

Ryedale District Council

Draft Ryedale Plan

**Post-hearing notes including comments on
Council's homework and proposed amendments**

Councillor Paul Andrews LLB, BA.



2012

THE DRAFT RYEDALE PLAN – POST-HEARING NOTES OF COUNCILLOR PAUL ANDREWS

Consideration of the Council’s Homework, proposed amendments, key issues debated at the hearing, the application of the NPPF etc.

1. Purpose

- 1.1. The purpose of this paper is to summarise the debate on some of the key issues which were discussed at the hearing, and to make final submissions which arise out of this debate and which take into account my views in regard to the Council’s homework, suggested alterations, and on intervening events (eg the Cattle Market Decision).
- 1.2. No previous submission should be deemed to have been withdrawn if they are not mentioned in this document. For the avoidance of doubt, I repeat all submissions (including the submissions I made on behalf of Habton Parish Council), subject to comments made in this paper. Previous submissions include the requests for amendments to the policies of the draft plan which I set out in my pre-hearing statement.
- 1.3. There are three main issues: the amount of new development required for the whole district, the distribution of such development, and the soundness of the plan..

2. As regards the amount or quantity:

2.1. Commercial

- 2.1.1. As regards commercial development, reference was made to the Report of myself and Paul Beanland, and Table 4.4 on page 37 of the now discredited Ryedale Retail Capacity and Impact Assessment Update of July 2011. Even if Scenario 3 of Table 4.4 is accepted as realistic (which it isn’t), the quantitative need for convenience retail to 2026 for the WHOLE district is 1,890 sq.m net sales area. However, from this highly optimistic figure there must be deducted 812 sq.m convenience net sales area in regard to the permission granted to TESCO at Kirby Moorside on 26th June 2012. There is therefore no quantitative need for another supermarket or superstore. However, there is nevertheless a qualitative need for a new store in Malton to act as an anchor for the shops in Malton Town Centre.

2.1.2. It should be noted that my argument on retail differs from that of the Fitzwilliam Malton Estate (FME), the appellants in the Cattle Market appeal and also the reasoning behind the Interim Malton and Norton Neighbourhood Plan. FME accepted the Council's 1,890 sq.m. figure, and their argument was that their proposals for the redevelopment of the Cattle Market fully satisfy the quantitative need, and the sequential test favoured their proposals.. Either way the conclusion is the same, and FME have won their appeal and been awarded costs against the Council (Copy decision notices enclosed).

2.2. Employment

2.2.1. As regards employment development, Reference is made to Table 4.8 (Page 57) of the ELRU (TE44). This compares the statistical evidence of need for new employment development, and examines a number of projections ranging from 10.3ha to 75 ha. Of these the 75 ha figure is clearly the odd one out and should have been discarded. However, the Consultants have taken this figure into account, together with much circumstantial but unverifiable evidence from local agents etc., and have come up with a figure of 37 ha. This is confirmed by the Council's answer to Homework Item 20. There is no substance in this assessment, and I suggested that the Council should stick with the figure in the outgoing plan of 27.9 ha. This also roughly corresponds with the 15 year projections of the RSS (2008 – 2021), and "Method 3B".

2.2.2. Mrs Thompson has stated that the plan would be revised after 8 years. It is therefore possible for this figure to be reviewed then if it turns out to have been underestimated. However, if the plan's approach is adopted and it turns out that more land is allocated than is needed, there is a danger that para 22 of the NPPF will come to apply, the protection offered by the draft plan will be lifted and the allocated land might then become available for other kinds of development – eg. housing,

2.3. As regards housing:

2.3.1. The Council had adopted an aspirational housing target of 200 houses a year. This had been written into the RSS at Ryedale's request, even though the EIP Panel had recommended 170 houses per annum. However, examination of building rates shows that over the last 10 years, the average annual building rate averaged at about 160 houses pa. There was no evidence to show that the low building rate has anything to do with over restrictive planning or environmental constraints. Recent work carried out by the Council using the most recent population projections suggest a population increase of just 146 households per annum.

2.3.2. However, it is stated that there has to be added to this a 20% buffer and an amount in respect of the hypothetical "backlog". I do not understand why the

Council should use a 20% buffer and not a 5% buffer, when it is perfectly clear that the 200 house a year target is not and has never been attainable. Surely, it must be unreasonable in the circumstances to say that the Council has persistently failed to achieve a target, when the target itself is undeliverable? It is therefore suggested that this should justify the Council taking the lowest possible base and building on that. If the lowest possible base is 146 households pa, this figure should be used as the baseline and the “buffer” (arguably only a 5% buffer) and the “backlog” added to it should be reduced.

2.3.3. The developers argued that the annual housing target for Ryedale should be much higher – perhaps as many as 500 pa, in order to provide the development gain which would satisfy the Council’s affordable housing needs. The Council argued that this could not be achieved as Malton/Norton are required to have 50% of all new housing, and the towns’ infrastructure could not stand 50% of the annual number of new houses proposed for the whole district. Kim Robertshaw produced evidence to show that there were more strategies available for accommodating the district’s affordable housing requirements than simply providing new houses out of planning gain. The Council also pointed out that affordability targets had not been met in any neighbouring authority. I agree the Council’s arguments, although I do not accept that Malton/Norton should have 50% of all new housing.

2.3.4. The Council has discovered flaws in the data used by them and are currently in the process of assessing this and re-running the relevant computer model. I may wish to add further comments when I have seen their work. Homework items 35 and 37 refer.

2.4. Windfall Sites and Heritage Enabling Development

2.4.1. A further issue arises in regard to “windfall sites” and the impact of the policies on heritage enabling development.

2.4.2. Reference is made to paras. 7.5 and 7.8 of the draft Ryedale Plan. Para. 7.5 states that the district is one of only a handful with between 35 -50% of designated “high-grade” assets being classed as “at risk”. The question then has to be asked: how much is it going to cost to put these assets right, and how many is this going to be in terms of new houses? Para. 7.8 provides answers. It refers specifically to Castle Howard. It states that Castle Howard is home to 20% of Ryedale’s most important Listed Buildings, and requires £24M for essential maintenance and repair. If this is correct, it is possible that the total cost of bringing all of Ryedale’s designated high-grade assets into a good state of repair is going to be five times £24M – ie. £120M. At an average land value of £800,000 to the acre, this could result in another 1,500 houses being required for heritage enablement.

