

Request for Call-in

**Wentworth Street Car Park and the  
Catle Market, Malton – Applications  
Nos.11/00927/MOUT;11/00412/MO  
UT, and 11/00919/FUL**

**Status of the Malton and Norton Interim  
Neighbourhood Plan**

Councillor Paul Andrews, Malton ward



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# **Wentworth Street Car Park and the Cattle Market, Malton – Applications Nos.11/00927/MOUT;11/00412/MOUT, and 11/00919/FUL**

## **The Status of the Malton and Norton Interim Neighbourhood Plan**

### **Introduction**

This statement is supplemental to all previous representations made by me as a Malton ward councillor in support of my request to have the planning decisions made by Ryedale District Council on 29<sup>th</sup> March 2012 in regard to Wentworth Street Car Park called in.

I understand that the validity of the Malton and Norton Neighbourhood Plan and the weight which should be attached to it are being challenged by Ryedale District Council. The challenge to the weight to be given to the interim plan has been made through officers. The challenge to its legal status has been made by an individual who is believed to be closely connected to Ryedale District Council. It is not clear if this individual is acting personally on his own initiative or under the direction of the political administration of Ryedale.

It is also not known whether Ryedale are actively pursuing the issue of the validity of the plan with you, as I have no idea of the clarification or other discussions you may be having with Ryedale. I have prepared this note in case they are challenging the validity of the Neighbourhood Plan.

The purpose of this statement is to give my own views in regard to both issues, using my experience as a retired planning lawyer.

### **Legal Status of the Interim Neighbourhood Plan**

In December 2010 the government published the Decentralisation and Localism Bill. It received its Second Reading in the House of Commons on 19<sup>th</sup> January 2011. The Bill contained important provisions in regard to Neighbourhood planning.

Following publication of the Bill, a group which included five town councillors, representatives of local business and of the community prepared a draft Neighbourhood Plan for Malton and Norton. They, in their turn, received independent planning advice from a qualified and experienced planning consultant, Kathryn Jukes of Directions Planning.

The draft Neighbourhood Plan is broadly consistent with the current development plan (ie. the saved policies of the old Ryedale Local Plan), and also considers sites identified in the draft Ryedale District Plan.

Malton and Norton Town Councils decided to accept the draft Neighbourhood Plan for the purposes of public consultation. This consultation was carried out in May/June 2011, in anticipation of the enactment of the Decentralisation and Localism Bill.

The consultation was carried out in the fairest possible way, giving respondents the opportunity to comment on a range of options, including those preferred by the District Council as well as those included in the draft Neighbourhood Plan. The fairness and impartiality of the consultation exercise has never been challenged.

The report of Directions Planning on the public consultation was considered by both Malton and Norton Town Councils in September 2011, and the plan was amended to take this into account. It was then adopted (as amended) by both town councils as the "Malton and Norton Interim Neighbourhood Plan".

At all times after the matter first came before the Town Councils, Ryedale District Council were kept apprised of the matter. Ryedale were sent copies of the draft plan, the evidence base, and the consultant's report on the public consultation. Ryedale's reaction was to accept the plan but to question the weight to be attached to it.

Ryedale applied to the Department of Communities and Local Government for a grant to enable further work on the Interim Plan to progress. In response, the Department gave the Interim Plan "Front Runner" status and awarded a grant of £20K to progress the further work.

The Decentralisation and Localism Act was enacted in November 2011 (I think), and further requirements in regard to Neighbourhood Plans were confirmed when the National Planning Policy Framework was formally adopted by the secretary of State on 27th March 2012.

All Town Councils have the power to carry out work of a general nature. In the past this has included the preparation of "Town Plans", such as the one which Helmsley has. Neighbourhood Plans would seem to me to be town plans by another name. So I can see no legal reason to prevent a town council working on a Neighbourhood Plan in advance of the enactment of the Decentralisation and Localism Act. I believe Malton and Norton are not the only councils to do this.

However, it is accepted that a neighbourhood plan cannot be adopted as a final plan until it has completed a mandatory statutory procedure, including a referendum and an independent evaluation. It is accepted that this process cannot be completed until the necessary statutory instruments and guidance are in place. This does not, of course, invalidate the work that the Town Councils have carried out to date.

