

RYEDALE DISTRICT COUNCIL

APPLICATIONS NOs. 11/00927/MOUT and
11/00919/FUL and 11/00412/MOUT

REQUEST FOR CALL IN BY COUNCILLOR PAUL
ANDREWS, WARD MEMBER FOR MALTON



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1.1 The Applications

- 1.2 Application No. 11/00927/MOUT is an outline application by GMI Holbeck Land (Malton) Ltd. For the erection of a retail unit (Use Class 1A), Offices (Use Class B1), petrol filling station, car park and associated landscaping at Wentworth Street Car Park Malton.**
- 1.3 Application No. 11/00919/FUL is by Ryedale District Council for alterations to car parking layout and landscaping of the Eastern Section (upper level) of Wentworth Street Car Park, to include demolition of existing concrete sectional building.**
- 1.4 These two applications are part of a scheme to change Wentworth Street Car Park from a public car park into a large retail development with customer car park, offices and petrol filling station. Application No.11/00919/FUL is a full application for landscaping works on part of the site, including the demolition of a building currently used by the local rifle club. Application No.11/00927/MOUT comprises the area which is to be built on, and is in outline. Illustrative plans provided with the application show that the retail element is a single superstore with a net sales area of 33,218 sq.ft.
- 1.5 Ryedale District Council owns the whole of Wentworth Street Car Park. The Council has exchanged a contract of sale with the applicant of Application 11/00927/MOUT for the sale to them of the land comprised in this application. Completion is subject to the grant of planning permission for a retail development and the consideration is not less than £5M.
- 1.6 The land comprised in application No. 11/00919/FUL is the upper deck of Wentworth Street Car Park. This land is retained by Ryedale District Council, but the only vehicular access to it will be through the land comprised in Application No. 11/00927/MOUT. There will also be a direct pedestrian link to Wentworth Street, again over land comprised in Application No.11/00927/MOUT. Further, it is understood that it is a condition of the contract of sale that the Council will provide free car parking on the upper deck for three hours each day – this being the period of free car parking which the applicants of 11/00927/MOUT intend to provide on their own customer car park. It is therefore clear that to all

intents and purposes, the land comprised in Application No.

11/00919/FUL (ie. the Upper Deck) is intended mainly for use as part of the customer car park for the retail units on 11/00927/MOUT, and that as vehicular and pedestrian access to the Upper Deck will be through the land comprised in Application No. 11/00927/MOUT, both applications are related and should be dealt with together.

- 1.7 Application 11/00412/MOUT is for the redevelopment of the Cattle Market at Malton by a 1600 sq.m. net sales area food store and other retail units and development – this is not the full title.**

- 1.8 The Secretary of State is requested to call in all three of the above applications. He is also requested to indicate his intention to call-in an expected application for a large store at the Showfield, Malton, North Yorkshire, as soon as it is received. These applications represent three competing schemes which should be judged according to their likely impact on the vitality and viability of the respective town centres of Malton and Norton, and not on purely political or financial considerations. The circumstances and reasons for this request are outlined below.**

2 The Site

- 2.1 The site is situated outside the saved commercial limits of the Ryedale Local Plan. It is currently used as a Council car park. Malton is a country market town with a district centre. It is roughly equidistant between the two sub-regional centres of York and Scarborough, and is not far from the regional centres in Middlesborough and Hartlepool. There are also neighbouring district centres in Pickering, Driffield, Thirsk, and Easingwold. Malton and Norton are separate towns immediately adjacent to each other on the opposite sides of the River Derwent. The aggregate population of both towns is about 12,000, of whom about 5,000 live in Malton. The total population of Ryedale district is about 53,000. The total area of Ryedale District is 550 sq.miles. Malton/Norton already has an ASDA, a Sainsbury local, a Lidl, a Costcutter and one of the biggest Morrisons stores in the North East. In other words, Malton is a small

market town within a sparsely populated district and does not need another large supermarket.

3 A National Issue?

- 3.1 These applications raise issues of national importance, particularly in regard to the government's localism agenda and whether or not the Government is really prepared to allow local people to determine what is best for their community. In this case, Ryedale is relying on the localism agenda to assume the right to determine these applications, notwithstanding its own vested financial interest in selling Wentworth Street Car Park to the highest bidder. In doing so, Ryedale District Council has refused to listen to the people of Malton and Norton, who comprise one quarter of the population of the district, and is pushing for an ad hoc decision on Wentworth Street Car Park at a time when their LDF Examination in Public is only months away. The question is: does the government's localism agenda stop at the district planning authority, or does the government really want to be seen to be genuinely empowering local communities? If the coalition government genuinely wants to empower local communities, are they going to give their localism agenda teeth? If so, would it not be appropriate to demonstrate this by calling in all these applications so that they can be determined in accordance with local and national policies by an impartial, independent government inspector?
- 3.2 This case has hit the headlines. Appendix 1 is a copy of a newspaper article published by Selina Scott in the Telegraph Weekend Supplement on 3rd September 2011. So the case is becoming well-known, and the nature of the Coalition Government's commitment to localism will be judged nationally on how they deal with this case.
- 3.3 Ryedale, incidentally, is a debt free authority, has substantial reserves (at least £6M), and there is no urgent financial reason for selling Wentworth Street car park.**

4 Councillor Paul Andrews.

- 4.1 For the last 8 and a half years I have served as one of three district councillors who represents Malton ward of Ryedale District Council. I have served as a Malton Town Councillor for four and a half years.
- 4.2 I am a retired solicitor who has worked both in private practice and in the public service. I have honours degrees in Law and Classics. I worked in the public service for 23 years until 1997, including 18 years in senior management. For 12 or more of my years in the public service I took planning enquiries as the Council's legal planning advocate. I was Council Solicitor to Ryedale District Council from September 1988 until March 1996.
- 4.3 I was elected onto Ryedale District Council as a Liberal Democrat in May 2003. In July 2004 I became an independent councillor. I was re-elected as an independent in 2007 and 2011. My service as a Ryedale councillor includes 7 years on their Planning Committee.

5 Referral

- 5.1 Application No. 11/00927/MOUT satisfies the criteria identified in the Town and Country Planning (Consultation) (England) Direction 2009 and is therefore required to be referred to the Secretary of State before any permission can be granted. Alternatively, the application raises major issues of government policy which are so important that the matter should be called in regardless of whether or not it is an application which requires referral.**
- 5.2 Application No.11/00919/FUL is part of the total development scheme and should be considered together with Application No. 11/00927/MOUT and the site areas of both sites should be aggregated for the purpose of any appropriate calculations.
- 5.3 The application requires referral to the Secretary of State under the Town and Country Planning (Consultation)(England) Direction 2009 because either its floor area exceeds 5,000 sq. m., or its floor area exceeds 2,500 sq.m., and when aggregated with existing retail space within a 1 mile radius (notably Morrisons , Castlegate, Sainsbury's**

local, ASDA, Lidl and town centre convenience shops), the aggregated floor space exceeds 5,000 sq.m.

- 5.4 I do not know the gross area of the proposed retail unit proposed in application 11/00927/MOUT, but would be surprised if this fell very much short of 5,000sq.m. Further, the application includes areas which will remain unbuilt upon, including a car park which is larger than is needed for a store with a net sales area of 33,218sq.ft. It follows that at the detailed planning stage, it will be possible for the developer to pursue permission for a much larger store.
- 5.5 It is understood that the proposed retail unit will predominantly sell convenience goods.
- 5.6 There is within 1 kilometre of the site of the proposed store:
- 5.6.1 *A Morrisons store comprising of about the same size as the proposal. This includes an extension of 8,000 sq.ft.net sales area for which planning permission was granted in May 2009.*
- 5.6.2 *A Lidl convenience store comprising 10,000 sq.ft net sales area, for which permission was also granted in May 2009;*
- 5.6.3 *A Sainsbury convenience store with about 10,000 sq.ft net sales area;*
- 5.6.4 *A n ASDA with about 10,000 sq.ft.net sales area;*
- 5.6.5 *The site for a new ALDI store comprising more than 10,000 sq.ft. At present this is unbuilt, although planning consent was granted in June 2010.*
- 5.6.6 *A range of local independent shops selling convenience products.*
- 5.7 Para 5(1) of the Town and Country Planning (Consultation) (England) Direction 2009 requires all applications for retail development to be referred to the Secretary of State if the floor space to be provided exceeds 5,000 sq.m, or 2,500 sq.m, if aggregated with existing retail floor space within a radius of 1 kilometre, the aggregated floor space exceeds 5,000sq.m.in the circumstances defined by the Order in para 5(2) thereof.

