An area of Highway Maintained at the Public Expense (HMPE) is included within the red line plan at the pier's junction with Foreshore Road and is to be included in the resurfacing scheme.

-Any highway works carried out on the adopted highway will need the approval of the LHA and requires a Section 278 agreement.

-Consequently, conditions are recommended requiring on-site and off-site highway works to be carried out to Highway Authority standards and construction management plan to manage the impact of the construction phase.

- 7.6 Yorkshire Water:

-A water supply can be provided.

-There is public sewerage infrastructure on/ near to the site and this should be protected.

Discharge of surface water to public sewer is proposed. Other options, including discharge to the sea, should be explored before discharge to the combined public sewer is considered.

## 7.7 Historic England:

-Does not object to the proposals

-Scarborough's West Pier is over 200 years old and is a very prominent historic - feature of Scarborough's South Bay. It is Grade II listed and is located in Scarborough Conservation Area. The most important historic building on the pier is the curtilage listed former Harbour Offices at the landward end which is an attractive Victorian red brick building.

-We are broadly supportive of the majority of the works proposed for the West Pier.

-The repairs to buildings 1 and 2 together with proposed hard landscaping works have the potential to have a very positive impact on the significance of the Listed pier and the Scarborough Conservation Area.

-We do however have concerns about the impact of the proposed front extension on the original Victorian Harbour Office (Building 1).

-The glazed extension on the front elevation of building 1 would cause less than substantial harm to the building.

-We also wish to highlight the importance of ensuring the use of the highest quality materials for the new hard landscaping within the Conservation Area. These issues are important in order to ensure that the proposal meets the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the government's objectives for the historic environment, as set out in Chapters 12 and 16 of the National Planning Policy Framework (NPPF).

## 7.8 NYC Conservation Officer:

-A level of harm (less than substantial) would result to Building 1 (Harbour Master's Office). This is by virtue of the proposed construction of a glazed flat roofed extension, the loss of external fabric (stone balcony, stone steps and cast-iron support) and the proposed alterations to the historic floor plan which remains, in part, on the upper floor.

The extension would harm the aesthetic value of the exterior. The internal alterations would connect the individual cell style compartmentalized rooms on the upper floor. This would harm the historic value of the floor plan.

-Any harm to the significance of a designated heritage asset/s requires clear and convincing justification (NPPF 200). The applications are supported by a Heritage Impact Assessment which sets out how other proposals were considered and discounted for this building. It concludes that the amount of additional floor space required, could only be delivered if the building was extended along the front elevation as it is proposed in these submissions.

-Amendments could reduce the level of harm identified but not remove it. Unless any wider public benefits (economic, social or environmental), are sufficient to outweigh the level of harm identified, in the overall planning balance, the proposal is contrary to the Policy DEC5 of the SLP and the NPPF.

Note: the Conservation Officer has submitted two sets of comments (the first on 14 June 2024 and the second on 14 September 2024). The second comment differs from the first only in respect to the NPPF paragraph numbers referenced.

7.9 County Archaeologist: Key buildings of historical interest to be retained and renovated. Defer to the opinion of the Conservation Officer as to whether any additional building recording would be beneficial.

7.10 County Ecologist:

-The site is likely to be unfavourable habitat for bats.

-Nonetheless, a method statement for bats should form part of the Construction Management Plan.

-There is the potential for nesting birds on the West Pier.

-Construction work should take place outside of the bird nesting season, but if this is not possible then an inspection for active bird nests must be undertaken prior to the commencement of work. If active nests are found, then work must stop until young birds have fledged.

-Ecological enhancements should be considered, including the provision of bat boxes and bird boxes.

-Consideration should be given to a sensitive lighting scheme and a Biodiversity Enhancement Management Plan for the whole site.

7.11 Natural England: Make no specific comment on this application.

7.12 NYC Engineers:

-It is not the case that the pier cannot withstand the development structurally. The project has been designed by suitably qualified and experienced structural engineers who have been provided with condition surveys of the pier, and the scheme is designed to take these into account.

-The pier does require ongoing repairs and these are either planned or in progress. However, none of these prevent the development taking place.

-The repairs project to the inner West Pier is in progress. The designs are currently at RIBA Stage 4 and pricing is commencing. We anticipate commencing works early in 2025. We are satisfied structurally that works in the regeneration project are not dependent upon the repairs to the inner West Pier, and that both schemes can be carried out concurrently if necessary.

-The current lack of dredging is not related to the condition of the sheet piling. The harbour has not been dredged recently because the dredging licence expired. A new dredging licence was received in December 2024 and dredging has commenced.

-The delivery of the proposed bait sheds is not dependent upon the condition of the southern section of the pier, and there is no intention not to deliver this element of the project. Notwithstanding this, the Council has commenced a project to replace the piles to the bullnose and this will be done using marine based plant after the construction of the new bait sheds, with no impact upon their use.

-General position statement: Scarborough Borough Council previously undertook a number of major capital refurbishment schemes in Scarborough Harbour, and also regular revenue maintenance works. Despite this investment, the harbour is under constant attack from accelerated low water corrosion and an aggressive wave climate. As such, the harbour will always require an ongoing investment in its infrastructure and North Yorkshire Council has adopted a Harbour Infrastructure Strategy that will address ongoing issues over a seven year period with an anticipated programme of investment of £13.5m.

7.13 NYC Harbour Master: Awaited.

7.14 NYC Environmental Health: No objections.

Second round of technical consultation

7.15 Lead Local Flood Authority (LLFA):

-The use of outfalls other than the public sewer for the discharge of surface water have been discounted for reasonable technical reasons - infiltration is not possible and drainage to the harbour is prohibited by difficulties associated with engineering an outfall.

-The surface water drainage scheme is considered to be reasonable.

-No objections, but conditions should be applied requiring the surface water drainage scheme to be implemented as proposed, with a maximum discharge rate (to the public sewer) no greater than 44.2 litres per second.

7.16 Yorkshire Water: No objections on drainage grounds and conditions should be applied requiring the development to be implemented in accordance with the submitted Flood Risk Assessment and measures to be put in place to protect public sewerage infrastructure.

### Third round of technical consultation

7.17 Environment Agency: No objection. Repeats the comments as summarised at paragraph 7.3.

7.18 Lead Local Flood Authority (LLFA):

-Repeats the comments as summarised at paragraph 7.15.

-The LPA should satisfy itself that the sequential and exception tests (both parts) for flood risk have been met.

7.19 Yorkshire Water: Repeats the requirements as summarised at paragraph 7.16.

7.20 NYC Environmental Health:

-The Health and Safety Executive is the relevant consultee for safety matters.

-Conditions should be applied to control noise, vibration, dust and light impacts during the construction and operational phases.

-Contamination risk from asbestos and other contaminants must be assessed.

7.21 Health and Safety Executive (HSE): This application does not fall within any HSE consultation zones. There is therefore no need to consult the HSE.

### Public consultation

There have been two rounds of consultation with the public in respect of this application:

- 1) The first round of consultation asked members of the public to consider the application as it was originally submitted and ended on 23 May 2024;
- 2) The second round of consultation followed the submission of the revised sequential/exception test for flooding as well as the additional technical information (as set out a paragraph 3.3). The period of re-consultation ended on 09 January 2025.

For clarity, summaries of the comments received in respect of these two consultation exercises are presented separately.

### First round of public consultation

In the first round of consultation, public comments were received from 59 interested parties. Of these, 53 were in objection and 6 in support. Additionally, 'The Friends of Scarborough Harbour' group submitted a letter of objection to which there are 252 signatories. A summary of the comments made is provided below. However, comments can be viewed in full via the above weblink.

7.22 Support:

- Great way to modernise the pier. Provides open space while retaining the working element of the pier.
- Will bring tourism and interest to the area.
- This type of investment is desperately needed to aid the regeneration of the town.
- The pier already attracts a large number of tourists; however, it is currently in a dilapidated state that is also dangerous due to the heavy mix of cars and pedestrians.
- If the proposed plans are fully implemented the area will be much safer for pedestrians and HGV's, allowing the working pier to operate alongside tourists.

## 7.23 Objection:

### The significance of West Pier

- The harbour and piers are the most important, significant and sensitive Conservation Area in the district. Residents and visitors enjoy seeing the workings of the harbour, and this is a key attraction in Scarborough's South Bay.
- The proposed development would completely change the ambience of the area and would push the maritime industry to the end of the pier, out of public sight.
- The proposed development disregards conservation protocol and expropriates the pier towards total commercialisation.

### Design

- The proposed 3-storey building would not be in keeping with the other one and two-storey buildings.
- If Building 1 is to be used as a restaurant, provisions must be made for boat repairs and works upon the East Sandgate slipway, to ensure that complaints are not lodged against boat users.
- Building 1 would be better used as a maritime heritage centre/ museum/ the harbour office. The existing toilet block is of an ideal size/location and does not require change of use.
- The proposed toilet provision appears to be less than the existing and doesn't include any shower/ foot-washing facilities for beach users.
- The creation of the new plaza area will achieve very small returns for the short few times of year it is used.
- To allow flexibility for the movement of the prospective boat lift and placing of boats on the pier for inspection, service and repair, the proposed 'parking and public activity zone' should be provided in robust surface materials that can withstand commercial activity.

### Heritage

- The proposed glazed extension to the frontage of the Grade-II Listed Building 1 is out of character with the detailed characteristics of the principal elevation. It would dominate the façade and undermine the clear architectural rhythm provided by the existing balcony and gables. Additionally, the provision of seating on the roof of the extension would result in a cluttered appearance.
- The proposed alterations to Building 1 are a continuation of the destruction of the architectural merit and purpose of the Listed Building. The offices are in use and are of great value to the local creative industries, harbour, coastal businesses and



community. There is a clear demand for these unique spaces, and for the lower-level offices to be reinstated. The building should be restored back to its original architectural merit.

- Demolition of existing fish stalls is a poor decision; they are part of Scarborough's character.

#### Loss of parking

- Loss of 28 parking spaces is concerning. These spaces are essential to harbour users and Foreshore workers, as well as disabled tourists who have limited mobility.
- The loss of parking will have a knock-on effect as visitors will take trade elsewhere.
- Where will the potential new 130 employees created by the West Pier development park?

#### Structural stability of West Pier

- Proposals conflict with Local Plan Policy ENV3 due to the poor condition of West Pier.
- The pier requires extensive stabilisation work before any consideration of development can take place.
- The sheet piling has been subjected to 'accelerated corrosion'. The council identified £1.35 million of essential repairs in 2022, however, these works have yet to be implemented.
- Due to the poor condition of sheet piling the harbour has not been dredged for some time. Harbour dredging is a legal requirement and impacts access to the harbour.
- There is a risk that the poor structural condition of the southern section of the pier will delay the delivery of the proposed bait sheds, to the detriment of the fishing industry. The Local Planning Authority have a legal duty to further investigate structural stability of the pier. Should permission be granted, it should be secured by planning condition/ obligation that the new bait sheds be constructed prior to the occupation of the rest of the development to ensure that the fishing industry element is delivered.
- The harbour's piers are not properly maintained and are in very poor condition.

