

	<p align="center"><b>REPORT TO PLANNING &amp; DEVELOPMENT COMMITTEE</b></p> <p align="center"><b>TO BE HELD ON THURSDAY, 10 March 2016</b></p>	
<p><b>APPLICATION REFERENCE NO:</b> <b>15/02657/RG3</b></p>	<p><b>TARGET DATE:</b> <b>4 April 2016</b></p>	<p><b>GRID REF:</b> <b>505113-487982</b></p>

## **REPORT OF THE PLANNING SERVICES MANAGER – PSM/16/67**

**SUBJECT: Construction of flood defences, comprising of: A series of earth embankments to encircle large areas of the town of Filey; Flood water storage areas; Land raising; and, Drainage channels and culverts to redirect floodwater flows. for Scarborough Borough Council (Mr Stewart Rowe) Various Sites Around Outskirts Filey**

### **1.0 THE PROPOSAL**

1.1 This proposal arises from the surface water flooding that occurred in Filey in 2002 and 2007. These events highlighted the requirement to improve surface water run-off management in and around the Town if similar events were to be avoided or reduced in the future.

1.2 This scheme is designed to intercept surface water flowing towards the built up areas of Filey, divert it into holding areas where it can be release at a controlled rate into the town's existing surface water drainage system. It is designed to cope with a 1 in 100 year flood event with additional allowances for climate change and unpredictability.

1.3 The proposal comprises a series of earth embankments, drainage channels and culverts and surface water storage areas. These structures will be located to the North and North West of Filey (around Wooldale Drive, Church Cliff Drive, Cherry Tree Drive and Plane Tree Way) and to the South west of the Town (around Filey School and the Wharfedale estate)

1.4 It is proposed to construct 6 separate sections of embankment with a total combined length of 1.7 Km. They will range in height from 0.5 to 1.5 metres with a flat top that will be 4 metres wide. They will be constructed from clay excavated to form the channels and storage areas and will be grassed over.

1.5 A total of 1.7 Km of drainage channels will be excavated in 5 separate sections. Some will be completely new; others will involve the enlargement of existing ditches. Their depth will vary from 0.5 metres to 3.0 metres. They will be culverted where they cross public footpaths.

1.6 Three water storage areas will be created to hold surface water at times of high rainfall. The first and largest will be situated between Scarborough Road and the junior football pitches. It will cover an area of 29,000 square metres with an average depth below ground level of 0.8 metres. The second and smallest will be to the North of Wooldale Drive and have a surface area of 4000 square metres and an average depth of 1.5 metres. The third will be located to the North of Church Cliff Drive and West of the Country Park and have an area of 5000 square metres and an average depth of 1.0 metre. The Scarborough Road area will be created by excavation. The other two will be formed by a combination of ground excavation and embankments, mainly on their southern, eastern and western sides. The depth of the excavations will range from 0.5 to 2.5 metres below existing ground level. The maximum height of the embankments around the storage areas will be 1.5 metres. The storage areas will be grassed. It is important to note that for the majority of the year they will be dry features and contain no water.

1.7 It is proposed to raise two small areas of land to direct surface water into the channels. One is west of Cherry Tree Drive. The other is in the North Eastern corner of Filey School playing field where the land will be raised by approximately 0.5 metres.

1.8 A 5 metre wide level, grassed access track will be provided alongside the defences for maintenance and the earthworks will be differentiated from surrounding agricultural land by a line of fence posts.

1.9 This proposal also involves using 49,700 cubic metres of the excavated material that is not used in the construction of the bunds to regrade an area of agricultural land to the North West of Filey in order to aid drainage. The land will be raised by approximately 0.525 metres above existing.

1.10 The proposal involves the diversion of a short length of public footpath (200 metres) to the North of Scarborough Road.

1.11 The application has been accompanied by: a formal environmental statement, as required under the Environmental Impact Assessment Regulations; a non-technical summary of that statement, a design and access statement; and, a waste hierarchy overview.

## 2.0 SCREENING OPINION REQUIRED?

2.1 The application was accompanied by an Environmental Impact Assessment and is an EIA application under the Environmental Impact Regulations.

## 3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 The applicants have advised that throughout the development of the project, stakeholder engagement has taken place with, amongst other things, public consultations and landowner meetings.

