

North Yorkshire Council

Selby and Ainsty Area Constituency Committee Development Plans Committee Executive Committee Full Council

21st February 2024

MALTKILN NEW SETTLEMENT – Submission of the New Settlement (Maltkiln) Development Plan Document

Report of the Corporate Director of Community Development.

1.0 PURPOSE OF REPORT

- 1.1 To consider the content of the Regulation 19 Draft New Settlement (Maltkiln) Development Plan Document (DPD) and accompanying submission documents and seek renewed agreement for submission to the Secretary of State for public examination.
- 1.2 To agree the process of decision making during the Examination in respect of agreeing modifications to the Plan and responding to questions from the Inspector (including the provision of supporting statements and documentation).

2.0 BACKGROUND

- 2.1 The development of a new settlement known as Maltkiln is a key part of the Harrogate District Local Plan's growth strategy, providing much needed homes and jobs in a sustainable location along the York-Harrogate-Leeds rail line. The broad location of the new settlement was established in the Harrogate District Local Plan (adopted 2020), but the Plan states that the boundary, form and nature of the new settlement will be set through a development plan document (DPD).
- 2.2 A draft DPD has now been prepared which sets an ambitious thirty-year vision for Maltkiln and a policy framework to guide how it is developed. Its evolution has been underpinned by evidence base work, community involvement and public consultation. The next and final stage of the DPD process is submission to the secretary of state for an examination in public. This will allow independent scrutiny of the DPD and allow a further chance for communities and stakeholders to influence the process and the final DPD. If adopted, the DPD will provide a robust framework for the Council to guide and manage the long-term development of Maltkiln.
- 2.3 A decision was taken by former Harrogate Borough Council in September 2022 to publish the Regulation 19 consultation and submit the DPD for examination thereafter. This decision still has legal standing, but given the time that has elapsed for the reasons set out below it is felt prudent to seek re-confirmation of that decision. This report also provides an opportunity to present and agree the final

submission documents, many of which have been updated following Reg 19 consultation held in Autumn 2022.

- 2.4 Additionally, delegated authority is sought to ensure the efficient running of the examination in public.

3.0 THE DRAFT NEW SETTLEMENT (MALTKILN) DPD

What is the DPD and Why is it Important?

- 3.1 The draft DPD sets a clear and ambitious thirty-year vision for Maltkiln and a policy framework to guide how it is developed. The policies and proposals in the draft DPD aim to create a mixed-use settlement, where people have access to homes, a range of employment types, local services and facilities, public transport and open spaces. This mix of uses is focused around the Cattal rail station and the new local centre enabling the residents to benefit from key walking, cycling and public transport corridors. Maltkiln will deliver as a minimum 3,000 homes and 5ha of employment land, plus additional employment opportunities within the local centre alongside supporting home working and flexible working, including the provision of flexible co-working space within the local centre.
- 3.2 Preparation of Development Plan Documents is governed by planning legislation and progression of the DPD through the final stages of the process will allow the Council to give increased weight to the Plan in the determination of planning applications. If adopted, full weight can be given to DPDs and therefore in the case of the New Settlement (Maltkiln) DPD, allow the Council to drive development of the new settlement in a comprehensive manner, ensuring that appropriate infrastructure is provided and that the vision for a zero-carbon settlement is realised.

4.0 PREPARATION OF THE DPD

- 4.1 This section provides more detail about how the DPD was prepared, including how communities were involved and how matters such as climate change were addressed. It also covers how the necessary legal requirements were met in terms of environmental appraisals, duty to cooperate etc. It also covers delivery of the new settlement, which was discussed at the Council's Executive on the 12th of December 2023.

Community Involvement

- 4.2 The Draft DPD was developed in consultation with community groups and specialist organisations, ensuring policies are deliverable and as far as possible, reflect the aspirations of wider communities.
- 4.3 Early, informal stakeholder engagement was integral to the development of the Concept Framework – the first piece of work undertaken to inform the DPD. This targeted engagement helped develop the evidence base, key themes and options for how the new settlement could look and workshop/drop in events were held in May, July and September of 2018.

