

	REPORT TO PLANNING & DEVELOPMENT COMMITTEE TO BE HELD ON THURSDAY, 7 November 2019	
APPLICATION REFERENCE NO: 18/02708/RG4	TARGET DATE: 22 February 2019	GRID REF: 503645-489729

REPORT OF THE PLANNING SERVICES MANAGER – PSM/19/234

SUBJECT: Proposed mixed use development comprising multiplex cinema, residential apartments, restaurants, shops, gym, sky bar & multi-storey car park at Former Atlantis Site Peasholm Gap Scarborough NORTH YORKSHIRE for Benchmark Leisure Limited

1.0 THE PROPOSAL AND CONTEXT

1.1 This application was previously on the agenda for Planning Committee on 5 September 2019, but was deferred in light of a late objection from the Lead Flood Authority, as well as concerns raised by Yorkshire Water.

1.2 The proposals relate to the former Atlantis site which faces Peasholm Gap and Burniston Road, a short distance back from the North Bay seafront. It is now a cleared site set behind hoardings - previous buildings and structures having been demolished. To the east is Kepwick House, a modern curved apartment block with retail/restaurant premises outlets on the ground floor. To the rear (north) there is a wooded slope up to the former Marvels site, which has an unimplemented planning permission for holiday apartments.

1.3 Members will note that there have been several previous mixed use schemes approved on this site, comprising a multiplex cinema, apartments, restaurants, shops and parking, the most recent of which is still valid. These previous planning permissions were approved under a two stage process of an outline permission followed by reserved matters. The current application is procedurally more straightforward because it is a single stage full application.

1.4 The amendments now proposed are more significant than those previously approved. In common with previous schemes, restaurants/shops are proposed on the ground floor and apartments would be provided on upper floors facing Peasholm Gap (Block B). This would be a 6 storey building, although the 1st floor is mainly void space, giving most of the ground floor extra height. The cinema is now proposed predominantly at 4th floor level on the area to the rear of the Block B apartments with a much reduced parking provision only occupying the two lowest levels rather than the previous five storeys. The cinema was previously proposed on the upper floors facing Burniston Road and this has now been replaced by additional apartments (Block A).

The cinema entrance would face the roundabout and this central portion of the building would also contain a gym at 2nd floor level and a 5th floor 'sky' bar. Like previous schemes the building facing Peasholm Gap would be at the back of the footway and it would then step back where it faces the roundabout and on the curved Burniston Road frontage facing Peasholm Gardens where Block A is proposed. This block would have an L-shaped footprint above ground floor level, thus creating a 3-sided well to the rear of the building, which includes a private garden for residents. To the front of this western end of the building, a predominantly hard landscaped area of public realm is still proposed covering an area of approximately 1,500sqm

1.5 In more detail the amount of development comprises the following:

- 6 screen cinema with a total floor area of 2,942sqm. A total of 937 seats would be provided with individual auditoria varying in size from 80 to 302 seats;
- 53 apartments in the 2nd to 5th floors and in 2 separate blocks. Of these 48 are 2 bedroomed, 4 are 3 bedroomed and a single bedroom apartment (the previous applications proposed 24 apartments);
- 5 restaurant ground floor units in Block A with a total floor area of 1,194sqm;
- 4 retail units ground floor units in Block B with a total floor area of 616 sqm;
- 5th floor 'Sky bar' with balcony and a floor area of 258sqm;
- 2nd floor gym with a floor area of 403sqm;
- Ground floor vehicular servicing for commercial units, including 12 staff parking spaces and bin storage. On the next level up would be 59 parking spaces, including 10 spaces for the disabled.

1.6 The eastern part of the building fronting Peasholm Gap (Block B) has similar overall design to the previous approval. However, the height of the building has increased with the addition of an extra 6th storey. The height of the front part of the building would increase by 1.1m to 19m (or 20.2m at its eastern end) where the ground floor is 1.2m above pavement level). The cinema element set to the rear of the apartments would be 2m higher giving a maximum height above ground floor level of 21m. The vehicular access to parking and commercial vehicle servicing area would be still be between the proposed building and Kepwick House, but the structure would no longer extend over this access point, so this it is now farther away from the neighbouring block. The cinema also does not extend quite as far back into the slope to the rear compared to when multi-level parking was proposed in this location.

1.7 The fact that the upper storeys of Block A, facing Burniston Road, would house apartments rather than the cinema inevitably changes the proposed appearance. As with the previous scheme, a glazed box is still proposed adjacent to Block B and this would contain the cinema entrance and gym with a balcony for the 'sky bar' on its roof. The apartments would be framed by projecting rectilinear, anodised bronze divides arranged with alternate vertical columns of recessed balconies with rendered walls and marginally recessed panel walls of horizontally laid aluminium planks of contrasting greys. All balcony screens across both blocks would be glazed. The top floor of Block B would attain a height of 19m and have a penthouse style design set back from the eaves of the floor below. The previous scheme showed the cinema having height of 15m in this location. Both the rooftop element and the front of the ground floor restaurants would have curtain glazed walls and be set below canopies, typically projecting 2m.

1.8 The description of the proposals above is as now proposed. As originally submitted this current application proposed 10 more apartments (now substituted by 4 shop units) and 37 more parking spaces. A revised Flood Risk Assessment and a parking survey were also submitted at the same time as the revised plans in July. This information did not result in the Lead Flood Authority and Yorkshire Water withdrawing their objections - hence the previous deferral of the application at the September meeting. Subsequently, further drainage information has been submitted by the applicants and this has been assessed by these consultees as set out later in this report.

2.0 SCREENING OPINION REQUIRED?

2.1 A Screening Request was submitted prior to a previous application (14/00939/OL), which concluded that an Environmental Impact Assessment was not required. This application was for development of a broadly similar scale and characteristics as the current proposals and the conclusion reached in the Screening Opinion is again considered to be applicable.

3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 None.

4.0 CONSULTATIONS AND COMMENTS

The following is a summary of the key and relevant comments received from consultees and interested parties. Their full comments and any accompanying documentation are available to view on the Council's website.

4.1 Highway Authority (NYCC) - No objection, subject to conditions, including junction improvements and Section 106 contributions. Satisfactory access to the servicing area and on site car parking can be provided off Peasholm Gap although it may require some minor alterations to the existing loading bay and bus stop markings along the proposed site frontage.

The residential element includes appropriate on-site parking facilities for the number of apartments proposed, in line with the current parking standards. An additional 12 on-site parking spaces are proposed for staff use which is considered unlikely to meet the staff demand for the cinema, gym, bar, 5 restaurants and 4 retail units. There is also no on-site parking provision for customers to any of these businesses. Instead, the applicant has carried out surveys of existing parking facilities in close proximity to the site and these have indicated that even during summer months there can be spare parking capacity, in particular at the Northstead Manor grass overflow parking area.

Although there is some concern that customers may be reluctant to park on this area on a regular basis due to the lack of hard surfacing and lighting, it is accepted that peak trip generation for the proposal is early evening, around 7pm at which time a significant number of visitors to other attractions in North Bay area may be leaving and freeing up other parking spaces close by such as on Royal Albert Drive. Whilst there remain

concerns over the lack of provision for staff parking, the lack of any pick up and drop facility for a large leisure development, given the proximity of nearby public car parks, where surveys have indicated there are likely to be spaces at the peak time for this development, it is expected that parking will typically be available nearby for visitors. However, it is recommended that a review of signage and directions to nearby parking facilities is undertaken and improvements provided along with a monitoring regime established to assess whether the development leads to on-street parking problems on nearby residential streets.