- 2.4.3. The question is: how should this potential development be taken into account in regard to assessing numbers of new houses?
- 2.4.4. The Council team say that these houses will be considered in the same way as “windfall sites”. So, how should windfall sites be considered? Para. 48 of the NPPF says that LPA’s may make an allowance for windfall sites when assessing their five years’ supply. It follows that windfall sites might also be taken into account in determining the 15 year housing requirement under the draft plan, and indeed the Council have already done this, as according to para. 4.11, over the period 2002-2011, 82% of the 1442 homes built in Ryedale originated from unanticipated windfall sites. The Council have nevertheless included the numbers of the houses built on these windfall sites in the number of housing completions which determine whether or not they have met their housing targets. If windfall sites can be used for this purpose, why should there not be an allowance in the plan for windfall sites in determining how many new houses are required? It is a simple matter of comparing like with like.
- 2.4.5. Para. 14 of the NPPF sets a presumption in favour of sustainable development as a “golden thread running through both plan-making and decision-taking”. The presumption means, inter alia, “meeting the objectively assessed needs of an area”. The NPPF makes it clear that sites for heritage enabling development may be provided in places where planning permission would not normally be granted. However, I can find nothing in paras 126 – 141 of the NPPF which would suggest that the “golden thread” of the requirement to “meet the objectively assessed needs of an area” does not apply to heritage enabling development. In other words, heritage enabling development can be built on sites which would not otherwise be available, but they must still meet an objectively assessed need. As all other development which is required to meet an objectively assessed need has to be included in the district’s housing numbers target, it would seem to me that so should the anticipated number of heritage enabling houses.
- 2.4.6. I therefore do not accept the Council’s answer to Homework Item 16.
- 2.4.7. The Council did not accept these arguments because they don’t think a significant number of heritage enabling houses will be built. I think this is the attitude of the ostrich with head in the sand for the following reasons:
- 2.4.8. Firstly, the Council said that most of the land owned by the owners of the relevant heritage assets would be so heavily constrained with environmental constraints that there would be only a very few sites which would be available. To this I responded that we are talking about huge country estates – not just the big house and the grounds around it. I pointed out that, for example the Birdsall Estate comprised over 7,000 acres, all of which was directly farmed by the estate office, whereas in the case of many other big estates, their landholding was vast, and rented out to tenant farmers, so that it is not immediately obvious which

land is owned by the relevant estate. There are several big historic estates in Ryedale – eg. Castle Howard (the Howard family), Hovingham Hall (the Worsley family), Ampleforth Abbey and School (the Roman Catholic church), the two separate branches of the Fitzwilliam Estate (Fitzwilliam Malton Estates – FME, and the Fitzwilliam Trust Corporation – FTC), Scagglethorpe Hall(the Legard family), Settrington Hall, Duncombe Hall at Helmsley (the Feversham family), the Birdsall Estate etc. If each of these needs to build a few hundred houses, the numbers will be significant and do need to be taken into account. And, of course, Castle Howard said they were already discussing with the Council four sites for development s of about 30 houses each.

- 2.4.9. Further, for the council to say that heritage enabling development will be restricted by planning and environmental constraints, they could be in conflict with NPPF policy para. 140, which makes it clear that proposals for heritage enabling development which “would otherwise conflict with planning policies” should be permitted subject to a balancing exercise which is designed to ensure the future conservation of the heritage asset.
- 2.4.10. The Council’s second argument (for which they produce no evidence) is that as the owners of the heritage assets will be required to find other ways of financing requisite works before they resort to heritage enabling development, only a small number of enabling houses will be required. Yet, Castle Howard is one of the foremost visitor attractions in the North of England and is acknowledged by the Council as being of international importance. The Council accepts in para. 7.8 of the draft plan that Castle Howard requires £24M for essential maintenance and repair. Castle Howard welcomes thousands of visitors every year. Their agent said the building was “wearing out” due to age and this was happening all at once all over the asset. If they can’t afford to pay this amount out of visitor receipts and other resources and still need £24M, what hope is there that Ryedale’s other historical assets will be in a better financial position? One has to bear in mind that many (if not all) of these assets were built in or before the Georgian period, and they could all be “wearing out” at about the same rate and time as Castle Howard.
- 2.4.11. It follows that the Council’s answer to Homework 13 should not allay concerns about the quantity of heritage enabling development.
- 2.4.12. In these circumstances, there would seem to be a potential for this policy to produce a large number of houses – large enough to undermine some of the other policies in the draft plan (particularly the policy requiring all market development in the “other” villages and surrounding countryside to be subject to local occupancy conditions). It would therefore seem appropriate to take the anticipated number of heritage enabling houses which are likely to be built in the next 15 years into account when determining the future requirement for the

number of new houses. This could be done by asking English Heritage to contact all of the owners of the major heritage assets in the district and inviting them to submit details and estimated costs of any essential maintenance and repair which they would expect to be funded by the building of heritage enabling houses. English Heritage should be able to verify the information when received, consider the funding resources available to the relevant estates and give the council an idea of the numbers of houses likely to be required. This number could then be taken into account when determining the total number of new houses required throughout the district and their distribution.

3. Distribution Of New Development

3.1. Commercial Development

- 3.1.1. It will be evident from the papers submitted to the inspector that, throughout the Ryedale superstore saga I have consistently urged the Council to deal with this issue through the local plans process and not ad hoc. Indeed, in a letter dated 9th December 2008 the Council's Chief Executive agreed to this (My Folder 2 Ex 7 [under tab 7]). However this promise was dishonoured three months later without notice, and the Council proceeded to pre-empt the plan by getting an ad hoc decision. Fortunately, the Council was not successful, as FME appealed against the refusal of their Cattle Market application, and the Council have conceded that no permission can be granted for Wentworth Street, because the Committee were wrongly advised and so the matter would have to go back to committee. This leaves the district with the position that the supermarket issue would now seem to have been resolved through the appeals process. Accordingly it should now be possible for the Council to complete homework Items 23 and 24.
- 3.1.2. I enclose a copy of the decision notices in regard to the Cattle Market application and the appellant's application for costs. It will be seen that permission has been granted for the redevelopment of the Cattle Market site, which would have a net convenience retail sales area of 1,590 sqm.
- 3.1.3. Policy SP7 requires 1,890 sq.m. of food retailing (convenience) space to be directed to Malton. It follows that the the Cattle Maraket permission takes up most of this directed figure. Further, as mentioned above, there must be deducted from the figure of 1,890 sq.m, a further 812 sq.m convenience net sales area in regard to the permission granted to TESCO at Kirby Moorside on 26th June 2012. The consequence of this is that, according to the plan there is no further quantitative capacity to accommodate any more convenience retail development.
- 3.1.4. However, there is a need to support village economies, and it is suggested that a n exception should be made in respect of new proposals for these, if and when

they come forward. However, these should not be of a size which might undermine existing town centres.

3.1.5. There is one other matter which should be drawn to your attention, and that is the statement of Councillor Keith Knaggs, Ryedale's leader, recorded at tabs 21 and 22 of my Folder 2 in which he says: "If, as officers say, there will be too many discount stores in Malton and Norton, the weakest will close. These decisions should be taken by the free market and not by planning officers". It will be seen that he made this general statement in regard to his overall belief of how national planning policies should be interpreted in a debate concerning the grant of planning permission for the site at Welham Road Norton, when he led the committee to vote against officers' and consultants' recommendations for refusal.

3.1.6. Reference is also made to Counsel's summing up statement and the decision notices of Inspector Wildsmith in the Cattle Market Case (particularly the decision notice on the costs application). It would appear from these that Inspector Wildsmith was far from satisfied that either officers or consultants had provided objective and impartial advice to Council members. It is feared that this case will not be the last one in which advice of this kind is provided to members. It is therefore a matter of the utmost importance that the Ryedale Plan in its final version should make the position on retail crystal clear beyond even a shadow of a doubt that no more supermarkets (whether superstore size, large, standard sized, medium or small) are required in the whole of Ryedale during the plan period.