- 4.4 In addition to the Harrogate Borough Council's Statement of Community Involvement (SCI) which sets out the approach to community engagement and consultation, the former Harrogate Borough Council also developed a bespoke Engagement Strategy which outlined additional measures and methods that the council aspired to use to make sure that as many people as possible could engage with the DPD and were not disadvantaged by circumstances arising from Covid-19 in particular. This was informed by District and Parish Councillors as well as the campaign group active at the time, Keep the Hammertons Green.
- 4.5 At the request of the local community, a community liaison group was established comprising of representatives from the relevant parish, district and county councils. The local campaign group and the promoters of Maltkiln were also invited to attend. The group's remit was to act as a sounding board for the development of the Maltkiln DPD and provide a forum through which questions and issues relating to the DPD can be raised. The sessions have always been well attended and constructive feedback and ideas were provided.
- 4.6 Regulation 18 consultation ran from Monday 19 October 2020 to Friday 22 January 2021 (a little over 13 weeks); the statutory period extended at the request of the local community. This consultation sought views on the vision and objectives for the new settlement, three concept options for how the new settlement may be laid out, as well as highlighting the emerging preferred option.
- 4.7 Comments received during the Regulation 18 consultation on the Draft Local DPD were considered and have fed into the content of the Publication Draft DPD. The Publication Draft DPD was published for consultation in October 2022.
- 4.8 All responses received have been considered. A summary of the key issues raised, and the Council's response is contained within the consultation statement (Appendix 3). In some cases, these have prompted proposed amendments for the Inspector to consider during the examination in public. These proposed amendments aim to provide further clarity to the policies proposed and do include any significant changes to the policies within the Regulation 19 draft. A schedule of these is included in Appendix 2 and have also been incorporated into a version of the Regulation 19 Draft using tracked changes for ease of reference.

Infrastructure

- 4.9 An Infrastructure Delivery Plan (IDP) has been prepared to identify the key infrastructure necessary to facilitate and support the development of the new settlement in a timely, co-ordinated and sustainable way, including transport Infrastructure. The IDP includes a cost schedule, which sets out the source of funding for each item of infrastructure. The information within the IDP has been prepared in consultation with infrastructure providers and the site promoter and has informed an assessment of viability. The IDP and Viability Reports can be found in Appendix 9 and Appendix 10.

Climate Change Strategy

- 4.10 The New Settlement (Maltkiln) DPD has been developed with climate change mitigation and resilience at the forefront, and the former Harrogate Borough Council

commissioned a Climate Change Strategy (Appendix 13) to explore the best ways to achieve its climate change ambitions in the DPD. This was developed in consultation with the Harrogate District Climate Change Coalition (which included local community action groups and key stakeholders). The strategy identifies four priority areas for action:

- Net zero carbon movement and active travel;
- Net zero carbon energy supply and use;
- Inclusive flexible living and working;
- Climate resilience.

- 4.11 Taken together the climate change policies in the DPD seek to ensure that each of the four climate change priorities are secured.
- 4.12 It is important to note that the policies in the DPD require more ambitious action than the adopted Local Plan. Therefore, the recommendation to secure delivery and progression of the DPD will have a positive effect on the Council's climate change aspirations by seeking to achieve that development is carbon net zero across all phases.

