

# **Malton and Norton Neighbourhood Development Plan**

**2020-27**

## **Submission Plan**

### **Report to North Yorkshire Council of the Examination into the Malton and Norton Neighbourhood Development Plan**

by Independent Examiner, Peter Biggers BSc Hons MRTPI

February 2024

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## Summary and overall recommendation

Following my examination of the Malton and Norton Neighbourhood Plan (MNNP), including a site visit to the neighbourhood area on 4 January 2024, it is my view that, subject to modifications, the MNNP reflects the views of the community and will set out a clear vision and suite of policies for the neighbourhood area.

My report highlights a number of areas where I consider the wording of the Plan as submitted is not in accordance with one or more of the Basic Conditions.

There are two main areas where this requires a significant modification.

Neighbourhood plans are not supposed to cover ground which is fully and adequately controlled under other legislation. This is the case with Policy TM7 on electric vehicle charging where the Building Regulations set out the requirements in respect of EV charging infrastructure in development. Accordingly, the majority of this policy is recommended to be deleted.

I am not satisfied that all of the proposed Local Green Space areas in Policy E1 fully reflect the guidance for their designation in the National Planning Policy Framework and have therefore suggested some modifications to the proposed areas.

I have also recommended other less significant modifications that should be made to a number of policies before the Plan can proceed to referendum. For the most part, the reason for these is that the policies do not wholly meet the requirement of the National Planning Policy Framework at paragraph 16 where it states that policies should be: *“clearly written and unambiguous so it is evident how a decision maker should react to development proposals”*. The advice in the Planning Practice Guidance is also relevant to this where it states that: *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence”*.

In addition, there are a number of typographical and formatting errors which need to be corrected.

All these modifications are intended to ensure that, first and foremost, the Plan can meet the Basic Conditions.

In proposing the modifications, I have tried to ensure that the integrity and value of the MNNP and its vision is retained and that the intention of neighbourhood planning, where the community’s wishes should be central to the Plan, is honoured.

By its nature, the examination has to be rigorous. Any criticism is not at all to undermine the significant community effort that has gone into the Plan over a long period of time. Rather, the purpose of the examination is to ensure that the Neighbourhood Plan meets the Basic Conditions and is as robust as possible and that it can better play its part in

planning decisions and managing change in Malton and Norton and the surrounding area in the future in an effective way.

In addition to the recommended modifications, it should also be noted that there may be a number of consequential changes, for example to referencing and numbering that will inevitably be needed as a result of making the modifications. Also, the referencing to the National Planning Policy Framework will need to be changed given recent changes to the Framework in December 2023. I have identified a number of these consequential changes, but not necessarily highlighted all of them and these amendments need to be made in finalising the Plan for referendum.

Subject to the recommended modifications in the report being completed, I am satisfied that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority;
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations;
- prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

The MNNP also complies with the legal requirements set out in paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

With the modifications in place, the MNNP will meet the Basic Conditions and can proceed to a referendum.

When that referendum takes place, I also recommend that the Malton and Norton Neighbourhood Area, which covers the administrative area of both Town Councils, is taken as the area for the referendum.

Peter Biggers BSc Hons MRTPI  
Independent Examiner  
28 February 2024

# 1. Introduction

## Background context

- 1.1. This report provides the findings of the examination into the Malton and Norton Neighbourhood Plan (referred to as the MNNP throughout this report).
- 1.2. The MNNP was produced by Malton Town Council (MTC) and Norton Town Council (NTC) jointly as Qualifying Body and in consultation with the local planning authority for the neighbourhood area – North Yorkshire Council (NYC). The local community, interested parties and local stakeholders were also consulted as set out in Section 3 below.
- 1.3. The Neighbourhood Area is focussed on the two towns of Malton and Norton, located north and south respectively of the River Derwent, and their immediately adjoining hinterland of agricultural land. The main crossing point over the Derwent between the two towns lies at the centre of the plan area. The river is at the same time both a constraint and an asset – the former in respect of movement and flooding and the latter in terms of its significant conservation value as a Special Area of Conservation. The two towns together form one of the principal urban areas and service centres in North Yorkshire.
- 1.4. The Neighbourhood Area equates to an area of approximately 2770 hectares and has a population of 15,000 living in 6525 households (2021).
- 1.5. This examiner's report provides a recommendation as to whether or not the MNNP should go forward to a referendum. Were it to go to referendum and achieve more than 50% of votes cast in favour of it, then the MNNP would be 'made' by North Yorkshire Council. In the event of a successful referendum result, the MNNP would immediately carry full weight in the determination of planning applications in the neighbourhood area.

## Appointment of the independent examiner

- 1.6. I was appointed as an independent examiner by NYC, with the consent of MTC and NTC as the Qualifying Body, following a competitive procurement process through the National Panel of Independent Examiners Referral Service (NPIERS), to conduct the examination and provide this report as an independent examiner. I am independent of the qualifying body and the Local Planning Authority and I do not have any interest in any land that may be affected by the MNNP, nor do I have any professional commissions in the area currently. I hold appropriate qualifications and experience and have planning and development experience, gained over 40 years across the public and private planning sectors. I am a Member of the Royal Town Planning Institute.

## Role of the independent examiner

- 1.7. It is the role of the independent examiner to consider whether a neighbourhood plan meets the 'Basic Conditions'. The Basic Conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (TCPA) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA). They are that \*:
- a) Having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
  - d) The making of the neighbourhood plan contributes to the achievement of sustainable development;
  - e) The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority;
  - f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations;
  - g) Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the plan.

\* NB Basic Conditions b) and c), relating to listed buildings and conservation areas, are also included in the Basic Conditions but as these only concern neighbourhood development orders they are not included in this report.

- 1.8. Pursuant to Basic Condition g) above, Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, effective from 28 December 2018, prescribes the following additional Basic Condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the TCPA 1990:

*“The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017”.*

Regulation 106(1) of Chapter 8 states that: *“a qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under Regulation 105 (that assessment is necessary where the neighbourhood plan is likely to have a significant effect on a European site or a European offshore marine site either alone or in combination with other plans or projects) or to enable it to determine whether that assessment is required”.*

- 1.9. In examining the Plan, I have also considered whether the legislative requirements are met, namely:

- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in section 61F of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan has been prepared for an area that has been designated under section 61G of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan meets the requirements of section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provisions relating to 'excluded development', and must not relate to more than one neighbourhood area) and
- The policies relate to the development and use of land for a designated neighbourhood area in line with the requirements of the PCPA section 38A.

1.10. I have examined the MNNP against the Basic Conditions and legislative requirements above and, as independent examiner, I must make one of the following recommendations:

- a) that the Plan should proceed to referendum, on the basis that it meets all legal requirements;
- b) that the Plan, once modified to meet all relevant legal requirements, should proceed to referendum;
- c) that the Plan does not proceed to referendum, on the basis that it does not meet the relevant legal requirements.

1.11. If recommending that the Plan should go forward to referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Area to which the Plan relates. I make my recommendation on the Referendum Area at the end of this report (See Section 8).

1.12. The role of the independent examiner is not to comment on whether the Plan is sound or how the Plan could be improved, but rather to focus on compliance with the Basic Conditions.

## 2. The Examination Process

2.1. It is a general rule that neighbourhood plan examinations should be held without a public hearing; that is by written representations only. However, according to the legislation, when the examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, a public hearing may be held.

2.2. I have considered the representations received at the Regulation 16 publicity stage and I am satisfied that there is no need for a public hearing in respect of the MNNP



and the matters are considered below. I confirm that all Regulation 16 representations on the Plan have been taken into account in undertaking this examination. Where appropriate, I have made specific reference to the person's or organisation's comments in Section 6 of this report.

- 2.3. I undertook an unaccompanied site visit around the neighbourhood area on 4 January 2024, during which I looked at its overall nature, form, character and appearance and at those areas affected by policies and proposals in the Plan in particular.
- 2.4. Subsequent to my reading for the examination and the site visit, I asked a number of factual clarifying questions of MTC and NTC as qualifying body, and NYC relating to the context and intent of policies and proposals of the Plan. This exchange was carried out by email and the questions and the responses received from the Councils are set out in Appendix 1 to this report and have been uploaded to the Neighbourhood Plan website. I am grateful to the Councils for responding on these matters.
- 2.5. In undertaking this examination, I have considered each of the following documents in addition to the Submission Version of the MNNP:
- National Planning Policy Framework (December 2023)
  - National Planning Practice Guidance 2014 (as amended)
  - Town and Country Planning Act 1990 (as amended)
  - The Planning and Compulsory Purchase Act 2004 (as amended)
  - The Localism Act 2011
  - The Neighbourhood Planning Act 2017
  - The Levelling Up and Regeneration Act 2023
  - The Neighbourhood Planning (General) Regulations (2012) (as amended)
  - Malton and Norton NDP Basic Conditions Statement and Appendices (Dec 2021 as updated June)
  - Malton and Norton NDP Consultation Statement and Appendices (Dec 2021 as updated June)
  - Malton and Norton NDP Strategic Environmental Assessment (July 2023)
  - Malton and Norton NDP Habitats Regulation Assessment (June 2023)
  - Malton and Norton NDP Sustainability Assessment (June 2023)
  - Malton and Norton NDP Neighbourhood Area Designation Report – (February 2019)
  - Representations received during the Regulation 16 publicity period post submission – (8/9/23 to 20/10/2023)

### 3. Public Consultation

#### Background

- 3.1. An accessible and comprehensive approach to public consultation is the best way to ensure that a neighbourhood plan reflects the needs, views and priorities of the local community.
- 3.2. MTC and NTC submitted a Consultation Statement, as required by Regulation 15 of the Neighbourhood Planning (General) Regulations, to NYC in June 2023.
- 3.3. Public consultation on the MNNP commenced with early discussions about a neighbourhood plan in 2011. This early consultation was followed by various consultation stages, including the formal stages required by the Regulations:
  - The pre-submission consultation under Regulation 14 from 12 February 2021 to 26 March 2021 and again on a revised version of the plan from 27 January 2023 to 10 March 2023.
  - The publicity stage, as required by Regulation 16, (the consultation period post final submission of the Plan) ran from 8 September 2023 to 20 October 2023.
- 3.4. The Regulation 16 stage resulted in consultation responses from 9 respondents some raising multiple points. The representations raised are considered as necessary within my assessment of the Plan in Section 6 below.

#### Malton and Norton Neighbourhood Development Plan Consultation

- 3.5. The decision to prepare the MNNP was taken in 2011 although it was not until 2015, due to the need to await progress on the Ryedale Local Plan, that a Neighbourhood Planning Steering Group was set up. The group has carried out the consultation with the community and stakeholders throughout the process of plan preparation. The communication methods used included mail drops, leaflet drops, questionnaires, email drops, summary leaflets and the Town Councils' Neighbourhood Plan websites, as well as the offer of events such as drop-ins. Hard copies of the Pre-Submission Draft Plans and Submission Plans together with supporting documents were provided locally as well as being uploaded to the websites and links provided via email.
- 3.6. Early years' engagement commenced in 2011 with a scoping questionnaire of the local community and public exhibitions to help identify issues and concerns. 492 questionnaires were returned. In 2015 a letter invitation to 1000 interested parties was circulated asking for interest in joining the focus groups advising the steering group. Throughout 2016 work continued by the focus groups working on the topics to be incorporated in the plan.

- 3.7. In order to inform the consideration of the options available for the policies and proposals of the emerging draft plan a 4 week consultation from 25 January to 25 February 2019 was carried out. This included two drop-in sessions, consultation with landowners and a policy options newsletter to all addresses in the neighbourhood area. The consultation resulted in 19 separate responses regarding sites and 223 responses on policy content. The results and comments were used to finalise the pre-submission draft plan.
- 3.8. The pre-submission draft of the Plan was signed off by the Town Councils and as required by Regulation 14, the pre-submission consultation stage ran for 6 weeks from 12 February to 26 March 2021. The MNNP was made available online on the Town Councils and Ryedale District Council websites, and links to the Plan were provided via email to statutory consultees and local stakeholders and hard copies of the plan and supporting documents made available locally in 4 locations with a plan summary and questionnaire delivered to all households. In view of Covid restrictions online drop-ins were set up and the consultation resulted in 57 representations.
- 3.9. Following the pre-submission stage and the analysis of results, the Plan was revised, approved for submission and submitted by the Town Councils to the then Ryedale District Council initially in January 2022. However, in June 2022 concerns by the Town Councils that there was a need for some key amendments to be made led to the submitted MNNP being withdrawn, amendments being made and a second Regulation 14 consultation carried out. This took place for 6 weeks between 27 January and 10 March 2023 with the consultation process as before. 34 detailed representations were received.
- 3.10. These representations were again considered and a revised submission plan was prepared and resubmitted in summer 2023 to the new North Yorkshire Council with the regulation 16 publicity stage then taking place between 8 September and 20 October 2023.
- 3.11. The Neighbourhood Planning Regulations are part and parcel of Basic Condition a), and Regulation 15 (2) sets out clearly what the Consultation Statement should include. The MNNP Consultation Statement and its appendices, as provided to me, explains the early consultation, sets out the results of the Regulation 14 consultations and comments on the representations made and what it was proposed to do about them and provides a full list of those consulted which is a requirement of Regulation 15.
- 3.12. Having reviewed the Consultation Statement, as well as the appendices to the statement, I am satisfied that it is compliant with Regulation 15.
- 3.13. Although the Town Councils acknowledge that there has been a tailing off in levels of involvement in the later stages of the plan this is, as the Councils suggest, likely to have been a result of the long timescale involved with the plan. Nevertheless, I am satisfied from the evidence that there was adequate opportunity for the community

including all residents, businesses and landowners, community and voluntary groups statutory and non-statutory consultees to participate in the plan making process and express their views.

## **4. Preparation of the Plan and legislative requirements**

4.1. In terms of the procedural tests set out above my findings are:

### Qualifying body

- 4.2. Malton Town Council (MTC), together with Norton Town Council (NTC), as the duly elected lower-tier councils are jointly the qualifying body for preparation of the Plan.
- 4.3. I am satisfied that the requirements set out in the Localism Act (2011) and in section 61F(1) and (2) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) have been met.

### Plan area

- 4.4. An application was made by MTC and NTC on 6 September 2018 to designate the Neighbourhood Area. The area applied for covered the whole administrative area of Malton and Norton Town Councils. This neighbourhood area was approved by Ryedale District Council on 19 February 2019.
- 4.5. This satisfies the requirement under section 61G (1) (2) and (3) of the TCPA (as applied to neighbourhood plans by section 38A of the PCPA) and Regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations as amended.

### Plan period

- 4.6. A neighbourhood plan must specify the period during which it is to have effect. The MNNP clearly states on the title page and in the introductory sections that it covers the period up to 2027.
- 4.7. Although now only a relatively short period remains, the Town Councils commit to reviewing the plan in section 6 of the plan as necessary. In response to a clarifying question (see Appendix 1) the Councils have confirmed that the plan will be reviewed to reflect the forthcoming North Yorkshire Local Plan which will replace the Ryedale Local Plan when that plan has reached a suitably advanced stage. The intended time period satisfies the requirements of section 38B of the PCPA as amended.

## Excluded development

- 4.8. The Plan does not include policies or proposals that directly relate to any of the categories of excluded development: County matters (mineral extraction and waste development), nationally significant infrastructure, or any matters set out in Section 61K of the TCPA 1990. The MNNP, **as proposed to be modified** in Section 6 below, relates solely to the neighbourhood area and no other neighbourhood area, and there are no other neighbourhood development plans in place within the neighbourhood area. This satisfies the requirements of section 38B of the PCPA, as amended.

## Development and use of land

- 4.9. The Neighbourhood Plan should only contain policies relating to the development and use of land. **Subject to modifications proposed** below in Section 6, the MNNP policies would be compliant with this requirement of section 38A of the PCPA, as amended.

