



PLANNING COMMITTEE

Tuesday 1 July 2014 at 6.00 pm

Council Chamber, Ryedale House, Malton

Agenda

17 **Late Observations**

(Pages 2 - 45)

Agenda Item 17

RYEDALE
DISTRICT
COUNCIL



Please Contact: Mrs Karen Hood
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All Members of the Planning Committee
Council Solicitor
Head of Planning & Housing
Development Manager
Managing Development Team Leader

Ref: Agendas/Planning/2014/2015

27 June 2014

Dear Councillor

Meeting of the Planning Committee - 1 July 2014

With reference to the above meeting I enclose for your attention the late observations received since despatch of the agenda.

Yours sincerely



Mrs Karen Hood
Managing Development Team Leader

Enc

**MEMORANDUM
RYEDALE DISTRICT COUNCIL
FORWARD PLANNING & CONSERVATION**

TO: SHAUN ROBSON
FROM: EMMA WOODLAND- BUILDING CONSERVATION OFFICER
SUBJECT: 14/00383/MOUT- LAND TO NORTH OF SUTTON GRANGE, LANGTON ROAD, NORTON
DATE: 25TH JUNE 2014

The Planning (Listed Building and Conservation Areas) Act 1990 requires under Section 66 that the Local Planning Authority shall have regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses. This response seeks to analyse in more detail the impact of the proposed development on the setting of adjacent listed buildings and make a judgement whether that setting is preserved.

According to the NPPF Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Although the applicants' Desk Based Assessment undertaken by MAP Archaeological Practice states at 8.3 titled 'Setting of Heritage Assets' that 'The proposed development does not affect the significance or setting of any listed building in Norton' I am of the opinion that it does. MAP's Desk Based Assessment identifies that there are 4 listed buildings within 500m of the site but does not provide an analysis of what the setting of these is. The submitted Design and Access Statement does contain an assessment of views of the listed building however I am of the opinion that views and setting are 2 different concepts. Indeed, the Planning Practice Guidance states that 'the contribution that setting makes to the significance of the heritage asset does not depend on their being public rights or an ability to access or experience that setting'. In the Design and Access Statement, the historic setting of the building through map based evidence is analysed, however the NPPF states that setting 'may change as its surroundings evolve' Annex 2.

In my opinion this application affects the setting of Sutton Barn, a Grade II Listed Building that lies c. 25m to the west of the site. Sutton Barn is rare in Ryedale in that it is an agricultural building that is principally listed in its own right at Grade II. The barn has presence and design intent which is also rare as the vast majority of agricultural structures in Ryedale are of vernacular design and materials. This barn is a large 9 bay symmetrical structure with 2 end pavilions. It has a hipped slate roof, tooled stone and a date stone of 1789. This is not a vernacular structure and is clearly a building of status and presence. The barn is also unusual in that it does not conform to the usual vernacular courtyard arrangement and the statement made by this unusual size and layout is magnified by the fact it is constructed on a shallow terrace and has a commanding presence over the ground below to the south-west.

The barn sits at the cusp of suburban Norton to the north and rural countryside to the south. In my opinion the setting of the barn can be assessed in 2 ways namely its immediate close setting and its wider landscape setting.

A sense of its immediate close setting is informed by the approach to the barn down a narrow drive framed by belts of woodland on either side. This approach creates a rural experience that is starkly interrupted by the suburban development to the north of the barn, apparent when the woodland belt disappears and its screening effect is removed. Notwithstanding this suburban encroachment on the northern side of the barn, the barn still has a very strong immediate and close connection with a rural setting at other points in the immediate curtilage of the barn. This is informed by the presence of trees and greenery to the south-west, south and north-west. To the north and north-east the immediate setting of the barn is defined by the vernacular garage outbuilding and the boundary hedge.

In my opinion the significance of the immediate setting of the barn can be summed up as having an enclosed private feel derived by the narrow tree-lined drive, the large expanse of screening woodland belts and the outgrown hedges and boundary walls that create a sense of enclosure. It feels secluded and private, excepting the small section of visible suburban intrusion to the north.

With regard to its wider landscape setting; At present, a belt of trees to the north of the proposed development site screens the barn from the suburban development giving the barn a strong sense of separation from suburban Norton. The distant woodland belt forming a backdrop behind the barn to the west and rural landscape to the south and south-west of the site adds a strong natural setting, magnifying the illustrative significance of the barn and its connections with a rural past. Importantly, the development site which is currently a grassed paddock is clearly seen in the foreground of the listed building. This forms an important part of the natural landscape setting and strongly contributes to the understanding and appreciation of the listed building.