5.8 It would seem that in the circumstances outlined above that application No. 11/00927/MOUT meets the criteria defined in Para 5 of the Direction and should therefore be referred to the Secretary of State. Application No. 11/00919/FUL is part of the same scheme and is a related application. Application No. 11/00412/MOUT is a competing application and should not be dealt with separately.

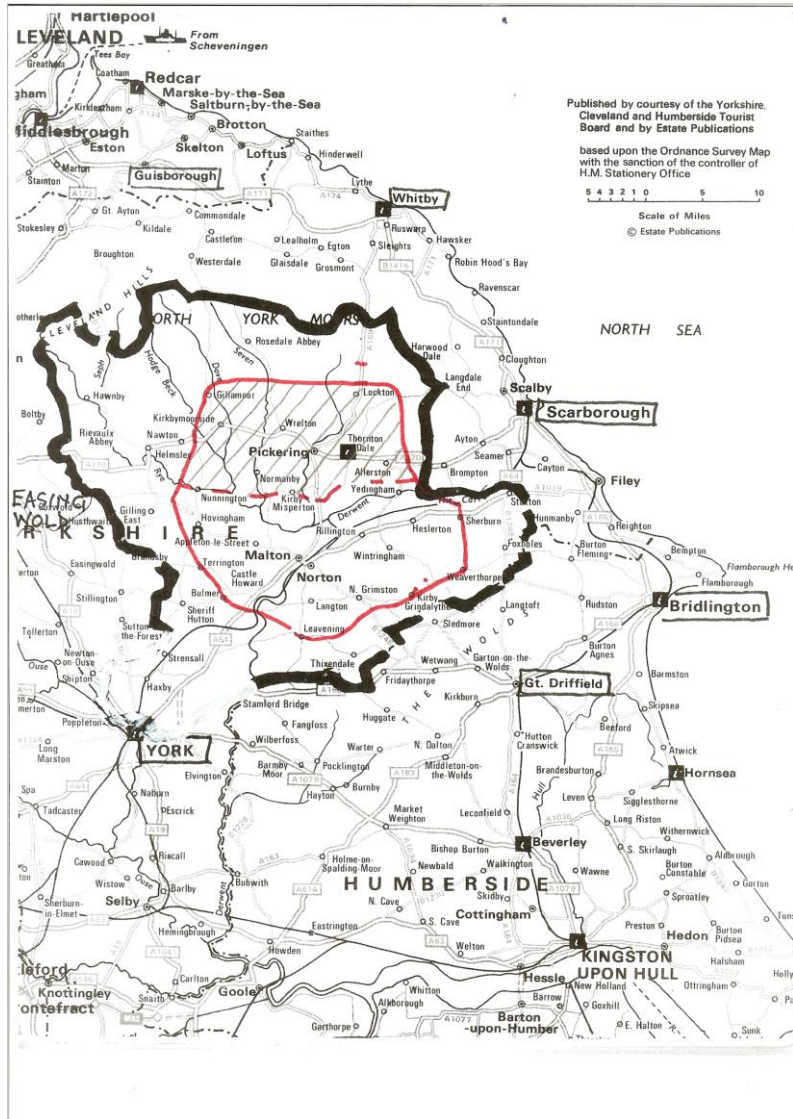
6 The Criteria Governing Call-in

6.1 The proposed development will have a wider than local impact, notably on the sub-regional centres of York and Scarborough, but also on other district centres such as those at Driffield, Thirsk, Easingwold, and Pickering – because the intention is to extend the convenience retail catchment area of Malton outside its natural overall catchment.

6.2 An application which is referred to the Secretary of State will not be called in unless it raises issues of much wider than local significance. It is submitted that the application will raise issues which are wider than local significance, because the avowed intention is to take trade from other centres, such as the Monks Cross and Clifton Moor Centres at York, Esatgate Scarborough and the Coop at Pickering.

6.3 Reference is made to Figures 1 and 2 below

Figure 1

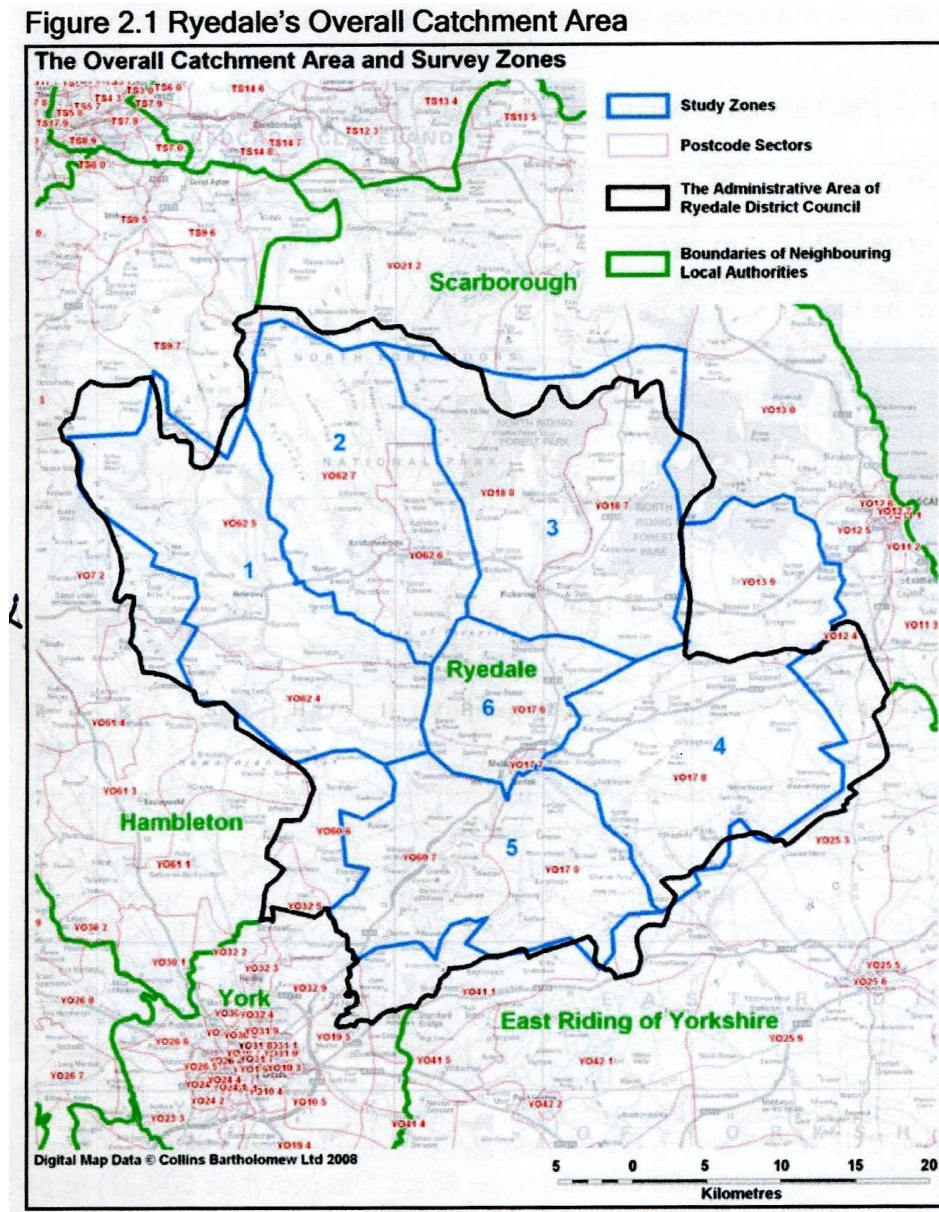


6.4 This figure shows the boundary of Ryedale District edged with a thick black line. The red boundary line marks the approximate half way point between Malton and the surrounding towns outside the district (York, Scarborough, Easingwold, Thirsk, etc). The area within this line represents a realistic assessment by a local surveyor of the overall retail catchment area for the towns of Malton/Norton, bearing in mind that York and Scarborough are sub-regional centres and are always going to attract more trade than a district centre like Malton.