Duty to Cooperate

- 4.13 The Council has an ongoing Duty to Co-operate discussions with neighbouring authorities in regard to plan-making. The duty to cooperate is not a duty to agree, but local planning authorities should make every effort to secure the necessary cooperation on strategic cross boundary matters before submitting their Local Plans for examination.
- 4.14 The principle of a new settlement was established via policy DM4 of the adopted Harrogate District Local Plan. In submitting that plan for examination a Duty to Co-operate statement was provided that set out the steps that had been taken to fulfil the Duty to co-operate requirements and concluded that there were no outstanding issues of strategic importance. This highlighted those bodies where on-going dialogue would be needed as the Maltkiln DPD was being prepared, including City of York Council, Network Rail, Highways England (National Highways) and the former North Yorkshire County Council.
- 4.15 The former Harrogate Borough Council worked closely with the former North Yorkshire County Council on the development of policies, in particular in respect of education and transport. In addition, there has been dialogue and meetings with Network Rail, National Highways, Environment Agency, and Historic England as the DPD has been prepared.
- 4.16 Regular dialogue has also taken place with City of York Council and Leeds City Council throughout the preparation of the DPD and both organisations have committed to formalising Statements of Common Ground to assist the anticipated examination in public. Further details can be found in the New Settlement Duty to Co-operate Paper in Appendix 8.

Environmental Appraisals

- 4.17 In preparing the DPD the Planning and Compulsory Purchase Act 2004 requires that a Sustainability Appraisal (SA) is undertaken. Alongside this there is a requirement to undertake a Strategic Environmental Assessment (SEA) in line with the EU Directive on Strategic Environmental Assessment. The Sustainability Appraisal undertaken to inform the DPD incorporates the requirements of the SEA Directive.
- 4.18 The SA is an iterative process for considering and communicating the likely significant effects of an emerging plan, and reasonable alternatives, in relation to economic, social and environmental factors. The aim of SA is to inform and influence the plan-making process with a view to avoiding or mitigating negative effects and maximising positive effects. Through this approach, the SA seeks to maximise the emerging DPDs contribution to sustainable development.
- 4.19 The Council commissioned AECOM to prepare an SA to support the Maltkiln DPD. The SA report (Appendix 4) documents the process; specifically, it:
- summarises the effects of reasonable alternatives
 - summarises the cumulative/combined effects of the DPD
 - makes recommendations for improvements
 - sets out a monitoring framework
- 4.20 The Conservation of Habitats and Species Regulations 2017 (as amended) require that ‘... before deciding to ... give any consent for a plan or project which is likely to have a significant effect on a European site ... shall make an appropriate assessment of the implications for the site in view of that sites conservation objectives... The authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site’.
- 4.21 In October 2020 the Council produced a Habitats Regulations Assessment Screening Report which concluded that no likely significant effects would arise on any such European sites from the development of, either alone or in combination with other plans and projects. AECOM were then commissioned to review the Publication Draft DPD and produce an updated Habitats Regulations Assessment (HRA). This report is set out at Appendix 5.
- 4.22 Following the Regulation 19 consultation, representations on both the HRA and SA were considered. A summary of the issues raised, as well as responses, are set out in Appendix 4 and 5. The conclusion of these reports is that there is no change in the scoring/outcomes of the assessments undertaken. Additionally, it is not considered that any of the proposed amendments included in Appendix 5 require any further SA at this stage.

Equality Analysis

- 4.23 The Equality Act 2010 prohibits discrimination on the grounds of the following nine characteristics: age, disability, gender reassignment, marriage or civil partnership status, pregnancy and maternity, race, religion or belief, sex (gender), and sexual orientation. Within the legislation these characteristics are termed protected characteristics.

- 4.24 The Act introduced a new public sector equality duty, replacing similar duties under previous legislation. The new duty requires public bodies, such as Harrogate Borough Council, to have due regard to the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it
- 4.25 Completion of an Equality Analysis Report (see Appendix 6) has been on-going process that has taken place alongside the preparation of the DPD in order to inform its content and ensure that the plan meets the three aims of the equality duty. Further detail can be found in Section 10 of this report which sets out more detail about the equalities implications of the DPD.