I am of the opinion that how the barn is appreciated in its wider landscape setting forms a very important aspect of the significance of the setting of the listed building. At present the foreground of the barn when seen in its wider landscape setting is an undeveloped paddock that links the barn with its rural past and provides a pleasant natural green setting for the building. The development of the paddock for 15 houses would dramatically alter this quality and result in an urbanisation of the foreground setting of the listed building. The magnitude of change resulting in the alteration from a rural undeveloped foreground to a developed urbanised foreground is high. Although the design of the scheme has achieved a loose agricultural feel, I am of the opinion that due to the development of the site for housing, that the wider natural landscape setting of the listed building is not preserved.

In addition I am of the opinion that the immediate setting of the barn will be eroded by the development, specifically, the loss of a large section of the hedge immediately to the east of the barn at the boundary of the development site and the curtilage of the barn. This will open views out from the barn onto the development site and create new connections between the proposed housing and the listed building. This will erode the current sense of seclusion that is an important part of the immediate setting of the listed building and detrimentally affect its significance.

To conclude, in my opinion the setting of the listed building is not preserved. The proposal harms both the close immediate setting of the listed building and the distant landscape setting for the reasons outlined above.

4237_04_03/ MM:

24th June 2014

Development Management
Ryedale District Council
Ryedale House
MALTON
YO17 7LL

Dear Sirs

**Proposed Residential Development (site areas 0.7ha) on land to north of Sutton Grange, Langton Road, Norton, Malton
Application Reference no 14/00383/MOUT**

We refer to the recent revised layout plan which has been submitted in respect of the matter of siting for which reserved matters consideration has been requested. We make this objection on behalf of our client Mrs. Lindsay Burr.

We wish to make further comments to further endorse the points we made in our letter of objection on Mrs Burrs behalf dated 2nd May 2014. That letter stressed the need to respect the setting of the fine range of listed barns which lie very close to the western boundary of the site, and the need to retain some areas of green space to and buildings to give distinctive character to Norton which is becoming flooded with hastily approved development. More measured consideration of local housing provision in Norton should be taking place now that the Core Development strategy of the Local Plan has been adopted.

Mrs Burr's grounds for objection to this development of this site have not changed and there are also some additional points to be made about the revised plan as follows:

- The applicant has made small amendments to the proposed housing layout in an attempt to soften the impact on the listed buildings. It is our view that this fails completely in this regard, because a cluster of what appear to be very small affordable sized dwellings has been massed on the boundary next to the range of listed buildings themselves. Looking at other sites in the area it is glaringly obvious that affordable provision of this nature is usually detailed to absolute minimum standards, using the cheapest of brick and poorly designed windows in order to meet financial constraints. This occurs in spite of the best efforts of Development Control to to achieve otherwise, because bottom line cost always has to be the over riding factor. In this case the potentially least distinguished elements of the proposal have been grouped right next to the listed buildings, and also very near to my client's property.
- The design statement 'implies' that the design will be of low height but the application only includes siting it does not cover appearance. If these dwellings are to be bungalows they will not meet density requirements or overall cost constraints for the provision of affordable housing on the site unless they are designed to be really cheap, in which case they should not be sited in this position.
- In spite of what has been said the proposed design shows no obvious reference to agricultural building geometry, height or scale. Appearance wise on the recently submitted perspective sketch the buildings are more like pastiches of mill buildings than agricultural ones, and the siting of the buildings does not related to any particular buildings in the area and appears to be entirely random.

Those dwellings on the north side of the site appear to be sited very near to the shelter belt trees, which are existing and will need expensive foundation design. Furthermore the siting of the scheme is entirely random and does not relate to any particular buildings around the site. Mrs Burr's own house is made to look misleadingly distant in the submitted perspective drawing, and is in fact much closer to the new dwellings than its small size appears to suggest. The scheme is entirely suburban in its layout and plan at the moment, even though the Design Statement gives lip service to the idea that the layout is somehow agricultural. What is proposed are simply suburban bungalow plan types which will generate shallow roof pitches which will not remotely resemble the scale and character of the scale and roof pitches of the listed buildings. The scheme appears to propose a great deal of shared or non privately owned space particularly around the lower cost end of the scheme which will give rise to poorly maintained spaces for which no one has responsibility.

