

**North Yorkshire Council**  
**Community Development Services**  
**Scarborough and Whitby Area Planning Committee**  
**13 NOVEMBER 2025**

**ZF24/01878/FLA - Variation of conditions 1 and 2 in relation to ZF24/00099/FLA,  
to allow removal of a tree and creation of parking area, at FORMER SITE OF 79  
CROSS LANE, NEWBY, SCARBOROUGH, NORTH YORKSHIRE, ON BEHALF  
OF MOHAMED GAAFAR**

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

**1.0 Purpose of the report**

- 1.1 To determine a planning application for the variation of conditions 1 and 2 in relation to ZF24/00099/FLA, to allow removal of a tree and creation of parking area.
- 1.2 The proposal is being considered by the Scarborough and Whitby Planning Committee following a request by an elected member of the Authority.

**2.0 EXECUTIVE SUMMARY**

**RECOMMENDATION:**

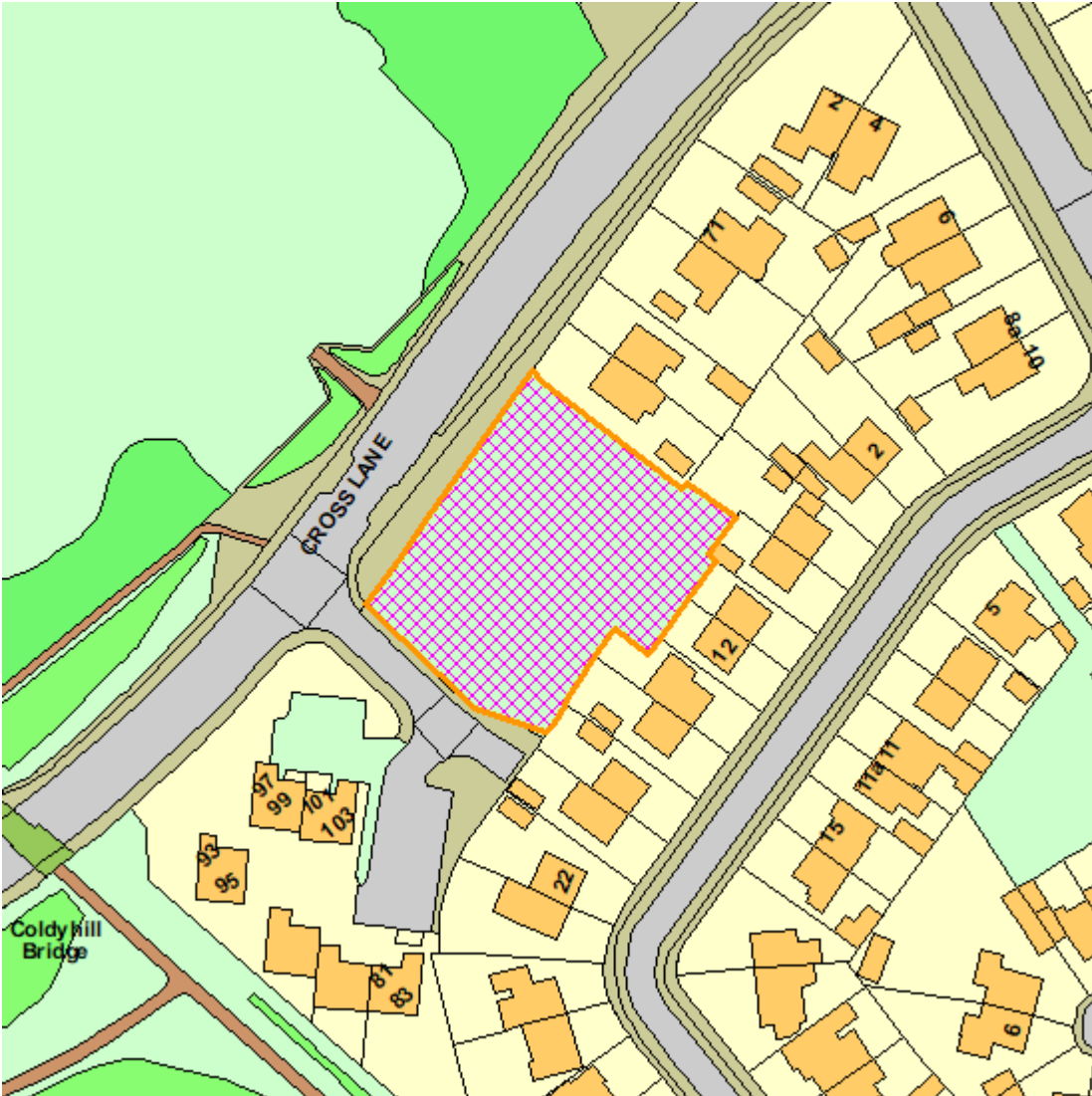
- 2.1 This application seeks full planning permission to vary conditions 1 and 2 or planning consent ref: ZF24/00099/FLA, to allow the removal of a tree and creation of a parking area within the site.
- 2.2 The application relates to the single plot within the new-build site located on the westernmost corner plot with Cross Lane. The application is part-retrospective given the tree subject to removal has already been removed from the site.
- 2.3 Condition 1 of the original consent (ref: ZF24/00099/FLA) set-out the plans within which the approved development was required to comply.
- 2.4 Condition 2 of the aforementioned consent set-out the conditions of the original approval for the site and the construction of the associated dwellings (ref: 21/01397/FL). These conditions included the requirement to retain, maintain and replace all trees for a period of 5 years.