#### Investment in Scarborough Harbour's marine and fishing industry

- North Yorkshire Council do not own Scarborough Harbour. All revenue generated on harbour land should be used solely for harbour purposes.
- Investment in marine industry would pay long-term dividends rather than short-term seasonal rental profits for North Yorkshire Council.
- The application mentions a boat hoist as proposed by the fishermen, which would be a huge marine attraction for Scarborough. However, this is not shown on the submitted plans, nor has sufficient space been safeguarded for the installation of such a boat hoist in the future. The proposal should be deferred until the provision of a boat hoist, and/or the necessary space safeguarded.
- The current application should be amended to incorporate changes which would be required for proposed boat lift.
- The use of the planned boatlift should be accounted for, including the noise and contamination impacts associated with its use.

- The regeneration proposals should be firmly based on diversifying harbour operations to provide new income streams and employment and investment opportunities.
- Scarborough Harbour is well placed to support the burgeoning offshore wind farm industry operating from Dogger Bank.
- The proposed scheme restricts the harbour's ability to adapt to future maritime opportunities, which in turn would limit the diversification of its role, future income streams and new well-paid, skilled jobs.
- The shellfish industry has been impacted by mass die-off that has reduced stock. Therefore, a hatchery is needed to replenish stock, and additional space should be factored in for this facility and shellfish pot storage on West Pier.
- Notwithstanding the position of the Council, the harbour is not dredged properly and this limits its utility and growth potential for the wind sector and other industrial uses.

### Employment

- There are many restaurants in the area already, the provision of another is unnecessary and would have an impact upon local business.
- The scheme will result in the loss of business and industrial sites and will have a negative impact upon employment opportunities, conflicting with Local Plan policies EG1 and EG5.
- It is stated 130 jobs will be created, however, there is a critical shortage of retail and hospitality workers to fill these roles.
- The jobs being created will likely be unskilled, low-paid and seasonal.
- We should be encouraging skilled, all-year round employment that is not tourism - dependent. Our younger generation should be encouraged to pursue skills training and work in the marine and fishing industry.

### Viability and lawfulness of proposed uses

- The application proposals conflict with Local Plan Policy TOU1 as they will not diversify the tourism industry, but rather they will expand the existing offer in the area which will reduce the mixed-use nature of the town's seafront.
- The proposal states that the restaurant, shops and fish market would create the opportunity to sell Scarborough fish and shellfish locally. However, due to the lack of consultation with the fishing industry and the seasonal nature of tourism, it is unlikely that this would be financially viable.
- The proposal ignores the needs of working fisherman, who need space to store their pots and gear, and round the clock vehicular access that must not be subject to pedestrian zone restrictions. This would lead to reduced efficiency and productivity.
- The proposed retail and leisure uses are inherently incompatible with established harbours uses. The marine and fishing industry may result in noise disturbance, emissions and odours that are not compatible with the proposed leisure/ tourism use.
- The 'agent of change' principles in the NPPF state that the applicant must protect against the introduction of new sensitive uses which may be harmed by and thus undermine the long-term viability of the established uses.

-Additionally, for the reasons above, it is likely that the provision of leisure and tourism facilities would prejudice the future expansion of the marine and fishing industry.

-The Council is the Statutory Harbour Authority as defined by s.106 of the Scarborough Harbour Act 1843. The lawful use of West Pier under the Sea Fish Industry Act 1951 is for the 'sorting, handling and movement of fish' as a fisheries harbour. Significant elements of the scheme are for leisure and tourism uses rather than fishing, meaning the council as Statutory Harbour Authority lacks power to develop the mixed-use scheme. If the leisure and tourism elements cannot be lawfully delivered, then the claimed benefits of the scheme cannot be realised, which would in turn invalidate the argument to allow a development that fails the flood risk sequential test.

#### Health and safety

-Increasing the use of the pier for tourism and leisure purposes poses a significant safety risk as the general public will be in close proximity to the fishing industry operations and heavy goods vehicles.

-The provision of a balcony extension on building three would inhibit the safe passage of vehicles and would present a health and safety risk.

-The serving of alcohol on the pier is a significant public safety risk in terms of conflict with industrial uses and also the fall hazard from the pier structure.

-The presence of a substation in a flood zone presents a safety risk, and there is the potential for explosion.

#### Flood risk

-This is a high-risk area due to high tides. West Pier is subject to flooding that will only become more frequent. The planning statement acknowledges that the flood risk sequential test has failed and there is conflict with Local Plan Policy ENV3.

-The frequent overtopping and flash flooding events are likely to have a negative impact upon the operation of the proposed restaurant and café businesses, as well as reducing the ability of the businesses to secure insurance.

-The new electric car charging points would be damaged by seawater.

-West Pier is impacted by strong tides that result in overtopping around 30 times a year.

-The FRA identifies a very low risk from surface flooding and flooding from sewers. The pier could have been impacted by effluent in surface water from combined sewers on Eastborough due to flash flooding 7 times in the past 5 years. An emergency response plan is required and should be prepared as part of a resubmission of this application.

-The submitted FRA needs reviewing and further data sought from the Environment Agency. The revised FRA should be reconsulted on with the public and technical consultees.

-The FRA acknowledges that the appropriate finished floor levels to mitigate the risk of seawater flooding cannot be achieved.

-The 'flood warning evacuation plan' is not viable as West Pier is frequently overtopped when no EA alerts or warnings are in place. Therefore, this process cannot be relied upon and would put lives at risk.

- The proposed electricity substation, toilets and kiosks would be located in a position vulnerable to waves and would be located in close proximity to the RNLI's petroleum and diesel fuel bunker giving rise to a potential explosion risk.
- The electrical substation is at risk from sea level and wave action flood risks in particular concerns have been raised regarding the doors in the event of a powerful storm.
- If the electrical substation is out of action due to flooding that will likely put essential navigation and communications equipment out of action when it is most needed (in bad weather when the harbour may be needed as a refuge by vessels).

#### Use of 'Town Deal' funds

- The Town Deal fund should be used in the Town Centre, which is rapidly deteriorating.
- The 'Town Deal Board' is not representative of the town and do not understand the workings of the port.
- Alternative regeneration projects, such as the 'Sleeping Beauty' town square scheme at Westborough were widely supported and would be a more appropriate use for the 'Town Deal Fund'.
- To obtain Town Deal funding, it must be demonstrated that there is significant support from the local community. The Council have failed to fulfil their responsibility as there has not been sufficient consultation and engagement throughout the process and the local community, businesses and stakeholders do not support the scheme.
- The case is made that the restaurant will be a high-end seafood restaurant to showcase the catch landed on the pier, which would add significant value to the local economy. In reality the restaurant in building 1 is likely to be fast food restaurant.

#### Additional points

- The Council has not consulted technical bodies including the Marine Management Organisation, Northern Powergrid, The Health and Safety Executive, the RNLI, North Yorkshire Fire and Rescue. North Yorkshire Council Health and Safety and NEDL.
- The submitted bat survey work is out of date.
- The Transport Assessment fails to account for the likely use of the extended building 1 as a fast food restaurant rather than a high end seafood restaurant utilising catch from the pier.
- If the restaurant in building 1 is not linked to the pier (and is to be a fast food restaurant) then the sequential test for retail is failed.

#### Second round of public consultation

In the second round of consultation 2 public objections and an objection from the Friends of Scarborough Harbour group have been received. A summary of the comments made is provided below. However, comments can be viewed in full via the above link.

- The proposal conflicts with the Council's stated objective of providing a boat lift on the West Pier- the scheme as proposed would fetter the ability to provide the lift

owing to spatial conflict on the pier (i.e. there is proposed to be a building sited in the only practical place a boat lift could be positioned).

- Revisions to the proposals should be made to allow for the provision of a boat lift, which will benefit growing industrial sectors including offshore wind.
- The proposal results in the loss of industrial/ employment floorspace, contrary to policy EG5 of the Local Plan.
- Use of the pier as proposed fetters the ability of Scarborough Harbour to capitalise on growing industrial sectors (including offshore wind) and will prevent the shell fishing industry from bouncing back from recent large scale 'die off' of stock in the North Sea.
- The West Pier is in poor condition and submitted information in this respect has not been made public.
- An up-to-date long-term strategy for the Scarborough Harbour needs to be developed before this application is considered.
- The heritage significance of building 1 could be better safeguarded by an alternative use, potentially office uses.
- The scheme proposed for building 1 would cause considerable harm to its significance.
- The planning decision should be taken by the local area Planning Committee and by local Councillors, and not by the Council's Strategic Planning Committee.
- By focussing on the wind energy sector for Scarborough Harbour, Scarborough could emulate Grimsby's success.
- There is the potential to use Scarborough Harbour as a service base for crew transfer vessels used in the offshore wind sector.
- Increasing the number of public events held on the West Pier would harm fishing and industrial users operating from the pier.
- The proposed development does little to reduce carbon emissions associated with the pier - a scheme based around wind energy would assist in a significant reduction in carbon emissions.
- Developing town centre uses on the West Pier (which is outside the designated Town Centre Area) will harm the economic vitality of Scarborough town centre itself.
- Funding should be moved to a more appropriate scheme.
- The business case made in favour of the (high end) restaurant use of building 1 is not realistic - such a use will not result in the number of permanent jobs stated.
- Restaurant use of building 1 will have significant traffic implications, especially if the number of covers suggested by the applicant's modelling is correct.
- It is highly unlikely a significant amount of local catch will be sold by the proposed restaurant in building 1 (significant amounts of white fish is not landed on the pier and the lobster catch is seasonal).
- The costs of developing the site as proposed are increasing.
- Sea level rise poses a risk to the development.
- It is irresponsible to develop in a flood prone area.
- Insurance companies are unlikely to offer insurance to businesses operating from the development.
- The scheme does not acknowledge Scarborough's climate pledges.
- There is no need for further food and drink outlets.
- The area is poorly served by public transport and the proposed uses will not be accessible to those reliant on public transport or with mobility difficulties.
- Alcohol-related risks: Alcohol consumption has been linked to a fatal accident, and the proposal could increase hazards.

