

Dr & Mrs Duggan
14 Thornham Close,
South Cave,
Brough
HU15 2EQ

FAO Anthony Devey,
East Riding or Yorkshire Council,
Planning & Development Control,
County Hall Cross Street,
Beverley
HU17 9BA

16th March 2015

Dear Anthony,

Thank you for your correspondence dated 5th March 2015 regarding planning application 14/0288/STPLF.

We strongly object to the application on the grounds detailed below.

Failure to Meet the Sequential Test

The site lies within flood zone 3a according to the Environment Agency's latest flood map. In paragraphs 100 to 104, the NPPF sets the approach to development and flood risk. It identifies the need to apply the Sequential Test to proposals and steer developments to areas with the lowest probability of flooding. Through the Local Plan process the council has been able to demonstrate that sequentially preferable sites are available for development in lower risk areas.

Failure to Pass the Exception Test

The application fails the Exception Test on the grounds of not providing wider sustainable benefits and on the grounds of not being safe.

The Exception Test can be applied in those instances where sequentially preferable sites are not available. Sequentially preferable sites have already been shown to be available through the Local Plan process in areas of lower risk and the application does not make sufficient provision for on-site affordable housing. Therefore the application does not provide any wider sustainable benefits that outweigh the risk of flooding and as such does not pass the exception test.

A second aspect of the Exception Test is that of safety. The site does not provide safe egress or access in the event of a flood event. The applicant has made provision for a footpath across the site to Bull Pastures. However, this path is directly across the flood zone 3a flow path from Thornham Close and so cannot be considered a safe means of escape from the site. Further to this, the access road is likely to become blocked by overland surface flows when the attenuation pipes and manholes overflow in a storm event preventing emergency vehicular access to the site. The drainage strategy report and FRA do not also deal with the safe overland flow of water away from housing in

the event that the on-site drainage provision is exceeded. In this instance the overflow would be directed towards the housing on Water Lane. The FRA and drainage strategy report do not deal with the downstream impact of discharge from the site into the local watercourses. The drainage strategy and FRA also fail to attenuate flow volumes to the Greenfield run off rates which is against National Standards and will result in increases flood risk further downstream on adjacent sites. In light of the above points the proposal does not meet the safety aspect of the Exception Test.

The final aspect of the Exception Test is that of demonstrating safety over the lifetime of the development. An important aspect of the FRA is the management of surface water entering and discharging from the site. The FRA and drainage strategy report propose to handle the overland flow from Thornham Close via betterment of the flood zone 3a area of the site to the South West. However, neither the FRA or drainage strategy report provide adequate details of the proposed betterment of the flood zone 3a to the south west of the site. These reports do not adequately demonstrate the allowance for the like for like loss of volume capacity of the flood zone due to the development or for the downstream impact of the discharge from the flood zone into the ditch on Water Lane. Further to this, there is no maintenance or adoption/ownership strategy to ensure that the betterment is effective for the lifetime of the development. Without the provision of a strategy for the maintenance and landscaping of this area there is likely to be a build up of silt and debris over time reducing the capacity of the flood zone. This does not meet the requirement to demonstrate safety over the lifetime of the development and therefore does not meet this aspect of the Exception Test.

Insufficient Treatment of Discharge from Contaminated Land

Neither the FRA or drainage strategy report correctly identifies the site as potentially contaminated land from previous usage. This has now been confirmed (see Public Protection consultation response dated 28/08/14) and poses a risk to public safety. The National Standards for Sustainable Drainage Systems published in December 2011 clearly details the requirements for discharge from contaminated land as follows:

“The discharge of surface runoff from a site categorised as high hazard as set out in Table C1 may not be permitted. It is advisable to consult the Environment Agency about environmental permitting to determine whether a permit is required.”

Hazard	Table C1: Level of hazard
Low	Roof drainage
Med	Residential, amenity, commercial, industrial uses includes car parking and roads
High	Areas used for handling and storage of chemicals and fuels, handling and storage of waste. This includes scrap-yards. Lorry, bus or coach parking or turning areas

The site was previously used for the handling and storage of chemicals and fuels for agricultural/industrial purposes and so can be classified as a High level of hazard. The applicant has

made no provision for water treatment stages on site prior to discharge into a sensitive watercourse as per the National Standards. On this basis the discharge of surface water from the contaminated areas of the site poses a risk to public safety and the application should be rejected.