A review of the submitted Transport Statement has confirmed that the proposals are unlikely to result in a significant increase in trips over and above levels previously accepted for this site. However, previous proposals have included the signalisation of the Burniston Road/ Northstead Manor Drive junction, providing significant pedestrian improvements and assisting vehicle movements turning right out of Northstead Manor Drive. The applicant has not considered the impact at the Northstead Manor Drive junction as part of this application and therefore unless it is demonstrated the junction will continue to operate within capacity it is considered traffic signals should be provided as part of the development, given the increased pedestrian and vehicular demand at this junction. The proposed planters at the front of the building encroach onto the public highway so they may need to be slightly modified to avoid an obstruction to pedestrians in an area of heavy footfall.

The following Section 106 contributions are requested:

- £5,000 to cover the amendments required to the existing Traffic Regulation Orders (TRO) on Peasholm Gap;
- £15,000 to supplement and improve existing parking /tourism signing to the proposed development;
- £20,000 to monitor on street parking changes in the vicinity of the site and contribute to the introduction of any additional parking restrictions/controls deemed necessary.

Conditions should be imposed in respect of implementation of the junction improvements, details of vehicular access construction, discharge of surface water, retention of parking/turning areas, restrictions on doors/windows opening over the highway, a construction management plan and a travel plan.

4.2 Environment Agency - No objection, assuming the development is built in accord with the revised FRA no ground floor residential / sleeping accommodation.

There was an objection to the original scheme as submitted because the FRA did not comply with the requirements of planning practice guidance. In particular, it did not fully take account of the development applied for and the impacts of climate change. It did not consider how people will be kept safe from the identified flood hazards or flooding events will affect people and property.

4.3 Local Lead Flood Authority (NYCC) (LLFA) - No objection subject to conditions (previously an objection had been raised). The LLFA is now satisfied with the proposed outfall location and the runoff rate of 5l/s to the public combined sewer based on the submitted Drainage Strategy. This confirms that the site previously drained to the combined sewer networks and not the nearby culverted watercourse. Although the watercourse would have been a preferred option under building regulations, in this

instance it would have increased flood risk as the site did not drain to it in the past. The run-off rate of 5l/s provides a betterment of more than 30% on the existing runoff rates to the public sewer. Yorkshire Water have no objection to allowing the site to continue to drain to the public sewer network.

In previous responses the LLFA requested that drainage network calculations were provided for the site. In accordance with the NPPF, all major development must incorporate a SuDS system. The drainage requirements will dictate site layout in terms of storage requirements and where it can be placed on site. The applicant has now provided a drainage layout plan and a basic volume calculation. This demonstrates that there is sufficient space on site to accommodate the surface water drainage requirements, but does not demonstrate that the site can be drained in accordance with the minimum operational standards proposed in the Drainage Strategy Statement and the Non-Statutory Technical Standards for SuDS. Since the proposed minimum operational standards have been set out in the submitted FRA, the LLFA is satisfied that a condition can be applied to the application, but the applicant must be aware, that failure to meet the required standards at the discharge of conditions stage means that the applicant risk not being able to discharge the planning condition and implement the application.

Overland flood flow routes have been provided, but no great detail provided. It would appear that all flows will be directed on to Burniston Road/Peasholm Gap roundabout and down Peasholm Gap to the east. Further detail on flood flow routes, in the form of proposed site levels will be required to discharge any drainage related condition.

Pre-commencement conditions should be attached to any permission granted and these would relate to a detailed scheme restricting the rate of development flow runoff and an exceedance flow plan.

4.4 Yorkshire Water (YW) - No objection to the sewer diversion as shown on the latest site layout plan and the following points detailed on the submitted Drainage Strategy Plan:

- The proposed separate systems of drainage on site with combined off-site
- The proposed amount of domestic foul water to be discharged to the public combined water sewer
- The proposed amount of curtilage surface water to be discharged to the public combined sewer (at a restricted rate of 5 (five) litres/second)

YW objected to the application as originally submitted, but additional information has been submitted which overcomes these earlier concerns.

4.5 Designing Out Crime Officer - These comments cover the planning policy context, relevant safety, security considerations, and crime issues at the location. The most significant crime issues that could affect this development are damage to buildings and vehicles, in addition to anti-social behaviour. It is recommended that the car park be managed on a 24/7 basis and that it meets Parkmark - Safer Parking Award Scheme standards. There should be no public access to the ground floor lobbies giving access to the lifts and stairwells leading to the apartments. The communal entrance doors must be protected by access control measures linked to each apartment, i.e. audio/video communications between the resident and visitor. Access control measures would also need to be fitted to any doors which allow resident's access to the multi-storey car

parking facility. The doors and windows to the apartments and lobbies to incorporate features to make forced entry harder to achieve and intruder alarms for the commercial units. Careful consideration needs to take place in relation to permitted operating hours to ensure that there is no loss of amenity for the residents and to reduce the potential for disputes with businesses. Cycle parking should be in separate, totally enclosed and secure stores with two ground anchor points. A comprehensive regime for the management, maintenance and security of the development should be prepared and remain in place for the day to day running of the site. Counter-terrorism security advice considered this proposal would fit the criteria of a 'crowded place' when the outline planning application 15/01305/OL was submitted. The resulting recommendations made then are still very much pertinent.

4.6 Education Authority (NYCC) - a developer contribution of £176,748 would currently be sought for primary education facilities (Northstead Community Primary School) based on an estimated 13 additional pupils as a result of the development. A developer contribution would not be sought for secondary school facilities.

4.7 Landscape Architect (SBC) - Planting plans for the two raised planters should be submitted. Since the Landscape Plan post-dates the proposed site plan drawing, it is assumed that the smaller planter to the west of the pedestrian car park entrance has been omitted from the scheme. A concise management /maintenance plan should be submitted to outline how the applicants intend to maintain the soft landscaping within the curtilage of the development.

4.8 Environmental Health (SBC) - do not object, but wish to express those concerns, which should be addressed by conditions to ensure appropriate levels of residential amenity. The following factors have been taken into consideration:

- Noise arising externally, impacting on residents, from traffic in particular, but also noise from nearby entertainment venues such as the gym and cinema onsite and from the open air theatre concert events, deliveries, increased traffic, and people noise associated with the new use of the land;
- Noise generated internally from commercial activities, such as the cinema, gym and restaurant use: music, people, functions, fan and extractor noise, noise from lifts and noise from neighbouring residents.
- Odour and fumes from cooking associated with restaurant use, and from inappropriate/inadequate storage of both domestic and commercial refuse, and from car parking and HGV movements.
- Litter associated with cinema and restaurant/takeaway use.