6.5 The hatched area represents the approximate retail catchment area of Pickering.

6.6 It is important to note that the area shown numbered 6 in Figure 2 comprises a substantial part of the area shown on Figure 1 as unhatched and within the red line

Figure 2



6.7 Figure 2 is figure 2.1 taken from the “Ryedale Retail Capacity update” of Roger Tym and Partners dated September 2008. The same figure is used

by them in their 2009 update. In their 2011 update, sub-zones 3 – 6 are subdivided into smaller zones lettered (a) and (b) respectively.

- 6.8 It will be seen that Figure 2 looks at an overall retail catchment area for the whole of Ryedale and is roughly co-extensive with the boundaries of Ryedale District Council. Area 4 is particularly interesting as it is outside the District boundary and is very close to the sub-regional centre of Scarborough, with which Malton, as a district centre, cannot reasonably be expected to compete.
- 6.9 Neither the 2008 nor the 2009 RTP reports give the retail retention rate of any sub-area, except Zone 6. However para. 5.12 of the 2008 Report states that the convenience retail retention rate of Zone 6 is **“already relatively high (being over 80%)”**
- 6.10 Para. 3.8 of the 2008 Report states that “Our household survey found that the aggregate convenience sector retention rate for the Overall Catchment Area (ie the outer blue boundary shown in Figure 2) as a whole , of 63% is relatively low. We consider therefore that there may be some scope for the retention rate to rise to 70% by 2010 and to 80% by 2015, giving a total increase of 17 percentage points over the whole study period”. This target of 80% retention of all convenience shopping in the OCA is called: “The rising retention scenario”.
- 6.11 In these and subsequent reports, Ryedale District Council has made it clear that it wishes to reclaim what it considers to be lost convenience retail for shops within Ryedale, and this is the main reason Ryedale presents for a huge new supermarket at Wentworth Street in Malton.
- 6.12 There is clearly a difference between an overall catchment area for Malton/Norton and an overall catchment area for Ryedale. If Malton/Norton already has a Zone 6 80% convenience retail retention which is “relatively high”, it has to follow that the new supermarket, if built, will have an impact which is wider than just the local area – particularly on the surrounding towns within Ryedale and also the sub-regional and district centres outside Ryedale, as is the Council’s clearly expressed intention.

6.13 It is understood that in order to satisfy the relevant criteria, all that is necessary is to show that the proposal will have a wider than local impact, and that it is not necessary to show that that impact will be disproportionate. However, even though it is unnecessary to show disproportionality, it is clear that the proposal will have a disproportionate impact for the following reason.

6.14 Whereas it might not appear to be unrealistic or unreasonable to increase retail retention within the red boundary of Figure 1, it is a mistake to suppose that a town's natural retail catchment should approximate to the administrative boundary of a district council. One therefore has to consider whether a new supermarket at Malton is likely to have a disproportionate impact on neighbouring town and retail centres outside the town's natural catchment area. From the most recent instructions given to Roger Tym and Partners to increase convenience retail retention within the blue edged area in Figure 2 to 85% (See their July 2011 Report), it is clearly the intention of Ryedale District Council that this should be so.

6.15 This is therefore a case where the impact of the proposed development is likely to be disproportionately wider than just local, and this should reinforce the need for the Secretary of State to call-in the application.

7 Reasons for Call-in

7.1 Having established that the Government's call-in criteria apply, it is necessary to show good reason for calling in this application. The first point is that Ryedale owns the site comprised in Application No.11/00919/FUL and is under contract to sell it to the applicant at a price which is not less than £5M, subject to planning. This gives every member of Ryedale District Council a vested financial interest in granting planning permission – notwithstanding that in doing so Ryedale will be in breach of government policy, as follows:

8 Neighbourhood Plan

8.1 The proposals will prejudice due consideration of the Malton and Norton Neighbourhood Plan which is currently being finalised by Malton and Norton town councils. It is one of the key elements of this

plan to support new convenience retail in the Cattle Market Area which is not one-stop, and to retain the site as a long stay car park. It will also prejudice the due consideration of Ryedale's LDF, the Ryedale Plan by producing a fait accompli in advance of the imminent Examination in Public.

- 8.2 The proposal is premature as it will prejudice due consideration of Ryedale's LDF and also of the Neighbourhood Plan for Malton and Norton (Appendix 2).
- 8.3 Paras. 49-52 of the draft National Planning Policy Framework sets out a framework for the development of neighbourhood plans to:
- 8.3.1 *Develop a shared vision for the neighbourhood*
 - 8.3.2 *Set planning policies for the development and use of land*
 - 8.3.3 *Give planning permission through Neighbourhood Development Orders and Community Right to Build Orders.*
- 8.4 Although the appropriate legislation is not yet in place, Malton and Norton Town Councils have anticipated it and prepared their own Neighbourhood Plan. This has been out to consultation, and the outcome of the consultation has been reported to both Town Councils and accepted by them. By and large the consultation confirms the draft plan. A copy of the draft plan and the summary of responses to the consultation are attached (Appendices 2 and 3). It will shortly be ready for submission for assessment by an independent examiner.
- 8.5 Paras 50 - 51 of the draft NPPF make it clear that neighbourhood plans must conform with the District Local Development Framework. However, Ryedale does not yet have a Local Development Framework in place, and the draft Malton and Norton Neighbourhood Plan conforms with the Council's current Development Plan (ie. the saved policies of the Ryedale Local Plan, as modified by government policies currently in full force and effect and the draft National Planning Policy Framework).
- 8.6 Ryedale's LDF has many shortcomings, particularly in regard to retail policy, and these have been pointed out to Ryedale in my representations

thereon (Appendices 4 and 5). So the outcome of the Examination in Public cannot be predicted. Some of the draft policies in the draft Neighbourhood Plan are in clear conflict with some of the policies in the draft LDF. It is considered that in the circumstances the voice of the local councils should be heard and given all due consideration in accordance with the government's localism policy. This cannot happen if decisions on major planning applications are allowed to be taken in advance of the LDF examination in public or the independent assessment of the Neighbourhood Plan.

8.7 The relevant policies in the draft Malton and Norton Neighbourhood Plan are as follows:

- 8.7.1 *To expand the existing Commercial Limits of Malton and Norton to include the Livestock Market Site, and not to permit any Convenience retail development outside such expanded commercial boundaries;*
- 8.7.2 *To promote the development of a relatively small, high range food hall on the Livestock Market site, together with a range of Comparison shops;*
- 8.7.3 *To encourage new Comparison and High Street Retail to establish themselves in Malton and Norton;*
- 8.7.4 *To encourage a reappraisal and relaxation of the policy that restricts internal alterations to historic buildings, particularly in Malton's Conservation Area, so that they can be reconfigured in more appropriate ways for commercial retailers to use them;*
- 8.7.5 *To support the relocation of the existing Livestock Market within or close to Malton and Norton or the towns' major road junctions, and preferably on the Showfield Site;*
- 8.7.6 *To retain Wentworth Street Car Park as a long stay car park for use by town centre employers and employees, shoppers, visitors and market users;*
- 8.7.7 *To encourage the contribution of Wentworth Street car park to the viability of the town centre, by providing much more visible direction*

signs to the car park, and making improvements to the physical links for pedestrians between car park and town centre;

8.7.8 *To emphasise the importance of CCTV in the towns and to resist any reduction in its use.*

8.8 The outcome of the public consultation in regard to the site for a new supermarket was as follows: “465 people answered this question, 50% of respondents would prefer to see the Livestock Market redeveloped for a supermarket. Only 9% supported development of Wentworth Street Car Park, which was followed closely by 7% who thought a supermarket should be developed on either site. 31% of respondents do not wish to see a supermarket on either site.” – Para 3.3 on Page 7 of the enclosed Neighbourhood Plan Community Consultation Summary of Responses.