- **It must be stressed that at this stage only the reserved matter of siting has been asked to be considered therefore all perspective sketches must be ignored.** As with the earlier plans the submitted site plan is entirely misleading in that it gives no information about the height of the proposed dwellings and little information about other matters such as landscaping and parking. It is designed to mislead by talking about agricultural / rural scale. **The reality of the situation is that current density requirements and the need to maximise profit to support the required numbers of affordable houses, housing blocks of up to three storeys could end up being built, using cheap materials all of which will have a serious visual impact on the locality and the Sutton Grange group of buildings in particular.**
- We also note that this scheme still shows proposed buildings nearer to both the Sutton Grange farm buildings and to Mrs Burr's property, Sutton Grange, than was show in the previous application submitted and withdrawn last year.
- Buildings are still shown very near to the site southern boundary of the site, and these will severely affect the amenity, status and open feel of the Sutton Grange and its access driveway, which at present reflects status of Sutton Grange itself. Building close on to the boundary or even encouraging the uncontrolled clutter of back gardens would spoil the visual appearance of the Sutton Grange access.
-
- We urge the Planning committee to reject this application on the grounds that it will destroy the distinctiveness of this part of Norton and ruin the setting of one of the small number of number of listed buildings in the area. This is an ill considered cheap design which avoids commitment to more clearly defined detail which would appear in a full detailed application. As such it also leaves far too much to uncertainty.
- The level of feeling of local residents against this application indicates that Norton is fed up with the lack of consideration being apparently given to the environment in their town and the speed of loss of green spaces and architectural distinctiveness in order to provide housing which should be being spread more fairly throughout Ryedale
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- Some tree screening shelter belts are suggested on the plan but there is no information on future maintenance responsibility . It is all too likely that a future developer will omit them when final reserved matters are applied for .

Please pass these comments on to your planning officers and committee for their consideration while assessing this application

Yours sincerely

Margaret Mackinder

Margaret Mackinder AADipl. CA. RIBA
Registered Conservation Architect
For and on behalf of
Stone and Bean Associates Ltd,
Architects.

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12.6.14.

Objection to Outline Planning Permission 14/00383/M

I have recently learned of a planning application on Langton Road ,
Norton.

In very close proximity to this site are protected species under The
Wildlife and Countryside Act.

I live on Ryedale Close and now have a new development right next to
my property. I did have open farmland with a wonderful view and
wildlife on my doorstep. I now have loud music, lots of noise and
neighbours looking straight into my property causing much
disturbance.

Langton Road was always a pleasant walk out of Norton, up Scots Hill
and round back by Welham Road. When I was a child there no houses
after the old stables on Langton Road. There was farmland and
countryside.

There are new housing developments on Beverley Road, Scarborough
Road and now we are expected to contend with another on Langton
Road.

Wildlife needs a quiet place to be wild , these secret pockets of flora
and fauna can only survive in these quiet places and it is up to us the
residents of Norton to provide and look out for them.

Any future generations need to have wildlife and quiet places to hold
them we must care about our environment and the wonderful species
we have close to home.

We can't just keep on building , when are we going to realise that
green spaces matter.

I strongly object to any more housing going up on Langton Road.

Jean Thorpe.

SHR

Further objection

HICKLING GRAY ASSOCIATES

11. Saturday Market, Beverley, East Yorkshire, HU17 8BB

Head of Planning Services
Ryedale District Council
Ryedale House
MALTON
North Yorkshire
YO17 7HH

RYEDALE DM
u 27/6.
27 JUN 2014
DEVELOPMENT
MANAGEMENT

26 June 2014

Dear Sir

Planning Application Reference: 14/00383/MOUT
Land to the north of Sutton Grange,
Langton Road, Norton

You will be aware of our objection on behalf of residents in the vicinity of the proposed development site dated 4 June 2014.

Having now seen the Committee Agenda for the meeting on 1 July we have to state our extreme concern over the lack of detail or any assessment of the issues raised by this application in the officer report to Members.

This is the only means by which the general public, and also the applicant, is able to see and understand the planning officer's approach to the terms of the application and how the issues raised by it have been assessed. To state that the application is subject to "on-going discussions" and that a full appraisal and recommendation will appear within the "late pages" denies the public any real opportunity of seeing exactly what might be presented to Members at the meeting.

Discussions with your Development Management Section today (10.15 am) indicate that these "late pages" have not yet been produced. So even if they could be made available to the public prior to the meeting there is inadequate time to consider and, if necessary, respond to their contents.

The fact is also that depending on when the "late papers" are finally produced it gives Members of the Committee themselves very little time to assess the issues involved in order to be able to make an informed decision.