I am particularly concerned about the high noise readings which would suggest that the residential properties could be adversely affected by ambient noise and should not have openable windows or amenity areas on the noisiest facades and may require active mechanical ventilation. No report was given on the kinds of external noises heard at the time of the readings, nor of the state of the tide, and therefore it was difficult to assess if the readings were typical. There should be high levels of insulation between flats and greater insulation between flats and commercial activities/lifts/motor rooms. Much of this will be covered under building regulations, but those flats exposed to entertainment noise or impact noise associated with the gym, will need to be additionally insulated, up to 60dB. High ambient external levels have not been identified/addressed in the noise report. Levels above 50/55dB(A) externally during the day will give rise to loss of amenity in balcony areas, and with open windows to the lounge areas, and levels

internally greater than 30dB(A) at night time, or with a façade level greater than 60 dBL(A) MAX, may impact on sleep disturbance. Whilst there appears to be schematics for ventilation, there appears to be no details for extraction from the parking areas or for extraction and filtration of cooking odours.

As a general comment I am concerned that the residential occupiers of these flats will experience lower than ideal levels of amenity unless measures are introduced to remedy the above concerns. Some of that is achievable by imposing conditions requiring that construction standards produce acceptable levels of sound insulation and window construction, and conditions restricting hours of use and delivery/unloading/collection. A condition should be imposed requiring details of odour extraction to be submitted for approval and implemented prior to restaurant facilities being brought into use (I would not expect a combined extraction /filtration unit). Bedrooms should be located on least noise sensitive facades, but if this is not achievable/desirable, a condition be imposed ensuring that bedroom windows onto the noisiest façade are non-openable and that alternative suitable active ventilation system is installed to ensure rapid cooling where needed, to avoid the need to disturb sleep to open/close windows.

Under normal circumstances I would be suggesting that this location is unsuitable for permanent residential development, because of the (limited) information showing that ambient noise levels are likely to seriously impact on residential amenity. However I am mindful that their use is more likely to be limited to holiday or weekend use, where exposure to long term health risks from noise is less relevant. Alternatively further investigation by staffed or recorded monitoring of ambient noise, together with background levels and traffic noise, could be conducted to identify the 'typical' levels. I would also like to point out that safe access and egress to all areas requiring maintenance/cleaning shall be provided in compliance with Health and Safety requirements. I would also question whether there is adequate provision for electrical charging of cars, commercial vehicles or bikes.

4.9 Theatres Trust - no comment on the application.

4.10 Scarborough & Ryedale Clinical Commissioning Group - no comments received.

4.11 Publicity - There were two periods of public consultation concluding on 27/12/18 and 09/08/19. During the first period of consultation two letters of objection were received and no comments were received in response to the second period, which followed the receipt of revised drawings.

Yorkshire Coast & Ryedale Disability Forum - objected to the original scheme as the Planning Authority and Building Control Partnership will have no control over the internal layout of the cinema seating and toilets, including facilities for disabled people, once an operator or tenant for the multiplex cinemas has been found. The Water Park provided by the same developer has design limitations means that it will never provide access for all. Any new leisure facility should now include a Changing Places room, disabled toilets with both left & right transfer, a choice of viewing area, removable seats allowing a number of wheelchair users to sit together and permanent hearing loops installed throughout. An Access & Inclusivity consultant has not been engaged for this application. Approval of the application would fail the principle of good design. In addition the amendment last year to BS8300, that "major leisure developments" should

include a Changing Places room, may be side stepped or ignored by the operator if this application, as it stands, is approved.

A Scarborough resident also objected to the application as originally submitted due to insufficient parking. A large increase in the number of apartments is proposed but less than half of these would have allocated spaces. The assertion that there is sufficient capacity in car parks is disputed with local residents often unable to park near their homes during daytime in summer. This has been made worse by recent building projects by the developer. The facility would operate all day and not just a primarily evening/night time use as claimed by the developer. A variable message sign to direct motorists to car parks would not work in this location. At least one space per resident should be provided.

5.0 RELEVANT SITE HISTORY

5.1 Since 2015 there have been numerous applications on the site comprising outline planning permissions, subsequent reserved matters, minor amendments and variations of conditions. The following list only covers those applications which are considered to be key or of direct relevance to this current application.

5.2 2015 - Outline application for mixed use development comprising multiplex cinema, A1/A3/A4/A5 commercial units and residential apartments along with multi-storey decked car park and associated works - refused due to failure to comply with the sequential test for retail/leisure development in national policy, which seeks to maintain the vitality of town centres.

5.3 2015 - Outline application (15/01305/OL) for mixed use development comprising multiplex cinema, A1/A3/A4/A5 commercial units and residential apartments along with multi-storey decked car park and associated works - approved with conditions.

5.4 2016 - Reserved Matters (16/00922/RM) for multiplex cinema, commercial units and residential apartments and multi-storey car park - approved with conditions

5.5 2017 - Minor Amendment to reserved matters 16/00922/RM (17/00377/RM) approved with conditions

5.6 2017 - Variation of Condition 20 to delay completion of off-site highway works until prior to occupation (17/02485/OLA) - approved.

6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of The Town and Country Planning Act 1990 require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise (in the case of advertisement applications the Advertisement Regulations 2007 are applicable). Attention is drawn to the following Development Plan and other planning policies and guidance which are considered to be particularly relevant to the consideration of this application:-

Scarborough Borough Local Plan 2017

DEC 1 - Principles of Good Design
DEC 2 - Electric Vehicle Charging Points
DEC 4 - Protection of Amenity
DEC 5 - The Historic and Built Environment
HC 1 - Supporting Housing Development
HC 2 - New Housing Delivery
HC 3 - Affordable Housing
HC 8 - Community Facilities
TC 2 - Development in Commercial Centres
TOU 1 - New Tourism Facilities
TOU 2 - North Bay Leisure Parks
ENV 3 - Environmental Risk
ENV 5 - The Natural Environment
INF 3 - Sustainable Transport and Travel Plans
INF 5 - Delivery of Infrastructure

National Planning Policy Framework

NPPF2 - Achieving Sustainable Development
NPPF4 - Decision-making
NPPF5 - Delivering a sufficient supply of homes
NPPF6 - Building a strong, competitive economy
NPPF7 - Ensuring the vitality of town centres
NPPF8 - Promoting healthy communities
NPPF9 - Promoting sustainable transport
NPPF11 - Making effective use of land
NPPF12 - Achieving well-designed places
NPPF14 - Meeting the challenge of climate change, flooding and coastal change
NPPF15 - Conserving and enhancing the natural environment
NPPF16 - Conserving and enhancing the historic environment

Scarborough Borough Supplementary Planning Documents

Affordable Housing
Transport Assessments
Education Payments
Travel Plans
Green Space (Adopted November 2014)

Local Planning Policy and Guidance

None relevant

7.0 ASSESSMENT

Principle of Development

7.1 The site lies in an area to which Local Plan Policy TOU2 applies. This states, "Proposals for the development of new leisure or tourism facilities or the enhancement

of existing leisure or tourism facilities within the North Bay Leisure Parks area, as shown on the Policies Map, will be supported where they accord with the criteria contained within Policy TOU1".

7.2 The criteria referred to above in Policy TOU1 are as follows:

"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."