Inadequate Drainage Strategy: Failure to Meet Discharge Rates

The FRA and drainage strategy report fails to meet National Standards regarding discharge rates from site. The National Standards for Sustainable Drainage Systems published in December 2011 clearly details the requirements for discharge from the site as per the following extract:

"a) For the 1 in 1 year event, must not be greater than either: the greenfield runoff rate from the site for the 1 in 1 year event, or 2 litres per second per hectare (l/s/ha);

And b) for the 1 in 100 year event, must not be greater than either: the greenfield mean annual flood for the site, or 2 litres per second per hectare (l/s/ha)."

In reference to the above standards the applicant has calculated the greenfield run off rate from the site to be 2.4 l/s/ha (see the Applicant's drainage strategy report). They have also indicated in the Drainage Strategy Report that they are not practically able to meet this discharge rate without causing additional risk of flooding on adjacent sites. Instead the applicant has proposed a significantly higher discharge rate of 5 l/s/ha which in effect is doubling the discharge rate from the site and will result in downstream flooding of adjacent sites. This is unacceptable and should be rejected on the grounds of increased flood risk.

Inadequate Regard for the Risk of Off-site Flooding Downstream as a Result of Discharge from the Application Site

A particular aspect of the FRA is to ensure that the any additional risk of flooding on adjacent sites and downstream from the site have been effectively taken in to account. The FRA fails to meet this requirement. The current drainage system in South Cave has been overwhelmed several times in previous years causing flooding events in the village. The Section 19 Flood Report South Cave 20th July 2014 (published December 2014) clearly highlights that the drainage system in the village comprehensively failed to meet the demands placed on it. This clearly demonstrated that designing the drainage system against the 1 in 30 year event design standard is inadequate and this learning should be carried forward to the proposed development at Westcote Farm.

The conclusion of the report states the following:

"The culverted sections of the South Cave Beck were overwhelmed, the public sewer system was also overwhelmed, with resultant overland flows causing flooding to highways and to 37 Properties."

It goes on to further say (in relation to the current 1 in 30 year design standard) that:

"It is therefore concluded that the South Cave Beck culvert along Church Street, at Westcote Farm and under the A63 were of insufficient capacity to deal with the intensity of the rainfall."

The flow of flood water from this event clearly entered the site via South Cave beck and via Thornham Close which in turn contributed to flooding downstream in the village. The applicant

therefore needs to ensure that the discharge from the site does not contribute to an increased risk of flooding downstream in the village.

To support this, the Section 19 report also states that:

“The beck is then in open section with more crossings before entering a culvert and passing under the A63, into another open section before joining Ferry Beck, and into Mill Beck.

The EA Flood Map indicates a significant area at risk of flooding immediately downstream of the A63 crossing. Therefore any scheme to reduce the flood risk within the village would need to also consider the risk downstream as well as within the village.”

The applicant’s FRA does not effectively deal with the risk from flooding on and off the site and as a result should be grounds for rejection.

Negative Impact on the Amenity of Neighbouring Property on Thornham Close

The National Planning Policy Framework (NPPF) is a material consideration which must be taken into account in planning decisions. Saved policies in the Joint Structure Plan (JSP) and the Beverley Borough Local Plan (BBLP) can be given due weight according to their degree of consistency with the NPPF.

The relevant policies under consideration here are:

Policy SP5 of the Joint Structure Plan - which seeks to ensure new development integrates with its surroundings.

Paragraph 58 of the NPPF - which seeks to ensure development responds to local character and reflects local surroundings.

Paragraph 17 of the NPPF - which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

Policy EN V1 (B4) of the Submitted Local Plan Strategy Document which seeks to support development proposals that achieve a high quality of design that optimises the potential of the site and contributes to a sense of place, having regard to the amenity of existing or proposed occupiers.

Policy D2 of the Beverley Borough Local Plan – which expects that new dwellings shall have an outdoor sitting area not directly overlooked by, nor overlooking, adjacent or opposing sitting areas or living rooms; this requirement is to be achieved by the design and layout of permanent structures and walls which are above eye level.

Currently, 14 Thornham Close enjoys a private garden space without overshadowing or overlooking and the property as a whole has a sense of openness due to the open nature of the plot on which it is sited. There is a rapid drop in ground level of approximately 1.2m between the existing floor/garden level of 14 Thornham Close and the ground level for plots 14-17 of the proposed development. The boundary between 14 Thornham Close and plots 14-17 is a laurel hedge of approximately 1 meter height (waist height) from Thornham Close side whereas it is closer to 2.5 meters high on the development plot side. These means that occupiers of plots 14-17 will be able to directly see, from all rear windows (ground and first floor) the residents of 14 Thornham Close enjoying the private garden space (see photographs below). This will result in a direct loss of privacy for the residents of 14 Thornham Close. A solution could be to raise the height of the hedge to 2.5 meters on Thornham Close side (3.8 meters high in relation to plots 14-17). However this will result

in overshadowing of 14 Thornham Close's garden area and will create a sense of enclosure. The increased height of the hedge would also be of an overbearing nature for the occupiers of plot 14-17. The site layout plan indicates that screening would be achieved via trees along the boundary with 14 Thornham Close. This would also negatively impact the amenity of the neighbouring property creating a sense of enclosure and also from overshadowing of the garden of 14 Thornham Close.