8.9 In the circumstances it would appear that there is overwhelming public rejection of the proposal to redevelop Wentworth Street Car Park. This is borne out by a petition which was handed in to the Council on 29th July 2010 and contained over 2,000 signatures, and also by the May 2011 elections. I stood for re-election and one of my main three election issues was my opposition to a supermarket on Wentworth Street Car Park. I came top of the poll – see <http://www.paul-andrews.net/firstleaflet.htm> . The Councillors in Malton and Norton who favoured the superstore which the Council proposes either did not stand or lost their seats.

8.10 The July 2010 Petition was in the following terms:

“On 29 July 2010 Ryedale District Council will consider a resolution to sell Wentworth Street Car Park and other surrounding land and buildings for development as a supermarket.

The purpose of this resolution is to raise money while the council sits on a relative fortune. There are no debts to repay.

It is likely that Community House (home of Ryedale Voluntary Action, CAB and Red Cross), Ryedale in Touch centre, the Malton Scout & Guide Centre, The Rifle Club and the public toilets will be closed or relocated.

Despite promises by developers to retain or increase the total car park provision, it is likely that the farmers market and all day parking will be lost. How will the council control the supermarket parking arrangements (and penalties for overstaying your welcome) after sale. Developers tend to have experts who can run rings round Planning Decisions and Council Planning Departments. Control by this method is unlikely to succeed.

What is the prospect of the rest of the town centre becoming a ghost town?

What about the additional traffic? How much will this development add to the already high traffic flows through Malton?

If you accept these or other arguments against this proposed sale please add your signature below.

We, the undersigned, petition Ryedale District Councillors to reject this resolution”

8.11 Further, in July 2010 over 250 people marched through Malton in protest against the Council’s proposals to sell the site. The sale to GMI Holbeck was finally authorised at a meeting of full Council on 17th November 2010. There were over 400 objectors in attendance and a large local school assembly hall had to be booked to accommodate the meeting.

8.12 The government’s localism agenda has to have teeth. This case is an opportunity for the Secretary of State to show that his localism agenda does have teeth, and that where local people have prepared their own neighbourhood plan and the Council’s own plan is non-existent or out of date, unpopular proposals will be thoroughly tested before an independent and impartial government inspector to ensure that they comply with local and government policies, and that due process is observed

9 Three Sites

9.1 There are three competing sites: Wentworth Street Car Park, The Showfield, and the Cattle Market Area. Application no.11/00927/MOUT is a major application which is subject to referral. It is important that all three sites should be considered together at the same enquiry before an independent, impartial, government inspector, whether they fall within the Call-in criteria or not.

9.2 There are currently three convenience retail proposals before the Council, either as planning applications or as proposals in the pipe-line. They are as follows:

9.2.1 Application No.11/00412/MOUT by Fitzwilliam (Malton) Estate to redevelop the Cattle Market Area. This includes a top range food hall with a net sales area of 1,600sq.m. This will not be a one-stop store.

9.2.2 This application (No. 11/00927/MOUT)

9.2.3 Proposals for a new foodstore at Showfield Lane, Malton (believed to be for a Sainsbury's) – See Figure 3 below

Figure 3



SIMONS

Councillor Paul Andrews
The Beeches
Great Habton
Malton
YO17 6RS

Dear Cllr Andrews

Proposals for a new foodstore at Showfield Lane, Malton

I write to you on behalf of Simons Group, who will, in the coming months, announce their proposals for a new foodstore, backed by a major national food retailer, on land next to the Showfield Lane Industrial Estate in Malton.

As you will know, new retail developments are currently being proposed for both the Wentworth Street car park site and at the site of the Livestock Market. Simons believes their proposals offer a viable and attractive alternative to these two plans and could help to keep shoppers in the area.

Public consultation on Simons' proposals will begin in the autumn but, before this happens, we would like to meet with you, as a ward and town councillor for Malton, to seek your views. We are very keen to get your opinion on the future of Malton's retail offer at this early stage, before formal plans are drafted.

If you feel this would be useful, please contact me, or my colleague Tom Arnold on 0113 246 9243 or email jeremy.fieldsend@localdialogue.com.

Yours sincerely,

Jeremy Fieldsend
Partner, Dialogue

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9.3 Details of the Showfield proposal are not known, but at a consultation meeting of councillors from both Malton and Norton Town Councils which took place on Monday 5th September 2011, the developers' consultants told us that the net sales area of the proposed superstore would be 40,000sq.ft.

- 9.4 There is an issue as to how many new supermarkets (if any at all) Malton can reasonably accommodate. If there is room for a new supermarket, a second issue arises: which one would be best for the towns of Malton and Norton, in accordance with the government's recently re-stated policy of maintaining the vitality and viability of existing town centres (Para. 76 Draft National Planning Policy Framework 2011)?
- 9.5 Ryedale District Council owns Wentworth Street Car Park, and as they are due to receive at least £5M from the proceeds of sale if planning permission is granted, they have a clear vested financial interest in the outcome of the application for the redevelopment of Wentworth Street Car Park. It would therefore be unsafe to leave the decision on this application with Ryedale District Council. The matter should, instead, be determined by an impartial independent government inspector after call-in.**
- 9.6 It is therefore suggested that all three of these proposals should be dealt with by an inspector at a single public enquiry. Ideally this should happen as part of the LDF process. However, Ryedale have anticipated the LDF process by deciding in November 2010 to sell Wentworth Street Car Park subject to the grant of planning consent. So as the Council has decided not to follow due process in this respect, it is necessary to ask the Secretary of State to intervene using the call-in procedure.

10 *Qualitative Need and Quantitative Capacity and the impact of the proposal on the vitality and viability of the existing town centre.*

- 10.1 Application no.11/00927/MOUT is most likely to substantially undermine the vitality and viability of Malton town centre contrary to Para. 76 of the government's draft New Planning Policy Framework. It fails the sequential test as against the Cattle Market Site. Three consultants' reports, respectively dated 2006, 2008 and 2009 make it clear that there is insufficient quantitative need for a new convenience outlet of the size of the application for Wentworth Street car park. The 2009 Report recommends a need for additional convenience retail capacity of 417 sq.m. for 2008-2013; 2,164 sq.m. for 2008-2021, and**

2,801 sq.m for 2008-2026. This would suggest a phased approach. In other words, need for convenience retail quantitative capacity is not expected to be 417 sq.m. on 31st December 2013 and then soar to 2,164 sq.m. (or even 2,801 sq.m) on 1st January 2014.

- 10.2 However, the Council’s LDF, the draft “Ryedale Plan”, rejects the phased approach recommended (as described in the last paragraph) by their own consultants in the said 2009 RTP Report. Policy CS7 on page 63 of the draft Ryedale Plan states: “Approximately 2,801 sq.m. of food retailing space will be directed to Malton. Any proposal that subsequently exceeds this figure will be required to demonstrate impact on existing town centre uses.” In other words, if this policy is adopted, 2,801 sq.m. food retail can be built in Malton tomorrow without any examination of the impact on the vitality and viability of Malton Town Centre. This is clearly contrary to consultants’ advice and hence to government policy as set out in Para 76 of the Draft National Planning Policy Framework 2011.**
- 10.3 A new consultants’ report has recently been issued in July, which contains a recommendation which directly contradicts the recommendation in three earlier reports by the same consultants. The purpose of this is clearly to make the best case for what Ryedale wants, instead of giving a purely objective assessment.**
- 10.4 There are two separate issues: quantitative capacity for comparison products and quantitative capacity for convenience goods. These issues are dealt with in my observations on the Council’s LDF (Appendices 4 and 5), and are summarised below.
- 10.5 **As regards quantitative capacity for comparison stores and qualitative need**, it is common ground that there is a shortage of comparison outlets in Ryedale and Malton, and that this needs to be addressed.
- 10.6 Of the three above proposals, application no.11/00927/MOUT will not adequately address this shortage, as the application is for a “one-stop” superstore selling both convenience and comparison products, and customers will simply go to the store get their weekly shopping and go home without visiting the town centre shops. The same consideration

applies to the Showfield Lane site, which is much further from the existing town centre than Wentworth Street Car Park. The proposal to redevelop the Cattle Market, on the other hand (11/00412/MOUT), would improve the range and diversity of comparison shops within Malton Town Centre because the application is for a food hall which is top range, less than half the size of the store the subject of this application, and is deliberately designed and located so as not to be “one-stop”. It follows that the Cattle Market Redevelopment Scheme would meet the qualitative requirement of supporting the vitality and viability of Malton Town Centre.