## Plan publication following submission

- 4.10. NYC undertook a validation check of the MNNP following its second submission in August 2023. The Council was satisfied that the Plan could proceed to be publicised under Regulation 16 and proceed to this independent examination.

## 5. The Basic Conditions

### National policy and advice

- 5.1. The main document that sets out national policy is the *National Planning Policy Framework* (the NPPF). A revised version of the NPPF was published in December 2023. Although paragraph 230 of the revised NPPF sets out transitional arrangements for Local Plans in preparation, allowing them to be examined under the previous version of the NPPF where they reached pre-submission stage before 2024, the situation with regard to Neighbourhood Plans in preparation is not made clear and the same allowance is not made. The implication, therefore, is that the MNNP must be examined against the Dec 2023 NPPF.
- 5.2. Preparatory work for the MNNP commenced under the previous 2019 version of the NPPF, but in preparing the plan for submission, references to the NPPF were updated to reflect the then 2021 NPPF. Fortunately, for the most part, for the purposes of this examination, the changes between 2021 and 2023 versions of the NPPF are not significant for the content of the MNNP and most of the text in the paragraphs referenced in the plan remains as before. The paragraph references will however need to be amended to reflect the new NPPF.

- 5.3. I will comment below in section 6 where there is any material alteration to the NPPF that would have an impact on the MNPP policies and proposals and where that is the case the Councils will be given the opportunity to comment.
- 5.4. The NPPF explains that neighbourhood plans should support the delivery of strategic policies and set out non-strategic policies and plan positively to shape, direct and help to deliver sustainable development that is outside the strategic elements of the Local Plan.
- 5.5. The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words, neighbourhood plans must be in general conformity with the strategic policies of the development plan. They should not promote less development than that set out in the strategic policies of the development plan or undermine those strategic policies.
- 5.6. The NPPF indicates that plans should contain policies that are clearly written and unambiguous, so that it is clear how a decision maker should react to development proposals. They should serve a clear purpose and avoid unnecessary duplication of policies that apply to a particular area.
- 5.7. National advice on planning is set out in the Planning Practice Guidance (PPG), which includes specific advice regarding neighbourhood plans. I have considered the advice of the PPG as part of assessing the Plan against Basic Condition a).

## Sustainable development

- 5.8. A qualifying body must demonstrate how a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole constitutes the Government's view of what sustainable development means in practice for planning. The NPPF explains that there are three overarching objectives to sustainable development - economic, social and environmental.
- 5.9. There is no legal requirement for a formal Sustainability Appraisal (SA) to be carried out in respect of neighbourhood plans. However, SA is an established method of demonstrating how a neighbourhood plan will contribute to achieving sustainable development.
- 5.10. In this case, a Sustainability Appraisal has been carried out which considers the plan policies against a suite of sustainability objectives (environmental, social and economic). The assessment indicates that the effect of the policies of the Plan would be generally positive in terms of sustainability. I consider the contribution of specific policies to sustainable development below in Section 6.

## General conformity with the development plan

5.11 The MNNP has been prepared in the context of the *Ryedale Local Plan 2027 (RLP)*. The MNNP must be in general conformity with the strategic policies.

5.12 The PPG provides the following definition of general conformity:

“When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with;
- the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy;
- whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy;
- the rationale for the approach taken in the draft neighbourhood plan or order and the evidence to justify that approach.”

5.13 North Yorkshire Council, post reorganisation, is in the process of preparing the North Yorkshire Local Plan which will replace the RLP. However, this plan is at a very early stage.

5.14 I consider the extent to which the policies and proposals of the MNNP are in general conformity with the strategic policies of the Ryedale Local Plan in detail in Section 6 below.

## European Union (EU) obligations

5.15 A neighbourhood plan must be compatible with EU obligations, as incorporated into UK law, in order to be legally compliant. Notwithstanding the United Kingdom’s departure from the EU, these obligations continue to apply unless and until repealed or replaced in an Act of Parliament.

## Strategic Environmental Assessment and Habitat Regulations Assessment

5.16 Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment has a bearing on neighbourhood plans. This Directive is often referred to as the Strategic Environmental Assessment (SEA) Directive. Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively) aim to protect and



improve Europe's most important habitats and species and can have a bearing on neighbourhood plans.

- 5.17 Regulation 15 of the Neighbourhood Planning Regulations, as amended in 2015, requires either that a SEA is submitted with a neighbourhood plan proposal or a determination obtained from the responsible authority (NYC) that the Plan is not likely to have 'significant effects.'
- 5.18. SEA screening carried out on 2019 concluded that SEA was required. Scoping for the SEA concluded that only 4 policies were in scope - RC1, RC2, CF1 and N1 because of the relationship to the River Derwent corridor. An SEA was carried out assessing these policies against 16 SEA objectives defined as part of the scoping stage. The result was that most impacts were either positive or neutral with only a small number of uncertain negative impacts. Uncertainty was largely a result of the policies being aspirational rather than allocations as such. Moreover, it was concluded that any impacts from the development that might take place directly through these MNNP policies would be offset by the positive benefits of the policies within the Neighbourhood Plan seeking to achieve more sustainable development. The overall conclusion therefore was that the Plan is not likely to have 'significant effects.'
- 5.19 Regarding Habitats Regulations Assessment (HRA), the test in the additional Basic Condition under Regulation 32 now essentially mirrors that in respect of SEA. It requires an Appropriate Assessment to be carried out where a plan is likely to have a significant effect on a European site (either alone or in combination with other plans or projects) or a determination obtained from the responsible authority (PCC) that the plan is not likely to have a 'significant effect'.
- 5.20 HRA screening was carried out against all policies of the plan and 41 policies were screened out as unlikely to have any significant effects. However, because of potential impacts on the Special Area for Conservation along the River Derwent corridor through the heart of the Neighbourhood Area, an HRA Appropriate Assessment was carried out on the same 4 policies as above. The assessment looked at the River Derwent SAC only (as the only one within the plan area) and assessed impact on aquatic features and mobile species and the impact from recreational pressures. The potential impact of disturbance and pollution presented the greatest threats to SAC species where policy areas were linked to the SAC by the river corridor. However, the assessment concluded that for all 4 policies adverse effects on the integrity of the SAC could be ruled out. There was no need for mitigation, no residual effects and no need for further assessment. The fact that there are no allocated sites in the plan area, not already considered in other plans and the positive nature of the MNNP policies and proposals and their safeguarding of the SAC, meant that, either alone or in combination with other plans or projects, there was unlikely to be a significant effect on the European site.



5.21 Both the SEA and HRA conclusions have been confirmed by Natural England, the Environment Agency and Historic England as statutory consultees. I have no reason to reach a different view to the statutory consultees.

#### European Convention on Human Rights (ECHR)

5.22 The Human Rights Act 1998 encapsulates the Convention and its articles into UK law.

5.23 An Equalities and Human Rights Impact Assessment has not been specifically carried out for the MNNP. Instead, the Sustainability Assessment carried out for the plan includes social inclusion as one of the objectives against which the plan's policies and proposals are assessed.

5.24 The Sustainability Assessment simply assesses the policies in tabular form and concludes that for the most part the impacts in terms of social inclusion are either positive or that there is no direct negative impact.

5.25 It is important however to examine the plan against the 3 main relevant Articles of the Convention.

5.26 In respect of Article 1 of the first protocol - the right of everyone to the peaceful enjoyment of possessions - although the MNNP includes policies that would restrict development rights, this does not have a greater impact than the general restrictions on development rights provided for in national law. The restriction of development rights inherent in the UK's statutory planning system is demonstrably in the public interest by ensuring that land is used in the most sustainable way, avoiding or mitigating adverse impacts on the environment, community and economy.

5.27 In respect of Article 6 of the Convention's Rights and Freedoms - the right to a fair hearing in determination of an individual's rights and obligations - the process for preparing the MNNP is fully compatible with this Article. The consultation statement makes clear that there was consultation on the proposals at various stages and the Town Councils have confirmed how traditionally hard to reach sections of the community were engaged. This independent examination process and a final local referendum ensures Article 6 is observed.

5.28 In respect of Article 14 of the Convention's Rights and Freedoms - the enjoyment of rights and freedoms without discrimination on any ground - the policies and proposals of the MNNP have been developed in consultation with the community and wider stakeholders to produce as inclusive a document as possible.

5.29 I conclude that, given the nature of the plan policies and proposals, it is unlikely there would be any detrimental impact on the 'protected characteristics' set out in the Equality Act and, generally, the Plan would bring positive benefits. Whilst the Plan does not directly address needs in respect of particular 'protected characteristics' within the plan area, the MNNP is not prejudicial to any group in its policies.

- 5.30 No concerns or objections on the grounds of human rights or equalities have been raised during the consultation stages of the Plan. I am satisfied on the basis of the above that, across the Plan as a whole, no sectors of the community are likely to be discriminated against. The policies together would generally have public benefits and encourage the social sustainability of the neighbourhood.
- 5.31 I am satisfied therefore that the Plan does not breach, and is otherwise compatible with, the ECHR.
- 5.32 I am not aware of any other European Directives which apply to this particular neighbourhood plan and no representations at pre- or post-submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the MNNP is compatible with EU obligations and therefore with Basic Conditions f) and g).

## 6. The Neighbourhood Plan – Assessment

- 6.1 The Neighbourhood Plan is considered against the Basic Conditions in this section, following the structure and headings in the Plan. Given the findings in Section 5 above that the Plan as a whole is compliant with Basic Conditions f) (EU obligations) and g) (Other prescribed conditions including that under Regulation 32), this section largely focusses on Basic Conditions a) (Having regard to national policy), d) (Contributing to the achievement of sustainable development) and e) (General conformity with strategic policies of the development plan).
- 6.2 Where modifications are recommended, they are clearly marked as such and set out in boxes in bold print.

### The general form of the Plan

- 6.3 The structure of the MNNP is generally logical with early sections setting the context in respect of the background to the neighbourhood plan, before setting out the vision and objectives and the policy sections.
- 6.4 The Plan distinguishes between the policies themselves and their justification by boxing and shading the policies. Each policy is accompanied by supporting text setting out the context, justification and intent.
- 6.5 The NPPF at paragraph 16 requires the Plan to be “*clearly written and unambiguous so it is evident how a decision maker should react to development proposals*” and to “*serve a clear purpose avoiding unnecessary duplication of policies that apply to a particular area*”.
- 6.6 Legislation is clear that Neighbourhood plans are not to include matters that do not relate to the development and use of land. The MNNP, as with many neighbourhood plans, has in the course of its preparation attracted many comments and proposals

from the community that they would like to see the Town Councils take action on, but which are not directly to do with the development and use of land. Whilst MTC and NTC have acknowledged that these ‘community actions’ are not matters that the Neighbourhood Plan can directly address, they are nevertheless presented in the body of the Plan in Chapter 5 and in the Project Delivery Plan at Chapter 6 as part of it, potentially leading to confusion.

- 6.7 This potential for confusion in respect of the scope of Neighbourhood Plans means that there is conflict with Basic Condition a). The detail should be separated out and relocated in an appendix to the Plan with only a paragraph reference remaining in the text referring to the appendix.
- 6.8 The other point in respect of the general structure of the plan relates to the requirement in the PPG that Neighbourhood Plan policies must be clearly evidence based. Some of that evidence base comes from the early identification of the issues facing the neighbourhood area and being able to demonstrate how these inform the vision and objectives and in turn the policies of the plan. The MNNP does not demonstrate this very well leaving the issues to emerge through the supporting justification to the policies later in the plan. It would make the thread and rationale for the vision and policies clearer if there were a summary of the key issues identified before the vision and objectives. The Town Councils were asked about this in the clarifying questions at Appendix 1 below and have agreed that a section of text could be added to the end of section 2 on Malton and Norton Yesterday and Today. Having reviewed the proposed addition I am satisfied that this resolves the point.

Recommendation 1	
<b>1A</b>	<p><b>Delete Chapter 5 of the Plan together with the Project Delivery Plan from Chapter 6 and transfer the contents to a new Appendix 1 to the plan entitled “Community Actions”</b></p> <p><b>Renumber other appendices and amend the plan’s table of contents as necessary.</b></p>
<b>1B</b>	<p><b>Rework the section at 1.22 on the Structure of the Plan as follows to reflect this change using the introductory paragraph from the current Community Actions Chapter:</b></p> <p><b>“1.22 The core of the Neighbourhood Plan that follows comprises 4 main chapters and a set of appendices:</b></p> <ul style="list-style-type: none"> <li><b>• Chapter 2: Malton and Norton.....</b></li> <li><b>• Chapter 3: Vision and Objectives .....</b></li> <li><b>• Chapter 4: Neighbourhood Plan Policies and Proposals .....</b></li> <li><b>• Chapter 5: Monitoring, Review and Implementation – recognises that .... and be a standing agenda item.</b></li> <li><b>• The Appendices – provide detailed site-based and other information underpinning many of the planning policies.</b></li> </ul>

<p>1B Contd</p>	<p><i>Neighbourhood Plans are expected to predominantly deal with matters covered by various Acts of Parliament relating to town planning. In drafting the Neighbourhood Plan, however, various matters have been raised that are not related to planning and beyond the scope of the issues which the plan might address via planning policies. The town councils are keen to respond to any such matters that influence the quality of the two towns and view the Neighbourhood Plan as an opportunity to set a framework for the use of their powers and for work with third parties in order to secure physical improvements to the area. Appendix 1 sets out Community Actions and a Project Delivery Plan designed to address issues and matters raised by the community and through the work of the steering group.</i></p> <p>1.23 In addition a Neighbourhood Plan Policies Map.....”</p>
<p>1C</p>	<p>Add new section of text at the end of Chapter 2 of the plan as follows:</p> <p><i>“2.11 The key issues for this Neighbourhood Plan to address, both in the light of the above and in response to community concerns raised during plan preparation are as follows:-</i></p> <ul style="list-style-type: none"> <li>• <i>The congestion and resultant pollution in Malton Town Centre;</i></li> <li>• <i>Riverside regeneration;</i></li> <li>• <i>Protection of key open spaces and their connectivity;</i></li> <li>• <i>Development of key community and visitor facilities;</i></li> <li>• <i>Protection and enhancement of the towns’ rich and extensive heritage;</i></li> <li>• <i>Ensuring new housing meets local needs;</i></li> <li>• <i>Support for key local employment sectors;</i></li> <li>• <i>Maintaining vibrant town centres.”</i></li> </ul>

6.9 With these modifications the general structure of the plan will meet the Basic conditions and in particular Basic Condition a).

## Section 1 - Introduction

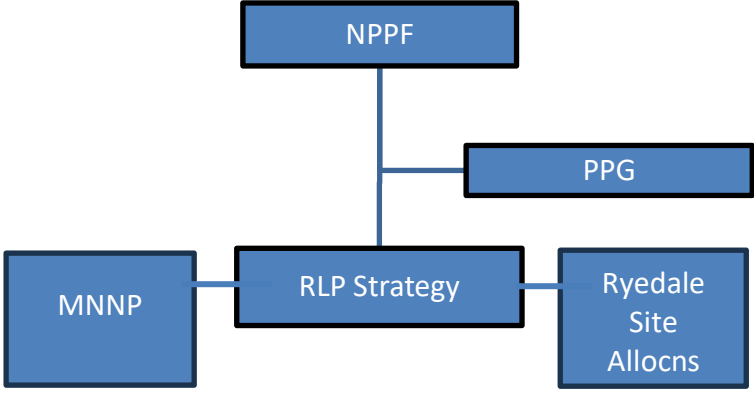
6.10 This section provides a factual introduction to the Neighbourhood Plan. There are however factual corrections to make to update the references to the position with the Development Plan in paragraph 1.3, in paragraph 1.5 where the text talks about the status of the neighbourhood plan and in paragraph 1.21 where the plan talks about the local referendum.