7.3 The cinema and restaurant uses would fall within the category of leisure uses and as a year round indoor attraction would potentially help to reduce seasonality. The matters in criterion (a) are covered later in this report, but are considered to be satisfied. The NPPF and Local Plan Policy TC2 also indicate that retail and leisure development outside town centres shall be subject to a sequential test whereby available, suitable and viable town centre and edge of centre sites are viewed as being preferable to out-of-centre sites. Policy TC2 requires an assessment of impact on nearby town/district centres for retail and leisure uses over 500sqm. When the development was first approved in 2015, the application was thoroughly assessed in sequentially and in terms of its impact when it was deemed to be acceptable. Since that time the Local Plan was adopted in 2017, and based on the contents of Policy TOU2 this affords greater support for leisure uses on the site. A valid permission also remains on the site for a scheme which includes a larger cumulative amount of leisure/retail development than now proposed. This remains a relevant 'fallback' position, which in principle could be implemented, even if it is not considered to be viable by the applicant. The new scheme adds a gym, which was not previously included, but this is not considered to represent a sufficiently significant increase in the overall proposed provision of 'town centre' uses to require a reassessment. For the reasons set out above, it is not considered appropriate to require re-assessment either sequentially or in terms of town centre impact.

7.4 The application has increased the number of proposed apartments from 24 to 53. Unlike the unimplemented development on the former Marvels site to the north, which is for holiday accommodation only, the flats would be open market dwellings without restriction on tenure. Whilst Policy TOU2 is generally supportive of leisure and tourism facilities it does not presume against residential development. It also forms a part of the applicant's case that the apartments would help to make delivery of the cinema viable as considered later in this report. For these reasons, a policy objection is not raised to the principle of the increased residential component of the development.

Viability and Section 106 Contributions

7.5 A fundamental reason why the latest amendments are proposed by the applicant is to improve the commercial viability of the project. The delivery of multiplex cinemas has often been underpinned by securing restaurant tenants in associated development. The fact that this sector of the economy has contracted in recent years is well documented, thus making this business model for the delivery of cinemas more difficult. While the application still includes restaurants, the overall composition of uses has nonetheless changed to improve viability. This includes the increase in the number of apartments and a reduction in the amount of decked parking provision. The commercial viability of the scheme is not in itself a pertinent planning consideration when assessing the principle of development. However, it is relevant when considering potential Section 106 contributions towards infrastructure.

7.6 A key assertion made by the applicants is that in light of changes in market conditions is that S106 contributions would make the delivery of the scheme unviable. The veracity of the viability case is examined below, but clearly there is a decision that Members will need to make in terms of whether to give more weight to the receipt of contributions or the delivery of a cinema for the town. The previous planning permission required that a Section 106 obligation be entered that provided financial contributions towards affordable housing, play facilities in the area and tourism highway signage in the town. Since the number of apartments has increased from 24 to 53 this also requires the reassessment of what contributions would be required before considering the impact on the viability of the project.

7.7 Provision of 10% affordable housing would normally be expected in Scarborough town. It was previously accepted that there were impracticalities in securing on-site provision due to the nature of the development, so a contribution for off-site provision based on a formula in the Affordable Housing SPD was sought. The current application for 53 dwellings would normally generate a notional figure of £591,138.

7.8 The Green Space SPD indicates that on site provision or off-site contributions should be sought towards play facilities, parks & gardens, and sports facilities where there is a need. It was previously accepted that there was adequate provision of public parks/gardens and sports facilities in the area. It is not considered that there has been a change in circumstances in the interim. However, there is a lack of play facilities in the area and the notional contribution would now be £31,389.20.

7.9 The increase in apartment numbers surpasses the threshold in this location of 25 dwellings, whereby the Education Payments SPD requires a contribution towards primary schools if there is a demonstrated need. The Local Education Authority has requested a sum of £176,748 based on an estimated additional 13 places being required at Northstead Community Primary School as a result of the development. This sum is based on a formula contained in the SPD, but officers question whether in reality the proposed apartments would house the estimated number of children of primary school age as a first place of residence. It is noted that on the adjacent Kepwick House, which contains apartments of a similar nature to those proposed a S106 contribution was lifted after it was demonstrated that no children were permanent occupants of the apartments, many of which are second homes or holiday rentals. This element of doubt is a material factor (albeit secondary to viability) when considering whether to require an education contribution and this is examined further in paras. 7.11- 7.13 below.

7.10 An informal threshold of 25 dwellings is also used when deciding whether to consult the local Clinical Commissioning Group (CCG) on the need for a contribution towards surgeries in the area. However, no response has been received from the CCG, so it would be difficult to justify such a contribution.

7.11 Both national guidance and the Council's Affordable Housing SPD indicate that provision/contributions may be reduced or forgone if they render a scheme unviable. The Education Payments also makes a similar reference, in addition to the officers' doubts as to whether the development would genuinely generate the estimated number of school places required in this instance. Regarding the play facilities contribution the Green Space SPD does not make any direct reference to viability, but as with any policy exception it is still necessary to consider the merits of any case made, and in this instance this relates to the financial deliverability of the cinema. However, as explained

later in this report officers would be reluctant to remove any Section 106 obligations required to make the development acceptable in terms of matters such as highway or pedestrian safety. Hence the 3 sums recommended by the Highway Authority totalling £40,000 would still be required and this has been accepted by the applicant.

7.12 The applicants submitted a Viability Assessment with the application and this was amended when revised plans were submitted. Officers have rigorously assessed the assumptions and figures provided in this report. The predicted income from the sale of apartments is based on figures achieved from neighbouring Kepwick and Lockton Houses. The key complicating factor in this scheme is that it also incorporates 'riskier' developments comprising a cinema and other supporting uses. There is a significant cost to building and fitting out these units with no immediate return. The construction costs appear appropriate when comparing with BCIS figures. As opposed to being sold (and having an immediate capital return), these units will have an investment valuation in respect of the likely rental yield. The remainder of the assumptions including professional fees, marketing and contingency all appear realistic. The outcome of the viability assessment is a low profit margin on cost of circa 6%. This is very low and a higher margin of 15-20% in accordance with the NPPF would normally be anticipated. Reference is not made in the report to ground rents and there is also the argument that values of the apartments could be increased, but these factors are unlikely to make a critical difference in terms of overall viability. The assessment also does not take into account the additional S106 sums now requested by the Highway Authority.

7.13 It has been a long held aspiration to secure a multiplex cinema in the town, but to date this has not happened, largely due to viability, despite planning permission having been granted on this and other sites. Bearing this in mind, officers are prepared to recommend that planning permission be granted without the s106 contributions, other than those relating to highway matters. The previous planning permission required that the shop and restaurant uses may only be occupied before the cinema becoming operational and this is repeated here to avoid partial delivery without the cinema. Ultimately it is a matter on which Members of Planning Committee will need to reach a balanced decision in terms of whether the delivery of the scheme outweighs the fact that it would not provide full S106 contributions.

Design and Appearance

7.14 The site is prominently located close to the North Bay seafront and on the A165 on one of two main routes leading from the town to the north. Views down Columbus Ravine when approaching the site from the south are important. The steeply sloping open land on the opposite side of Peasholm Gap, forming part of Alexandra Gardens, lies in the Scarborough Conservation Area. There is a statutory duty to consider the impact on the character and appearance of the Conservation Area. Peasholm Gardens on the opposite side of Burniston Road is a Grade II Registered Park and Garden, so in common with the Conservation Area it is a designated heritage asset when considering the setting within the context of policy in the NPPF and Local Plan.

