

From Councillor Paul Andrews (Malton Ward)

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Dear Joanne,

Wentworth Street Car Park – YR: NPCU/CONS/y3736/70090 and 700901

Thank you for sending me a copy of the Secretary of State's decision letter signed by Garry Carpenter.

I have to say I find this rather difficult to understand, because although it gives the reasons for the decision, it does not show how these reasons have been arrived at, nor what documents have been taken into account. As the ward member directly involved in this matter, I find this difficult to accept.

There is nothing in the decision letter to suggest that the Secretary of State has done any more than simply accept all the Council's consultants' reports (ie. only those which were actually submitted by the Council) superficially at their face value without any critical analysis. So, in order to help the public to form an opinion on the rigour and fairness of the analysis of these reports, it would be helpful if you would answer the following questions:

Firstly, did you take into account all the reports produced by the Council between 2006 and 2008, as I requested?

Secondly, the decision letter refers to the Caborn Statement, and then says that this policy makes it clear that the power to call in will only be used very selectively. Does this mean that the Caborn Statement is being interpreted more selectively than under previous secretaries of state? If so, could you please advise how the criteria of the Caborn Statement have been refined, and where this is written down and how the criteria so refined have been made public knowledge?

Thirdly, one of the National Policies which the Secretary of State is expected to uphold is maintaining the vitality and viability of existing town centres. I provided detailed in depth arguments to show that there was no way the proposal could possibly be implemented without damaging and destroying the vitality and viability of Malton and other town centres within the Ryedale District. These arguments were based on figures on quantitative need provided by the Council's own consultants who had previously dismissed the site as a development opportunity, and recommended a smaller development at the Cattle Market site instead. The consultants' figures did not take into account the "Oakgate" proposals at York, and when that development was granted permission by York City Council, the consultants' figures immediately became obsolete and this made the case against the Wentworth Street Car Park site stronger than before. I sent you a paper fully explaining the reasons for my

concern. Can you tell me, please, if the Consultants were asked to provide a further report, and if so why a copy of this was not sent to me for my comments before the secretary of State made his decision? Alternatively, if no further report was requested or taken into account, can you please explain why the Secretary of State proceeded to make a decision on the basis of figures which were out of date?

Fourthly, when you first started on this case, you agreed to allow me to go through the figures on quantitative need with me. You were forbidden to do this on the intervention of higher management. Can you please tell me how many telephone conversations you or any other members of staff of your unit have had with personnel at Ryedale, the names of those personnel and the dates and subject matter of such discussions?

Fifthly, another policy that is understood to be a key national policy is the matter of highway safety and the free flow of traffic. The Council have produced a "Strategic Transport Analysis", which the developers rely on. My submission explained how its conclusions could not possibly be right. Could you please advise whether or not my observations were accepted, and if not, why not?

Sixthly, another national policy which is relevant is "localism". This has never been officially defined, except that there is a section in the National Planning and Policy Framework about "Neighbourhood Plans". Could you please advise what weight the Secretary of State attached to the Malton and Norton Interim Neighbourhood Plan, and the reasons for the view that was taken on this?

And finally, a most important national policy is the principle (enshrined in all the legislation since the early 1980's) that planning should be plan-led. On 7th June I notified you that the draft Ryedale Plan had been submitted to the inspectorate and that provisional dates for the hearing into this had been set for September and October this year. On 8th June I sent you a copy of an email to Greg Clark MP explaining that the draft Ryedale Plan is site-specific as far as Wentworth Street Car Park is concerned and why the local plans inspector would be in a position to make a decision or recommendation on the site following the hearing into the draft plan. There has never been any suggestion that there is any urgency for the car park site to be considered ahead of the local plans process. So would you please explain why the Secretary of State has allowed an ad hoc decision to stand which would appear to pre-empt consideration of a key issue in the local plans process? Does not this set a national precedent to the effect that local planning authorities do not need to have to comply with their own plan policies or national policy, but can act at their own whim and fancy?

In the context of the submission made in my email of 8th June would you please also explain why the Secretary of State has not followed the principles set out in "The Planning System: General Principles 2005 Para 17 which says:

"In some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed

development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD."

The above are the main questions which I have on the decision notice. I reserve the right to raise other matters. However, there is one other issue which I have found difficulty with and which have puzzled my colleagues and ward residents and businesses, and I would like to raise this with you.

You see, if a councillor were to be found to accept a sum of money for pushing through a planning permission which is contrary to policy at a planning committee, he would probably be locked up for several years at his majesty's pleasure. If the same councillor was indiscreet and was seen to be making these arrangements in broad daylight and in the full glare of publicity, that would probably be taken into account as a factor which would tend to increase the length of his sentence. If an official who has the power to prevent a crime knowingly fails to exercise that power, that official could be guilty of an offence of being accessory after the fact.

What we cannot understand is what the difference is between this and what Ryedale has done? In the full glare of publicity they have invited a payment of £5M for a transaction which depends on the grant by them of a planning permission which is in breach of the current development plan at a time when a new plan in which this is a key issue is going through its final stages. Why is this any less corrupt than the member who seeks to achieve the same purpose for his own personal advantage? Where is the legal authority which puts the corporate decision of a public body which is made for its own financial advantage above the law of corruption? Can you please let me know if there is such a legal authority and let me have a copy?

If there is no such legal authority, and Ryedale is actually committing a criminal offence and the Secretary of State condones the offence, does not the Secretary of State make himself an accessory to the offence? Further, if there is no such legal authority, doesn't this invalidate the decision in this case?

I look forward to hearing from you.

Yours sincerely,

COUNCILLOR PAUL ANDREWS

Malton Ward, RDC
Malton Town Council

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