

Town & Country Planning Act 1990 (As Amended)
Planning and Compulsory Purchase Act 2004

PLANNING STATEMENT

ON BEHALF OF BENCHMARK LEISURE LIMITED

Proposed Mixed Use Development Comprising Multiplex Cinema, Residential Apartments, Restaurants, Gym, Sky Bar & Multi-Storey Car Park

Former Atlantis Water Park Site, Peasholm Gap, Scarborough

Ref: SD16_0011_R_02
LPA: Scarborough Borough Council
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Surface Planning

Planning, Design and Development Consultants
17 Church Hill, Royston, Barnsley S71 4NQ

M: 07545 590 576

E: jake@surfaceplanning.co.uk

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Contents

1.0	Introduction	2
2.0	Application Site & Planning History	3
3.0	Description of Proposed Development.....	5
4.0	Relevant Planning Policy	7
5.0	Assessment of Proposed Development	9
6.0	Planning Balance & Conclusions	13

1.0 Introduction

- 1.1 This Planning Statement accompanies and supports the planning application submitted on behalf of Benchmark Leisure Limited for the erection of a mixed use development comprising a 6-screen multiplex cinema, 63 no. residential apartments, 5 no. restaurant units, a sky bar and a gym along with multi-storey car parking and landscaping.
- 1.2 The application site has the benefit of numerous consents relating to a mixed use leisure development. The key planning permissions are **15/01305/OL** which granted outline permission for a multiplex cinema, flexible-use commercial units and residential apartments, and **16/00922/RM** which approved the reserved matters.
- 1.3 Following these decisions and a number of subsequent consents relating to conditions and other minor matters, the applicant has sought to bring the development forward to construction and works on site have commenced. However it has become apparent that the development as previously approved is financially unviable, and an alternative scheme with an increased provision of residential units is necessary in order to secure the development. This matter is set out in detail in the accompanying Viability Report.
- 1.4 The extant planning permissions establish the overall principle of the proposed development. They also establish a substantial fall-back position in relation to the general location, scale and design of the development now proposed. Accordingly, the assessment provided in this statement principally addresses those areas where the proposals materially differ from the approved development.
- 1.5 This application is accompanied by technical reports which provide detailed updated assessments of the proposals, including the Transport Statement prepared by NTP Consultants, Noise Impact Assessment prepared by Sharps Redmore, Viability Report prepared by Aspinall Verdi, and updated Badger Report prepared by SLR Consulting. In each case it has been identified that the technical constraints of the scheme have been appropriately resolved and that the proposals comply with relevant planning policy.
- 1.6 The assessment set out in this statement finds that the design of the new proposals achieves an attractive development which will establish a vibrant leisure hub at the heart of the North Bay. It will make a major contribution to delivering the aims of the Local Plan for tourism growth in the North Bay leisure parks area and in Scarborough as a whole. Insofar as the scheme differs from the extant consents, it does not introduce any new impacts which would result in unacceptable harm. The proposals comply with relevant planning policies in all other respects. The assessment therefore concludes that the scheme is suitable for the grant of planning permission.

2.0 Application Site & Planning History

- 2.1 The application site comprises a total footprint of 1.16 hectares located to the north of Peasholm Gap and east of Burniston Road, in an area of mixed residential, leisure and commercial land use. Immediately adjoining the site to the east is the Kepwick House development which comprises commercial uses at ground floor with residential apartments above.
- 2.2 The scheme is situated in the context of a number of leisure attractions and services including Peasholm Park to the south, the Open Air Theatre to the northwest, beyond that the Alpamare Water Park and Scarborough Sea Life Centre located further to the north along the seafront.
- 2.3 The site is highly accessible with frequent bus services (Peasholm Park) providing connections into Scarborough town centre as well as being within walking distance of the town centre and a 20 minute walk from Scarborough train station.

Development Plan

- 2.4 The application site forms part of a wider area designated for leisure and tourism development under policy TOU 2 (North Bay Leisure Parks) of the Scarborough Borough Local Plan. The policy supports the development of new leisure and tourism facilities in this area, where they respect local character and help to reduce the seasonal nature of the local tourism industry.

