

# **Objection to the Inclusion of Site HA23 (Land off Church Cliff Drive, Filey) as an Allocated Site for new Housing Delivery within the Scarborough Borough Local Plan: Proposed Submission (November 2015)      Revised version 15-12-2015**

## **Summary:**

The proposed inclusion of Site HA23 as an allocated site within the Scarborough Borough Local Plan should not be accepted for the reasons set out in this objection.

I wish to remain on the Local Plan consultee database.

## CONTENTS

1	LEGAL COMPLIANCE .....	4
1.1	Conclusion .....	4
2	SOUNDNESS OF PLAN: PREVIOUS REFUSAL BY SCARBOROUGH BOROUGH COUNCIL (SBC) AND THE PLANNING INSPECTORATE .....	5
2.1	Conclusion .....	6
3	SOUNDNESS OF PLAN: NEED FOR ADDITIONAL HOUSING IN FILEY .....	7
4	SOUNDNESS OF PLAN: ASSESSMENT OF THE SITE FOR THE PREPARATION OF THE LOCAL PLAN. 8	
4.1	Assessment Methodology used for the Designation of Site HA23 .....	8
4.2	Examination of the Assessments of Site HA23: Stage A.....	9
4.2.1	Proximity to Nationally and Internationally Designated Sites .....	9
4.2.2	Flooding and Drainage.....	10
4.2.3	Summary of Stage A .....	12
4.3	Examination of the Assessments of Site HA23: Stage C.....	12
4.3.1	Impact on the Landscape .....	12
4.3.2	Flooding and Drainage.....	13
4.3.3	Water Supply and Source Protection Zones.....	13
4.3.4	Capacity of Existing Utilities .....	13
4.3.5	Land Use Conflicts .....	14
5	CONFLICTS WITH OTHER RELEVANT POLICIES OF THE SCARBOROUGH BOROUGH LOCAL PLAN 17	
5.1	Policy DEC 3: The Efficient Use of Land and Buildings.....	17
5.2	Policy DEC 4: Protection of Amenity .....	17
5.3	Policy HC 1: Potential Conflict with Supporting Housing Development .....	17
5.4	Policy ENV 3: Environmental Risk.....	18
5.5	Policy ENV 5: The Natural Environment.....	18
5.6	Policy ENV 6: Development Affecting the Countryside / ENV 7: Landscape Protection and Sensitivity .....	18
6	CONCLUSION .....	23
	APPENDIX A: SCARBOROUGH BOROUGH COUNCIL (SBC) DECISION REF: 4/3/674/PA .....	24
	APPENDIX B: PLANNING INSPECTORATE APPEAL REF: T/APP/H273/A/91/180817/P8 .....	27
	APPENDIX C: RELEVANT EXTRACTS FROM THE STRATEGIC FLOOD RISK ASSESSMENT (ARUP, FEBRUARY 2010).....	31

APPENDIX D: FIGURE 11.11 FROM THE STRATEGIC FLOOD RISK ASSESSMENT (ARUP, FEBRUARY 2010).....	35
APPENDIX E: RELEVANT EXTRACT FROM FILEY TOWN FLOODING INVESTIGATION REPORT .....	37
APPENDIX F: HISTORICAL PHOTOGRAPHIC EVIDENCE OF FLOODING AND ASSOCIATED NEWSPAPER ARTICLE.....	39
APPENDIX G: EXTRACT FROM THE MINUTES OF FILEY TOWN COUNCIL PLANNING MEETING HELD ON 1 SEPTEMBER 2014.....	42
APPENDIX H: FIGURE 11.12 FROM THE STRATEGIC FLOOD RISK ASSESSMENT (ARUP, FEBRUARY 2010).....	44
APPENDIX I: ENVIRONMENT AGENCY GROUND WATER VULNERABILITY MAP .....	46
APPENDIX J: COMPARISON OF EXTRACTS FROM THE SHELAA 2013 AND THE SHELAA 2015 .....	48

# 1 LEGAL COMPLIANCE

It is not considered that the Scarborough Borough Local Plan is legally compliant as:

- (a) There was **NO** Drop-In Sessions between the draft stage and the proposed submission stage. Therefore, there was no opportunity for residents to ask questions or receive updates on the Local Plan.
- (b) The objections to Site HA21 (now Site HA23) submitted in 2014 at the draft stage were subject to a screening process imposed by officers in the 'Report on Draft Local Plan (2014) – Comments and Recommendations'. However, only 'lip-service' was paid to the majority of the objections, and the comments and recommendations do not effectively address all the concerns held by residents. Therefore, we believe there has been insufficient scrutiny of the objections to the allocation of Site HA21 (now Site HA23) in the Local Plan.
- (c) The Drop-In Session at the proposed submission stage was held too close to the deadline for representations to be made. This **DID NOT** giving adequate time for residents to prepare their representations. It should be noted here that the officers responsible for the preparation of the Local Plan, and associated consultation materials, had many months (if not years) to prepare and read all associated documentation. Residents had only 6 weeks to submit their observations, with very little (if not no) opportunity to ask questions or receive clarification on decisions made.
- (d) The Drop-In Session at the proposed stage that was held in Filey was badly managed. For example, there were no signs giving direction to the room in which it was to be held which was only rectified when the officers were notified. In addition, despite there being three officers present, residents and members of the public turned away frustrated at poor management.
- (e) The 'Proposed Submission Scarborough Borough Local Plan (Regulation 19 Stage) Response Form' provided is not fit for purpose. It sets responses to questions that are badly formed and unclear, and provides less than two sides of A4 for representations / responses. Furthermore, the consultation portal was not fit for purpose. Initially, it gave misleading and contradictory statements when asking residents to complete the form which again was only rectified after a request from the general public.
- (f) There were no public notifications made on properties adjacent or in the immediate vicinity of the proposed site allocations (e.g. there were no notices on lampposts or public buildings). As a large percentage of residents are elderly and do not have access to the internet, they are now not on the Local Plan consultee database and have not have had any opportunity to respond. This has resulted in a VAST amount of local knowledge and experience being unused / lost in the preparation of the Local Plan.

## 1.1 Conclusion

The above indicates a litany of procedures and processes that do not conform to a good standard of legal compliance that the public should expect from their local government bodies. The process alienates rather than encourages engagement with the public and compromises democratic accountability.

**Not only are the legal compliance procedures deficient but the operational management strategies underpinning those procedures in light of the above observations shows a weakness in good governance that undermines the legal compliance of the Local Plan.**

## 2 SOUNDNESS OF PLAN: PREVIOUS REFUSAL BY SCARBOROUGH BOROUGH COUNCIL (SBC) AND THE PLANNING INSPECTORATE

Scarborough Borough Council (SBC) Decision Ref: 4/3/674/PA **REFUSED** an outline application for a housing development on site HA21 (now HA23) submitted in August 1990. This is provided in Appendix A. The reasons for the refusal were:

- 1) The proposal would be located outside the development limits of Filey (that is: *"is contrary to Policy E.1 of the draft Filey Local Plan"*);
- 2) The proposal would contribute to an over-provision of housing (that is: *"is contrary to Policy H.1 in the draft Filey Local Plan"*); and,
- 3) The proposal *"is likely to have a detrimental effect on the adjacent Country Park and Filey Brigg due to the reduction of the openness and remoteness at present experienced"* (that is: *"is contrary to Policy L.10 in the draft Filey Local Plan"*).

Following an appeal against the refusal, the Planning Inspectorate Appeal Ref: T/APP/H2733/A/91/180817/P8 **SUPPORTED THE REFUSAL**. This is provided in Appendix B. There have been no subsequent material changes to the area and therefore, it is considered that the above reasons for refusal are still in place.

In terms of the Local Plan, the Strategic Housing and Employment Land Availability Assessment (SHELAA), 2015 (which is an associated document to the Local Plan) states in the Description of Site, (including any planning status) that: *"The site has no recent relevant planning history"*. However, as noted above, the site does have a relevant planning history and therefore must be considered, especially as there have been no subsequent material changes to the area.

In addition, in the Local Plan at Policy HC2 (paragraph 6.23), there is discussion of the considerations which should be taken into account should the site allocations be made, and planning applications be made. However, here there is no mention of consideration of previous planning history. We feel that this is a critical omission, and should be included as an essential consideration for all sites.

In terms of our responses / representations submitted to date, this was raised in numerous objections submitted in 2014 at the draft stage. The subsequent response by officers in the 'Report on Draft Local Plan (2014) – Comments and Recommendations' noted (in ID DLP224) that (under 12 – Comments regarding Previous Refusals): *"Whilst it is recognised that the site has been refused for various forms of housing development in the past, the context in which we are planning has changed dramatically"*. This **acknowledges** the relevant planning history of the site, which is **contrary** to the information contained in SHELAA 2015 – a key inconsistency in the documentation supporting the Local Plan). In addition, this notes that only the **context** of planning has changed and, therefore, the **issues** related to planning (in terms of adverse impacts) remain unchanged. Therefore, adverse impacts which were noted as reasons for previous refusal remain as there have been no subsequent material changes to the area.

Furthermore, the subsequent response by officers in the 'Report on Draft Local Plan (2014) – Comments and Recommendations' also noted (in ID DLP224) that (under 12 – Comments regarding Previous Refusals): *"The current National Planning Policy Framework (NPPF) is underpinned by a "presumption in favour of sustainable development" which in essence states that Local Plans should meet objectively assessed need (for development) unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits"*. Again, we consider that the adverse impacts

which were noted as reasons for previous refusal remain as there have been no subsequent material changes to the area.