Not only is the principle of the development a significant issue in this case, but the details of the development are matters of concern to residents.

David K Hickling BSc DipTP MRTPI
Patrick J Gray DipTP MRTPI
Christopher C Kendall DipTP MRTPI

HGA
Chartered Town Planners

In the event that the planning officer is to recommend a grant planning permission, contrary to public objections, issues such as the conditions that might be attached to any approval and how matters such as future landscape maintenance and affordable housing might be legally controlled are fundamental to the basis on which this Outline application might be determined.

The lack of any such detail in a formal report gives the public and their professional advisors no opportunity to consider these issues notwithstanding that they maintain their objection to the principle of the development.

Please report this further representation on behalf of residents in your "late papers".

Yours faithfully

P J Gray DipTP MRTPI
Hickling Gray Associates



Mr P Gray
Hickling Gray Associates
11 Saturday Market
Beverley
East Yorkshire
HU17 8BB

Our Ref: 14/00383/MOUT

Your Ref:

Please Ask For: Shaun Robson

Ext: 319

e-mail: shaun.robson@ryedale.gov.uk

27th June 2014

Dear Mr Gray,

Erection of 15no. dwellings (site area 0.7ha), land to the north of Sutton Grange, Langton Road, Norton

Further to your additional correspondence dated 26th June 2014 in relation to the above application in which you raise a number of points, I feel it is appropriate to clarify a number of the issues raised.

With regard to the reporting of the application, the assessment and recommendation were not attached to the published agenda due to fact that a further assessment was necessary in regard to the impact of the development on the designated historic asset. It is the practice of the Authority to ensure that Members of the Planning Committee receive a full and comprehensive report that takes account of all the appropriate issues. This has resulted, on occasion, in the publication of the Officers report and the recommendation in the late pages.

It is noted that your objection is on the behalf of 'residents in the vicinity' but does not, and has not to date, identified who those individuals are. In the interest of transparency, and to ensure that the Committee Members are aware of the strength of local opposition, it would be advantageous if you would identify the individual(s) whom you represent if those individuals have not already been identified. The individuals who have already indicated their concern in relation to the proposal are as follows:-

Mrs Myers, Sally McGibbon, Mrs C Davenport, K.B & J Fisher, Mr Barker, Mrs J Power, A Henderson, E M Shaw and Mrs L Burr (who is represented by Stone and Bean Associates).

Any further clarification from yourself, if received, will be reported to Members verbally at the Planning Committee.

Yours Sincerely

Shaun Robson
Development Manager

APPLICATION NO: 14/00383/MOUT
PROPOSAL: Erection of 15no. dwellings (site area 0.7ha)
LOCATION: Land To North Of Sutton Grange, Langton Road, Norton, Malton, North Yorkshire

UPDATE REPORT

SITE:

The application site is situated at the southern end of Norton to the west of Langton Road outside of the 'saved' development limit. The site is bounded by a wooded area to the immediate north, with housing to the east. Sutton Farm is situated to the immediate east. It is a Grade II Listed Building with permission for conversion to 4 dwellings together with the erection of 2 new-build dwellings.

The site measures 0.7 hectares and is currently accessed via a track onto Langton Road. It is comprised of grassland, with trees and hedges throughout the site and along the eastern boundary with Langton Road.

PROPOSAL:

Permission is sought in outline for the erection of 15 dwelling houses, 3 detached two-storey dwellings, 6 two-storey dwellings and 6 single-storey terrace properties with rooms in the roof space. Members should be aware that the access onto Langton Road and layout are the only matters for consideration at this stage with all other matters reserved for a future reserved matter application. A Residential Design Guide has been submitted with the application to illustrate the scale and appearance of the individual properties. The Design Guide has been prepared by the applicants to ensure that an appropriate form of development comes forward on the site. It is proposed, by the applicant, that the 'guide' will be adhered to and this will be secured through a planning condition.

