

	REPORT TO PLANNING & DEVELOPMENT COMMITTEE TO BE HELD ON THURSDAY, 5 December 2019	
APPLICATION REFERENCE NO: 19/01975/OL	TARGET DATE: 20 November 2019 Extended date: 13 December 2019	GRID REF: 506071-483328

REPORT OF THE PLANNING SERVICES MANAGER – PSM/19/244

SUBJECT: Outline Planning Application for erection of up to 200 dwellings on land off Mill Lane. With public open space, landscaping, sustainable drainage system (SuDS), and vehicular access point. All matters reserved except for means of access. at Land Off Mill Lane Cayton Scarborough NORTH YORKSHIRE for Messrs, Brown, Ward and Gladman

1.0 THE PROPOSAL

1.1 This application seeks outline consent for residential development (for up to 200 dwellings) on a 9.13 hectare site to the east of Cayton Village caravan park and to the north of Cayton village. Full details of the proposed highway access to site have been submitted at this stage, but all other matters (appearance, landscaping, layout and scale) are for later consideration at the reserved matters stage. With the exception of the drawings relating to the accesses and the site plan (which defines the area of land to which any consent would relate) all of the submitted drawings are indicative only.

1.2 At present the site constitutes an agricultural field in arable use with an area of grassland midway along the eastern side. The site has a gently undulating topography and steadily increases in height towards the northern end. With respect to the site's context, the site is bounded by curtilage of the village primary school and residential development of principally 20th century origin to the south, by highway, a caravan park and 20th century residential development to the west, by a dwelling and dog kennelling/ breeding facility and open countryside to the north and by open countryside to the east. Mature hedge rows and tree belts define the site's boundaries to the east, west and north where the site mainly abuts highway development and the open countryside, and fencing with other domestic scale boundary features mark the southern edges of the site.

1.3 In terms of the site's physical constraints, all of the land is located in the Environment Agency Flood Zone 1, which is considered in Government guidance to be land at the least risk of flooding (all land in England outside of the higher risk zones 2 and 3 is designated Flood Zone 1). Various points on the site and around its edges are identified by the Environment Agency as being at high risk (an annual risk of greater than 3.3%) of surface water flooding. Approximately half of the site (the western side) is

situated within Groundwater Source Protection Zone 1 (SPZ1). In brief terms, within SPZ1 there is a requirement to ensure development does not harm groundwater which may be at risk. All of the site is located outside of the Development Limits of the Scarborough Urban Area as defined by the Scarborough Local Plan; the site is within the open countryside.

1.4 Access to the development is proposed to be off Mill Lane to the north of (and on the opposite side of the carriageway to) the access to the Cayton Village Caravan Park. Additionally, there is a proposal to add a secondary access to north of the existing primary school entrance to provide an access to a 'school drop off car park' (of unspecified size, noting that the plans submitted are indicative only). On the proposed access drawings within the submitted Transport Statement it is stated that there is a proposal to extend the 30mph speed limit on Mill Lane, although precise details of this are not provided.

1.5 No Section 106 Agreement has been submitted with the application, but draft heads of terms have been provided. The heads of terms document suggests that the applicant would seek to enter into an agreement with the Council to provide: affordable housing at a rate of 15%; on-site green space and play facilities; phasing and maintenance for the open space; off-site sports provision as may be necessary; transport/ highway improvements as may be necessary; and, land for a school car park to be provided at a 'nominal cost'. It is also stated that consideration will be given to the inclusion of other contributions as may be identified through the planning consultation process. The applicant does not elaborate further on these matters.

1.6 In addition to the plans, the application is accompanied by several supporting documents (available to view on the Council's website) including:

- Planning Statement
- Design and Access Statement
- Landscape and Visual Impact Assessment
- Transport Assessment (containing Site Access Plan)
- Travel Plan
- Interim Ecological Impact Appraisal
- Arboricultural Impact Assessment
- Flood Risk Assessment
- Phase 1 Geo Environmental Report
- Air Quality Screening Assessment
- Noise Assessment
- Heritage Assessment
- Foul Drainage Analysis
- Utilities Statement
- Socio-Economic Sustainability Statement
- Statement of Community Involvement (SCI)

1.7 Latterly, the applicant has submitted 7 'letters of interest' from volume house builders expressing an interest in the land should consent be granted.

2.0 SCREENING OPINION

2.1 Environmental Impact Assessment is not required. Screening opinion issued on 16 October 2019.

3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 The submitted Statement of Community Involvement states that the applicant has sought to contact the community directly, and has held discussions with the Parish Council and Cayton Community Primary School. Pre-application planning advice was also sought.

4.0 CONSULTATIONS AND COMMENTS

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

4.2 Cayton Parish Council:

- The development is outside of the Development Limits and is contrary to the Local Plan;
- Major expansion is already planned for Cayton in the Local Plan;
- Cayton Parish Council is concerned that if this site was allowed outside of the Local Plan then others would follow;
- Cayton Parish Council is beginning work on its Neighbourhood Plan;
- The development would give rise to unacceptable levels of traffic which would be a risk to safety, in particular to vulnerable road users attending the adjacent Primary School;
- There are already highway problems in the vicinity of the application site due to parking associated with the school;
- The Parish Council is concerned about local sewage capacity;
- There is potential for surface water flood risk to result from the development;
- There is not the local primary school capacity to cater for children living on the development;
- Cayton does not have sufficient Doctors, Dentists or nursing homes and the cemetery is full;
- The police service is already overstretched in the area;
- Cayton Village has been listed as one of the top 12 areas in Scarborough for anti-social behaviour and this situation will only worsen if there is no increase in police numbers;
- The development of this site together with possible further development of Cayton Bay caravan park will lead to the coalescence of Cayton and Cayton Bay, which is unacceptable.

4.3 Highway Authority:

- The local Highway Authority has reviewed the Transport Assessment (TA) submitted to support the application. The proposed access onto Mill Lane would provide visibility

requirements in accordance with Manual for Streets and has shown to operate within capacity for the expected trip generation from the site. Providing an emergency link is also incorporated into the internal site layout, as is proposed by the applicant, the access arrangements are considered to be satisfactory;

- The applicant has also proposed an additional site access to a small car park that could be used as a drop off and pick up facility for the adjacent Cayton Primary school. Whilst it is unlikely to be used by residents of the new development, it would provide a useful facility, allowing the removal of some on street parking that occurs around the primary school at present;

- The Transport Assessment has considered the impact on the wider road network and undertaken traffic modelling at those junctions where it is expected the development would lead to a significant increase in traffic flows. The modelling has shown that these junctions would typically be expected to continue to operate within capacity during the peak hours;

- The Highway Authority recommends that a Section 106 Agreement is used to secure £5000 towards the monitoring of the Travel Plan and £5000 to cover the cost of a Traffic Regulation Order to amend the existing speed limit on Mill Lane;

- Conditions should be applied requiring detailed highway designs, the provision of roads and footways prior to occupation, the prevention of the discharge of surface water onto the highway, the permanent retention of dwelling parking, the implementation of a travel plan, the implementation of a construction phase management plan and the provision of the following highway infrastructure together with a programme for their implementation:

- A 2m wide footpath on Mill Lane, extending from the proposed northern site boundary to Main Street;

- A 2m wide pedestrian island on Mill Lane and associated carriageway widening to be located between the junction with Main Street and Limekiln Lane;

- The relocation and upgrade of 2 existing bus stops on Mill Lane adjacent to the proposed site, to include the provision of raised bus kerbs and bus shelters;

- Mitigation measures to limit the increase in queue lengths at the junction of Cayton Low Road/ Thornburgh Road.

4.4 Lead Local Flood Authority:

- The submitted documents demonstrate a reasonable approach to the management of surface water flood risk and drainage on the site;

- Conditions should be applied requiring the development to be carried out in accordance with the submitted Flood Risk Assessment, the carrying out of percolation tests prior to the commencement of development, the pre-commencement approval of detailed drainage design and the pre-commencement approval of exceedance flow routes.

