

John Mook

Representor Number ID 853475

Matter 10, Issue 10.2 (HA23)

WRITTEN HEARING STATEMENT

The Inspector has raised question item No 15: ‘Have all the sites allocated in the Plan been subject to flood risk assessments, this is unclear?’¹

It is the contention of residents that HA23 has been grossly mis-assessed because the officers have not followed the guidelines laid down in the NPPF, PPG and SFRA. In particular the HLSMA Question 4 “Does the site lie within an area considered unsuitable due to its position within a Flood Risk Zone?” The answer should be YES, and this links into Question 7: consequently HA23 should be immediately dismissed. To support this, reference is made to the SFRA that directly address Matter 1 (Issues 1.5, 1.6) and Matter 10 (Issue 10.2):

The methodology and procedures followed have been deficient.

Scarborough Borough Council is in agreement with Arup the Independent experts commissioned to undertake the Northeast Yorkshire Strategic Flood Risk Assessment (SFRA) that Filey is considered a flood zone 3 until determined otherwise.²

When the SFRA was compiled, HA23 was not considered within Filey’s settlement limits. Therefore there was no need to report or document any flooding that had previously taken place on the HA23 site. Even within settlement limits the area was defined as flood zone 3. Yet officers in the HLSMA have allocated the site as flood zone 1. This is erroneous as there have been documented flooding on previous occasions.³ In addition there is the key statement in SFRA Filey Section 11.5.8 ‘Guidance on Land Use Planning and Flood Risk’ which states: “Development on the potential sites for flood storage areas upstream of Filey should be avoided, in order to ensure that potential for future flood alleviation works is not compromised”.

To further support the proposal that the officers have mis-assessed the site and not considered pertinent facts, reference is made to the following sections in the SFRA:

Section 5.2.4.3: Surface water flooding within Scarborough Borough in particular surface water runoff problems have been reported in Filey, over the proposed site HA23.

Section 6.2: Mapping PPS25 Flood Zones; The Environment Agency Flood Zone Maps DO NOT Identify flood zones 3a and 3b. and therefore are not consistent with the SFRA.

¹ Document EXR1.

² See Examination Doc [CSD27] SFRA page 96, Filey sections 11.5 to 11.5.8. Also see my submission to the proposed plan stage Appendix A5 dealing with SHELLA (Sept 2014).

³ Also see my submission to the proposed plan stage and Appendix A4 that refers to the statement by Mr Hand, Scarborough Forward Planning Officer in Filey Town Council minutes 1st Sept 2014 who made the point that it is in a flood zone 3. This is a continuation of the statements in the SFRA which point out that no new developments should take place in areas of flooding or areas that have previously flooded.

It is important to consider, as stated above, that the SFRA considers Filey to be in a flood zone 3, subdivided into zones 3a and 3b. This is significant because in the SFRA:

Section 6.2.1: All currently developed sites within a flood zone 3 are defined as zones 3a(i) 3a(ii) and 3a(iii) sites within a developed area. For example the adjoining streets Wooldale Drive and Church Cliff Farm are defined as zone 3a(i).

Section 6.2.2: Defines a flood zone 3b as: “all areas within Flood Zone 3 which are LOCATED OUTSIDE of currently developed sites and are not defended to a proven standard of protection of at least 5%”. This includes all floodplain areas behind agricultural flood banks and land to provide flood storage and conveyance. HA23 meets the criteria of being in a flood zone 3b.

Even with the Filey Flood Alleviation Scheme in place, the southern end of HA23 will be exposed to flood protection flood water storage/ ponding ⁴. So development will incur costs of a storm water attenuation system, which links to the viability of the development.

Table 7.1 and 7.2: Provides information that developments should meet. PPS25 states that Flood Zone 3b is appropriate for ‘Water Compatible’ development types only (see table 7.1). ‘Essential Infrastructure’ development types are only considered appropriate if the requirements of the Exception Test are passed. According to SFRA table A1 and A2⁵ a housing development is not classified as ‘Essential Infrastructure’.

Due to the technical design of the Filey Flood Alleviation Scheme the residential areas around site HA23 will be fully protected from potential flooding. However, according to the Lidar Model⁶ submitted it is clear that HA23 will be subject to flood protection flood water storage/ ponding and will therefore still remain classified as a flood zone 3b.

Sections 6-8.6: Irrespective of whether or not a development is within or outside a settlement limit, the guidance and policy set down for new developments in flood risk zones should meet the criteria as set down in sections 6 to 6.5 Approach and Methodology; 7 to 7.7 Forward Planning Policy Recommendations and 8 to 8.6 Development Control Guidance. HA23 should be subject to the same policies and guidance.