7.15 From certain directions the location of the site within a valley would limit its impact within the wider townscape setting. For example, views from the seafront, Conservation Area and Peasholm Park would largely be localised to the immediate vicinity. The overall massing of the building is somewhat less than the previous scheme, but the main reductions are to the rear which would be less visible and there are some increases in height. The eastern part of the building would also be 15.4m away from

Kepwick House (increased from 6.5m), but also taller incorporating an additional floor of apartments. The increase in the front eaves height would be 1.1m while maximum height on the roof of the cinema would increase by 2.5m to 21m. The previous proposal had a similar eaves line to neighbouring Kepwick House which is also 6 storey. It is not considered that the differential of 1.1m between the two buildings would appear discordant. Although the cinema roof would be 2m higher than the apartments it would be 10.5m farther back so the visual impact would be limited. The height of the proposal is also akin to many other buildings in Scarborough, particularly in the immediate coastal areas.

7.16 The design of the building facing Peasholm Gap is similar to the previous scheme in terms of the rhythm of window openings and balconies. Some of the Art Deco style detailing has been given a more contemporary feel. A combination of shallow projections and recesses, as well as the balcony screens, help to create relief on the front face of the building, thus breaking up the mass. The deletion of two way vehicular access through the building would avoid the creation of a large 'hole' in the façade at street level. The roofscape would be simpler than some previous designs consisting of gently sloping or flat roofs set behind parapets with cinema ventilation concealed in a well. Ventilation to the restaurants would also be in an unobtrusive position to the rear. Public views of the north and east elevations would be limited and these are set away from sensitive receptors such as the Conservation Area, Peasholm Gardens and the seafront. Partly because the dominant feature to the rear of the site would be the cinema, much of this exterior would be of plain grey metal cladding with few openings. However, in design terms this would represent an improvement over the previous scheme where multi-storey parking decks were only accepted because they were largely obscured from public view.

7.17 The glazed box feature at a central point on the frontage would provide a focal point at night time and a light weight visual link to the western part of the building facing Burniston Road and Peasholm Gardens. The changes to the appearance of the western part of the development (Block A) have changed more significantly, reflecting the fact that apartments rather than a cinema would occupy the upper storeys. The previous scheme sought to create visual interest by using patterned panels of varied colour and lighting features to adorn what was essentially a large box. The introduction of apartments gives greater scope to create a visually interesting scheme and it is considered that the proposals (as described in paragraph 1.6) succeed in this objective. The rectilinear pattern formed by the bronze coloured divides create a strong motif which is varied by using columns of varied materials and recess depths. Given the overall mass of the building and its increase in height facing Burniston Road by 4m it is appropriate that a different design is used on the two ends of the buildings. They would nonetheless have some consistent themes in terms of fenestration pattern, balcony screens, vertical relief to counter the overall horizontal form and the use of some similar materials.

7.18 The new area of public realm on the Burniston Road frontage would potentially create a contemporary and attractive gathering space opposite Peasholm Park. Paving materials would be varied to create diagonal pointers towards main entrances with 4 oval-shaped raised planters and polished metal bollards indicated in the Design & Access Statement. The precise position of planters may need to be slightly modified to take account of underground drainage and pedestrian routes.

7.19 The existing site currently represents a negative space in townscape terms in a visually important location. Although this application proposes a building that is taller in places than the previous scheme, this is partially offset by a reduction in bulk in other directions and would not be out of scale with its surroundings. Its overall design is considered to represent some improvement over the previous scheme (which in itself was acceptable). The case could also be made that it would help make Kepwick and Lockton Houses part of a cohesive contemporary grouping of buildings extending back from the seafront. For these reasons it is considered to have a slightly beneficial impact when viewed from the Conservation Area, Peasholm Gardens and other key viewpoints.

Parking, Highways and Access

7.20 The reduction in the amount of parking from a total of 311 spaces to 71 on the current scheme has facilitated some of the enhancements to the design mentioned above. Nonetheless, the impact on the surrounding area and road network has had to be carefully considered and additional information was requested by the Highway Authority. In terms of provision the upper deck of parking contains 49 standard spaces and 10 spaces for the disabled. The Highway Authority indicates that the 12 spaces at ground level for staff parking would be unlikely to meet the full demand. Of more significance is the absence of general customer parking for visitors to the cinema, restaurants and shops.

7.21 To justify this the applicant has provided data for 4 days collected by the Borough Council for parking levels on a Friday and a Saturday in both March and August 2018. This covered the 4 following locations within 800m of the site, which provide 882 spaces in total, namely:

- Northstead Lower Car Park - 96 spaces;
- Northstead Upper Car Park - 556 spaces (156 tarmac and 400 grass overflow);
- Victoria Park Car Park - 33 spaces; and
- Royal Albert Drive on-street parking - approximately 197 spaces.

7.22 Unsurprisingly, by far the highest level of parking was on the Saturday in August. The figures indicate that Northstead Lower was virtually at capacity, while limited availability existed at Victoria Park. The results for Royal Albert Drive are inconclusive, but the figures indicate there is spare capacity of over 370 car parking spaces throughout the day on the Northstead Upper Car Park and its overflow area. The Highway Authority has also noted the times of day in deciding not to raise an objection. The peak use of parking spaces is likely to be during the afternoon in good weather conditions when the beach and Peasholm Park are at their busiest, whereas the cinema and restaurants are more likely to be popular in the evening or during inclement weather. There will also be those occasions when there is a concert at the Open Air Theatre, although it should be noted stewarding arrangements to manage parking are in place then.

7.23 The Section 106 contributions totalling £40,000, as recommended by the Highway Authority, are intended to provide mitigation in the event that parking or highway problems arise as a result of the development. They include improved signage, changes to Traffic Regulation Orders on Peasholm Gap and a sum to pay for the monitoring of on-street parking in the vicinity of the site contribute to the introduction of any additional parking restrictions/controls as deemed necessary. It is also noted that the restaurants and shops are largely double height, whereby a mezzanine could be

inserted where a void is shown, so a condition is proposed requiring planning permission for this, so any resulting impacts can be controlled.

7.24 The ground floor parking/servicing area would have a ceiling height of 5m, thus enabling high delivery vehicles and bin wagons to enter and turn round. Subject to conditions and the s106 contributions, the Highway Authority has no objection in terms of the impact on the local and wider highway network. The most significant requirement would be the provision of traffic signals at the junction of Burniston Road and Northstead Manor Drive, incorporating a widened carriageway to accommodate 2 lane approaches on Burniston Road. This would need to include improved pedestrian crossing facilities, which is of increased importance given that many customers would use the Northstead Upper and Lower Car Parks rather than parking on site.

7.25 An additional condition to those recommended by the Highway Authority would secure adequate cycle parking. Local Plan policy DEC2 seeks to provide electric charging points for residents. However, the possibly communal nature of parking proposals makes this more complex than most cases and the policy makes an exemption in such a scenario. Nonetheless, the applicants have agreed to a condition requiring two spaces with charging points for residents.

7.26 It is understood that the car parking spaces on the upper of the two decks would be available for occupiers of the apartments and the disabled. Especially, as the nearest car park (Northstead Lower) at the same level is often at capacity it would assist customers of restricted mobility if they can park on this deck, which would have 10 designated spaces and direct access to the lifts to the cinema, bar and the Peasholm Gap footway, as well as to the gym. This and other measures to enhance disabled access is secured by proposed condition 18. From the public realm area level access is shown to the restaurant and shop units. The shops are elevated above the existing footway, but level access would be possible via a walkway from the western end. In response to the comments made by the Disability Forum, the revised plans now included a Changing Places facilities, which provides a toilet suitable for a range of disabilities and exceeds the recommended minimum size of 12sqm.