4.5 Yorkshire Water:

- Objects to the application as submitted, on the basis that sufficient information has not been submitted in order to properly assess the risks to groundwater and the public water supply that could arise from the development.

The applicant has responded to the Yorkshire Water concerns with the Following points:

- We are aware the Environment Agency's approach in this area is that residential developments in the SPZ1 associated with the Cayton Wells are acceptable if the foul drainage is connected to the mains network. The Foul drainage analysis accompanying our application demonstrates that the new scheme will be connected to main drains.
- The site soils mapping indicates impeded drainage consistent with the underlying clay dominant and so low permeability glacial till shown on BGS mapping (which is all reviewed in the Flood Risk Assessment) which from BGS borehole records in the vicinity is between 14-23.7m thick.
- The SPZ relates to the Corallian principal aquifer much deeper below site which crops out well off-site, to the north, and there is also an intervening Secondary A aquifer below the glacial till.
- The source of any site construction or post construction activities adversely impacting on the principal aquifer relates to ground disturbance, the creation of silt in runoff and also the location of welfare facilities and fuel storages, all of which can be mitigated by a Construction Management Plan as part of a reserved matters application, ensuring for example, site welfare facilities should take place on less sensitive areas of the site.
- Post -construction risk relates to future emissions from homes and gardens all of which follow surface water pathways and which can be mitigated by implementation of an appropriate SuDS treatment train prior to discharge to sewer or watercourse, which again could be conditioned as part of this, or a reserved matters application.
- For clarity, the hydrogeological risk to the principal aquifer and associated Public Water Supply is assessed as negligible due to lack of a credible pathway from Site into the principal aquifer.
- We have noted the suggested conditions which Yorkshire Water have suggested to be added on to the decision for the application 18/01053/FL which was taken to committee on 6th June 2019. Gladman would be happy for conditions to this regard to be added to our application. These conditions relate to a Construction Environmental Management Plan, liquid storage during construction, method statement for design and construction of foundations, and drainage conditions. We believe that the conditions would ensure that the protection of the Source Protection Zone.

In turn, Yorkshire water has provided a further objection which makes the following points:

- Following discussions with the Yorkshire Water senior hydrologist I can confirm that we are maintaining an objection to the development until a robust hydro-geological risk assessment that includes appropriate mitigation to the risk of pollution of groundwater is submitted.
- I have re-read the submitted 'Phase 1 Geo-Environmental Report (Enzygo Aug 2019) and note that Section 4.2. regarding groundwater states that:

"4.2.1 The permeability of the superficial geology is recorded as low to high, reflecting the cohesive and intergranular nature of the underlying strata.

4.2.2 The permeability of the solid geology is recorded as very low to low for the mudstone and high for the sandstone, reflecting the cohesive and granular nature of the underlying strata respectfully".

- The acknowledged permeability of the superficial and bedrock strata that lies above the aquifer, in our view, adds weight to the need for a hydro-geological risk assessment.

- The applicant has queried why permission was granted for a nearby development (18/01053/FL) without the requirement for a hydro-geological risk assessment. In fact one was submitted with the application but called "Preliminary controlled waters risk assessment" (Mr. Watson may be unaware that groundwater is a Controlled Water). The assessment was thorough and written by a respected specialist consultant, hence we were happy for the imposed conditions to reflect the information provided. Although the Gladman proposal is not on an allocated site we see no reason why the policies within the adopted Scarborough local plan should not be followed.

- Our position therefore remains unchanged from that described in our earlier letter; if the information with regard to groundwater protection is submitted to a standard such that YW can withdraw its objection to the development, we will comment further on waste water/other matters.

4.6 Vale of Pickering Internal Drainage Board (IDB):

- The Vale of Pickering Drainage Board acknowledge the information previously submitted has been included in Appendix 6 of the FRA and that the proposed run-off calculations have been calculated to the maximum of 1.4L/S per ha;

- The Board would however like to make comment that the easement of 4 metres for 'Land Drains' as seen in the executive summary;

- The Board requires further clarification, as to the definition of the term 'Land Drain'

- The Boards Byelaws would require anything constructed or planted within 9 metres of the watercourse be consented by the Board.

NOTE: The applicant responded to the IDB's request for clarification on the term 'land drain', and they state:

- For clarity therefore, Land Drain is a term we use where it is not as substantial as a watercourse but more so than a ditch. We assume they have wider connectivity whereas a ditch is likely to be a feature dug by a landowner with no onward connectivity.

Officers passed this further information on to the IDB and it has responded with the following further points:

- The IDB deems this to be an open cut riparian watercourse and regardless of size would fall under the Board's Byelaws as such;

- As a result of this, the minimum construction or plantation area should be 9 metres from the watercourse, unless otherwise agreed by the Board in the form of a written consent.

4.7 SBC Coastal and Drainage Engineers: Nothing further to add to the comments of the LLFA.

4.8 Environment Agency

- The Environment Agency is commenting on this planning application following representations made by Yorkshire Water and their letter to the Local Authority objecting to this development. They had expressed concern that the drainage associated with this housing development may pose a risk to public water supplies in the area that they operated.

- Whilst the Environment Agency is not a statutory consultee for this project and have not been consulted, we comment on housing developments in specific circumstances. For example where we receive representations about the pollution risk to public water supply groundwater sources. In the last year we have made similar comment on two other proposed housing developments in the Cayton area at the request of Yorkshire Water.

- Therefore, the Environment Agency is providing this information as the site is in a sensitive location and Scarborough Borough Council may wish to use it when determining if the proposals will provide adequate protection. We make particular reference to Groundwater Protection Principles and also the Scarborough Council Local Plan policy on Groundwater Protection, ENV4.

- The Local Planning Authority might conclude that the outline planning application is not appropriate, unless the Applicant provides sufficient evidence that the drains will be designed, built and operated in a manner that minimises the pollution risk.

- Groundwater is particularly sensitive in this location because the proposed development site is partly within source protection zone 1 for public water supply (PWS), including one at Station Road in Cayton. That means groundwater, and any pollutants have the potential to migrate rapidly (in a matter of days or weeks) from the site to a supply.

- To ensure development is sustainable, the Environment Agency recommends that applicants provide adequate information to demonstrate that the risks posed by development to groundwater can be satisfactorily managed.

4.9 NYCC as Education Authority:

a) Sufficiency of school places locally

The position with respect to places at Cayton Community Primary School is:

- Current net capacity of the school is 262 places
- Number of pupils on the roll is 198 pupils
- Forecast pupils on the roll for 2023/ 2024 is 217 pupils
- Surplus in places for academic year 2023/2024 is 45
- Estimated number of pupils from development of 200 2-bed dwellings is 50
- Shortfall of places is 5
- A contribution of £67,980 would be required to help offset the cost of providing the infrastructure required for the five new school places.

The Local Authority has previously utilised S106 contributions from other developments to carry out improvements at the school and the Net Capacity has increased because of this. However, the school currently operates a single form of entry Planned Admission Number as demand from within the catchment area has not risen to the point where the school could move to a PAN which would create a viable structure. This having been said, technically there is some surplus within the school which the Local Authority would intend to bring into use as numbers of in area pupils rise. This development is sufficiently large that it would use up all the surplus and create a shortfall. The value of this shortfall is calculated on the attached proforma.

b) Local plan process

The planning of school places is complex and the Local Education Authority in close working with Planning Authority in order to ensure that solutions can be planned and delivered to meet need. In Cayton we are currently working with the Forward Planning Team at Scarborough Borough Council to ensure that there is adequate education provision available to meet the need arising from the South Cayton Strategic Growth Area. This is a very significant housing development and it is likely that the required new school would not be available from the very earliest phase of the development. The Local Authority had been planning for the existing surplus at Cayton C.P to be brought into use when the in area demand reached an appropriate level and this is projected to include some of the earliest phases of delivery at the Strategic Growth Site. Clearly if this application is approved and the pupils yielded from the development attend Cayton C.P this could create a pressure on places when occupation of the Strategic Growth Site commences but before the new school is delivered.