Section 11.5.8 Recommends that NO DEVELOPMENT take place in the areas identified at risk of flooding until alleviatory measures are in place and that development on the potential sites for flood storage areas should be avoided, which links to 6.2.2 above. Clearly it has been identified that area HA23 floods, and flood water from this site contributed to the internal flooding of many properties at Church Cliff Farm flowing over Church Cliff Drive and the entrance to Country Park.⁷

Summary.

Not only have officers given an incorrect response to Question 4 in the HLSMA but it is clear they have ignored the subsequent explanation presented in BP-3 pages 52-53 and they have failed to comply with Matter 1, Issue 1.6.

⁴ See Appendix B.

⁵ PPS25 Flood Risk Vulnerability and Flood Zones Compatibility.7.1 and Flood Risk Vulnerability Classification.7.2 Doc [CSD27].

⁶ See Appendix B.

⁷ Atkins Map Filey Town Flooding Investigation 5002531/WA/FO17 and see my submission to the proposed plan stage Appendix A6.

For the above reasons the proposed housing allocation site HA 23 should be dismissed.

Matter 1 Issue 1.5,⁸ Matter 5 Issue 5.4.

There are prohibitive costs for development that impact on the viability of the development.

Reference is made to Viability Report [CD14] Site Name: Church Cliff Drive-Filey (HA23). The Cumulative model shows a result in Negative (Amber) for housing development. The viability is undermined further when the housing development area is reduced if buffer zones to the Country Park and Church Cliff Farm are taken into consideration. This would mean increased costs in moving the pressurised main drainage infrastructure to fit into the development plan. In addition costs would be added as a result of additional expenses of CIL, S278, S106, SuDS and a Storm Water Attenuation System. These points have been highlighted in the Proposed Plan responses by Mr Jason Tait, Planning Prospects, 4Mill Pool, Nash Lane, Belbroughton, DY9 9AF.⁹ Printed from the SBC planning portal on 24/12/2015.

Linked to the viability of the development is the efficient use of land and buildings (Poilcy DEC3) raised in Matter 5, Issue 5.4.

SBC in the SHELAA for site HA23 recommend a maximum housing density of 30 dwellings for the development site, due to buffer zones to Country Park and the Church Cliff Farm conservation area. Policy DEC3 works on the assumption that 30 dwellings is policy for a development site of one hectare (unless there is specific evidence to indicate otherwise for a particular site). However for the HLSMA Question 13; Historic Environment, the assessment comments for this section state that there will be constraints on development plan and style. If one factors into this the Magic.gov.uk map¹⁰ for the surrounding developed area around HA23, this highlights the current housing density revealing that when working on a mean average current density is 20 Bungalows per hectare and for development to be sympathetic to existing housing around the location, a lower density would be appropriate.

Although this would be an issue at the Planning Application Stage it links into the Viability model [Doc CD14] and raises questions on the viability of this site. The viability for this site shows a negative (amber) result for the cumulative model and if this is added to the aforementioned issues, and with a lower yield in density then this site will NOT be viable.

Concerning Ref: Item 57,¹¹ the housing density for this site HA23 is NOT Justified or Consistent with National Policy nor likely to be effective in helping to deliver the plans visions, aims and objectives.

In addition Reference Matter 2, 'Housing Needs and Requirements'¹² the household projections for 2011-2032 is now estimated at 840 fewer new homes than the original estimate put forward by officers.¹³ The removal of site HA23 from the New Local Plan could be factored into this equation, because removing HA23 will not have an adverse impact on the housing figures within the plan. As of this date, council officers have not proposed a modification addressing this matter of excess capacity.¹⁴

⁸ See NPPF 173-177 and PPG ID 12-018.

⁹ See Appendix A.

¹⁰ See Appendix C.

¹¹ Document EX10.

¹² Document EX10A.

¹³ Ref:DCLG2014- Household Projections.

¹⁴ Document EX4R.

Conclusion:

The document SBC Sustainability Appraisal Doc [EX6R(SA)] states that the target is for NO new development given in High Risk Flood Zones and that any plan should be consistent with National Policy.

The issues raised in this statement have been presented to officers on numerous occasions, for example at the consultation meetings held in Filey Town Council Offices 1st Sept 2014. During the Draft Stage and Proposed Submission Stage as well as at the Drop in Day held in The Evron Centre, Nov 2015.