- 2.5 The proposal seeks to vary this condition with an amended landscaping scheme which removes the Scott's Pine tree on the westernmost boundary.



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### **3.0 Preliminary Matters**

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

[ZF24/01878/FLA | Variation of conditions 1 and 2 in relation to ZF24/00099/FLA, to allow removal of a tree and creation of parking area | Former Site Of 79 Cross Lane Newby Scarborough North Yorkshire](#)

### **4.0 Site and Surroundings**

4.1 The site comprises a recently constructed development of 6no. semi-detached dwellinghouses which front on to Cross Lane, Newby.

4.2 The dwellings have small garden areas and railings to the front on their respective boundaries. There is a grass verge to the front separating the site from the public highway.

4.3 To the rear of the site each dwellinghouse has a rear garden. There is also parking provision located to the rear of the site for 2no. vehicles per dwelling.

4.4 In terms of the surrounding area; there is an established residential area to the south and north-east of the site off Newlands Park Avenue and Westfield Avenue, respectively. To the north-west of the site lies the Cross Lane Scarborough Hospital; whilst further to the west lies part of North Cliff Golf Course.

### **5.0 Description of Proposal**

5.1 This application seeks planning permission to vary conditions 1 and 2 of planning consent ZF24/00099/FLA to allow for the creation of a vehicular access and removal of a tree within the development.

5.2 The following landscaping condition was secured with the original approval:

"All trees, shrubs and bushes shall be maintained by the owner of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good"

5.3 The reason for this condition was to maintain the interests of the appearance of the area and ecology in accordance with policies DEC 1 and ENV 5 of the Scarborough Borough Local Plan.

5.4 Given the tree subject to application has already been removed, the application is part-retrospective, and seeks to vary the landscape condition to regularise the removal of this tree (Scott's Pine tree).

### **6.0 Planning Policy and Guidance**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with

the planning policies that comprise the Development Plan unless material considerations indicate otherwise.

#### Adopted Development Plan

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

#### Emerging Development Plan - Material Consideration

- 6.3 There is no emerging development plan which covers the application site.

#### Guidance - Material Considerations

- National Planning Policy Framework
- National Planning Practice Guidance
- National Design Guide
- Residential Design Guide SPD

### **7.0 Consultation Responses**

- 7.1 The following consultation responses have been received and have been summarised below.
- 7.2 Highway Authority: The proposed vehicle crossing conflicts with the existing pedestrian crossing on Cross Lane.

The principles outlined in the Manual for Streets (DfT, 2007), which advises that driveways should be sited to maintain adequate visibility splays and avoid obstructing junction sightlines.

The proposed driveway is located within 15 metres of a junction access, which is contrary to established highway safety guidance. Its proximity to the junction is detrimental to the existing highway network due to the following reasons:

- Compromise visibility for vehicles entering the junction.
- Increase the risk of conflict between turning traffic and vehicles accessing the driveway.
- Undermine pedestrian safety due to reduced sightlines.

Therefore the Local Highway Authority objects to the proposed application

- 7.3 Newby and Scalby Town Council: Full agreement with the objections made by the Tree and Woodland Officer.
- 7.4 Tree and Woodland: Awaited.

#### Local Representations

- 7.5 One local neutral representation has been received noting that the tree subject to application has already been removed.