The current distance between the properties is less than 10m. This is insufficient spacing to minimise the loss of amenity of the neighbouring property at 14 Thornham Close.

The design layout of the application site does not take proper regard for the amenity of neighbouring properties and does not integrate well with its surroundings because of the imposition on neighbouring properties. The application does not achieve a good standard of amenity for neighbouring properties. The proposed development does not comply with Policy SP5, Policy EN V1 (B4) or Policy D2 and is not consistent with the NPPF paragraphs 58 and 17. On these grounds the application should be rejected.



The pictures opposite and below clearly demonstrates that people enjoying the private garden space at 14 Thornham Close can directly overlook the proposed development and vice versa. In this regard there is an adverse effect to the existing amenity of the residents of 14 Thornham Close.

This would be exacerbated by the finished floor level being 600mm higher further encroaching on the privacy of neighbouring properties.



View from garden of 14 Thornham Close. The occupiers of plots 14-17 will be able to directly see the residents enjoying their outside space. There would no longer be any privacy in the garden.

Conversely, the occupiers of plots 14-17 will not have any privacy in the garden or in any of the rear rooms (ground or first floor).

Poor Design Layout Leading to Unacceptable Levels of Overlooking

As already highlighted, the National Planning Policy Framework (NPPF) is a material consideration which must be taken into account in planning decisions. Saved policies in the Joint Structure Plan (JSP) and the Beverley Borough Local Plan (BBLP) can be given due weight according to their degree of consistency with the NPPF.

The relevant policies under consideration here are:

Policy SP5 of the Joint Structure Plan - which seeks to ensure new development integrates with its surroundings.

Paragraph 58 of the NPPF - which seeks to ensure development responds to local character and reflects local surroundings.

Paragraph 17 of the NPPF - which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

Policy EN V1 (B4) of the Submitted Local Plan Strategy Document which seeks to support development proposals that achieve a high quality of design that optimises the potential of the site and contributes to a sense of place, having regard to the amenity of existing or proposed occupiers.

Policy D2 of the Beverley Borough Local Plan – which expects that new dwellings shall have an outdoor sitting area not directly overlooked by, nor overlooking, adjacent or opposing sitting areas or living rooms; this requirement is to be achieved by the design and layout of permanent structures and walls which are above eye level.

The design layout of plots 14-17 on the proposed development does not sufficiently minimise overlooking from the neighbouring property of 14 Thornham Close as there is inadequate spacing between the new development and 14 Thornham Close. Overlooking from 14 Thornham Close is apparent from both the bedroom in the west side elevation (see photograph below) which is directly adjacent to the proposed development and from the private garden space (see photograph below) which is at a significantly higher level than (1.2m difference) plots 14-17. This would be further exacerbated with the finished floor levels of plots 14-17 being 600mm higher than the current ground level. The existing boundary treatment at the rear of plots 14-17 is already 2.5m high and cannot practically be raised any further without becoming overbearing or causing overshadowing on neighbouring properties. As a result there is no outdoor private space for plots 14-17 which is not directly overlooked from 14 Thornham Close. This is in conflict to the highlighted policies above and should be grounds for refusal.





The pictures above and opposite and clearly demonstrate that there is a substantial degree of overlooking from 14 Thornham Close onto the proposed plots 14-17.

The picture below is the overlooking view from the bedroom in the west elevation of 14 Thornham Close. There would be no private space to the rear of the property for either plots 14-17 or 14 Thornham Close.



In relation to this the spacing (currently less than 10m) between the existing property and the proposed properties is not sufficient to minimise the impact of overlooking of plots 14-17 and loss of privacy for 14 Thornham Close.