6.11 In paragraph 1.5 the text says the plan is a material consideration. This is inaccurate and the text needs to make clear that, following the referendum, the plan becomes part of the development plan i.e. that it carries statutory weight under S38 of the Planning and Compulsory Purchase Act 2004 and determinations must be in

accordance with the plan unless material considerations indicate otherwise. In addition, the reference in the second sentence to being ‘in line with national and local policies’ is misleading. The same terms as set out in the Basic Conditions should be used to avoid confusion. The graphic on Page 6 is also slightly misleading as regards the position of the plan in the hierarchy. Whilst the MNNP is part of the Development Plan it is led by the strategic policies of the Development Plan ie the Ryedale Local Plan Strategy. The MNNP needs to be seen to flow from it in the graphic.

- 6.12 At Paragraph 1.21 the references to how the referendum operates are also slightly misleading and need to be corrected for the next stage.
- 6.13 Finally, the text in the section *Background to a Neighbourhood Plan for Malton and Norton* is unnecessarily repetitive of the Consultation Statement but, inasmuch as this does not involve any conflict with the Basic Conditions, I make no formal recommendation to modify the section.

<b>Recommendation 2</b>	
<b>2A</b>	<b>Update references in paragraph 1.3 in preparing the referendum version of the plan as to the position regarding the RLP and NYLP.</b>
<b>2B</b>	<b>In Paragraph 1.5 delete the first sentence and replace with: “<i>Neighbourhood Plans are land use planning documents which, once ‘made’ (i.e. adopted), become a part of the statutory Development Plan.</i>”</b>
<b>2C</b>	<b>In Paragraph 1.5 delete the second sentence and replace with:  “<i>They must have regard to national policies and advice and be in general conformity with the strategic policies of the Development Plan for the area. They help to ensure that these policies are implemented in line with local needs rather than being imposed on communities</i>”.</b>
<b>2D</b>	<b>Paragraph 1.21 Line 6 – Delete the words ‘ If a majority are in favour’ and replace with the following:  “<i>If a majority of those voting are in support of the Neighbourhood Plan it will then be ‘made’....</i>”  Note that as per Recommendation 1B the text at paragraph 1.22 is also recommended to be modified.</b>

2E	<p><b>Revise the graphic on Page 6 (Note - titles should be in full )</b></p>  <pre> graph TD     NPPF[NPPF] --- PPG[PPG]     NPPF --- RLP[RLP Strategy]     RLP --- MNNP[MNNP]     RLP --- Ryedale[Ryedale Site Allocns]   </pre>
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6.14 With these modifications the introductory section will meet the Basic Conditions.

## Section 2 – Malton and Norton Yesterday and Today

6.15 Section 2 of the MNNP sets out the origins of the neighbourhood plan and the background to the neighbourhood area today. This is a largely factual section and raises no matters in relation to the Basic Conditions. Note, however, the recommended addition of a new paragraph 2.11 relating to key issues see Recommendation 1C.

## Section 3 - Vision and Objectives

6.16 The vision section looks to protect and enhance the historic character of Malton and Norton and introduce an enlightened approach to development and design. The local food, horse-racing and tourism industries will be encouraged to flourish in the town. The River Derwent corridor will be protected for its ecological interest whilst seeking to revitalise the riverside and remove some of the challenges to movement that it brings. The vision seeks appropriate housing and employment growth in a well-serviced community.

6.17 The Plan has regard to the PPG advice that it *“provides the opportunity for communities to set out a positive vision for how they want their community to develop over the next 10, 15, 20 years in ways that meet identified local need and make sense for local people”*.

- 6.18 The vision and objectives also encapsulate and generally reflect the vision, aims and objectives set out in the RLP at Section 3 Aspirations and Strategy. The impact of pursuing the vision and objectives of the Neighbourhood Plan would contribute to the achievement of sustainable development in the neighbourhood area and therefore there is no conflict with Basic Conditions a), d) and e).
- 6.19 There was criticism at the Regulation 16 stage from ELG Planning representing the Fitzwilliam Malton Estate and from another individual representation that the plan in its vision and objectives could do more to support the vibrancy of Malton and lacked ambition to support growth and prosperity in the town. However, as the vision and objectives have been endorsed by the community it is not possible to add to these without going back in the process to let the community have further input. I am not persuaded of the need to do this and no changes to the vision and objectives are necessary to meet the Basic Conditions.

## **Section 4 – Neighbourhood Plan Policies and Proposals**

- 6.20 Section 4 sets out the policies of the neighbourhood plan.

### **Transport and Movement**

#### **Policy TM1 – Protection and Enhancement of Pedestrian, Cycle and Bridleway Networks.**

- 6.21 The principle of Policy TM1 of the Neighbourhood Plan in seeking to protect and enhance the pedestrian, cycle and bridleway network has regard to the NPPF at section 9, which encourages plans to promote active travel. Paragraph numbering has changed in the NPPF 2023 but the policy requirements remain the same.
- 6.22 The strategic context in respect of improving cycle and pedestrian facilities and routes is set out in Policy SP10 of the RLP. Whilst there is some overlap between the Local Plan Policy and Policy TM1, the Policy does add local context and does not merely replicate the Local Plan policies. Policy TM1 is arguably therefore complementary to the RLP policy and in general conformity and Basic Condition e) is met.
- 6.23 Given that the objectives of the Policy are to protect and enhance the network for active travel, Policy TM1 will have a positive effect in achieving sustainable development and in particular environmental sustainability. Thus Basic Condition d) is also met.
- 6.24 Notwithstanding that the principle of the policy meets the basic conditions, there are a number of areas where the policy is not clear and unambiguous as required in the NPPF and PPG. Basic Condition a) is not therefore fully met without modification.
- 6.25 Paragraph 1 of the Policy in its last line is unclear as to what the intention is. This lack of clarity in policy wording provides imprecise guidance for developers and is



likely to be used to justify non-compliance. The Town Councils were asked to confirm what the intention is as part of the examiner’s clarifying questions (See Appendix 1 below). The Town Councils state that the intention, through the phrase ‘compatible with’, is that development should not have adverse effects upon the existing network. This is much clearer and if that is the intention it should be stated in that way. I note that the Councils point out that this wording has been considered acceptable by other NP examiners, for example in made plans for Otley, etc. However, just because it has been accepted elsewhere does not mean that it is the right policy for Malton and Norton.

- 6.26 The third bullet in the last paragraph of the policy is worded in a confused way and as a result is not clear and unambiguous. Imprecise wording such as ‘an appropriate amount’ for example makes the policy difficult to apply. There is also scope for significant simplification and improvement of the policy but as this is not strictly necessary to meet the Basic Conditions I make no further specific recommendations.

<b>Recommendation 3</b>	
<b>3A</b>	<b>Reword the first paragraph of Policy TM1 to read :</b>  <b><i>“Development directly affecting the Malton and Norton footpath, cycleway and bridleway network should <i>not result in any adverse impact on the network and should contribute to its improvement.</i>”</i></b>
<b>3B</b>	<b>Reword the third bullet of the last paragraph to Policy TM1 to read:</b>  <b><i>“Providing safe, secure, clearly visible and covered cycle parking, (to promote cycling), as part of any new development which includes provision of car parking spaces particularly within Malton Town Centre”.</i></b>

- 6.27 With these clarifications made Basic Condition a) would be met along with the other Basic Conditions.

### **Policy TM2 New Pedestrian and Cycle River/Railway Crossing**

- 6.28 Policy TM2 seeks to ensure that development in three named areas safeguards the provision of new pedestrian and cycle crossings of the River Derwent. The policy is simple in its intent and has regard to the NPPF 2023 at paragraph 110c which allows for safeguarding and is in general conformity with Policy SP10 of the RLP promoting the provision of physical infrastructure. No modification is required to meet the Basic Conditions.



## Policy TM3 – TM5 Highway Improvements and Congestion

- 6.29 Three policies are presented in the plan to assist in tackling congestion in the two towns and in particular in resolving the congestion at the bridge crossing over the River Derwent. The plan recognises that the actual delivery of these improvements to the transport infrastructure are not something the neighbourhood plan can achieve directly but it seeks to ensure in the three policies that development does not prejudice the future delivery, that development which actively improves the situation is supported and that development does not adversely impact on highway safety.
- 6.30 As with policy TM2, the policies are simple in their intent and have regard to the NPPF 2023 at paragraph 110c which allows for safeguarding and paragraph 114 in respect of transport impacts. They are also in general conformity with Policy SP10 of the RLP promoting the provision of physical infrastructure.
- 6.31 Representations at Regulation 16 from the Fitzwilliam Malton Estate, The Mount Consultancy and others argue that the proposals do not go far enough and that the proposed southern bypass in Policy TM3 should be extended round the west side of Malton to Castle Howard Road and Middlecave Road. While this may reduce congestion further I note that it is also being promoted in order to open up land on the west side of Malton for development. In the context of the short timescale of the current Neighbourhood Plan and the fact that work has commenced on a new North Yorkshire Local Plan I consider that this should be taken forward as a strategic matter and is correctly one for consideration in the NYLP rather than the MNNP at this late stage.
- 6.32 No modifications are necessary to meet the Basic Conditions.

## Policy TM6 – Development on non-allocated sites

- 6.33 Policy TM6 seeks to ensure that development on non-allocated sites properly considers the impacts on highway safety, congestion, air quality and sustainable transport. It has regard to the policy tests in paragraphs 114 and 115 of the NPPF 2023 which set out how transport impacts should be assessed.
- 6.34 The policy is also in general conformity with RLP Policy SP20 setting out generic development management requirements and, specifically relevant to Policy TM6, what is required in respect of access, parking and servicing.
- 6.35 Inasmuch as the policy seeks to ensure safe access to and from the site, protection from air pollution and travel by sustainable modes it is likely to have a positive effect and contribute to sustainable development.
- 6.36 ELG Planning on behalf of the Fitzwilliam Malton Estate raised a representation at the Regulation 16 stage that the element of the Policy relating to air quality went beyond the test set out in paragraph 174e) of the NPPF (now paragraph 180e)) in that the NPPF seeks to prevent unacceptable levels of air pollution rather than

preventing ‘measurable worsening of air quality’ as worded in the Policy. However, the paragraph at e) in its entirety states: *Preventing new and existing development from **contributing to**, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.* It is clear from this and later at paragraph 192 (formerly 186) that the intention of the NPPF 2023 as it was in 2021 is to prevent development contributing to existing problems of pollution and at paragraph 192 that the policy intention is to improve air quality. I am satisfied given the presence of the AQMA that there is already acknowledged to be an unacceptable situation with regard to air quality in Malton and Norton and that this should not be contributed to by development. The wording at Policy TM6 therefore is not inappropriate nor contrary to the NPPF in this regard.

- 6.37 Nevertheless, given the requirement of the NPPF and PPG for policies to be clear and unambiguous I am not satisfied that the first requirement of the policy is sufficiently clear and unambiguous. The section is difficult to read and to understand the intent and should be split to enable the plan user to be clear what is required and therefore to meet Basic Condition a) in full.

<b>Recommendation 4</b>	
<b>4A</b>	<p><b>Applying the typographical correction at Appendix 2 below reword the first requirement of policy TM6 to read:</b></p> <p><b>“does not cause an unacceptable impact on highway safety nor any severe residual cumulative impacts on the road network (factoring in plan allocations and any extant planning permissions in Malton and Norton).”</b></p> <p><b>Create a new second requirement to read:</b></p> <p><b>“mitigates any congestion impacts to ensure highway safety and ease of access to the local road network, particularly within Malton and Norton Town Centres”.</b></p>

## Policy TM7 – Electric Vehicle Charging Infrastructure

- 6.38 The plan at Policy TM7 seeks to set out the requirements for electric vehicle charging infrastructure setting standards expected. However, in the period since the plan was first drafted Building Regulations Approved Document S – Infrastructure for the Charging of Electric Vehicles - 2021 and updated in April 2023 has been published. This sets out a very detailed set of requirements for all development in this regard. Neighbourhood Plans are advised not to duplicate requirements published under other legislation and for that reason the policy is not compliant with Basic Condition a). Notwithstanding that the bulk of the policy cannot be retained, in

view of the special circumstances applying in the AQMA the last clause of the policy encouraging a higher standard than the minimum set out in the Building Regulations could be retained.

<b>Recommendation 5</b>	
<b>5A</b>	<p><b>Delete policy TM7 with the exception of the last paragraph commencing ‘In respect of ....’</b></p> <p><b>Insert in line 3 of that paragraph after the word ‘provision’ the words “set out in Building Regulations Approved Document S or a replacement document to it....”</b></p>
<b>5B</b>	<p><b>Make consequent amendments to the supporting text as follows:</b></p> <p><b>Delete the first 3 sentences of paragraph 4.1.26 – Replace with the following :</b></p> <p><b><i>“The Building Regulations Approved Document S sets out in full detail the requirements for electric vehicle charging infrastructure in different classes of development and it is not necessary to repeat these standards in the Neighbourhood plan. However, in the vicinity of the Malton AQMA...”</i></b></p> <p><b>Insert after the word ‘encouraged’ in the penultimate line of paragraph 4.1.26 the words “in Policy TM7”</b></p>

## Policy TM8 – Traffic Management Plans

- 6.39 Policy TM8 supports the provision of traffic management plans for major developments and in that respect has regard to the NPPF 2023 at paragraph 117 (formerly 113).
- 6.40 Whilst, as worded, the Policy does not conflict with the Basic Conditions, equally the wording will achieve very little. It may be that the Town Councils may wish to consider a revised wording in finalising the plan that makes this a requirement for major developments generating significant levels of traffic rather than just saying that their provision will be supported. However, as this is not required to meet the Basic Conditions, I make no formal recommendation.

## The River Corridor

### Policy RC1 - Malton and Norton River Corridor Development

- 6.41 Policy RC1 seeks to support recreational enhancement proposals within the river corridor subject to there being no adverse impacts on the River Derwent SAC, the landscape character, heritage assets and flood risk.
- 6.42 I am satisfied that the policy strikes a balance between recognising the NPPF’s

encouragement to securing the efficient use of land in Section 11 and the protection and enhancement of biodiversity in Section 15. It is also in general conformity with the RLP's spatial strategy for Malton and Norton and Policy SP14 which seeks to protect and enhance biodiversity in the Derwent Valley amongst other locations and Policy SP17 which seeks to manage and protect quality of the water resource. The policy will contribute to the delivery of a more sustainable future for the river corridor.

- 6.43 ELG Planning on behalf of the Fitzwilliam Malton Estate in its Regulation 16 representation expresses concern that it is not clear whether the policy area as denoted on the Policies Map includes part of the industrial land in FME's ownership which would not be appropriate. The Town Councils in their response to the representation have confirmed that the notation does not include any of the industrial land owned by FME. Looking at the notation on the Policies Map and on site I have no reason to reach a different view.
- 6.44 Other than the typographical amendments set out in Appendix 2 there is no need to modify the Policy to meet the Basic Conditions.

## Policy RC2 – Regeneration of Land North and South of County Bridge

- 6.45 Policy RC2 looks to regenerate the land around the County Bridge in the interests of improving the visual quality of the townscape in the centre of the plan area and making more effective use of the land. However, the Policy caveats the support it gives in recognition of the constraints applying to the site and in particular the flood risk.
- 6.46 As with Policy RC1, RC2 strikes the same balance between trying to secure the efficient use of land and protecting and enhancing the natural assets and protecting from flood risk. As set out at paragraph 6.42 it also has regard to the NPPF and the RLP spatial strategy and policies.
- 6.47 Because of the risk from flooding the Policy expressly excludes residential development or other uses more vulnerable to flood risk. This has attracted objections at the Regulation 16 stage from both the freehold owner of the land Fitzwilliam Malton Estate and the leaseholder National Grid whose representations ask for this restriction to be removed.
- 6.48 Whilst I do not dispute that the site being centrally placed in a sustainable location is, in principle, acceptable for residential use the Councils have a duty to ensure more vulnerable uses like housing are protected from flood risk. Although Firstplan on behalf of National Grid point to the fact that flood defences for Malton and Norton are already in place and that housing already exists in this area it was quite clear from my visit on 4<sup>th</sup> January 2024 during the flooding at that time that these defences had not stopped the river inundating part of this site and partially blocking Castlegate and the entrance to Sheepfoot Hill. Despite the defences, the area therefore remains at risk. I note the point that other recent residential development is located on

Sheepfoot Hill but this does not of itself make further residential development acceptable in terms of flood risk.