## 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 Filey Town Council - Awaited.

4.2 Highway Authority - The information provided in the Design and Access statement regarding the location of any access from the public highway is vague. The existing farm track accesses which are stated will be widened should be constructed to the specification of the Highway Authority. Details of the exact access locations are required to assess their suitability for the types of large construction vehicles which can be expected on a project of this type. Consequently the Local Highway Authority recommends that conditions are attached to any permission granted concerning submission, approval and implementation of full access details.

4.3 Public Rights of Way (NYCC) - The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990.

4.4 Flood Risk Management (NYCC) - As the application is for a large flood defence scheme the design of which has been underway for a significant length of time and has involved Scarborough Borough Council flood risk and drainage engineers, can I confirm that we are happy to defer to the opinion of those engineers and have no objection to proposals.

4.5 Environment Agency - No objections to the proposed works. We are in favour of and support the proposed Flood Alleviation Scheme.

4.6 Vale of Pickering IDB - None of the work will have any impact as the area is just outside the IDB area. The nearest drain maintained by the Board is Gristhorpe drain which extends to near the level crossing and Crayke House Farm. In view of the above, the Board have no comments to make.

4.7 Natural England - The application site is in close proximity to Flamborough and Filey Coast potential Special Protection Area (pSPA), an area that has been identified for inclusion in the Natura 2000 network, and should therefore be treated in the same way as other European sites. European sites are afforded protection under the Conservation of Habitats and Species Regulations. The National Planning Policy Framework (paragraph 118) applies the same protection measures to all proposed or potential European sites. Natural England advises that the proposal is unlikely to have a significant effect on the interest features of Flamborough & Filey Coast pSPA, and can therefore be screened out from any requirement for further assessment. This application is in close proximity to Filey Brigg Site of Special Scientific Interest (SSSI) and Filey Brigg to Scarborough South Bay proposed SSSI. Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which these sites have been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. The proposed development is in close proximity to the Cleveland Way and Yorkshire Wolds Way National Trails. We

note from the Environmental Statement that the Yorkshire Wolds Way will be diverted in the area around Filey School during the construction works. The Yorkshire Wolds Way has recently become stile free along its entire length, and considerable resources have been required to achieve this. It is therefore essential that easy access principles should be upheld as part of any diversion of the trail.

We have not assessed this application and associated documents for impacts on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- local sites (biodiversity and geodiversity)
- local landscape character
- local or national biodiversity priority habitats and species.

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife.

4.8 County Archaeologist - The Environmental Statement details the results of archaeological geophysical survey which was undertaken in advance of this application. The results of the surveys have been presented to Heritage Services and a mitigation strategy was discussed. Following completion of the archaeological geophysical survey across Scarborough Road Storage Area and Wooldale Storage Area, subsequent discussions with NYCC confirmed agreement with the findings of low archaeological potential for these specific areas, and that no further evaluation or mitigation work was required at that stage with respect to these elements of the scheme. However, it may be prudent to maintain an archaeological watching brief during the excavation of these storage areas during construction. The excavation works required for the channels, culverts and other ground intrusive activity suggests that the archaeological watching brief would need to be provided during these works. Therefore, mitigation (anticipated to be watching brief as a minimum during excavation of the Caravan Park Storage Area and the excavation of all channels and culverts) should be further discussed and agreed. In order to secure the implementation of such a scheme of archaeological mitigation recording, I would advise that an appropriate condition be appended to any planning permission granted.

4.9 Parks and Countryside (SBC) - Awaited.

4.10 Gristhorpe Parish Council - awaited.

4.11 Publicity - Consultation period expired on 10 February 2016.

4.12 Yorkshire Wolds Way Partnership - Please find comments in relation to the impact on Yorkshire Wolds Way users. Overall I have no objection to the principle. However part of the design is unacceptable as it stands and I request that approval is only given, subject to acceptable amendments being made. A fundamental part of our management of the Yorkshire Wolds Way, especially as a National Trail, has been to ensure it is accessible as is practical. We have recently become the first of the walking based National Trails to become totally stile free. Added to this the Filey area has a high percentage of elderly people and it is essential that we do not limit their accessibility. As it stands the plans provided show the new flood embankment crossing the Yorkshire Wolds Way west of Filey School, which would involve an up and over access ramp with 1:6 slopes. This would be far too steep for access purposes and