3.1.7. On the basis of all the above, it is suggested that:

- paragraph 5.25 of the draft plan should be deleted together with all references in other parts of the plan to the "Northern Arc";
- Policy SP7 should be amended by deleting the Food (Convenience) Retail section and substituting:
- "No provision shall be made for any new food (convenience) retailing space throughout Ryedale, except that this shall not prevent consideration of proposals for small retail outlets in villages, "small" being defined as having a net internal sales area of 250 sq.m or less ;
- " Appropriate land allocations will be made through the Sites Document to accommodate the identified comparison need for the time being, taking into account commitments. Local floorspace threshold for the assessment of impacts on a Town Centre will be 500 sq.m. gross for comparison schemes."

- The text should be amended to include reference to the Cattle Market decision.

3.1.8. As regards the relocation of the Cattle Market, this is something which would enhance Malton. There is no way of changing the permission which has been granted by Inspector Wildsmith, but there is a requirement in that permission for a Section 106 Agreement requiring the payment of £172,500 in regard to highways works. It is not possible to alter the decision so as to require the appellants to pay a sum to assist with the relocation of the Cattle Market. However, I would ask the inspector to consider including a permissive note in the policy so as to permit the Council to use the money received for highways works to assist relocation.

3.2. As regards employment proposals:

3.2.1. Policy SP6 of the draft plan advocates a district wide allocation of 37 – 45 ha. for employment development, of which (as now clarified in Homework Item 22) 80% is expected to be in Malton/Norton. I have suggested 27.9 ha for the district. The Interim Malton/Norton Neighbourhood Plan recommends 19ha for Malton and Norton. This 19ha does not represent a percentage. It is the figure which should apply, whatever the overall allocation is for the district. I have made it clear that I have reservations about the figure of 19ha: I think this is far too much, but I am nevertheless resting my case on the Interim Neighbourhood Plan.

3.2.2. Para.14 of the NPPF requires the Council to provide for the objectively assessed needs of an area. The draft plan identifies a number of areas: the principal town (Malton/Norton), the other market towns, the Service Villages and the other villages (and the surrounding countryside). Yet, the plan requires Malton and Norton to accept 80% of all new employment development.

3.2.3. Table 5.1 (pp62-63) of the ELRU (TE 44) identifies the existing employment areas throughout the district, and from this it is possible to conclude that Malton/Norton have only about one third of this. Table 4.9 (p.59)of the ELRU assesses the number of new residents who work or are likely to work in Ryedale. Its assessment is that 1,000 new homes will produce 279 residents who will work in Ryedale; 1,500 new homes will produce 419 people who will work in Ryedale and 2,000 new homes will produce 559 people who will work in Ryedale. Para 4.42 ELRU (p.81) indicates the amount of working space required by workers in regard to B1, B2 and B8 uses. Bearing in mind that the ELRU suggests that most new jobs are likely to be office jobs, there will clearly be a considerable excess of employment space over and above what is needed to accommodate the new workers from the new homes planned to be built in Malton/Norton. It follows that the objectively assessed needs of Malton/Norton in terms of new employment will be exceeded considerably and the objectively

assessed needs of all the other areas will not be met. This also means an increase in carbon emissions beyond what might be expected if the proposed employment development were to be more dispersed. There will be additional pressures on the towns' infrastructure, particularly the highways network – a point which will be dealt with below.

- 3.2.4. No convincing arguments have been produced by the Council to demonstrate why the benefits of this should outweigh the harm, except vague and unverified generalisations that there is no demand for new employment land outside Malton/Norton. To this I respond that there does not seem to be much demand anywhere at present, but the recession cannot last forever, and when it ends there should be an abundance of demand everywhere. In any case it is unwise for the Council to put all its eggs in one basket now. As Mrs. Thompson said, the plan will be reviewed in 8 years' time, and the situation could be re-assessed then.
- 3.2.5. Both the Council and myself have produced sustainability appraisals on the employment issues. However, one of the assumptions made by the Council's SA is that the draft plan's impact on the highway network will be acceptable, whereas my SA does not make this assumption. This depends on whether or not the Malton and Norton Strategic Transport Assessment (STA) provides a valid assessment of the traffic impact. It will be seen below that it does not. If that is correct, my SA should be given greater weight than the Council's SA.
- 3.2.6. There is a second issue which concerns employment policy. This is the proposal at the bottom of Page 71 to provide a new science and technology business park in Malton/Norton. This is a proposal which was recommended in the ELR (TE43), but hardly mentioned (if at all) in the ELRU (TE 44). TE 43 not only recommends the principal, but also recommends a site – namely Eden Road – a site on the side of the A64 which is opposite to the towns. TE44 not only does not recommend the principal, but it also recommends the Eden Road site for an entirely different use – namely “a business looking for a large single use employment site, or an edge of town location for a more general business park offering a range of uses, for example hotels. offices etc.”
- 3.2.7. It was argued that I was confusing a general core strategy policy with a site specific issue. I denied this. Para 5.10 of the draft plan recommends the allocation of land for a new science and technology business park in the context of the ELR (TE 43). It is therefore quite clear that when it comes to allocating land for such a new business park, the Council will have to take into account the ELR's recommendations for the Eden Road site, and will be effectively directed to allocate this land.
- 3.2.8. I would mention that this is not the only instance in the draft plan where a site specific proposal has been dressed up as a general policy recommendation. The inspector will recall a similar debate on whether or not a paragraph in the text

was site specific on Para. 5.25 of the draft plan in regard to a proposed “Northern Arc” which purports not to be site specific, but in effect makes Wentworth Street Car Park the favoured site for a new superstore.

- 3.2.9. My statement in Folder 1 explains my concerns about the Eden Road site.
- 3.2.10. My statement in Folder 1 also questions the evidence for the need for a new science and technology business park, and examines the reasoning given for it in ELR (TE43). However, the argument was vigorously and enthusiastically pressed by the Council at the hearing, but the argument put forward was not supported by verifiable evidence. One has to ask: is it really likely that new science and technology industries will want to locate so far from York University?
- 3.2.11. When Eden Road last came forward for development in 2007 (two years after the ELR was published), the proposal turned out to be not a science and technology business park, but for managed works units, together with what turned out to be a massive warehousing complex. There is clearly a danger that if this land is allocated, it will open up land for development on the opposite side of a dual carriageway to Malton and Norton whereas the dual carriageway could otherwise form a natural visual barrier to any further expansion of Malton/Norton. In this respect para 22 of the NPPF could prevent any employment allocation there from obtaining permanent protection, thus leaving the site open to all kinds of development, including housing development spilling out into the open countryside.
- 3.2.12. I can see no reason why any science and technology businesses cannot be located on an expanded existing industrial site, or why part of such an expanded business park could not be set aside specially for science and technology industries. Further, as the plan will be reviewed in 8 years time, there will be an opportunity to revisit this subject then – when hopefully the national economy will have improved.
- 3.2.13. The words: “and for the provision of a new Science and Technology Business Park at Malton and Norton should therefore be deleted from the last paragraph on page 71 of the plan.
- 3.2.14. In my pre-hearing representations I proposed amendments to Policy SP6. I repeat these, subject to the substitution of 19 ha for the 17.5 ha allocation of employment land for Malton/Norton.
- 3.2.15. It is submitted that the plan will be unsound unless this is done.