## **2.1 Conclusion**

**The proposed site has previously been considered as a site for new housing delivery. However, both Scarborough Borough Council and the Planning Inspectorate have determined that the site is not appropriate for housing development. Since there have been no subsequent material changes to the area, the reasons for refusal of an application for planning permission would also be applicable if an application were made today or, indeed, in the future. Therefore, the same reasoning should be applied to the allocation of the proposed site for housing delivery.**

The remainder of this document sets out these adverse impacts, and also the inconsistent and inaccurate consideration of these impacts throughout the assessment of the site for the preparation of the Local Plan.

This documents also provides the ‘lip-service’ paid to the majority of the previous objections submitted in 2014 at the draft stage which do not effectively address all the concerns held by residents, again setting out the inconsistent and inaccurate consideration of impacts, and we feel highlighting an attempt to brush over the key issues, constraints and limitations of the site which would deem it unfit as an allocation site for new housing.

### **3 SOUNDNESS OF PLAN: NEED FOR ADDITIONAL HOUSING IN FILEY**

The Local Plan states (at paragraph 6.13) that there is a need to “*accommodate a minimum of 5130 dwellings up to 2032*”. Of this, the Local Plan further states (at paragraph 6.20) that 5 per cent has been allocated to Filey. This equates to approximately 257 houses.

However, it is considered the Local Plan may have failed to take in to consideration the Mill Meadows Housing Development that is still under construction. This comprises 300 houses.

**Therefore, it could be said that there is currently no need for additional housing allocations sites within Filey.**

## 4 SOUNDNESS OF PLAN: ASSESSMENT OF THE SITE FOR THE PREPARATION OF THE LOCAL PLAN

### 4.1 Assessment Methodology used for the Designation of Site HA23

Under Policy HC2, the Local Plan proposes to include Site HA23 (Land off Church Cliff Drive, Filey) (previously Site HA21) as an allocated site for new housing delivery.

Previous assessments of this site are available in a number of documents including:

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

These are three inconsistent and inaccurate assessments which have not only led to the incorrect proposed allocation of the site, but also confused and frustrated residents with regards to the apparent lack of care and attention taken on such an important issue.

The most recent document supporting the Local Plan, the 'Housing Land Selection Methodology and Assessment Background Paper' (September, 2015) notes that the: *"methodology is used to provide the foundation from which the assessment and comparing of sites will take place in preparation for identification of land that will be allocated for housing in the Local Plan. Each site will be assessed in detail in order to establish the constraints, delivery potential and how it accords with the settlement hierarchy"*.

Furthermore: *"the methodology proposes a 3 stage assessment of potential housing sites as follows:*

- *Stage A: Conformity with Settlement Strategy and determination of Major Constraints;*
- *Stage B: First Route Scoring: A preliminary test of the suitability of the site in achieving sustainable goals; and,*
- *Stage C: Detailed Site Implications: A test of the deliverability of a site including the identification of constraining factors that may prevent the feasibility or economic viability of development, and the capability of existing or required infrastructure to incorporate such development"*.

It is also noted that: *"where any constraint or issue may be deemed significant enough to render a site undevelopable, the site could be dismissed at any stage during the process"*.

Under the Section titled 'Explanation of Site Assessment Methodology', it is also noted that: *"the robust and responsive requirement for this assessment provides scope for ensuring each proposed site is tested in terms of its suitability for development, is deliverable and economically viable for developers and is economically, socially and environmentally sustainable"*.

The following sub-Sections discuss some of the inconsistencies and inaccuracies between these documents.

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<sup>1</sup> Available at: <http://www.scarborough.gov.uk/pdf/draft-housing-allocations-DPD-site-assessments-web.pdf>

<sup>2</sup> Available at: <http://scarborough.objective.co.uk/portal/planning/lp/dlp2014?tab=files>

<sup>3</sup> Available at: <http://scarborough.objective.co.uk/portal/planning/lp/pslp?tab=files>



## 4.2 Examination of the Assessments of Site HA23: Stage A4

### 4.2.1 Proximity to Nationally and Internationally Designated Sites

**Question 3a: Is the site within the prescribed distance of any national or international site of biodiversity of geological value (e.g. RAMSAR, SSSI, SAC, SPA, National Nature Reserves)?**

**Question 3b: If YES, would the development have a negative impact on the associated area of protection?**

To Question 3a, Assessment A noted “No”. However, Assessment B and Assessment C noted “Yes”. It is understood that this inconsistency is due to the changing of the boundary of the designation between Assessment A and Assessment B.

Assessment B noted that: *“The site lies within 5 km of the Flamborough Head SAC and SPA, and the Flamborough and Filey Coast pSPA. However it is of such a scale and that it would only have a negligible impact on these protected habitat designations”*. In addition, Assessment C noted that: *“The site lies within 10 km of Flamborough Head, however, it is of such a scale that would accommodate less than 50 dwellings and any impact from increased recreational pressure is therefore considered to be minor”*. It is understood here that the change to the reference distance (i.e. from 5 km to 10 km) is due to the potentially affected area for Flamborough Head being increased. However, the site remains within 5 km of the internationally designated site.

In addition, information taken from [www.magic.gov.uk](http://www.magic.gov.uk) notes that the site is located less than 750 m from Filey Brigg SSSI. Filey Brigg SSSI was designated in 1985<sup>5</sup> for both ornithological and geological interest. Indeed, the information from Natural England notes that: *“this is a new site identified as of national importance in the Geological Conservation Review”*.

However, despite its earlier designation and the requirements of Question 3, Filey Brigg SSSI has not been considered in any assessment, representing an error in the assessment of the site. In terms of potential impacts, the ‘Housing Land Selection Methodology and Assessment Background Paper’ (September, 2015) notes (in terms of assessment of internationally designated sites) that these include: *“increased recreational pressure, particularly if the site is within 5 km [or 10 km in the case of Flamborough Head] of a protection designation area. This includes walking / trampling which causes soil compaction and erosion. Walkers with dogs contribute to pressure on sites through nutrient enrichment via dog fouling and also have potential to cause greater disturbance.”* This potential impact is also considered to be relevant to the assessment of Filey Brigg SSSI.

The response by officers in the ‘Report on Draft Local Plan (2014) – Comments and Recommendations’ noted (in ID DLP1141) that: *“The site is located approximately 700 metres from Filey Brigg SSSI in addition to its proximity to the Flamborough and Filey Coast pSPA. The assessment considers the impact to the later and will be amended to fully consider the former”*. However, the assessment does not appear to have been amended indicating the ‘lip-service’ paid to the objections. Therefore, **again** highlighting the inconsistent and inaccurate consideration of impacts, and an attempt to brush over the key issues.

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<sup>4</sup> It should be noted that the questions quoted here are from Assessment C. However, although the exact wording has changed, the subject of the questions throughout all the assessments remains materially the same.

<sup>5</sup> The reasons for the designation are given in: [http://www.sssi.naturalengland.org.uk/citation/citation\\_photo/1002497.pdf](http://www.sssi.naturalengland.org.uk/citation/citation_photo/1002497.pdf)

Furthermore, a report by Natural England titled: 'Flamborough and Filey Coast pSPA: Heritage Coast Extension'<sup>6</sup> (SPA EU Code UK9006101) is now at the consultation stage. This could alter the assessment of the site against the assessment criteria, yet has not been taken into account.

**Therefore, without proper consideration of Filey Brigg SSSI (as promised by the response by officers) and the proposed Heritage Coast Extension, including establishing the value of the existing ornithological and geological features, it is deemed highly inappropriate that a conclusion can be drawn on the significance of any potential impact (or indeed the success of any associated mitigation measures).**

**Indeed, it is considered that the development of the site may have a negative impact on the area of protection. For example, examination of the site via Google Maps shows that there are already numerous established walking routes to the Filey Brigg SSSI which the development of this site could exacerbate through increased walking / trampling.**

**As such, despite this being raised in the objections at the draft stage of the Local Plan, the assessment of the proposed site remains unsound.**

#### 4.2.2 Flooding and Drainage

**Question 4: Does the site lie within an area considered to be unsuitable due to its position within a flood risk zone (high risk)?**

All the Assessments state "No".

However, there is a considerable amount of existing information relating to flood risk both on the site and in the surrounding area that needs further consideration. Indeed, the latest Strategic Flood Risk Assessment<sup>7</sup> states (at paragraph 11.5.3.1 (Floodplain Delineation)) that: *"The majority of Filey is classed as a Flood Zone 1, however as explained above, a significant amount of flooding has occurred within the settlement. Historic and hydraulically modelled flood extents have been included in Figures 11.11. For the purposes of land use planning and development control these flood extents should be accorded the same status as Flood Zone 3. All currently developed sites within this zone may be accorded 3a(i) status, while other areas within Zone 3 should be accorded Zone 3 b status"*. The relevant extracts from the SFRA are provided in Appendix C. Figure 11.11 from the SFRA is provided in Appendix D.

The response by officers in the 'Report on Draft Local Plan (2014) – Comments and Recommendations' noted (in ID DLP1141) that: *"The SFRA Update (Feb 2010) shows in its Figure 11.11 that the site is outwith areas of Flood Zone 2 and 3 and outwith, although in close proximity to, areas identified as being affected by flooding in 2007. The SFRA states sites within those areas should be considered as being in Flood Zone 3. As this site is not directly within Flood Zone 3 it has been assessed as being within Flood Zone 1"*.

Here it should be noted that the indicative areas of flooding on Figure 11.11 (from 1985 – 2004, and from July 2007) are **only** based on *"properties affected by each event"* (the data provided for 1985 – 2004 from the Filey Town Flood Investigation Report) and *"where surface water may impact upon properties"* (the data provided for July 2007 from Scarborough Borough Council) within the settlement. A relevant extract from the Filey Town Flood Investigation Report is provided in Appendix E (Drawing Number 5002531/WA/FO17, Atkins, 2004). However, at the time of writing the SFRA, the proposed site was not included within the settlement (i.e. development) limits of Filey,

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<sup>6</sup> 'Flamborough and Filey Coast Potential SPA: Heritage Coast Extension'. Natural England, January 2014.