Drainage and Flood Risk

7.27 The front part of the site is in Flood Risk Zone (FRZ) 3 with smaller areas in FRZ2. FRZ3 is land having a 1 in 100 or greater annual probability of river flooding or a 1 in 200 or greater annual probability of sea flooding. It forms part of a wider FRZ which follows the watercourse which flows through Peasholm Park and is then culverted in its final section below Peasholm Gap before it enters the North Sea. The existence of the higher risk FRZs accounts for Block B being elevated so that its ground floor is higher than Peasholm Gap. National guidance indicates that residential development is a 'more vulnerable' use, while shops and restaurants are 'less vulnerable' to flood risk. This accounts for the revised plans substituting ground floor apartments with shops in Block B.

7.28 Unfortunately, the Flood Risk Assessment (FRA) as originally submitted with application was out of date and this is a key reason why objections were received from The Environment Agency (EA) and the Local Lead Flood Authority (LLFA). The EA raised concerns that the original FRA/plans did not take account of latest government guidance and the provision of ground floor sleeping accommodation within the higher risk FRZs. A revised FRA was submitted, and as well as removing ground floor

apartments, it sets out various mitigation measures/assurances, including raised ground floor heights, no cellars, ground floor electricity supplies being routed from above, flood evacuation arrangements, including access to upper floor rooms with a fire exit and anti-flood valves. The FRA also proposes a 30% reduction in run-off rate. On the basis of the revised FRA the Environment Agency withdrew its objections.

7.29 Since the application was deferred from the September Committee meeting a Drainage Strategy Statement was submitted. This sought to address the concerns raised by the LLFA and YW. The LLFA previously noted that there had been no investigation into the existing drainage to confirm the area that is currently drained at to where it connects. It was therefore not possible to establish a baseline scenario to ensure that flood risk would not increase as a result of the development. There was also no confirmation of where the proposed drainage would discharge to. The Drainage Strategy provides more information to supplement the FRA. Flooding incidents have been associated with the adjacent Peasholm Beck culvert which runs beneath Peasholm Gap. It has therefore been agreed with the LLFA that surface water run off would discharge to a combined public sewer. In due course precise details of attenuation to store water during flood conditions before it is discharged to the sewer at a restricted rate. The plans show an attenuation tank beneath the car park of a suitable volume to accommodate the 1 in 100 year plus 30% climate change storm using a discharge rate of 5.0l/s. Precise details need to be agreed, but the LLFA accepts the principles set out in the Drainage Statement, subject to a condition. The exceedance flow route has also been agreed. This is the route where water would flow in the event of a flood event greater than 1 in 100 year, taking account of climate change. The lowest point of the site is the vehicular entrance on Peasholm Gap and waters would be directed to this point. Again, the LLFA accepts this in principle subject to a condition to agree precise details.

7.30 Yorkshire Water (YW) had concerns centred on the impact of buildings on sewerage and water supply pipes. The recently submitted Drainage Strategy provides more information on existing arrangements for this. It also includes a plan clearly showing the position of a sewer that requires diversion and other drainage infrastructure in relation to the proposed development. On this basis, YW has withdrawn its objections, subject to this plan being implemented.

Residential Amenity

7.31 An aspect of the application, which is an improvement on earlier schemes, is the proposed relationship of the building with the apartments in the closest section of Kepwick House. An objection was on balance not raised to earlier approvals in respect of the impact on daylight where the building would project to the rear. This was only achieved by stepping the upper levels away from the boundary. The current scheme increases the gap between the buildings from 6.5m to 15.4 m. The rearmost part of the building when measured from the nearest habitable room window would exceed 45 degrees which is often used as guide when assessing such matters, but the distance involved (25m) is considered to be sufficient to satisfy the principles in Local Plan Policy DEC4, which seeks to protect the amenities of occupiers.

7.32 It is acknowledged that occupiers of the proposed apartments would be affected by noise from traffic, the proposed commercial uses and general activity in the area. This is reflected in the comments from the Environmental Health Service. The impact would be greater on Block A due to its position facing the busier Burniston Road and

proposed public realm, its proximity to the Open Air Theatre and the proposed ground floor restaurants, the closer relationship (including party walls) to the gym and Sky Bar at the block's eastern end and the unenclosed nature of the service yard to the rear. In comparison Block A faces Peasholm Gap with fewer passing vehicles, shops (not restaurants) being situated on the ground floor, the greater distance from the unenclosed part of the service area, and apart from the cinema entrance stairwell, there would be no other party wall between the commercial uses and the apartments.

7.33 A Noise Assessment has been submitted, which considers the impact of noise from the cinema, gym, sky bar and restaurants which has been considered by the Environmental Health Service. The plans show indicative ventilation routes from the restaurants and cinema. Equipment relating to the cinema would be situated in a well on its roof and ducting for the restaurants would lead to a plant area towards the rear of the building. In due course more information will be required when the users of individual units are known with regard to mitigating noise and odour impact and this can be covered by a condition.

7.34 In respect of the apartments in Block B, the front projecting canopy would provide some protection from noise/disturbance from the restaurants and public realm below. The suggestion that bedroom windows in sensitive locations are non-opening would not be a suitable solution to comply with (fire safety) building regulations. A number of conditions are proposed to mitigate potential noise impacts. These include restrictions on hours of opening and deliveries, controls over the insertion of mezzanines and external seating, as well as internal noise insulation where there are key interfaces between residential and commercial uses. Inevitably, future residents would be subject to some noise impacts, but it is also recognised that this should be readily apparent before moving in. The proposed conditions should provide safeguards to ensure compliance with Local Plan Policy DEC4.

Other Planning Matters

7.35 A condition is proposed to cover matters raised by the Police's Designing Out Crime Officer in order to minimise the risks relating to crime and anti-social behaviour. The area to the front of the building is likely to become a public congregation point. The conditions also provides measures to help safeguard the site against any potential terrorism threat.

7.36 The building would extend back from the site frontage approximately 3m less than the last approved scheme. As a result, it would encroach less into the slope to the rear which has number of implications. There would still be an 11m wide band of land to the rear, which would be regraded at an angle of 1/3 and subsequently landscaped. A condition is required to ensure that these works do not destabilise the slope above which extends up to the former Marvels site. The works are now some considerable distance from the archaeological remains of a Civil War 'star fort' at the top of the hill.

7.37 The land at the rear is the part of the site which is of greatest ecological value as a wildlife habitat. This is not directly affected according to the plans, but conditions should be imposed to protect this area during the construction process and to provide for an enhancement of biodiversity. The retention of trees in this area would also help provide a visual buffer especially if and when development occurs on the Marvels site on top of the hill.

8.0 CONCLUSION

8.1 It is now 4 years since planning permission was first granted for a mixed use scheme, including a multiplex cinema on this site. The traditional economic model for delivering such proposals has involved the profit gained from associated restaurants, especially national chains, subsidising the cinema. The decline in the restaurant sector has been a factor in preventing the provision of a multiplex cinema either on this site or elsewhere in the town. The fragility of this market also has had implications for this application and is the reason that officers accept that not all Section 106 contributions are required. Government policy indicates viability is a material consideration when assessing such matters and officers assessment of the submitted figures indicate that the predicted profits are well below the normal return. The scheme also significantly reduces parking provision, compared to previous proposals. This is not treated as an exception to policy as subject to safeguards, the Highway Authority is satisfied that this should normally be absorbed by existing parking provision in the vicinity. Since its deferral from an earlier Committee meeting concerns relating to drainage have now been resolved.