HISTORY:

13/00835/MOUT: Residential development (site area 0.7ha), Land to north of Sutton Grange, Langton Road, Norton, Malton - WITHDRAWN 21.10.2013

POLICY:

National Planning Policy Framework

Achieving Sustainable Development

Presumption in favour of Sustainable Development

- Paragraphs 11, 12, 13, 14, 15 and 16

Core Principles

- Paragraph 17

Supply a Prosperous Rural Economy

- Paragraph 28

Delivering a wide choice of High Quality Homes

- Paragraphs 47, 49, 50, 55

Requiring Good Design

- Paragraph 57

Conserving and Enhancing the Natural Environment

- Paragraphs 109, 115, 116 and 118

Conserving and Enhancing the Historical Environment

- Paragraphs 128, 129, 131, 132 and 133

Decision-Taking

- Paragraphs 186, 187, 196 and 197

National Planning Practice Guidance (NPPG)

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Ryedale Plan - Local Plan Strategy

Policy SP1 - General Location of Development and Settlement Hierarchy

Policy SP2 - Delivery and Distribution of New Housing

Policy SP3 - Affordable housing

Policy SP4 - Type and Mix of New Housing

Policy SP10 - Physical Infrastructure

Policy SP11 - Community Facilities and Services

Policy SP12 - Heritage

Policy SP13 - Landscapes

Policy SP14 - Biodiversity

Policy SP16 - Design

Policy SP20 - Generic Development Management Issues

Policy SP22 - Planning Obligations, Developer Contributions and the Community Infrastructure Levy

PUBLICITY:

10 letters of objection and 2 petitions containing a total of 115 signatures have been received from residents. An objection has also been received from the Town Council. These cite some or all of the following points:-

- The application site is outside of the development limit;
- The proposal represents an over-development of the site;
- Traffic impact, specifically the entrance destroying the open countryside and impact on school;
- Impact of the development on the setting of Sutton Grange, a Grade II Listed Building;
- Impact of the proposal on local wildlife;
- Loss of mature trees will destroy the setting of Sutton Grange;
- Bungalows would be more appropriate on the application site;
- The development is not required;
- The proposed design of the properties can not be enforced;
- Norton has accommodated its fair share of residential development over the last few years;
- The proposal will have a detrimental impact on the amenity of Sutton Grange and Sutton Farm;
- The development will detract from the historic setting of both Sutton Farm and Sutton Grange;
- The proposal does not represent a traditional agricultural grouping in terms of the layout and design, contrary to the applicants ascertain;
- The development is premature in advance of the allocations plan, which will undoubtedly include more appropriate sites;

- The local infrastructure (roads, sewers etc) are inadequate and incapable of accommodating the proposal;
- The development should be restricted, if approved, to single storey bungalows;
- The development will result in an unacceptable loss of trees and hedgerow; and
- The development conflicts with the NPPF.

APPRAISAL:

The main issues in the consideration of the application are:-

- Principle of development in this location;
- Whether development reflects local distinctiveness;
- Impact on neighbouring occupiers;
- Access;
- Landscape impact;
- Impact on Listed Building;
- Archaeology;
- Drainage;
- Ecology; and
- Contributions

Principle of development

Applications are required to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan

The Ryedale Plan – Local Plan Strategy (LPS) provides recent and up to date strategic planning policies to guide development proposals. Clearly the LPS constitutes one part of the development plan. The Council is in the process of preparing the Local Plan Sites Document which will identify a planned supply of allocations for proposed development. However, the Sites Document is still at a relatively early stage of production and on this basis, the principle of development is mainly informed by LPS development plan policies and the policy requirements of the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG).

In terms of the strategic distribution of residential development within the plan, Policy SP1 identifies the general focus areas for development and specific settlement hierarchy within which Ryedale's future development requirements will be distributed. The policy identifies the hierarchy of settlements as follows:-

Principal Town - Primary Focus for Growth

- Malton and Norton (including Old Malton)

Local Service Centres (Market Towns) - Secondary Focus for Growth

- Pickering
- Kirkbymoorside
- Helmsley

Local Service Centres (Service Villages) - Tertiary Focus for Growth

- Amotherby and Swinton
- Ampleforth
- Beadlam and Nawton
- Hovingham
- Rillington
- Sherburn
- Sheriff Hutton
- Slingsby
- Staxton and Willerby
- Thornton le Dale

Norton is identified as the primary focus for growth in Ryedale, as a Principal Town, along with Malton.

Policy SP2 (Delivery and Distribution of New Housing) identifies that at least 3000 new homes will be managed and delivered over the plan period to the hierarchy of settlements identified in Policy SP1. Of this 50% or approximately 1500 dwellings are directed to Malton and Norton.

The Plan's focus is on reflecting the character of settlements and roles of places. The Vision refers to Malton and Norton as the principal focus for growth and the opportunity for further growth. Reflecting this within the Spatial Strategy for Malton and Norton, the Plan outlines the intention of the Council to "Support the role as a District-wide Service Centre" with a focus on "new development and growth including new housing, employment and retail space..."