- Inadequate record-keeping: The Council failed to report incidents and lacks historical risk assessments.
- Industrial safety risks: Public access and alcohol consumption could endanger industrial workers and operations, affecting business viability.
- Mixed-use issues: Leisure activities may conflict with industrial operations, creating safety concerns.
- Need for a comprehensive risk assessment: A formal risk assessment is requested, involving stakeholders and consultees.
- Conflicting uses and access: Increased public activity could hinder fisheries and offshore wind sector operations due to access and space issues.
- The Council's November 2024 consultation on offshore economic opportunities stresses the need for proper harbour investment.
- The current application should be paused until consultation results are available and debated by the Scarborough and Whitby Area Committee for informed decision-making.
- Scarborough lacks a Harbour Strategy (previous HS expired in 2022).
- Local councillors expressed frustration over the lack of urgency, particularly regarding offshore wind opportunities.
- Decisions on F&B (food and beverage) and leisure developments should be postponed until a comprehensive Harbour Strategy is developed which aligns with Local Plan policies.
- The West Pier project would be more beneficial if it focused on maritime training, renewable energy, and job creation, rather than leisure and tourism.
- Scarborough's West Pier project misses offshore wind sector opportunities and fails to support year-round, high-skilled jobs.
- Calls for infrastructure investment, like a boat lift, have been ignored, limiting the harbour's adaptability and future growth.
- The Neart na Gaoithe offshore windfarm created 50 high-quality jobs and training opportunities at Eyemouth Harbour.
- Scarborough can benefit similarly with offshore wind farms at Dogger Bank and Hornsea.
- The West Pier project reduces industrial capacity, preventing Scarborough from capitalising on offshore wind opportunities.
- The harbour lacks accommodation for increased demand, but the Business Park offers vacant capacity.
- The Council should adopt an approach similar to Eyemouth Harbour Trust (EHT), pursuing offshore wind diversification.
- The EHT emphasises the importance of community involvement and consultation.
- The proposal risks long-term economic growth by focusing on low-skill, seasonal jobs.
- Scarborough Harbour holds significant offshore wind sector opportunities that need better planning and updated Harbour Strategy.
- The F&B and leisure development conflicts with Local Plan policies and ignores the Harbour Users Group's call for infrastructure upgrades.
- A 1-meter rise in sea levels by 2100 could lead to frequent flooding, making the proposed development unsustainable.
- Public funds should be redirected to sustainable investments like offshore wind sector support.
- The FabLab project, which supports youth employment, is a better investment and could be reconsidered for town centre benefit.

- The Environment Agency predicts 8 million properties at risk of flooding, including West Pier.
- Rising sea levels require climate-resilient design. The West Pier application should be paused until updated flood risk data is available.
- The Scarborough and Whitby Area Committee's November 2024 report highlights projects to reduce carbon emissions and address climate impacts.
- The planning application should be paused until updated flood risk data is released.
- Friends of Scarborough Harbour and Harbour Users question the need for an event space at West Pier and suggest funding for a town centre event space.
- Focusing on regenerating the town centre by improving public spaces is a better approach to tackle economic challenges.
- Public funds should enhance urban spaces to encourage private investment and attract new businesses.
- The Scarborough Town Investment Plan (TIP) aims to address the town centre's decline through public improvements, skills development, and new businesses.
- The TIP's focus on creative industries and cultural regeneration could provide greater long-term benefits than the West Pier project.
- The Economic Framework focuses on transitioning to a carbon-negative region, creating high-skilled jobs in sectors like renewable energy.
- This shift will boost business growth and create new opportunities for workers in affected industries.
- The West Pier application has not been amended to accommodate the boat lift, a crucial element for Scarborough Harbour's regeneration.
- The boat lift received a £700,000 boost, but the current application fails to address its requirements.
- Clarification is needed on whether the boat lift and West Pier projects are interdependent, and amendments should be made to ensure space for the lift.
- Harbour safety incidents have returned to pre-pandemic levels, with concerns about dredging capabilities and licensing issues.

## 8.0 **Environmental Impact Assessment**

- 8.1 An Environmental Impact Assessment Screening Opinion has been issued confirming that an Environmental Statement is not required.

## 9.0 **Main Issues**

- 9.1 The main issues are:

- A) Principle of the development
- B) Design and impact on heritage assets
- C) Flood risk
- D) Highways and parking
- E) Amenity, use compatibility and agents of change
- F) Biodiversity net gain (BNG) and ecology

## 10.0 **Assessment**

## A) Principle of the development

- 10.2 In addition to being a physical element of Scarborough Harbour (a sea defence and wharfs), the West Pier essentially has 3 roles as:
- 1) A site for buildings and infrastructure used by the commercial fishing industry;
  - 2) A tourist attraction in and of its own right; and,
  - 3) A piece of infrastructure - a car park - which supports the broader south bay tourism offer.
- 10.3 As set out above, the proposal is for the development of all three of these elements. These are best considered in turn when considering whether or not the principle of the proposed development accords with the Local Plan.
- 1) Development of buildings and infrastructure used by the commercial fishing industry
- 10.4 Policy EG1 (Supporting Industry and Business) of the Local Plan offers policy support for the development of industry and business facilities. It specifically supports development which enhances '...the role of the harbours at Scarborough and Whitby'.
- 10.5 The position of the applicant is that the development outlined at section 5, in particular the re-development of buildings 2 and 3 and the construction of a replacement building 4, is necessary to align the fishing industry buildings on the West Pier with modern operating models. Broadly speaking, on top of the direct replacement of old facilities (such as the bait lofts and welfare amenities) with new modern units of the same type, the major change in the provision of buildings for the fishing industry would be a shift from larger open-plan buildings to smaller industrial units.
- 10.6 It has been put to Officers by the applicant that a greater number of smaller industrial units (in place of fewer larger units) in a range of sizes with a variety of access configurations are required to support a business model whereby shell fishermen sell direct to distributors as opposed to a model whereby white fish is landed, processed and then traded on the pier. In general terms, the latter now largely redundant model is what the pier's existing stock of aging fishing industry buildings is designed to cater for.
- 10.7 Accounting for the objections to the proposal, the views of many interested parties do not align with this broad strategy for the development of fishing industry buildings on the West Pier, but the applicant states that Scarborough is now the second largest shellfish port (by tonnage) in the UK, that this industry is worth at least £3.1 million to the local economy annually and modernisation together with improvements to the buildings which support this industry are required to safeguard approximately 200 local jobs, with the investment also projected to generate growth in the sector and local GDP. The suggestion is that failure to develop to meet the current needs of the most significant part of the fishing industry (shellfish) risks obsolescence and a missed opportunity for growth.



- 10.8 Coupled with new and altered buildings are proposals designed to improve the physical segregation between the more intense fishing industry operations at the southern end of the pier with tourism uses, improved HGV access and turning arrangements and new modern welfare facilities. These too are intended to bolster the offer to the fishing industry on the West Pier and encourage growth in the sector.
- 10.9 Policy EG5 of the Local Plan (Safeguarding Employment Sites and Premises) seeks to protect existing 'B use' premises (i.e. buildings with an industrial use), requiring that they be retained unless it is clearly demonstrated that there is no reasonable prospect of the site being retained in an employment use, and the new use '...is compatible with the nature of surrounding uses, including both existing and planned uses'.
- 10.10 As set out in the sub-text to the Local Plan policy at paragraphs 7.30 to 7.35, the intent of the policy is to protect against the loss of industrial land and protect jobs in industrial sectors.
- 10.11 Although the proposal involves the notional loss of floor space on the West Pier for the fishing industry, when vacancy, underuse and redundancy of some of the existing stock is accounted for there would be no net loss of space, and in any case the scheme is designed to significantly enhance the facilities available to the fishing industry with the aim of growing the sector and job opportunities within it. When considering this point it is important to hold in mind that:
- Approximately 1800 square metres of floor space is currently set over to the fishing industry on the West Pier;
  - Of this, over 1000 square metres is currently vacant; and,
  - 1200 square metres of modern, fit-for-purpose floor space is proposed to be set over to the fishing industry in the new development.
- 10.12 Therefore, it is the view of Officers that the proposal goes with the grain of policy EG5 and fundamentally does not conflict with it.
- 10.13 In any event, even if there was a degree of conflict with policy EG5 in Officer's view only very limited weight should be afforded to it given that the scheme is designed to significantly enhance the facilities available to the fishing industry with the aim of growing the sector and job opportunities within it.
- 10.14 In summary on the point of the principle of developing the fishing industry buildings and access arrangements on the pier, Officers suggest that these aspects of the proposal are supported by policy EG1 of the Local Plan and do not conflict with the objectives of policy EG5. In the opinion of Officers, any notional conflict with policy EG5 would be outweighed by the support afforded to the scheme by policy EG1 of the Local Plan.
- 2) & 3) Development of the pier as a tourist attraction in its own right and developing its supporting role to the wider South Bay tourism offer
- 10.15 Tourism is the largest contributor to the North Yorkshire coastal area's GDP, with approximately 7 million visitors per year.

10.16 Of the application's various aspects described in section 5, Officers consider the main elements of the scheme intended to improve the West Pier's tourism offer are:

- The 'soft segregation' of the car parks and main tourist areas of the harbour (the northern end) from the highest intensity fishing industry uses (the southern end) using bollards and visual markers including varying surface treatments to help marshal pedestrian traffic to the safest areas of the pier;
- The change of use and extension of building 1 to form a restaurant;
- The erection of new building 7, with new public toilets and retail facilities;
- The expansion of the established café use and its consolidation into building 3;
- Limited additional ground floor retail space and a first floor gallery within building 2.

10.17 Policy TOU1 (New Tourism Facilities) of the Local Plan states:

The diversification of the tourism industry throughout the plan area will be supported and encouraged. Proposals for the development of new or the enhancement or expansion of existing tourism facilities will be permitted where they:

- a. respect the distinctive tourism character of the area in which the development is proposed, both in terms of the scale and nature of development; and
- b. wherever possible, help to reduce the seasonal nature of the tourism industry in the area.

10.18 Starting with the general principle of developing the tourism offer on the West Pier, it is recognised that many who have made representations in respect of the application would prefer to see full segregation of fishing and tourism uses, with the pier mainly set over to the fishing industry. However, it is important to hold in mind that the West Pier, the Scarborough Harbour as a whole and the fishing and other maritime industries it supports are important tourist attractions in and of their own right, and they make an important contribution to Scarborough's tourism offer.

10.19 Furthermore, there has been public access to the Scarborough Harbour's piers for many decades, with visitors being able to view harbour operations taking place. It is important to note that the level of public access is not extraordinary; the public have similar access to harbour related industry throughout the UK, including at the Whitby Harbour to the north and Bridlington harbour to the south.

10.20 With this in mind, Officers do not consider that the tourism and fishing uses on the harbours are inherently incompatible and it is the view of Officers that the principle of the development of the tourism offer on the site is supported by policy TOU1 of the Local Plan in principle.

10.21 Furthermore, your Officers consider that the development of the tourism offer on the West Pier, including the improvement of the car park's legibility and lifting of the area's visual quality, will increase the South Bay's attractiveness to tourists and likely grow the area's tourist economy. This is recognised in the applicant's submitted Economic and Social Benefits Assessment which estimates the scheme's combined benefits to be £11.68m gross value added to the local economy per year.