appears to be in breach of the Disability Discrimination Act 1995. With the quality standards expected of a National Trail, I would expect this ramp to be no greater than the preferred maximum gradient of 1:20. Likewise the ramp should be a minimum of 1.8 metres width for two way traffic and must be able to accommodate both manual and motorised wheelchairs. I would like some more detail on the useable width available to walkers of the length of 130 metres, where the Yorkshire Wolds Way would run between the flood embankment and Filey School boundary. This should be a minimum useable width of 5 metres, however overall I would like to see this "corridor" effect avoided for walkers if at all possible, with the loss of views that it would entail for some and potential drainage issues on a contained path. My recommendation would be for a short diversion of the Yorkshire Wolds Way to be introduced to this proposal. It would seem sensible for the trail to be diverted to run on the north west side of the new floodbank, before rejoining its original line after the floodbank ends and crossing a new bridge over the drainage channel. This would avoid the need for any ramping and keep an open view across the field for walkers to enjoy.

4.13 Robert Agus, 81 Wooldale Drive, Filey - There are insufficient topographical details provided to show existing and proposed ground levels. There is no evidence of an in-depth analysis of flow paths other than the North Flood Depth Plan Scheme 100yr plus CC. This plan shows where water naturally collects in periods of heavy rainfall. For example, recent rainfall in Dec 2015 shows rainfall pooling and discharging differently to that shown. Surely this information should be analysed? With particular reference to the proposals for Area 3 in the Wooldale Drive Area, there are two main areas where flooding occurs. These are where the Caravan Park Storage area is proposed and immediately to the rear of properties to the western end of Wooldale Drive. It is from the latter of these areas where flood water from the fields flowed through the properties on Wooldale Drive. The proposals include measures to dispose of the water from the Caravan Park Storage area. However it would appear that it is only proposed to build a bund to retain the water flowing towards the residential properties. Both topographical assessment made by walking over the site and historical evidence shows that water from the arable land to the north of properties from around 51 Wooldale Drive to 85 Wooldale Drive do not require protection from flowing water from the fields as the natural contours direct water away from these areas. It also follows that any bunding immediately to the north of the rear gardens of properties along Wooldale Drive with a top level higher than the top of a proposed water attenuation area will be useless and unnecessary. The information provided by personnel representing the scheme designers at a presentation held at the Evron Centre in Filey provided information indicating that the highest point of bunding to the rear of my property would be no greater than 500mm. From the details provided it would appear that this has increased by 60% to 800mm. It is difficult to following reasoning for such a substantial change. In view of the impact these bunds will have on the amenity of the residents of Wooldale Drive the need for the earthworks should be fully scrutinised. It has not been shown in the submitted details that the full extent of bunding is necessary. It should not be accepted that the residents of Wooldale Drive should be disadvantaged simply to accommodate spoil disposal. If a full topographical assessment and flow analysis is carried out I would expect significant lengths of bunding to be omitted. This will also reduce the amount of arable land that will become (allegedly) unsuitable for farming. In the Visual Analysis submitted there is little analysis of the views to the north from the rear gardens of properties along Wooldale Drive. They are described as narrow with a strong sense of enclosure. This is misleading as the view from my boundary clearly shows. The submitted documents make little reference to the negative impact of the scheme on the residents of Wooldale Drive while great efforts have been made to

consider the impact on the flora and fauna. Residents along the north side of Wooldale Drive currently enjoy views across open fields. Their rear gardens and amenity areas are tranquil and not overlooked. The rear boundary fencing is generally low to benefit from the privacy and open aspect. Notwithstanding the noise and disturbance, which is to be expected and tolerable over a relatively short period of time, the provision of bunding in close proximity to their rear boundaries will have a significant impact on their outlook.