<sup>7</sup> Available at: <http://www.scarborough.gov.uk/sites/default/files/files/Strategic-Flood-Risk-Assessment-Feb-2010.pdf>

and therefore whilst there may not have been any reason to report / document flooding at the proposed site, this does not mean that the same classification should not be applied to the proposed site.

Indeed, historical photographic evidence collected over a number of years at the location of the proposed site show that the site is regularly the subject of flooding. The historical photographic evidence, along with an associated newspaper article about the flooding, is shown in Appendix F. More recently, in May 2015 there was minor flooding on Church Cliff Drive when the drainage system was block due to the Caravan Site at the adjacent Country Park. Drainage companies also attended Church Cliff Drive for drainage issues on: 12 March 2015 (Drains UK 2000); 15 June (JWL Drain Solutions); and, 23 June 2015 (First Choice Drains).

Furthermore, the proposed site (then Site HA21, now Site HA23) was also confirmed to be in a Flood Zone 3 by SBC Forward Planning Officer Mr Hand during a Filey Town Council Planning Meeting held on 1 September 2014. An extract from the minutes of this meeting is provided in Appendix G. This is in direct conflict to the response by officers in the 'Report on Draft Local Plan (2014) – Comments and Recommendations, **again** highlighting the inconsistent and inaccurate consideration of impacts, and an attempt to brush over the key issues. This approach again indicates an approach of 'lip-service' paid to objections.

In addition, the assessment methodology overlooks the guidance given within the National Planning Policy Framework (NPPF). Indeed (at paragraphs 100 and 101) the guidance states that Local Plans should comply with the recommendations in the relevant SFRA.

**In summary, the classification of the proposed site as Flood Zone 1 in the HSLMA is technically incorrect. Flood Zone 3 is 'high risk' and, according to the methodology and assessment criteria used, the proposed site should be dismissed.**

**As such, despite this being raised in the objections at the draft stage of the Local Plan, the assessment of the proposed site remains unsound.**

In addition to its location within a Flood Zone 3, the latest SFRA shows that Filey lies in an area at risk of groundwater and surfacewater flooding (Filey lies in Zone B: Burniston to Filey). Based on this allocation, Figure 11.12 from the SFRA also shows that Filey lies in a Critical Drainage Area. Figure 11.12 from the SFRA is provided in Appendix H.

Critical Drainage Areas occur in a number of locations across the latest SFRA Study Area where: *"an increase in the volume or rate of run-off from a site may increase the degree of flood risk elsewhere in the catchment. Such areas will be sensitive to the drainage system implemented within a particular development site, as the drainage system design will determine site run-of rates"*. It does not appear that the assessment has given any consideration to the location of the proposed site within a Critical Drainage Area.

**Therefore, without proper consideration of the requirements of the Critical Drainage Area, it is deemed highly inappropriate that a conclusion can be drawn on the significance of any potential impact (or indeed the success of any associated mitigation measures).**

**As such, despite this being raised in the objections at the draft stage of the Local Plan, the assessment of the proposed site remains unsound.**

#### 4.2.3 Summary of Stage A

**Question 7: Where one of the above questions may have answered yes, does the constraint prohibit development of the entire site with no possibility of amending the site area?**

**If Yes, the site is dismissed and if, as a result of amending the site boundaries, a site can no longer yield 10 dwellings or more, it will be dismissed.**

Based on the above, it is clear that the assessment of the proposed site at Stage A is inconsistent and inaccurate, and continues to be despite these issues being raised as objections at the draft stage of the Local Plan. Based on the information provided, it is considered that the proposed site should be dismissed. In the very least, it is not possible to determine whether the proposed site could pass the necessary criteria to proceed to assessment under Stage B and Stage C.

### **4.3 Examination of the Assessments of Site HA23: Stage C<sup>8</sup>**

#### 4.3.1 Impact on the Landscape

**Question 15: What is the capacity of the landscape to accommodate development with respect to the conservation and enhancement of distinctive rural and coastal landscape character areas?**

All the Assessments provide a score of 1, which is understood from Assessment A to be: *"Site can be developed without significantly impacting on the landscape"*.

However, this does not appear to be backed up by any evidence / assessment. Indeed, the Landscape Character Assessment (prepared to support the Local Plan) (LUC, February 2013) indicates that the proposed site is located in Landscape Character Area D4 (Lebberston and Filey). The Landscape Character Assessment stated that the:

- Landscape sensitivities of this area include:
  - *"The area's sense of openness and coastal influence"*.
- Visual sensitivities of this area are:
  - *"The visual relationship with the coastline"*.

Based on this, the proposed strategy and high level objectives for the area are to: *"conserve the sense of openness and important visual relationships with the coast, as well as to check future growth which could impact on these"*.

This is in agreement with the conclusion of Scarborough Borough Council and the Planning Inspectorate on a previous outline application for residential development on the proposed site (see Section 2 (Soundness of Plan: Previous Refusal by Scarborough Borough Council (SBC) and the Planning Inspectorate). Furthermore, the Planning Inspectorate Appeal Ref: T/APP/H2733/A/91/180817/P8 (provided in Appendix B) stated that:

- *"When I visited Filey I formed the impression that the appeal site performs a valuable role in providing physical and visual separation of the Country Park from the urban area of Filey";*
- *"It is my opinion that if the appeal site were developed, and even if the buildings were restricted to a single storey [...] they would visually intrude into the Filey County Park. I am sure this would diminish its rural character which is so attractive to visitors"; and,*

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<sup>8</sup> It should be noted that the questions quoted here are from Assessment C. However, although the exact wording has changed, the subject of the questions throughout all the assessments remains materially the same.

- *“I consider that your client’s scheme would result in the Country Park being contiguous with the urban area, and this would be detrimental to the enjoyment of the Filey Country Park by visitors”.*

Therefore, the development of the proposed site would be in direct conflict with the conclusions of previous outline planning applications and against the proposed strategy and high level objectives for the area recommended by the Landscape Character Assessment.

**As such, despite this being raised in the objections at the draft stage of the Local Plan, the assessment of the proposed site remains unsound.**

#### 4.3.2 Flooding and Drainage

**Question 16: Is the proposal within an area of flooding? [Noting that: “sites deemed at a high risk of flood are likely to have been dismissed at Stage 1 of the Assessment Process”].**

All the Assessments provide a score of 3, which is understood from Assessment A to be: *“low probability of flooding. Development is appropriate”.*

As noted previously, there is a considerable amount of existing information relating to flood risk both on the site and in the surrounding area that needs further consideration.

**In summary, the classification of the proposed site as Flood Zone 1 in the HSLMA is technically incorrect. Flood Zone 3 is ‘high risk’ and, according to the methodology and assessment criteria used, the proposed site should be dismissed.**

**As such, despite this being raised in the objections at the draft stage of the Local Plan, the assessment of the proposed site remains unsound.**

**In addition, without proper consideration of the requirements of the Critical Drainage Area, it is deemed highly inappropriate that a conclusion can be drawn on the significance of any potential impact (or indeed the success of any associated mitigation measures).**

**As such, despite this being raised in the objections at the draft stage of the Local Plan, the assessment of the proposed site remains unsound.**

#### 4.3.3 Water Supply and Source Protection Zones

**Question 18: Would the development adversely affect a water supply?**

All the Assessments provide a score of 3, which is understood from Assessment A to be: *“no impact from development on water supply”.*

However, this is contradicted by information from the Environmental Agency<sup>9</sup> which specifies that the site is in fact bordering a ‘Ground Water Vulnerability Zone.’ The associated map is provided in Appendix I.

#### 4.3.4 Capacity of Existing Utilities

**Question 21: What is the capacity of existing utilities (Water, Sewage, etc) to cope with the development?**

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<sup>9</sup> Available at:  
<http://maps.environmentagency.gov.uk/wiyby/wiybyController?value=YO149ER&submit.x=13&submit.y=1&lang=en&ep=map&topic=groundwater&layerGroups=default&scale=9&textonly=off#x=511537&y=481394&lg=1,2,10,&scale=9>

All the Assessments provide a score of 2, which is understood from Assessment A to be: *“sufficient capacity or constraints can be overcome through, for example, planned growth of housing with investment from utilities provider. Housing development may have to be delayed until the installation of relevant services”*.

In addition, Assessment A notes that there are *“significant waste water treatment works capacity constraints associated with Filey. However, individually the number of dwellings associated with this development would not push the [Waste Water Treatment Works] over capacity. The cumulative impact and any restrictions on total development in Filey will have to be considered separately”*.

However, this is in direct conflict a response to the ‘Housing Allocations Development Plan Document (DPD) – Preferred Options’<sup>10</sup> by Matthew Gibson (Yorkshire Water Services Limited (Land, Property and Planning)) who noted that whilst: *“there is adequate capacity in the public foul sewer network to take foul water flows equal to the existing discharge rate from the proposal site, [...] the local public sewer network may not have capacity to accept any additional discharge of surface water from the proposed site.”* A property on Wooldale Drive has a stormwater attenuation system fitted as a planning requirement for an extension so a precedent has already been set in the area of HA23.

The response by officers in the ‘Report on Draft Local Plan (2014) – Comments and Recommendations’ noted (in ID DLP1141) that: *“The Borough has sought an update on the current position from Yorkshire Water regarding the capacity of Waste Water Treatment Works. We are assured that the current WWTW can cope with the levels proposed”*.