## Town Centre Uses on the pier

- 10.22 Policy TC2 (Development of Commercial Centres) seeks to focus 'main town centre uses' within Scarborough's Town Centre Area as defined on the Local Plan Policies Map. As set out in paragraph 4.22, the application site is outside of Scarborough's Primary Shopping Area and Town Centre Area as defined by the Local Plan Policies Map.
- 10.23 This policy aligns with paragraph 91 of the NPPF, which directs that the main town centre uses, which (in accordance with Annex 2 of the NPPF) include retail and leisure uses, should be located in town centres, then at the edge of centre locations. The NPPF goes on to state that out of centre sites should only be considered if no suitable town centre or edge of centre sites are available or are expected to become available in a reasonable period.
- 10.24 The applicant's submitted Planning Statement notes that the application proposes the following increases in 'main town centre uses' on the West Pier:
- The existing retail kiosk floorspace will increase by 55 sqm to provide 154 sqm in total.
  - The proposal will introduce new restaurant floorspace extending to 469 sqm across ground and first floors and a terrace in Building 1.
  - The existing café space will increase by 121 sqm. The café will be located on the first floor of Building 3.
  - Overall, leisure floorspace (café and restaurant use) will increase by 590 sqm to provide 701 sqm in total, noting that café use is an existing use at the pier.
  - The existing artist studio floorspace will increase by 81 sqm, to provide 130 sqm in total. The ancillary art gallery floorspace will increase by 5 sqm to 22 sqm. The artists' studio and gallery space will be provided on the first floor of Building 2.
  - Other retail floor space will increase by 46 sqm to 245 sqm. These retail uses will be provided on the ground floors of buildings 2 and 3.
  - Office floor space will decrease by 280 sqm.
- 10.25 In line with Local and national planning policy, the applicant has submitted a 'sequential test' which in general terms looks to establish, on the basis of existing available units, whether the proposed uses could be accommodated in the Scarborough Primary Shopping Area/ Town Centre Area, or on the edge of these central areas if there is no availability within the designated areas themselves.
- 10.26 The applicant concludes that the development needs to be assessed on an 'aggregated basis', looking at the proposal as a whole rather than as separate elements. Arguing for this approach, the applicant states that the scheme cannot realistically be disaggregated as the regeneration proposal is locationally specific to West Pier and, as such, would not serve this role and function in a town centre location (i.e. the West Pier can only be regenerated on the West Pier itself).
- 10.27 On this basis, the applicant's position is that there are no 'suitable, available or viable' sites in or on the edge of the town centre that could accommodate the mix of proposed 'main town centre uses' on an aggregated basis. As such, the applicant contends that the sequential test is passed. Further, the applicant points to the fact

that all of the Main Town Centre Uses, with the exception of the restaurant use, currently exist on the West Pier with only relatively modest increases proposed.

- 10.28 Officers agree with the findings of the sequential test. Therefore, it is the view of Officers that there is no conflict with policy TC2 of the Local Plan.
- 10.29 Even if Members were to find conflict with policy TC2 of the Local Plan (i.e. that the sequential test for retail is in fact failed - that the uses listed at paragraph 10.24 could be located in the Town Centre Area), Officers would suggest that this conflict would be outweighed by the economic and regenerative benefits of the uses set out at paragraph 10.24 being sited on the pier, as set out in the report.

#### Section summary

- 10.30 Policy EG1 (Supporting Industry and Business) of the Local Plan offers policy support for the development of industry and business facilities. It specifically supports development which enhances '...the role of the harbours at Scarborough and Whitby'. The proposal aims to develop the industrial buildings on the pier such that they align with the contemporary needs of industry, so in Officers view the proposal is supported by this policy in principle. This weighs in favour of the proposed development.
- 10.31 As set out in paragraphs 10.9 to 10.13, as a proposal to improve facilities for industrial uses on the West Pier with the aim of safeguarding and developing the fishing sector, Officers do not consider the proposal to go against the grain of policy EG5 (Safeguarding Employment Sites and Premises). Officers would advise this lack of conflict to be a consideration of neutral weight.
- 10.32 The proposal aims to develop the existing tourism offer on the West Pier and enhance the pier's role in supporting the tourism sector overall in Scarborough's South Bay. This objective aligns with policy TOU1 (New Tourism Facilities), which looks to 'support and encourage' development of the type. This too weighs in favour of the development.
- 10.33 The applicant's submitted Economic and Social Benefits Appraisal suggests the post-completion permanent economic benefits of the fishing industry (policy EG1) and tourism (policy TOU1) development would be:
- The safeguarding of up to 174 FTE Scarborough fishing industry jobs.
  - 82 FTE net additional jobs, delivering an additional £3.28 million gross value added (GVA) to the local economy each year.
  - £11.68 million GVA per annum to the Scarborough economy.
- 10.34 For the reasons set out at paragraphs 10.21 to 10.28, there is not considered to be conflict with policy TC2 of the Local Plan. This lack of conflict is also considered to have neutral weight in the balance.
- 10.35 Overall, accounting for the Local Plan policy support afforded to the scheme by policies EG1 and TOU1, Officers consider the scheme to be acceptable in principle

subject to the consideration of the other planning matters, which are discussed in the following sections.

## B) Design and impact on heritage assets

10.36 Described more fully in section 5, the proposals include: new hard landscaping on the West Pier's dry-side; the extension and external refurbishment of building 1; the external improvement and refurbishment of buildings 2 and 3; the replacement of the old kiosk building on the corner of Foreshore Road and West Pier with a new single storey building 7 (oriented parallel to building 1); the demolishing of building 5; and, the replacement of the existing building 4 with a new two-and-a-half storey building.

### Design

10.37 In general terms, policy DEC1 of the Local Plan requires that new development is of a high standard of design. At section 12 (achieving well-designed places), the NPPF makes it clear that 'the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve'

10.38 Starting with the designs of the new buildings, whilst the final choice of materials requires careful consideration, in particular the cladding to be used for the external walls of building 4, Officers consider the design of the new buildings (4 and 7) to be of interest. Their balanced form and massing result in buildings which would be well-proportioned, and their aesthetic qualities are reflective of their proposed uses; with its robust proportions and industrial features building 4 has a clear operational, maritime character and building 7 has a distinctive low-key functional character, much like the existing kiosks it replaces and other tourism related buildings in the area.

10.39 The impact of the development of building 1 (outlined at paragraph 5.2) from heritage and conservation perspectives is discussed in the below paragraphs, but from a general design point of view officers consider that the repairs and restoration of the building's fabric, including wholesale replacement of windows and doors, roof repairs and the repair and replacement of damaged masonry will result in an uplifting of the appearance of the building and its surroundings. It is considered that these design benefits offset the impact of the proposed modern glass frontage extension, which Officers consider to sit slightly awkwardly against the distinctive Victorian aesthetic of the host building.

10.40 Coupled with the general restoration of buildings 2 and 3 and the demolition of lower quality buildings 4 and 5, in Officers' view the introduction of a co-ordinated hard landscaping scheme to the pier's dry-side environment utilising high quality street furniture will lead to a significant 'uplifting' of the West Pier's visual amenity. The re-developed site would be a welcoming environment with a strong sense of place reflective of the area's established mixed use and longstanding fishing and maritime heritage.

10.41 Furthermore, the focussing of the tourism uses towards the landward end of the pier (near to the existing tourism offer on Foreshore Road and Sandside) in historic

buildings with a more elegant architecture together with the new low-key building 7, and the concentrating of fishing industry uses towards the seaward end of the pier in buildings with a more robust architecture, combined with a hard landscaping scheme designed to emphasise the transition between the different functional areas, will in Officers' view significantly improve the legibility of the pier.

#### Impact on the West Pier as a Listed Building

Legal and policy backdrop, consultee comments and harm arising

- 10.42 The West Pier as a whole is a Listed Building, itself part of a 'group Listing' comprising the Scarborough Harbour's main piers; the West Pier together with the buildings and structures on it benefit from Listed status.
- 10.43 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in deciding applications the local authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 10.44 Policy DEC5 of the Local Plan (The Historic and Built Environment) echoes the statutory requirements. Amongst other criteria, it goes on to state that:
- a. Proposals affecting a designated heritage asset (or an archaeological site of national importance) should conserve those elements which contribute to its significance. Harm to such elements will be permitted only where this is outweighed by the public benefits of the proposal. Substantial harm or total loss to the significance of a designated heritage asset (or an archaeological site of national importance) will be permitted only in exceptional circumstances;
  - e. Proposals which will help to secure a sustainable future for heritage assets, especially those identified as being at greatest risk of loss or decay, will be supported.
- 10.45 National planning policy defines a 'heritage asset' as 'a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest'.. 'Designated heritage assets' are formally recognised 'heritage assets', benefiting from legal protection. They include Listed Buildings, Conservation Areas and Scheduled Monuments.
- 10.46 Section 16 of the National Planning Policy Framework (NPPF) sets out the Government's national planning policies for dealing with applications which impact heritage assets. At paragraph 212 it states that great weight should be given to the conservation of 'designated heritage assets', irrespective of the level of potential 'harm to significance'. There is a general presumption that 'designated heritage assets' (including Listed Buildings) will be preserved.
- 10.47 Where proposals lead to 'harm to the significance' of a 'designated heritage asset' the NPPF sets out two approaches:
- 1) Where there would be 'substantial' harm to (or total loss of) significance permission should be refused (paragraph 214), unless it can be demonstrated that

the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of criteria (a) to (d) in paragraph 214 apply.

2) Where there would be 'less than substantial' harm to significance, paragraph 213 of the NPPF makes it clear that there should be 'clear and convincing justification' for this harm. It goes on to state (paragraph 215) that this harm should be weighed in the planning balance against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

10.48 In this case, Historic England is the statutory consultee in respect of the conservation of the historic built environment and Members are advised to give considerable weight to its comments. Whilst not a statutory consultee, the Council's Conservation Officer has submitted comments. These also carry considerable weight.

10.49 Offering broad support for the scheme, in its formal comment on the application Historic England states:

We broadly welcome this regeneration of the pier.... The scheme offers a great opportunity to repair and re-use the historic buildings on the pier...

10.50 However, Historic England does raise some concerns in respect of the proposals to building 1, and these concerns are broadly echoed by the Council's Conservation Officer.

10.51 With this in mind, it is first worth considering the impact of the proposal on building 1 in particular, before approaching the impact of the development on the West Pier as a whole (as a Listed Building).

Building 1 - significance and 'less than substantial' harm resulting from the proposal

10.52 It is reasonable to suggest that building 1 (described in section 4) is considered by both Historic England and the Council's Conservation Officer to be the most significant element of the West Pier as a Listed Building.

10.53 The Heritage Statement, which considers the significance of building 1, concludes that it is an important building within the complex forming West Pier and that it is a good example of a Harbour Master's Office, but that the building is in decline and that a financially viable use is needed to ensure the building continues as a feature of the pier.

10.54 In brief, it is the view of Historic England that the removal of the existing balcony and the adding of a flat-roofed glazed extension (with first floor balcony) to the front of this building will conceal features of interest on its attractive principal elevation. It is judged by Historic England that the development of building 1 as proposed will result in 'less than substantial harm' to it.

10.55 These views are broadly echoed by the Council's Conservation Officer, who (in simplified terms) considers that in practice the extension to building 1 will not be a visually light-weight transparent addition as the applicant contends. The Conservation Officer highlights that the extension would harm the aesthetic value of

the exterior, would result in the loss of external fabric and that the internal alterations would harm the historic value of the floor plan. Like Historic England, the Conservation Officer also considers the level of harm to be in the 'less than substantial' category.

- 10.56 Further, the Conservation Officer indicates that an alternative design would be less harmful so the identified 'less than substantial' harm is not justified.