4.14 Richard Watkinson, 16 Rayleigh Road, Harrogate - As owner of the small field on Muston Road included in the planning application I find myself in a difficult position. Naturally I recognise the fears of local residents around the risk of future flooding events and the steps the authorities are taking to respond to those concerns but the drastic sacrifices I am being called on to make seem disproportionate. I have attended meetings on several occasions with the Environment Agency but still have no clear idea of what they are trying to do on my very limited landholding. Until someone states clearly exactly what they want from me I will be unable to support the proposal. On two points I am clear:

- I object to the application to use the existing field entrance as a permanent access for ongoing maintenance to the flood defences. This proposal renders meaningless the permissions we have already received from SBC for the entrance design and its purpose to serve as the only entrance to the restored windmill and its holiday accommodation.

- I also object to the designating a large area of my grazing as part of the site without any reason being given as to why it is needed. My tenant will be deprived of nearly half of what is already a very small field for grazing livestock and if the proposal is to store heavy plant, portable buildings, materials and contractors' vehicles there will be a considerable period needed for the land and grass to recover. If the contractors want to use this area they must clearly state why and what it will be used for.

4.15 Mr J Mook, 91 Wooldale Drive, Filey - Has raised the same concerns as Mr Agus set out above plus concerns that the Old Tip land is contaminated with Lead and Asbestos as stated in the Waste Hierarchy Overview. States there are "no source protection zones in the vicinity" However it is within a Groundwater Vulnerability Zone - Major Aquifer Intermediate Zone within the Cayton borehole catchment area. As identified by the Environmental Agency. Will this area come under the policies within Groundwater Protection GP3 Policies?

4.16 B & D Wood, 75 Wooldale Drive, Filey - Have raised the same concerns as Mr Agus set out above.

4.17 Mr H Koscielski, 57 Wooldale Drive, Filey - Objects. Whilst I agree that there needs to be a flood protection scheme, the proposed works are well in excess of the requirements to prevent future flooding. I see no need to construct the embankment starting at the rear of 85 i.e. the far north eastern end of Wooldale Drive and certainly do not see the need to remove any of the hedge which is at the rear of No. 75 and replace with an embankment. I have owned my property (no.57) since May 2007 and have not witnessed run-off from the field into my garden and therefore do not see the need for this part of the proposed embankment. The land immediately to the rear of the higher number properties on Wooldale Drive is either level or falls to the proposed Caravan Park Storage area. Studying the Ordnance Survey map shows there to be a drain/culvert on the cliff side of the field and this is to be used to collect run-off from the higher ground and channel it to the storage area. This drain and storage area is at a

lower level than the ground level in the field immediately behind properties 55-85. I also firmly believe that had this drainage ditch and culvert been properly maintained in the past, then the flooding in 2007 would have not have been as severe. These are extensive works and will need to be maintained, who will be responsible for ensuring that the drainage ditches and water flow routes are kept clear?

Little wonder that the repair works carried out after 2007 are being damaged. No thought appears to be given to maintenance; one can't assume they are maintenance free just because they are earth structures. I also object on the basis that the embankment will enable people to see into what is now a private garden. The original draft proposal showed footpaths along the top of the embankments, whilst they are not on the plans submitted, people will walk along the top and I suspect that a footpath will be a later addition. There is a proposed line of posts to protect the embankments, why is this not a proper fence?