- 6.49 In any event changing the policy now in order to allow the possibility of residential use would be irresponsible without the results of a full Flood Risk Assessment and sequential and exceptions test particularly in the light of recent events. This information has not been provided. In addition, it is clear from the HRA (Appropriate Assessment on the neighbourhood plan that Policy RC2 is only acceptable in terms of its impact on the River Derwent SAC with residential use excluded. As such before the site could be considered for residential or mixed use it would have to be concluded in an Appropriate Assessment that there would be no significant adverse impacts on the SAC and no such evidence is before me. I note from Firstplan that the site was put forward as part of the RLP Review and presumably is also now put forward for inclusion in the North Yorkshire Local Plan. This provides a vehicle to reconsider the matter of potential for housing use. Finally, the vulnerability classification in terms of flood risk includes the opportunity for a significant range of less vulnerable uses which could be developed on the site and Policy RC2 would not prevent development for these uses.
- 6.50 As with a number of other policies in the plan the Policy is not set out in a clear and unambiguous manner. The second paragraph makes reference to the development being accepted in terms of the local plan. This is both confusing and unnecessary. Any development would be assessed against both the requirements of the Local Plan and the Neighbourhood Plan and it is not necessary to include this when it makes the policy confused. Paragraph 2 should be reworded to set out all the ‘subject to’ caveats. This make for a clear and unambiguous policy that meets Basic Condition a).

<b>Recommendation 6</b>	
<b>6A</b>	<p><b>Delete current paragraph 2 of Policy RC2 and replace with :</b></p> <p><b><i>“Support will be subject to:</i></b></p> <ul style="list-style-type: none"> <li>- <b><i>No adverse effects on the integrity of the River Derwent SAC</i></b></li> <li>- <b><i>No residential or other highly or more vulnerable uses.....etc”</i></b></li> </ul>
<b>6B</b>	<p><b>Include reference to the sequential &amp; exceptions test in both Policies RC1 and RC2 in the paragraphs commencing ‘The preparation of a flood risk assessment’ line 4 as follows:</b></p> <p><b><i>“(including the undertaking of sequential and exceptions test)”</i></b></p>

## The Environment

### Policy E1 and E2 - Protection and enhancement of Local Green Space

- 6.51 The Neighbourhood Plan at Policy E1 takes up the opportunity offered in the NPPF to identify and designate Local Green Space (LGS) in accordance with NPPF paragraphs 105-107 (Formerly 101-103) and at E2 supports their enhancement. Such spaces can only be designated at the time the neighbourhood plan is being prepared and development within them will be treated in the same way as development within the Green Belt i.e. only permitted where very special circumstances apply.
- 6.52. The sites considered and proposed to be designated as LGS are identified on the Policies Map (together with an assessment in terms of the tests set out in Paragraph 106 of the NPPF at Appendix 1 of the Plan). The NPPF tests are:
- Is the green space in reasonably close proximity to the community it serves?
  - Is the green space demonstrably special to the local community and of local significance?
  - Is the green space local in character and not an extensive tract of land?
- 6.53 For the most part, having reviewed the LGS in Malton and Norton and considered the assessments in Appendix 1 I generally agree that E1.1, E1.2, E1.4, E1.5, E1.6 and E1.7 meet the tests.
- 6.54 However ELG Planning on behalf of the Fitzwilliam Malton Estate (FME) in its Regulation 16 representations has objected to the designation of both E1.3 Norton Riverside and E1.9 High Malton. In addition, in reviewing the proposed LGS I also have concerns regarding E1.8. I consider these 3 sites below.
- Norton Riverside
- 6.55 Norton Riverside LGS E1.3 comprises two elements. The eastern section is comprised of riverside green space which is set out as a picnic area and area for informal recreation with landscape and wildlife value as part of the river corridor. However, the western section comprises a hard landscaped skate park.
- 6.56 FME in its Regulation 16 representation takes issue with this as the skate park was created from former industrial land and is not green space. Whilst I accept that it is a small area, in close proximity to the community and that it serves a recreational purpose it is not physically green space nor is it well related to the LGS to the east being separated by a wall. I fully accept that it is an important community recreation facility but, as such, it is protected by Policy SP11 of the RLP and any redevelopment proposals would have to satisfy the criteria in that Policy. There is therefore no need for it to be protected as LGS. Indeed the protection of it in that way would simply make the addition or replacement of skateboarding equipment



less straightforward.

#### High Malton

- 6.57 The High Malton LGS E1.9 is made up of a large area of agricultural land on the west side of Malton bounded by Castle Howard Road, Middlecave Road and the A64. Although the land is reasonably close to housing on the west side of Malton and therefore local to the community it has no public access to it for example public rights of way and to that extent it does not provide public open space.
- 6.58 I acknowledge that the tests in the NPPF do not require LGS to have public access in order to be demonstrably special to a community. That explicitly is not part of the tests. However, as working agricultural land, this area has limited recreational or biodiversity value. It is common ground that it has no clear historic significance nor particular beauty.
- 6.59 Fundamentally however the area fails the test of being local in character as it is an extensive tract of land. The Planning Practice Guidance (PPG) makes it clear that *“blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name”*. (Paragraph: 015 Reference ID: 37-015-20140306)
- 6.60 I am concerned that this is the intention with regard to this site and that it does not fulfil the intended role of Local Green Space and its inclusion would weaken the concept of LGS elsewhere in the two towns. In conclusion, it is not justified that the site be protected as LGS.

#### The Plantation / Long Plantation

- 6.61 The selection of E1.8 as LGS is a slightly odd one in that it is somewhat remote from the community (1 kilometre to the nearest substantial development at Middlecave) and essentially is simply a public right of way through pockets of woodland along a field margin. That said, I accept that in landscape terms and as an opportunity for informal recreation, it clearly has value. The main concern with this proposed LGS is that, according to the Policies Map, the notation extends beyond the neighbourhood area at its southern end. This is not acceptable. Legislation is clear that neighbourhood plans cannot include proposals beyond the limits of the neighbourhood area. Therefore the area extending beyond the neighbourhood area must be deleted if the LGS is to be retained.
- 6.62 Policy E1 itself with the deletion of E1.3 and E1.9 does not raise any issues regarding Basic Conditions however there is a need for minor adjustments to Policy E2 and the supporting text to this section at 4.3.6. This is in relation to the circumstances in which development might be allowed on LGS. The supporting text at paragraph 4.3.6 states that development would only be approved in very special

circumstances as set out in paragraphs 147 – 151 of the NPPF 2021. Paragraph 148 (Now 153) is very clear that “*Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations*”. It would be wrong and misleading for the MNNP to imply that any development listed in paragraphs 149 and 150 would be acceptable on LGS which is implied by the text. This is not the intention of the NPPF. Accordingly, the text at paragraph 4.3.6 should stop after the word ‘circumstances’ in line 6.

6.63 Related to this point, I am concerned that as currently drafted Policy E2 implies that development that enhances a Local Green Space will be supported. Given that development can only be allowed on LGS in very special circumstances this policy is misleading. As the intention of the policy was not clear the examiner’s clarifying questions sought to establish whether this was intended to relate to development outside but close to an LGS helping to enhance the space. The Town Councils have replied stating -

*“The intention is as the examiner states, but also that the policy relates to enhancing development within Local Green Spaces that is allowable within the definition of those very special circumstances”.*

6.64 The implication of this is that Policy E2 as worded remains unclear, it is arguably contrary to the NPPF and worse, it may lead to outcomes the Town Councils do not seek. I therefore recommend a modification below to protect the LGS and bring the policy in line with the objective of LGS.

<b>Recommendation 7</b>	
<b>7A</b>	<b>Delete that part of proposed designated LGS E1.3 covering the skate park, and make consequential changes to supporting text and the Appendix at the end of the plan.</b>
<b>7B</b>	<b>Delete proposed designated LGS E1.9 High Malton and make consequential changes to supporting text and the Appendix at the end of the plan.</b>
<b>7C</b>	<b>Delete that section of LGS E1.8 that extends outside the neighbourhood area at the southern end of the LGS on the Policies Map.</b>
<b>7D</b>	<b>In lines 6/7 of paragraph 4.3.6 delete the words ‘as set out in NPPF paragraphs 147-151’.</b>
<b>7E</b>	<b>Reword Policy E2 as follows : “Proposals which would result ....will be supported.  Where such proposals would involve built development on a Local Green Space very special circumstances must be demonstrated.”</b>



- 6.65 With these modifications Policies E1 and E2 and the proposed designations will be in accordance with Basic Condition a). Equally, the policy is also in general conformity with RLP Policies SP11 (protecting community facilities), SP 14 (protecting biodiversity) and SP15 (seeking to protect green infrastructure networks). The Policies are likely to make a strongly positive contribution to achieving sustainability. Accordingly, the designations and policy as modified would also meet Basic Conditions d) & e).

### Policy E3 – Open Space in New Development

- 6.66 Policy E3 seeks to secure improved levels of public open space and children's play facilities and in that respect has regard to the NPPF at Section 8 which requires plans to plan positively for the provision of open space amongst other community facilities. The policy also is in general conformity with RLP Policy S11 which seeks new or enhanced open space to address deficiencies. Although Policy SP11 is itself quite detailed, Policy E3 is complementary to it and adds local detail. The policy will contribute particularly to environmental and social sustainability objectives and meets Basic Conditions a), d) and e) and no modifications are necessary.

### Policy E4 – Green and Blue Infrastructure

- 6.67 The neighbourhood area has a rich and valued natural environment with a number of important green and blue infrastructure (GBI) assets including the River Derwent Corridor and a number of other GBI corridors identified by Natural England and the North Yorkshire local authorities. The Policy intends to set out what is expected of development to protect and enhance these areas.
- 6.68 The NPPF at Section 15, encourages plans to protect and enhance landscapes and promote the conservation, restoration and enhancement of priority habitats and recognises the role GBI plays in achieving this. As such the policy has regard to the NPPF. Policy SP15 of the RLP deals with GBI and is a very detailed policy. There is no doubt that Policy E4 is in general conformity with it but there is considerable overlap. Nevertheless I am satisfied that on balance the Policy intent is complementary to RLP Policy SP15 in setting out specifically how GBI relates to the Malton / Norton area.
- 6.69 Two representations at the Regulation 16 stage - ELG Planning on behalf of the Fitzwilliam Malton Estate and Firstplan on behalf of National Grid object that the GBI designation in the plan extends over large swathes of the neighbourhood area including significant areas of urban and developed and previously developed land. Firstplan, in particular, object that as a former gasworks the site is not part of a multifunctional wildlife, amenity and recreational network. The Town Councils have responded indicating that the area defined relates back to the work referred to above by Natural England and the North Yorkshire authorities establishing the corridors.

Many of these flow across the subregion and are by definition extensive. The Town Councils have also pointed to other plan areas where GBI includes developed areas and in the case of the Sheepfoot Hill site it directly adjoins the River Derwent corridor.

- 6.70 Whilst it is true to say the Policy does not prevent development from happening, I am not persuaded that the policy wording is clear and unambiguous as to what is required and where it will apply as required by the NPPF and PPG. It is not clear from the first paragraph of the Policy which development is being talked about but it implies **all** development throughout the plan area which I am not persuaded is evidenced as justified or reasonable. Nor is it clear how the final clause of the policy will apply. How for example could it be justified for a small development to extend the already extensive GBI corridors which is what the Policy requires?  
I have been referred by the Town Councils to, for example, the Haworth Neighbourhood Plan which has an identical policy as a justification to accept the wording. Whilst I note that this plan is now ‘made’ – this does not necessarily mean the MNNP policy expressed in the same way is clear and unambiguous.  
In view of the ambiguity I recommend the modification below is made to the policy.

<b>Recommendation 8</b>	
<b>8A</b>	<p><b>Reword policy E4 to read:</b></p> <p><b><i>“Development proposals within or adjacent to the following green and blue infrastructure areas identified on the neighbourhood plan proposals map must demonstrate that they will not harm the role of these areas as part of a multifunctional wildlife, amenity and recreational network and demonstrate how they will contribute to the enhancement of the Green and Blue Infrastructure network.</i></b></p> <p><b><i>The Derwent corridor ....”</i></b></p> <p><b>Add to the list <i>The Wolds Corridor</i> as referred to in Appendix 2 to the plan.</b></p>

- 6.71 Although this modification involves some reworking to Policy E4 I am satisfied that the essential purpose and objective of the Policy remains the same and as modified it will meet Basic Conditions a) and e). Inasmuch as the policy will promote environmental sustainability in particular, the policy will contribute to sustainable development and Basic Condition d) would also be met.

## Policy E5 – High Malton Visually Important Undeveloped Area

- 6.72 Policy E5 designates the area at High Malton as a Visually Important Undeveloped Area (VIUA). The designation was established in the original Ryedale Local Plan and the policy carried forward in current RLP Policy SP16 although the current plan says little in the supporting text about the concept of VIUA.

- 6.73 Objections have been received at the Regulation 16 stage from ELG planning on behalf of the Fitzwilliam Malton Estate objecting to the identification of the High Malton area as a VIUA arguing that the area does not meet the criteria established to assess VIUA by the then Ryedale District Council.
- 6.74 NYC has confirmed in its detailed response to the examiner's clarifying question on this topic (see Appendix 1) that it accepts the identification of additional VIUAs is a matter that can be done through Neighbourhood Plans and as the area in question is not allocated in the RLP the proposed designation would not undermine the strategic approach of the Local Plan. However NYC argues that the assessment of candidate VIUAs should follow a consistent methodology to that already established for the RLP. The Town Council's assessment has applied the same methodology; the issue is the extent to which the conclusions against the tests set out in the methodology are sufficient to warrant designation.
- 6.75 There is an important distinction between what was assessed as a VIUA for the Ryedale Local Plan and discounted (referred to by the objectors) and that now proposed. The original area covered the area between the western edges of Malton out to the A64 and all the way from York road north to Castle Howard Road, Middlecave Road and Broughton Road. What is now proposed in the MNNP is the much smaller area between Castle Howard Road and Middlecave Road. This area is one of larger field parcels of agricultural land in the southern and western sections and smaller paddocks in the northern section closer to Middlecave Road. Hedgerows and field boundary trees separate the parcels. The area is generally flat with views in from a distance.
- 6.76 The criteria used to assess VIUA are as follows:
1. Contribution the space makes to the setting of the settlement viewed either from publicly accessible view points within the settlement or from approach roads or paths
  2. Contribution the space makes to the setting of a building or groups of buildings either listed or of historical or architectural interest
  3. Contribution the space makes to the overall form and character of the settlement
  4. Extent to which the space provides a vista/viewpoint into the surrounding countryside
  5. Extent to which trees, boundary hedges or walls contribute to the character of the space
  6. The archaeological or historic interest of the space
- 6.77 It is common ground that the area does not meet criteria 2 and 6 there being no heritage buildings or known archaeological or historic interest. Having looked at the area on site, although trees are important to the edges they do not contribute extensively to the character of the majority of the space. This leaves 1, 3 and 4 as the main criteria at issue.