8.2 The proposed cinema would enhance leisure facilities for residents and tourists, providing an important year-round and indoor attraction. The proposal would regenerate and enhance the appearance of a visually important site with an appropriately designed building. Taking the factors outlined in this report into account the application is consequently recommended for approval.

POSITIVE & PROACTIVE STATEMENT

The following steps were taken in an effort to achieve a positive outcome to this application.

The proposed development as submitted was not entirely acceptable, so the Local Planning Authority acted positively and proactively by securing the submission of revised plans and additional information, which addressed the original concerns, whilst also taking into account issues relating to the viability of the project. Where additional details still have to be agreed and implemented or where specific safeguards need to be put into place, the Local Planning Authority acted proactively by attaching planning conditions and requiring Section 106 obligations which can adequately address such matters.

RECOMMENDATION

PERMISSION BE GRANTED subject to the completion of a Section 106 obligation to secure highway contributions set out in this report and the following conditions:

- 1 The development hereby granted shall be carried out in strict accordance with the following plans unless any amendment is first approved by the Local Planning Authority:

List to be completed.

Reason: For the avoidance of doubt.

- 2 The units 1- 5 on the ground floor of the development hereby approved shall be used for purposes falling within the A3 Use Class (as defined by the Town & Country Planning (Use Classes) Order 1987 (as amended)). Units 6-9 shall on the ground floor of the development hereby approved shall be used for purposes falling within the A1 Use Class of the same Order. Units 1-9, the gym and no more than 9 of the apartments shall be occupied prior to the proposed multiplex cinema coming into use.

Reason: To define the permission and noting that the amount of development falling within these categories is permitted on the basis that it assists the commercial operation of the proposed cinema. In its absence the proposed amount of retail and leisure uses would not be justified, having regard to the National Planning Policy Framework and Scarborough Borough Local Plan Policy TC2. Regard is also had to the fact that Section 106 contributions that would be normally required in connection with the residential use have been set aside on viability grounds.

- 3 No mezzanine floors shall be provided to any of the shop and restaurant units hereby approved without the prior written agreement of the Local Planning Authority.

Reason: Unrestricted retail/leisure use may be harmful to the vitality and viability of Scarborough town centre and would be contrary to Policy TC2 of the Scarborough Borough Local Plan and the advice contained within the NPPF. The Planning Authority must also be satisfied that any mezzanine floor inserted will not cause harm to the amenity of future occupants of the flats above.

- 4 No development involving the use of any facing, roofing or hard surface materials shall take place until samples of the materials (as specified by the Local Planning Authority used in the construction of external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Prior to the development proceeding above foundation level the applicant shall agree in writing with the Local Planning Authority which materials shown on the schedule provided on the approved plans require the submission of materials, and which may be approved on the basis of the submitted schedule . The development shall be carried out in accordance with the approved details.

Reason: To ensure the appearance is acceptable, having regard to Scarborough Local Plan policies DEC1 and DEC5.

- 5 Details of the design of any security shutters, including materials and colour to be utilised in the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority prior to their installation and all shutters used in the development shall conform to the details so approved.

Reason: To ensure the design and appearance of such shutters is acceptable, having regard to Policy DEC1 in the adopted Scarborough Local Plan.

- 6 A revision to landscape plan V14573-L02 Rev H shall be submitted to show revised raised planter positions so that they are situated outside the existing

public highway (and if appropriate to avoid conflict with new drainage infrastructure). This plan, planting plans for these raised planters and a management/maintenance plan for soft landscaping across the entire site shall also be submitted prior to any development above foundation level. The scheme of landscaping and tree planting shown on the approved shall be carried out in its entirety within a period of 12 months beginning with the date on which development is first occupied. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the landscape scheme in accordance with the approved management/maintenance plan. During that period all losses shall be made good as and when necessary, unless the Local Planning Authority gives written consent to any variation.

Reason: Having regard to visual amenities, biodiversity and the free flow of pedestrians, within the context of Local Plan policies DEC1, DEC5 and ENV5.

- 7 Existing trees shall be retained on land to the north of the area where construction works or engineering operations are proposed in accordance with drawing YOR.2029_02-A forming part of the submitted Arboricultural Survey, Impact Assessment and Draft Tree Protection Plan. They shall be protected during construction work as follows :-

- i. Protective fencing of at least 1.5 metres in height shall be provided around the trees to be retained before development is commenced as indicated on the plan referred to above. No materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.
- ii. No burning of materials or other items shall take place within 3 metres of the crown spread of any of the trees to be retained.
- iii. No services shall be routed under the spread of the crowns of the trees to be retained without the prior written consent of the Local Planning Authority.
- iv. No retained tree within the tree protection barrier shall be cut down, up-rooted, destroyed, topped or lopped without the prior written consent of the Local Planning Authority and if any tree which is to be retained dies within five years beginning with the date on which the development is commenced it shall be replaced with a tree of such size and species as may be specified in writing by the Local Planning Authority.

Reason: To ensure that retained trees are protected both during and after the construction process and to protect ecological interests, having regard to Scarborough Borough Local Plan Policy ENV5.

- 8 Prior to development above foundation level commencing, a plan/programme to enhance biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented within 12 months of the proposed development first coming into use.

Reason: To enhance biodiversity.

- 9 Prior to the commencement of engineering operations on the slopes to the north of existing buildings on the site, full details of measures to maintain slope stability

shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with these approved details.

Reason: In the interests of slope stability.

- 10 Prior to development commencing above foundation level, details of measures and management arrangements for on site security when development is operational shall be submitted to and approved in writing by the Local Planning Authority. This shall include CCTV, lighting, access control and any other measures to ensure adequate surveillance of exits, entrances and routes to and from the proposed car park. In addition all glazing (internal and external) shall consist of units comprising lamination to a minimum 7.5mm to EN ISO 12543 standards. Unless otherwise agreed in writing by the Local Planning Authority this shall include use of 200-350 Micron Anti Shatter Film to 6mm glazing and appropriately anchored into a blast resistant retention system to BS EN 12600 Class 2(B)2 standard.

Reason: To increase security and to reduce the likelihood of crime and anti-social behaviour.

- 11 Air handling measures for the proposed cinema and restaurants shall be implemented as part of the development so that the infrastructure shown on drawings 14573B-(PP)-114B and 14573B-(PP)-115B is provided prior to the cinema or any individual A3 unit coming into use, unless otherwise approved in writing by the Local Planning Authority. Furthermore, prior to the cinema or any individual A3 unit coming into use (and if applicable each of the other commercial units in the development), full details relating to ventilation, fume extraction and air conditioning shall submitted to and agreed in writing by the Local Planning Authority. Such air handling measures as approved shall be implemented in accordance with approved details.

Reason: To protect the amenities of the occupiers of residential properties and the appearance of the development, having regard to Scarborough Borough Local Plan Policies DEC1 and DEC4.

- 12 The extent of any external eating and drinking areas set out with tables and chairs on the proposed area of public realm extending beyond the overhang of canopies hereby approved shall first be agreed in writing by the Local Planning Authority.

Reason: Having regard to the residential amenities of the occupiers of the apartments and the free flow of pedestrians in the context of Scarborough Borough Local Plan Policy DEC4.