## 5.0 RELEVANT SITE HISTORY

### 5.1 None

## 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 (Saved Policies)**

**E1** - Protection of Open Countryside

**E2** - The Coastal Zone

**E5** - Road and Rail Approaches to Resort Towns

**E39** - Development Affecting Hedgerows and Trees

**H10** - Protection of Residential Amenity

### **Scarborough Borough Local Plan (Proposed Submission)**

**HC 2** - New Housing Delivery

**DEC 4** - Protection of Amenity

**DEC 6** - Archaeology

**ENV 3** - Environmental Risk

**ENV 6** - Development Affecting the Countryside

**ENV 7** - Landscape Protection and Sensitivity

### **National Planning Policy Framework**

**NPPF10** - Meeting the challenge of climate change, flooding and coastal change

**NPPF11** - Conserving and enhancing the natural environment

## **Scarborough Borough Supplementary Planning Documents**

None relevant

### **Local Planning Policy Guidance**

None relevant

## **7.0 ASSESSMENT**

### **The Principle of Development**

7.1 The proposed works are situated within the open Countryside, outside of the defined Development Limits of Filey and those to the North west of the town also lie within the Coastal Zone designated in the Local Plan. Local Plan policies E1 concerned with protection of the countryside and E2 dealing with the open coastal landscape require that development in these areas is essential and that no suitable alternative location exists. These works are considered to be essential to prevent or reduce incidences of surface water flooding in Filey and the devastating consequences of such events for the community, particularly for the individuals whose properties are directly affected. By its nature the scheme needs to be situated in the countryside outside of the town in order to intercept flood water before it reaches the built up area. The detailed siting of the works is dictated by the topography of the surrounding land and associated surface water flows. In summary therefore, this is considered to be essential work that will result in significant benefits for Filey's community and is acceptable in principle in terms of planning policy.

7.2 Although attracting only limited weight at the moment, policies ENV 6 and ENV 7 of the emerging Local Plan have similar criteria for development in the countryside. Policy ENV 3 expects proposals to mitigate against the implications of environmental risk and climate change by, amongst other things, seeking opportunities from new development that may reduce the causes and impacts of flooding. So this proposal is also considered to comply with emerging policy.

7.3 The National Planning Policy Framework recognises the role of planning in minimising vulnerability and providing resilience to the impacts of climate change and local planning authorities are expected to adopt proactive strategies to mitigate and adapt to climate change. This scheme is designed to do that.

### **Visual Impact**

7.4 The scheme is generally located on arable farmland within areas of low, undulating topography. The introduction of man-made features of the scale proposed, particularly the length of the proposed embankments, will by its nature have some adverse impact on the existing farmed landscape. However this impact will be limited and mitigated by a number of factors: the vertical scale of the embankments which at 1.5 metres maximum height are low structures within this open, rolling landscape; the grass surfacing within an arable farmscape; the close proximity to the built up areas of Filey; and, the fact that it will generally be viewed within the context of the built up area.



7.5 The Environmental Impact Assessment submitted with the application concludes: "During operational stages there would be no significant landscape or visual effects. Bunds to storage areas to the north of Filey and channels would slightly disrupt local topographical character; however the effects on the wider area would be negligible. There would be minor adverse effects to certain views from high sensitivity receptors. In the long term, established mitigation planting would fully remediate initial minor losses of hedgerow and woodland. Certain local views and landscape character would be slightly improved due to the reinforcement of hedgerow features and establishment of more diverse planting. The scheme would incur no significant residual effects". Your Officers agree with this assessment.

7.6 The EIA identifies the main viewpoints for the scheme as being from the Wolds Way and from a small number of properties to the North west of Filey. It is considered, however, that the main public viewpoints will be from Scarborough Road at the entrance to Filey, along Church Cliff Drive, when entering and leaving the country Park and along Muston Road approaching Filey School. These views will be relatively short term and the features at these points will not be perceived as being intrusive or harmful to the visual amenity of the area. There will be no conflict with Local plan Policy E5 which aims to protect the appearance of the main transport corridors into the resort towns.

7.7 Increasing the level of the field to the North west of Filey by approximately 0.5 of a metre will be indistinguishable in this landscape.

7.8 This proposal will not result in a significant change to the character or appearance of the landscape setting of Filey and it is considered that what limited harm does arise from the introduction of the manmade features into the area is far outweighed by the public benefits of the scheme.

#### Residential Amenity

7.9 A number of objections to the proposal have been received from residents of Wooldale Drive. Their concerns are reported in detail in section 4, but are principally concerned with their outlook, the bunding in their area being unnecessary, higher than necessary as a means of disposing of excavated material and over-engineered. As Members are aware, the residents do not have a right to a view and it is not considered that looking onto a low grass bund would be in any way unpleasant or unacceptable. By way of comparison, the maximum height of the bunds will be 1.5 metres; under permitted development rights a fence of up to 2 metres in height could be erected along their boundaries without the need for planning permission. The applicants have been invited to respond to the suggestion that the works are unnecessary in this particular area, but it would seem unlikely that the applicants would incur the cost of works that are not required. The suggestion that the height of the bunds is dictated by the need to use excavated spoil is similarly unlikely. The applicants have explained that only 13,700 cubic metres of the material to be excavated is required for the construction of the bunds. It is presently proposed that virtually all of the remaining excess material will be used for agricultural land regrading on land to the North West of Filey as part of this proposal.