Building 1 - justification for the identified 'less than substantial' harm - restoration of its historic fabric and securing of its long-term future

- 10.57 Starting with the justification for developing building 1, the Heritage Impact Justification Report sets out the reasons for the use of building 1 for tourism related activities rather than other buildings. The evidence provided (including details of market testing) indicates that a restaurant use would provide a sustainable use for the heritage asset to ensure its long-term viability.

- 10.58 Turning to the justification for the form of the development proposed, the applicant submits that an extension of the building is necessary to make a sustainable restaurant use viable. Highlighted within the Heritage Statement are the negative impacts of the proposal including: the removal of the existing balcony; loss of stairs to the side of the balcony; removal of the metal balcony railing; the first floor alterations; and, the new glass structure to the front elevation.

- 10.59 The Heritage Impact Justification Report considers whether an alternative design would be less harmful to the building's significance. It details the early concepts for the building and explains how these have developed with the input from heritage and conservation advice, submitting that a more sensitive approach to the extension and restoration has now been developed. Consideration is given to whether building 1 could be extended in a different way with an extension of the size necessary to secure a viable restaurant use of the building, and it highlights that it is common practice for a Listed Building to be extended at the back of the building away from the principal façade, however the constraints of the proximity of the rear of the building to the wharf-edge do not support this option. Further, it is concluded that there is no scope to extend over the adjacent slipway as it remains in active use, with 'air space' for boats coming in and out of the water required. Officers are advised that the wharf access to the south of the building is critical to harbour operations and cannot be compromised, which prevents significant development to that elevation.

- 10.60 Although both Historic England and the Conservation Officer have identified 'less than substantial' harm to the significance of building 1 it should also be noted that there are positive effects to the building from the proposals. These are detailed in the Heritage Impact Justification Report and Heritage Statement and include replacement of decayed and eroded stone dressings, re-pointing, replacement of badly eroded brick, replacing defective roof tiles, removing the modern single storey extension and repairing and restoring the front elevation.

- 10.61 To conclude on the issue of building 1, it is important to hold in mind that both statute and the national planning policy (NPPF) require considerable importance and great weight to be assigned to any harm to the significance of a Listed Building.



- 10.62 Officers agree with the assessment of both Historic England and the Conservation Officer in that 'less than substantial' harm to the significance of building 1 will result from the proposal. This is because of the removal of the original balcony, railings and stairs to the frontage, modification of the plan form and addition of a glass frontage extension.
- 10.63 At paragraph 213, the NPPF requires that any harm to a designated asset should require clear and convincing justification and Officers consider that this justification has been provided; the development would result in significant immediate restoration of historic fabric and would secure a long-term viable use consistent with the conservation of building 1. When considering the conservation benefits, it should also be held in mind that paragraph 212 of the NPPF instructs decision makers to apply great weight to the conservation of the building, i.e. Officers consider it would be appropriate for Members to assign great weight to the benefits to the significance of the building comprising the restoration of its historic fabric and the securing of its long-term future.

The West Pier as a whole Listed Building - overall benefits to its significance

- 10.64 Even if Members were not persuaded that the 'less than substantial' harm to building 1 would be fully justified by the immediate benefits to that building, Officers consider that the 'less than substantial' harm caused to building 1 (as an element of the Listed Building) would be fully justified and outweighed by the following benefits to the significance of the Listed pier as a whole resulting from the proposal:

- The general restoration and visual improvement of the fabric of building 2, including re-roofing (with existing tiles re-used where possible and like-for-like replacement of the central leaded section), the like-for-like replacement of rainwater goods, repairs and repointing of the chimneys and other external masonry, the like-for-like replacement of coping stones, the replacement of windows and doors with (principally) timber units and the replacement of the failing concrete balcony with a steel facsimile.
- The demolition of buildings 4 and 5, which in the view of Officers currently blot the appearance of the pier as a Listed Building for its users and in close, middle and long-range views from beyond the pier.
- The introduction of a co-ordinated hard landscaping scheme to the pier's dry-side environment utilising high quality street furniture will lead to a significant 'uplifting' of the West Pier's appearance for its users and from beyond the pier in short, middle and long-range views.
- The modernisation of fishing facilities allowing for the long-term continued operation of an industry on this site which is of local and national cultural significance.
- The improved 'soft segregation' of tourism and industrial uses will allow people to further engage with and enjoy the West Pier as a heritage asset and cultural resource.

- 10.65 Overall, noting Historic England's broad support for the scheme as a statutory consultee, and even when the 'less than substantial' harm to building 1 is factored-in, Officers consider that the proposal will enhance the significance of the pier as a whole as a Listed Building.

## Impact on the Conservation Area and settings of other Listed Buildings

- 10.66 As well as being within the Scarborough Conservation Area, the West Pier is within the settings of many Listed Buildings. Those in closest proximity to the application site include 9 Sandside, 11 & 12 Sandside, Newcastle Packet Inn, 15 Sandside, 22 Sandside, 21 & 23 Sandside, King Richard's House and 25 & 26 Sandside. The Police Telephone Box on Sandside is also listed Grade II. Additionally, the pier is within the setting of the Scarborough Castle, which is a Scheduled Monument.
- 10.67 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving Listed Buildings or their settings.
- 10.68 Local Plan policy DEC5 establishes these requirements in local planning policy, and in short it requires that new development conserves the elements that contribute to the significance of designated heritage assets, which can include the settings of Listed Buildings. It goes on to state that proposals affecting a Conservation Area should preserve or enhance its character or appearance. The Conservation Area and the Listed Buildings are also protected as designated heritage assets under the NPPF, together with their settings (in so far as those contribute to the significance of the assets).
- 10.69 Unlike Historic England, which appears to see the 'less than substantial harm' limited to building 1 itself, the Council's Conservation Officer considers the 'less than substantial harm' to extend to the broader Conservation Area and the settings of other Listed Buildings.
- 10.70 However, Officers take a different view. For the reasons set out in the preceding paragraphs, and chiefly due to the overall visual uplifting effect of the development as identified, it is the view of your Officers that overall the development will significantly enhance the character and significance of the Conservation Area; and (by enhancing the settings) will also enhance the significance of nearby Listed Buildings mentioned and of the Castle. In the view of Officers this position is more closely aligned to that of the Statutory Consultee (Historic England).

### Section summary - design and impact on heritage assets

- 10.71 Officers consider the proposed development to be of a high standard of design in line with the requirements of policy DEC1 of the Local Plan.
- 10.72 Localised 'less than substantial' harm to building 1 (which in line with paragraph 208 of the NPPF is assessed as being an important component of the Listed Building's significance as a whole) would result from the proposals, but in line with paragraphs 212 and 213 of the NPPF the view of the Case Officer this harm is justified. Identified benefits to the significance of the Listed Building outweigh the harm.

- 10.73 In any case, the opinion of the Case Officer is that the development will enhance the significance of the West Pier as a Listed Building as a whole, in accordance with policy DEC5 of the Local Plan and the overarching objectives of Section 16 of the NPPF.
- 10.74 Further, for the same reasons as outlined in this section, Officers consider that the development will enhance the character and appearance and significance of the Conservation Area and (by enhancing the settings) the significance of other Listed Buildings in accordance with policy DEC5 of the Local Plan.
- 10.75 Officers would advise that Members would be right to assign significant weight to these factors.

#### C) Flood risk

- 10.76 Together, local (policy ENV3 of the Local Plan - Environmental Risk) and national planning policy with respect to flood risk require that new development is not unacceptably exposed to risk from flooding, that development does not increase the risk of flooding elsewhere and that where there is to be a degree of flood risk the development is safe for its operational lifetime. Although it is not part of the Local Plan, national planning policy and guidance (in the form of the NPPF and NPPG) supports the consideration of policy ENV3 of the Local Plan.

Sea level and wave overtopping - site risks and classification, sequential & exception test

#### Site risks and classification

- 10.77 This site is at high risk of flooding, with risk comprising a mix of sea level and wave overtopping elements. The Environment Agency (EA) is the statutory consultee in the planning process for matters relating to these risks, and its expert advice carries significant weight given the complex risk factors.
- 10.78 For the purposes of assessing the Government's planning policy relating to flood risk it is necessary to set out the 'risk categories' of the site itself and the proposed uses of the new-build floor area.
- 10.79 On the point of the site's flood risk, it is the applicant's position that the flood risk for the site should be classified as being Flood Zone 3a, which is one of the categories of highest risk but is not functional floodplain (unlike Flood Zone 3b, which is how the Council's Strategic Flood Risk Assessment classifies most of the site). The Environment Agency as the statutory technical consultee does not dispute the applicant's position (that the site be classed as Flood Zone 3a) so in Officer's view this is a reasonable position.
- 10.80 With respect to the vulnerability classification of the proposed uses, the fishing related buildings/ uses are classed as being 'water compatible' by Annex 3 (flood risk vulnerability classification) of the NPPF, the electricity sub-station as 'essential infrastructure' and the tourism-based uses including the new restaurant are in the 'less vulnerable' classification.

## The sequential and exception tests - requirements

- 10.81 Government planning policy and guidance is clear in that only developments which are defined as 'less vulnerable' or 'water compatible' (as per Annex 3 of the NPPF along with Table 2, paragraph 079 of the NPPG) should generally be considered for approval in Flood Zone 3a. Even then, in line with paragraph 173 of the NPPF, a 'sequential test' for flooding should first be applied to determine whether there are other potential sites at a lower risk of flooding which could accommodate (new-build aspects of) the development.
- 10.82 For development which is classed as 'essential infrastructure' (such as the proposed electricity sub-station), if the sequential test is considered to be passed then paragraph 177 of the NPPF sets out that there is a second test known as the 'exception test' which must also be passed.
- 10.83 Paragraph 178 of the NPPF explains that in order for the exception test to have been passed it must be demonstrated that:
- a) The development would provide wider sustainability benefits to the community to outweigh the flood risk; and
  - b) The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

## The sequential and exception tests - issues with initially submitted details

- 10.84 The flood risk sequential and exception tests are presented at Appendix K to the submitted Flood Risk Assessment.
- 10.85 As it was originally submitted, the application material showed that the sequential approach had been applied to the car park and the new floor space associated with those uses identified as 'less vulnerable' in Annex 3 of the NPPF, i.e. the extension to building 1 and new building 7.
- 10.86 Although the Environment Agency's standing advice (on the preparation of flood risk assessments) relating to the application of the sequential test indicates that changes of use should not be considered in the exercise, the Government's NPPG (paragraph 009, reference ID: 7-009-20220825) indicates that the test should be carried out in accordance with the Council's own Strategic Flood Risk Assessment (SFRA)
- 10.87 At paragraph 3.3.1, the Scarborough and Ryedale SFRA states that changes of use should in fact be considered as part of the sequential test exercise where the change would involve a 'move up' the flood risk vulnerability hierarchy. Notably, the floor space within building 3 (as set out at section 5) would move from being approximately 3/4 'water compatible' and 1/4 'less vulnerable' uses to 1/3 'water compatible' and 2/3 'less vulnerable' uses. This 'increase in vulnerability' thus gives rise to a need to include the changes of use within building 3 in the sequential test exercise.