Applications such as this that are made outside of the Local Plan Process are not helpful for the Local Authorities to plan for infrastructure requirements.

c) Proposed parent/ drop-off car park

Clearly it is for the Highways Authority to comment upon the current Highways situation on the surrounding roads and the suitability of any solution to mitigate any perceived issues. However, from the Children and Young People's Service perspective parent drop off and pick up habits have caused concern at a number of school sites across the county. In this particular case the school has worked with the Parish Council to allow access to the school site from the Jubilee Hall Car Park which seeks to reduce drop offs and parking on Mill Lane. This having been said if the development went ahead and there was a car park included which could provide, based on the travel plan drawing, perhaps 18 parent parking spaces then clearly this could be beneficial in moving some parking from the highway.

4.10 SBC Environmental Health (Housing Regulation): No objections.

4.11 SBC Environmental Health (general):

- At the pre-application stage I asked the application to pay particular attention to the dog kennels and they quite clearly have not. Not only does this disregard the potential impact on neighbouring residents, but it also negates consideration for the principle of 'agent of change ' and the impact this development could have on an existing business.

- Furthermore in an application previously for expansion of the caravan site north of the kennels, the noise surveyor was advised, as was the applicant in this case, to explore ways that the developer could work together with the kennels to provide a buffer zone or insulation 'at source' which would be far better than 'at receiver'.

- In addition to this major omission, there are errors, assumptions, lack of information and conclusions reached about impact and mitigation of impact of traffic noise, school noise and of impact of daytime amenity noise that I disagree with. In particular I note that special consideration has to be given to the orientation of dwellings, special treatment of windows and additional ventilation, acoustic screening of outdoor areas and closure of windows will be required in order for some properties to have a satisfactory level of amenity from traffic noise alone, both daytime and night-time.

- In conclusion the noise assessment report is incomplete and without further information and modelling of noise impacts against a detailed design layout, I cannot support this application.

4.12 County Archaeologist:

- The applicant has provided a Heritage Assessment. This demonstrates that remains of the prehistoric and Roman periods have been noted in the surrounding area. This indicates that the development area has archaeological potential given that there is evidence for at least 4000 years of human occupation within the immediate landscape. The heritage assessment states that there is no evidence that there would be archaeological deposits of significance on the site (section 6.2). This statement is misleading as there has not been any form of field evaluation (NPPF para. 189) to test the archaeological potential of the site;

- I would recommend that a scheme of archaeological evaluation should be undertaken to identify and describe the nature and significance of any surviving archaeological remains within the proposed development area, and enable an understanding of the potential impact of the proposal upon their significance. In the first instance, I would advise that this evaluation should comprise geophysical survey, to be followed by trial trenching, as appropriate;

- In accordance with the historic environment policies within Section 12 of the National Planning Policy Framework, 2012 (paragraph 128), this evaluation should be undertaken prior to determination of the planning application. This will enable an informed and reasonable planning decision to be taken as to whether the development should be permitted in its proposed form (paragraph 135). If so, the above information will assist in identifying mitigation options for minimising, avoiding damage to, and/or recording any archaeological remains (paragraph 141).

4.13 Natural England: No objections.

4.14 SBC Ecologist: Awaited.

4.15 SBC Arboricultural Officer: There doesn't seem to be any significant arboricultural issues.

4.16 NHS Clinical Commissioning Group: Awaited

Publicity - consultation period expired 03 October 2019

41 letters of objection to the proposals have been received by the Council. These have been submitted by local residents and make the following points:

- The development is not in accordance with the Local Plan;
- The development will lead to the loss of open space;
- Local infrastructure cannot cope with even more development in the locality, in particular schools, dentists and doctors;
- The development will lead to the loss of important wildlife habitat;
- The development will lead to the loss of significant trees;
- The additional traffic associated with the development will pose a risk to vulnerable road users, especially children associated with the nearby school;
- The development will lead to traffic congestion in the village;
- I kennel a significant number of dogs on my premises, and development directly adjacent will cause the dogs to bark which will result in nuisance;
- The development will result in significant surface water flood risk;
- Local sewerage infrastructure cannot cope with the development.

In addition, a letter of objection has been received from the Caravan and Camping Club, which owns and operates the caravan site on the west side of Mill Lane. This makes the following points:

- The development is in the open countryside and does not accord with the Local Plan;
- No compelling justification for departing with the Local Plan has been supplied by the applicant;
- The Council states that it has a five-year supply of housing land;
- If approved the development would result in our site being enveloped by housing, which would have a significant impact on the amenity of the site and its utility as a caravanning site.

5.0 RELEVANT PLANNING HISTORY

5.1 There are no entries in the planning history relevant to the determination of this application.

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

SGA 1 South of Cayton Strategic Growth Area

SD 1 - Presumption in Favour of Sustainable Development
SH 1 - Settlement Hierarchy
DEC 1 - Principles of Good Design
DEC 2 - Electric Vehicle Charging Points
DEC 4 - Protection of Amenity
DEC 6 - Archaeology
HC 1 - Supporting Housing Development
HC 2 - New Housing Delivery
HC 3 - Affordable Housing
HC 10 - Health Care and Education Facilities
HC 14 - Open Space and Sports Facilities
ENV 3 - Environmental Risk
ENV 4 - Groundwater Protection
ENV 5 - The Natural Environment
ENV 6 - Development Affecting the Countryside
ENV 7 - Landscape Protection and Sensitivity
INF 1 - Transport
INF 3 - Sustainable Transport and Travel Plans

National Planning Policy Framework

NPPF2 - Achieving Sustainable Development
NPPF4 - Decision-making
NPPF5 - Delivering a sufficient supply of homes
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

Scarborough Borough Supplementary Planning Documents

Affordable Housing
Education Payments
Green Space (Adopted November 2014)

Local Planning Policy and Guidance

None relevant

7.0 ASSESSMENT

7.1 Taking into account the relevant planning policy, representations, consultation responses and all other material planning considerations, your Officers consider the key issues in the determination of this application to be:

- A) The principle of developing this site for housing
- B) Landscape impact
- C) Access and highways
- D) Flood risk, drainage and impact on the Source Protection Zone

- E) Impact on amenity
- F) Archaeology
- G) Affordable housing
- H) Education
- I) Health provision
- J) Green space
- K) Ecology, trees and hedges

A) The principle of developing this site for housing

7.2 To begin with, members are reminded of paragraph 12 of the National Planning Policy Framework (NPPF), which reinforces the primacy of the development plan. It states:

Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

7.3 In short: where a planning proposal does not accord with the Scarborough Borough Local Plan then planning permission should normally be refused.

7.4 With this in mind, policies HC1 and HC2 of the Local Plan are the starting point for consideration. These policies set out the Borough's spatial housing objectives, and they provide for the delivery of sites allocated for housing development and support for the development of appropriate schemes inside the Development Limits (as they are shown on the Local Plan Policies Map).

7.5 For the purposes of definition, policy SH1 of the Local Plan defines all areas set beyond the Development Limits in planning terms as being within the countryside. Policy ENV6 of the Local Plan specifically addresses development affecting the countryside. The policy sets out that the character of the countryside will be protected, maintained, and where possible enhanced, and that outside of defined Development Limits new developments will be limited to those for which a countryside location is essential, subject to certain criteria.

7.6 Having regard to the above, the proposed dwellings would be located within the countryside, for which there is no demonstrable exceptional circumstance. In this respect, the proposed development would not accord with the Local Plan spatial strategy contrary to policies HC1, HC2 and ENV6, does not constitute sustainable development and is therefore unacceptable on its planning merits.

7.7 The applicant states that Officers are wrong in this respect and that planning permission ought to be granted without delay. In doing so the applicant appears to make the following arguments:

- 1) That the Council does not have an up-to-date supply of housing land, and therefore the proposal does in fact accord with the Council's spatial strategy for new housing;

- 2) That the Council cannot deliver its affordable housing needs and so the application should be approved as a means of delivering affordable homes;
- 3) That the package of 'planning benefits' which would be delivered by the scheme renders the scheme acceptable in and of its own right.