Whilst the above outlines the overall approach to the strategic residential allocations, the Council's Sites Document is not at an advanced stage with specific allocations being identified in the District. On this basis the suite of documents that form the development plan has not been completed, therefore the Council is in a transitional stage until the Sites Document DPD has advanced. Therefore applications for new housing development have to be judged in this context.

In this context, the National Planning Policy Framework (NPPF) constitutes a significant material planning consideration.

The relevant paragraphs of the NPPF are:-

Paragraph 14: -

"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- *local planning authorities should positively seek opportunities to meet the development needs of their area;*
- *Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.⁹*

For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out of date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted⁹.*

[Note 9 of the NPPF, states “For example, those policies relating to...designated assets...”]

Paragraph 47 of the NPPF states: -

“To boost significantly the supply of housing, local planning authorities should:

- *use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;*
- *identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;*
- *identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15;*
- *for market and affordable housing, illustrate the expected rate of housing delivery through a housing trajectory for the plan period and set out a housing implementation strategy for the full range of housing describing how they will maintain delivery of a five-year supply of housing land to meet their housing target; and*
- *set out their own approach to housing density to reflect local circumstances.”*

Paragraph 49 of the NPPF states: -

“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

Ryedale currently has a 4.46 year housing supply based on the most recent review of housing information reflecting the position as at March 2014.

The consequences of this shortfall cannot be underestimated because paragraph 49 of the NPPF is clear:

“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites.”

The net effect of this is that Paragraph 14 of the NPPF is of specific relevance:

“Where the development plan is absent, silent or relevant policies are out of date granting permission unless ... any adverse impacts of doing so would significantly and demonstrably outweigh the benefits ...”

It is considered that given the current stated housing figure the proposal is considered in the context of the 'presumption in favour of sustainable development'.

The site lies immediately adjacent to the development limit for Norton and a number of objections have been received referring to this matter. It is acknowledged that the development limits have been carried forward from the previous Ryedale Local Plan. However, it is also acknowledged by the Council in the LPS, the development limits will have to be reviewed through the Sites Document to accommodate new allocations.

Because the Sites Document is not at an advanced stage the existing development limits can only carry very limited weight at the current time. Therefore whilst the site is located on the edge of Norton the proposal is considered to be in line with the thrust of Policy SP2 in that it accords with the target for new development provision within Norton and Malton.

Achieving high quality development

The NPPF gives weight to quality homes, choice and the importance of good design.

Paragraph 50 states:-

"To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);*
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and*
- where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time."*

Paragraph 56 states:-

"The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people".

Whilst no details are been formally submitted for approval at this outline stage, the proposal has been accompanied by an indicative layout and a 'Residential Design Guide' that demonstrates the proposed form of development that can be tied to the approval through a planning condition.

The rural design and layout is characteristic within the immediate surrounding area, specifically the backdrop of Sutton Barn.

Suitability of the site for housing including its environmental sustainability

The site lies outside of the development limits for Norton at the southern end of the settlement and opposite Norton School. St Peters Church is situated further down Langton Road, with the nearest shops and other facilities on Commercial Street. Public transport is also within walking distance.

It is considered, therefore, that the site is in a sustainable location. An ecological report accompanied the application. The Council's Countryside Management Officer has advised that there are no objections on grounds of protected species or habitats subject to the biodiversity enhancements in the ecological report being included in the final design. In the light of these comments from the Countryside Management Officer, no objections are raised in relation to that point on ecological grounds.

Impact on amenities of neighbouring occupiers

In terms of the impact of the development on the existing amenities of neighbouring occupiers, it is noted that 10 letters and 2 petitions containing a total of 115 signatures objecting to the development have been received.

Particular concern has been raised in relation to the impact of additional vehicular movements if the applicant is approved. This will be addressed further on in this report.

Concern is also expressed regarding loss of view and character of area, privacy and wildlife. The access to the site will be via a newly formed road positioned central to the site.

The closest existing residential properties, Sutton Grange and Sutton Barn, are located to the south and east of the site respectively.

Whilst only indicative (albeit subject to a residential design guide), the proposed scheme incorporates a number of single storey dwellings fronting on to the boundary with the existing properties. Therefore the potential for an adverse impact in amenity terms is considerably reduced.

Access

A number of objections have been received with regard to the impact of the proposal on the highway network. The County Council Highway Officer has no objections subject to conditions.

Landscape Impact

In relation to landscape impact, the application site contains a number of trees and a mature hedgerow to the frontage of the site. The development will require the removal of a small section of the hedgerow in order to accommodate vehicular access into the site. Additional planting is proposed around the formed access to ensure its integration into the otherwise landscaped frontage.