3.3. Housing

- 3.3.1. Policy SP2 of the draft plan directs 1500 new houses to Malton and Norton. It is understood that this is in addition to existing permissions which have not yet been implemented. In reply to a question from the inspector, Mr. Wheelwright said that the 1500 number was a final number and did not reflect a percentage. In this he was contradicted both before and after he had made it by Mrs. Thompson and Mr. Elliott. They had made it clear that the amount of new housing development which Malton/Norton can be expected to accommodate should be determined by the flawed Malton and Norton Strategic Transport Assessment (STA) (see below), and that the housing target for the entire district should therefore be restricted to double the amount of new housing that can be accommodated by Malton/Norton. It follows that the entire plan is predicated on the amount of new housing which can be accommodated in Malton/Norton, and it was made clear that the plan “will not work” unless Malton/Norton can accommodate 50% of all new development.
- 3.3.2. Further, none of the Consultation options put forward in the 2009 public consultation document in HD 10 (page 27) were for less than 50% of all new houses to be built in Malton/Norton.
- 3.3.3. So, how many houses are we actually talking about in Malton/Norton? The answer is not just 1,500 houses, but 1,500 plus 50% of the 600 house 20% “buffer”, plus 50% of the 500 or more house “backlog”, plus any heritage enabling houses required by FME or FTC – making a total of over 2,000 houses.
- 3.3.4. This fits comfortably with the 2,165 houses of Option 4A deemed to be acceptable by the Malton and Norton STA (Page 87). The STA is dealt with further below.
- 3.3.5. The next question is whether or not this level of development is sustainable. Both I and the Council have submitted sustainability appraisals. However, one of the assumptions which underpins the Council’s SA is that the STA is correct in regard to the amount of development deemed acceptable for Malton and Norton in Option 4A. If this is not right, my SA, which makes no such assumption, should be given greater weight. The STA is discussed below.
- 3.3.6. The next question is whether there is an objectively assessed need which requires Malton/Norton to accept this level of new housing development.
- 3.3.7. I refer to the two Ryedale District Housing Needs and Market Assessments of 2007 and 2010 (TE20 and TE 21), and the ENTEC study on affordable housing viability (TE 18)
- 3.3.8. Draft plan para 4.12 shows 82% houses built from unanticipated “windfall” sources; 46% outside market towns; and 86% of the 82% on small developments

of less than ten houses. On this basis maximum need/demand for estate-type development is 35 houses pa.

3.3.9. Entec study (May 2010 – TE18) shows that prices are higher, the further West one goes, and that house prices in Malton/Norton are not high.

3.3.10. Table D13 of SHMA 2010 (TE21) p. 152 gives the affordable housing requirements of Malton/Norton as 80 (29%), and that of the district 272 (100%).

3.3.11. Table 3.3 (p33 SHMA 2010) appears to deal with all housing (affordable and market). The table shows destinations of families moving into Ryedale, from which the following can be calculated:

Number of households moving into Malton/Norton from inside Ryedale	68% x 1,562	1062
Number of households moving to Malton/Norton from outside Ryedale	1,562 – 1062	500
Percentage of households moving into Malton/Norton from within Ryedale	1062/3399 x 100	31%
Percentage households moving into Malton from outside Ryedale	500/2961 x100	16%
Total percentage households moving into Malton/Norton from both inside and outside Ryedale	1562/6360 x 100	24%

3.3.12. These figures and calculations are not disputed, except that the latest figure for need for affordable houses is higher than 80 pa, but is still far below 50%. It follows that an objectively assessed housing distribution for Malton/Norton of 50% has not been made out. The objectively assessed need is 24%.

3.3.13. As stated before, the draft plan divides the district into a number of “areas”: the principal town (Malton/Norton), the other market towns, the service villages and the “other” villages. It follows that, if the number of houses to be built in Malton/Norton exceeds the objectively assessed need, then the objectively assessed needs of the other areas (particularly the “other villages” and the surrounding countryside) will not have been met. The question then is: what is the impact of this on the soundness of the draft plan?

3.3.14. There is a further issue which arises out of the Council’s answer to Homework Item 9. In this it is stated that Norton’s “missing quadrant” had not been taken forward in the Plan, but that the growth of the towns would be “rebalanced” by

focusing future development on Malton. This is astonishing, bearing in mind that the draft plan is said to depend on the completion of the Brambling Fields interchange works, and this will not service new development in Malton.

4. Soundness of the Plan

- 4.1.1. The Council seem to consider their proposals for Malton/Norton are fundamental to the soundness of the draft plan. On several occasions the Council's team have made it clear that the entire plan would not "work" without the completion of the Brambling Fields Junction; that the main purpose of the completion of Brambling Fields is to enable Malton/Norton to accommodate new development, including 50% of all new housing development and 80% of all new employment development, that the amount of new housing development which Malton/Norton can be expected to accommodate should be determined by the flawed STA (see below), and that the housing target for the entire district should therefore be restricted to double the amount of new housing that can be accommodated by Malton/Norton. It follows that the entire plan is predicated on the amount of new housing which can be accommodated in Malton/Norton, and if this "will not work", the draft plan is unsound.
- 4.1.2. The next question is: do the two exceptions to the requirement to meet objectively assessed needs set out in para 14 NPPF apply?
- 4.1.3. Considering the second exception first, are there specific policies in the framework which indicate that development should be restricted in some areas so as to justify loading more than the objectively assessed need on Malton/Norton?
- 4.1.4. The Council have answered this question by referring to a few paragraphs which are general in nature and not specific.
- 4.1.5. The inspector has pointed out that there is a hierarchy of environmental and planning constraints, and that if all of them were to apply, no planning permission would be given for anything anywhere. Fortunately, the NPPF does give some guidance in Note 9 as to what it means by a "specific" policy which "restricts" development. All of the examples given are high level constraints. It follows that most (if not all) of the environmental constraints identified by yellow colouring on the relevant maps in DDH 20 are not high level constraints and do not justify prohibiting development which would otherwise satisfy the objectively assessed needs of the other market towns or the service villages. The same principal will apply to the "other villages", although these are not included in the maps to DDH20. Further, the areas of "landscape local value and areas of high landscape value" identified on the key diagram on page 41 of the draft plan are also lower level constraints, and so the exception does not apply, except in the York Greenbelt and the Howardian Hills AONB.

- 4.1.6. This does not mean that the designation of lower order environmental constraints has no purpose. Ryedale has for perhaps 40 years developed a policy of using village and town development limits to restrict development. I can see absolutely no reason to abandon this policy. All the Council needs to do is to look at the existing development limits around settlements and redraw them so as to ensure that their objectively assessed development needs are met. This will ensure that the character of the villages and their surrounding countryside will be conserved.
- 4.1.7. The second exception to the rule requiring the plan to meet the objectively assessed needs of an area requires a balancing exercise to see if the adverse impacts of doing so would outweigh the benefits.
- 4.1.8. So, what are the benefits of requiring Malton/Norton to exceed an objectively assessed need of 24% in regard to housing or 33% in regard to employment?