10.7 The second issue concerns the likely impact of the superstore application (11/00927/MOUT) on the existing town centre and quantitative capacity for convenience retail.

10.8 Para 76 Draft National Planning Policy Framework issued this year re-states the need to maintain the vitality and viability of existing town centres. This means that the Planning Authority has to consider two issues, namely the sequential test and quantitative capacity.

10.9 As regards **the sequential test**, the nearest site to the existing town centre is the Cattle Market – not Wentworth Street Car Park or the Showfield.

10.10 As regards **quantitative capacity for Convenience Retail**, four separate reports have been prepared by Roger Tym and Partners (RTP) dated respectively 2006, 2008, 2009 and 2011, and two other reports have been prepared by WSP and Atisreal dated respectively 2008 and 2009.

10.11 With the exception of the 2011 RTP Report, all these reports have been analysed on my attached response to the Council’s LDF, together with the attached correspondence in relation to a meeting with Council officers which took place in November last year.

10.12 To briefly summarise:

10.12.1 In 2006 RTP recommended a new convenience store at the Cattle. This was accepted by Ryedale District Council and became adopted policy under “The Malton Town Centre Renaissance and Enhancement Study (September 2006)”. This remained Council Policy until at a meeting between Council officers and WSP and Atisreal which took place

on 9th January 2008, the decision was made to go for the sale of Wentworth Street Car Park (See correspondence in Appendix 6)

- 10.12.2 At the date of the said meeting, Atisreal were acting for Sainsbury on other matters in other towns, and by August 2007, Sainsbury had shown interest in redeveloping Wentworth Street Car Park as a supermarket.*
- 10.12.3 The assumptions on which all the RTP Reports are based (eg. a target of an 80% “retention rate” for convenience shopping for the whole of their OCA [Figure 2 above] – see above) are questionable.*
- 10.12.4 The two reports of WSP and Atisreal recommended a large new “mid to high quality” supermarket in Wentworth Street Car Park. They produced no tables, data or statistics of their own to justify this recommendation. Instead they relied upon a short appendix listing a number of towns which had large supermarkets. None of these towns were comparable with Malton, and the appendix, while stating the benefits of supermarkets on town centres, does not consider how many supermarkets are appropriate to any particular town, or the ratio between the size of aggregate net sales areas and the size of town or overall catchment area.*
- 10.12.5 The 2008 RTP report was annexed to the second report by WSP and Atisreal as “Appendix D”, but this contains recommendations which are diametrically opposed to the conclusions of the WSP and Atisreal Report to which it is annexed – The 2008 RTP report recommends the Cattle Market site and dismisses Wentworth Street Car Park as a development opportunity. The Second WSP Report was circulated as a CD – this being a form which most Council members were unlikely to read.*
- 10.12.6 On the basis of assumptions which, as mentioned above, are themselves questionable, the 2009 RTP Report recommends a need for additional convenience retail capacity of 417 sq.m. for 2008-2013; 2,164 sq.m. for 2008-2021, and 2,801 sq.m for 2008-2026. This would suggest a phased approach. In other words, need for convenience retail quantitative capacity is not expected to be 417 sq.m. on 31st December 2013 and then soar to 2,164 sq.m. (or even 2,801 sq.m) on 1st January 2014.*
- 10.12.7 The Council’s LDF, the draft “Ryedale Plan”, rejects the phased approach recommended (as described in the last paragraph) by their own*

consultants in the said 2009 RTP Report. Policy CS7 on page 63 of the Ryedale Plan states: “Approximately 2,801 sq.m. of food retailing space will be directed to Malton. Any proposal that subsequently exceeds this figure will be required to demonstrate impact on existing town centre uses.” In other words if this policy is adopted, 2,801 sq.m. food retail can be built in Malton tomorrow without any examination of the impact on the vitality and viability of Malton Town Centre. This is clearly contrary to government policy as set out in Para 76 of the Draft National Planning Policy Framework 2011.

10.13 It should be noted that the application is submitted in outline with an illustrative plan showing a superstore with a net sales area of 33,218 sq.ft. However, the applicants have not yet found an operator, and the operator once found, could put in revised plans for a superstore which is much bigger, particularly as the area reserved for public car parking (including the Council’s retained upper deck) could accommodate a larger store than the one shown on the illustrative plan. The superstore shown on the illustrative plan exceeds even the 2,801 sq.m. net sales area recommended in the “Ryedale Plan” for 2026 by a substantial amount.

10.14 Both of the WSP and Atisreal Reports recommend a “mid to high quality” supermarket. This is a description that might fit Sainsbury. However, Sainsbury have indicated the withdrawal of their interest in Wentworth Street Car Park (Figure 4 below), ASDA have developed the Netto store by the railway, which they recently took over, and Morrisons already have a huge store in Castlegate. So it looks as though the only store which might be interested in developing the site would be Tesco. Tesco is not normally considered to be a “mid to high quality” supermarket.

Figure 4

From: [Tom Arnold](#)

To: gazette@gazetteherald.co.uk

Sent: Monday, July 25, 2011 1:34 PM

Subject: Sainsbury's not interested in Wentworth Street site

Sarah,

As discussed, please find a statement from Sainsbury's re: the Wentworth Street supermarket proposals below. Please do get in touch if you have any further questions.

Thanks,

Tom

SAINSBURY'S NOT INTERESTED IN WENTWORTH STREET SITE

Following recent speculation, Sainsbury's has distanced itself from GMI Holbeck's proposals for a new supermarket on the site of Wentworth Street car park in Malton.

The company has issued a letter to the developer informing them that they are not interested in occupying the proposed development, which was shown recently at public exhibitions in the town.

Jo Try, Sainsbury's regional development executive, said:

"We have decided not to proceed with any negotiations with GMI Holbeck as we believe the Wentworth Street car park site is not suitable for a food store.

"Sainsbury's has explored the site in great detail and it has been through our rigorous store analysis process. We reviewed the site in 2008 and decided then that it was not suitable for a Sainsbury's store.

"We recently met with GMI Holbeck to discuss their proposals but our conclusion remains that Wentworth Street car park is not capable of providing the size and quality of food store that Malton requires.

“In addition, we believe there are significant problems with access to the site and the tight roads surrounding it.

“Sainsbury’s is however still interested in bringing a new store to Malton and is looking at other possible sites in the town.”

10.15 As regards the RTP Report of July 2011, this has only recently been received by the Council, and further work may be necessary on this. Suffice to say that it comes to the opposite conclusions to those in their three earlier reports, and recommends a huge supermarstore in Wentworth Street Car Park in addition to the redevelopment of the Cattle Market. It is clear that this report was commissioned after the Council’s political leadership had made the final decision to proceed with redeveloping Wentworth Street Car Park. There is no indication in the the Report of the date on which it was commissioned, but it is suspected that this would have been after the Council decided to sell the site on 17th November 2010. It is therefore likely that the latest report is designed to make the best possible case for the Council’s desired purposes and is unlikely to represent a fully independent and objective analysis of all the relevant issues.

10.16 An initial analysis of this latest RTP Report is as follows:

10.16.1 *It has all the weaknesses which I’ve pointed out in my representations on the LDF. In particular, the Overall Catchment Area (OCA) is based on post codes which can have no relevance to retail catchment. One would have expected the consultants to look at concentric radii from Malton (5 miles, 10 miles etc.).*

10.16.2 *As regards the OCA, as they have drawn it, sub-zone 1 is not the consultants themselves say it is heavily influenced by Tesco in Thirsk; Sub-zone 4a is far too close to Scarborough and Sub-zone 5a is far too close to York. If these three sub-zones are excluded, and the retention rates of the other sub-zones are averaged, there is already a current retention rate of over 75% of convenience goods. This compares with the “rising retention rate” target of 80% in earlier reports (revised in the July 2011 Report to 85%). This does rather suggest that it may be*

somewhat over the top to pay a lot of attention to the “Rising Retention” scenario.

10.16.3 This is in spite of recent new stores which have opened in York.

10.16.4 All the previous RTP reports look at increasing the convenience retail retention rate to 80%. Why are they now seeking a retention rate of 85% - I can't find a reason in the report?