- 6.78 In respect of criterion 3 inasmuch as the area does not provide the foreground context from which Malton’s form and character can be understood and appreciated I am not persuaded that criterion 3 is met.
- 6.79 However in respect of Criteria 1 and 4 there is a case to be made. The area does contribute to the setting of Malton’s western edge particularly viewed from the approach along Castle Howard Road from the west where there are open views north eastwards of the green, leafy urban edge. The space also is important in providing a vista into surrounding countryside again most prominently from Castle Howard Road where there is an open sweeping vista westwards towards the Howardian Hills AONB.
- 6.80 I note the NYC point that the designation must be applied judiciously to ensure it remains of value but in this case I am satisfied that there is sufficient justification in respect of criteria 1 and 4 to warrant the designation of this much smaller area than that originally under consideration. I also note the point made by FME in respect of their representations on Policy E1 regarding LGS that this is the only suitable and sustainable location for future development of the town. However, both NYC and the Town Councils acknowledge that as set out in RLP Policy S16 VIUA would not necessarily prevent development where social and economic need would outweigh the importance of the designation. As it is acknowledged by NYC in response to the examiner’s clarifying questions that we are not at that point with regard to housing land I do not share FME’s conclusion that the designation is not in general conformity with the strategic policies of the Local Plan. It is open to NYC in the context of preparing the North Yorkshire Local Plan to weigh this balance again between the visual importance of this undeveloped area and any emerging social and economic need for housing or indeed other development for Malton and Norton.
- 6.81 There is no need for any modification to policy E5. However, given my recommendation in respect of the LGS E1.9 the final sentence of paragraph 4.3.17 of the supporting text should be removed. NYC has stated that the proposed VIUA should be shown on the proposals map but on the submission version of the proposals map provided for the examination the designation is shown.

<b>Recommendation 9</b>	
<b>9A</b>	<b>Delete final sentence of paragraph 4.3.17 relating to the LGS designation.</b>

## Policy E6 – Gateways

- 6.82 Policy E6 identifies and protects the roles that the gateways to Malton and Norton play in framing the approaches to the towns and equally the key views outwards to designated landscapes. It requires design to be sensitive in these locations. In

principle the policy has regard to the NPPF at paragraphs 135 seeking high standards of design and 180 looking to recognise the intrinsic character and beauty of the countryside and in general conformity with Policy SP13 (Landscape) and Policy SP16 (Design) of the RLP. It also will contribute to achieving more sustainable development. In principle therefore it meets the Basic Conditions.

- 6.83 However, again in respect of the advice for policies to be clear and unambiguous the last clause of the policy fails. Stating that the impact of development will be carefully considered merely states the obvious it gives no guidance to developers and needs to be reworded.
- 6..84 ELG Planning on behalf of the Fitzwilliam Malton Estate have made representations at the Regulation 16 stage to the effect that the policy deals with strategic matters that would be considered in bringing forward any allocation in a strategic plan. They go on to say that edge development in the vicinity of gateways could be provided that would enhance the gateway. This is exactly what the policy is about i.e. ensuring that development in these locations respects the gateway context. It is not a stop on development and inasmuch as it deals with design I am not persuaded that it is only a strategic matter.
- 6.85 Policy E6 depends for its successful operation on an understanding of the gateways and what is important about them and is not as well supported by Appendix 4 to the Plan as it should be. There is a need for the Appendix to be clearer as to exactly what is the essential landscape character to be protected. Some of the entries are better at this than others. The Town Councils as part of the examiner's clarifying questions were asked to develop the Appendix so that it specifically sets out the essential character to be protected and which development must respect at each gateway.
- 6.86 The Town Council's in response suggested an alternative to the policy plus appendix approach in the submitted plan based on an earlier version of the policy from 2018 and considered that this approach would enable full and detailed consideration of the visual impact of development proposals at gateway locations on their merits, relative to proposals put forward. Whilst the wording they suggest does provide a more useful last clause to the policy it does not remove the need for Appendix 4 to make clear what is important about the various gateways. They propose for the last clause of the policy the following wording:

*The layout and design of any development at these locations will be subject to justification by detailed design analysis, including a visual impact assessment."*

Generally the wording is acceptable in terms of the Basic Conditions but as visual Impact Assessment is a significant piece of work I am not persuaded it is justified for all developments. I therefore recommend that it is restricted to major developments only.

<b>Recommendation 10</b>	
<b>10A</b>	<p><b>Reword the final sentence of policy E6 to read:</b></p> <p><i>“The layout and design of any development at these locations will be subject to justification by detailed design analysis, including for ‘major developments’ a visual impact assessment.”</i></p>

## Policy E7 Development Affecting the Malton AQMA

- 6.87 Policy E7 is in response to poor levels of air quality in the centre of Malton and Norton in response to which an AQMA was established in 2009. The Policy has regard to paragraph 180e) of the NPPF which encourages policies to prevent development from contributing to unacceptable levels of air pollution amongst other things. Similarly the Policy is in general conformity with RLP policy SP17 which looks to manage air quality, protect from polluting effects and enhance the situation.
- 6.88 Policy E7 overlaps quite significantly with the RLP however it does expand slightly on the RLP position and I am satisfied does not simply repeat it. However, in doing so, the MNNP Policy goes beyond what the RLP requires by extending assessment beyond the AQMA and its immediate vicinity. As drafted, Policy E7 extends to any development across the whole of the neighbourhood area. I am not persuaded that there is evidence to suggest this is reasonable or justified. For example should a householder development or other minor development reasonably be expected to have to comply with the policy if it is at the southern end of Norton? In the light of this concern the Town Councils were asked in the examiner’s questions to clarify whether the intention was to apply only to development within or in the vicinity of the AQMA. The Town Councils have confirmed that the intention was to apply across the neighbourhood area but they acknowledge (See Appendix 1 below) that this may be unreasonable for householder and minor developments. They have proposed in their response a more nuanced response reflecting those uses that are possibly more likely to generate high levels of traffic that would impact on the AQMA. Considering the stage we are at in the plan process I think this is too significant a change but I would recommend that for development outside the AQMA or its immediate vicinity it would be justified to require only major developments to comply with limits set for the AQMA.
- 6.89 Finally, in the supporting text at paragraph 4.3.27 the reference to the community actions chapter in line 3 should be changed to refer to community actions in the appendix as per Recommendation 1 above.

<b>Recommendation 11</b>	
<b>11A</b>	<p><b>Reword the first line of policy E7 to read:</b></p>



	<b><i>“Proposals for any new development within or adjacent to the AQMA and any ‘major development’ elsewhere in the neighbourhood area should contribute towards .....”</i></b>
<b>11B</b>	<b>In Paragraph 4.3.27 line 3 delete the bracketed words and replace with (see the Community Actions at Appendix 1)</b>

6.90 With this modification the policy will meet the Basic Conditions.

## Community Facilities

### Policy CF1, CF2 and CF3 – Development of Norton’s Swimming Pool, Malton’s Community Sports Centre and Medical Centre

- 6.91 These three policies of the plan seek to support the improvement or redevelopment of community facilities and, in the case of medical facilities, possible additional facilities for Norton. In that respect the policies are aspirational but have regard to Section 8 of the NPPF which seeks to protect and encourage development of community services. The MNNP makes it clear that as RLP Policy SP11 affords protection to community facilities there is no need for a policy to that effect but while SP11 does also encourage new facilities there is a need for the MNNP to give specific direction as to what this means for Malton and Norton. As such the MNNP is in general conformity with Policy SP11 and adds specific local detail as to what the community wishes to achieve. Thus the policies meet basic Conditions a) and e).
- 6.92 As the provision of improved or new facilities would also assist in a more sustainable quality of life for residents of the plan area the policy proposals would also meet Basic Condition d).
- 6.93 The policies are all simply expressed, aspirational policies supporting delivery of specific facilities and they do not require any amendment to meet Basic Conditions other than in respect of a very minor clarification in Policy CF1 where both the sequential and exceptions test should be referred to in respect of flood risk in the last paragraph.

<b>Recommendation 12</b>	
<b>12A</b>	<b>In policy CF1 last paragraph line 4 delete the word ‘test’ and add the words “<i>and exceptions tests</i>” after the word ‘sequential’.</b>

## Tourism and Culture

### Policies TC1 and TC2 – New Museums and Visitor Facilities and Orchard Field

- 6.94 This section of the MNNP looks to encourage tourism and visitor related development in the two towns. Policy TC1 is aspirational and generally supports these sorts of facilities whilst Policy TC2 Orchard Field is more focussed on developing visitor facilities at Orchard Field. Both policies seek to establish a permissive policy environment and have regard to the NPPF at Sections 6 and 8 seeking to promote economic development and the provision of community facilities respectively. The two policies are also in general conformity with RLP Policy SP8 which looks to encourage the expansion of tourism businesses and identifies the opportunities that exist in respect of Malton’s Roman past. Policy TC1 does not take things much further forward than RLP Policy SP8 but Policy TC2 on Orchard Field is much more specific.
- 6.95 Notwithstanding the limited value of Policy TC1 it does not raise any matters of concern with regard to the Basic Conditions. However, the Orchard Field Policy does raise a specific matter regarding Basic Condition a) and local green space as it is designated as such.
- 6.96 As referred to above, LGS should only be developed in very special circumstances. Although the development of visitor facilities on the site might constitute very special circumstances this cannot be assumed in advance. Although the Policy safeguards the heritage significance it does not say anything about the need for development on the LGS to demonstrate very special circumstances. One solution might have been to leave an area of Orchard Field without the LGS designation but given the site’s green space character this would probably not be appropriate. This means that there is a need for an addition to Policy TC2 requiring proposals to demonstrate that very special circumstances need to be proven.
- 6.97 In addition, in view of the NPPF’s policy in respect of heritage assets the last line of the policy is unacceptable. It is not enough for this assessment work to be completed prior to the start of construction – it needs to be clearly understood during the determination of any planning application as to what the impacts are on the significance of heritage assets, whether these are acceptable and what mitigation might be necessary. Accordingly, Policy TC2 requires two modifications.

<b>Recommendation 13</b>	
<b>13A</b>	<b>Add to Policy TC2 paragraph 2 line 1 after the word ‘demonstrate’ the words “<i>that very special circumstances exist to justify development on a local green space and demonstrate a full....</i>”</b>
<b>13B</b>	<b>Add to the last line of Policy TC2 after the word ‘reached’ the words “<i>as part</i>”</b>



***of the determination of the planning application.”***

6.98 With these modifications in place Policy TC2 will meet the Basic Conditions.

### Policy TC3 and TC4 - Hotel Development and Wentworth Street

6.99 Policies TC3 and TC4 seek to encourage the provision of additional hotel accommodation in Malton and Norton – general support in Policy TC3 and specific support in Policy TC4 for the partial development of the Wentworth Street carpark for hotel accommodation.

6.100 As with Policies TC1 and 2 in principle both policies have regard to the NPPF at Section 6 seeking to promote economic development including those related to tourism. The two policies are also in general conformity with RLP Policy SP8 which looks to encourage the expansion of tourism businesses.

6.101 Turning to Policy TC4 first, having visited the site, I am satisfied that the use of part of the Wentworth Street car park for development of hotel accommodation would not be inappropriate in the context and could be achieved in conjunction with the retention and enhancement of the car park. The policy does not conflict with the Basic Conditions.

6.102 With regard to Policy TC3 however, whilst the principle of encouraging hotel accommodation is not inappropriate the Policy is in conflict with Basic Condition a) in respect of the policy approach to town centres in the NPPF. Hotel use is a town centre use and should not be being promoted outside town centres unless there is no opportunity to develop within the centre. This case has not been made. As such the Policy needs to be modified to prioritise the town centre over a location on the A64 outside of the centre.

#### **Recommendation 14**

**14A** **Revise Policy TC3 to read:**

***“Development of a new hotel to provide modern visitor accommodation will be supported *within a town centre location in Malton or Norton. Where no town centre site is available such proposals will be supported, as an alternative, in a location central to the two towns or along the A64 corridor close to Malton and Norton.*”***

6.103 With this modification the Policy will meet Basic Condition a).

## The Horse Racing Industry

### Policies HRI1 and HRI2 – Protection of Horse Racing Stables and Zones

- 6.104 The horse racing industry in and around Malton and Norton is an important part of the local economy and land management in the plan area. As such the Town Councils consider it is appropriate for the MNNP to afford protection to such development and specifically within an identified zone principally to the south of Norton.
- 6.105 Inasmuch as this helps to support the retention and development of this specialist industry the policies have regard to the NPPF at Section 6 which seeks to encourage economic growth. RLP Policy SP9 seeks to protect and develop land based industries and specifically identifies the horse racing industry as an economic opportunity. In that regard the policies are in general conformity with Policy SP9. Promoting the local economy to create local jobs is likely to promote sustainable development where people can live and work locally. The principle of the two policies therefore meets Basic Conditions a), d) and e).
- 6.106 However, as with a number of other policies in the plan Policy HRI2 does not satisfy the clear and unambiguous test required of policies in the NPPF and PPG. The second sentence of the policy is not clear as to what is intended. It is assumed that it relates to safety on the transport network whether roads, bridleways, rights of way etc. and a minor addition is necessary to clarify.

<b>Recommendation 15</b>	
<b>15A</b>	<b>Insert in the last line of policy HRI2 after the word ‘vehicles’ the words “<i>using the route network within the zone</i>”.</b>

- 6.107 With that clarifying modification the policy will meet basic Condition a) and indeed the other Basic conditions.

## Horse Racing and Tourism

### Policies HRI3 – Improved Accessibility and HRI4 – Horse Racing Museum.

- 6.108 These 2 policies are designed to ensure accessibility for the horse racing industry and also to promote the development of a horse racing museum facility in the area. As with Policies HRI1 and HRI2 these policies help to support the development of this specialist industry. The policies therefore have regard to the NPPF at Section 6 which seeks to encourage economic growth. RLP Policy SP8 recognises the opportunities of using the horse racing industry as a tourism driver. In that regard the policies are in general conformity with Policy SP8. Promoting the tourism development and related jobs is likely to promote sustainable development where

people can live and work locally. The principle of the two policies therefore meets Basic Conditions a), d) and e).

6.109 However, as with a number of other policies in the plan Policy HRI3 does not satisfy the clear and unambiguous test required of policies in the NPPF and PPG. It was not clear whether this related to horse related development or development more generally and also what was meant by ‘affecting’ the route network and the requirement to ‘contribute to it’. In large part this is due to the fact that the supporting text does not directly explain the purpose of the Policy. If the intention is to promote a tourist trail and improved accessibility which is what the supporting text suggests then the Policy is not clear. Accordingly, the Town Councils were asked to clarify. Their response at Appendix 1 confirms that the Policy is intended to apply to all development in the horse racing zones. However, it remains unclear how the Policy will work and a modified wording is therefore recommended along with a recommendation to include the route references from the Proposals Map as these are missing from the Policy and will help in its interpretation.

<b>Recommendation 16</b>	
<b>16A</b>	<p><b>Revise policy HRI3 to read:</b></p> <p><b><i>“Development which requires the use of or is directly dependent on the footpath, cycleway and bridleway network in the vicinity of racing stables, gallops or horse walking routes will be expected to demonstrate how the proposals contribute to the retention and extension of the network.</i></b></p> <p><b>Development proposals which would add to and /or improve the network, particularly in the following locations shown on the proposals map and generally and which comply with other policies of the Neighbourhood Plan or Local plan will be supported:</b></p> <p><b>Footpath: Park Road.....etc”</b></p>
<b>16B</b>	<b>Insert references that are shown on the proposals map for each of the routes in the Policy where improvement is being sought eg HRI3-1 etc.</b>
<b>16C</b>	<b>Expand the supporting text so it is much clearer what the intention of policy HRI3 is.</b>

6.110 With these modifications in place Policy HRI3 will meet the Basic Conditions. No modification is necessary to Policy HRI4.

