In regard to the proposed modifications to the Local Plan I submit my comments below with reference to MM44

The proposed changes are shown below.

Criteria a

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. Where the Sequential Test cannot be passed, ~~the Exception Test should be utilised in order to demonstrate how any flood risk can be fully mitigated~~***the Exception Test should be utilised in order to demonstrate whether the development’s wider benefits to the community outweigh the flood risks, whether the development can be made safe, and whether it has, wherever possible, reduced flood risk overall***

Here the LPA are discarding the simple assessment based on the Exception test to determine if the flood risk may be mitigated.

The proposed change, which would clearly affect HA23, seeks to allow flood risk sites to be brought forward for development if the development would have ‘wider benefits’ to the community that outweigh the flood risk and WHERE POSSIBLE reduce flood risk overall.

In reality this opens the door for development on land deemed unsuitable by reason of flood risk or land forming existing or future flood alleviation/storage area.

Also there is no indication of how the ‘wider benefits’ and reduction to flood risk elsewhere will be assessed.

With the introduction of this modification it is quite possible that financial gain could trump sound planning principles to allow development on otherwise unsuitable sites.

For example, in the case of HA23, the land owner, who would benefit significantly in monetary terms if the site was to be developed, also owns much of the land required for the Filey Flood Alleviation Scheme.

Clearly from both written and verbal evidence presented by the LPA and Land Owners Agent all three matters are intertwined.

It is well documented that Local Councillors, Land Owners and Planning Offices have all been involved in discussions surrounding the FAS, HA23 and OS10.

It is not beyond the realms of possibility that the Land Owner may offer favourable terms to the Local Authority in respect of compensation and/or land acquisition costs in exchange for a sympathetic assessment for the inclusion of HA23 in the Local Plan. If this were to be the case the LPA could argue that this is a ‘wider benefit’. In my view this would be unacceptable and contrary to good planning practice.

Based on the information provided in the Local Plan and the evidence given to the Inspector regarding the flood risk associated with HA23 it is clear that the LPA have no strategy to mitigate the flooding of HA23 and the potential loss of flood alleviation measures proposed for the site. There has been no analysis by the LPA of how, if HA23 is developed, excess surface water run-off will be accommodated by an already over capacity drainage system.

The proposed MM44 would allow ‘wider benefits?’ to be taken into account that potentially, in the opinion of the LPA, outweigh the interests of the residents that have already suffered from flooding in the Church Cliff Drive area. These residents fully expect that they will benefit from the Filey Flood Alleviation Scheme. However, if MM44 is included in the Local Plan and HA23 is developed the flood risk potential will not diminish.

*Criteria b*

***Seeking opportunities from new development that may help to reduce the causes and impacts of flooding, and safeguarding land which is needed for flood risk management purposes (as identified in DEFRA’s Programme of flood and coastal erosion risk management schemes and other Environment Agency or Lead Local Flood Authority documents).***

Careful reading of the text highlights the point that the LPA are seeking developments that ‘may’ reduce the causes and impacts of flooding. It should be specific and only include developments that WILL reduce the causes and impact of flooding, otherwise why include this requirement.

Hopefully the LPA have accepted that HA23 should be excluded for reasons associated with flooding as set out by the residents and Mr John Mook in particular. In addition, of course, it forms part of the approved Filey Flood Alleviation scheme providing earth embankments along its frontage with Church Cliff Drive to provide water storage.

However the LPA seek to add Criteria b to limit the areas associated with Flood Management to those listed above. It should include areas that have extant Planning Consents for flood management schemes.

The extract below if from the National Planning Policy Framework

***100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by:***

***● applying the Sequential Test;***

***● if necessary, applying the Exception Test;***

***●*** ***safeguarding land from development that is required for current and future flood management;***

***● using opportunities offered by new development to reduce the causes and impacts of flooding; and***

***● where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking 18 Unless material considerations indicate otherwise. Technical guidance on flood risk published alongside this Framework sets out how this policy should be implemented. 24 | National Planning Policy Framework opportunities to facilitate the relocation of development, including housing, to more sustainable locations.***

This section of the NPPF seeks to avoid development in unsuitable areas. By introducing MM44 the LPA are not meeting the criteria as set out.

In particular NPPF states that land that is required for current and future flood management should be safeguarded from development. Site HA23 falls into this category.

The residents have presented a robust argument against the inclusion of HA23 in the Local Plan.

One of the critical issues is the classification of the site as being in a high flood risk area with inadequate drainage infrastructure to cope with the surface water and foul sewage. In addition the site must be safeguarded as it is intended to be used for water storage as part of the Filey Flood Alleviation Scheme.

The Local Planning Authority appear to have finally acknowledged that these issues prejudice the inclusion of the site for development in the Local Plan.

The proposed modification MM44 is an attempt to over-ride the principles of NPPF by introducing vague, nebulous policies that will seek to undermine the criteria in place to prevent development in flood risk areas.

I find this attempt by SBC officers to re-define storm water run-off and critical drainage areas to be underhand and unscrupulous. It is also a reflection of the authority and the manner in which this authority conducts its affairs which was recently condemned by the judiciary. (Carl, Gavaghan “Whitewash…’judges’ verdict on council corruption report,” Scarborough News 6 October, 2016). This is a continuation of a whole litany of examples that show systemic failures in the governance and operational management of SBC.

I respectfully request that this modification is not allowed.