However, evidence of such assurance should surely have to be provided for the conclusions to stand, especially considering the uncertainty that has been fed into the previous assessments. In this regard, the associated Strategic Housing and Employment Land Availability Assessments (SHELAAs) remove this consideration from their recommendations based on a ‘flimsy’ assurance. This is shown in a comparison of the SHELAAs from 2013 (supporting the Local Plan at the draft stage) and 2015 (supporting the Local Plan at the proposed submission stage). This comparison is provided in Appendix J. This, once again, indicates a ‘lip-service’ paid to the objections, and an attempt to brush over a key constraint of the proposed site.

Therefore, in light of the constraints listed in the Assessments and the limitations set down by Mr Gibson, it is considered that the additional cumulative effect of the development of this site and other sites within Filey would place an enormous strain, and potentially unachievable requirements, on the existing utilities.

In addition, the Assessments do not take into account the recent development and likely associated impact of the Mill Meadows Housing Development on drainage and waste water works.

**Therefore, it is not clear that a conclusion can be drawn within Assessment C that the “number of dwellings associated with this development would not push the [Waste Water Treatment Works] over capacity”. This again highlights the inconsistent and inaccurate consideration of impacts, and an attempt to brush over the key issues.**

#### 4.3.5 Land Use Conflicts

**Question 24: Would the development of the site be compatible with adjoining land uses (now or in the future) or are there any conflicts / amenity issues?**

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<sup>10</sup> Previously available at / now removed from:

[http://scarborough.objective.co.uk/portal/planning/hadpd/housing\\_allocations?pointId=1251465064929#section-1251465064929](http://scarborough.objective.co.uk/portal/planning/hadpd/housing_allocations?pointId=1251465064929#section-1251465064929)

All the Assessments provide a score of 2, which is understood from Assessment A to be: *“with mitigation, development would be compatible”*.

In addition, Assessment A notes that the *“development could be integrated with existing dwellings to the west [and] caravan park adjacent to the east. However, this is screened by vegetation and could be compatible”*.

This is in direct conflict with both the conclusions of Scarborough Borough Council and the Planning Inspectorate on a previous outline application for residential development on the proposed site (see Section 2 (Soundness of Plan: Previous Refusal by Scarborough Borough Council (SBC) and the Planning Inspectorate). Furthermore, this is also against the proposed strategy and high level objectives for the area recommended by the Landscape Character Assessment.

Furthermore, this is also in direct conflict with a response to the ‘Housing Allocations Development Plan Document (DPD) – Preferred Options’<sup>11</sup> by Matthew Gibson (Yorkshire Water Services Limited (Land, Property and Planning) who noted that: *“there is sewerage infrastructure crossing the site [and, therefore] stand off distances for each sewer will apply and so affect the layout of future development”*. Also, this is also in direct conflict with a response to the draft Local Plan by Stephanie Waldon (Yorkshire Water) who noted that: *“there are two 350mm rising mains laid within the site boundary and their presence must be taken into account in any future site layout (it may not be possible to divert them). Failure to protect the mains or prevent YW from being able to properly repair and maintain them, could jeopardise the public sewer network”*.

Moreover, absolutely no consideration has been given to the existing residents of the surrounding area, in particular those on Wooldale Drive which are adjacent to the western boundary of the proposed site.

In addition, when combined with proposed allocations HA22 and HA23 these would place enormous stress on already under provided service provisions for the community, notably: health; dental; and, educational provision. In particular, for education provision, the contradictory and poor management these local resources is highlighted by Pete Dwyer, Corporate Director, Children and Young People’s Service who states: *“Underlying pupil numbers are steady in the Filey area. Some housing is being developed in the area but, on the whole, there is sufficient capacity [at present] on schools to accommodate any expected rise in numbers. The number on roll at Filey CE VC Infant School is being monitored closely as forecasts indicate a small risk of pupil numbers exceeding capacity. The draft Local Plan includes 140 dwellings in the Filey area. Development will be monitored closely as there is a risk that there may be insufficient capacity in the long term”*<sup>12</sup>.

The actual number of houses since this report is now 460 in total. This total includes: Mill Meadows (300 dwellings); Southdene (40 dwellings); Silver Birches (30 dwellings); Scarborough Road (60 dwellings); and, Church Cliff Drive (30 dwellings). Therefore, the risk that there may be insufficiency capacity has increased and will continue to increase dramatically. This has not been factored into the assessment for the Local Plan.

**Therefore, without a full understanding of the current situation and the associated restrictions on the final site size and available area for development / layout restrictions, it is clearly highly inappropriate to draw a conclusion that the *“development would be compatible”*, particularly**

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<sup>11</sup> Previously available at / now removed from:

[http://scarborough.objective.co.uk/portal/planning/hadpd/housing\\_allocations?pointId=1251465064929#section-1251465064929](http://scarborough.objective.co.uk/portal/planning/hadpd/housing_allocations?pointId=1251465064929#section-1251465064929)

<sup>12</sup> ‘School Place Planning and School Organisation Issues in the Yorkshire Coast and Moors Area Report’. North Yorkshire County Council, Yorkshire Coast and Moors County Area Committee. 2 July, 2014.

when the opposite conclusion has been drawn in the past. Indeed, without any understanding of the current situation no conclusion can be drawn on the significance of any potential impact (or indeed the success of any associated mitigation measures).



## **5 CONFLICTS WITH OTHER RELEVANT POLICIES OF THE SCARBOROUGH BOROUGH LOCAL PLAN**

### **5.1 Policy DEC 3: The Efficient Use of Land and Buildings**

Under proposed Policy DEC 3 it is stated that: *“the density of development (including any associated elements of green infrastructure) should be in keeping with the character of the local area. Higher densities will be more appropriate in the central areas of Scarborough, Whitby and Filey. Lower densities may be considered acceptable in instances where there are site-specific constraints, a need to provide additional levels of infrastructure or where the current character or appearance of the area necessitates a development of a lower density”.*

Based on the information provided in Section 2 (Soundness of Plan: Previous Refusal by Scarborough Borough Council (SBC) and the Planning Inspectorate), both Scarborough Borough Council and the Planning Inspectorate have deemed that the use of the proposed for residential development would not be in keeping with the character of the local area. Indeed, the Planning Inspectorate has stated that: *“if the [proposed] site were developed, and even if the buildings were restricted to a single storey [...] they would visually intrude into the Filey Country Park. I am sure this would diminish its rural character which is so attractive to visitors”.*

**Therefore, the use of the proposed site for residential development would be in conflict with proposed Policy DEC 3.**

### **5.2 Policy DEC 4: Protection of Amenity**

Under proposed Policy DEC 4 it is stated that: *“Proposals should ensure that existing and future occupants of land and buildings are provided with a good standard of amenity. Proposals for development should not give rise to unacceptable impacts by means of:*

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

*The criteria listed above are not exhaustive and development that causes significant harm to amenity by means of these or other impacts will not be permitted”.*

As noted previously, there is a lack of consideration which has been given to the current situation and, indeed, absolutely no consideration has been given to the existing residents of the surrounding area, in particular those on Wooldale Drive which are adjacent to the western boundary of the proposed site.

**Therefore, the use of the proposed site for residential development would be in conflict with proposed Policy DEC 4.**

### **5.3 Policy HC 1: Potential Conflict with Supporting Housing Development**

Under proposed Policy HC 1, it is stated that new opportunities for housing development will be encouraged: *“where proposals are compatible with other policies in the Local Plan”.*

As per the information provided in this objection, it is considered that use of the proposed site for residential development would be in conflict with other policies in the Local Plan.

**Therefore, the use of the proposed site for residential development would be in conflict with proposed Policy HC 1.**

#### **5.4 Policy ENV 3: Environmental Risk**

Under proposed Policy ENV 3 it is stated that: *“proposals will be expected to respond to the implications of environmental risk and the effects of climate change”*. This will be achieved by (amongst other actions): *“avoiding development in high flood risk areas by following a sequential approach in giving priority to lowest risk areas as identified by the North-East Yorkshire Strategic Flood Risk Assessment or any subsequent update or replacement”*.

As noted previously, there is a considerable amount of existing information relating to flood risk both on the site and in the surrounding area that needs further consideration.

**Therefore, the use of the proposed site for residential development would be in conflict with proposed Policy ENV 3.**

#### **5.5 Policy ENV 5: The Natural Environment**

Under proposed Policy ENV 5 it is stated that proposals should ensure that: *“development does not result in an unacceptable impact on any locally, nationally or internationally designated sites unless the impact can be outweighed by a greater benefit as commensurate to the designation”*.

As noted previously, the proposed site is located less than 750 m from Filey Brigg SSSI. This site was designated in 1985 for both ornithological and geological interest. Indeed, the information from Natural England notes that: *“this is a new site identified as of national importance in the Geological Conservation Review.”*

However, despite its earlier designation and the previous Assessments, the potential impacts on Filey Brigg SSSI and the proposed Heritage Coast Extension, have not been fully considered.

**Therefore, the use of the proposed site for residential development may be in conflict with proposed Policy ENV 5.**

#### **5.6 Policy ENV 6: Development Affecting the Countryside / ENV 7: Landscape Protection and Sensitivity**

Under proposed Policy ENV 6 it is stated that: *“the character of the open countryside will be protected, maintained and where possible enhanced. Outside the defined development limits, new developments will be limited to those for which a countryside location is essential.”*

Under proposed Policy ENV 7 it is stated that: *“Proposals should protect and where possible enhance the distinctiveness or special features that contribute to the landscape character of a particular area and take into account the sensitivity of the landscape to change in terms of:*

- a) the sense of openness or enclosure;*
- b) the pattern and complexity of the landscape;*
- c) the experience derived from a particular landscape character;*
- d) the relationship to existing settlement edges and the cultural pattern;*
- e) the visual sensitivities and intervisibility of the landscape.*

*Proposals should have regard to the landscape between settlements and should prevent harmful development which results in the loss of the individual characteristics of settlements”.*

As noted previously, both the Scarborough Borough Council and the Planning Inspectorate have deemed that the use of the proposed site be outside the defined development limits. Indeed, this was one of the key reasons for the previous refusals of planning permission.