- 10.89 As set out, the exception test also needs to be completed for the 'essential infrastructure' (sub-station) element, and this was absent from the application as it was initially submitted.
- 10.90 With this in mind, accounting for the changes of use within building 3 which involve a 'move up' the flood risk vulnerability hierarchy (as per Annex 3 of the NPPF), the omission of the sub-station from the testing exercise and the limited scope of analysis for the results, Officers asked the applicants to look again at the sequential test exercise for flooding.

The sequential and exception tests - results

- 10.91 The results of the sequential and exception testing exercise are available to view via public access (as noted at paragraph 3.3).
- 10.92 In brief, the applicant contends that if the sequential test is approached as an exercise whereby the elements of the scheme are considered as discrete entities rather than intrinsic components of a site-wide scheme, then it is failed.
- 10.93 However, the applicant goes on to conclude that the economic and social benefits of the scheme could not be realised if it was to be broken down into its individual components and pepper-potted across the town; the applicant concludes that the development needs to be assessed on an 'aggregated basis', looking at the proposal as a whole rather than as separate elements. Arguing for this approach, the applicant states that the scheme cannot realistically be disaggregated as the regeneration proposal is a comprehensive site-wide scheme locationally specific to West Pier and, as such, would not serve this role and function in a town centre location (i.e. the West Pier can only be regenerated on the West Pier itself). Therefore, the applicant suggests that the sequential test is passed. Officers would suggest that this is a reasonable position.
- 10.94 In line with the requirements of paragraph 178 of the NPPF, the applicant goes on to consider the exception test for the sub-station (which is classed as 'essential infrastructure').
- 10.95 In line with paragraph 178 of the NPPF the first consideration in the exception test is whether 'the development would provide wider sustainability benefits to the community to outweigh the flood risk'.
- 10.96 The applicant explains that there is already a sub-station on the pier providing a power supply for its users and that this apparatus is essential (accounting for existing and proposed high-demand industrial users). However, it is said that the existing equipment is at the end of its operational life and does not provide a reliable supply.
- 10.97 It is said that the wider sustainability benefits of the scheme are contingent on there being a reliable electrical supply, and in the view of Officers this is a reasonable proposition.

- 10.98 The second consideration in the exception test is whether 'the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.
- 10.99 Consideration of the flood related safety of the development as a whole (as required by paragraph 181 of the NPPF) is considered in the following section, but in terms of the sub-station itself the applicant contends that it will be safe for its lifetime.
- 10.100 Public comments suggest that the new sub-station would introduce public safety risks, including from potential electrical fires/ blasts from the proposed sub-station and from the failure of navigation and communication equipment in the case of flooding and failure of the proposed electrical plant.
- 10.101 The existing sub-station providing power to the pier (adjacent to building 2) is sited in an area of equal flood risk to the new substation proposed to be in building 7, so the risk to supply associated with replacement of the sub-station is unlikely to increase. In fact, owing to improved modern design, the aim of replacing the sub-station is to create a more stable and reliable electrical supply for the pier.
- 10.102 Indeed, the applicant has put it to Officers that a range of legislative requirements and standards govern the design and installation of electrical plant, and modern technical requirements and safeguards are such that even when inundated or damaged new plant would not pose an unacceptable risk to safety; explosions, damage to property and/ or the detonation of fuel stored nearby due to a flood event would be exceptionally unlikely.
- 10.103 Further, noting that the site is not functional floodplain, the presence of new built form to accommodate the electrical plant will not increase the risk of flooding elsewhere.
- 10.104 In summary, Officers consider that the sequential test for flooding is passed and that the two aspects of the exception test (applicable to the sub-station element) are satisfied.

#### Flood related development safety - sea level and wave overtopping

- 10.105 At paragraph 181, the NPPF states that:

Development should only be allowed in areas at risk of flooding where, in the light of (the site-specific flood-risk assessment and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) Within the site, the most vulnerable development is located in areas of lowest flood risk;
- b) The 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;
- c) It incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) Any residual risk can be safely managed; and,

e) Safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

- 10.106 To begin, it is important to hold in mind that the applicant has identified a design life for the development of 40 years, which is significantly below that (of circa 75 years) the NPPG suggests is likely to form a starting point for consideration of non-residential development. The applicant's rationale for this is that development in a marine setting has a significantly truncated lifespan owing to the attritional nature of the environment, which is a reasonable position in Officers' view.
- 10.107 Within the 40 year design life of the development, those aspects at greatest vulnerability from the identified risks of flooding (according to their classification in the NPPG) are sited in areas of the pier at lowest flood risk. As such, the requirement set out at point a) is met.
- 10.108 The submitted Flood Risk Assessment proposes a series of flood resistance and resilience measures that are designed to keep seawater out of the buildings on the pier (including flood barriers to seal ground floor apertures in accordance with an emergency plan), but to deal with cases where defences may be breached the pier's buildings are to be fitted out such that seawater ingress does minimal damage and speedy re-use can be achieved post flood event. Therefore, Officers consider point b) to be met.
- 10.109 Point c) is discussed in the below section (paragraphs 10.1112 - 10.116).
- 10.110 On points d) and e), the applicant has submitted an emergency plan for flood events which involves egress via the single route off the pier. Importantly, the Environment Agency as statutory consultee has not objected to the plan (and nor has it objected to any of the other measures discussed aimed at satisfying the requirements of paragraph 181 of the NPPF).
- 10.111 With these points in mind, in Officers' view the development will be safe for its intended lifespan.

#### Surface water drainage

- 10.112 When considering this point, it should be held in mind that the Lead Local Flood Authority (LLFA) - a statutory consultee - is responsible for matters associated with surface water drainage and related flood risk and Yorkshire Water - a non-statutory consultee but a 'statutory undertaker' - is responsible for matters associated with the drainage of foul and surface water via its public sewers.
- 10.113 Currently, surface water from the West Pier drains northwards via underground pipework to Yorkshire Water's mains sewer under Foreshore Road. The proposal is to continue this arrangement, albeit in modified form.
- 10.114 In their latterly submitted responses, which follow the submission of further details on the proposed surface water drainage scheme by the applicant, neither Yorkshire Water nor the LLFA object to the proposals subject to conditions requiring that the scheme be implemented as proposed.

- 10.115 Importantly, both the LLFA and Yorkshire Water are satisfied that sufficient evidence has been supplied to demonstrate that drainage of surface water directly to the sea (a more sustainable option in line with the sustainable drainage hierarchy) would not be possible (in line with point c) of paragraph 181 of the NPPF). In short, the applicant's position is that forming apertures in sheet piles and the pier's other structural retaining elements to form drainage ports and channels would undermine the structural integrity and reduce the lifespan of the pier itself.
- 10.116 As such, Officers consider the scheme to be acceptable from a surface water drainage perspective.

#### D) Highways and parking

- 10.117 Of the proposed changes to the West Pier, Officers consider those with the greatest impacts on access and parking include:
- The re-working of the car park, which includes a reduction in spaces from 109 to 81;
  - Re-surfacing and some re-profiling of the highway junction with Foreshore Road and Sandside;
  - Alterations to HGV turning on the pier, with a new turning facility at the southern end of the application site;
  - New HGV loading bays adjacent to new building 4; and
  - A widening of the access point to the wet-side of the pier adjacent to new building 4.
- 10.118 The Local Highway Authority (LHA) is the statutory consultee in the planning process with respect to highways issues and the Local Planning Authority is reliant on its expert advice in this respect.
- 10.119 Fundamentally, subject to conditions requiring work to the Highway to be completed to LHA specifications and a Construction Management Plan to manage construction related activities in the interests of highway safety, the LHA has not objected to the proposals and has not identified the scheme as a risk to highway safety.
- 10.120 Importantly, in its response the LHA acknowledges the reduction in car parking levels on the West Pier but confirms that '....there is adequate on and off street parking provision in the vicinity to take any additional parking if necessary'.
- 10.121 Officers note the concerns of objectors in terms of the possible variation in highways related impacts resulting from potentially different operators of the proposed restaurant use within building 1 (i.e. a fast food type offering as opposed to a high-end sea food restaurant). All restaurant uses fall within the same use class (E(b)), and the Highway Authority has assessed the application on this basis. As set out, no objections have been raised.
- 10.122 Officers note the requirement of the Highway Authority that hard surfacing of the principally pedestrian areas of the pier be visually distinct from the car park and



main vehicular thoroughfare. The proposed hard landscape plans already provide for this.

#### E) Amenity, use compatibility and agents of change

- 10.123 Policy DEC4 of the Local Plan requires that new development affords a good level of amenity to existing and future occupiers of land, and it precludes development that would harm the amenity of neighbouring property.
- 10.124 In this regard, Officers consider the proposed development (both operational development and use of buildings) to be consistent with the established use of the West Pier. Officers do not consider that the amenity of pier users themselves or users of buildings and land beyond the pier, including those of businesses, industrial premises or residences, will be of a poor standard as a result of the development; a standard of amenity will remain for existing users and will be created for new users which is consistent with what can reasonably be expected on or close to a pier used for class E, car parking and fishing industry uses, amongst other uses.
- 10.125 Officers note the reference made by objectors to the 'agent of change' principles as set out in the NPPF (paragraph 200). In essence, these principles seek to protect established uses from potentially sensitive new uses, whereby if introduced the new use could lead to the eventual fettering of the existing use owing to its sensitivity. An example might be flats above a night club; complaints from new residents could eventually fetter use of the night club.
- 10.126 It is noted that the tourism type uses (including the car parking, retail, restaurant and café uses) have existed in close juxtaposition to industrial fishing uses on Scarborough Harbour for many years, and in that respect nothing unusual or extraordinary is being proposed. Over time, the types of uses proposed have been shown to be generally compatible from amenity and environmental perspectives. Whilst concerns have been set out by some third parties objecting to the scheme on the basis of the 'agent of change principles', no evidence has been supplied which demonstrates that the uses proposed are fundamentally incompatible.
- 10.127 One repeated suggestion in the representations is that the mix of tourism and industrial uses proposed is unsafe. Importantly, tourism and industrial uses already co-exist on the pier and on the Scarborough Harbour as a whole. Officers have reviewed the harbour safety records for the last 10 years and no trend exists which would demonstrate the mixing of tourism and fishing industry uses is generally unsafe.

#### F) Biodiversity net gain (BNG) and ecology

- 10.128 Biodiversity Net Gain (BNG) requirements came into force for major planning applications submitted after January 2024. Developers must deliver a BNG of at least 10% based on a pre-development assessment of the site's biodiversity value carried out in accordance with a standard methodology (the Statutory Metric).