It is clear that officers have failed to comply with Matter 1, Issues 1.5 and 1.6, Matter 5 Issue 5.4 and in consequence the suitability of HA23 raised in Matter 10, issue 10.2 is compromised. These observations are supported by Barrister Anthony Verduyn, who's statement is presented in Appendix D.

For the above reasons, site HA23 should be dismissed.

Alternative Site Recommendations.

When the officers were requesting responses to the Local Plan they invited suggestions from the public. Following the HLSMA and SFRA Precautionary Principles, Policies and Methodology for site allocations the following sites would be more suitable for development:

Site 03/14 Land south of Brigg Road, Filey, located on the south side of Filey, where flood alleviation is already in place.¹⁵

Site 03/03 Land between the Dams, Scarborough Road, Filey.¹⁶

Site 03/05 Land at Mill Farm, Muston Road, Filey.¹⁷

Site OM4. Land opposite East Lea Farm, Scarborough Road, Filey.

Site 03/I Old Laundrette, Laundry Road, Filey =20 Dwellings.¹⁸

Site 03/J Land at Carlton Road, Filey =12 Dwellings.¹⁹

These sites are certainly more suitable than the proposed allocation on HA23.

¹⁵ A recent addition in the Proposed Local Plan that was not even considered prior to this last stage in the planning process.

¹⁶ PSD2C(a) states locating development at this site would negate the need to allocate land that was in flood risk areas. It had an assessment score of Neutral as it is not part of the Green Infrastructure network.

¹⁷ PSD2C(a) states locating development at this site would negate the need to allocate land that was in flood risk areas. It had an assessment score of Neutral as it is not part of the Green Infrastructure network.

¹⁸ A Brownfield site identified for Employment Land review as being released for Non- Employment use. It is a site identified in The Strategic Housing and Employment Land Assessment under Policy HC2 to promote efficiency of land use through maximising the re-use of previously developed land and existing buildings.

¹⁹ A Brownfield site identified for Employment Land review as being released for Non- Employment uses. It is a site identified in The Strategic Housing and Employment Land Assessment under Policy HC2 to promote efficiency of land use through maximising the re-use of previously developed land and existing buildings.

Scarborough Borough Council - Who Said What? HA23

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To which document does your comment(s) relate?

Scarborough Borough Local Plan

Housing Site If your representation refers to a Housing Site listed under Policy HC2 please select the site from the list.

Site HA23: Land off Church Cliff Drive, Filey

Legal Compliance Do you consider the Scarborough Borough Local Plan to be legally compliant?

No

Soundness Of Plan Do you consider that the Scarborough Borough Local Plan is sound?

No

Reason for being Unsound If you consider the plan to be unsound, is it because it is not: (If you are suggesting the Plan is sound please select N/A)

- Justified
- Consistent with national policy

Unsound or Not Legally Compliant Why specifically do you consider the Scarborough Borough Local Plan is not legally compliant or is unsound? (Or alternatively confirm your support)

Note this is an extract from a wider submission on Policy HC2, see attached.

Policy HC2 identifies 34 sites which the Council seeks to allocate for residential development, as also shown on the Policies Map. Through these 34 sites the Council identify an indicative total yield of 6,350 of which the Proposed Submission Local Plan relies on to deliver its identified housing requirement of a minimum of 9,681 dwellings over the Plan period. The identified yield of these 34 sites is 6,350, but this is indicative meaning that it could be more but in reality it is more likely to be less. In this instance the suggested allocated sites would not contribute sufficient numbers of housing to meet the identified requirement (notwithstanding our concerns over the requirement not being sufficient itself – see separate representations with regard to draft Policy HC1).

This would result in a reliance on non-allocated 'windfall' sites to meet the Borough's need for housing. The Council acknowledge this in the Proposed Submission Local Plan, at paragraph 6.15. Where this is the case, and to avoid a reliance on potentially unsustainable windfall sites, we would suggest that the Council needs to allocate significantly more sites to meet its housing need. This is particularly pertinent where we believe the identified housing target is insufficient to begin with.