7.10 The bunds will be a minimum of 13 metres from the rear boundaries of the properties fronting onto Wooldale Drive (generally 16 to 20 metres away) and 35 to 40 metres from the rear of properties on the Wharfedale estate, mainly behind Long Plantation. These are the two residential areas that could be most affected. It is not

considered that, given these distances and the modest heights involved, the bunding would create any sense of enclosure or have an overbearing effect. Some objectors have raised concerns about overlooking and loss of privacy as a result of the bunds, but this proposal makes no provision for any increase in public access and the scheme is generally sited within private agricultural land, so it is not considered that there the proposal will lead to undue or significantly increased overlooking and loss of privacy.

7.11 It is recognised that during the construction phase of the project there is the potential for noise and vibration to impact on nearby residents. To minimise and mitigate this the applicants have suggested a range of measures including avoiding the use of particularly noisy equipment at the beginning and end of the working day; only working in the hours of daylight; and, locating noisy, static equipment such as generators away from residential properties. The EIA concludes that with such measures in force the impact of noise and vibration will be negligible. Your Officer's accept that with the measures proposed any impact would be tolerable.

7.12 Similarly, the EIA assesses the impact on air quality, especially the potential impact of dust during the construction phase. A suite of dust suppression measures are proposed and it is accepted that these should prevent dust nuisance.

7.13 It is not considered that this proposal will have any significant or unacceptable impact on residential amenity; indeed it should be remembered that its purpose is to improve residential amenity by preventing flooding. As such it complies with policy H10 of the Local Plan.

#### Access and Public Rights of Way

7.14 Four access points for construction and maintenance are proposed:

- The existing access to the football pitches off Scarborough Road;
- Off Church Cliff Drive, close to the entrance to the Country Park
- The existing field access off Muston Road, which provides access to the former windmill.
- An existing access into the School playing field.

These would be upgraded and widened as necessary to accommodate construction traffic. The Highway Authority has raised no objections subject to conditions requiring submission and approval of access details. Officers would require that those details involve the minimum work necessary to provide for safe access and that where possible the scale of the access points is reduced to cater for post construction maintenance.

7.15 The proposal involves a minor diversion of a short, 200 metre section of Public Footpath at Filey Fields Farm, North of Scarborough Road 30 metres to the east of its current alignment. This is to avoid a new drainage channel. Should planning permission be granted for the scheme a formal diversion procedure under the Planning Act will need to be followed. It is not considered that this diversion will harm the enjoyment of the footpath by users. In practice there is likely to be little difference.

7.16 An embankment will be built alongside the route of the Wolds Way National Trail close to Filey School. Although it is proposed that the footpath will be retained, concerns have been raised by the Yorkshire Wolds Way Partnership that this work will make the footpath less accessible for people with some disabilities and have suggested that it may conflict with the Disability Discrimination Act. The Wolds Way is an accessible, stile free trail. They have suggested that the best option would be a diversion of the footpath

in this vicinity. It is considered that, for all its benefits, the scheme should not inhibit the level of accessibility along the Wolds Way when there are solutions available. The applicants were asked to respond to this issue and have suggested a footbridge over one of the new channels together with a short diversion of the footpath so it runs to the North of the new embankment. This appears to be a satisfactory solution and formal amendments to the plans for this section of the scheme are awaited. It is hoped to have these in time for the meeting.

## Nature Conservation

7.17 The site does not contain any designated sites of nature conservation interest. It is mainly arable or grassland with some hedgerows and ditches, which have some value as common wildlife habitat. These habitats will be largely unaffected post construction, remaining in the same use and with only small losses of hedgerow where the bunds and channels cut through a few existing hedgerows. The habitat survey found no evidence of protected species within the site, although Filey Dams does host a moderate population of Great Crested Newts and therefore the works that lie in close proximity may lie within their foraging area. A programme of temporary newt fencing, trapping and relocating the newts back to The Dams is proposed during the course of construction works within 250 metres of The Dams. Post construction, there will be no adverse effect on the population. Hedgerow removal will be undertaken outside of the bird breeding season.