- 10.129 In this case, the site comprises developed land and sealed surfaces which are assigned a zero score in the Statutory Metric. Consequently, there is no requirement for a net gain.
- 10.130 Additionally, the applicant's submitted Ecological Appraisal (updated by further bat survey work, October 2024) confirms that the development could be implemented without harm to Protected Species or their habitat. Nevertheless, in line with the recommendation of the Council's Ecologist, conditions have been applied requiring strategies to be put in place for the management of bat roosts and bird nests should they be encountered during construction. Further, a condition requiring the provision of sparrow and bat boxes is recommended in line with the Ecologist's advice.
- 10.131 Members will note that the Ecologist has requested that a condition be imposed for a lighting scheme that limits the potential for negative impacts on bats. Importantly, the applicant has already submitted a detailed lighting scheme. As set out, evidence has been supplied to demonstrate that the site is not currently habitat for bats, so the proposal is very unlikely to have a negative impact in this respect. It is important to note that the West Pier is part of an operational harbour used twenty-four hours per day year-round, so external lighting is necessary, particularly harbour side. In Officers' opinion restrictions on the proposed lighting scheme, which is designed with operational requirements in mind, would not be reasonable.

#### G) Additional considerations

- 10.132 Third party comments reference a lack of proposed electric vehicle charging points in the re-ordered public car park. In fact, 10 electric vehicle charging points are proposed.
- 10.133 Public comments question the right of the applicant (the Council) to develop the scheme given its obligations as Port Authority. The Council as applicant has sought legal assurance regarding its ability to deliver the full mixed use scheme and understands that there is no legal impediment to it doing so.
- 10.134 Objections question whether the West Pier structure can structurally sustain development of the type proposed. The applicant has supplied a suite of information pertaining to the pier's structure in their submission and the Council's Engineers have responded to the consultation exercise (independent of the Council's role as applicant). It is their position that the pier it can structurally sustain the development. No compelling evidence has been supplied to the contrary. Officers are not therefore persuaded that the development of the pier carries with it unacceptable environmental risk in this respect (policy ENV3 of the Local Plan).
- 10.135 Public comments suggest that the sale of alcohol on the pier would introduce a safety risk. Alcohol is already sold on the pier and (as set out in this report) evidence suggests such arrangements do not present undue risk. However, licences for the sale of alcohol are regulated via an alternative regime (outside of the remit of planning) and if issues arose such licences could be revoked.

Government guidance is clear in that planning should not seek to duplicate other legislation.

- 10.136 It is suggested in the representations that the Local Planning Authority ought to have consulted a range of additional technical bodies. Importantly, none of those on the list of suggested consultees are 'statutory consultees' (i.e. the Local Planning Authority is not obliged to consult or notify them of the application). In any case, the application has been advertised in accordance with the law and those who felt they have an interest in what is proposed were free to make representation; the application has been advertised by way of site notices erected on and close to the application site as well as press notices on two separate occasions, and technical consultees have been directly consulted as required on three occasions.
- 10.137 Public representations refer to the potential for a boat lift to be added to the West Pier and suggest that the scheme in hand ought to be modified to make provision for it. The applicant advises that whilst the provision of a boat lift on the North Yorkshire Coast is an ambition for the Council, there are no firm plans in place for its provision at this time and it wishes to proceed with the application for the West Pier as it stands.
- 10.138 Some objectors to the proposal suggest the scheme would not be a good use of Town Deal funds for Scarborough. Officers would advise that such decisions are out with the scope of the consideration of this planning application and no weight should be applied to the issue one way or the other.
- 10.139 Objectors also state that some of the proposed development, most notably retail and café/ restaurant uses, would be uninsurable due to the site's high flood risk, that this means that they could not come forward and that this in turn would prevent the stated benefits of the proposal from being realised. The applicant owns other property at risk of flooding and states that it is possible to acquire legally mandated insurances. This position has been corroborated by potential tenants of the development during informal discussions with Officers. One interested party (who has leisure operations in areas of flood risk in the Lake District) has stated that insurance products are available to provide the necessary cover for vulnerable uses in flood risk areas, and they also stated that risk can be managed.
- 10.140 Public representations and consultee responses raise concerns about the mix of hard surfacing materials used. The stated preference of both the Conservation Officer and Historic England that tarmac surfaces and concrete sets are not used in prominent areas, and that York stone is used close to building 1, is noted. In this respect, York stone is proposed to be used in the immediate vicinity of the extended building 1. Tarmac is a suitably robust material for the areas in which its use is planned, notably the fishing industry HGV turning and loading area at the southern end of the pier and the car park - where coloured tarmac finishes are proposed. Further, decorative concrete sets with stone accents are appropriate for the main pedestrianised areas. In short, the proposed surfacing materials would represent a significant visual enhancement over the existing rough hotchpotch of surfacing materials.

- 10.141 Officers note the request of the Conservation Officer that the door proposed on the north side of building 1 in lieu of three existing windows be moved to the side of the building facing the wharf. Officers do not consider that the addition of these doors will harm the significance of the Listed Building, the character, appearance or significance of the Conservation Area or the settings (and as a result, significance) of other Listed Buildings, and consider that an active link between building 1 and Sandside will be a visual improvement which will enhance this prominent corner's sense of place (thereby enhancing the significance of the Listed Building). Further, adding a take-away door to the industrial wet-side of the pier would not be practical.
- 10.142 Comments submitted by the public suggest that the proposed restaurant in building 1 could be operated by the Wendy's fast-food chain. The applicant has stated to Officers that the restaurant will not be operated by the Wendy's chain.
- 10.143 Officers note the latterly submitted comments of the Council's Environmental Health Officer. Whilst the requested conditions have not been applied verbatim, the requirements of the Environmental Health Officer are captured by recommended conditions 7 (construction environmental management plan) and 12 (contamination).
- 10.144 Public representations suggest that information submitted by the applicant in respect of the structural condition of the West Pier is not available on the public website. The information is available to view, but up-to-date computer hardware is required to view the large files.
- 10.145 The North East Inshore and North East Offshore Marine Plan (the Marine Plan) is the Government's spatial plan for the North East marine environment. It holds similar status for the marine environment as the development plan (the Scarborough Borough Local Plan) does for the land environment and it is used in decision making, including for Marine Licensing applications. Its policies cover a broad range of subjects from aggregate extraction on the seabed, to the laying of communications cables to the allocation of areas for wind energy development.
- 10.146 Importantly, as a proposal which seeks to develop the West Pier's port offering (as discussed at section A)), Officers do not consider that the strategic objectives or policies of the Marine Plan are undermined.

## 11.0 **Planning Balance and Conclusion**

- 11.1 Planning permission is sought for the re-development of Scarborough Harbour's West Pier, including: the wholesale re-landscaping of the pier's dry-side; the demolition of existing retail building 7 and fishing industry building 4; and, the provision of new fishing industry and tourism related buildings and facilities.
- 11.2 There are six main material planning matters grounded in planning policy weighing in favour of the proposals. They are briefly summarised below:
- a) Policy EG1 (Supporting Industry and Business) of the Local Plan offers policy support for the development of industry and business facilities. It specifically supports development which enhances '...the role of the harbours at Scarborough

and Whitby'. The proposal aims to develop the industrial buildings on the West Pier such that they align with the contemporary needs of industry on the pier, so in your Officers view the proposal is supported by this policy in principle. This weighs significantly in favour of the proposed development.

b)The proposal aims to develop the existing tourism offer on the West Pier and enhance the pier's role in supporting the tourism sector overall in Scarborough's South Bay. This objective aligns with policy TOU1, which looks to 'support and encourage' development of the type. This weighs significantly in favour of the proposed development.

c) In line with the objectives of policies EG1 and TOU1, the applicant suggests the scheme as a whole would deliver the following economic benefits:

- a.The safeguarding of up to 174 FTE Scarborough fishing industry jobs.
- b.82 FTE net additional jobs, delivering an additional £3.28 million gross value added (GVA) to the local economy each year.
- c.£11.68 million GVA per annum to the Scarborough economy.

These figures illustrate the potential magnitude of the benefits to be realised from the development of the West Pier's industrial use (EG1) and tourism offer (TOU1) and weigh in favour of the proposals, underscoring and amplifying a) and b) to some extent. Given the estimated nature of the figures your Officers would advise that moderate weight is assigned to them.

- d) Officers consider the proposed development to be of a high standard of design in line with the requirements of policy DEC1 of the Local Plan. This weighs significantly in favour of the proposals.
- e) For the reasons outlined in this report, in the opinion of Officers the development will enhance the significance of the West Pier as a Listed Building as a whole, in accordance with policy DEC5 of the Local Plan. This weighs significantly in favour of the proposals.
- f) For the reasons outlined in this report, Officers consider that the development will enhance the character and appearance and significance of the Conservation Area and (by enhancing their settings) the significance of other Listed Buildings in accordance with policy DEC5 of the Local Plan. This weights significantly in favour of the proposals.

#### The Balance

11.3 Accounting for the above, Officers consider that the proposal accords with the development plan and that the planning balance weighs heavily in favour of the proposals.

11.4 Officers do not consider that there are substantive material planning considerations weighing against the proposal or that there are material considerations that indicate that the proposal should be decided otherwise than in accordance with the Development Plan.

11.5 Importantly, paragraph 11 of NPPF states that '...decisions should apply a presumption in favour of sustainable development'. In point c) of paragraph 11, it goes on to state that for decision-taking this means 'approving development proposals that accord with an up-to-date development plan without delay'.

## 12.0 RECOMMENDATION

12.1 That Permission be granted subject to conditions

1 Except where may be modified by the conditions of this consent, the development shall be implemented in accordance with the following plans and details:

2135-JSA-ZZ-XX-DR-A-90002 Existing Site Plan P2  
2135-JSA-ZZ-XX-DR-A-90003 Proposed Site Plan P6  
2135-JSA-ZZ-XX-DR-A-90010 Demolition Site Plan P3  
2135-JSA-ZZ-XX-DR-A-99020 Existing Building Uses P1  
2135-JSA-ZZ-XX-DR-A-99021 Proposed Building Uses P1

2135-JSA-01-ZZ-DR-A-02210 Building 1 Proposed GA Plans P7  
2135-JSA-01-ZZ-DR-A-02215 Building 1 Proposed GA Elevations P6  
2135-JSA-01-ZZ-DR-A-20300 Building 1 Proposed Detailed Arrangement - Section A-A P1  
2135-JSA-01-ZZ-DR-A-20301 Building 1 Proposed Detailed Arrangement - Section B-B & C-C P1  
2135-JSA-01-ZZ-DR-A-02212 Building 1 Proposed Detailed Arrangement - Section B-B P1  
2135-JSA-01-00-DR-A-03010 Building 1 Demolitions Ground Floor Plan P5  
2135-JSA-01-01-DR-A-03011 Building 1 Demolitions First Floor Plan P5  
2135-JSA-01-02-DR-A-03012 Building 1 Interventions Roof Plan P3  
2135-JSA-01-ZZ-DR-A-03015 Building 1 Interventions Front Elevation P5  
2135-JSA-01-ZZ-DR-A-03016 Building 1 Interventions Rear Elevation P5  
2135-JSA-01-ZZ-DR-A-03017 Building 1 Interventions Gable Elevation P5