4.2. The purported benefits

- 4.2.1. Firstly, say the Council, this will conform to the RSS. In response, the RSS has been superseded by the NPPF. This does not mean that the RSS is redundant, and although its importance has been diminished, it remains a material planning consideration which is relevant to a consideration as to whether this exception should apply.
- 4.2.2. The RSS is important in that it marks Malton/Norton out as a “principal town” within Ryedale, and therefore as the place which should be “the main focus of development”. It could be argued that this is in direct conflict with the requirement that the plan should meet objectively assessed needs, and has therefore been superseded. However, I have chosen not to rely on this argument. Instead, I have adopted the position that “the main focus of development” does not necessarily mean “50% of housing development” or “80% of employment development”, but these can be taken to be figures which are greater than the objectively assessed need, and the 1,000 houses and the 19.2 ha employment land targets set by the Interim Malton/Norton Neighbourhood Plan therefore meet the RSS requirement.
- 4.2.3. A second issue which arises out of the RSS concerns the role of Malton/Norton. My answer to this is to accept that Malton/Norton is the district’s principal town, but to suggest that not too much significance should be attached to this. Malton/Norton is after all only a district centre. As it is the biggest of four district centres within Ryedale (Pickering, Kirby Moorside and Helmsley) and has the main Council offices, it merits the description of “principal town” within the district. However, Malton/Norton sits half way between two sub-regional centres (York and Scarborough), and there are other

nearby district centres outside the district boundary (eg. Beverley, Northallerton, Thirsk, Easingwold, Pocklington etc.).

- 4.2.4. I would refer to the joint report of myself and Paul Beanland of March 2012 on Wentworth Street Car Park (submitted with my letter of 15th May 2012 on the impact of the NPPF). On Page 5 there is a plan prepared by Paul Beanland showing outlined in RED the shopping catchment area of Malton/Norton. Similar plans could be drawn in regard to employment and housing. To suggest that Malton/Norton should act like a magnet drawing in customers, services and employment from outside the district is ludicrous. Yes, Malton/Norton is Ryedale's principle town, but the range of its influence and draw is limited within the district boundaries. The role of Malton/Norton is therefore within the district and it has little role outside of it.
- 4.2.5. A third purported benefit for requiring Malton/Norton to receive 50% of the district's housing is the concern of Ryedale to keep out of the district in-migrants who the Council considers undesirable. These "undesirables" comprise in-migrants who are over 65 and come to Ryedale to retire and in-migrants who commute to work outside of Ryedale.
- 4.2.6. As regards the "undesirable" commuters, reference is made to Table 3.8 of the 2010 SHMA (TE 21) and paras 3.53 – 3.55. From this it would appear that 41.6% of residents live and work in the same village; 31.7% of residents work elsewhere within Ryedale. The rest work elsewhere in Yorkshire and Humberside. I can see nothing wrong with this, bearing in mind that the district has 550 sq.miles, and much of it is closer to district and sub-regional centres outside Ryedale. However, para.3.55 shows how this does in fact work both ways, because there is a net gain of 674 people commuting into Ryedale. So this argument has no weight.
- 4.2.7. As regards the "undesirable" pensioners, these are as likely to live in the towns as in the countryside – as should be plain to anybody who knows Malton and Norton. Further, their number is not great. Mr. Lucas made a very convincing argument about this, again quoting from documents and tables in the Council's evidence base. So this argument has no weight either.
- 4.2.8. A fourth purported benefit for requiring Malton/Norton to take 50% of all new houses relates to the countryside. What the Council is saying is that it is somehow wrong that 46% of all new homes built between 2002 – 2011 were built outside the Market Towns and "only" 54% within Market Towns. To this I replied that Ryedale comprises 550 sq.miles, and only a small amount of this is comprised within the market towns. However, roughly half of residents live within the market towns and roughly half live outside the market towns. It cannot therefore be said that past development trends have been out of balance.

4.2.9. Further, there is a need to consider the impact of heritage enabling housing. If these satisfy an objectively assessed demand for development in the open country which might attract the Council's "undesirables", the owners of heritage assets will be able to build those houses in order to overcome their "conservation deficit", and there will be nothing the Council will be able to do to stop them. So the policies of keeping the "undesirables" out of Ryedale and preventing development in the "other" villages and surrounding countryside will not work in any event.

4.3. The harm

4.3.1. What then are the adverse impacts of imposing 50% of all new housing and 80% of all new employment land on Malton/Norton likely to be?

4.3.2. Firstly in regard to housing, we are talking about expanding a settlement which in 2008 had 5,527 houses by over 2,000 homes. This is a colossal change and cannot fail to change the character of the settlement, so that it becomes urbanised and is no longer perceived as a country market town.

4.3.3. Secondly in relation to housing, there will be issues concerning the integration of the new residents within the community, which could result in the breakdown of social cohesion, together with an accompanying increase in anti-social behaviour.

4.3.4. Thirdly, I repeat the various relevant points made in my Folder 1 and in my housing and employment sustainability assessments.

4.3.5. Fourthly, there will be difficulties in regard to infrastructure. Mr. Skehan and Malton's mayor, Councillor Fitzgerald-Smith told the hearing about the smell coming from the inadequate sewers at the bottom of Wheelgate, and how this used to be evident only in Winter, but had now worsened so as to be evident in Summer as well. Although the County Council education office was represented, I did not pursue the issue of the capacity of local schools because I have done no work on this, and would not have been able to respond adequately to his arguments. However, if one assumes that one new house in four will produce a child of school age, this means an increase in children of school age of 500. Malton and Norton schools currently have less than 700 schoolchildren each. So, clearly one has to have concerns in regard to the impact on local schools

4.3.6. The fifth type of harm is the increased carbon emissions which will take place if 80% of all new employment land is allocated to Malton and a substantial number of workers from the 50% of new houses not to be built in Malton/Norton have to come to Malton/Norton to work.

4.3.7. The sixth type of harm which is likely to result from exceeding the objectively assessed demand in Malton concerns the policy of heritage enabling housing. As

previously discussed, the Council can expect a substantial number of these houses to be built in Ryedale during the plan period. As most of the major heritage assets are situated in the countryside, most of the heritage enabling houses will be built in the “other” villages or in the surrounding countryside. This will probably result in a situation where the amount of housebuilding in the “other” villages and surrounding countryside may not reduce very much, but there will be an outcry as people who want to build find they can’t build a house without local occupancy conditions on their land, but the local gentry can. It will be seen as a case of “it’s not what you know: it’s who you know”, and this could seriously undermine the credibility of the heritage enabling housing policy. The way to resolve this is to reduce the allocation for Malton/Norton and allow some house building in the “other” villages which is not subject to local occupancy conditions. This could be done by continuing the policy of allowing development (without local occupancy conditions) within village development limits, and expanding existing limits.