Furthermore, the site is located outside the defined development limits of Filey. Figure 1, extracted from the existing Local Plan Proposals Map from 1999, shows the existing defined development limits (the green line, shown to run to the south and west of the proposed site). Figure 2, extracted from the Proposed Submission Local Plan (Map 14: Filey), shows re-defined development limits specifically to include the proposed site.

**FIGURE 1: LOCATION OF EXISTING DEFINED DEVELOPMENT LIMITS (EXISTING LOCAL PLAN PROPOSALS MAP, 1999)**



**FIGURE 2: PROPOSED LOCATION OF RE-DEFINED DEVELOPMENT LIMITS (PROPOSED SUBMISSION LOCAL PLAN)**



Defined development limits enable a different approach to be taken between the towns / villages and the countryside. Therefore, in planning terms, the defined development limits provide a clear distinction between those parts of the settlement where development is acceptable, in principle, and those parts of the settlement which should be treated as open countryside where development should be restricted. Through reducing the outward expansion into the countryside, development Limits help to retain the character of the area and assist in more sustainable development.

In terms of the existing defined development limits, as noted earlier, it has been determined that the proposed site: *“performs a valuable role in providing physical and visual separation of the country Park from the urban area of Filey”*. Therefore, this is a key reason why the existing defined development limits do not include the proposed site.

However, the re-definition of the defined development limits is particularly alarming, especially when there is no reference to any assessment which has been undertaken to confirm whether the re-definition is appropriate. Indeed, this re-definition is in complete conflict to the previous position of both Scarborough Borough Council and the Planning Inspectorate on the proposed site which reinforced its position outside the defined development limits.

Indeed, if this re-definition has been based on the previous Assessments for the proposed site, it is been demonstrated that these are significantly flawed.

Therefore, the development of the proposed site would be in direct conflict with the conclusions of previous outline planning applications and against the proposed strategy and high level objectives for the area recommended by the Landscape Character Assessment.

**Therefore, the use of the proposed site for residential development may be in conflict with proposed Policy ENV 6 / proposed Policy ENV 7. Also the associated re-definition of the development limits is an abrogation of the principles of transparency, accountability and good governance.**

## **6 CONCLUSION**

The proposed inclusion of Site HA23 as an allocated site within the Scarborough Borough Local Plan should not be accepted for the reasons set out in this objection.

Do you wish to speak at the examination in public – NO

Do you consider the Local Plan to be Legally Compliant – NO

Do you consider the Local Plan to be Sound – NO

I consider the Local Plan HLSMA Assessment for site HA23 - NOT Justified, Effective and NOT Consistent with National Policy.

This is because the HLSMA assessment for site HA23 (Land off Church Cliff Drive, Filey). Is flawed full of errors, discrepancies and conflict to National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) Process methodology and Policies within the Local Plan

I wish to remain / be added to the Local Plan consultee database.

**APPENDIX A: SCARBOROUGH BOROUGH COUNCIL (SBC) DECISION REF:  
4/3/674/PA**



TOWN AND COUNTRY PLANNING ACT, 1971

**SCARBOROUGH BOROUGH COUNCIL**

**NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR  
PERMISSION TO CARRY OUT DEVELOPMENT**

To Messrs. Taylor Megginson Estates,  
Eastburn,  
DRIFFIELD.

The above-named Council being the Planning Authority for the purposes of your application dated the 29th August, 1990 in respect of proposed Development for the purposes of outline application for residential development to the north of Church Cliff Drive, (part O.S. 7640), Filey,

have considered your said application and have refused permission for the proposed Development for the following reasons:

1. The proposal is contrary to Policy E.1 in the Draft Filey Local Plan which states that, inter alia :-

"Within the defined "Rural Landscape Area" (i.e. areas of open country largely outside the built-up areas and villages) development will not normally be permitted unless :-

- (a) in the case of residential development it can be shown that it is essential to the needs of agriculture or forestry or that there are exceptional circumstances which would warrant the granting of planning permission".

It is not considered that there are any exceptional circumstances which would justify a departure from this policy.

2. The proposal is contrary to Policy H.1 in the Draft Filey Local Plan which states that :-

"Sufficient land will be made available through existing or new planning permissions and the allocation of new housing sites to accommodate about 950 dwellings in the plan area over the period 1981-1996".

The proposal, if approved, would contribute to an over-provision of housing in the plan area.

Continued/...

Date 5th October, 1990.

  
Director of Technical Services

**NOTE:**

No consent, permission or approval hereby given absolves the applicant from the necessity of obtaining the approval, under the Building Regulations, of the District Council in whose area the site of the proposed Development is situated; or of obtaining approval under any other byelaws, local acts, orders, regulations and statutory provisions in force; and no part of the proposed development should be commenced until such further approval has been obtained.

**TOWN AND COUNTRY PLANNING ACT 1971**

Continuation of Decision No. 4/3/674/PA

Dated 5th October, 1990.

3. The proposal is likely to have a detrimental effect on the adjacent Country Park and Filey Brigg due to the reduction of the openness and remoteness at present experienced and, therefore, be contrary to Policy L.10 in the Draft Filey Local Plan which states that :-

"The area of the Country Park and Filey Brigg will be improved as a visitor destination and developed as an informal recreation area".



Director of Technical Services

**APPENDIX B: PLANNING INSPECTORATE APPEAL REF:  
T/APP/H273/A/91/180817/P8**



## Planning Inspectorate

Department of the Environment

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ

Telex 449321

Direct Line 0272-218927

Switchboard 0272-218811

GTN 1374

T1146/GSE

Messrs Dee & Atkinson  
14 North Bar Within  
BEVERLEY  
North Humberside HU17 8AX

Your Reference  
PJF/JF  
Our Reference  
T/APP/H2733/A/91/180817/P8  
Date

20 AUG 91

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPEAL BY TAYLOR MEGGINSON ESTATES  
APPLICATION NO: 4/3/674/PA

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal. This appeal is against the decision of the Scarborough Borough Council to refuse outline planning permission for residential development to the north of Church Cliff Drive (part OS 7640), Filey, North Yorkshire. I have considered the written representations made by you, by the Borough Council, and also those made by Filey Town Council, by Filey District Civic Society and by interested persons. I have also considered those representations made directly by Filey District Civic Society and by interested persons to the Council which have been forwarded to me. I inspected the site on 19 June 1991. Since my visit to Filey, I have received from the Borough Council a copy of the report of the Inspector on the inquiry into the Filey Local Plan, and also your letter dated 26 July 1991 commenting on that report.

2. Filey is a coastal town about 11 km to the south-east of Scarborough. The appeal site is on the northern side of the town.

3. From my inspection of the site, its surroundings and the written representations made, I am of the opinion that the main issue in this appeal is the effect of the proposed development upon the Filey Country Park.

4. The Filey Country Park lies to the east of the appeal site, separated from it by a green lane. Church Cliff Drive runs along the southern side of the appeal site, and there are bungalows on Wooldale Drive to the west. The northern boundary of the appeal site is undefined; at the time of my visit, the appeal site and the land to the north were carrying a crop of cereals.

5. The Country Park is open to the public. Cars can be parked in this area, and the Country Park provides access to the cliffs and to the promontory of Filey Brigg. Much of the Country Park appears to be laid out for use by holiday caravans; toilet blocks have been erected and there is a shop. When I visited the Filey Country Park there were several caravans on this area, some of them were located on that part which is nearest to the appeal site.



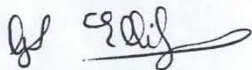


6. In the Grounds of Appeal you say that the backs of the properties fronting Wooldale Drive only serve to display a very distinct, stark urban appearance. Your clients contend that this impression could be offset by allowing development of the appeal site, which would enable the visual amenities of the area to be improved by the incorporation of suitable landscape measures. These would serve to soften the approach and create a more appropriate transition between the Country Park and the urban area of Filey. You claim that the Country Park is already relatively separated from adjoining areas due to the existence of a tree belt along its western side; and when standing in the park area one would not be more aware of the close proximity to the site of residential development as a result of the current proposals than is now experienced.
7. When I visited Filey I formed the impression that the appeal site performs a valuable role in providing physical and visual separation of the Country Park from the urban area of Filey. As you have pointed out, there is a degree of tree screening on the western side of the Country Park and along the green lane; although I noted that in this location close to the coast, trees tend to be somewhat stunted in growth. It is my opinion that if the appeal site were developed, and even if the buildings were restricted to a single storey as your clients propose, they would visually intrude into the Filey Country Park. I am sure that this would diminish its rural character which is so attractive to visitors.
8. Whilst I do not dissent from your opinion of the appearance of the rear of the dwellings on Wooldale Drive, this aspect is mellowed somewhat by its distance from the Country Park. I do not accept your contention that extending the development across the appeal site would improve the position, even if, as your clients propose, more landscaping were provided than on the present residential area. I consider that your clients' scheme would result in the Country Park being contiguous with the urban area, and this would be detrimental to the enjoyment of the Filey Country Park by visitors.
9. The interests of permanent residents and holidaymakers may not always coincide. Thus I can see an advantage to both parties in maintaining a physical separation between the Filey Country Park and the urban area.
10. You have referred to the development for residential purposes of the former Church Cliff Farm, which lies to the south of Church Cliff Drive and the appeal site. I took note of this development when I visited the area, but I consider that this work will not impinge on the Country Park to the extent that your clients' proposal would.
11. The Local Planning Authority argue that sufficient land will be made available for residential development in the draft Local Plan, and the proposal, if permitted, would contribute to an overprovision of housing land in the Plan area. In the Grounds of Appeal you have suggested that designated housing sites in the Filey area might not become available, leading to a shortfall in the supply of housing land. On the evidence before me, I consider that the need to develop the appeal site for housing purposes is not sufficiently strong to override the desirability of preserving the environment of the Filey Country Park.