## Heritage and Design

### Policy HD1 – Heritage and Design – Conservation Areas

### Policy HD2 – Development and Design – Area Wide Principles

### Policy HD3 - Shopfronts

- 6.111 This suite of three policies is designed to secure development that will integrate well with the existing conservation areas and promote local distinctiveness in future development. The policies have regard to the NPPF in both Sections 12 seeking higher standards of design and Section 16 seeking to protect heritage assets, in this case the conservation areas. The three policies are in general conformity with the RLP's Policy SP16 and the safeguarding of the heritage environment at Policy SP12. In improving the standard of design the MNNP policies create a more attractive and sustainable place to live and therefore the policies also are likely to contribute to the achievement of a more sustainable form of development.
- 6.112 ELG Planning on behalf of the Fitzwilliam Malton Estate raise concerns in their Regulation 16 representation that Policy HD1 is too detailed and prescriptive and that it would preclude good, modern or innovative design. They also make the point that there should be provision in the Policy to reuse upper floors in the town centres and that innovative design could help achieve that.
- 6.113 Dealing with the second point first, the matter of reuse of upper floors is already covered in RLP Policy SP7 and as per the advice in the NPPF and PPG it is not necessary to repeat policy objectives at different levels of the planning policy hierarchy therefore no addition is necessary in this respect.
- 6.114 I acknowledge that some requirements in Policy HD1 are more detailed than others but the guidance, for example for new building in the Malton Town Centre Conservation Area, would not of itself preclude more innovative approaches to design. It also needs to be remembered that there is a legal duty on decision makers to ensure that development in conservation areas preserves or enhances the character or appearance of the area and in that context I do not consider the Policy overly prescriptive. Indeed it is clear from the area-wide principles in Policy HD2 that the plan recognises that pastiche development can be equally eroding of character. No change is necessary to meet the Basic Conditions but, if the Councils wished, an addition could be made in the general section of the Policy to the effect that high quality, innovative design compatible with the conservation areas will be supported.
- 6.115 A number of typographical corrections are necessary to this suite of three policies as set out in Appendix 2 below.

## Enhancement of Conservation Areas

### Policies HD4 – HD9

- 6.116 The following section of the plan sets out a set of six policies designed to encourage development that will enhance specific parts of each of the character areas within the three conservation areas, and seeks improvements to the public realm in these areas.
- 6.117 As with Policies HD1-HD3 the policies have regard to the NPPF in sections 11 seeking the effective use of land, section 12 seeking higher standards of design and section 16 seeking to protect heritage assets, in this case the conservation areas. The six policies are in general conformity with the RLP's Policy SP16 and the safeguarding and enhancement of the heritage environment at Policy SP12. In improving the standard of design the policies create a more attractive and sustainable place to live and therefore the policies also are likely to contribute to the achievement of a more sustainable form of development.
- 6.118 In general, therefore, the policies meet the Basic Conditions however a minor point needs to be addressed in respect of Policies HD5, HD7, HD9 and HD10 dealing with public realm improvements to avoid conflict with Basic Condition a). The policy text states that any improvement works should 'respect' any heritage assets involved. This is unclear and likely to cause confusion as it is not the test as set out in the NPPF. The policy wording should use the test set out in the NPPF ie there should be no harm to the significance of the asset.

<b>Recommendation 17</b>	
<b>17A</b>	<b>Replace the wording in line 4 of Policies HD 5, HD7, HD9 and HD10 after the word 'should' to read:</b>  <b><i>"...ensure no harm to the significance of the asset through sympathetic design, detailing and materials."</i></b>

- 6.119 With that modification the 6 policies in this section all meet the Basic Conditions.

### Policy HD11 - Archaeology

- 6.120 Policy HD11 seeks to ensure the proper survey and evaluation of archaeological assets in the plan area and where they do not need to be preserved in situ seeks their professional excavation and recording. The policy has regard to the NPPF at paragraph 200 and is in general conformity with the objective of Policy SP12 of the RLP which seeks to conserve or enhance heritage assets although the RLP Policy says little about archaeological assets.
- 6.121 The policy meets the Basic Conditions and there is no need for modification.

## Housing

### Policy H1: Housing Mix

- 6.122 Policy H1 seeks to ensure that housing provision meets the local housing needs requirements including specialist accommodation for the elderly (particularly bungalows), the provision of affordable homes for purchase and rent and the availability of smaller housing units and as such the principle of the policy has regard to the policy objectives in Section 5 of the NPPF at paragraphs 60 and 63 to provide for a range of housing to meet community needs.
- 6.123 Policy SP4 of the RLP sets out in strategic terms what it seeks to achieve especially in regard to specialist housing provision for the elderly but as regards size and type the policy is expressed in a flexible way with the emphasis on maintaining a balance of provision. Policy H1 of the MNNP in the references to specialist provision and affordable housing is in general conformity with RLP Policies SP3 and SP4 but the Policy goes further in specifically requiring the provision of a predominant proportion of developments to be 2 bedroom units.
- 6.124 The plan makes it clear that these need aspects were identified through community consultation but independent evidence to support the Policy as required by the PPG is missing. This is a point picked up by both ID Planning on behalf of the Vistry Group and ELG Planning on behalf of the Fitzwilliam Malton Estate at the Regulation 16 stage – specifically as it relates to the focus on 2 bedroom housing.
- 6.125 The MNNP refers to the 2010 Strategic Housing Needs Assessment (SHMA) supporting the Plan policy but in fact a SHMA was carried out in Ryedale in 2022 and it is not clear why this version is not now referred to in the Plan. The findings of this later SHMA do not support the focus on 2 bedroom any more than 3 bedroom units but would support a focus on 2-3 bedroom housing. Therefore, contrary to the PPG which requires policies to be clearly evidenced, the 3<sup>rd</sup> bullet point in Policy H1 is not evidenced. It needs to be adjusted to reflect 2-3 bedroom accommodation as the dominant need.
- 6.126 Moreover to be fully compliant with the NPPF's objective of a mix of housing there should be recognition that subsequent housing needs assessments may justify a different approach. I realise that the Policy is worded simply to give support to developments that deliver these housing types but the flip side of this is that if they do not deliver these housing types they will not be supported. Thus the need for a clause acknowledging the need for flexibility where it is evidenced.
- 6.127 The policy wording is presented as though it is seeking a mix of provision made up of the bullet points. This is misleading and contrary to the need for policies to be clear and unambiguous. The Policy is seeking the provision of these different types of accommodation on major sites and therefore the bullets do not represent a specific 'mix' to be provided but rather they represent the 'types' of housing sought



and the wording should make this clear.

- 6.128 As this Policy relates to major sites I am assuming that they will be for market housing and what the Town Councils are seeking is for these sites to contribute to the provision of the types of housing listed in the bullets. That being the case, if the last clause is intended to be any owner occupation, it is redundant. In the light of potential confusion over the intention of this last clause I have questioned the Town Councils as to whether the last clause is intended to relate just to affordable housing (both owner occupied and rented) or whether it is seeking provision for owner occupation generally. The Town Councils have confirmed the reference to owner occupation is indeed redundant and indicate that the last clause should be reworded as follows:- “a proportion of affordable rented units”. This, whilst resolving the matter of owner occupation, does not clarify what is expected as a proportion of rented units. In the light of this a further clarifying question was put to NYC as to what further guidance the policy needed to give. In response NYC have explained in detail that over the time that the RLP Policy SP3 has been in place the proportions of affordable housing for rent and sale have changed quite significantly and that to be more prescriptive in Policy H1, in terms of the proportion of affordable rented units required, will mean the Policy has a limited lifespan. They do suggest, however, a wording which ties assessment of the proportion to the latest SHMA evidence and discussion with NYC Housing Services. I am satisfied that this is an acceptable compromise.
- 6.129 In addition to changes to the Policy itself, attention needs to be given to the supporting text. As stated the PPG requires neighbourhood plan policies to be supported by an appropriate level of evidence and 4.8.11 and 4.8.12 should be amended to refer to evidence from the 2022 SHMA, as well as general updating of the text eg to provide updated census statistics.
- 6.130 Finally, as neighbourhood plans are not by definition a vehicle to oppose necessary development but rather to shape where it is located and how it is designed the references in paragraph 4.8.4 and 4.8.5 could be construed to be overly anti-development and should be re-focussed to refer to the constraints on development rather than opposition to it.

<b>Recommendation 18</b>	
<b>18A</b>	<b>Policy H1 line 2 delete the word ‘mix’ and replace with the word “types”.</b>
<b>18B</b>	<b>Policy H1 Reword third bullet point to read – “A predominant proportion of 2-3 bedroom properties”.</b>
<b>18C</b>	<b>Policy H1 4<sup>th</sup> bullet – replace the current wording with “a proportion of affordable rented units agreed with NYC Housing Services and reflecting needs information in the most up to date Strategic Housing Market</b>



	<b><i>Assessment available at the time”.</i></b>
<b>18D</b>	<b>Add a rider to the end of the policy to state:</b>  <b><i>“Where recent housing needs evidence clearly demonstrates a case to provide for other specific needs these will be supported.”</i></b>
<b>18E</b>	<b>Update census references in the supporting text at section 4.8 to provide the Census 2021 position.</b>
<b>18F</b>	<b>Delete the last 2 sentences of paragraph 4.8.11 and replace with</b>  <b><i>“A Strategic Housing Market Assessment was carried out in 2022 for Ryedale which identifies a need for affordable rented accommodation in Malton and Norton with need exceeding supply and a priority need for smaller units of accommodation principally 2 or 3 bedroom in size. Providing for these needs is the principal purpose of Policy H1”.</i></b>
<b>18G</b>	<b>Delete the last sentence of paragraph 4.8.4 and amend the start of 6.8.5 to read:-</b>  <b><i>“Given these constraints on new residential development together with....”</i></b>  <b>Add at the end of paragraph 4.8.5 the words “up to 2027”.</b>

6.131 With these modifications, Policy H1 would meet the Basic Conditions.

## Employment

### Policy EM1 – Encouragement of Local Employment Sectors

6.132 Policy EM1 seeks to support and encourage economic and employment development in the plan area particularly in the key sectors of tourism and leisure, manufacturing and services, agriculture and the horse racing industry. The Policy has regard to Section 6 of the NPPF seeking to build a strong competitive economy and encouraging sustainable economic growth.

6.133 The Policy is in general conformity with RLP Policies SP6, SP7 and SP8 which deal respectively with the delivery and distribution of employment land, town centres and retailing and tourism.

6.134 The Policy, in encouraging local employment opportunities that allow people to live and work locally, is likely to contribute to sustainable living. The Policy in principle therefore meets Basic Conditions a), d) and e).

6.135 The Policy is expressed very simply and is purely aspirational not setting out any

criteria for employment development which limits its value to such developments. However, as worded it raises no issues in respect of the Basic Conditions and the Policy itself needs no modification. The supporting text at paragraph 4.9.2 however should draw on updated evidence from the Census 2021 rather than using data from 2001.

<b>Recommendation 19</b>	
<b>19A</b>	<b>Replace data references in paragraph 4.9.2 with data from the Census 2021</b>

## Malton Specific Policies

### Policies M1 and M2 – Wentworth St Car Park and Malton Market Place

6.136 Both Malton-specific policies look to protect the loss of car parking to other development at Wentworth Street and in the Market Place as well as encouraging environmental improvements in these locations. The NPPF at Section 6 requires that plans address potential barriers to investment such as inadequate infrastructure allowing businesses to expand and adapt and at paragraph 112 looks to see the environmental improvement of parking areas. In this respect the Policies have regard to the NPPF. The policies are also in general conformity with RLP Policy SP10 which amongst other things seeks to secure appropriate levels of car parking and the effective management of town centre car parking.

6.137 As with other policies in the plan, to ensure Policy M1 is clear and unambiguous it should cross refer to Policy TC4 proposing the development of part of the Wentworth Street Car Park for hotel accommodation.

<b>Recommendation 20</b>	
<b>20A</b>	<b>Add new note at the end of Policy M1 to read :</b>  <b><i>“Note – For the avoidance of doubt - the retention of car parking on the Wentworth Street site does not preclude the development of hotel accommodation on the eastern part of the car park in accordance with Policy TC4”.</i></b>

6.138 With this minor modification both policies meet the Basic Conditions.

## Norton Specific Policies

### Policies N1 – Land to the Rear of Commercial Street

- 6.139 Policy N1 looks to secure more effective use of the area of land to the north of Commercial Street, Norton and proposes the possibility of a mix of uses including car parking. Because of the flood risk the Policy would prevent the use of the land for residential or other similarly highly or more vulnerable uses.
- 6.140 Seeking the efficient use of land has regard to the NPPF at Section 11 and the requirements of the NPPF at Section 9 relating to sustainable transport. The Policy is also in general conformity with the RLP strategy to make better use of river corridor sites whilst reflecting the flooding and nature conservation constraints that this entails. Making more effective use of previously developed land is also likely to contribute to sustainable development.
- 6.141 As with other policies however to ensure Policy N1 is clear and unambiguous it should make clear that the restriction on residential development and similar vulnerable uses is due to flood risk and should refer to both the sequential and exceptions test being included as part of any Flood Risk Assessment.

<b>Recommendation 21</b>	
<b>21A</b>	<b>Add in paragraph 2 line 1 of Policy N1 after the word ‘location’ the words “<i>due to flood risk</i>”.</b>  <b>Replace the words ‘the sequential test’ in paragraph 2 line 5 with the words “<i>sequential and exceptions tests</i>”.</b>

## Section 5 - Community Actions

- 6.142 As per Recommendation 1 this section of the plan sets out community actions which should not be presented as physically part of the formal Neighbourhood Plan and should be relocated in its entirety to an appendix to the plan.

## Section 6 – Monitoring, Review, delivery and Community Infrastructure Levy.

- 6.143 Section 6 of the plan sets out the Town Councils’ intentions in respect to monitoring the MNNP and its review. Although this is a largely factual statement of how delivery, monitoring and review will operate there are two areas where clarification is required.

6.144 The section refers to how the Community Infrastructure Levy will operate in respect of the Neighbourhood plan and, whilst this is correct for the time being, the Government is introducing a new infrastructure levy which will replace the need for both the CIL and S106 agreements. This is likely to be implemented during the life of the MNNP so the plan should for clarity refer to this.

6.145 In addition as per Recommendation 1 the Project Delivery Plan which is almost exclusively about the delivery of community actions which are not formally part of the neighbourhood plan should be moved to a new appendix at the end of the plan setting out the community actions.

6.146 Making this modification will ensure this section of the Plan meets Basic Condition a).

<b>Recommendation 22</b>	
<b>22A</b>	<b>Add new paragraph 6.9 at the end of Section 6’s text to read:</b>  <b><i>“6.9 The Government is in the process of introducing the new Infrastructure Levy which will replace the Community Infrastructure Levy and S106 agreements and is expected to come into force during the life of this neighbourhood plan. It is expected that a proportion of revenue raised through the new levy will still be allocated to Town and Parish Councils with ‘made’ neighbourhood plans for them to distribute to local projects.”</i></b>
<b>22B</b>	<b>Consequential change - renumber whole section as section 5 to the plan once the current section 5 is relocated to an Appendix and adjust Contents page accordingly.</b>

## 7. Other Matters

### Other Housing Proposals Put Forward in Regulation 16 Representations

7.1 A representation from ELG Planning on behalf of the Fitzwilliam Malton Estate Ltd at the Regulation 16 stage raised concerns over Policies E1 and E5 as discussed above. Specifically, the objection was that the policies as drafted would preclude the Estate from bringing land forward for development on the west side of Malton at High Malton. They propose that the site is the only area on the west side of town free of flood constraints and would be a logical and sustainable location for housing and it makes sense for it to come forward. A similar representation was also received from the Mount Consultancy and one other objector concerned that the plan should not restrict housing development in this area.