7.8 Starting with point 1), the National Planning Policy Framework requires Local Planning Authorities to ensure a continued supply of land to meet five years' worth of housing requirements, with a delivery buffer of either 5%, 10% or 20% (moved forward from later in the plan period) depending on past performance. Local Planning Authorities are also required to redress previous underperformance within the immediate 5 year period and the delivery buffer should be applied to both the requirement and the accrued backlog. If a Local Planning Authority cannot demonstrate a 5 year supply then the 'presumption in favour of sustainable development' should apply, as written in paragraph 11 of the NPPF.

7.9 Policy HC1 of the Local Plan reflects the NPPF requirement. It states that if at any point a 5 year supply cannot be demonstrated, the development of sustainable housing sites that would both make a positive contribution to the 5 year supply and be well-related to the defined Development Limits (of settlements of at least the Service Village classification) would be supported.

7.10 The applicant contends that the Council does not have a 5 year land supply as required by Government policy, and thus the proposal is compliant with Policy HC1. It is stated by the applicant that 'this is due to a number of sites included within the authority's claimed position not being deliverable'.

7.11 Sites included as deliverable in the 5 year supply calculation must be achievable, offering a realistic prospect that housing will be delivered on the site within 5 years. Annex 2 of the National Planning Policy Framework defines a 'deliverable site'. The National Planning Practice Guide (NPPG) provides further guidance (at para: ID-68-007-20190722) on what the Council can and cannot include in its calculations.

7.12 With these factors in mind, Officers would advise that the Council has a robust 6 ½ year housing supply, despite being extremely conservative with the inclusion of sites into the calculation and including nothing which may potentially conflict with the nuances of the NPPF definition and accompanying guidance in the NPPG.

7.13 Notwithstanding Officers' view on the five year supply, even if the applicant was able to demonstrate that the Council does not have a 5 year supply, your Officers would suggest that the proposal would fall down on the point of 'deliverability' in any case.

7.14 Annex 2 of the NPPF defines what is meant by a 'deliverable site'. It states that '...(sites with) outline planning permissions for major development.... should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years.'

7.15 The applicant contends that the market and affordable homes proposed on the application site could make a significant contribution to housing supply in Scarborough in the next five years of the plan period. It is stated that the site would help to address the alleged lack of a 5 year supply of deliverable housing sites. Further, it is claimed that this site would also provide homes beyond this period to assist the Council in maintaining a 5 year housing land supply.

7.16 Under the NPPF definition of 'deliverable site', as the application in hand is for outline consent and no evidence (let alone 'clear evidence' as is explicitly required by NPPF definition) has been submitted to demonstrate that housing completions will begin on the site within 5 years, the application cannot be considered to make a 'positive contribution to the 5 year supply'. Therefore, even if the Council could not demonstrate a 5-year supply, the proposal cannot be taken to comply with the requirements of Local Plan policy HC1; this application would not be the solution to any 5 year supply shortfall. The applicant's arguments on 5 year supply appear to contain a clear paradox as their argument advanced to criticise the Council's position on deliverability (i.e. 'sites with outline consent don't count') would clearly undermine the basis for their own application, which is itself made in outline form.

7.17 To conclude on the point of 5 year supply, the Council has a 5 year supply so does not need to look at proposals which depart from the development plan. Further, even if there was a problem on the point of 5 year supply, this application for outline consent would not be the answer as it falls short of the Government definition of 'deliverable site'.

7.18 Moving on to point 2), the issue of affordable housing need, it is correct for the applicant to point out that the Strategic Housing Market Area Assessment (SHMAA) written as part of the Local Plan process suggested that 526 affordable dwellings were needed over 5 years (and 161 dwellings per year beyond the 5 years) to meet demand in the Borough.

7.19 This need for affordable housing formed part of the Objective Assessment of Need (OAN), which proposed an ambitious overall housing figure of 450 dwellings per year. The OAN takes account of a whole range of sustainability factors, and in finding the Local Plan sound the Examining Inspector considered the 450 figure to be acceptable 'in the round'.

7.20 To put the SHMAA affordable housing figure into perspective, in order to deliver 526 affordable dwellings per year the Borough would need to deliver 1471 dwellings per year (or 23,000 over the plan period), which would be unsustainable in every respect.

7.21 Notwithstanding the fact the Council is able to demonstrate a 5 year supply of deliverable housing sites, the proposed dwellings would make a contribution towards the supply of affordable housing the Borough, although this would only be limited (up to 30 units, 15% of the up to 200 units proposed) such that it attracts only limited weight in support of the proposed development.

7.22 Concluding with point 3), the applicant states that the following points weigh in favour of the proposal:

- a) Construction phase spending and employment
- b) Occupant spending in the locality
- c) Sustainable Urban Drainage System for the development
- d) Public open space and possibly sports provision associated with the development; and,
- e) The provision of a 'drop-off car park' for the school weighs in favour of the proposal.

7.23 Points a) to d) are all arguably advantages of any residential development. They are not particular to this proposal. Officers would suggest that these factors attract only limited weight in support of the proposed development.

7.24 On point e), whilst on face value it appears there may have been an expression of interest from school staff directly to the developer, and whilst the facility may be a useful feature, the Local Planning Authority does not have any formal evidence in hand to suggest that this is necessary. With this in mind, your Officers would advise that this component of the planning balance is assigned only limited weight.

7.25 As a final point on the issue of principle, Members will note that the Scarborough Borough Local Plan also includes substantial housing allocations in this part of the Scarborough Urban Area, with allocations at Middle Deepdale for circa 1,200 dwellings (on top of the 1,250 with consent and under construction) and 2,500 dwellings at south of Cayton, which is currently the subject of a 'live' planning application. Other sites to the north of Cayton are also allocated, both of which have received consent or have a resolution to approve subject to finalising the legal agreement. Given that all of these allocations have either been submitted for planning consent or are making progress, it could be questioned whether allowing further housing sites in the south Scarborough area would lead to market saturation which could potentially affect the viability and deliverability of other more sustainable consented/ allocated sites, in addition to presenting logistical/ capacity challenges to infrastructure providers (as highlighted by the Local Education Authority).

B) Landscape impact

7.26 Policy ENV7 of the Local Plan requires that new development protects or enhances the features that contribute to the landscape character of a particular area and take into account the sensitivity of the landscape. The sub-text to policy ENV6 (Development Affecting the Countryside) is clear in that part of the policy motivation for affording significant protection to the open countryside is for the value it has in providing settings to the Borough's settlements, with which it often has a strong relationship (para 8.54).

7.27 The Scarborough Borough Strategic Landscape Assessment (SLA) defines the landscape area in which this site is located as 'vale fringe' land. The principal land cover in this area is fields in arable cultivation at a relatively small scale delineated by hedgerows and scattered trees, with a strong rural character. It is a seasonally colourful landscape, depending on arable cropping. One of the key visual sensitivities identified by the SLA is the impact of development on longer views across the adjacent Vale of Pickering and from more elevated land within the vale fringe character area. The 'high level objective' set out in the SLA states that the overall landscape strategy should be '...to enhance the intermittent/ variable landscape fabric, to provide a foil/ check to perceived urbanising influences, and to check urban expansion at Cayton'.

7.28 This open countryside site comprises land in mainly arable agricultural use. Public views are available into the site from along Mill Lane and from higher land in middle and distance views. The site as a whole creates a soft, rural edge to village, is a fundamental part of the rural character of the village setting and provides a visual separation between Cayton Bay and Cayton village in close, middle and distance views.

7.29 Residential development here would result in the wholesale loss of the agricultural land which is a defining feature of the setting of Cayton village and constitutes the visual separation between Cayton Village and Cayton Bay. This would harmfully expand the visual envelope of the settlement into the countryside and the crucial 'rural buffer' which currently defines the setting of Cayton in this area and provides it with a valued rural quality would be lost, contrary to policies ENV6 and ENV7 of the Scarborough Borough Local Plan.