12. I have considered all the other matters raised in the representations, but I am of the opinion that they are outweighed by the factors leading to my decision.

13. For the above reasons, and in exercise of the powers transferred to me, I hereby dismiss this appeal.

I am Gentlemen  
Your obedient Servant



G S Elliff MSc CEng MICE MCIT MIHT  
Inspector

**APPENDIX C: RELEVANT EXTRACTS FROM THE STRATEGIC FLOOD RISK  
ASSESSMENT (ARUP, FEBRUARY 2010)**

## 11.5 Filey

### 11.5.1 Description of the Settlement

Filey is a coastal settlement situated approximately 10 km to the south-east of Scarborough. Apart from the sea front, most of Filey is located a significant height above sea level.

In total, four significant watercourses are present within the Filey area. Filey Beck and Long Plantation Watercourse flow through Filey. Martin's Ravine flows into the sea to the south of Filey, and Dam's Goit rises in the Dams area, to the west of Filey. This final watercourse has been diverted into the public surface water sewers at Pasture's Crescent, with only a small overflow pipe to allow some flow to continue along the original channel.

### 11.5.2 Previous Flood Events and their Extents

According to the Filey Town Flood Investigation Report<sup>67</sup>, Filey has been subjected to flooding incidents in the summer and autumn months every year since 1999, and also for many years prior to this date. This report also provides the dates of historical flood events since 1985, and the properties affected by each event. Figure 11.11 shows a generalised representation of these flood locations within the settlement<sup>68</sup>.

Recent consultation with Scarborough BC has indicated that the flood risk may have increased further since the original SFRA report. Flooding has continued to occur on an annual, or sub-annual, basis and the town was particularly badly flooded during 2007. Areas impacted in 2007 include the areas around the Wharfedale Estate, Cawthorne Crescent, Linton Close and Muston Road.

The Filey Town Flood Investigation Report attributes the flood events in Filey to a number of interacting problems, some relating to the watercourses and drainage systems, and others to the sewer system. The report suggests that the common factor in the majority of the flood problems is that the existing drainage systems are under capacity to deal with the flood events.

The Long Plantation Watercourse Flood Alleviation Scheme Report<sup>69</sup> also provides details of several recent flood events, with particular impact upon the western side of Filey. The number and general location of properties affected are included. This report attributes the flooding to insufficient channel capacity along sections of Long Plantation Watercourse.

Estimated flood extents for differing return period flow events are included in the report. The flood outline for the 1% event along Long Plantation Watercourse has been included in Figure 11.11.

Surface runoff flooding incidents have also been reported in the north and west of the settlement where surface water may impact upon properties from the surrounding, higher land. These reported events have been plotted on Figure 11.11 which also shows areas in which surface water flooding incidents were reported during the 2007 event<sup>70</sup>.

<sup>67</sup> 'Filey Town Flooding Investigation', Atkins (2004).

<sup>68</sup> For indicative purposes only. Figure adapted from drawing number 5002531/WA/F017 (Revision A) from the 'Filey Town Flooding Investigation'.

<sup>69</sup> 'Long Plantation Watercourse, Filey – Flood Alleviation Scheme, Phase 2', Atkins (2004).

<sup>70</sup> 'Filey Flood 18 July 2007', Scarborough Borough Council (February 2008)



**11.5.3 Flood Zones in and around the Settlement**

Figure 11.11, which displays the existing flood risk situation within Filey, shows that a number of properties close to the coast fall within the predicted extent of Flood Zones 2 and 3. The figure also shows that other areas of Filey have experienced either surface runoff flooding or sewer flooding in the past but are located within Flood Zone 1 of the Environment Agency maps.

The settlement lies within a zone of potential groundwater and surface runoff flood risk (Zone B, see Section 6.4).

**11.5.3.1 Floodplain Delineation**

Flood Zones 1, 2 and 3 are all present within the settlement.

The majority of Filey is classified as Flood Zone 1, however as explained above, a significant amount of flooding has occurred within the settlement. Historic and hydraulically modelled flood extents have been included in Figures 11.11. For the purposes of land use planning and development control these flood extents should be accorded the same status as Flood Zone 3. All currently developed sites within this zone may be accorded 3a(i) status, while all other areas within Zone 3 should be accorded Zone 3b status.

**11.5.4 Potential Flood Risk Management Measures**

A number of flood alleviation measures were proposed for the settlement of Filey within the Filey Town Flood Investigation Report, which also discusses the relative merits of each of the proposals in financial terms.

The report identifies surface water attenuation measures as the optimum solutions for the problems associated with Filey Beck and the Muston Road area of the settlement. For Filey Beck, the proposed solution is the construction of an embankment to retain flood water in the fields to the north of the settlement. At Muston Road, the preferred solution is the construction of an offline tank sewer. Other mitigation measures within the settlement include sewer capacity upsizing in the Wharfedale Estate, and drain replacement and tree root cutting in the vicinity of Filey Senior School.

Flood management proposals have recently been further developed as part of a collaborative study<sup>71</sup> evaluating flood risk management and environmental benefits. These proposed measures are shown on Figure 11.11.

The mitigation measures proposed for the Long Plantation Watercourse are detailed in the Flood Alleviation Scheme Report. In summary, three possible solutions were proposed, comprising a flood embankment; a flood storage area; or channel widening and re-profiling works. The latter option has been recommended as the most viable solution but has not yet been taken forward.

**11.5.5 Sensitivity to Climate Change**

Based on Defra recommendations (Section 3.7) sea levels can be expected to rise by around 850 mm over the next 100 years. This will not significantly affect the extent of flooding from the sea in this area, although some properties and sites along the foreshore will become more vulnerable.

A climate change sensitivity analysis was carried out within the Long Plantation Watercourse Flood Alleviation Scheme Report. Assuming a 20% increase in the 1% flow, a maximum increase in water levels of 70 mm upstream of the Dams area could be expected, with an average increase of 20 mm along the remainder of the watercourse.

No detailed climate change sensitivity analysis was carried out within the Filey Town Flooding Investigation.

<sup>71</sup> Study partners include Scarborough Borough Council, Environment Agency, Natural England, North Yorkshire County Council, Yorkshire Water and Filey Town Council. Consultants are Mouchel.

#### **11.5.6 Critical Drainage Catchments**

As explained in the sections above, much of the flood risk within Filey is due to issues surrounding the capacity of the existing drainage systems. Any increase in the amount of water entering these drainage systems may increase the degree of flood risk elsewhere in the settlement. These Critical Drainage Catchments may be particularly sensitive to potential climate change impacts.

The entire area which may drain into the existing systems within Filey, including both the rural and urban areas, is displayed in Figure 11.12. Refer to Section 9.

#### **11.5.7 Existing Recommendations Regarding New Development**

It is recommended within the Filey Town Flooding Investigation Report that no further new developments take place in the areas identified as being at risk of flooding, or that have been subject to previous flooding, until alleviatory measures have taken place. These areas can be identified by the generalised flood risk areas in Figure 11.11, or the 'Location Incidents'<sup>72</sup> figure in the Flooding Investigation Report.

#### **11.5.8 Guidance on Land Use Planning and Flood Risk**

Flood Zones present in Filey have been identified above. **The following Forward Planning (Section 7) and Development Control (Section 8) Flood Risk Zone Policies/Guidance should be applied within the settlement: 1, 2, 3a(i), and 3b.**

Other flood mechanisms reported within the settlement are surface water flooding and sewer flooding. Refer to FP/DC Policy Recommendation/Guidance A. It is recommended in this report that, following the suggestion of the Filey Town Flooding Investigation that no further development take place in the areas identified at risk of flooding until alleviatory measures are put in place, consultation should be undertaken with the appropriate drainage engineers at Scarborough BC at an early planning stage regarding the acceptability of proposed developments.

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.

**APPENDIX D: FIGURE 11.11 FROM THE STRATEGIC FLOOD RISK ASSESSMENT  
(ARUP, FEBRUARY 2010)**



Proposed Site HA23 shown outlined in red.