- 13 The use of the restaurants, cinema, gym and sky bar hereby permitted shall not be open to customers except between the hours of 0730 to 2330 without the express written consent of the Local Planning Authority.

Reason: In the interests of the residential occupiers of nearby residential apartments and to accord with Policy DEC4 of the adopted Scarborough Borough Local Plan.

- 14 No deliveries shall be taken at or despatched from the site in association with the non-residential uses on the site outside the hours of 0730 to 2330 without the express written consent of the Local Planning Authority.

Reason: In the interests of the amenity of adjacent residents in accordance with Policy DEC4 of the adopted Scarborough Borough Local Plan.

- 15 The building shall be constructed so as to provide an adequate level sound insulation for proposed apartments where there is an internal party wall or floor/ceiling between habitable accommodation and the restaurant, gym, cinema and sky bar uses contained within the proposed building. Details of noise mitigation measures for such apartments shall be submitted and approved in writing prior to development progressing above foundation level. The approved measures shall be implemented in full.

Reason: In the interests of the amenity of adjacent residents in accordance with Policy DEC4 of the adopted Scarborough Borough Local Plan.

- 16 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

- a. The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority;
- b. The access shall be formed with 10 metre radius kerbs, to give a minimum carriageway width of 6 metres, and that part of the access road extending 10 metres into the site shall be constructed in accordance with Standard Detail number E7;
- c. Any gates or barriers shall be erected a minimum distance of 15 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
- d. That part of the access extending 15 metres into the site from the carriageway of the existing highway shall be at a gradient not exceeding 3%.
- e. Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway shall be constructed in accordance with the approved details and maintained thereafter to prevent such discharges as agreed in writing by the Local Planning Authority.
- f. The final surfacing of any private access within 10 metres of the public highway shall not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
- g. Provision of tactile paving in accordance with the current Government guidance.

All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

Informative

The applicant is advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

- 17 Unless otherwise approved in writing by the Local Planning Authority, the development shall not be brought into use until:

(i) The details of the following off site required highway improvement works, works listed below have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority:

- Provision of traffic signals at the junction of Burniston Road and Northstead Manor Drive, incorporating a widened carriageway to accommodate 2 lane approaches on Burniston Road and appropriate pedestrian crossing facilities.

(ii) An independent Stage 2 Road Safety Audit for the agreed off site highway works has been carried out in accordance with GG119 - Road Safety Audit or any superseding regulations and the recommendations of the Audit have been addressed in the proposed works.

(iii) A programme for the completion of the proposed works has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

Unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority, the development shall not be brought into use until the highway works relating to this condition have been constructed in accordance with the details required above.

Reason: To ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

Informative

There should be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the developer and the Highway Authority.

- 18 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the plans hereby approved. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

- 19 All doors and windows on elevations of the building adjacent to the existing and/or proposed highway and the walkway to the front of Units 6-9 shall be constructed and installed such that from the level of the adjacent highway/footpath for a height of 2.4 metres they do not open over the public highway and above 2.4 metres no part of an open door or window shall come within 0.5 metres of the carriageway, unless details are first agreed in writing by the Local Planning Authority. Any future replacement doors and windows shall also comply with this requirement.

Reason: To protect pedestrians and other highway users.

- 20 No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Local Highway Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. erection and maintenance of security hoarding.

Reason: To provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

Informative

In addition to the points covered by this condition it is recommended that wheel washing facilities and measures to control the emission of dust and dirt during construction are implemented.

- 21 Prior to the development proceeding above foundation level full details of cycle parking provision for residents, staff and visitors shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle parking facilities shall be implemented in full prior to the development becoming operational and permanently retained thereafter.

Reason: To encourage adequate cycle parking and sustainable travel.

Informative

Regard shall be had to North Yorkshire County Parking standards and the recommendations of the Designing Out Crime Officer when devising a scheme of cycle parking.

- 22 The following measures shall be incorporated into the development to ensure that there is suitable access for the disabled:

- a. The 10 parking bays for the disabled as shown on the second floor plans shall be available for use by and disabled customers/staff.

- b. The threshold of the main public doorways to premises facing the Peasholm Gap and Burniston Road frontages and from the parking areas shall not be stepped.
- c. Any routes or ramps, notably those leading from the public highway or parking areas to the main public doorways of the premises shall not exceed a gradient of 1:20.
- d. Details of access arrangements, to ensure reasonable availability of the designated parking spaces and the Changing Places facility for the disabled shall be agreed in writing with the Local Planning Authority before the development becomes operational.

Reason: To ensure adequate disabled access.

- 23 Prior to the car park being brought into use a minimum of two parking spaces shall be fitted with an electrical socket suitable for charging electric vehicles with a minimum requirement of a single phase 13 amp socket. Details of the location of these facilities and arrangements to ensure availability to all residents shall first be submitted to and agreed in writing by the Local Planning Authority. The charging facilities, once fitted, shall be permanently retained on site.

Reason: Having regard to Policy DEC2 of the Scarborough Borough Local Plan.

- 24 The development shall be built in general accordance with the measures and recommendations set out in the Flood Risk Assessment prepared by ARP Associates, reference 800/288r1c, Revision C, dated 31 July 2019 and the Drainage Strategy Statement prepared by ARP Associates, reference 1938/01 dated 26th September 2019 with the latter document taking precedent if appropriate. Furthermore, development shall be implemented in accordance with the proposed sewer diversion submitted on drawing 14573A-(PP) 102 (revision K) dated 07/2018 prepared by The Harris Partnership Architects and the following:

- a. The proposed separate systems of drainage on site with combined off-site;
- b. The proposed amount of domestic foul water to be discharged to the public combined water sewer;
- c. The proposed amount of curtilage surface water to be discharged to the public combined sewer (at a restricted rate of 5 (five) litres/second) submitted on drawing 1938/01/SK001 dated Sep 2019 prepared by ARP Associates.

Reason: To minimise the risk of flooding, having regard to Scarborough Borough Local Plan Policy ENV3.

Informative

Although drawing 14573A-(PP) 102 (revision K) is approved for the purposes of this planning permission, the details would still need to comply with the requirements of Section 185 of the Water Industry Act 1991.

- 25 Development shall not commence until a scheme restricting the rate of development flow run-off from the site in accordance with the approved Drainage Strategy Statement (ref:1938/01) has been submitted to and approved in writing

by the Local Planning Authority. The flowrate from the site shall be restricted to a maximum flow rate of 5 litres per second for up to the 1 in 100 year event. A 30% allowance shall be included for climate change effects for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme has been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

Reason: To mitigate additional flood impact from the development proposals and ensure that flood risk is not increased elsewhere having regard to adopted Scarborough Borough Local Plan Policy ENV3.

- 26 No development shall take place until an appropriate Exceedance Flow Plan for the site has been submitted to and approved in writing by the Local Planning Authority. Site design must be such that when SuDS features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site. This is achieved by designing suitable ground exceedance or flood pathways. Run off must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30 year event. The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100 year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site.

Reason: To prevent flooding to properties during extreme flood events and to mitigate against the risk of flooding on and off the site, having regard to adopted Scarborough Borough Local Plan Policy ENV3.

David Walker

Background Papers:

Those documents referred to in this report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MR HUGH SMITH ON 01723 383642 email hugh.smith@scarborough.gov.uk