10.16.5 As regards quantitative need, RTP have increased their projections to take into account overtrading by Morrisons at Malton and reduced them to take into account recent permissions within the OCA and the state of the economy. The result in regard to convenience goods is Table 4.4 on Page 37. This makes it clear that, on the basis of a “constant retention” scenario, Malton or Ryedale is at this very moment overprovided for. Further, even if the Council uses the most favourable projection (relying on a “rising retention” scenario of 85% over the whole of the OCA – ie the whole of Ryedale), the quantitative need for new convenience net sales space is only 1,890 sq.m - not 2,801 as appears in the draft Ryedale Plan – and that is for the year 2026 and not this year or next year.

10.16.6 So, on the basis of Quantitative Need, there is no room for a huge new supermarket on WWSCP - not now – not even in 2026.

10.16.7 The consultants then consider the issue of “Qualitative Need”. This is interesting because in this report RTP contradict many of the views they have previously expressed on Qualitative need. This not only invalidates much of what they have to say but also suggests they are acting under instructions.

10.16.8 The problem with qualitative need is that it's all a matter of guesswork and opinion and so is not capable of scientific verification – just like the two WSP reports. In particular, it is not possible to present a verifiable opinion as to the amount of floor space requisite to satisfy the qualitative need identified – one has to go back to the quantitative analysis to ascertain that. And that's where the qualitative argument in the report comes completely unstuck.

10.17 In the circumstances it would appear that the application the subject of this request is on the whole contrary to the professional advice received by Ryedale District Council, and the assumptions on which the reports which favour the redevelopment of Wentworth Street Car Park are based are themselves questionable and misleading. Ryedale District Council has a clear vested financial interest in granting planning permission, and therefore it would be unsafe to leave the decision on this application with Ryedale District Council.

11 Ryedale's approach to the redevelopment of Wentworth Street Car Park and the Showfield are based on politics and not on planning merits.

11.1 As previously stated, the application to redevelop Wentworth Street Car Park is one of three major convenience retail applications which are either before the Council or in the pipeline (the others being the Cattle market and the Showfield)

11.2 Fundamental to the way these applications will be dealt with is the approach of Councillor Keith Knaggs, the Council's leader.

11.3 At a farmers meeting of December 7th last year (which I attended as an observer), it was made clear that it was unlikely that the Livestock Market could be relocated without substantial financial assistance from outside the farming community. Councillor Knaggs indicated that he would consider recommending that Ryedale should advance £1M to a farmers' co-operative to relocate the Cattle Market. Ryedale does not have this amount of uncommitted money. So one has to assume he was talking about money which might be taken from the proceeds of sale of WWSCP - which of course is subject to planning permission.

11.4 The meeting also considered the relocation site. A site at Eden Road site was mentioned, and Mark Nicholson the agent of the owner of both the Showfield and the site at Eden Road, the Fitzwilliam Trust Corporation

(not the FitzWilliam Estate - FME) said that this was a valuable site and could only be made available if the Council was prepared to make concessions elsewhere. Councillor Knaggs, whilst being non-committal, seemed to suggest that this could be considered.

11.5 The site at Eden Road referred to is the land adjacent to the B1257 Pickering Road to the North East of the Intersection between the A64 and the B1257 at Old Malton. This is a site which the farming community think is best for them: it may not necessarily be the best site as far as the interests of the town centre is concerned. This site is outside the saved town development limits and was the subject of a successful call-in request in 2007 in respect of a planning application (supported by Ryedale District Council) for a new industrial estate there.

11.6 It is believed that the deal Mark Nicholson was hinting at would be the grant of planning permission for a large retail development at the Showfield which is owned by his client, in return for his client not pursuing industrial or housing proposals at Eden Road, and conveying that land to the farmers co-operative for a nominal consideration.

11.7 It is clear that the relocation of the Livestock Market will not go ahead unless the farmers' co-operative which is to run the relocated cattle market receives £1M from the Council and the Eden Road site at a nominal consideration from the FitzWilliam Trust Corporation. So, if Councillor Knaggs believes he can persuade the Council to pay the farmers co-op £1M that money will most likely have to come from the sale of Wentworth Street Car Park, and to make the relocation of the Livestock Market happen, consent will also have to be given for a huge superstore on the Showfield. If this happens, Malton will be faced with not just one but two huge new supermarkets.

11.8 There is further evidence for the intention to grant permission for supermarkets both at Wentworth Street Car Park and at the Showfield. The

letter from “Dialogue” on behalf of Simons in Figure 3 refers to consultation on Simon’s proposals beginning in Autumn this year. This will put them well behind the Wentworth Street Car Park application. Although they say that their client’s proposal is a “viable and attractive alternative”, they clearly would not contemplate incurring the expense of making a planning application in these circumstances unless they expect to have a reasonable prospect of success. As the Council’s consultants’ advice would currently clearly be against a second huge superstore, it would appear that they may be expecting their clients’ application to be granted by the Council and not on appeal.

11.9 At the meeting of 5th September 2011 referred to above, Town Councillors of Malton and Norton were consulted on proposals to develop the Showfield as a superstore with a net sales area of 40,000 sq.ft. The developers’ consultants stated that, if planning permission is granted, the Eden Road site (or part of it) would be made available for the relocation of the Livestock Market.

11.10 Meanwhile FitzWilliam (Malton) Estate (FME) have submitted their application for the redevelopment of the Cattle market. It is understood from FME that Councillor Knaggs takes the view that planning permission for this can be given without prejudicing planning permissions for Wentworth Street Car Park or any other retail development. FME say that if permission is granted under application No. 11/00927/MOUT, none of the top range “Waitrose style” stores will be interested in the Cattle Market, because they would be overwhelmed by the competition.

11.11 I understand from what I have heard him say at meetings that Councillor Knaggs believes that the market should be allowed to determine these matters and that the Council as planning authority should not interfere. This is not my understanding of how the planning system is designed to work.

11.12 It would seem that, in the circumstances, politics have overtaken a calm rational consideration of what is best for the future vitality and viability of Malton Town Centre, and that the best way to resolve all the relevant issues in a way which conforms with planning policy is to refer all the competing planning applications to a hearing before a single impartial government inspector.

12 The need for Wentworth Street Car Park to continue as a long stay car park.

12.1 A new superstore built on the Wentworth Street car park would "bring town parking benefit", according to a director of the developer chosen as a business partner by Ryedale DC .

12.2 On the face of it, the superstore scheme would bring a few more car parking spaces than the 380 at Wentworth Street today, but where is the benefit if those new spaces, and more besides, are needed for the store's own shoppers? We are promised that all the 447 spaces proposed will be available free of charge for three hours, and that about half will be retained by RDC "providing long-stay parking options across the 220 spaces" on an upper level (details, charges, conditions awaited). At first glance this all seems most attractive. Where RDC has traditionally over-charged for parking on this site so that people are deterred from using it today, this sounds like a welcome change of heart.

12.3

But it will not happen as described. The provision of 447 spaces includes 292 as the minimum required by a supermarket of this size (up to 35,000 sq ft of sales space). That leaves 155 for everyone else, or 40 per cent of what currently exists there. By the same token – one parking space per 120 sq ft of shop floor – the town as a whole will be woefully under-provided, and this could result in lost opportunities to attract new employers and traders to the town. Then again, if Malton is to grow as a shopping destination, there needs to be more provision than exists, not less. And what about the workers! Where are people who will fill the growing number of offices in the town centre – vital to the town's

prosperity – to park? Any use by townspeople, commuters or shoppers will congest the redeveloped Wentworth Street car park and render the supermarket unusable. At that point we can expect to see reserved or ticketed parking unless those parking arrangements are committed by the terms of the ground lease.

12.4

So in reality we have a situation where demand for parking will increase, firstly from the supermarket's own customers, secondly from everyone else attracted by three hours without charge, and hopefully thirdly from Malton's economic and housing growth, while the spaces associated with this superstore scheme will be hopelessly inadequate according to well-established retail industry planning standards.