**APPENDIX E: RELEVANT EXTRACT FROM FILEY TOWN FLOODING  
INVESTIGATION REPORT**

# ATKINS

Key

- SPECIFIC RECORDED INTERNAL FLOOD INCIDENT
- INTERNAL FLOODING
- EXTERNAL FLOODING FROM GENERAL PLAN OF 01/08/02 INCIDENT
- HIGH-WAY FLOODING
- FLOOD INCIDENTS WITH A COMMON CAUSE
- FLOOD INCIDENTS EXACERBATED BY OVERFLOWS FROM LONG PLANTATION WATERCOURSE

A				PRB	03/04	SJB	7
Rev	Description	By	Date	Chk'd	Auth		
Purpose of Issue				Rev	Date	Authorised	

**ATKINS**

Thames House  
Blenheim Park  
Warrington Road  
Riseby  
Warrington WA3 5AT  
Tel: (01925) 622000  
Fax: (01925) 622054

Client



Project

FILEY TOWN  
FLOODING INVESTIGATION

Title

LOCATION INCIDENTS

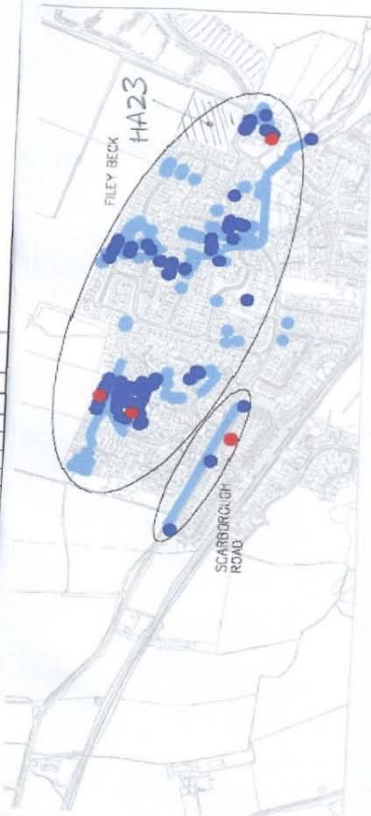
Original Scale	Drawn	Checked	Authorised
1:10000	PRB	SJB	ECC
	Date 09/02/04	Date 06/02/04	Date 09/02/04

Drawing Number

5002531/WA/F017

Rev

A



**APPENDIX F: HISTORICAL PHOTOGRAPHIC EVIDENCE OF FLOODING AND  
ASSOCIATED NEWSPAPER ARTICLE**



### **Photograph of Flooding at the South of Site HA23**

Photograph taken on 14/03/2008.

Church Cliff Drive and Church Cliff Farm can be seen on the left.



Photograph taken on 27/04/2012.

Church Cliff Drive and Church Cliff Farm can be seen on the left.





Photograph taken on 25/11/2012.

Church Cliff Farm can be seen on the left.



## Newspaper Article

The Filey and Hunmanby Mercury (14/12/2009)

# Flood risk on site for 34 new homes

by **Steven Hugill**  
steven.hugill@ymtd.co.uk

**CONTROVERSIAL** plans to build homes on land in Filey which is prone to flooding must be reconsidered, according to one worried resident.

Ian Fenby, of Arndale Way, said the decision by Scarborough Council to earmark Church Cliff Drive as a potential site for 34 new homes should be investigated further because the field has flooded in the past and caused damage to properties and brought misery to residents.

Mr Fenby, 72, who has lived at his property since 1977, said it appeared the council had made its decision to build on the land opposite Filey Fields Farm and added there seemed little scope for change.

He said: "I went to the meeting in the Evron Centre



to look at the plans and it seems to be already taken that this is one of the sites that is going to be used.

"It looks like the other sites have been more or less discounted, with Church Cliff Drive one of the favourites.

"The field carries a lot of water which runs off and I remember when we had the

flooding of properties in Church Cliff Drive and Arndale Way."

The plans also revealed two further sites for new homes, which have been identified as "preferred options" for development, including 40 new properties on Southdene tennis courts and 20 houses on Scarborough Road.

Mr Fenby said he was surprised the plot was now subject to development after it was previously declared it would not be built on. He added: "I know the houses have to be built somewhere and the council is dictated to by the government but I would have thought there were more suitable sites.

"When I bought my house I was told nothing would be built because it was arable land and 10 years ago when it was proposed that it would be sold, I was again told it was greenfield land and nothing would be built.

"Hopefully, there will be a public meeting to discuss the plans. I'm not a 'Not In My Back Yard' person by any stretch, but I am also really surprised about the proposal because adjacent to the field is Filey Brigg Caravan Park and that can get quite busy during the summer too."

**APPENDIX G: EXTRACT FROM THE MINUTES OF FILEY TOWN COUNCIL  
PLANNING MEETING HELD ON 1 SEPTEMBER 2014**

Planning Meeting held 1 September 2014

**BOROUGH LOCAL PLAN** (cont)

Cllr Walker then invited questions from the public who commented on the lack of school places, only one dentist practice as well as an over stretched doctors surgery. Boro Cllr Cockerill informed the members of the public about the history of why this site off Wooldale Drive had been chosen for proposed future development following land-owners submitting several areas of land which had been duly evaluated and reduced to the 4 sites in Filey being :

- HA20 - Land to north of Scarborough Road, Filey
- HA21 - Land off Church Cliff Drive, Filey (Wooldale Drive)
- HA22 - Filey Tennis Courts, Southdene, Filey
- HA23 - Silver Birches, Station Avenue, Filey

Members of the public raised questions on Section 106; site drainage and future flooding and also queried why the access to the proposed site would be from Wooldale Drive as the existing Church Cliff Drive entrance would be preferable. Mr Hand replied to all the questions and stated that the land in question at HA21 was at the present time a flood risk 3 and therefore until the flood alleviation scheme was in situ there could be no development on this site until then.

Mr Hand went on to state that he would extend the deadline for comments on this site for a further 14 days following which this consultation would be closed however further comments could be submitted at the next stage and suggested that those who wished to comment further contact the Borough Council so that they could be placed on a database which would ensure that they were contacted immediately any further consultation was available.

Further questions were raised regarding the failure in community involvement; the Conservation Area boundary, other priorities for Sports and Leisure and whether Social Housing would be included on this site should future development take place. Mr Hand replied that there would be 30% Social Housing included. The Town Clerk asked if the priorities in the Filey Town Plan would be included and was informed that this document would sit alongside the Borough Local Plan.

Members of the public also requested that at any future meeting a qualified Highway Engineer be requested to attend especially with regard to the proposed access, Mr Hand stated that he would request this but could not guarantee that they would attend as they would be North Yorkshire County Council employees and not the Borough Council.

Cllr Haddington informed those present that he sat on the Borough Council's Planning Committee and had taken on board the comments of the residents and would bear these in mind when the Draft Borough Local Plan was discussed. Cllr Haddington also suggested that a further meeting be held, possibly at the Evron Centre, when other members of the public could attend especially as approx. 20 persons had not been allowed into the meeting as a result of health and safety regulations.

At this point Cllr Walker thanked the members of the public for attending and they subsequently left the meeting at 8.50pm.

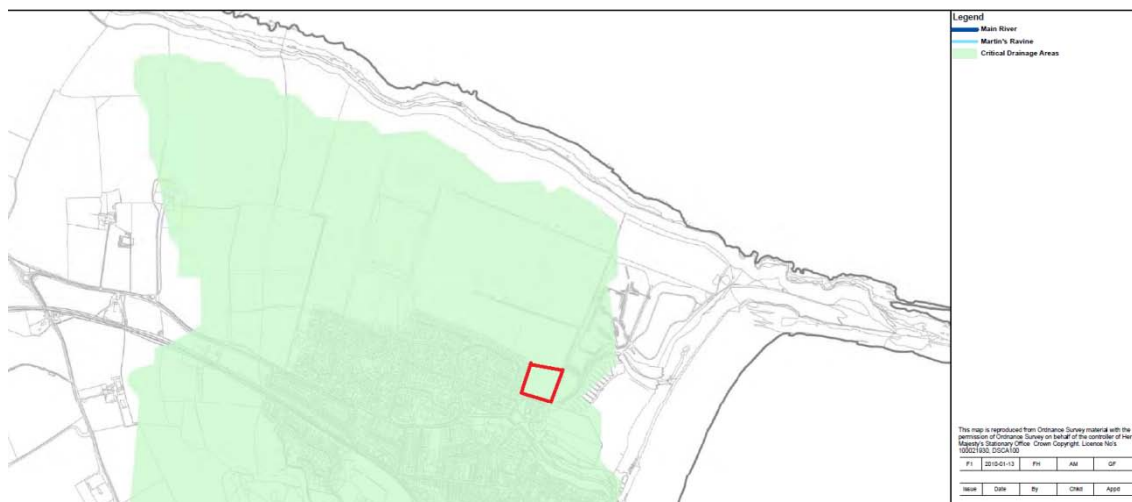
**RESOLVED : That Mr Hand and Mr Harrap be thanked for their informative presentation and a further meeting be awaited as soon as possible.** 632/014

**Draft Green Space – Supplementary Planning Document**

Members had previously been circulated with a copy of the above documents and received a presentation from Mr Matt Lickes of SBC's Forward Planning team who explained that the original "Negotiation of Play, Greenspace & Sports Facilities in Association with New Housing Developments" Supplementary Planning Document was first published in 2007 and was updated on an annual basis however the information on which this document was based is now out of date and the new Green Space SPD will subsequently replace this. A Green Space Audit had taken place and identified that in terms of green space per head of population Filey had a very high percentage mainly due to Glen Gardens, Filey Country Park etc.

*continued overleaf*

**APPENDIX H: FIGURE 11.12 FROM THE STRATEGIC FLOOD RISK ASSESSMENT  
(ARUP, FEBRUARY 2010)**



Proposed Site HA23 shown outlined in red.

## **APPENDIX I: ENVIRONMENT AGENCY GROUND WATER VULNERABILITY MAP**



IDENTIFIED AS

- 1 - BGS AQUIFER MAPS - SUPERFICIAL DEPOSITS SECONDARY (UNDIFFERENTIATED)
- 2 - BGS AQUIFER MAPS - BEDROCK DESIGNATION PRINCIPAL
- 4 - GROUND WATER VULNERABILITY ZONE MAJOR AQUIFER INTERMEDIATE.



Enter a postcode or place name:

Other topics for this area...