Flood Risk & Drainage Context

- 2.5 The majority of the application site is located within Flood Zone 1. An area along the southern boundary of the site adjoining Peasholm Gap is encroached by Flood Zone 2 and Flood Zone 3.
- 2.6 Accordingly this application is supported by a Flood Risk Assessment (FRA) prepared by ARP Associates. The FRA describes in detail the flood risk and drainage context of the site, and sets out recommendations in relation to finished floor levels and drainage design for the scheme. These recommendations have been adopted in the previous consented development and they are maintained in the current proposals.

Planning History

- 2.7 The application has been the subject of several planning applications relating to a mixed use leisure development in recent years. The key consent is the outline planning permission **15/01305/OL** which was granted on 2nd November 2015 for a development comprising the following elements:
- Multiplex cinema between 5 and 7 screens;
 - Ground floor commercial units falling within Use Classes A1, A3, A4 and A5 up to a maximum gross floor area of 2,200 sqm;
 - 24 no. residential apartments; and
 - Car parking, external public realm and landscaping.
- 2.8 Subsequently an application for approval of the reserved matters **16/00922/RM** was submitted and granted on 11th October 2016. A subsequent S.73 application for a variation of the drawings condition **17/00377/RM** was granted on 2nd May 2017 which amended the design of the cinema element of the development along with various minor design amendments throughout the scheme.
- 2.9 A number of applications for variation of conditions, non-material amendments and discharge of conditions have also made in respect of these decisions in order to provide flexibility for the reserved matters proposals and allow site clearance work to commence while the scheme evolved in the course of negotiations between the applicant and proposed operators.

Revised Scheme & Pre-Application Advice

- 2.10 In the course of efforts to secure the delivery of the approved development in a changing market which has impacted restaurant operators in particular, it was established that the scheme in its consented form was not financially viable and that a significant increase in the number of residential units would be necessary in order to make the scheme deliverable. It was also identified that the approved multi-storey car park represented an over-supply of on-site car parking when the capacity of nearby public car parks is taken into account.
- 2.11 The scheme was revised on this basis and the new proposals have been tested to ensure their viability in the current market, as set out in the accompanying Viability Report. These proposals were presented to planning committee on 6th September 2018 and did not give rise to any significant objections in relation to mix or design. The current scheme largely reflects that presented to members, with the main exception of the gym facility which has been added at second floor level.

3.0 Description of Proposed Development

3.1 The proposed development will provide a 6 screen multiplex cinema, 5 no. A3 restaurant units, a two-storey Sky Bar and a gym facility. The residential element of the scheme comprises two blocks of residential apartments with a combined total of 63 no. units. Associated works include the provision of on-site car parking, external public realm and landscaping.

3.2 The full details of the proposed development are set out on the following drawings which accompany this planning application:

- Drawing 14573B-(PP)-100 – Site Location Plan
- Drawing 14573B-(PP)-101C – Existing Site Plan
- Drawing 14573B-(PP)-102G – Proposed Site Plan
- Drawing 14573B-(PP)-103F – Proposed Ground Floor Plan
- Drawing 14573B-(PP)-104F – Proposed First Floor Plan
- Drawing 14573B-(PP)-105F – Proposed Second Floor Plan
- Drawing 14573B-(PP)-106F – Proposed Third Floor Plan
- Drawing 14573B-(PP)-107F – Proposed Fourth Floor Plan
- Drawing 14573B-(PP)-108F – Proposed Fifth Floor Plan
- Drawing 14573B-(PP)-110F – Proposed Roof Plan
- Drawing 14573B-(PP)-111F – Proposed Elevations (Sheet 1 of 2)
- Drawing 14573B-(PP)-112F – Proposed Elevations (Sheet 2 of 2)
- Drawing 14573B-(PP)-114A – Cinema Ventilation Principles
- Drawing 14573B-(PP)-115A – Restaurant Ventilation Principles
- Drawing 14573B-(PP)-116B – Spatial Parameters Plan
- Drawing 14573B-(PP)-120C – Proposed Site Sections
- Drawing 14573B-(PP)-121A – Existing Site Sections
- Drawing V14573-L02G – Landscaping Proposals

3.3 The following reports also accompany the submission in support of the application:

- Design and Access Statement prepared by The Harris Partnership
- Transport Statement prepared by NTP Consultants
- Noise Impact Assessment prepared by Sharps Redmore
- Viability Report prepared by Aspinall Verdi
- Badger Report prepared by SLR Consulting

