
ROBERT AGUS

Representor Number: 853575

WRITTEN STATEMENT

On behalf of Filey Residents

Matter 10, Issue 10.2, Question 89:

"Is the proposed use of site reference OS10 as natural and semi-natural green space justified, and would this represent an appropriate use of that land having regard to its location, particular characteristics and its surroundings?"

SUMMARY

We do not believe that the proposed allocation of OS10 as natural and semi-natural green space is justified.

In summary:

- **There is NO requirement for open space linked to the proposed allocation of HA23 for new housing delivery;**
- **There is NO requirement for additional open space within Filey;**
- **There is NO requirement for open space linked to the approved Filey Flood Alleviation Scheme (Filey FAS);**
- **Mitigation deemed to be required (in hindsight) for the approved Filey FAS should not be provided by allocations in the Local Plan; and,**
- **There is NO clear or consistent message on the requirement for OS10.**

We wish to highlight a deficiency in the public consultation undertaken regarding OS10, the lack of openness and transparency from Scarborough Borough Council (SBC) / Filey Town Council, it's Members and representatives, and a disregard for the local community on issues surrounding OS10 and the associated proposed allocation of HA23 during the development of the Local Plan, and the implied link with the approved Filey FAS.

Requirement for Open Space Linked to the Proposed Allocation of HA23 for New Housing Delivery

The Proposed Submission Version of the Local Plan (November 2015) proposes (at Policy HC16) the allocation of OS10 as "*natural and semi-natural green space*".

Supporting this, the Proposed Submission Version of the Local Plan notes (at paragraph 6.116) that: "*The specific requirements of the open space and sports allocations that are directly associated to housing allocations are set out within the supporting statement for housing allocations themselves (Appendix A: Housing Allocation Statements)*". In terms of OS10 and the link to HA23, Appendix A: Housing Allocation Statement states (HA23, 'Issues and Requirements', Point 3) that: "*As shown in the Open Space Allocation OS10, land to the north of the area allocated for residential development should be provided as an area of natural and semi-natural green space that links to Parish Wood (and beyond) to the west and the Country Park to the east*".

During the development of the Local Plan, a number of assessments were undertaken regarding the proposed allocation of HA23. Supporting the Proposed Submission Version of the Local Plan (November 2015), these assessments were:

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- 'Draft Housing Allocations DPD (Preferred Options): Supporting Information – Site Assessments'¹ (November 2009);
 - 'The Housing Land Assessment – Appendix C'² (May 2014); and,
 - 'The Housing Land Assessment – Appendix C'³ (November 2015).

These assessments (in particular the November 2015 Assessment published in conjunction with the Proposed Submission Version of the Local Plan) do not identify a need to provide open space as part of the development of HA23.

However, it is noted that following receipt of comments on the Proposed Submission of the Local Plan, including objections to the allocation of OS10⁴, SBC amended the November 2015 Assessment. The subsequent update is available at:

- 'The Housing Land Selection Methodology and Assessments'⁵ (May 2016).

Within this May 2016 Assessment, some text (from the Habitats Regulation Assessment) has been added under Question 3. This text states that: *"These two sites [referring to HA22 (land north of Scarborough Road, Filey) and HA23] are bounded (or will be) by the Filey Flood Alleviation Scheme which results in an area of unusable agricultural land between the Filey Country Park and the Filey Boys and Girls Football Club to the west. This land is proposed as an area of open space. It is not of a formal nature and will be Natural and Semi-Natural Green Space. It will be directly accessible from the new developments and will provide significantly more open space than would normally be required. This is also of benefit to the existing residential properties along Scarborough Road and beyond"*.

Despite OS10 appearing in the Proposed Submission Version of the Local Plan dated November 2015, this text (from May 2016 which appears to have been added in hindsight, rather than on the basis of assessment) is the first mention of *"an area of unusable agricultural land"* linked to the Filey FAS as such information does not appear to have been reported in the Filey FAS Environmental Statement or shown in the Filey FAS Drawings.