4.4. The harm - highways issues

- 4.4.1. As regards highways, this is a matter on which I have done some work. For those who know Malton/Norton, the town is a small attractive country market town with a mediaeval road network which adds charm to the town. There is no direct access to Malton town centre from the A64 bypass. The settlement already has serious problems in terms of junction capacity. In my view, one doesn’t need to be a genius or a highly paid highways surveyor to realise that the combined impact of 2,000 new houses, 80% of all new employment development, and a new supermarket is likely to completely overwhelm the network.
- 4.4.2. However, the Council say that they have a consultants’ report which says that the impact of their proposals will be acceptable in highways terms. So how have they reached a conclusion which seems to defy common sense?
- 4.4.3. So I now refer to the Malton and Norton Strategic Transport Assessment (STA) of October 2010 and the draft of the same document dated February 2010
- 4.4.4. My first point is that Council members have never actually considered the STA. I refer to my note of the Council meeting of 15th December 2009 (My Folder 2 EX 19 & 20 under tabs 19 & 20). It will be seen that the Council made a decision to approve the Core Strategy without having seen the draft STA: instead they took a short letter from County Highways at its face value. The letter is reproduced at EX 20, and it is difficult to see how members could have been expected to make a decision, if they were not even told what “Option 4A” was.
- 4.4.5. My second point concerns the consultation on the STA. There was discussion at the hearing as to whether or not the STA had been consulted on or should

have been consulted on or should have simply been treated as a technical document which did not merit consultation. I would invite the inspector to take the view that, although the STA is a technical document, it does contain data which a lay person might question (see below paras 4.4.6 – 4.4.11), and so it was right that it should have been consulted upon. In homework 26 the Council confirm that they did present the STA as a draft to a briefing with Malton and Norton Town Councils in March 2010. My recollection is that they brought Jacobs consultants with them to answer questions, and that many questions were asked, and there was considerable anger. My recollection (which is shared by the Mayor and others) is that this was a consultation. That is why the Town Council wrote a letter to Ryedale in response to this consultation. I recall being told that there would be further consultation, following which the draft would be finalised. This consultation did not take place. I cannot recall being told that the STA was a technical document and that we had to accept it as it was. I cannot see why the Council should present a document in draft form to a public meeting except for the purpose of consultation. The draft is dated February 2010, and the final STA is dated October 2010. The Council's failure to consult is relevant in assisting the inspector to determine whether or not all reasonable alternative strategies were considered by the Council under NPPF para.182.

- 4.4.6. My third and most important point is that the STA would seem to be fundamentally flawed because the list of developments used as a baseline is fundamentally flawed. Reference is made to Page 1 of the draft (see EXH1 of my Folder 1). This says that "Group 1 represents development sites which have been given planning permission and are therefore committed or allocated and likely to be developed first"
- 4.4.7. All these sites have been analysed in the Highways section of my Folder 1. It would appear from this that most of the sites do not fit the definition quoted above. The definition itself suggests that what the list was intended to represent was existing commitments (ie. sites within existing development limits and sites outside development limits with planning permission). This is what one would expect. One would then input the list of commitments and run the computer model to compare the impact on junction capacity of what is proposed in the draft plan with the current situation plus existing commitments. However, this list does not reflect existing commitments. It goes well beyond this, and instead reflects the Council's aspirations in addition to existing commitments.
- 4.4.8. I had some correspondence with the Council on this issue, and several months later in October 2010 they published the final report. Exactly the same list as was in the draft appears on page 11 of the final document. However, the definition has changed. Instead of the previous definition, there is instead a bald statement (Para.3.3.3) which states: "The development assumptions of the Group 1 (Stage 1 & Stage 2) development sites are as follows". There is no account

given as to what criteria have been applied in determining whether or not an item qualifies for inclusion in the list.

- 4.4.9. The Council have confirmed (Homework 29) that they provided this list to the consultants, and that neither the County Council nor the consultants verified it. The Council cannot therefore hide behind either the consultants or the County Council, and say they were merely acting on the advice of consultants, and felt they had to accept the advice they were given. It follows that it doesn't matter how many meetings there may have been with County officers or consultants as indicated in Homework 26, if they didn't verify the list, they cannot be said to have approved it, and if the list was mistaken, then any approval given by them must also be mistaken.
- 4.4.10. Computer programmes and models work on the principle of "garbage in: garbage out". If one inputs valid data, one is likely to get a valid output. If the data that is input is flawed, then so will the output. In this case the consultants, acting on the Council's instructions, have input data which do not reflect just existing commitments, but also the Council's aspirations. Consequently the output also reflects the Council's aspirations, and as there is little difference between the Council's aspirations and the policies in the draft plan, it should be no surprise if when the two were compared by the Saturn programme, an answer was produced which defies common sense.
- 4.4.11. Further, it is suggested that the Council have, in effect, conceded that the traffic likely to be generated by the draft plan's proposed policies will have a severe adverse impact on junction capacity within the two towns. This is the conclusion which can be drawn from the A64 Connectivity Study which recommends Park and Ride services to be provided during 2016 – 2021. I requested a copy of this document should be added to the library. I'm not sure this has been done. I can recall that the Council argued that this was not necessary because the connectivity study relates to the whole of the A64 and has limited relevance to Malton. I disagree because a park and ride facility is a matter which is directly relevant to the draft district plan, as land will have to be allocated for it, and the draft district plan should make provision for this and set the criteria for the necessary land allocation. It would therefore be appreciated if a copy of the document could be provided to the Inspector.
- 4.4.12. Another point concerns the effect of the Brambling Fields interchange. This was supposed to take HGV's off Malton's internal road network. However, this may not have been achieved. Please find attached a copy of a newspaper report which states that the diameter of one of the two new roundabouts at Brambling Fields is not wide enough for modern HGV's and recommending lorries not to use Brambling Fields. This suggests that far from easing the problem of HGV's passing through Malton/Norton, the new improvements may have made matters

worse, as before the improvements, HGV's could use the three slip roads which had been built with the bypass. Now it may only be possible for them to use two of them. However, according to Homework 27, the STA has been prepared on the assumption that Brambling Fields will be in place and (presumably) achieving the objectives set for it. If this is not the case, then again the computer model is likely to have produced an outcome which may not correspond with reality

Conclusion in regard to meeting objectively assessed needs as required under Para 14 NPPF.

4.5. In the light of the above, it would appear that the objectively assessed needs of Malton/Norton have been exceeded and the objectively assessed needs of other areas within the district have not been met. It is also evident that none of the exceptions to the requirement to provide for the objectively assessed needs of an area apply, as the harm of exceeding the objective assessed needs of Malton/Norton and not meeting the objectively assessed needs of other areas easily outweighs the benefits (if there are any).

4.6. In these circumstances, I think the inspector was right to conclude that the draft plan is not the right plan for Malton/Norton. As the draft plan depends on Malton's objectively assessed needs being exceeded to the extent of imposing 50% of all new housing and 80% of all new employment land development on Malton/Norton, it follows that this makes the entire draft plan unsound.

4.7. Is there another alternative – NPPF Para.182.

4.7.1. However, it might be possible for this unsoundness to be remedied if the Council have considered all other reasonable alternatives and there is in fact no reasonable alternative.