3.4 In respect of amount the proposed development is broken down as follows:

- **Cinema** – Use Class D2, 6 screens, 2205 sqm
- **Gym** – Use Class D2, 421.3 sqm
- **Residential** – Use Class C2, 63 no. units, 4609.4 sqm
- **Restaurants** – Use Class A3, 5 no. units, 1230.9 sqm
- **Sky Bar** – Use Class A4, 258.3 sqm

3.5 The proposed car parking comprises a total 109 spaces, including 7 no. disabled spaces. Of these, 31 spaces are dedicated for use by residents of the apartments and the remaining 78 spaces will be available for visitors to the cinema, restaurants and Sky Bar. The scheme also includes 2 no. motorcycle parking spaces and 16 no. cycle parking spaces.

3.6 The majority of parking demand generated by the development will be met by utilising the capacity of existing public car parks in the vicinity of the site, which amount to approximately 900 parking spaces. A Variable Message Sign (VMS) system will be used to direct visitors to nearby public car parks when the on-site car park is approaching capacity.

4.0 Relevant Planning Policy

Legislative background

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The Development Plan

- 4.2 The current adopted development plan comprises the policies of the Scarborough Borough Local Plan (2011/32), adopted in July 2017. The following Local Plan policies are considered to be of key relevance to the current proposals.

Scarborough Borough Local Plan (2011/32)

- 4.3 Policy **TC 2** deals with the development of town centre uses in the borough. It states that such proposals will be permitted within the town and district centres as defined on the Policies map. Town centre uses outside of these areas which exceed 500 sqm in relation to retail and 2500 sqm in relation to other uses will be subject to the sequential test and impact assessment.
- 4.4 Policy **TOU 1** states that the diversification of the tourism industry throughout Scarborough will be supported and encouraged, and that proposals for new tourism facilities will be permitted where they respect the tourism character of the area and help to reduce the seasonal nature of the tourism industry in the area.
- 4.5 Policy **TOU 2** states that proposals for the development of new leisure and tourism facilities within the North Bay Leisure Parks area (within which the current application site is located) will be supported where they accord with the criteria set out in policy TOU 1.
- 4.6 Policy **DEC 1** sets out principles of good design which will be required from new development proposals. These include requirements that proposals reflect the distinctive character of their area, that their layout, orientation and design help to reduce the need for energy consumption, provision of safe access and suitable servicing and parking arrangements, and provision of attractive and accessible public realm and beneficial landscaping.
- 4.7 Policy **DEC 4** deals with the protection of amenity. It states that proposals for development should not give rise to unacceptable impacts by means of overbearing,

overlooking, disturbance from noise or light pollution, emissions, overshadowing or loss of natural light, or any other impacts which cause significant harm to amenity.

The National Planning Policy Framework (“the NPPF”) July 2018

- 4.8 The revised NPPF was published in July 2018. It sets out the Government’s overarching planning policies relating to both plan-making and decision-taking. It is applicable to the determination of planning applications both in that development plan policies which are not in accordance with relevant policies in the NPPF are considered to be out-of-date, such that the presumption in favour of sustainable development will be engaged, and as a principal material consideration in its own right.
- 4.9 Paragraph 11 of the NPPF establishes the presumption in favour of sustainable development. For the purposes of decision-taking this means “approving development proposals that accord with an up-to-date development plan without delay,” or, “where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless,” of relevance to these proposals, “ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”
- 4.10 Regarding the development of town centre uses, the NPPF states at paragraph 85 that planning policies should allocate a range of suitable sites to meet anticipated development needs including the need for leisure development. It states that planning applications **“for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan”** should be subject to a sequential test (paragraph 86) and an impact assessment where the floorspace exceeds a locally set threshold or the default 2,500 sqm (paragraph 89).
- 4.11 Paragraph 127 of the NPPF sets out overarching aims for good design applicable to all development proposals. These include the requirement that schemes should be “visually attractive as a result of good architecture, layout and appropriate and effective landscaping,” and should be “sympathetic to local character and history, including the surrounding built environment and landscape setting.”
- 4.12 Paragraph 57 deals with the application of planning policies which set out financial and other contributions which may be expected from developments. It establishes that such contributions are subject to the viability of the proposals. It states that the applicant should demonstrate whether the need for a viability assessment is justified, and that all viability assessments should reflect the national planning guidance, including standardised inputs, and should be made publicly available.