2135-JSA-21-XX-DR-A-21907 Building 1 Detail 7 Existing Building to New Balcony P1  
2135-JSA-21-XX-DR-A-21908 Building 1 Detail 8 Edge of New Balcony P1  
2135-JSA-21-XX-DR-A-21911 Building 1 Detail 11 Existing to Conservatory Connection East P1  
2135-JSA-02-ZZ-DR-A-02220 Building 2 Proposed GA Plans P4  
2135-JSA-02-ZZ-DR-A-02225 Building 2 Proposed GA Elevations P6  
2135-JSA-02-00-DR-A-03020 Building 2 Demolitions Ground Floor Plan P2  
2135-JSA-02-01-DR-A-03021 Building 2 Demolitions First Floor Plan P3  
2135-JSA-02-02-DR-A-03022 Building 2 Interventions Roof Plan P1  
2135-JSA-02-ZZ-DR-A-03025 Building 2 Interventions Front Elevation P1  
2135-JSA-02-ZZ-DR-A-03026 Building 2 Interventions Rear Elevation P1  
2135-JSA-02-ZZ-DR-A-03027 Building 2 Interventions Gable Elevations P1  
2135-JSA-03-ZZ-DR-A-02230 Building 3 Proposed GA Plans P6  
2135-JSA-03-ZZ-DR-A-02235 Building 3 Proposed GA Elevations P5  
2135-JSA-03-00-DR-A-03030 Building 3 Demolitions Ground Floor Plan P3  
2135-JSA-03-01-DR-A-03031 Building 3 Demolitions First Floor Plan P3

2135-JSA-03-02-DR-A-03032 Building 3 Interventions Roof Plan P3  
2135-JSA-03-ZZ-DR-A-03035 Building 3 Interventions Front Elevation P1  
2135-JSA-03-ZZ-DR-A-03036 Building 3 Interventions Rear Elevation P1  
2135-JSA-03-ZZ-DR-A-03037 Building 3 Interventions Gable Elevations P1  
2135-JSA-23-00-DR-A-03200 Main Works Building 3 Proposed Demolitions Ground Floor Plan P2  
2135-JSA-23-01-DR-A-03201 Main Works Building 3 Proposed Demolitions First Floor Plan P2  
2135-JSA-23-02-DR-A-03202 Main Works Building 3 Demolitions Roof Plan P2  
2135-JSA-04-ZZ-DR-A-02240 Building 4 Proposed GA Plans 1of2 P5  
2135-JSA-04-ZZ-DR-A-02241 Building 4 Proposed GA Plans 2of2 P5  
2135-JSA-04-ZZ-DR-A-02245 Building 4 Proposed GA Elevations P5  
2135-JSA-07-ZZ-DR-A-02270 Building 7 - Proposed GA Plans P5  
2135-JSA-07-ZZ-DR-A-02275 Building 7 - Proposed GA Elevations P5

SHF.718.002.ENZ.XX.00.DR.L.30.001 PL06 Hard landscape plan sheet 1 OF 2  
SHF.718.002.ENZ.XX.00.DR.L.30.002 PL06 Hard landscape plan sheet 2 OF 2

22113-RCE-LTG-XX-DR-E-B1-01 - P04 - B1 - Lighting & Emergency Lighting  
22113-RCE-LTG-XX-DR-E-B2-01 - P04 - B2 - Lighting & Emergency Lighting  
22113-RCE-LTG-XX-DR-E-B3-01 - P04 - B3 - Lighting & Emergency Lighting  
22113-RCE-LTG-XX-DR-E-XX-01 - P02 - External Lighting

Reason: To avoid doubt

- 2 The development shall be implemented accordance with the submitted Flood Risk Assessment 21037-H-RP-001-R9 and the flood residence and resistance measures identified in Appendix G of that report (as detailed drawing reference 21037-H-DR-102 Rev T2) shall be implemented prior to the first use of the part of the pier to which they relate and shall remain in perpetuity.

Reason: To ensure the development and its users are appropriately protected from flood risk from sea level and wave action in accordance with policy ENV3 of the Local Plan.

- 3 Prior to the continuing of the development beyond foundation level, the applicant shall submit a scheme for the gull proofing of the new development designed to prevent seagulls from roosting/nesting and harbouring on all new external features which could support the roosting/nesting and harbouring of seagulls. The scheme shall include a maintenance and management plan for the gull proofing. The development shall be implemented in accordance with the approved scheme and the gull proofing measures shall be thereafter permanently retained and maintained in accordance with the approved maintenance and management plan.

Reason: To ensure gull proofing measures are properly considered and designed for at the outset to ensure good design and the preservation of the character of the Conservation Area in accordance with policies DEC1 and DEC5 of the Local Plan. To protect amenity in accordance with policy DEC4 of the Local Plan.

- 4 Prior to the continuing of the development beyond foundation until a schedule of all of the proposed new external materials of construction, including details of the

proposed hard surfacing materials, has been submitted to and approved in writing by the Local Planning Authority. The submitted schedule shall specify each material and its surface finish, including colour. The development shall be implemented in accordance with the approved schedule.

Reason: To ensure the development is a visually attractive place and to ensure the historic environment is preserved in accordance with policies DEC1 and DEC5 of the Local Plan.

- 5 Prior to their installation, typical details of the following items of street furniture to be incorporated into the design, including a material and colour specification and an assembly drawing at no less than 1:20 scale, shall be submitted to and approved in writing by the Local Planning Authority:

- a) Bollards to be used to exclude traffic from pedestrianised areas;
- b) Raised planting beds, with cross-section;
- c) All seating types;
- d) Lighting columns;
- e) Litter bins; and
- f) The electric vehicle charging bollards.

The above-mentioned street furniture shall be installed in accordance with the approved details.

Reason: As cumulatively these items will have a significant impact on the character of the area. To ensure the character of the Conservation Area is preserved in accordance with policy DEC5 of the Local Plan.

- 6 Prior to their installation, except where details are provided in the plans listed in condition 1, plans and details of the following items at not less than 1:20 scale, which shall specify materials, surface finishes and colours, shall be submitted to and approved in writing by the Local Planning Authority prior to their installation:

- All new windows and doors;
- All new rainwater goods; and
- All new external balconies.

The development shall be implemented in accordance with the approved details.

Reason: As cumulatively these items will have a significant impact on the character of the area. To ensure the character of the Conservation Area is preserved in accordance with policy DEC5 of the Local Plan.

- 7 Development shall not commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. Construction of the development must be undertaken in accordance with the approved CMP.

The Plan must include the provision of the following:



1. Details of any temporary construction access to the site including measures for removal following completion of construction works;
2. Wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
3. The parking of contractors' site operatives and visitor's vehicles;
4. Areas for storage of plant and materials used in constructing the development clear of the highway;
5. Measures to manage the delivery of and removal of materials and plant to and from the site, including timing of deliveries, the timing of removals and the timing and location of loading and unloading activities;
6. Details of the routes to be used by HGV construction traffic;
7. Protection of carriageway and footway users at all times during demolition and construction;
8. Details of site working hours;
9. The erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
10. Means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
11. Measures to control and monitor construction noise;
12. Details of external lighting equipment;
13. A detailed method statement and programme/ phasing plan for the implementation of all aspects of the development;
14. Contact details for the responsible person (site manager/office) who can be contacted by the Local Planning Authority on the matter of compliance with this CMP;
15. Measures which shall be put in place to prevent the displacement of construction debris and polluting discharges in the harbour and sea;
16. Measures which shall be put in place to protect the public sewerage infrastructure from damage during the construction phase.
17. A detailed method statement (compiled by a suitably qualified expert) for the protection of any roosting bats or nesting birds encountered in the fabric of any building or structure on the application site during implementation of the development.

Reason: The development site is at the heart of Scarborough's tourist offer, is set amongst established industrial uses, provides car parking for the sea front area and is close of residences. Without reasonable restriction and proper timing/ phasing of the development, there is the potential for construction activities to harm the town's tourism offer and to unduly harm amenity. To prevent the polluting of the harbour. Policies DEC1, DEC4 and ENV3 of the Scarborough Borough Local Plan.

- 8 Surface water shall be drained from the development to the public sewer at a rate of no greater than 44.2 litres per second via the surface drainage system specified by the following details:

-Flood Risk Assessment Scarborough West Pier - Mason Clark Associates, ref 21037-H-RP-001-R10

-Proposed Drainage Design, Mason Clark Associates, Ref 21037- H- DR- 215,

-Overland Flow Routing Plan, Mason Clark Associates, Ref 21037- H- DR- 103, Rev T1.

A phasing plan for the implementation of these details shall be submitted to and approved in writing by the Local Planning Authority prior to the development continuing beyond preliminary excavation. The surface water drainage scheme shall be implemented in accordance with the approved phasing plan

Reason: To ensure the site is sustainably drained of its surface water in accordance with policy ENV3 of the Local Plan.

- 9 A plan for the maintenance of the approved surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the development. The surface water drainage system shall be maintained in accordance with the approved plan in perpetuity.

Reason: To ensure the site is sustainably drained of its surface water in accordance with policy ENV3 of the Local Plan.

- 10 A plan for the provision of bat and sparrow boxes on the new development shall be submitted to and approved in writing before first occupation of any part of the new development. The development shall be implemented in accordance with the approved plan.

Reason: To enhance biodiversity of the site in accordance with policy ENV5 of the Local Plan.

- 11 Prior to the development continuing above preliminary groundworks (which means development beyond the digging of service and foundation trenches), a Phasing Plan for the delivery of the approved development associated with the refurbishment of buildings 1, 2 and 3, the re-configuration of the car park, the construction of replacement building 4 and the construction of new building 7 shall be submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall identify both the sequence of the physical development work and the sequence within which the development shall be made available for operational use. Specifically, the Phasing Plan shall:

-Identify the sequence with which each of the development aspects listed above shall be completed to the extent that they are capable of operational use for their intended purpose;

-Provide indicative dates when each of the development aspects listed above shall be completed to the extent that they are capable of operational use for their intended purpose;

-Not allow for > 50% of the floor space on the development identified on the approved plans as being in Use Class E (as identified in the Use Class Order 1987 (as amended)) to be made available for operational use until 50% of the floor space on the development identified on the approved plans as being for use by the fishing industry is made available for operational use, and vice versa.

The development shall be implemented and made available for operational use in accordance with the approved Phasing Plan.

Reason: The proposal has been advanced as a package for the sequential tests for flooding and retail and has been found to be acceptable on this basis. The acceptability of the proposal in principle is contingent on it coming forward as a package. Policies ENV3, EG1, EG5 and TOU1 of the Scarborough Borough Local Plan.

- 12 Notwithstanding the submitted information, a contamination survey compiled by a suitably qualified expert in respect of the following parts of the West Pier/ proposed development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the part of the development identified below:

- Those buildings to be demolished
- Where a change of use of a building from an industrial use to another use is proposed

The survey shall specify a scheme for the remediation of any contamination encountered. The scheme for the remediation of contamination shall be implemented prior to the first use of the respective part of the development.

Reason: To ensure that environmental risk is properly managed in accordance with policy ENV3 of the Local Plan.

Target Determination Date: 19 June 2024

Case Officer: Mr Daniel Metcalfe  
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