The approach to the site along Langton Road is currently characterised by paddock areas, sporadic trees and a mature hedgerow. The only visible structure along Langton Road from the northwest towards the site is Sutton Grange House and Sutton Farm with a wooded area further to the north. A number of concerns have been received in relation to the perceived unacceptable impact on the rural character and the unacceptable loss of trees/hedgerows to this part of Norton.

The Tree and Landscape Officer has commented on the proposed scheme and acknowledged that a number of trees will be removed. However, he has also noted that the woodland block to the north of the site and the trees close to the south eastern boundary will be unaffected. If the application is approved, however, he has acknowledged that in the absence of specific tree details an appropriate condition is imposed requiring a detailed tree survey.

Therefore, whilst concerns have been received in regard to the loss of trees and detrimental impact upon this part of Norton.

Impact on Listed Building

The development is located to the east of Sutton Grange Barn, a substantial Grade II Listed Building.

Members are advised that the Local Planning Authority has a statutory **duty** under legislation relating to Listed Buildings:

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides, so far as material: *'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'*.

National policy guidance regarding the impact on heritage assets is set out in the National Planning Policy Framework (NPPF) and the recently published Planning Practice Guidance (PPG).

Paragraph 129 of the NPPF states that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development affecting the setting of a heritage asset), taking account of the available evidence and any necessary expertise.

Paragraph 133 goes on to say that where a proposed development will lead to substantial harm Local Planning Authorities should refuse permission, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh the harm or loss. Where a development proposal will lead to 'less than substantial' harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

In terms of development within the setting of heritage assets, paragraph 137 is relevant and advises local authorities to *"look for opportunities for new development within Conservation Areas....and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably."*

The National Planning Practice Guidance (NPPG), paragraph 013 amplifies the relevance of an assets setting stating *"Setting is the surroundings in which an asset is experienced..."*. The paragraph continues and goes on to say *"The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance."*

The proposal was originally assessed by the Council's Building Conservation Officer. Following further discussions in relation to a number of recent appeal decisions, and decisions by the Secretary of State, she was asked to revisit her original comments. The revised comments are as follows: -

"In my opinion this application affects the setting of Sutton Barn, a Grade II Listed Building that lies c. 25m to the west of the site. Sutton Barn is rare in Ryedale in that it is an agricultural building that is principally listed in its own right at Grade II. The barn has presence and design intent which is also rare as the vast majority of agricultural structures in Ryedale are of vernacular design and materials. This barn is a large 9 bay symmetrical structure with 2 end pavilions. It has a hipped slate roof, tooled stone and a date stone of 1789. This is not a vernacular structure and is clearly a building of status and presence. The barn is also unusual in that it does not conform to the usual vernacular courtyard arrangement and the statement made by this unusual size and layout is magnified by the fact it is constructed on a shallow terrace and has a commanding presence over the ground below to the south-west."

The barn sits at the cusp of suburban Norton to the north and rural countryside to the south. In my opinion the setting of the barn can be assessed in 2 ways namely its immediate close setting and its wider landscape setting.”

The settings, as referred to are as follows:-

“A sense of its immediate close setting is informed by the approach to the barn down a narrow drive framed by belts of woodland on either side. This approach creates a rural experience that is starkly interrupted by the suburban development to the north of the barn, apparent when the woodland belt disappears and its screening effect is removed. Notwithstanding this suburban encroachment on the northern side of the barn, the barn still has a very strong immediate and close connection with a rural setting at other points in the immediate curtilage of the barn. This is informed by the presence of trees and greenery to the south-west, south and north-west. To the north and north-east the immediate setting of the barn is defined by the vernacular garage outbuilding and the boundary hedge.

In my opinion the significance of the immediate setting of the barn can be summed up as having an enclosed private feel derived by the narrow tree-lined drive, the large expanse of screening woodland belts and the outgrown hedges and boundary walls that create a sense of enclosure. It feels secluded and private, excepting the small section of visible suburban intrusion to the north.

With regard to its wider landscape setting; At present, a belt of trees to the north of the proposed development site screens the barn from the suburban development giving the barn a strong sense of separation from suburban Norton. The distant woodland belt forming a backdrop behind the barn to the west and rural landscape to the south and south-west of the site adds a strong natural setting, magnifying the illustrative significance of the barn and its connections with a rural past. Importantly, the development site which is currently a grassed paddock is clearly seen in the foreground of the listed building. This forms an important part of the natural landscape setting and strongly contributes to the understanding and appreciation of the listed building.