Groundwater

YO14 9ER

Go

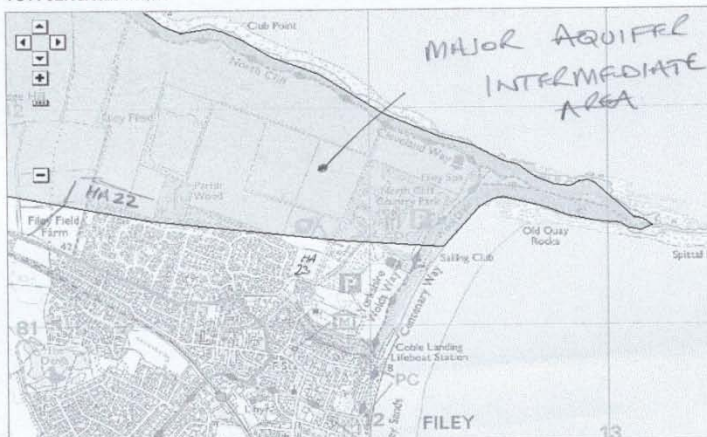
Groundwater

Map legend

YO14 9ER at scale 1:15,000

Other maps Data search Text only version

- ☒ Groundwater source protection zones
  - ☐ Inner zone (Zone 1)
  - ☐ Inner zone - subsurface activity only (Zone 1c)
  - ☐ Outer zone (Zone 2)
  - ☐ Outer zone - subsurface activity only (Zone 2c)
  - ☐ Total catchment (Zone 3)
  - ☐ Total catchment - subsurface activity only (Zone 3c)
  - ☐ Special interest (Zone 4)
- ☒ BGS Aquifer Maps - Superficial Deposits Designation
  - ☐ Principal
  - ☐ Secondary A
  - ☐ Secondary B
  - ☒ Secondary (undifferentiated)
  - ☐ Unknown (lakes and landlip)
- ☒ BGS Aquifer Maps - Bedrock Designation
  - ☒ Principal
  - ☐ Secondary A
  - ☐ Secondary B
  - ☐ Secondary (undifferentiated)
- ☒ Groundwater Vulnerability Zones
  - ☐ Major Aquifer High
  - ☒ Major Aquifer Intermediate
  - ☐ Major Aquifer Low
  - ☐ Minor Aquifer High
  - ☐ Minor Aquifer Intermediate
  - ☐ Minor Aquifer Low
- ☐ Other national environmental organisations
  - ☐ Natural Resources Wales Area of responsibility
  - ☐ Scottish Environment Protection Agency Area of responsibility



Customers in Wales - From 1 April 2013 Natural Resources Wales (NRW) has taken over the responsibilities of the Environment Agency in Wales.  
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#### More about Groundwater

##### Groundwater Source Protection Zones:

Groundwater provides a third of our drinking water. We ensure that your water is safe to drink defining Source Protection Zones. These zones help to monitor the risk of contamination from any activities that might cause pollution in the area.

The Source Protection Zones are not displayed at scales greater than 1:20,000 (Ordnance Survey 1:50,000 scale) as the data was only modelled to this level and is not accurate past this. They should not be compared against field boundaries.

Understanding Groundwater Source Protection Zones maps

##### British Geological Survey's Aquifer Maps:

From 1st April 2010 new aquifer designations replace the old system of classifying aquifers as Major, Minor and Non-Aquifer. This new system is in line with our Groundwater Protection Policy (GP3) and the Water Framework Directive (WFD) and is based on British Geological Survey mapping.

The Aquifer Extents are not displayed at scales greater than 1:75,000 (Ordnance Survey 1:250,000 scale) as the data was only modelled to this level and is not accurate past this.

Understanding the British Geological Survey's Aquifer maps

##### Groundwater Vulnerability Maps:

The Environment Agency are currently updating their groundwater vulnerability maps to reflect improvements in data mapping and understanding of the factors affecting vulnerability. The new maps will be released later in 2015.

The 'New groundwater vulnerability mapping methodology' report provides technical information about how the new maps have been created.

The user guide outlines the kinds of activities the new maps can be used for. These reports have been published on GOV.UK in advance of the release of the new maps to give users time to understand the new approach and how this differs from the previous groundwater vulnerability maps.

Understanding Groundwater Vulnerability maps

GROUND WATER PROTECTION POLICY GP3

<http://www.environment-agency.gov.uk/wiwb/wiwb/Controller?value=YO14+9ER&> 29/11/2015



## **APPENDIX J: COMPARISON OF EXTRACTS FROM THE SHELAA 2013 AND THE SHELAA 2015**

## SHELAA 2013

Address: Land at Church Cliff Drive, opposite Church Cliff Farm, Filey	Site Ref: 03/D (Local Plan Ref: 03/06)	Site Area: 1.76 ha
Description of site (inc. any planning status): Site comprises open field that forms part of larger agricultural land. It is located between Wooldale Drive to the west, caravan park to the east, and Church Hill Cottage to the south. The site has no recent relevant planning history.	Site Access: Access would be off Church Cliff Drive and/or Wooldale Drive	Access to Services: Site located in close proximity to Filey town centre and associated services available here accessible via Church Cliff Drive and Scarborough Road. Bus services run from this area into town centre, whilst train station also in

## WWTW

### Waste Water Treatment Works

		close proximity offering services toward Scarborough to the north and Bridlington and Hull to the south.	
		Ownership: The site is privately owned.	
Site Constraints			
Nature / Geological Designations	No	Listed Buildings	No
Flooding (Band 3)	No	Historic Park	No
Conservation Area	Opposite site at Southern boundary	Scheduled Monument / Archaeological	No
Coastal Erosion Zone (SMP2)	No	Infrastructure Constraints - Water/Waste	Yes
Groundwater Source Protection Zone	No	- Roads	No
Gas Pipeline	No	Other Constraints	Drainage Sensitive Area. Site located outside Development Limits.
Details of Constraints: Filey has had significant flooding and drainage issues in the recent past. Any development of this site would have to firstly be timed in accordance with any future expansion of capacity in the WWTW, and secondly, ensure that detailed consideration of the potential impact of Filey in terms of flooding is carried out. If development is to occur in Filey it is likely that a full risk assessment for town as a whole and mitigation recommended prior to the agreement of any development. Development would have to take into account Conservation Area opposite the site in addition to Filey Country Park and amenity to east.			
Suitable type of development: Development here would be a continuation of Wooldale Drive which has an access point developed from a previous scheme. Development should not detract from adjacent Conservation Area and listed buildings. The site could assist in provision of affordable dwellings.			
Densities: 30 dph		Time Frame: The site is vacant and available for development. Subject to WWTW capacity issues being addressed and flooding and drainage issues, the site could come forward within 6-10 years.	
Marketing, Viability and Comments from SHELAA Sub-Group: Agreement that despite not actually a flood zone, Filey should be considered as flood zone 3 until determined otherwise. The site is seen as a logical expansion of Filey and could provide opportunity for allocation in the mid-term.			
Final suggested net yield for site		53 dwellings.	



A great place to live, work & play

SCARBOROUGH BOROUGH COUNCIL - SEPTEMBER 2015  
 STRATEGIC HOUSING AND EMPLOYMENT LAND  
 AVAILABILITY ASSESSMENT (SHELAA)  
 FOR FILEY. SITE REF:- 031D  
 DLP REF:- HA21.

Address: Land at Church Cliff Drive, opposite Church Cliff Farm, Filey		Site Ref: 03/D (Draft Local Plan Ref: HA21 – Proposed Allocation)	Site Area: 1.76 ha
Description of site (inc. any planning status): Site comprises open field that forms part of larger agricultural land. It is located between Wooldale Drive to the west, caravan park to the east, and Church Hill Cottage to the south. The site has no recent relevant planning history.		Site Access: Access would be off Church Cliff Drive and/or Wooldale Drive (the latter being to serve a small cul-de-sac only)	
		Access to Services: Site located in close proximity to Filey town centre and associated services available here accessible via Church Cliff Drive and Scarborough Road. Bus services run from this area into town centre, whilst train station also in close proximity offering services toward Scarborough to the north and Bridlington and Hull to the south.	
		Ownership: The site is privately owned.	
Site Constraints			
Nature / Geological Designations	No	Listed Buildings	No
Flooding (Band 3)	No	Historic Park	No
Conservation Area	Opposite site at Southern boundary	Scheduled Monument / Archaeological	No
Coastal Erosion Zone (SMP2)	No	Infrastructure Constraints - Water/Waste	Yes
Groundwater Source Protection Zone	No	- Roads	No
Gas Pipeline	No	Other Constraints	Drainage Sensitive Area. Site located outside Development Limits.
Details of Constraints: Filey has had significant flooding and drainage issues in the recent past. Any development of this site would have to accord with the emerging Filey Flood scheme that will provide further protection to the town from surface water run-off in this location and along the escarpment. Development would have to take into account the Conservation Area opposite the site in addition to Filey Country Park and the relationship between future occupants and users of the aforementioned park.			
Suitable type of development: Development here would be a partial continuation of Wooldale Drive which has an access point developed from a previous scheme though recent discussions with County Highways suggest that this would have to be limited to a cul-de-sac due to the specification of this access point. Development should not detract from the adjacent Conservation Area and listed buildings. The site could assist in provision of affordable dwellings.			
Densities: Owing to the access constraints and the requirement to ensure an appropriate buffer to the Country Park, this site is subject to a bespoke yield with a likely maximum of 30 dwellings		Time Frame: The site is vacant and available for development. Subject to flooding and drainage issues, the site could come forward within 5 years.	
Marketing, Viability and Comments from SHELAA Sub-Group: Agreement that despite not actually a flood zone, Filey should be considered as flood zone 3 until determined otherwise. The site is seen as a logical expansion of Filey and could provide opportunity for allocation.			
Final suggested net yield for site		30 dwellings.	