In addition to the above, there are a number of draft allocation sites that are unsustainable and/or would not yield the number of houses indicated by the Council. As such these sites should not be taken forward as draft Allocations as suggested in the Proposed Submission Local Plan. We object to these allocations principally on the following grounds:

HA23 – Land off Church Cliff Drive, Filey

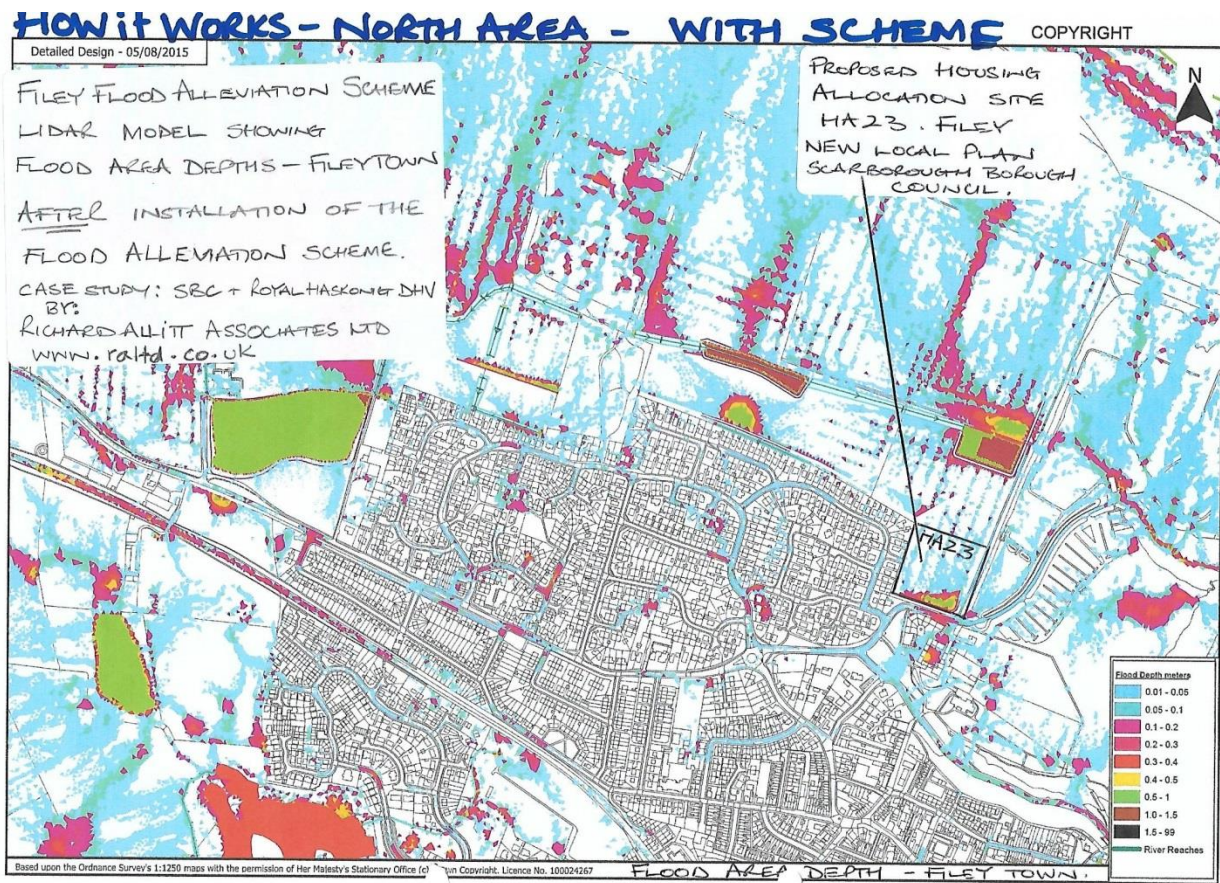
Filey has had significant flooding and drainage issues in recent years. As stated above for HA22, the draft policy states that development should not prevent or stymie the flood alleviation measures proposed and will be required to perform to the same specification as the flood alleviation measures proposed by the Filey Flood Alleviation Scheme. This could impact on the viability of a scheme. The site is in close proximity to listed buildings at Church Cliff and Filey Country Park. Draft policy HC2 suggests a landscape buffer is provided between the development and Country Park which would reduce the amount of land available for development. + LANDSCAPE BUFFER TO CONSERVATION AREA. CHURCH CLIFF FARM, AND DRAINAGE INFRASTRUCTURE TO MOVE TO FIT PLAN.

Necessary Changes to make Local Plan legally compliant or sound What are the changes required to make the Scarborough Borough Local Plan legally compliant or sound? (If you support the Plan then please type N/A)

Appendix B.

From Filey Town Council. Filey FAS. Presentation to Planners 15.02.2016.

SBC and Royal Haskonig DHV. Page 21, How it works – North Area – With Scheme.