## **8.0 Environmental Impact Assessment**

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

## **9.0 Main Issues**

9.1 The main issues are:

- Design and Impact on the Appearance and Character of the Area
- Highway Safety
- Biodiversity

## **10.0 Assessment**

### Design and Impact on the Appearance and Character of the Area

- 10.1 Policy DEC1, part, a i, of the Scarborough Borough Local Plan states, 'All development will be required to meet the following principles of good design by demonstrating that the proposal reflects the local environment and creates an individual sense of place with distinctive character'.
- 10.2 Paragraphs 7.15 and 7.16 of the Council's Residential Guide state, 'With respect to the streetscene, car parking should be provided to the side of dwellings. Spaces between the building frontages and street should not be dominated by the car...excessive use of parking areas in front of principal elevations should be avoided...'
- 10.3 The impact of the proposal to vary the plans and create a vehicular access to the side would be two-fold; the parked cars would obscure the frontage of the dwelling at ground-floor level, and would also prevent the occupants within the dwelling of an outlook to the front (the cars would be parked in front of the window to the living room), thus, harming the appearance of the dwelling and harming the quality of view for the enjoyment of the occupants of the dwelling.
- 10.4 The site is a new residential development, and to accept parking to the front of the host dwelling would be in direct conflict with the aforementioned section of the Council's Residential Design Guide; resulting in significant visual harm on the appearance of the site and the host dwelling. In addition to the above, this element of the proposed works was also discouraged within a pre-application response to the applicant (ref: ZF24/01812/PREAPP), with the view held that the creation of a vehicular access would result in visual harm.
- 10.5 With respect to the application to vary the approved landscaping scheme; satellite and Google Images show that the Scott's Pine tree subject to removal formed an established mature tree that was present on-site for a prolonged amount of time, with the earliest image showing its presence around 2008.

- 10.6 The height, form and presence of the tree resulted in a visually prominent tree which contributed positively to the character and appearance of the site and surrounding area. Its retention within the site provided positive landscaping and softening of the appearance of the site, and therefore, its removal from the site has resulted in adverse harm on the appearance and character of the overall site and surrounding.
- 10.7 The sum of the above would be to result in significant harm to the appearance of the westernmost dwelling, the overall appearance of the site, streetscene and the character of the surrounding area.
- 10.8 It is therefore considered that the proposal would fail to comply with Policy DEC1 of the Scarborough Borough Local Plan, the Council's Residential Design Guide, and Section 12 of the NPPF, which seek a high regard for good design.
- 10.9 The Council's Tree and Landscape Officer is providing amended observations on the proposal and his views will be reported at the meeting.

#### Highway Safety

- 10.10 The proposed access would take place off the cul-de-sac junction with Cross Lane, providing access to the side of the site to the westernmost corner plot. The Council's Highway Authority has responded to the consultation objecting to the proposal on several grounds; including, the proposed vehicle crossing conflicts with the existing pedestrian crossing on Cross Lane.
- 10.11 The proposed driveway would also compromise visibility for vehicles entering the junction from Cross Lane to the side of the site; would increase the risk of conflict between turning traffic and vehicles accessing the driveway, and would undermine pedestrian safety owing to reduced sightlines.
- 10.12 The sum of which would be to result in significant harm the safety of the public highway. The existing, approved parking provision meets the standards of the Highway Authority and, therefore, there is no justification for the loss of the tree to increase parking provision.
- 10.13 It is therefore considered that the proposal would be in direct conflict with Policy DEC1, part c, of the Scarborough Borough Local Plan, which seeks to ensure that new development result in safe and accessible parking arrangements.

#### Biodiversity

- 10.14 Policy ENV5, part d, of the Scarborough Borough Local Plan states, 'Proposals should respond positively and seek opportunities for the enhancement of species, habitats or other assets thereby resulting in a net gain in biodiversity by increasing trees and woodland through ensuring new developments include appropriate tree planting whilst retaining and integrating healthy, mature trees and hedgerows and maintaining those which make an important contribution to the setting and character of an area'.