7.30 It is also important for Members to note that this site was considered and discounted as part of the Local Plan housing site allocation process. Following a detailed assessment of the site, it was not included as an allocation due to concerns that development of the site would lead to an unacceptable intrusion into the countryside. Indeed, the site assessment concluded:

....development of this site would form significant growth of Cayton to the north-east. The site is an open field with views across to the Wolds to the south. At the southern end of the site it fronts onto the more traditional form of Cayton. The extension of Cayton beyond Mill Lane is considered to represent an intrusion into the countryside in a manner not compatible with the built form of the settlement. As such, this site is deemed unsuitable for development.

7.31 The appointed Planning Inspector examined the site selection process, including the suitability of both 'preferred' and 'dismissed' sites, as well as the assessment process itself and was satisfied 'that the approach taken to assessing and selecting sites was thorough, fair and proportionate.'

C) Access and highways

7.32 Matters relating to access and highways are key issues of concern for those who have objected to the proposals. The Local Highway Authority is a statutory consultee in the planning process, and the Council is reliant on their technical expertise when assessing proposals from transport and highways perspectives.

7.33 Access to the development is proposed to be off Mill Lane to the north of (and on the opposite side of the carriageway from) the access to the Cayton Village Caravan Park. Additionally, there is a proposal to add a secondary access to the north of the existing primary school entrance to provide an access to a 'school drop off car park' (of unspecified size, noting that the plans submitted are indicative only). On the proposed access drawings within the submitted Transport Statement it is stated that there is a proposal to extend the 30mph speed limit on Mill Lane, although precise details of this are not provided.

7.34 The Highway Authority has assessed the proposals from the point of view of safety and has not raised objections subject to conditions requiring:

- Detailed highway designs
- The provision of roads and footways prior to occupation
- The prevention of the discharge of surface water onto the highway
- The permanent retention of parking spaces for no other purpose
- The implementation of a travel plan
- The implementation of a construction phase management plan

- The provision of the following infrastructure a) to d):

- a) A 2m wide footpath on Mill Lane, extending from the proposed northern site boundary to Main Street;
- b) A 2m wide pedestrian island on Mill Lane and associated carriageway widening to be located between the junction with Main Street and Limekiln Lane;
- c) The relocation and upgrade of 2 existing bus stops on Mill Lane adjacent to the proposed site, to include the provision of raised bus kerbs and bus shelters;
- d) Mitigation measures to limit the increase in queue lengths at the junction of Cayton Low Road/ Thornburgh Road.

7.35 With this in mind, subject to the imposition of the above conditions (excluding those discussed at section K) of this report), and the applicant first entering into a legal agreement to cover the Highway Authority costs in altering the speed limit in the vicinity of the access, Officers do not consider that the development will harm the safety and convenience of users of the public highway.

D) Flood risk, drainage and impact on the Source Protection Zone

7.36 Policy ENV3 of the Local Plan states that development will only be permitted where adequate provision for foul and surface water disposal exists or can be provided. Policy ENV4 states that development should not compromise groundwater. Section 14 of the NPPF requires Local Planning Authorities to ensure flood risk is not increased elsewhere as a result of new development.

7.37 The County Council as the Lead Local Flood Authority is the statutory consultee on matters related to surface water drainage and the Local Planning Authority is reliant on the technical advice of this agency.

7.38 It is proposed that surface water run-off from the development be attenuated by appropriate means before being discharged into the watercourse running to the north of the site.

7.39 As can be seen from their consultation response, subject to conditions (requiring the development to be carried out in accordance with the submitted Flood Risk Assessment, the carrying out of percolation tests prior to commencement, the pre-commencement approval of detailed drainage design and the pre-commencement approval of exceedance floor routes) the LLFA states that the applicant has demonstrated a reasonable approach to the management of surface water flood risk and drainage on the site.

7.40 Moving on from surface water, in this case there is an additional drainage consideration: the site lies within Source Protection Zone 1 (SPZ1 - Inner Catchment Zone) for the Cayton boreholes which are an important strategic source of water supply for the Scarborough area. The Environment Agency (EA) designates and defines Zone 1 as the Inner Protection Zone whereby a pollutant can travel to a borehole (utilised for water supply) within 50 days from any point within the zone, applies at and below the water table and has a minimum 50 metre protection radius around the borehole. These criteria are designed to protect against the transmission of toxic chemicals and water-borne disease with the travel time representing the minimum amount of time that the EA consider pollutants need to be diluted or dispersed by the time they reach the borehole.

The main period of risk is the construction phase, during periods of ground disturbance and increased risk of hydrocarbon pollution from plant vehicles on site. Post-construction, pollution risks from such a site arise mainly from drainage issues including car park run-off, the risk of hydrocarbon spillage and foul drainage. Further risks may be posed depending on the specific development and activities proposed at the site.

7.41 The applicant's own desk-top study (the Phase 1 Geo-Environmental Report, Enzygo, 2019) states that:

- The permeability of the superficial geology is recorded as low to high, reflecting the cohesive and intergranular nature of the underlying strata;

- The permeability of the solid geology is recorded as very low to low for mudstone and high for sandstone, reflecting the cohesive and granular nature of the underlying strata...

7.42 In brief, the applicant acknowledges in their own work that the permeability of the superficial and bedrock strata that lies above the aquifer and this is a patent risk factor.

7.43 Policy ENV4 of the Local Plan deals specifically with groundwater protection. This is a detailed policy (pages 119 and 120 of the Local Plan) and Members are encouraged to familiarise themselves with its provisions, but in short the policy states that within SPZ1 there is a requirement to ensure development does not harm groundwater which may be at risk. It goes on to state that development proposals 'posing unacceptable risk of pollution' from the sorts of risk factors posed by residential development (sewage or contaminated surface water, for example - table 8.2, page 120) should be supported by a Hydrogeological Risk Assessment (HRA).

7.44 Members will have seen from the consultation responses that Yorkshire Water has objected to the proposals citing the need for 'a comprehensive assessment of the hydro-geological parameters at the site and an appropriate risk assessment that can be enlarged upon at the reserved matters stage', i.e. the Hydrogeological Risk Assessment required by policy ENV4 is absent from the submission.

7.45 The applicant asked for extra time to deal with the issues raised by Yorkshire Water in their initial consultation response (the application ought to have been heard at the November meeting), and on 30 October the applicant made a further submission. In brief terms, this argues that the provision of a Hydrogeological Risk Assessment is unnecessary; instead of providing the information required by Yorkshire Water, the applicant elected to seek to argue that its provision is unnecessary.

7.46 As can be seen from section 4.5 of this report, in response to the applicant's comments Yorkshire Water has made a further submission which dismisses the applicant's position and re-affirms the need for a Hydrogeological Risk Assessment.

7.47 In short, Yorkshire Water's strong view is that, in accordance with policy ENV4 of the Local Plan, owing to development specific risks to groundwater and the acknowledged likely geological susceptibility of the application site, permission should not be granted without a Hydrogeological Risk Assessment. Without such an assessment, the proposal risks harming groundwater in SPZ1 which may be at risk, contrary to policy ENV4 of the Local Plan. This position is reinforced by the comments of the Environment Agency, which echo the concerns of Yorkshire Water.

E) Impact on Amenity

7.48 Policy DEC4 of the Local Plan deals specifically with the protection of amenity. It states:

Proposals should ensure that existing and future occupants of land and buildings are provided with a good standard of amenity. Proposals for development should not give rise to unacceptable impacts by means of:

- a. Overbearing impact;
- b. Overlooking and loss of privacy;
- c. Disturbance arising from such things as noise, light pollution and other activities;
- d. Emissions including smells and other pollutants; or
- e. Overshadowing or loss of natural light.

7.49 The policy goes on to state that the criteria a-e are not exhaustive and that development that causes significant harm to amenity by means of these or other impacts will not be permitted.