Appendix C.

Matter 5. Issue 5.4 Efficient use of Land and Buildings (Policy DEC3)

Magic.gov.uk map Shows the surrounding developed area Wooldale Drive/ Parishes Estate around site HA23 it highlights the current Housing Density.

Using the measurement tools available within the Magic site the following calculations are determined.

Site HA23 Total site size is 1.62 hectare, due to constraints this will be reduced by buffer zones to Country Park and Church Cliff Drive - Conservation Area.

The 1.62 hectare total site size is illustrated as the outlined full red box

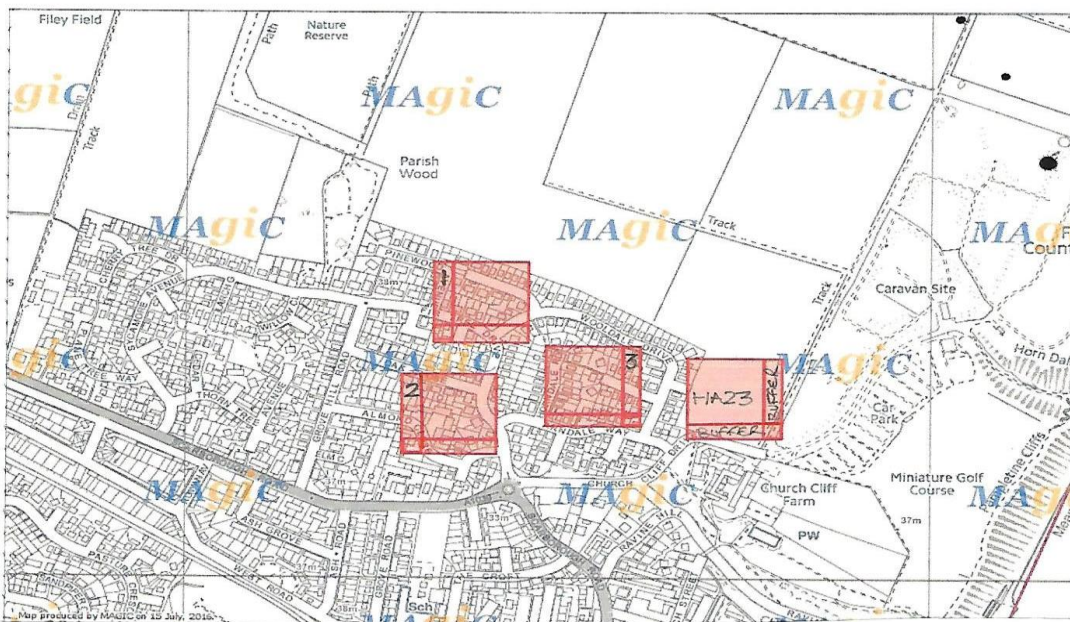
The one hectare size measurement is within this larger red box, and highlights the current density of housing .

Box 1 = 23 Bungalows

Box2 = 18 Bungalows + = 60 Divide by 3 = Average Density 20

Box3 = 19 Bungalows

Working on a mean average current housing density is 20 Bungalows per hectare and for development to be sympathetic to existing housing around the location, a lower density of Bungalows would be appropriate.



Appendix D.

Scarborough Borough Council (new) Local Plan – Representor no.: 960166

Re.: - HLMSA – HA23 – Filey

This is my written representation, which I would wish to be placed before the Inspector for the Examination, Mr W.J. Fieldhouse. Although I am a barrister-at-law (1993 call) specialising in property litigation from Chambers in Birmingham, Leeds and London, this letter is written in my private capacity as a home owner in Filey (ADDRESS REDACTED).

I have had the privilege of discussing the facts and matters set out in the statement of Mr John Mook (Representor Number ID 853475), accompanying this statement. Given the significance of the points he raises concerning flood assessment of the site in question, I emphasise the points that he makes: it is my professional experience that management of water in potential development sites needs to be a central consideration, both by reason of its particular environmental impact and to accommodate climate change. It is absolutely imperative to follow national policy; that sites rendered unsuitable for development by reason of water management issues (and it seems to me that the current site is a prime example of this) are not simply built out in the hope that the risks identified do not eventuate. I would urge that the proposed Housing Allocation site HA23 is rejected on this basis and having regard to the issues raised by Mr Mook,

Yours sincerely,

SIGNATURE REDACTED

Dr Anthony Verduyn BA Hons (Dunelm), Dip. Law., D.Phil (Oxon)