Therefore, whilst referencing the open space, the May 2016 Assessment also does not justify the need to provide open space as part of the development of HA23

Instead, the May 2016 Assessment implies a link with the Filey FAS. We believe, and have understood from the information provided by SBC, that the development of the Filey FAS is and should remain separate to the Local Plan, and accordingly should not be used to justify proposed allocations within the Local Plan.

Requirement for Open Space within Filey:

The Submission Version of the Local Plan states (at paragraph 6.105) that: *"in order to plan effectively for open (green) spaces, an audit of green spaces within the Local Plan area, which comprised an assessment of the quantity, quality and accessibility of existing provision. The audit sought to identify areas of deficiency and surplus, making recommendations as to where facilities could be improved or redeveloped and where new green spaces could be provided to address localised quantitative and accessibility deficiencies"*.

The audit referred to is the 'Green Space Audit'⁶ (May 2014).

As the proposed use of OS10 is *"natural and semi-natural green space"*, our review is concentrated on this type of space. Specifically concerning Natural Parks and Green Space (which includes 'natural and semi-natural green space'), the audit states (at paragraphs 7.20 to 7.23) that:

- *"Although there are only 2 Natural Parks and Green Space sites within Filey, they cover an area of approximately 43 hectares. This equates to 6.17 hectares of*

¹ Available at: [Full Filey Assessments.pdf](#)

² Available at: [Housing Land Assessment: Appendix C Filey.pdf](#)

³ Available at: [SHELAA 2015 \(Site-Assessments\)](#)

⁴ Including: http://siteha23filey.weebly.com/uploads/5/3/4/5/53454431/objections_to_site_os10.pdf

⁵ Available at: <http://uploads.scarborough.gov.uk/examination-docs/chapter-specific-documents/CSD-6%20-%20Housing-Land-Selection-Methodology-and-Assessments.pdf>

⁶ Available at: <http://uploads.scarborough.gov.uk/examination-docs/chapter-specific-documents/CSD-15%20-%20Green-Space-Audit.pdf>

provision per 1,000 population (population of 6,980), which is above that required by the local standard for the urban area (2 hectares per 1,000 population). As such, there is a quantitative surplus of approximately 29 hectares. However, this surplus alone is not a valid reason for the removal of sites.

- Access to Natural Parks and Green Space within Filey is good, with no identifiable areas of deficiency. The Country Park and 'Parish Wood' serve the area to the north of the railway line, with 'The Dams' serving the majority of residents to the south of the railway line.*
- Using the local standard as a benchmark for the quality of sites, it is evident that both of the Natural Parks and Green Spaces within Filey are of sufficient quality to meet the needs and aspirations of local communities".*

Specifically concerning the recommendations for Natural Parks and Green Space (which includes 'natural and semi-natural green space'), the audit states (at paragraphs 8.18) that the Local Plan should:

- "Maintain the overall level of Natural Parks and Green Space provision within the town to ensure that current and future residents are able to access to natural forms of green space.*
- In recognition of their overall importance, safeguard the Country Parks and ensure that they continue to be maintained to a high standard to encourage further public use.*
- Ensure that all current and future Natural Parks and Green Spaces are maintained to the required quality standard".*

Furthermore, based on the information contained within the audit, there is a greater than 300% 'over provision' of this type of space with Filey.

The audit does not identify (and does not justify) the need to create additional natural parks and green spaces within Filey, and therefore does not identify (and does not justify) any additional allocation of ('natural and semi-natural') green space.

Requirement for Open Space Linked to the Filey Flood Alleviation Scheme

As noted previously, despite OS10 appearing in the Proposed Submission Version of the Local Plan (November 2015), the text from the May 2016 Assessment is the first mention of "an area of unusable agricultural land" linked to the Filey FAS. Indeed, such information does not appear to have been reported in the Filey FAS Environmental Statement or shown in the Filey FAS Drawings.