7.18 A number of small sections of hedgerow will, by necessity, be removed where the bunds and channels cut through existing hedgerows. The applicants have stated that these will be reinstated back up to the bunds and channels. These losses will not have a significant visual impact, as the majority of these hedgerows remain intact and many are somewhat sparse and gappy at present. The proposal keeps hedgerow and tree loss to a minimum and thereby complies with Local Plan policy E39.

## Hydrology and soils

7.19 The Environmental Statement has assessed any impact of the hydrology of the area and soil quality.

7.20 By changing the patterns of surface water run-off and drainage, the proposal has the potential to affect the natural hydrology of the area. Excavating and relocating earth also has the potential to affect soil quality. The material excavated is not contaminated and does not pose a threat of pollution and the scheme has deliberately designed to avoid the former landfill site at Filey Fields Farm. The application site does not lie within a Source Protection Zone for groundwater, the closest area of SPZ 1 being 4.8 kilometres away at Cayton. The applicants propose to employ best practice safeguards during construction to minimise the risk of pollution; this project carries no more risk of construction based pollution than any other engineering project using similar plant and machinery. On that basis the Environmental Statement concludes that there will be negligible impact on the hydrology of the area or soil quality. This is accepted.

## Heritage

7.21 The Environmental Statement includes an archaeological assessment which has identified minimal archaeological potential within the site. This has been assessed by

the County Archaeologist who is satisfied subject to a watching brief during excavation work in order to record anything of interest which may be found.

7.22 The scheme will not adversely affect the setting of any listed buildings or the Conservation Area. The only listed buildings situated near the proposal are those within the Church Cliff Farm complex.

7.23 The owner of Muston Mill, which has planning permission to be rebuilt and renovated, has raised concerns about the impact of the proposal and one of the accesses on the setting of the mill. The mill is not listed but can be regarded as a non-designated heritage asset. The closest works would be the formation of a bund and channel against the South western boundary of Filey School, over 100 metres away from the mill. It is considered that due the position of these structures along the school boundary, their relatively low height, the separation from the mill and the elevated position of the mill, there will be no adverse effect on the setting of this building. It is proposed to use the same access point as the current and proposed access to the mill and it would be appropriate to ensure by condition that, post construction, the form of the access is the minimum necessary for ongoing maintenance.

#### Tourism and socio-economic impact

7.24 The EIA was required to consider whether the project would have any adverse impact on the Town's tourist economy. The location of the works is away from tourist areas of the Filey and the only impact on tourists would be the temporary diversion of footpaths during construction. The permanent diversions proposed would not adversely impact on visitors.

#### Future Land Use and Maintenance

7.25 The land covered by the bunds channels and access tracks will come out of agricultural use, but, post construction, existing agricultural activity will recommence outside of the areas defined by the proposed fence posts.

7.26 It is proposed to construct a small bund in the North eastern corner of Filey School playing field, adjacent to Muston Road and raise the level of the playing field in its northern corner. It is not considered that these works will impact on a part of the field that is useable for playing pitches, given the proximity to a neighbouring residential boundary and the presence of overhanging mature trees. The land raising operation will, however, necessitate the relocation of the long jump pit.

7.27 It is proposed to maintain the works simply by a programme of grass cutting. Although not specified, it is also presumably intended to keep the drainage channels clear. In this setting and in view of the grass covering, the future maintenance is considered to be a matter for the landowners and not something that need concern the Planning Authority; if the bunds become overgrown it will not harm the landscape character or visual amenity of the area.

#### The Emerging Local Plan

7.28 The works to the north of Filey would lie within areas proposed as future housing and public open space allocations within the Local Plan Proposed Submission Document. The scheme has been designed with that in mind and will not prejudice

those allocations, should they go forward into the adopted Local Plan. Furthermore, the scheme has been designed to provide protection to those potential new areas of housing. There is also flexibility within the scheme by the way it is broken down into segments, so depending on the programme for its implementation relative to any of those housing sites coming forward for development, certain parts of the project may not need to be implemented, e.g. the bunds alongside Church Cliff Drive and to the rear of Sycamore Avenue and Cherry Tree Drive. It should be stated, however, that only limited weight can be attached to the policies and proposals of the emerging Local Plan at this pre-submission stage.