4.7.2. NPPF para.182 requires the plan to to be the most appropriate strategy, when considered against the reasonable alternatives, based on proportional evidence.

4.7.3. This raises the question: Have the Council considered the reasonable alternatives? In their answer to Homework 10, they say they have. This is not accepted.

4.7.4. I refer to HD10, the Summer 2009 Consultation document. This is full of loaded questions and seeks to encourage consultees to support the policies which the Council wanted to pursue. For example, PP19 – 27 of this document deal with housing. Three options are provided, but the explanatory text on the third option is almost twice as long as the discussion on the other two, and draws attention to the fact that this was the option which had been preferred in the abortive 2006 draft plan, that the inspector at the 2006 draft plan EIP had agreed

certain aspects of this option. This third option is, of course, the market towns and service villages option which is the basis of the current draft plan.

- 4.7.5. In pp 26 and 27, the consultation document examines how much housing should go to different places. The last paragraph on page 26 states: “The options proposed always directed at least 50% of development to Malton/Norton as a strategy led approach of focussing new housing growth at the Principal Town. This was something that was suggested by the Inspector at the Examination into the Core Strategy”.
- 4.7.6. I do not recall that inspector suggesting he would agree 50% new housing in Malton/Norton. The first section of my statement in Folder 1 contains my recollection of what happened at that EIP. My recollection is that the inspector could not approve the 50% because of a number of matters, including the fact that it was a figure which had not been consulted on. However, the inspector (who was also the inspector at the EIP into the abortive 2006 plan) will know whether or not I or the Council are mistaken in this respect.
- 4.7.7. The table on page 27 lists a number of options, but in every one of these, Malton/Norton is required to take 50% of all new houses. The public were never given the opportunity to consider an option which gave Malton less than 50% of all new houses. As the public were not given this opportunity, the Council, when considering the outcome of the consultation, were also unable to consider an option where Malton/Norton would have less than 50% new housing. This was in spite of repeated requests by Malton Town Council and the Malton and Norton Area Partnership to consider an option which gave less than 50% new housing to Malton/Norton. I can recall Mr. Rudd attending a meeting of Malton Town Council and flatly refusing to ask Ryedale to consider a lower percentage. I can recall RDC officers attending a meeting of the Malton and Norton Area Partnership when the same point was made. I can recall the Town Clerk writing letters to confirm the Town Council’s objection to this.
- 4.7.8. I cannot see how an option for less than 50% new houses in Malton/Norton could not be considered to be part of a reasonable alternative strategy. It would therefore seem that the Council cannot have considered all the reasonable alternative strategies as required by NPPF para. 182.
- 4.7.9. Further, early in 2011 a task group was set up comprising members of Malton and Norton town councils (including myself), representatives of Local Business, and of the local community to see if we could come up with a Neighbourhood Plan for both towns. This was the result of continuing frustration with the District Council in regard to what the district council wished to impose on our towns in the district plan. This was presented to both town councils in March 2011, and it was resolved “to adopt the Malton and Norton Neighbourhood Plan

document for the purpose of taking it through a public consultation process.....” and a sum of £6,000 was allocated to fund the consultation.

- 4.7.10. The purpose of the £6,000 was to pay the fees of a planning consultant (Kathryn Jukes) to direct a full, fair and unbiased public consultation for residents of Malton/Norton and the surrounding parishes (including preparing documents and reports).
- 4.7.11. Ryedale’s reaction demonstrates just how determined they were not to consider any reasonable strategy other than their own.
- 4.7.12. A complaint to Ryedale’s Standards Board was made in the name of the Chairman of the District Council. The grounds of this complaint were “that the members of a group.....that had come together in a campaign against the sale of Wentworth Street Car Park have not declared aand personal interest in Malton Town Council on 30th March 2011 when voting in favour of the Council using £6,500 of taxpayers’ money to pay a planning expert to prepare a document initiated by” that group.
- 4.7.13. In other words we were being harassed and persecuted because we dared defy Ryedale by consulting local residents to find out what they wanted.
- 4.7.14. Five of us were prosecuted in this way. The matters we were charged with were increased as the complaint progressed. The complaint was made in April, and the final “trial” took place in September. At the trial we were all acquitted of having either a personal or a prejudicial interest, although for some reason we cannot understand, we were found guilty of not registering the interest which we had been found not to have had. The whole exercise is estimated to have cost Ryedale more than £5,000. The inspector will find copies of the relevant documents under Tab APP4 in my Folder 2. Paras. 6.9 – 6.12 of the statement at the beginning of my Folder 2 provides a more detailed account of this saga.
- 4.7.15. The public consultation was carried out over a period of six weeks in May/June 2011. Kathryn Jukes provided a report on the consultation which will be found in my Folder 2 under tab APP6. This report was considered by Malton and Norton town Councils, I think in September 2011. A schedule of alterations was prepared to take into account the result of the consultation, and this was adopted by both Councils with a few small alterations as an “interim” neighbourhood plan. A copy of the pre-consultation draft neighbourhood plan, the consultation report and the schedule of alterations will be found under Tab APP6 in my Folder 2.
- 4.7.16. Soon after the adoption of the interim plan, the plan and the consultation report were submitted by the Town Clerk of Malton and the Mayor of Malton to Ryedale. Ryedale subsequently applied to the Department of Communities to

give the interim neighbourhood plan “front-runner status” so as to enable further work to be done on it, and subsequently obtained an award of £20K on behalf of both Town Councils to enable this work to be done. In spite of this, Ryedale has given a status of “little weight” to the interim neighbourhood plan, has not reported it to any committee of Ryedale or asked members to even consider it.

4.7.17. At the hearing, the Ryedale team disputed this. They said that a CD containing a copy of the interim plan had been circulated to members for consideration. My response to this is that, even if the interim plan was circulated to members on CD, very few (if any) members would have taken the trouble of reading it. Further, no report was ever made to Ryedale describing the policies in the interim plan and asking members for comments. No consideration was given to going out to consultation on it or to doing anything else with it. If officers say this is not correct, I challenge them to produce the written committee and Council reports which prove me wrong.

4.7.18. This clearly demonstrates that the Council did not consider the reasonable alternative strategies which were set before them. The plan is therefore unsound because it does not satisfy the requirements of NPPF para. 182.

4.7.19. Further evidence of the Council’s failure to even consider any option with less than 50% of houses in Malton/Norton is provided in paras. 6.1 – 6.13 (pp 7- 10) of my statement in Folder 2 and the appendices and exhibits therein referred to. Many of the incidents referred to relate only to the supermarket issue, but some (eg. the highways matter and the complaint to Standards relate to the employment and housing issues as well. It should be clear how determined Ryedale are to get what they want, whether it be right or wrong. If the inspector finds this hard to believe, he has only to read the final submissions of Peter Village QC and the two decision letters of Inspector Willdsmith on the Cattle Market Appeal.

4.7.20. So far the Inspector has been reluctant to look at the evidence of inappropriate behaviour and suppression of dissent, perhaps because this is partly politics. However, now that the Council have denied that they refused to consider any option of less than 50% houses for Malton/Norton, this evidence has become relevant in determining whether or not the Council considered all reasonable alternative strategies in accordance with NPPF para.182. I would therefore ask the Inspector to look at this evidence and decide for himself whether or not the Council is in breach of that paragraph.