7.50 Starting with points a, b and e (overbearing, overlooking and overshadowing), issues relating to appearance, landscaping, layout and scale are all issues for consideration at the (later) reserved matters stage. However, without prejudice to Officers' concerns with the proposals as set out in this report, it is the view of your Officers that, with careful consideration, a design could be achieved for consideration at the reserved matters stage (the plans submitted at this point are indicative only) which would prevent the unacceptable overbearing, overshadowing and overlooking impacts to neighbouring dwellings.

7.51 Similarly, in and of its own right, Officers do not consider that development of the nature and intensity proposed on this site (residential development with a maximum density of approximately 31 dwellings per hectare, based on a net developable area of 70%) will result in such noise and disturbance so as to warrant the refusal of planning permission.

7.52 Officers cannot agree with the owners of the camp site on the west side of Mill Lane that the residential development here in principle will cause undue harm to the amenity and utility of their site. The relationship between the two uses (camping and caravanning sites in relatively proximity to residential uses) exists throughout the Borough (particularly in the Cayton, Scarborough and Filey areas), and in the overwhelming majority of cases without difficulty; the two uses in close juxtaposition are not inherently incompatible.

7.53 Officers note the presence of the dog kennelling facility immediately to the north of the application site (at Alma Farm Cottage). The Case Officer recently visited this property and observed that it is used for the kennelling and breeding of St Bernard dogs. There are 12 kennels on the site, and 16 dogs were resident at that point. It is clear that this use has been ongoing for many years at an intensity of at least that now apparent.

7.54 In their Noise Assessment Report the applicant acknowledges the presence of the 'dog breeding business' immediately to the north of the application site, but (at para 3.1.2) states:

Site walkovers were carried out prior to and during the noise survey to identify the noise sources affecting the proposed development site. No noise associated with the dog breeding premises was audible on the site therefore this has not been considered further.

7.55 Notwithstanding the applicant's findings, it was clear to the Case Officer during the site visits that the presence of people on the application site causes the dogs to become vocal, which would patently be a nuisance to existing residents of the nearest dwellings (including the residents of Alma Farm Cottage themselves), new residents and occupiers of the nearby caravan sites and likely further afield, contrary to part c. of policy DEC4 (Protection of Amenity). Although apparently generally quiet (there have been no noise complaints made to the Council over the years), the magnitude of the noise caused by the dogs when disturbed by the presence of people near to the site cannot be overstated, and in this regard the applicant's findings are surprising.

7.56 Whilst this is the case, it is import to hold in mind that this is an application for outline consent with all matters reserved for later consideration; the applicant is looking to establish the principle of developing the site for housing only. It would only be appropriate to withhold consent on noise related amenity grounds if it is likely that noise from the source in question would render the site undevelopable in principle in its entirety (that is the only issue under consideration).

7.57 With this in mind, should Members be minded to grant consent, Officers consider that it would be most appropriate to deal with the dog kennelling facility noise issue by way of a planning condition. Such a condition might require the submission of a noise mitigation strategy with the appropriate reserved matters application(s) limiting noise levels from the dog kennelling facility and other sources within rooms of dwellings on the new development.

7.58 Meeting the appropriate limits might well reduce the area of the site available for development (creating a 'noise related buffer zone' around the dog kennelling facility), but this is a risk for the applicant. A more in-depth Noise Assessment Report would have provided the applicant with a better understating of the readily observable noise issue and risks this poses to their proposal.

7.59 In support of this position, paragraph 182 of the updated NPPF strengthens the established 'agent of change' principle and makes it clear that planning decisions should ensure that new development can be integrated efficiently with existing business and facilities. An appropriately worded planning condition can ensure that this is the case. Without such a condition, based on their observations during the site visits, Officers view is that the proposal would have a significant adverse effect on the existing use at Alma Farm Cottage, and vice versa with neighbouring uses also suffering harmful noise impacts.

F) Archaeology

7.60 Policy DEC6 of the Local Plan requires that archaeological heritage is protected, enhanced and promoted.

7.61 The County Archaeologist states that the site is of archaeological potential and that further investigative work (a geophysical survey) should be carried out before a decision is made on this application; without this further work the inference (in stating it is necessary prior to decision) is that the planning application should be refused.

7.62 In this regard, it is again import to hold in mind that this is an application for outline consent with all matters reserved for later consideration; the applicant is looking to establish the principle of developing the site for housing only. It would only be appropriate to withhold consent on archaeological grounds if it is likely that archaeological finds would render the site undevelopable in principle in its entirety (that is the only issue under consideration).

7.63 In later correspondence to the Case Officer the County Archaeologist states '....the presence of archaeological remains is unlikely to completely prevent development on this site....'.

7.64 With this in mind, should Members be minded to grant consent, Officers consider that it would be most appropriate to deal with the concerns of the County Archaeologist by way of a planning condition. Such a planning condition might require the following to be submitted as part of an application for the relevant reserved matter (layout):

- A geophysical survey of the site and analysis; and
- Ground investigations as may be required with analysis.

7.65 Such information would inform the layout design. If it did not do so appropriately, or if the submitted details were deficient in some way, then at that point it would be appropriate to withhold (reserved matters) consent. It may well be that the such work would rule out the development of a considerable proportion of the site, but this is a risk for the applicant (and given their reticence to commission further archaeological work at this stage presumably one they find acceptable).

G) Affordable housing

7.66 Policy HC3 of the Scarborough Borough Local Plan together with the Council's Affordable Housing Supplementary Planning Document are clear in that the provision of affordable housing on eligible developments will be expected. In accordance with policy HC3 of the Scarborough Borough Local Plan, 15% of the units are expected to be affordable dwellings in this case.

7.67 Although the applicants have agreed in principle to this level of provision, in the absence of a completed legal obligation, no such provision has been secured. That, in its own right, represents a sustainable reason for refusing planning permission.

7.68 As such, approval of the application at this stage is contrary to policy HC3 of the Scarborough Borough Local Plan, the provisions of the Council's Affordable Housing Supplementary Planning Document, as the development fails to provide sufficient

affordable housing provision. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

H) Education

7.69 Policy HC10 of the Scarborough Borough Local Plan together with the Council's Education Payments Supplementary Planning Document are clear in that the provision of education places for the children living in new dwellings is key to the development being 'sustainable development'.

7.70 This stance is supported by the Government's planning policies as set out in paragraph 95 of the NPPF. It states that great weight should be attached to the need to create, expand or alter schools (to cater for new development), and that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

7.71 With the comments of the Local Education Authority in mind, Officers have two principal concerns with respect to education provision in this case: 1) a lack of education capacity in the locality, when planned development is also taken in account; and, 2) a lack of any planning obligation to bind the landowner to pay the cost of providing additional school places for the children likely to be living on the new development.

7.72 Starting with point 1), the Education Authority has stated in its response that it is working with the Local Planning Authority to ensure that there is adequate education provision available to meet the need arising from the South Cayton Strategic Growth Area, which is the 131 hectare site to the south of Cayton for around 2500 new dwellings. It is recognised that a new primary school will be required for this area. The Local Education Authority state that it has been planning for the existing surplus at Cayton County Primary School to be brought into use when demand in the area reached an appropriate level and this is projected to include some of the earliest phases of delivery at the Strategic Growth Area, for which there is a current planning application. It goes on to state that if this application is approved and the pupils from the development in question attend Cayton County Primary School this could create pressure on school places when occupation of the Strategic Growth Area commences but before any necessary new school is delivered.

7.73 With is in mind, Officers are of the view that delivery of this site would frustrate and delay the delivery of the properly planned sites in the Cayton Area and will put harmful pressure on local education services, contrary to HC1, HC10 and SGA1 of the Scarborough Borough Local Plan. In simple terms, from the perspective of local education services, the delivery of this site would amount to unplanned development which is contrary to the overarching Local Plan objective of sustainable development. Officers would advise that this is reasonable grounds for withholding planning permission in and of its own right.