Delivery

- 4.26 In January 2023 (following the Regulation 19 consultation) the Council were notified that an area of land included within the proposed boundary (See Appendix A) was no longer available. The land which has been withdrawn forms a substantial part of the proposed new settlement area (approx.128ha or 42% of the total area). Importantly, the land occupies a significant area around Cattal Rail Station which is intended to be the focal point of the settlement and provide a range of services to ensure that the settlement is an exemplar of sustainable development.
- 4.27 The Council paused submission to consider the implications of this for the DPD. Work was undertaken to explore whether the objectives and policies of the proposed DPD could be met on remaining land within the proposed boundary, or other land in the broad location by amending the boundary. A range of options were explored, including:
- Delivery of a new settlement on the remaining land within the proposed boundary;
 - Extend the boundary to include the land available and additional land to the north, south, east and west;
 - Deliver a new settlement on the previously discounted options (published for consultation in October 2020).
 - Keep the remaining DPD boundary and use CPO powers to acquire all or some of the unavailable land.
- 4.28 These options were presented to Executive on the 12th December 2023 (hyperlink to report/minutes) who resolved to pursue delivery of the DPD Maltkiln on the basis that, if an agreement cannot be reached with the owners of the land outlined, the Council would, in principle, be willing to use its Compulsory Purchase Powers (CPO) to ensure delivery of the new settlement. In this regard, it will be noted that the landowners had previously made their land available and supported the DPD, and it is the Council's intention to engage further with the Landowner to ascertain whether there is scope for a negotiated agreement.

4.29 This decision that the Council is willing in principle to use its compulsory purchase powers will assist in demonstrating that Maltkiln remains deliverable, even if agreement cannot be reached. This allows the Council to progress the proposed Maltkiln DPD through the final stages of the development plan process, with the aim of achieving an adopted Plan to guide development of the new settlement.

5.0 NEXT STEPS

5.1 Upon submission, the Secretary of State appoints an Inspector to carry out an independent examination. This process is dealt with by the Planning Inspectorate.

5.2 During the course of the Examination it is expected that the Inspector will request further information and opinions from the Council. In the main officers of the Council will provide responses to the Inspector based on the content of the DPD and its supporting evidence. However the Inspector may seek the Council's views on matters such as:

- Whether alternative policy wording would be acceptable.
- How a particular policy issue should be addressed through amended wording or a new policy.
- Whether an alternative approach would be preferable.

5.3 In order that the Examination can progress efficiently prompt responses will be required. It is not unusual during the course of hearing sessions for a formal position on a matter to need to be established over night following the close of the day's session. The hearing sessions are run to a timetable set by the Inspector; without delegated authority maintaining the timetable would be impossible.

5.4 It is important to note that whilst delegated powers will allow a formal position to be presented to the hearing sessions on behalf of the Council, ultimately resultant modifications will be for Full Council (with prior consideration at Development Plans Committee) to agree before the Plan is adopted.

6.0 CONTRIBUTION TO COUNCIL PRIORITIES

6.1 Delivery of Maltkiln would make a significant contribution to a number of council priorities, specifically:

- Providing good quality, affordable and sustainable housing that meets the needs of our communities
- Creating a well-connected and planned place with good transport links and digital connectivity
- Providing economically sustainable growth that enables people and places to prosper
- Assisting new and existing businesses to thrive and grow
- People are supported to have a good quality of life and enjoy active and healthy lifestyles
- Supporting the Council's climate change ambitions

7.0 ALTERNATIVE OPTIONS CONSIDERED

7.1 Stopping progression of DPD and consider as part of the new Local Plan for North Yorkshire:

This is not recommended as the principle of a new settlement in the Cattal area has already been rigorously tested through the local plan examination process and been found sound. Aside from the issue of land availability (which has been resolved through resolution to use CPO powers if needed), there is no good reason to doubt that conclusion, or to presuppose that a later Local Plan would come to a different conclusion. As demonstrated in the Harrogate District Local Plan examination, this location represents a sustainable location on a railway line to serve demand in the housing market area. Additionally, a promoter is still in place to deliver the scheme. Therefore, re-opening debate on the merits of Maltkiln through a new Local Plan process would constitute unnecessary resource and delay. Stopping progression of the DPD would also undermine the ability of the Council to pursue a plan-led approach to the new settlement in the event of speculative planning applications in the area.