4.7.21. The question then arises as to whether or not the alternative strategies and policies recommended in the interim neighbourhood plan were sufficiently “reasonable” to merit consideration under NPPF para.182.

4.7.22. Neither Malton nor Norton Town Councils have the resources to gather their own data. So all the data used for the preparation of the interim plan had to come from the Council's documents. It follows that both plans are based on the same data. As a former planning advocate I was able to go through the most relevant Council documents and test and check them to see if their conclusions were justified by the data and calculations used. On this basis I prepared six documents, and much of the interim plan was prepared on the basis of a discussion of these documents. Later in the process Kathryn Jukes was asked to assist, and she altered and re-wrote some of my papers. The interim plan itself in its pre-consultation form was written by Emma Brooksbank and Denys Townsend, relying on Kathryn's work. Kathryn vetted and advised on the pre-consultation document. As the inspector pointed out, the interim plan is written positively. I would confirm that it was intended to be a positive document which would be helpful to Ryedale. The papers I have submitted to the Inspector at this hearing are partly based on my original work and partly on the work carried out by Kathryn. They are written in support of the Malton and Norton Interim Neighbourhood Plan.

4.7.23. I would add that, as a district councillor I have a wider remit than the Town Councils. The Town Councils can only propose a Neighbourhood Plan for their towns. I can go further than this and suggest how the draft district plan could be modified so as to accommodate the interim neighbourhood plan.

4.7.24. One of the reasons the Council gives for attributing little weight to the interim plan is that it is not evidence based. It should be seen from the above that is indeed evidence based – in fact the data on which it is based is the same as the data used by the Council to support the draft Ryedale Plan.

4.7.25. Para. 81 of Inspector Wildsmith's decision letter on the Cattle Market Appeal states:

4.7.26. "On other matters, I have noted that the conclusions of the "Retail" section of the draft Malton and Norton Neighbourhood Plan add support to development along the lines of the appeal proposal. Although I can only give limited weight to this Neighbourhood Plan as it has not been formally made or adopted, it does nevertheless, indicate that the appeal proposal has some strong local support, a point firmly put on behalf of the Town Council both in writing and at the inquiry".

4.7.27. I am not sure what inspector Wildsmith means by "formally made or adopted". I assume he means that, as the interim plan has still got to go through some more processes, including an examination by an independent person, it cannot have the weight which would attach if it had completed those processes. It has of course been adopted as an "interim plan", pending these final processes, which cannot be carried out until the outcome of the draft district plan is known.

- 4.7.28. It will be seen that Inspector Wildsmith nevertheless awards the interim plan “limited status” – which is a higher status than the district council’s award of “little status”.
- 4.7.29. “Limited status” is the status that Inspector Wildsmith had to take into account when he decided the appeal. However, it is suggested that by making a decision to approve development “along the lines of” the interim plan, he has given the interim plan greater weight than “limited weight”. In fact his decision letter approves much of what is in the retail section of the interim neighbourhood plan and disapproves the relevant parts of policy SP7 of the draft district plan.
- 4.7.30. It is suggested, therefore that if the inspector accepts my submission that the draft district plan is unsound then it might be appropriate to give the interim neighbourhood plan greater weight than the draft district plan. In any event the interim neighbourhood plan is agreed to be a material planning consideration for the purpose of the examination of the draft district plan, and in the circumstances outlined above, the inspector is invited to conclude that its policies policies which constitute a “reasonable alternative strategy” which should have been (but was not) properly considered by the Council under NPPF para.182.

5. Other matters

5.1. Homework – not covered by the above

- 5.1.1. The inspector is also asked to take account of the following matters:
- 5.1.2. Homework 12 proposes an unsatisfactory amendment to Para.3.19 of the draft plan, as it does not specifically make clear that the Council will be recovering the cost of Brambling Fields under the Community Infrastructure Levy fro developments outside Malton/Norton and its hinterland. Amendment 102 to policy SP 21 confirms this concern, as a strict reading of the proposed alteration suggests that the only contributions to off-site works which will be required will those “which are necessary as a result of the scheme”.

5.2. The proposed alterations to the draft plan

- 5.2.1. As regards the proposed new policies (other than those dealt with above and in the homework) I have the following comments:
- 5.2.2. Delete item 7 Reasons: This depends on how “in line with the RSS” is interpreted. It should be made clear, for example that “the main focus” does not mean “50%”
- 5.2.3. Delete Item 15. Helmsley has got off very lightly with new housing development. Figure 3 on p7 of my Statement on Housing in Folder 1 shows that

for the period 2003 – 2010 only 14 new houses were built in Helmsley. It is time Helmsley started to take its full share of new development.

- 5.2.4. Delete the fourth and fifth bullet points from Item 4.8 – not accepted that in-migration of commuters and pensioners is a problem – see above. As regards bullet point 5, not accepted that the majority of land needed should necessarily come from green field sites on the periphery of the market towns.
- 5.2.5. Item 21 – Delete. Suggest a 5% buffer for reasons explained above.
- 5.2.6. Item 33 – Delete – and substitute: “19.2 ha of new employment land will be directed to Malton/Norton.”
- 5.2.7. Item 36 – Amend the Malton/Norton section to “approx. 19.2 ha”.
- 5.2.8. Item 38 – Delete and substitute para which refers to the Cattle Market decision and makes it clear that there is no room for any more convenience supermarkets anywhere in Ryedale.
- 5.2.9. Item 39 – I would prefer the word “reasonable”.
- 5.2.10. Item 43 – This needs changing to take the Livestock Market into consideration. Please consider my idea of making the money already agreed for highways and other improvements available for relocation of the Cattle Market – now the decision has been made it is no longer possible to require the landowner to provide more contributions than they have already agreed to pay.
- 5.2.11. Item 46 – I understand that the correct position is that no monitoring will take place for the first 112 months – to let the traffic situation settle down – but that after that there will be monitoring over a 12 month period. Can the Council please check?
- 5.2.12. Item 52 – Not understood.
- 5.2.13. Item 95 – Disagreed. New houses in the “other” villages should not be subject to local occupancy conditions for reasons explained above.
- 5.2.14. Item 97 – Not agreed that residents of parishes outside Ryedale should be treated as having a local connection for the purpose of Policy SP 20.
- 5.2.15. Item 102 – See above.

6. The way forward

- 6.1. If the inspector is satisfied that the draft district plan is unsound, it would be very much appreciated if he would reconvene the adjourned hearing before he writes any interim report. This would allow all the parties to discuss with him how the plan might be changed so as to make it sound. The outcome of that

discussion might then be taken back to Ryedale for further consideration. Hopefully, the discussion could yield a plan which is closer to the policies of the interim Malton and Norton Neighbourhood Plan and the wishes of the residents of Malton and Norton. This might avoid a situation where the inspector may feel he has no option but to “press his nuclear button” and make a formal declaration of unsoundness.

COUNCILLOR PAUL ANDREWS
MALTON WARD

3rd November 2012