12.5 Further, as there may be 155 spaces in excess of the superstore's requirements, and as application 11/0927/MOUT is in outline, it will be possible for the chosen operator to put in revised plans for an even bigger store which would take up some of the spare capacity from the car park.

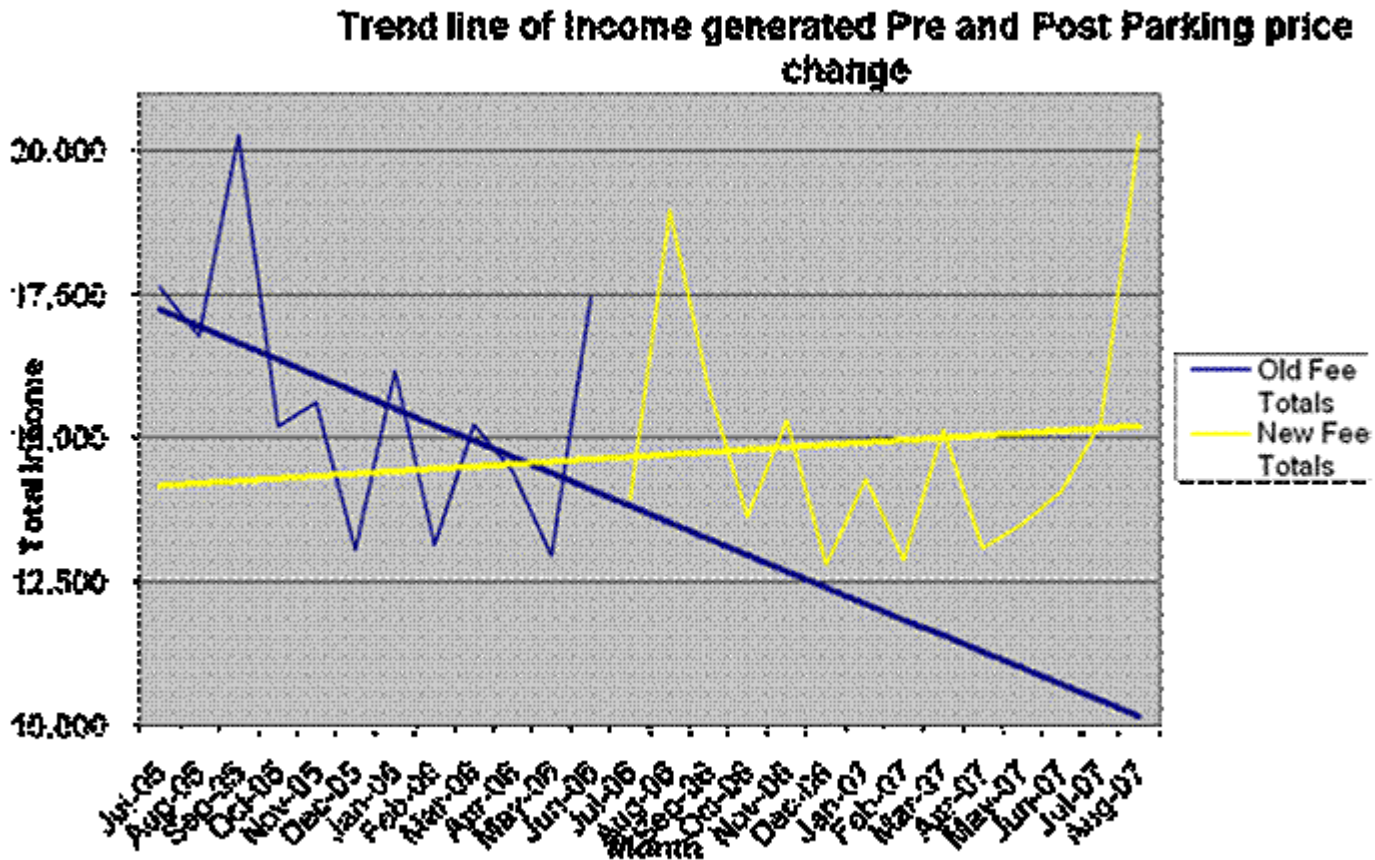
13 The argument that Wentworth Street Car Park is underused.

13.1 One of the arguments for building a new supermarket on Wentworth Street Car Park is that the car park is not well used.

13.2 In April 2005 the Council put charges up by 25%. The graph below (Figure 5) shows how this caused a loss of Council revenue afterwards, as the Council had priced itself out of the market.

13.3 I formed a pressure group with members of local business, the Town Council and others and persuaded the Council to pilot a fee of £1-50 per day. This started in July 2006. The chart below (Figure 5) shows how this reversed the decline in revenue.

Figure 5



13.4 The Council claimed the fees trial had been a failure. I persuaded the Council's Scrutiny Committee to investigate. The Scrutiny Committee found that it was unclear if the fees trial had been a success or a failure. I requested the Committee's be checked by audit. This request was refused. [Click here for details of the Scrutiny Report](#)

13.5 Meanwhile the old fees were re-imposed and have been raised year by year ever since. This is contrary to national policy, as Councils have been advised not to raise car parking fees if this prejudices the vitality and viability of existing town centres.

14 The Impact on the towns' internal highway network

14.1 The site is accessed through the town centre by a network of narrow roads dating back to Mediaeval times, and there is no direct access planned from the A64 via Broughton Road. If the application is

successful, there will be a catastrophic impact on the local highway network.

14.2 The Malton bypass is dual carriageway with single carriageways at either ends. In the holiday peak periods it becomes heavily congested and backs up. A new superstore in Malton will exacerbate these problems.

14.3 There are two separate highways issues: the impact on the local highway network, and the impact on the A 64, the major arterial highway between Leeds and Scarborough.

14.4 As regards **the local highways network**, Malton is a country market town with an attractive Georgian Conservation Area and a network of narrow roads which go back to mediaeval times or even earlier. There is no direct access between the A 64 and the Broughton Road which leads to the site. This means that the only way traffic will be able to access the supermarket will be by driving through Malton Town Centre. This is already heavily trafficked and heavily congested at peak times. The situation has been made worse by the grant in April 2011 of planning permission for 263 new houses on a site between the A64, Broughton Road and the Showfield. There is no direct access from the A 64 to this site, and so when it is built, there will be even more congestion, as access from the A64 to these houses will also be through the town centre. The combination of new housing and a new supermarket so close together will be catastrophic.

14.5 County Highways are either unwilling or unable to object to these developments on highways grounds. They seem to think that a little tinkering with the road system here and there will resolve long term issues, but the experience of residents is that this is not working.

14.6 Ryedale engaged Jacobs, formerly consultants to the County Council, to write a **Malton and Norton Strategic Transport Assessment**, and the Council is currently using this for the assessment of planning applications. The STA was produced for consultation, and was not well received by the town councils. The Council said that it would go out for public consultation in the light of comments made at a briefing to which town councillors were invited, but not the public or the press. Since then, Ryedale has stated that the STA is being treated as a working document

produced by consultants which is not open to public consultation, but which Council officers are using as a guide when considering planning applications. The result is highly unsatisfactory.

14.7 **The Malton and Norton Strategic Transport Assessment June 2010** (“**STA**” for short) considers 9 scenarios for traffic likely to be generated by planned new development. It dismisses all of these, and then (Page 86 paras. 17.3.5 and 17.3.6) a new option called Option “4A”. This option comprises 27 ha new retail, **2165 new dwellings**, 0.2 ha new education, 44ha new employment and 3.3ha new leisure (Page 87).

14.8 Para 17.3.5 reads: “ In the light of this a sensitivity test has been undertaken to test the effects of reducing the amount of residential development” (ie in the original Scenario 4 – 4.6ha + 2574 other dwellings)” by 50% in this scenario so that it equates to a lower level of housing that is more likely to be considered through the Council’s LDF”

14.9 Para 18.4 (page 90) reads as follows:” Recommendation Summary: 18.4.1. At this level of development Scenario 4A is a robust and viable option as it results in an acceptable impact on the local highway network particularly with mitigation and contains sites distributed across both Malton and Norton and therefore allows an assessment of the complex traffic impacts and interrelationships across the towns in a single scenario”

14.10 Para 20.3.3 reads: “The increase in congestion levels associated with Scenario 4A are small with only limited congestion occurring at the Pasture Lane junction and the double mini roundabout layout proposal”

14.11 However the STA is an unsatisfactory document. It is a case of “garbage in: garbage out”. As with other flawed consultants’ reports prepared for Ryedale, they depend on information provided by the Council. If the wrong information is provided, the Council will get the wrong answer. If they want the wrong answer, all they have to do is to input wrong data.