- 10.15 The sub-text of this policy states, 'Development proposals should recognise not only the importance of protecting species-rich trees or hedgerows but the value of incorporating them in design and consider how new planting can interact with existing habitats'.
- 10.16 The proposal would permit the lawful removal of the Scott's Pine tree that was previously located on the westernmost boundary. The tree was an original tree which formed part of the landscaping scheme accompanying the original approval, in the interests of maintaining its enhancement of the appearance of the area.
- 10.17 The removal of this tree has resulted in a contravention of the original landscaping condition, and the application to vary this and allow its removal would be fundamentally at-odds with the aforementioned policy which seeks to successfully integrate existing mature trees into new development. The result of this has been to result in significant harm to the biodiversity of the site and its appearance, and thus, the proposal fails to comply Policy ENV5 of the Local Plan.

## **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1 The proposed variation of conditions 1 and 2 of planning consent ref: ZF24/00099/FLA; would result in the lawful removal of a tree which contributed positively to the character and appearance of the site and surrounding area; and the creation of a vehicular access which would result in significant harm to the appearance of the site and westernmost dwellinghouse; and significant harm to the safety and convenience of users of public highway.
- 11.2 The removal of the Scott's Pine tree from the landscaping scheme would have significant harm on the biodiversity and natural species of the area, resulting in a harmful net loss of biodiversity, and is therefore, unacceptable on such grounds.
- 11.3 The development enjoys parking provision which meets the standards of the Highway Authority and there are considered to be no other factors which would justify these direct conflicts with planning policy.
- 11.4 If the Committee is minded to refuse permission, the case would be passed on to the planning enforcement team with a view to securing a suitable mature replacement tree on the site.

## **12.0 RECOMMENDATION**

That Planning Permission is REFUSED, for the reason(s) outlined below:

- 12.1 That Permission be refused

- 1 Policy DEC1, part, a i, of the Scarborough Borough Local Plan states, 'All development will be required to meet the following principles of good design by demonstrating that the proposal reflects the local environment and creates an individual sense of place with distinctive character'.

Paragraphs 7.15 and 7.16 of the Council's Residential Guide state, 'With respect to the streetscene, car parking should be provided to the side of dwellings. Spaces

between the building frontages and street should not be dominated by the car...excessive use of parking areas in front of principal elevations should be avoided...'

The Scott's Pine tree contributed positively to the appearance of the site and character of the surrounding area. Its removal from site has resulted in significant visual harm to the development, the streetscene and the wider surroundings,

The proposed vehicular access would result in the parking of vehicles to the front of the southernmost dwellinghouse, obscuring the frontage of the host dwelling by vehicles and also the outlook for its occupants; the sum of which would be to result in significant visual harm.

It is therefore considered that the proposal would fail to comply with Policy DEC1, part a i, of the Scarborough Borough Local Plan, the Council's Residential Design Guide and Section 12 of the NPPF, which seek a high regard for good design, and thus, fails to constitute sustainable development.

- 2 Policy DEC1, part c, of the Local Plan requires new development to provide safe and accessible vehicular parking arrangements.

The Highway Authority has confirmed that the proposal to vary the approved plans and provide an access to the side of the southernmost dwellinghouse would result in an unsafe parking arrangement that lacks the required visibility splay, conflicts with the existing pedestrian crossing on Cross Lane, compromise visibility for vehicles entering the junction from Cross Lane to the side of the site and would increase the risk of conflict between turning traffic and vehicles accessing the driveway.

The sum of the above would result in significant harm to the safety and convenience of users of the public highway.

The proposal therefore fails to comply with Policy DEC1, part c, of the Scarborough Borough Local Plan, and thus, fails to constitute sustainable development.

- 3 Policy ENV5, part d, of the Scarborough Borough Local Plan states, 'Proposals should respond positively and seek opportunities for the enhancement of species, habitats or other assets thereby resulting in a net gain in biodiversity by increasing trees and woodland through ensuring new developments include appropriate tree planting whilst retaining and integrating healthy, mature trees and hedgerows and maintaining those which make an important contribution to the setting and character of an area'.

The sub-text of this policy states, 'Development proposals should recognise not only the importance of protecting species-rich trees or hedgerows but the value of incorporating them in design and consider how new planting can interact with existing habitats'.

The proposal seeks to remove an existing mature Scott's Pine tree from the original landscaping scheme. The impact on this would be to remove a significant, mature

tree which contributes positively to the natural environment and biodiversity of the development and surrounding area, resulting in significant harm.

The proposal therefore fails to comply with Policy ENV5 of the Scarborough Borough Local Plan, and thus, fails to constitute sustainable development.

Target Determination Date: 6 November 2025

Case Officer: Mr Luke Hadfield  
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