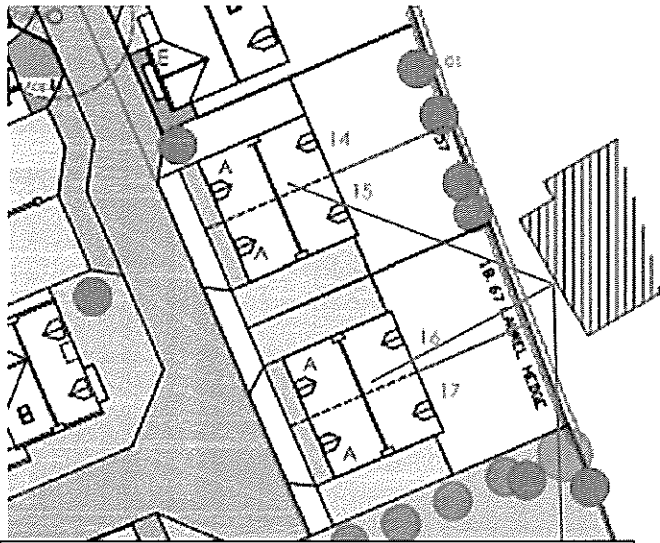
Further to the above, there is insufficient spacing between the plots 14-17 and 14 Thornham Close meaning that the bedroom window of 14 Thornham Close directly overlooks the adjacent or opposite sitting areas, living rooms and bedrooms of plots 14-17. This is in direct conflict with the highlighted policies above and should be grounds for refusal.

Good design practice widely adopted in the UK by Local Planning Authorities sets out minimum distances between neighbouring property in order to minimise overlooking, enclosure and loss of privacy. This is laid out in "*Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*" published by BRE. The East Riding of Yorkshire Council's design guide for extensions was derived from this guide and has been upheld as appropriate design guidance by the planning inspectorate at appeal with regard to overlooking from a new dwelling also in the East Riding (APP/E2001/A/10/2135640). This design guidance is consistent across the country and so should be used for this application. This guidance also suggests that overlooking should be considered from a primary viewing angle of 45degrees from the overlooking window (this is not to be confused with the 45 degree test for overshadowing).

14 Thornham Close has a clear glazed bedroom window in the West elevation of the property directly overlooking the proposed rear aspects of plots 15-17 (see diagram below). Good design practice would indicate that a minimum separation distance between the properties should be 21 meters in order to minimise overlooking, enclosure and loss of privacy. The proposed site plan

indicates that the proposed rear aspects of plots 15-17 is only 8 meters from the West elevation of Thornham Close (see diagram below). Therefore, there is insufficient separation to protect the amenity of existing and future occupiers from overlooking, enclosure and loss of privacy in accordance with the aforementioned policies and should therefore be grounds for refusal of the application.

Further to this, good design practice also indicates the minimum distance from the overlooking property to the boundary of the proposed properties should be at least 10 meters (plus a 10 meter garden to make up the 21 meter overall distance). There is less than 2 meters between the side of Thornham Close and the boundary of plots 15-17 (see diagram below). Therefore, there is insufficient boundary separation to protect the amenity of existing and future occupiers from overlooking, enclosure and loss of privacy in accordance with the aforementioned policies and should therefore be grounds for refusal of the application.



Lines depict the field of view from the bedroom window of 14 Thornham Close.

Plots 15, 16 and 17 fall within the field of view of the bedroom window of 14 Thornham Close and can be considered as overlooked.

Current spacing is less than 10m between the window of Thornham Close and the rear aspects of plots 15, 16 & 17.

To minimise overlooking there should be a minimum distance of 21m and a distance of 10m from the window to the rear boundary of plots 15, 16 and 17.

The proposed development is not consistent with Policy SP5, Policy EN V1 (B4) or Policy D2 and is not consistent with the NPPF paragraphs 58 and 17.

Summary

In summary we object to the application on the grounds of:

- The proposal does not adequately deal with the risk of flooding
- The proposal does not deal with discharge of contaminated water from the site into the water drainage system
- The proposal does not demonstrate that it is safe for the lifetime of the development
- The proposal adversely effects the amenity of the neighbouring properties on Thornham Close
- The proposal does not provide adequate levels of privacy for existing and future occupiers

Yours sincerely,
Dr & Mrs Duggan

References: A Few of the Design Guides Quoting Separation Distances (there are many more!)

<http://www.brebookshop.com/details.jsp?id=326792>

http://www.eastriding.gov.uk/planning/pdf/design_guidance_house_extensions.pdf

https://www.bristol.gov.uk/sites/default/files/assets/documents/A%20guide%20for%20designing%20house%20alterations%20and%20extensions_0.pdf

http://www.calderdale.gov.uk/environment/planning/developmentplan/udp/chapter_46.html

<http://www.leeds.gov.uk/docs/PLN%20HH%20design%20guide%202011%20draft%208a%281%29.pdf>

<http://www.n-somerset.gov.uk/KBA/DM/Documents/Residential%20design%20guide%201.pdf>

Appeals Dismissed on Grounds of Insufficient Separation:

<http://www.eastriding.gov.uk/padocs/AUGUST2011/26B35C1724A811E08B9600016C581F66.pdf>

www.tameside.gov.uk/speakerspanel/planning/23jul14/item4b.pdf