If there is any legal defect in what the town councils have done, then in any event the Councils' right to consult upon and adopt the Malton and Norton Interim Neighbourhood Plan as an "interim" plan has been retrospectively confirmed and ratified by:

1. The Enactment of the Decentralisation and Localism Act and the adoption by the Secretary of State of the National Planning Policy Framework;
2. Acceptance by Ryedale District Council, who have referred to it in committee reports;

3. The Department of Communities in giving the Interim plan “Front Runner” status and awarding a grant of £20K for further work.

Ryedale District Council have prepared a draft Ryedale Plan which is due to be considered by an inspector at an examination in public which is imminent. The draft Ryedale District Plan was despatched to the Inspectorate in two bundles on 23<sup>rd</sup> and 24<sup>th</sup> May 2012. As there is a conflict between some policies in the draft Ryedale Plan and policies in the Malton and Norton Interim Neighbourhood Plan, it would not be advisable to use the grant moneys awarded by the Department until these conflicts have been resolved. The appropriate forum for the necessary debate to resolve these conflicts would therefore seem to be the Examination in Public of the draft Ryedale Plan.

In the circumstances, it is clear to me that the Interim Neighbourhood Plan is a valid planning document which has to be dealt with as a material planning consideration at the Examination in Public of the draft Ryedale Plan, and in all other relevant contexts, including this request for call-in.

### **The Section 20 Decision Notice issued in regard to the Standards Hearing of 20<sup>th</sup> September 2011**

As you will be aware, five Malton Town Councillors (including myself) were accused before Ryedale’s Standards Committee of not declaring or registering a personal or prejudicial interest, when on 30<sup>th</sup> March 2011 Malton Town Council were debating whether or not to go out to public consultation on the draft Neighbourhood Plan.

Copies of the relevant documentation on this are included in my original set of representations requesting call-in.

The panel appointed to deal with these accusations found all five of us not guilty of having a personal or prejudicial interest in the matter under consideration, although surprisingly they did think we should have registered a personal interest in a register kept by the town clerk.

However, the decision letter contains the following finding:

“ Malton Town Council has no jurisdiction to adopt the draft Neighbourhood Plan even after public consultation and at best the Town Council could only make recommendations to Ryedale District Council over any such plan or other development, local development plans”.

The adjudicating panel were acting out of order when making this statement. The five of us were told by the clerk of the beginning of the hearing that the purpose of the hearing was not to debate the validity of the plan, and that any argument in regard to this was irrelevant. We were told the issue was simply whether or not we had a prejudicial or personal interest in the debate in which the expenditure of public money was authorised on a public consultation. In these circumstances, it was out of order for the panel to make this finding.

Further, a panel of Ryedale’s Standards Committee has no legal jurisdiction to make any authoritative or binding legal finding on the validity of the Malton and Norton Neighbourhood Plan or indeed on any other plan.

This was pointed out in a letter sent to the Council's monitoring officer after the receipt of the decision letter.

## **The Weight to be given to the Malton and Norton Interim Neighbourhood Plan**

Ryedale have to date accepted the interim plan as a valid neighbourhood plan, but have given it "little weight". This was on the basis that it required more work, and an allegation that it has no evidence base. This is not accepted.

It is true that the consultant did recommend more work, and the Department has provided a grant for this further work, but there is no point in doing such work until the conflicts between the interim neighbourhood plan and the draft Ryedale Plan have been resolved at the Examination in Public into the draft Ryedale Plan. To do otherwise could result in abortive expense on policies which the inspector might or might not agree. In any event and certainly as far as the retail issue is concerned, the outcome of the public consultation is very clear and fully supports the policy in the interim plan.

Further, the Interim Neighbourhood Plan does have an evidence base. This has been provided to the Council and is on the Neighbourhood Plan's website. It has not been included in the documents sent to you, as to a degree it replicates arguments set out in my original call-in request.

In these circumstances, at least as far as the Retail issue is concerned, it is suggested that until the Examination in Public, the interim neighbourhood plan should be given equal weight with the Council's draft Ryedale Plan.