7.74 Turning to point 2) and the lack of a planning obligation, the local Education Authority has requested that £67,980 be provided by the developer to pay the cost of providing additional school places for the children likely to be living on the new development. As set out in the Council's Education Payments SPD, the sum required

will depend on the nature of the final scheme (numbers and size of the proposed units), so normally the Council would require a Section 106 Agreement obligating the site owner(s) to comply with the provisions of the Education Payments SPD (i.e. the Local Planning Authority would not normally seek to secure a particular sum at this stage).

7.75 Although the applicants have agreed in principle to this contribution, in the absence of a completed legal obligation, no such contribution has been secured.

7.76 As such, approval of the application at this stage would be contrary to policy HC10 of the Scarborough Borough Local Plan, the provisions of the Council's Education Payments Supplementary Planning Document and paragraph 94 of the National Planning Policy Framework, as the development fails to provide sufficient contribution towards education provision and is therefore not sustainable development because the choice for parents to choose the nearest may not be available, and children would need to travel further to a school with capacity.

I) Health provision

7.77 Officers are aware that the relevant NHS Clinical Commissioning Group has made arrangements to cater for the committed and allocated residential developments in the locality and is seeking developer funding to provide this. It is not known whether further provision will be required as a result of this planning application. The Clinical Commissioning Group has been consulted and any response will be reported at the meeting.

J) Green space

7.78 Policy HC14 of the Scarborough Borough Local Plan and the Council's Green Space Supplementary Planning Document (2014) together with the associated Scarborough Borough Playing Pitch Strategy (2013) are clear in that the provision of sufficient high quality open space, sports and recreation (including play) space is key to new residential development being 'sustainable development'. This stance is supported by the Government's planning policies as set out in paragraph 96 of the NPPF. It states that access to high quality open space, sports and recreation space should be provided.

7.79 The relevant policies and associated documents provides an evidence based assessment of what provision is required in any given locality in the four areas below:

- Parks and gardens;
- Sports facilities;
- Children's play; and
- Amenity open space.

7.80 As set out in the Council's Green Space SPD, the sums required will depend on the nature of the final scheme (numbers and size of the proposed units). With this in mind, the Council would normally expect to see a legal agreement that would obligate applicant to provide payments in line with the Green Space SPD. This would allow the sum required to reflect the housing mix as it is eventually proposed (rather than collecting an estimated sum at this point).

7.81 To give Members some idea of what might ultimately be required, based on an indicative yield of 200 dwellings, in addition to 0.23 hectares of on-site amenity open space, there would be a need for an on-site children's play facility with a value equivalent to £135,912 and an off-site sports contribution of £76,944. In accordance with the evidence presented in the Green Space SPD and allied documents, there is unlikely to be a requirement for contributions towards parks and gardens; these are already well provided for in the locality.

7.82 Although the applicants have agreed in principle to providing Green Space related contributions, in the absence of a completed legal obligation, no such contributions have been secured.

7.83 As such, approval of the development at this stage would be contrary to policy HC14 of the Scarborough Borough Local Plan, the Council's Green Space Supplementary Planning Document (2014), the associated Scarborough Borough Playing Pitch Strategy (2013) and paragraph 96 of the NPPF as the development fails to provide sufficient high quality open space, sports and recreation (including play) space. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

K) Ecology, trees and hedges

7.84 In general terms, policy ENV5 of the Local Plan requires that new development conserves and enhances the natural environment.

7.85 Officers have considered the site's features and the submitted ecological work against the Natural England Standing Advice. On the basis of the evidence in hand, Officers consider that the development could be implemented without the applicant first having to apply to Natural England for a European Protected Species License.

7.86 If Members are minded to grant consent, Officers would suggest that a scheme could be devised for the reserved matters which retains the best of the existing trees and hedge on and bounding the site.

L) Additional considerations

7.87 The consultation response of the Highway Authority requests that conditions be applied requiring:

- Measures to prevent water being displaced onto the Highway;
- Broad proposals to prevent highways and other related nuisance and obstruction during the construction phase (by way of Construction Phase Management Plan).

7.88 Members will note that Officers frequently advise that conditions of this nature are not added to planning permissions. However, in this case, owing to the very close proximity of the school, your Officers would advise this is a 'special circumstance' whereby it would be appropriate for a condition requiring a broad Construction Phase Management Plan be applied to any consent Members are minded to grant. This could deal with matters such as site parking, HGV routing, delivery times to protect vulnerable

road users, together with noise, dust and working time management to protect the amenity of the school.

7.89 There are provisions in primary legislation (the Highways Act, to be enforced by the Highway Authority) for preventing drainage onto the highway, so Officers do not consider that that conditions relating to this would be appropriate; the Government's latest guidance on the use of planning conditions is absolutely clear in that Councils should not apply conditions which duplicate existing legislation, or where there is 'alternative means of managing certain matters'.

7.90 Members will also note that the Highway Authority has requested a (generic) condition be applied requiring a travel plan to be submitted, and for travel to be managed in accordance with the plan for the life of the development. While such plans can be an effective means of managing transport and the impact of transport from some developments (such as public venues and transport hubs for example), Officers do not consider that the suggested condition is appropriate in this case. Ultimately, transport to and from the development site will depend on the behaviour of individual householders, and this is not likely to be influenced by the suggested planning condition.

POSITIVE AND PROACTIVE STATEMENT

Officers advised that the proposal was unacceptable on a point of principle at the pre-application stage. The proposal submitted at application stage was not materially different from that Officers had already advised on, which limited the potential for positive and proactive discussions.

RECOMMENDATION

PERMISSION BE REFUSED, for the following reason(s)

- 1 Policies HC1 and HC2 of the Scarborough Borough Local Plan set out the Borough's spatial housing objectives, and they provide for the delivery of sites allocated for housing development and support for the development of appropriate schemes inside the Development Limits (as they are shown on the Local Plan Policies Map). Policy SH1 of the Local Plan defines all areas set beyond the Development Limits in planning terms as being within the countryside. Policy ENV6 of the Local Plan specifically addresses development affecting the countryside. The policy sets out that the character of the countryside will be protected, maintained, and where possible enhanced, and that outside of defined Development Limits, new developments will be limited to those for which a countryside location is essential, subject to certain suggested criteria.

Having regard to the above, the proposed dwellings would be located within the countryside, for which there is no demonstrable exceptional circumstance. In this respect, the proposed development would not accord with the Local Plan spatial strategy contrary to policies HC1, HC2 and ENV6, will harm the character of the countryside, does not constitute sustainable development and is therefore unacceptable on its planning merits.

- 2 Policies HC1 and HC2 of the Scarborough Borough Local Plan set out the Borough's spatial housing objectives, and they provide for the delivery of sites allocated for housing development and support for the development of

appropriate schemes inside the Development Limits (as they are shown on the Local Plan Policies Map).

Notwithstanding the fact that the Council has a demonstrable 5-year supply of deliverable housing land/ sites, it is important to note that Scarborough Borough Local Plan policy HC1 states (inter alia) that if at any point a 5-year supply cannot be demonstrated, the development of sustainable housing sites that would both make a positive contribution to the 5-year supply and be well-related to the defined Development Limits (of settlements of at least the Service Village classification) would be supported. This is clarified at paragraph 6.23 of the supporting text to Scarborough Borough Local Plan policy HC1, which states that 'In such cases, proposals... will have to demonstrate that they will be deliverable in the short term and contribute to any identified shortfall in the five year supply of housing sites.'

While the proposed site is well-related to the Development Limits of the Scarborough Urban Area, the NPPF (paragraph 73) confirms that the 5-year supply should comprise 'deliverable' sites. The term 'deliverable' is defined at Annex 2 of the NPPF, and the definition states that '...(sites with) outline planning permission for major development... should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.'

Under that definition, as the present application is for outline planning consent and no evidence (let alone 'clear evidence') has been submitted to demonstrate that housing completions will begin on site within five years, the application cannot be considered to make a 'positive contribution to the 5-year supply'. Therefore, even if the Council could not demonstrate a 5-year supply, the proposal cannot be taken to comply with the requirements of Scarborough Borough Local Plan policy HC1 or Annex 2 of the NPPF.