## Cumulative Environmental Impacts

7.29 Your Officers accept the findings of the Environmental Impact Assessment which concludes that the scheme will not have significant adverse environmental impacts; indeed the major impact will be beneficial in reducing flooding events within the urban area of Filey. Such adverse impacts as may arise are subject to satisfactory mitigation proposals.

7.30 However, it is necessary to consider whether this scheme and any other development proposals in the area are likely cumulatively to have any significant impacts. There are very few major development projects within Filey at the present time, the main one being the ongoing development of Mill Meadows. This development has had a positive impact in drainage terms in that this development has provided a surface water drainage system for the land to the east of Muston Road so that the Flood alleviation scheme has not needed to deal with this area. The Environmental Statement concludes that there is no potential for cumulative impacts with other developments in the area. Your Officers agree.

## 8.0 CONCLUSION

8.1 This scheme offers potentially huge benefits to the community of Filey by reducing surface water flooding in the Town. Although there will be some inconvenience during construction this will be little different to that occurring as a result of many major construction projects and will not have an unacceptable or long term impact on residential amenity or users of the area. Post construction, the scheme will not significantly harm the character or appearance of the landscape setting of Filey, nor harm residential amenity. Any adverse environmental impacts will be minor in nature and satisfactory mitigation measures have been proposed as part of the application.

8.2 Revised plans are awaited to ensure that the accessibility of the Wolds Way National Trail is maintained near Filey School.

## POSITIVE & PROACTIVE STATEMENT

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

The applicant and Planning Authority engaged in extensive pre-application discussions. The scheme was amended during the course of those discussions and the content and nature of the application was agreed.

## RECOMMENDATION

Subject to receipt of revised plans to maintain the accessibility of the Wolds Way where it is affected by the proposal, Planning Permission be granted subject to the following conditions:

- 1 The development hereby approved shall be carried out strictly in accordance with the application plans as amended by the plans reference (awaited), received by the Local Planning Authority on (awaited).

Reason: To avoid doubt.

- 2 All of the proposals and recommendations contained within the Environmental Statement reference: IEMPB1154R001F00, dated 1 December 2015 shall be implemented in full in undertaking the development hereby approved.

Reason: To minimise and mitigate any adverse environmental impacts associated with this development.

- 3 Before the development commences details of the grass seed mix(es) proposed for surfacing the development shall be submitted to and approved in writing by the Local Planning Authority. The grass shall be sown in the first planting season following completion of each section of the development. If the grass fails to establish, it shall be re-sown in subsequent planting seasons until full coverage of the engineering works is established.

Reason: To minimise the visual impact of the development within the landscape in accordance with policies E1 and E2 of the Scarborough Borough Local Plan.

- 4 Within the first planting season following completion of the engineering works of each section of the project, all areas of hedgerow that have been removed shall be replanted with the same species as removed up to the boundary of the works as defined by the fence posts shown on the approved drawings. Such protection as is necessary to allow the hedgerow to re-establish shall be installed including tree guards and temporary fencing. Any plants that die within the first five years of planting shall be replaced.

Reason: To minimise hedgerow loss in accordance with policy E 39 of the Scarborough Borough Local Plan.

- 5 The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990.

Reason: To safeguard the public rights of way and the amenity they convey.

- 6 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 in connection with the construction of the

access road or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

- a. vehicular and pedestrian accesses
- b. vehicular parking
- c. vehicular turning arrangements
- d. manoeuvring arrangements
- e. loading and unloading arrangements.

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

- 7 No part of the development shall be brought into use until the submitted details for all vehicle access, parking, manoeuvring and turning areas have been approved under condition number 6 and have been constructed in accordance with the approved details and are available for use. 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.

- 8 Prior to the commencement of the development, a Written Scheme of Investigation shall be submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
- a. The programme and methodology of site investigation and recording
  - b. The programme for post investigation assessment
  - c. Provision to be made for analysis of the site investigation and recording
  - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - e. Provision to be made for archive deposition of the analysis and records of the site investigation
  - f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- No development shall take place other than in accordance with the written scheme of investigation

Reason: This condition is imposed in accordance with Section 12 of the NPPF as the site is of archaeological interest.

*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 N READ ON 01723 232483 email [nick.read@scarborough.gov.uk](mailto:nick.read@scarborough.gov.uk)