7.2 Not to delegate authority to the Corporate Director Community Development in consultation with the Executive Member for Open to Business, to make decisions during the examination in public:

This is not recommended as it would result in delays to the examination process and therefore adoption of the DPD.

8.0 FINANCIAL IMPLICATIONS

8.1 Progressing the DPD through an examination in public will incur expenditure, including:

- Costs of hosting and resourcing the examination (although it is hoped that this can be reduced by hosting the examination at North Yorkshire Council offices).
- Costs of the Planning Inspector (the Planning Inspectorate charge a day rate for Inspector time).
- Appointment of an independent Programme Officer to administer the examination and act as point of communication with the Inspector (please note that this is a requirement of the Regulations guiding development plans).
- Legal fees – it is envisaged that the Council will need to seek specialist legal advice throughout the examination in order to minimise risk of legal challenge / judicial review.
- Costs associated with further consultation if mandated by the Planning Inspector.

8.2. It is difficult to quantify the costs of an examination in public because the duration is determined by the planning inspectorate and the issues raised. £126,500 was allocated by the former Harrogate Borough Council to cover the cost of examination. This was held in reserves that have now transferred to North Yorkshire Council.

9.0 LEGAL IMPLICATIONS

9.1 Officers have prepared a legal compliance and soundness checklist in line with best practice guidance in order to ensure that all legal requirements and tests of

soundness have been met. This concludes that the DPD has met the necessary tests.

- 9.2 Both Development Plans and Compulsory Purchase Powers are governed by legislation, specifically The Town and Country Planning (Local Planning) (England) Regulations 2012 and the Town and Country Planning Act 1990 (Section 226).
- 9.3 The Council has sought legal advice from its Planning lawyers(s) throughout the preparation of the DPD and has consulted the Head of Legal Services in preparation of this report.
- 9.4 The Council has also sought independent specialist legal advice in relation to using CPO as a possible mechanism for delivery if negotiations are not successful in order to ensure that any legal risks to the Council are minimised.

10.0 EQUALITIES IMPLICATIONS

- 10.1 Equality analysis has taken place alongside the development of the New Settlement DPD to understand the potential effects of emerging policies on people with protected characteristics and to use this information to seek to eliminate negative effects and maximise positive effects.
- 10.2 The analysis concludes that none of the policies have an overall negative effect and indeed many policies have positive effects for individuals and groups with protected characteristics, with the greatest number relating to the characteristics of age and disability. It also shows that, through a large number of policies, the DPD will advance the equality of opportunity in relation to most protected characteristics. To a lesser degree the DPD will also help to foster good relations between groups.
- 10.3 It is therefore considered that all reasonable and proportionate steps have been taken to maximise the positive equality benefits that will be realised through delivery of the DPD and that the plan will not lead to discrimination, harassment or victimisation but will help to eliminate such conduct. Implementation of the DPD will also advance the equality of opportunity for individuals and groups with protected characteristics and help to foster good relations between groups.
- 10.4 It is not considered that any of these conclusions would be altered by the use of compulsory purchase powers in order to deliver the new settlement.

11.0 CLIMATE CHANGE IMPLICATIONS

- 11.1 The adopted Harrogate Local Plan 2014-2035 included a new settlement in its growth strategy as a way to meet housing and economic development needs in a sustainable way, with services provided that reduce the need for travel. In addition, the broad location for the new settlement was chosen in order to maximise the opportunities for sustainable travel.
- 11.2 The New Settlement (Maltkiln) DPD has been developed with climate change mitigation and resilience at the forefront, and the former Harrogate Borough Council commissioned a Climate Change Strategy to explore the best ways to achieve its climate change ambitions in the DPD. This identifies four priority areas for action:

- Net zero carbon movement and active travel;
- Net zero carbon energy supply and use;
- Inclusive flexible living and working;
- Climate resilience.