5.0 Assessment of Proposed Development

Principle of Development

- 5.1 The principle of the proposed development has been established by the previous outline planning permission 15/01305/OL and subsequent reserved matters 16/00922/RM. The general location, scale and massing of the current scheme is similar to the development already approved. Since those decisions were issued, the application site has been designated for leisure and tourism development under policy TOU 2 of the Scarborough Local Plan. The proposals therefore contribute significantly to the delivery of the objectives of the Local Plan in respect of tourism growth.
- 5.2 Policy TOU 2 does not preclude residential development within the North Bay Leisure Parks area, and it is acknowledged that a residential element to the proposals is essential to securing the financial viability of the overall leisure offer. In preparing the current proposals it has been established that a substantial increase in the residential element is necessary in order to secure the viability of the scheme.
- 5.3 The matter of viability is discussed in further detail below and in the accompanying Viability Report. However, it is considered to be established that the scheme as a whole, comprising a mix of leisure, restaurant/bar and residential uses, is supported in principle at this location by the relevant planning policies.

Policy Relating to Town Centre Uses

- 5.4 The earlier planning applications which established the extant outline planning permission and reserved matters approval were supported by the application of the sequential test and impact assessment as set out in the NPPF, because at that time the application site was an out-of-centre site in terms of planning policy relating to town centre uses.
- 5.5 The application site is now designated for leisure development by virtue of Local Plan Policy TOU 2, which states that the development of new leisure and tourism facilities within the North Bay Leisure Parks area will be supported. As a result, the leisure elements of the proposed development are “in accordance with an up-to-date plan” in the terms of NPPF paras. 86 and 89, and the application of the sequential test and impact assessment is not required.
- 5.6 The provision of restaurants as part of a mixed use scheme anchored by a multiplex cinema is an essential component of any successful development of this nature, and is necessary to both the financial viability of the scheme and its attraction for customers

and contribution to the tourism offer. Without the mutual benefits provided by the cinema and restaurants in tandem, the development would fail to deliver the objectives of policy TOU 2. It is therefore considered that the leisure and restaurant elements of the scheme in this case should be viewed in policy terms as part of an overall leisure offer.

- 5.7 However, even in the event that only the leisure (D2 Use Class) elements of the proposed development are considered to be “in accordance with an up-to-date plan,” it should be noted that the remaining quantum of town centre uses – the 5 no. restaurant units and the Sky Bar – amount to 1489.2 sqm in floorspace. This falls substantially below the threshold set out in the NPPF and in Policy TC 2 of the Scarborough Local Plan in relation to non-retail uses, and the requirement for the sequential test and impact assessment would not be triggered.
- 5.8 The wording of Local Plan Policy TC 2 does not reflect the wording of the revised NPPF in relation to the town centre policy tests. It refers only to sites within town and district centres as defined on the Policies Map, and does not include the exception for proposals which are in accordance with an up-to-date development plan. In this respect Policy TC 2 is out of date. The application of the policy in this respect would also directly contradict the objective of another development plan policy, TOU 2, because it would constrain the delivery of leisure and tourism development within the designated North Bay Leisure Parks. For these reasons very limited weight should be afforded to Policy TC 2 insofar as it would require the proposed development to demonstrate the application of the sequential test and impact assessment.

Design and Local Character

- 5.9 A detailed description of the design principles which have informed the revised proposals, and the resulting merits of the development in respect of its design and appearance, is provided in the accompanying Design and Access Statement.
- 5.10 Overall it is considered that the development now proposed represents a positive improvement when compared to the previously approved schemes. By virtue of its architectural detailing, the use of high quality materials and a materials palette which will provide varying interest across the development and the juxtaposition of modern and traditional architectural styles, it is considered that the design results in an attractive development which will respond positively to the local context and serve as a vibrant hub for the wider North Bay and its various leisure attractions.
- 5.11 For these reasons it is concluded that the proposals are fully compliant with the relevant policies of the development plan including Policies DEC 1 and DEC 4 of the

Scarborough Local Plan, and with the general design guidance set out at paragraph 127 of the NPPF.