- 3 Policy HC10 of the Scarborough Borough Local Plan together with the Council's Education Payments Supplementary Planning Document are clear in that the provision of education places for the children living in the new dwellings is key to the development being 'sustainable development'.

This stance is supported by the Government's planning policies as set out in paragraph 95 of the NPPF. It states that great weight should be attached to the need to create, expand or alter schools (to cater for new development), and that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

Although the applicant has agreed in principle to making an education contribution in accordance with Policy H10 of the Scarborough Borough Local Plan and the Education Payments Supplementary Planning Document, in the absence of a completed legal obligation, no such contribution has been secured.

As such, approval of the application at this stage is contrary to policy HC10 of the Scarborough Borough Local Plan, the provisions of the Council's Education Payments Supplementary Planning Document and paragraph 94 of the National

Planning Policy Framework, as the development fails to provide sufficient contribution towards education provision and is therefore not sustainable development because the choice for parents to choose the nearest school may not be available, and children may need to travel further to a school with capacity.

- 4 Policy HC14 of the Scarborough Borough Local Plan and the Council's Green Space Supplementary Planning Document (2014) together with the associated Scarborough Borough Playing Pitch Strategy (2013) are clear in that the provision of sufficient high quality open space, sports and recreation (including play) space is key to new residential development being 'sustainable development'. This stance is supported by the Government's planning policies as set out in paragraph 96 of the NPPF. It states that access to high quality open space, sports and recreation space should be provided.

Although the applicant has agreed in principle to making contributions in accordance with Policy H14 of the Scarborough Borough Local Plan and the Green Space Supplementary Planning Document, in the absence of a completed legal obligation, no such contribution has been secured.

As such, approval of the development at this stage would be contrary to policy HC14 of the Scarborough Borough Local Plan, the Council's Green Space Supplementary Planning Document (2014), the associated Scarborough Borough Playing Pitch Strategy (2013) and paragraph 96 of the NPPF as the development fails to provide sufficient high quality open space, sports and recreation (including play) space. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

- 5 Policy HC3 of the Scarborough Borough Local Plan together with the Council's Affordable Housing Supplementary Planning Document are clear in that the provision of affordable housing on eligible developments will be expected. In accordance with policy HC3 of the Scarborough Borough Local Plan, 15% of the units are expected to be affordable houses in this case. Although the applicants have agreed in principle to this level of provision, in the absence of a completed legal obligation, no such provision has been secured.

As such, approval of the application at this stage is contrary to policy HC3 of the Scarborough Borough Local Plan, the provisions of the Council's Affordable Housing Supplementary Planning Document, as the development fails to provide sufficient affordable housing provision. With this in mind, the proposal will not achieve 'sustainable development' in line with the overarching objectives set out in Section 2 of the National Planning Policy Framework.

- 6 Policy ENV7 of the Local Plan requires that new development protects or enhances the features that contribute to the landscape character of a particular area and take into account the sensitivity of the landscape. The sub-text to policy ENV6 (Development Affecting the Countryside) is clear in that part of the policy motivation for affording significant protection to the open countryside is for the value it has in providing settings to the Borough's settlements, with which it often has a strong relationship (para 8.54).

This open countryside site comprises land in mainly arable agricultural use. Public views are available into the site from along Mill Lane and from higher land in middle and distance views. The site as a whole creates a soft, rural edge to village, is a fundamental part of the rural character of the village setting and provides a visual separation between Cayton Bay and Cayton village in close, middle and distance views.

Residential development here would result in the wholesale loss of the agricultural land which is a defining feature of the setting of Cayton village and constitutes the visual separation between Cayton Village and Cayton Bay. This would harmfully expand the visual envelope of the settlement into the countryside and the crucial 'rural buffer' which currently defines the setting of Cayton in this area and provides it with a valued rural quality would be lost, contrary to policies ENV6 and ENV7 of the Scarborough Borough Local Plan.

- 7 Policy HC10 of the Scarborough Borough Local Plan together with the Council's Education Payments Supplementary Planning Document are clear in that the provision of education places for the children living in new dwellings is key to the development being 'sustainable development'.

Paragraph 95 of the NPPF states that great weight should be attached to the need to create, expand or alter schools (to cater for new development), and that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.

Policy HC1 of the Local Plan looks to support the delivery of housing on the Borough's allocated housing sites, and policy SGA1 of the Local Plan allocates 131 hectares of land to the south of Cayton for housing (the Strategic Growth Area).

The Education Authority has stated in its consultation response that it is working with the Local Planning Authority to ensure that there is adequate education provision available to meet the need arising from the South Cayton Strategic Growth Area. The Local Education Authority state that it has been planning for the existing surplus at Cayton County Primary School to be brought into use when demand in the area reached an appropriate level and this is projected to include some of the earliest phases of delivery at the Strategic Growth Area. It goes on to state that if this application is approved and the pupils from the development attend Cayton County Primary School this could create pressure on school places when occupation of the Strategic Growth Area commences but before any necessary new school is delivered (on the Strategic Growth Area).

The delivery of this site would frustrate the delivery of the properly planned sites in the Cayton Area and will put harmful pressure on local education services, contrary to HC1, HC10 and SGA1 of the Scarborough Borough Local Plan and the provisions of paragraph 95 of the NPPF, which states that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. In simple terms, from the perspective of local education services, the delivery of this site would amount to unplanned development which is contrary to the overarching Local Plan objective of sustainable development.

8 The application site lies within Groundwater Source Protection Zone I, (Inner Catchment Zone) for the Cayton boreholes which are an important strategic source of supply for the Scarborough area. The Environment Agency (EA) designates and defines Zone 1 as the Inner Protection Zone whereby a pollutant can travel to a borehole (utilised for water supply) within 50 days from any point within the zone, applies at and below the water table and has a minimum 50 metre protection radius around the borehole. These criteria are designed to protect against the transmission of toxic chemicals and water-borne disease with the travel time representing the minimum amount of time that the EA consider pollutants need to be diluted or dispersed by the time they reach the borehole. The main period of risk is the construction phase, during periods of ground disturbance and increased risk of hydrocarbon pollution from plant vehicles on site. Post-construction, pollution risks from such a site arise mainly from drainage issues including car park run-off, the risk of hydrocarbon spillage and foul drainage. Further risks may be posed depending on the specific development and activities proposed at the site.

The applicant's own desk-top study (the Phase 1 Geo-Environmental Report, Enzygo, 2019) states that:

- The permeability of the superficial geology is recorded as low to high, reflecting the cohesive and intergranular nature of the underlying strata;
- The permeability of the solid geology is recorded as very low to low for mudstone and high for sandstone, reflecting the cohesive and granular nature of the underlying strata...

In brief, the applicant acknowledges in their own work that the permeability of the superficial and bedrock strata that lies above the aquifer.

Policy ENV4 of the Scarborough Borough Local Plan deals specifically with groundwater protection. It states that within SPZ1 there is a requirement to ensure development does not harm groundwater which may be at risk. The policy goes on to state that development proposals 'posing unacceptable risk of pollution' from the sorts of risk factors posed by residential development (sewage or contaminated surface water, for example - table 8.2 of policy ENV4) should be supported by a Hydrogeological Risk Assessment (HRA).

Yorkshire Water has objected to the proposals citing the need for 'a comprehensive assessment of the hydrogeological parameters at the site and an appropriate risk assessment that can be enlarged upon at the reserved matters stage', i.e. the Hydrogeological Risk Assessment required by policy ENV4 is absent from the submission. The Environment Agency has echoed these concerns.

Owing to development specific risks to groundwater and the acknowledged likely geological susceptibility of the application site, in the absence of a Hydrogeological Risk Assessment the development poses an unacceptable risk to the groundwater, contrary to policy ENV4 of the Scarborough Borough Local Plan.

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 DANIEL METCALFE ON 01723 383538 email daniel.metcalfe@scarborough.gov.uk



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