7.2 However, there are a number of reasons why the allocation of the site would be inappropriate at this time.

- 7.3 Firstly, as confirmed by NYC in its answers to clarifying questions in Appendix 1 there is no housing shortfall in the neighbourhood area and indeed housing delivery is occurring at a rate substantially above target in the Council area as demonstrated by the most recent Housing Delivery Test results published at the end of 2023. There is therefore no need for this scale of site to be released at this time.
- 7.4 Secondly, it would be procedurally impossible at this stage to recommend the allocation of additional sites. To do so would require the current MNNP to be withdrawn and revised proposals, (as well as probably a Strategic Environmental Assessment Report and Appropriate Assessment given the scale of site), being taken back through pre-submission consultation. As there is no other reason in terms of current housing need to warrant this course of action it would be entirely unjustified.
- 7.6 I have recommended above a number of modifications to both Policies E1 and E5 and their supporting texts to ensure there is no issue with respect to the Basic Conditions and no other changes to the plan in response to the Fitzwilliam Malton Estate or the two other representations regarding this area of land are necessary at this time.
- 7.7 I note the land in question has been proposed for inclusion in the emerging North Yorkshire Local Plan and it will be for the Local Planning Authority to consider any future proposal in that context. Given the short life of the MNNP it will also be necessary for the Town Councils in reviewing the MNNP in the light of a subsequent new Local Plan to consider again the need for and appropriateness of housing land in the two towns and the land at High Malton will no doubt be reconsidered at that stage.

### Other Site Specific Proposals - Livestock Market

- 7.8 A representation at the Regulation 16 stage raised a concern that there was no mention of the relocation of the livestock market to the Eden Business Park and for the vacated site to be used for much needed new retail space and parking.
- 7.9 While the request is noted I have been referred to the fact that Policy SD14 of the RLP Sites and Allocations Document already flags this site opportunity and as it is unnecessary for the MNNP to repeat policies and proposals already in other plan documents it is not necessary to include it in the MNNP.

### Typographical, Grammatical and Factual Corrections

- 7.10 There are a number of typographical/grammatical and factual errors in the Plan which ought to be corrected. In addition to proposing modifications to ensure the Plan meets the Basic Conditions the only other area of amendment that is open to me, as the examiner, is to correct such errors. I have identified these in Appendix 2, and, in modifying the Plan as set out above and finalising it for the referendum, these

typographical, grammatical and factual amendments should be made.

<b>Recommendation 23</b>	
<b>23A</b>	<b>Make typographical, grammatical and factual corrections as set out in Appendix 2 at the end of this report.</b>

## **8. Referendum**

- 8.1 Subject to the recommended modifications set out above being completed, it is appropriate that the Malton and Norton Neighbourhood Development Plan should proceed to a referendum.
- 8.2 I am required to consider whether the Referendum Area should be synonymous with the Neighbourhood Area or extended beyond it.
- 8.3 The Neighbourhood Area covers the administrative areas of Malton and Norton Town Councils. Whilst I note that part of the York Road Industrial Estate lies in the adjoining parish I am satisfied that the MNNP policies and proposals themselves will not affect this and other adjoining Parishes beyond the Neighbourhood Area to any significant degree. I therefore do not consider that extension of the referendum area beyond the Neighbourhood Area would be warranted.
- 8.4 Accordingly, I consider that it is unnecessary to recommend any other Referendum Area than the Neighbourhood Area and no representations have been submitted seeking an alternative approach.

<b>Recommendation 24</b>	
<b>24A</b>	<b>I recommend to North Yorkshire Council that the Malton and Norton Neighbourhood Plan, modified as specified above, should proceed to a referendum based on the Neighbourhood Area as approved by the predecessor authority to North Yorkshire Council – Ryedale District Council on 19 February 2019.</b>

Peter D Biggers BSc Hons MRTPI - Independent Examiner – 28 February 2024

## **Appendix 1 - Examiner's Clarifying Questions and Information Requests put to Malton and Norton Town Councils and North Yorkshire Council**

### **Questions and Information Requests to Town Councils (January 2024)**

#### **Question TC1:**

Please can you confirm for the purposes of my report that both Town Councils are jointly the qualifying body which is what the documents suggest and that it is not a case of one Town Council being the qualifying body in consultation with the other.

**A:** *The Town Councils (TCs) can confirm that they are jointly the qualifying body.*

#### **Question TC2**

Given the extremely short plan period remaining to 2027 is it the Councils' intention to commence a review as soon as the North Yorks Local Plan is sufficiently advanced to do so.

**A:** *Yes, although the TCs would not expect to do so in earnest until the North Yorks Local Plan had been submitted for examination, in order to have sufficient certainty as to the development plan context.*

#### **Question TC3**

Most neighbourhood plans have a clear thread that runs from identified key issues to vision and objectives and then to policies and proposals in response. The MNNP doesn't identify early on what the key issues are although as the reader progresses through the plan it becomes clear. I will be suggesting that the Councils provide a short section of text at the end of section 2 that sets out what the key issues for the towns are today that has emerged out of the preparation and consultation process and which can then lead into the vision and objectives. It would be helpful if that could be provided before the examination completes. A bullet point summary will be sufficient.

**A:** *The TCs have drafted the following text for section 2 as requested:-*

*2.11 The key issues for this Neighbourhood Plan to address, both in the light of the above and in response to community concerns raised during plan preparation are as follows:-*

- *The congestion and resultant pollution in Malton Town Centre;*
- *Riverside regeneration;*
- *Protection of key open spaces and their connectivity;*
- *Development of key community and visitor facilities;*
- *Protection and enhancement of the towns' rich and extensive heritage;*
- *Ensuring new housing meets local needs;*
- *Support for key local employment sectors;*
- *Maintaining vibrant town centres.*

#### **Question TC4**

The start of Policy TM1 states development should be compatible with and contribute to



the footpath, cycle and bridleway network. This is not clear – what do you actually mean? – do you mean development should provide good connections to the network and where opportunities exist improve the network?

**A:** *The examiner's interpretation of the meaning is partially correct. The intention, additionally, through the phrase 'compatible with', is that development should not have adverse effects upon the existing network. The TCs would point out that this wording has been considered acceptable by other NP examiners, it appears, for example, in made plans for Otley, Horsforth and Haworth, Cross Roads and Stanbury.*

### **Question TC5**

Policy E2 implies that development that enhances a Local Green Space will be supported. Given that development can only be allowed on LGS in very special circumstances, is the intention that this policy relates to development outside but close to an LGS?

**A:** *The intention is as the examiner states, but also that the policy relates to enhancing development within Local Green Spaces that is allowable within the definition of those very special circumstances.*

### **Question TC6**

Can you clarify the intention of Policy E4 which seems on the policies map to identify large tracts of land as Green and Blue infrastructure areas north of Malton and south of Norton when the policy talks specifically about 'corridors' ie presumably linear areas of protection. From the description at Appendix 2 it only seems to be the Howardian Hills that may relate to areas rather than corridors. Also although Appendix 2 refers to the Wolds Area this is not listed in Policy E4.

**A:** *In the view of the TCs, the policy clearly relates to green and blue infrastructure – whether 'area' or 'corridor'. The fact that the policy talks specifically about 'corridors' in the case of Howardian Hills and Rye is because this is how they are described in the Natural England mapping work which underpins the policy. Natural England are clearly of the view that these are corridors – either regional or sub-regional. It's mapping work clearly considers that both areas and corridors can be part of green infrastructure. The TCs would point to the made Haworth, Cross Roads and Stanbury NP where the self-same policy approach regarding areas/corridor was considered to be acceptable. The TCs are unclear as to the examiner's concern in this matter. The omission of The Wolds Corridor (NB again, Natural England's description) from the policy is an oversight/drafting error on the part of the TCs, for which they apologise, and should be included in the policy list.*

### **Question TC7**

Policy E6 identifying and protecting gateway locations is not well supported by the Appendix. There is a need for the Appendix to be clearer as to exactly what is the essential landscape character to be protected. Some of the entries are better at this than others but it would be helpful if the Councils could provide a replacement Appendix that specifically sets out the essential character to be protected and that development must respect at each gateway.

**A:** *The TCs would like to suggest an alternative to the policy plus appendix approach in the submitted plan. This is based on an earlier version of policy from 2018 – suggested wording as follows:-*

*“Development at edge of settlement ‘gateway locations’ on the main highway routes into/out of Malton and Norton, as shown on the Neighbourhood Plan Proposals Map, should respect key views, including towards nationally designated and locally valued landscapes and the towns’ conservation areas, where seen from locations that are freely accessible to members of the general public.*

*The layout and design of any development at these locations will be subject to justification by detailed design analysis, including a visual impact assessment.”*

It is considered that this approach would enable full and detailed consideration of the visual impact of each/any development proposal at gateway locations on its merits, relative to proposals put forward.

### **Question TC8**

Re Policy E7 – Is this intended to relate to all development in the neighbourhood Area which is what it says or should it relate to development in and adjoining the AQMA?

**A:** *The intention was that policy relates to all development in the Neighbourhood Area; the thinking being that even development at a distance from the AQMA which results in the routing of additional traffic through the town centre or, in the case of industry, emissions from which are blown towards the town centre, can adversely impact AQMA air quality.*

*On reflection, the TCs can appreciate that this is too all-encompassing, e.g. in relation to minor householder development, and that the policy would benefit from reframing. An alternative approach, which the TCs would support, would be a more nuanced policy, relating to all development within and adjacent to the AQMA, but only to major development (as defined in the NPPF) and potentially impacting uses on smaller sites in use classes such as E (research and development of products or processes, residential area compatible industrial processes, clinics etc.) B2 (Industrial) and B8 (Storage or Distribution) – other use classes may also be relevant here - in the remainder of the Neighbourhood Area.*

### **Question TC9**

Regarding Policy HR13 – Is this aimed at horse related development likely to be using or dependent on footpaths and bridleways and again as per question TC4 by ‘contribute to it’ are you meaning that development should improve the network?

**A:** *Yes, that is certainly a key intention of the policy, although any development in the areas identified that directly affects the network could also legitimately be encompassed by the policy in the TCs view. (NB the correct policy reference is HRI3 not HR13).*

See also response to TC4 regarding the second part of the question.

### **Question TC10**

In the text relating to Area 2 in Policy HD6 the reference to ‘Policy HD8 below’ should presumably be ‘HD3 above’ as it relates to shopfronts?

**A:** *Correct! The TCs apologise for the error.*

### **Question TC11**

In para 4.8.1 it quotes statistics from the 2011 Census. It would be useful to have this updated from the 2021 census. Similarly at 4.9.2 the 2001 census is quoted. Again an update would be helpful.

**A:** *Agreed. As these are factual matters not directly pertinent to policies, presumably they can be addressed via a recommendation in the final examiner's report and as part of post-examination amendments?*

### **Supplementary Question**

Re Policy H1 - In the last line of the policy it states "*units for owner occupation plus a proportion of affordable rented accommodation*". In the context of this last clause I wonder if the Council's intention is that it should be **affordable** owner occupation and affordable rented.

As this policy relates to major sites I am assuming that they will be for market housing and what the Councils are seeking is for these sites to contribute to the provision of the types of housing listed in the bullets. That being the case if the last clause is intended to be **any owner occupation** it is redundant. I just need to ensure I understand what the Councils are seeking to achieve.

**A:** *The clause is clumsily worded, the reference to owner occupation being indeed redundant. The last clause should be reworded as follows:- a proportion of affordable rented units.*

In the light of the above response and the fact that it is not clear what proportion of affordable rented would be appropriate a follow up question was asked of NYC to ask if guidance should be given as to the proportion of housing units for affordable rent that needs to be achieved.

**A:** Policy SP3 in the adopted development plan (Ryedale Plan- Local Plan Strategy) does not specify a proportion of affordable tenure types\*, but simply refers to:  
*"In negotiating schemes the Local Planning Authority will look to maximise provision to achieve these targets, having regard to the circumstances of individual sites and scheme viability. Developers will be expected to conduct negotiations on an 'open book' basis. The size, type and tenure of affordable units will be expected to reflect the affordable housing needs in the locality. Affordable housing contributions should comprise both social and affordable rent tenures as well as intermediate tenure types."*

\*Please note the policy does set out the proportion of affordable housing to be sought on schemes (which is 35% in Malton and Norton).

Based on the existing, adopted Development Plan, and its operation over the last 12 years, the Local Planning Authority and indeed the development industry has worked closely with our Housing Services team to identify, based on the nature of the proposed scheme and its location, what proportion of affordable tenures is required, and this is subject to negotiation.

The starting point is in broad accordance with the current Strategic Housing Market Assessment.

By way of illustration, the timeline of this is set out below, and seeks to illustrate why the Local Plan did not specify the proportion of affordable tenures to be required.

In the reasoned justification of Policy SP3, it refers to The Strategic Housing Market Assessment produced in 2011 suggests that 10% of affordable housing provided in Ryedale should be in the form of intermediate tenures, with 90% being social and affordable rent tenure models.

In 2016 this was updated in the SHMA to 20% - intermediate housing and 80% - social and affordable rented housing.

In the 2022 SHMA, this outlines that a ratio would, depending on property size, be 68% affordable rent and 32% intermediate.

This shows that in the 12 years of the plan's existence- the proportion of intermediate to rent has effectively increased threefold. Had the policy specified a tenure split in the affordable housing contribution this could have created a policy which did not keep pace with the changing 'landscape of requirement'.

It is noted that Neighbourhood Plans do not necessarily have this lifespan, but for this reason the Local Planning Authority is therefore comfortable with the wording of the intent to have a proportion of affordable rented units.

This could be expanded to say:

*"a proportion of affordable rented units agreed with NYC housing Services and reflecting needs information in the most up to date SHMA available at the time".*

If it gave the Examiner comfort. This ensures that the proportions are reflective of the scheme's property size profile, considers the implications of viability, and general updates on the matter of tenure split in light of any new evidence.

## Questions to North Yorkshire Council

### Question NYC1:

What is the current updated position regarding the preparation of the North Yorks Local Plan and its timetable?

**A.** *As part of the Structural Change Order which enacted the creation of North Yorkshire Council in April 2023 that commits the new council to prepare a Local Plan (Development Plan) within 5 years of vesting date. It is our understanding that this is separate to the potential changes that may come with plan making in due course. The Council has not yet adopted its Local Development Scheme, due to confirming the position regarding current in-production DPDs in the former local plan areas of Selby and Harrogate. The general timetable is to submit by the summer of 2027. This LDS and timetable is to be considered by the Council's Executive next month.*

### A supplementary follow up question was asked of NYC as the examination progressed

#### Question NYC1a:

Does the wording at paragraph 1.3 of the MNNP accurately reflect the position re the local plan. I can't really determine from the NYC website whether the RLP review is ongoing or whether all efforts are switched now to preparing the NYLP.

**A.** *Paragraph 1.3 currently reads:*

***“The town councils acknowledge that the Ryedale Plan (the Local Plan), as the extant strategic development plan is under review and that work will also be commencing in earnest on the new Local Plan for North Yorkshire. The Ryedale Plan already recognises in Policy SP1 (General Location of Development and Settlement Hierarchy) that it will need to take account of adopted Neighbourhood Plans. As the production of this***

***Neighbourhood Plan will be under production at the same time as the review of the Ryedale Plan, and the emerging strategic development plan for North Yorkshire, both strategic plans will need to have regard to any local/site specific considerations which emerge from the Neighbourhood Planning process.”***

*It was correct at the time of writing, and essentially remains correct now. Perhaps it might be clearer to state that work on the review is now incorporated into the work on the new Local Plan for North Yorkshire. The Ryedale Plan is more than five years old, and therefore is required to be subject to review but it is still the extant Development Plan. It was undergoing a pragmatic review prior to the formation of the new Council, given imminent LGR. But the work was not advanced or sufficiently comprehensive to be progressed separately but alongside the early stages of preparation of the new Local Plan. A report to Council in July 2023 approved that the review Ryedale Plan would be halted as a standalone piece of work, and that instead the review (and work undertaken to date) would be considered, as appropriate, into the development of the new Local Plan for North Yorkshire.*

*Unfortunately our request to amend the website has not yet been actioned by the web team, despite being chased, and I am sorry for the confusion.*

Key Milestones for Producing North Yorkshire Council Local Plan		
Stage of Plan Making		Timescale
Statement of Community Involvement		Q4 2023
Regulation 18	Public consultation on Issues and Options for the Local Plan	Q4 2024
Regulation 18	Public Consultation on Draft Local Plan (Preferred Options)	Q4 2025
Regulation 19	Consultation on Pre-Submission Local Plan	Q1 2027
Regulation 22	Submission of the Local Plan to the Secretary of State	Q2 2027
Regulation 24	Examination of Local Plan	2027/28
Regulation 26	Adoption of Local Plan	Q4 2028

## Question NYC2

Is the Council satisfied with the housing supply position in Malton and Norton Neighbourhood Area and that there is no need for any further release of land in the plan period up to 2027?