We believe, and have understood from the information provided by SBC, that the development of the Filey FAS is and should remain separate to the Local Plan. For example, on the 23/2/2015, correspondence from Borough Councillor Cockerill to a resident stated: "the FAS and the possible use of HA21 [now HA23] for residential development are separate matters and will be considered as such".

The Filey FAS Environmental Statement does not identify the need to provide open space as part of the development of the Filey FAS, nor does it identify that there will be "an area of unusable agricultural land" associated with the development of the Filey FAS. The Filey FAS should not be used to justify proposed allocations within the Local Plan.

Mitigation required for the Filey FAS should not be provided by allocations in the Local Plan

Whilst a permanent loss of agricultural land is noted as part of the environmental impact assessment (and permanent restrictions on farming practices within the proposed storage areas and drainage channels), there is no note of a subsequent requirement to completely alter the use of the area of land covered by OS10, nor any note that further areas of agricultural land will become unusable.

In particular, Filey FAS Drawing (PB1154/9007⁷) illustrates that the area proposed to be allocated as OS10 remains as “arable land”. Furthermore, the area between the marker posts (demarking the boundary between the Filey FAS bunding and the arable land) is a minimum of 50 m wide and is approximately 300 m in length. No evidence has been provided, either through the application for planning permission for the Filey FAS or for the Local Plan, that this area will become “unusable”. Furthermore, as part of the consultation process for the Filey FAS, representatives at the Public Exhibition stated that, post-construction, the land would be returned to its previous use.

Ultimately, it would appear that the loss of land for the Filey FAS bunding, which is subject to a separate agreement for compensation with the land owner, is being used to dispose of all land, and push forward inappropriate development and allocations.

In this regard, the Filey FAS Environment Statement notes (at Section 11.5.2: Operational Impacts – ‘Land Taken out of Existing Land Use’) that:

- *“In order to minimise disruption to existing land use, mitigation has been embedded into the scheme design by locating earth bunds and channels along the line of field boundaries, where possible. Where this has not been possible, extensive consultation has been undertaken with land owners in order to determine the least disruptive position for the location of bunds, channels and storage areas”; and,*
- *“In order to minimise the direct loss of agricultural land as far as practicable, the design has been refined to minimise the land take whilst ensuring that the scheme would be effective in protecting Filey from surface water flooding”.*

This is shown in the Filey FAS Drawing referenced above.

If there had been “an area of unusable agricultural land” associated with the Filey FAS, this should have been addressed as part of the application for planning permission for the Filey FAS. This was not the case.

In this regard, and due to the lack of openness and transparency from SBC / Filey Town Council and their representatives, and disregard for the local community on these issues, Robert Agus (resident) met with our Local MP who wrote to Scarborough Borough Council on our behalf. In their reply, SBC stated that:

“in respect of references to ‘possible collusion between landowners, councillors and officers.’ Whilst there has been communication between landowners and officers this has been to enable the landowners and site promoters to provide evidence for the site they are promoting and this site is no exception. In respect of the linkages between the Filey Flood Alleviation Scheme (FFAS), the Housing Site and the Open Space there clearly does exist some linkage as they are linked geographically. However, the FFAS has recently been considered by Members of the Council who voted to approve the scheme. There is no link between this decision and the housing site as the housing site could come forward without the FFAS subject to dealing with any drainage issues in relation to the site itself.

Here, again there is reference to the development of the Filey FAS being separate to the Local Plan.

Further:

“With respect to the Open Space allocation this was a piece of land that, following the Installation of the FFAS would have no meaningful agricultural use due to the width of the site and the constraints of large modern farming machinery. It is considered that this could provide a beneficial use as open space (informal for walking etc) linking the Country Park to Parish Wood and beyond. It was not included in the Draft Local Plan due to the unknown layout of the FFAS at that time. It was included in the Submission Local Plan allowing comments from the community which again will be considered by the appointed Inspector”.