Relationship with Kepwick House

- 5.12 Maintaining an acceptable relationship between the proposed development and the residential apartments within the adjoining Kepwick House, particularly those with north facing windows which are closest to the application site, have been key concerns for previous iterations of the scheme.
- 5.13 In the current proposals the building has been taken further away from Kepwick House by providing an external access road between the two sites. As a result, the impact of the development on existing residents will be materially reduced when compared to the consented situation. The proposals therefore result in a positive benefit in the context of relevant planning policies, and Policy DEC 4 in particular.

Transport and Highways

- 5.14 This application is supported by a Transport Statement prepared by NTP Consultants which considers the potential highways impacts of the proposals in detail. In particular, the new assessment considers the implications of the changes to the proposals which have occurred since the original scheme was assessed by BCAL Consulting in support of the 2015 outline application.
- 5.15 The Transport Statement identifies that the main differences from the previously assessed scheme are the additional 85 seats to the cinema, additional 41 no. apartments and additional 463 sqm of D2 floorspace (gym), while the area of units within Use Classes A1, A3, A4 or A5 has been reduced by 710 sqm. The proposals have therefore been rebalanced rather than substantially increased, and as a result there will not be a significant change in the transport and highways implications of the scheme.
- 5.16 The TS identifies that the application site is highly accessible, on foot, via established cycle routes and via public transport as it is well served by frequent bus services which provide connections into the town centre (and vice-versa) and to Scarborough Railway Station providing national transport connections.
- 5.17 The TS provides an analysis of the traffic generation likely to be associated with the proposed development. It concludes that the scheme will generate a similar level of traffic to that which has been permitted under extant planning permissions, and a lower level of traffic compared to the scenario which was considered in the earlier BCAL Transport Assessment on the basis of which planning permission was granted.

The TS therefore goes on to conclude that the proposed development is satisfactory from a transport policy, traffic and highways viewpoint.

- 5.18 It should be noted that the proposed development now provides a reduced level of on-site car parking, instead utilising the existing capacity of the circa 900 public car parking spaces in the vicinity of the site. The development primarily offers an evening and night-time leisure attraction, whereas current utilisation of the public car parks in the area is highest during the daytime hour, particularly during the summer.
- 5.19 As a result of this, customers will now be encouraged to walk on foot through the locality to visit the development rather than arriving and leaving directly by private car trips. This is expected to result in a greater number of linked trips where customers will visit other existing attractions in the area, increasing the wider benefits of the scheme to the local economy and tourism offer.

6.0 Planning Balance & Conclusions

- 6.1 This report has provided an assessment of the proposed development of a mixed use leisure development at Peasholm Gap, comprising a multiplex cinema, restaurants, gym, Sky Bar and residential apartments, against the relevant policies of the development plan and material considerations. In particular this statement has considered the material impacts of those areas where the proposals differ from the approved development on the site.
- 6.2 The assessment set out in Section 5 has concluded that the proposed development is fully in accordance with the development plan. In particular it has been identified that:
- The proposals deliver the aims and objectives of Local Plan Policies TOU 1 and TOU 2 by securing a viable development which will provide a substantial boost to the leisure and tourism offer of both the North Bay and of Scarborough as a whole, in particular by diversifying the tourism offer with a year-round, all-weather cinema offer which will help to reduce the seasonal nature of tourism in the town, bringing wider benefits to the local economy;
 - The proposals achieve a high standard of design and will deliver an attractive, vibrant development at the heart of the North Bay with visually interesting architectural details and a palette of high quality materials, bringing a positive benefit to the wider locality;
 - The scheme will reduce the potential impacts upon residents of Kepwick House when compared to the previously approved development, and will therefore bring about a modest improvement to residential amenity;
 - The transport and highways implications of the proposals have been assessed in detail, and it has been identified that the scheme is entirely acceptable in this regard; and
 - It has been demonstrated that the viability of the proposals is now secure as a result of increasing the residential element of the scheme, ensuring that the development and its wider benefits will be deliverable.
- 6.3 It has been demonstrated that the proposed development is in accordance with the development plan and there are no material considerations which indicate against the scheme. It is therefore concluded that the proposals are entirely appropriate for the granting of planning permission.