14.12 The STA is intended to assess the impact of proposed new development existing junctions. In making this assessment, it is necessary to take into account development for which planning permission has been given (but not implemented) or for which planning would have to be granted if

applied for (e.g. where the site is within development limits and/or is in accordance with existing policies). Clearly if traffic generated by new development would have no greater impact than traffic generated by existing development (plus the traffic generated by development which would have to be allowed if planning permission is applied for), then the proposed new development can be said to be acceptable.

14.13 However, the STA goes one step further. Instead of taking into account permissions which would have to be granted because the site is within existing policy, the STA also takes into account sites which existing council policies would require to be refused, but which Ryedale's political administration would like to see approved (eg. controversial matters such as a supermarket on Wentworth Street Car Park).

14.14 So, instead of comparing the traffic likely to be generated by each scenario of new development with the impact of traffic currently generated by the existing town, the STA assumes that ALL the developments on a list of "development assumptions" WILL be developed (**even though most of them are outside development or commercial limits and therefore contrary to the saved polices in the the Council's existing plan**) and compares the traffic likely to be generated by each of 10 scenarios with the traffic currently in the town PLUS the traffic likely to be generated by the developments included in this flawed list.

14.15 So the STA produces distorted conclusions. So, for example, what is the point of using the STA to determine whether or not the traffic generated by a new supermarket in Wentworth Street Car Park is likely to be acceptable, when one of the assumptions made in the STA is that planning permission would be granted for it?

14.16 So, when the application comes to be assessed against highway criteria, there will be no highways objection. This is completely and utterly wrong.

15 The Impact on the A64

15.1 The A64 is the main arterial highway connecting Leeds and the South with Scarborough. It is therefore very well used, particularly over the summer months. Unfortunately, it has never been completely dualled. It is dual carriageway between the M1 and the junction with York's northern ring

road; it is single carriageway from there until Barton Hill, from where it continues as a dual carriageway until just before Crambeck; from Crambeck until Malton it continues as a single carriageway until it becomes a dual carriageway bypass round Malton/Norton, and after that it is single carriageway all the way to Scarborough.

- 15.2 When the traffic becomes particularly heavy, it tends to back up along the dual carriageway stretches, as the traffic gets funnelled into the single carriageway sections of the road. The result is that in the summer months and at Christmas and Easter, the Malton bypass often becomes solidly congested and backs up along the dual carriageway.
- 15.3 North Yorkshire County Council and Ryedale have frequently asked the Highways Agency and made representations to London for the dualling of the entire road. However, this urgent need for upgrading has always had to compete with inner city schemes, and has always lost out to these.
- 15.4 We now have a situation where Ryedale seem to want to change the status of Malton in effect from a district centre to a sub-regional centre by permitting two huge new supermarkets on Wentworth Street Car Park and on the Showfield respectively. This will inevitably increase the traffic on the A64, and result in massive congestion – not only in the local network within Malton, but on the A64 itself, as more and more supermarket customers use the A64 for access and egress to and from Malton.

16 Best Value

- 16.1 I am a solicitor who has spent much of my professional career as a planning advocate, and am therefore comfortable with the views I have given on planning and legal matters. However, I have very little experience of working with valuers, and am not so confident when it comes to dealing with valuation matters. Nevertheless I do have extensive contacts and an informant from another part of the North East has brought the following views to my attention. I cannot vouch for their accuracy or application to Ryedale, but no doubt the Secretary of State has in-house valuation advice which might be available to verify the following:
- 16.2 The total land area of Wentworth Street car park is 4.254 acres. Of this, the upper deck land which is to be retained by the Council comprises 2.3

acres. However, all pedestrian and vehicular access to the Upper Deck will be over land to be sold to and controlled by the owner of the land comprised in application 11/00927/MOUT. On 17th November 2010, the Council was told that it would be a condition of sale that there should be free car parking on the Upper Deck daily for 3 hours. This was confirmed by GMI Holbeck at their meeting with the members of the two town councils on 6th September (see below). One would expect this condition to be secured by a restrictive covenant. I understand that if this contract condition is secured by a restrictive covenant in these circumstances, the value of the 11/00927/MOUT increases and will all but wipe out the capital value of the Council's retained land.

16.3 I believe superstore land is currently valued at £1.5M per acre. However, the price increases to about £2M per acre if more than one of the national super store chains is interested. The entire car park is therefore worth between £6,381,000 and £8,508,000 or more. Assuming that the Council's value in the retained land is wiped out as mentioned above, the 11/00927/MOUT can be considered as being almost as valuable as the entire site. It is understood that Ryedale has agreed a sale price of not less than £5M. This suggests that the 11/00927/MOUT land may be being sold at less than its market value.

16.4 It is not understood why Ryedale is selling to a developer, when they could sell direct to a superstore and get a better deal. On 6th September 2011, representatives from GMI Holbeck (Malton) Land Ltd informed a consultation meeting of Malton and Norton town councillors that their company had not yet found an operator who would take on the site. This could leave the developer the opportunity to sit on the site until the financial climate improves and then sell to an operator at a very much higher price than he will have paid. One has to ask: why has the Council contracted to sell the land at a time when the market may not be buoyant?

16.5 It is further understood that the annual takings from a superstore with 30K sq.ft. net floor area is about £30M, of which £2.4M will be pre-tax profits. However, as soon as planning permission is granted, every trader within a 20 mile radius will be able to obtain a reduction of between 23% and 30% from their business rates.

- 16.6 In the circumstances it is suggested that now is not the best time to sell Wentworth Street car park, and that the sale of the land and its subsequent redevelopment may not be in the interest of the tax office.
- 16.7 Further, the fact that, as I understand, the District Valuer will give an almost automatic business rate reduction, as mentioned, gives a very clear indication of the impact that a new superstore on Wentworth Street car park is likely to have on the vitality and viability of Malton and Norton town centre shops.
- 16.8 The fact that Ryedale is selling Wentworth Street Car Park at a time when property values may be low instead of waiting for the market to improve and without waiting for the examination in public of their LDF (due next year) may also suggest that they are aware of the weakness of the planning arguments and that they and GMI Holbeck (Malton) Land Limited are simply pushing their applications through before their proposals can be scrutinised properly by an impartial, independent government inspector at the examination in public.

17 The Current Position

- 17.1 Applications Nos.11/00927/MOUT (Wentworth Street Car Park) and 11/00412/MOUT (Cattle Market) have both been referred to East Yorkshire Council's planning department for processing. The reason for referring 11/00927/MOUT is because Ryedale's Head of Planning lives close to the site.
- 17.2 A referral to another authority might be thought to bring greater objectivity to bear on the recommendation which will still have to be made to Ryedale's Planning Committee. However. In examining and assessing these applications, East Yorkshire's planners will apply all the criteria in the flawed consultants' reports which are provided by Ryedale, notwithstanding the questionable assumptions on which these are based. They will not be able to make their own evaluation of the validity of the reports or of the conclusions in the reports themselves.
- 17.3 It follows that the only way to test the reasoning, conclusions and recommendations contained in these reports is at a full public enquiry before an entirely impartial, independent government inspector.

18 I accordingly would ask the Secretary of State to call-in all three applications: 11/00412/MOUT, 11/00919/FUL and 11/00927/MOUT. I would also ask the Secretary of State to ensure that all other major retail applications in Malton/Norton or the surrounding area are also called in.

19 Appended documents:

Newspaper Article by Selina Scott published in Telegraph Weekend Supplement 3rd September 2011 (Appendix 1)

Draft Malton and Norton Neighbourhood Plan (Appendix 2)

Malton and Norton Neighbourhood Plan Community Consultation – Summary of Responses (Appendix 3)

Representations by Councillor Paul Andrews on the Retail section of Ryedale's LDF (Appendix 4)

Exhibits referred to in Councillor Andrews' representations (Appendix 5).

Copy correspondence referred to (Appendix 6)