Again, if there had been “an area of unusable agricultural land” associated with the Filey FAS this should have been addressed as part of the application for planning permission

⁷ Available at: http://planning.scarborough.gov.uk/online-applications/files/7A8BA222BCB208E71215D7F2307F3E4E/pdf/15_02657_RG3-AREA_1_SITE_PLAN_4_OF_4_-_PB1154-9007_P5-425503.pdf

alongside evidence to show that it will become “unusable”. We also believe that it is unlikely that Planning Officers were not aware of the Filey FAS designs during the development of the Draft Version of the Local Plan.

As the Local Plan has OS10 linked to the proposed allocation of HA23, the response by SBC also highlights the consistent lack of cohesion with how the three schemes are being processed and dealt with, with OS10 and HA23 being separate and OS10 being linked to the Filey FAS (which does not form part of the Local Plan).

During the determination of the Filey FAS, local residents questioned the need for the extensive earthworks along the northern boundary of Wooldale Drive properties. This was dismissed by the Planning Services Manager who stated that: *“it would be unlikely for the applicant to incur unnecessary costs”*. However, despite several requests for clarity, technical details and supporting modelling, no evidence was provided. It appears that SBC to wish as much work as possible to support a case for the provision of OS10. Without these unjustified and extensive earthworks the amount of arable land to be lost would be significantly reduced.

No Clear or Consistent Message on the Requirement for OS10

Following the receipt of comments and objections to the allocation of OS10, there has been a clamouring to try and justify the requirement for OS10.

On one hand, the May 2016 Assessment and Mr Wilson (Forward Planning Officer, SBC) stating that it is due to the creation of an area of *“unusable agricultural land”*. On another hand, agents acting on behalf of the land owner claim that it is fundamentally linked to HA23⁸. On the third hand, there is Borough Councillor (resigned on 14/7/2016 as Town Councillor) Cockerill unequivocally refusing to accept that the three are linked at all.

Furthermore, on 8/12/2015 a meeting of Filey Town Council was held and we are advised by Ms Gina Robinson (Town Clerk) that: *“At the same meeting members discussed the proposed sites OS9 and OS10 and it was noted that these two open space sites could be linked and it was hoped to create a feature such as a walk rather than just being open areas of land but this would be open to further discussions”*. However, on the 4/3/2016, correspondence from Borough Councillor Cockerill to a resident stated that: *“There are no new footpaths allowing access to the areas of Public Open Space”*.

Deficiency of Consultation

The proposed allocation of OS10 appeared between the 'Draft' and 'Submission' Versions of the Local Plan, and therefore there has been **NO PUBLIC CONSULTATION** on the inclusion of OS10.

Summary

- No sound requirement or justification for OS10 has been provided by SBC, Filey Town Council, Land Owners / Agents or others.
- There has been no public consultation on the inclusion of OS10.
- Local residents have not been fully informed of plans by SBC / FTC for the future use for OS10 (including proposals for public access), and no information is available regarding future ownership of OS10.
- The expansion of Development Limits to include OS10 but not Parish Wood is suspicious, leading local residents to the conclusion that this land will ultimately be inappropriately allocated for housing. Indeed, in light of the inappropriate proposed allocation of HA23, clearly SBC are willing to ruin the area without hesitation or recourse to local residents.
- SBC (and Planning Officers), FTC (and Committee, led by (now-ex) Councillor Cockerill) have failed to challenge the extent of the proposed bunding as part of the

⁸ Available at:
http://scarborough.objective.co.uk/common/search/advanced_search.jsp?id=868070&eventId=27070&sortMode=response_date&lookingFor=representations&tab=list

Filey FAS, which has apparently lead to the creation of an area of “*unusable agricultural land*”.

- The supporting statements from Land Owners Agents with regard to the OS10 provision is an indication that the Landowners are more than willing to dispose of arable land for lucrative housing development and also to dispose or otherwise dispense with acres of usable arable land. The provision for additional open space in the town should be driven by need and not convenience or the objectives of landowners.
- No consideration has hitherto been given to the severe loss of privacy and general residential amenity currently enjoyed by residents that would arise should the allocation of OS10 be allowed.

In summary, we respectfully request that the allocation of OS10 IS NOT included in the Local Plan.