11.3 Taken together the climate change policies in the DPD seek to ensure that each of the four climate change priorities are secured.

11.4 It is important to note that the policies in the DPD require more ambitious action than the adopted Local Plan. Therefore, the recommendation to secure delivery and progression of the DPD will have a positive effect on the Council's climate change aspirations by ensuring that development is carbon net zero across all phases.

12.0 REASONS FOR RECOMMENDATIONS

12.1 In order to comply with the requirements of the Town and Country Planning (Local Planning) (England) regulations 2012.

12.2 Having in place an up to date set of policies and proposals to define the boundary, form and nature of the new settlement enables the Council to continue to lead, guide and manage the long-term development of Maltkiln.

12.3 Delegated authority will ensure that matters raised by the Inspector can be dealt with promptly to ensure the efficient running of the examination.

13.0 RECOMMENDATIONS

- i) That the Council submit the Submission Draft DPD and accompanying submission documents to the Secretary of State for examination.
- ii) That the Corporate Director Community Development in consultation with the Executive Member for Open to Business, be authorised to make minor amendments and graphical improvements to the Submission Draft DPD and submission documents prior to submission.
- iii) That for the period of the examination in public, delegated authority be given to the Head of Infrastructure and Delivery, in consultation with the Executive Member for Open to Business, to:
 - a. provide formal responses to questions from the Inspector alongside other supporting statements and documentation as requested by the Inspector.
 - b. agree modifications to the plan through the examination period in order to make the plan sound.
 - c. To undertake all other necessary steps required as part of the examination

APPENDICES:

Core Submission Documents

Appendix 1: New Settlement (Maltkiln) DPD Regulation 19 Pre-Submission Draft October 2022

Appendix 2: New Settlement (Maltkiln) DPD Submission Draft Proposed Modifications Schedule February 2024

Appendix 3: New Settlement (Maltkiln) DPD Submission Draft Consultation Statement Feb 2024

Appendix 4: New Settlement (Maltkiln) DPD Submission Draft Sustainability Appraisal Feb 2024

Appendix 5: New Settlement (Maltkiln) DPD Submission Draft Habitat Regulations Assessment Feb 2024

Appendix 6: New Settlement (Maltkiln) DPD Equality Analysis Submission February 2024

Supporting Submission Documents

Appendix 7: New Settlement (Maltkiln) DPD Soundness and Legal Compliance Assessment Feb 2024

Appendix 8: New Settlement (Maltkiln) DPD Duty to Cooperate Paper February 2024

Appendix 9: New Settlement (Maltkiln) DPD Viability Assessment

Appendix 10: New Settlement (Maltkiln) DPD Submission Draft Infrastructure Delivery Plan Feb 2024

Appendix 11: New Settlement (Maltkiln) DPD Strategic Green Gap Background Paper Oct 2022

Appendix 12: New Settlement (Maltkiln) DPD Access and Movement Background Paper Feb 2024

Appendix 13: New Settlement (Maltkiln) DPD Climate Change Strategy October 2022

Appendix 14: New Settlement (Maltkiln) Flood Risk Sequential Assessment October 2022

Appendix 15: New Settlement (Maltkiln) DPD Heritage Impact Assessment October 2022

Appendix A : Equality Analysis Screening Form

Appendix B : Climate Change Screening Form

BACKGROUND DOCUMENTS:

Report to the Executive Committee 12th December 2023: Delivery of the New Settlement (Maltkiln) Development Plan Document. Report can be viewed on the Council's website: [Maltkiln Development Report.pdf \(northyorks.gov.uk\)](https://www.northyorks.gov.uk/maltkiln-development-report.pdf)

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November 2023

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Presenter of Report – Tracey Rathmell, (Head of Infrastructure and Delivery)

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.