**Supplemental:** Regarding my question to NYC2 on the adequacy of the housing provision, can I ask you to clarify what is meant in the para below from the submission



plan.

*4.8.3 The Ryedale Sites Allocation Local Plan is expected to allocate sufficient new homes to meet the identified requirement after houses already constructed, those to be demolished and with planning permission have been taken into account. This means that despite a headline requirement of 1,500 new homes at the start of the plan period, the adopted Ryedale Site Allocation Local Plan only identifies sufficient land to accommodate 600 new homes across Malton and Norton, as at 2017.*

It appears to suggest that whilst the requirement was quantified as 1500 dwellings up to 2027 only provision for 600 has been made – is this correct?

**A:** *The paragraph above is not inaccurate in its contents, but it does not fully convey the land supply position for Ryedale Plan area and that of Malton and Norton.*

*It terms of context, the former Ryedale District area prepared its Development Plan structure prior to the 2011 Localism Act and was able to prepare a Core Strategy plan with subsequent DPDs. The Ryedale Plan Local Plan Strategy (RPLPS) was the ‘Core Strategy’ and set the housing requirement for the District of 3000 dwellings over the plan period (plus 20% land supply buffer- applied district wide). It also establishes the spatial principles and general proportions of the development attributed to the Settlement Hierarchy. This was in conformity with the then adopted Regional Spatial Strategy. For Malton and Norton, as the Principal Town, the RPLPS attributed 50% this requirement (1500 dwellings). It was submitted in May 2012 and adopted in September 2013.*

*Crucially, in advance of the RPLPS being adopted, and post the arrival of the draft NPPF in the summer of 2011, Ryedale District Council as the Local Planning Authority made interim land releases through the grant of planning permission at Malton and Norton- and indeed other settlements where they accorded with the emerging plan’s spatial approach, to create a position of a 5 year land supply. This meant that housing sites in Malton and Norton were being brought forward from 2011 onwards.*

*The Ryedale Plan-Local Plan Sites Document is the daughter document to the Local Plan Strategy, and covers allocations and site-specific policies. It was submitted in late 2017 and adopted in July of 2019. As the Examiner will note, that is a long lag time between the adoption of the RPLPS and the Local Plan Sites Document.*

*As set out above, during this time a series of planning applications were approved, and these have formed a substantive contribution to the land supply, although they are for the most part now built out. They can be viewed on the adopted Policies Map. This contribution was identified as ‘Existing Residential Commitments’ to ensure that whilst we robustly provided for meeting of the housing requirement, we did not cause ‘overheating’ by allocating significantly more land than was needed to meet the housing requirement and supply buffer.*

*This policy principle (SD1) in the Local Plan Sites Documents expresses this: “Residential development sites shown on the Policies Map as existing residential commitment will be treated as allocations for residential development. Residential Development should be consistent with the site’s existing permission in the event that the current permission expires”.*

*“ Sites granted planning permission before 31 March 2018 will be identified as Existing Residential Commitments. Sites granted after this date will be treated as allocations until*

they are completed”.

This is set out in the table on the following page which is taken from the Local Plan Sites Document:

Appendix 3: Residential completions, commitments, residual requirements and proposed allocations@31/3/18

Settlement	Completions (net) 2012-2018	Commitments* + existing allocations (net)	Local Plan Housing Figure	Residual Requirement	Planned requirement + supply buffer	Residual Requirement + supply buffer	Proposed Allocations	Total
Malton and Norton	729	626	1500	145	-	-	620****	1.975

\*\*\*\* Assumes provision of 560 units from the Norton Lodge site within the plan period

A more up to date position is taken from the latest land supply position set out in the Authority Monitoring Report, which shows that as of 31 March 2023 1,226 dwellings have been completed in Malton and Norton:

Settlement	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total
	-13	-14	-15	-16	-17	-18	-19	-20	-21	-22	
Malton (incl Old Malton)	26	11	67	48	132	100	62	196	33	70	745
Norton	61	91	75	79	14	26	7	73	21	34	481

As of writing this response the 2023 AMR covering 2022-23 is being finalised.

Allocations in the Malton and Norton area include the allocation at Norton Lodge for c.600 homes- which is subject of an under consideration planning application. The other allocation is the current NYC offices at Ryedale House, which at the current time is not considered deliverable in our Strategic Housing Land Availability Assessment (SHLAA) as there is now no currently-identified strategy for service delivery. So whilst it is the case that only two allocations were ultimately made for Malton and Norton, the land supply and housing delivery show that Malton and Norton have robustly delivered significant housing delivery, and will continue to do so for at least up 2027.

This was the reason why the Local Plan Sites Document was found sound in 2019 despite having relatively few site allocations.

### Question NYC3

There is reference in para 4.3.25 to former Ryedale District Council monitoring air quality. As Ryedale no longer exists is this something that NYC continues to do?

**A:** Yes, North Yorkshire Council remains the responsible body for monitoring air quality.

### Question NYC4

Is it NYC’s position that the identification of additional Visually Important Undeveloped Areas should be a strategic matter for the emerging Local Plan or does it accept this is a relevant matter for the Neighbourhood Plan?

**A:** In short, North Yorkshire Council consider that it is very much a relevant matter for a Neighbourhood Plan to explore. The rationale for this is set out below.



*Neighbourhood Plans are an appropriate policy vehicle to identify land which has open and undeveloped qualities which contribute to how places are experienced by the community, and to use established site-specific policies (or create their own) to ensure that those qualities are fully considered if subsequent development proposals come forward. It is therefore considered appropriate for the Qualifying Body to identify additional Visually Important Undeveloped Areas (VIUAs), if they wish to, providing this does not conflict with the adopted Development Plan, such as in relation to allocations. But that in doing so in order to be in conformity with the strategic plan the methodology/rationale for their inclusion should conform to the methodology developed for the strategic plan. No such sites identified in the Malton and Norton Neighbourhood Plan conflict with the Development Plan in regard to allocations. As such there is no basic conditions compliance issue in that regard.*

*It is whether therefore the methodology for identification of VIUAs has been applied. The principle of the designation is established by the Local Plan Strategy, in Policy SP16, Design, and was a saved policy from the original Ryedale Local Plan. It is a local designation, and 'elevates the bar' when considering development proposals to respond to how the qualities of open spaces can be retained. Or, if the need for the development outweighs the site's retention, the designation does not prevent this from taking place. Its spirit and purpose is therefore not like the Local Greenspace designation, which is set out in the NPPF and is a significantly more absolute approach to development restraint.*

*It was the production of the Local Plan Sites Document that re-evaluated and identified new VIUAs as a result of consultation with communities undertaken as part of both the preparation of the Local Plan Strategy and the Local Plan Sites Documents. The identified areas of open space are expected to meet at least one of the six criteria for the designation of VIUAs taken from the assessment framework that originally defined VIUAs back in the Ryedale Local Plan (as set out in the Background Paper the Local Planning Authority prepared for the designation of new VIUAS).*

*North Yorkshire Council consider that the identification of additional VIUAs is indeed a matter for the Qualifying Body to respond to views of the local community and identify areas of importance and sensitivity to development, and it is their judgment call as to whether a site should or should not be identified as a VIUA, and sites not previously considered by the LPA could be identified as VIUAs and this would be in conformity to the strategic plan.*

*Only one site has been identified as a VIUA. The VIUA is not identified in the Proposals Map Key but is denoted and identified by the crosses on the plan, it is also identified as 1-9 High Malton Local Green Space. As an action in response to the then District Council's objection to the inclusion of 'High Malton' as an area of Local Green Space, the following action was identified:*

*ACTION - consider other policy options for the NP, including VIUA (Visually Important Undeveloped Area) mechanism to strengthen recognition of the importance of the land to the setting of this part of Malton, as a gateway to the town, and the setting of the AONB. (Pp. 339 and 240 Consultation Statement all appendices).*

*The Basic Conditions Statement states that "The land in question at High Malton has been assessed as meeting VIUA criteria as laid down from the former RDC (p.15) it is not clear from the submissions how the Qualifying Body has specifically applied the framework developed to assess VIUAs other than in relation to the two aspects above 'gateway to the*

*town' and 'setting of the AONB' (now Howardian Hills National Landscape HHNL). This is explored below:*

*This single site identified as a VIUA in the Malton and Norton Neighbourhood Plan was considered, but on balance not included, as a VIUA by the Local Planning Authority. This was because it was judged that it did not meet the relevant tests and this is set out in the background paper on VIUAs in response to support for the land to the north and south of Castle Howard Road to be identified as VIUAs. The criteria were:*

- *Contribution the space makes to the setting of the settlement viewed either from publicly accessible view points within the settlement or from approach roads or paths*
- *Contribution the space makes to the setting of a building or groups of buildings either listed or of historical or architectural interest*
- *Contribution the space makes to the overall form and character of the settlement*
- *Extent to which the space provides a vista/viewpoint into the surrounding countryside*
- *Extent to which trees, boundary hedges or walls contribute to the character of the space*
- *The archaeological or historic interest of the space*

*It is noted that these criteria have not been specifically referenced by the Qualifying Body in their supporting evidence for the plan, and so it is not clear how they have been applied. The position taken by the Local Planning Authority was that whilst this site does contribute to the setting of the HHNL, and that development of this site has the capability to affect the setting of the HHNL- this is a landscape character consideration, under Policy SP13, rather than a form and character issue for Malton and therefore not a justification for the VIUA designation. The Local Planning Authority would furthermore not dispute that this is a gateway into the town, but it not clear what features contribute to the setting of the settlement- and this is the key test for criteria 1. The position that the LPA took when considering whether to designate the site as a VIUA, was that it did not contribute to the setting of the town, but had localised features which were attractive. In the absence of defining how the site contributes to the setting of Malton, and with no other criteria have been met, this is a concern.*

*It is relevant and appropriate for the Neighbourhood Plan Body to identify VIUAs, if they consider them justified, but it is advocated that they do so on the basis of conformity in the approach to assessment that underpinned VIUA identification in the strategic plan. In this instance, that would mean they meet one or more of the six tests for VIUA. North Yorkshire Council consider that the designation of this parcel of land known as 'High Malton' does not conform the principles applied to identify VIUAs in the strategic plan, and therefore is not in conformity with the strategic plan on that basis. This would be a basic conditions compliance matter.*

*Going forward, in light of Local Government Reorganisation and the review of current Local Plan, the consideration of the designation of VIUAs will nevertheless become a strategic consideration for the new North Yorkshire Local Plan: The designation of VIUAs (or other similar designation) is not unique to the former Ryedale Plan area. But other former Local Planning Authorities which now make up North Yorkshire do not have such areas, or their designation has been achieved under a different methodological framework. It will be for the emerging North Yorkshire Local Plan to first consider the role (given the scale of the Plan Area) and if it is continued, development of a consistent methodology for the designation of these types of spaces, within the strategic context of local plan preparation. This will be explored as part of the design component of the local plan- potentially through design codes, and also through site assessment work. But, it will need*

*to be mindful of areas of restraint that have been identified by the Neighbourhood Plans and give regard to those designations, given they form part of the Development Plan.*

**Town Councils Response to the same question:**

*Although not addressed to the TCs, they would however like to point out that according to the adopted Ryedale Plan – Local Plan Strategy (Policy SP16) “further VIUAs...may be designated in...a Neighbourhood Plan”. In line with this, it was indicated to the TCs by (at that time) RDC planning officers that VIUA identification for High Malton might be something to consider. Both seem to clearly indicate that the identification of an additional VIUA is indeed a relevant matter for the Neighbourhood Plan.*

P. D. Biggers BSc Hons MRTPI

Independent Examiner

February 2024

<b>Appendix 2 - Recommendation 23 – Typographical, Grammatical &amp; Factual Corrections</b>		
<b>Page</b>	<b>Location</b>	<b>Correction</b>
All	Locations throughout the plan	Amend the paragraph references to the NPPF to reflect those of the December 2023 version.
5	Foreword	Remove yellow highlighted signature block
11	Para 2.10 Last line	Replace capital 'I' with a small 'i' in the word 'In' Reason – to make grammatical sense as this line is not a new sentence.
12	Vision Statement Line 8	Remove the comma after the word 'towns' Reason - to make grammatical sense.
19	Policy TM6 Line 2	Insert between the words 'that' and 'it' the word " <i>demonstrates</i> ". In line 3 delete the words 'demonstrates that it' Reason - to make grammatical sense. (The relationship between the introductory sentence and the clauses is grammatically inconsistent)
22	Policy RC1	Para 2 – set all 5 recreational enhancement works as bullets .  In the final section of the policy setting out the additional requirements indent the requirements  Reason – to ease legibility of the policy.
23	Policy RC2	Indent the list of requirements Reason – to ease legibility of the policy.
24	Para 4.3.3 Line 2 Para 4.3.7 Line 3	In the second word 'towns' – delete the s' Delete the words 'principal town's' replace with the word " <i>Malton's</i> "  Reason – to make grammatical sense.
25	Policy E2 Line 2	Delete the word 'of' before the words 'its biodiversity' Reason – to make grammatical sense.
30	Para 4.3.27 Line 1	Add the policy reference " <i>E7</i> " after the words 'Neighbourhood Plan policy'  Reason – for clarity
40	Para 4.7.1 Line 3	Delete the word 'and' before the words 'neighbourhood level' and replace with the words " <i>at the</i> ".  Reason - to make grammatical sense.
42	Policy HD1 Malton Old Town Line 7	Should read " <i>Roof coverings to be of ...</i> "

43	Policy HD1 General 3 <sup>rd</sup> Bullet Line 1	Insert the words “ <i>should be</i> ” after the word ‘buildings’ Reason – to make grammatical sense.
43	Policy HD2 5 <sup>th</sup> Bullet Line 2	Insert the word “ <i>buildings</i> ” after the word ‘existing’ Reason – to make grammatical sense..
45	Policy HD4 Area 2 Line 2	Change policy reference from ‘HD8’ to “ <i>HD3</i> ” Reason – incorrect reference supplied .
46	Policy HD6 Area 2 1 <sup>st</sup> Bullet Line 2	Replace the words ‘HD8 below’ with the words “ <i>HD3 above</i> ” Reason – incorrect reference supplied .
48	Para 4.7.18 Line 3	Remove the highlighting at the end of the paragraph
50	Para 4.8.3 Line 1	Delete the words ‘is expected to allocate’. Replace with the word “ <i>allocates</i> ”. Reason - the plan referred to is already adopted.
71	Appendix 1 E1.1 Recreational Value Line 2	Add the letter “ <i>d</i> ” to the end of the word ‘use’. Reason –to make grammatical sense.
71	Appendix 1 E1.2 Summary Assessment Line 3	Add full stop after the word ‘resource’. Reason - to make grammatical sense.
96	Appendix 6 Glossary – Conservation Areas Line 2	Delete the word ‘and’ and replace with the word “ <i>or</i> ”: Reason – to reflect the legislation.
97	Glossary – Neighbourhood Plan Line 1	Insert the words “ <i>town or</i> ” before the word ‘parish’. Reason – for clarity.
97	Glossary – NPPF Lines 1-4	Replace the wording as follows: “ <i>The NPPF was revised in December 2023 and sets.....revised in July 2018, updated in February 2019 and updated again in 2021</i> ”. Reason - to reflect current position.
97	Glossary – NPPG line 2	Delete the words ‘and last updated in June 2021’. Replace with the words “ <i>and updated with the NPPF in Dec 2023</i> ” Reason - to reflect current position.
97	Glossary SSSI line 1	Delete the word ‘designed’ and replace with the word “ <i>designated</i> ”. Reason – incorrect word used.