I am of the opinion that how the barn is appreciated in its wider landscape setting forms a very important aspect of the significance of the setting of the listed building. At present the foreground of the barn when seen in its wider landscape setting, is an undeveloped paddock that links the barn with its rural past and provides a pleasant natural green setting for the building. The development of the paddock for 15 houses would dramatically alter this quality and result in an urbanisation of the foreground setting of the listed building. The magnitude of change resulting in the alteration from a rural undeveloped foreground to a developed urbanised foreground is high. Although the design of the scheme has achieved a loose agricultural feel, I am of the opinion that due to the development of the site for housing, that the wider natural landscape setting of the listed building is not preserved.”

Paragraph 129 of the NPPF states that Local Planning Authorities should:

“...identify and assess the particular significance of any heritage asset that may be affected by a proposal (including development affecting the setting of a heritage asset).”

The development will not directly affect the Listed Building.

Paragraph 132 of the NPPF states: -

“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”

The Building Conservation Officer has identified the importance of the undeveloped foreground of the barn in the wider landscape and how this is read in terms of links with the buildings past. The proposal therefore will cause harm to the setting of the listed building in that it encroaches on the rural setting of the listed building and its undeveloped foreground.

Policy SP12 (Heritage) of the Ryedale Plan - Local Plan Strategy reflects the NPPF. Specifically it in requires that the *“historic environment will be conserved and where appropriate, enhanced.”*

The Legislation, specifically Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting...”*

Whilst the proposed design of the dwellings is a recognised improvement upon the previous withdrawn scheme, the public benefits of the revised scheme, specifically 5 affordable houses, are not considered in the decision making balance to be of sufficient weight to outweigh the identified substantial harm caused to the setting of the Grade II listed asset.

Archaeology

The application was accompanied by a desk top study. County Archaeology assessed the information and has concluded that there are no known archaeological constraints to the development.

Drainage

Drainage, specifically the capacity of the current infrastructure has been raised as an issue locally.

The Local Planning Authority has consulted Yorkshire Water in relation to the proposed development. Yorkshire Water has not objected to the application.

It is considered, therefore, that whilst concerns have been raised they are not sustainable reasons to refuse the application on drainage grounds.

Contributions

In relation to education contributions, County Education has formally responded to the consultation. There is an identified shortfall at Norton Community Primary School and a Developer Contribution of £50,985 is required. This provision will be secured within a Section 106 Legal Agreement. Therefore it is likely that a contribution will be required. On the basis that a response will be received from County Education a verbal update will be provided to Members at the Committee.

With regard to the affordable housing provision, the layout (15 dwellings) triggers a requirement under Policy SP3 of the Local Plan Strategy of 35% of the dwellings to be affordable. The applicant has agreed and indicated that the requirement will be incorporated within the scheme, specifically 5 of the 6 single storey dwellings to the western part of the site.

The Council’s Housing Officer has commented as follows:-

“Based upon the information available the proposal is for the construction of 15 houses which at the policy rate of 35% would require the construction of 5 units with a commuted sum for 0.25.

With regard to the five units these are to be two storey, two bed three person houses and need to have a minimum of 60 square metres of useable floor space in each dwelling. The five units are all to be social rented. As far as the 0.25 to be dealt with by way of a commuted sum, I would assess the amount as being in the sum of £18,750.”

In relation to the Public Open Space provision, the indicative layout triggers a requirement for the provision under Policy SP11 of the LPS. The layout identifies no informal open space area to account for the requirement. The Councils Surveyor has commented as follows:-

“There is no public open space on the site and in this connection I have calculated that the commuted sum to be paid in lieu of any provision on site is in the sum of £33,120.”

This provision will also be secured through a Section 106 Legal Agreement if the application is approved.

Other Matters

A number of other concerns have been received in relation to the proposal that are not considered to be material to the consideration of the application. However, the issue raised in relation to prematurity has the potential to be material consideration.

Concerns have been received in relation to the development of the site, specifically that no sites should be developed outside of current development limits in advance of the site allocations document.

The National Planning Practice Guidance (NPPG) sets out in detail when issues of prematurity may apply. The relevant extract from the NPPG is set out below for clarity:

However in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of pre-maturity will seldom be justified where a draft Local Plan has yet to be submitted for examination

In relation to this guidance it is considered that neither criteria a) nor b) are satisfied by this proposal. The scale of this site is not so significant that it would undermine the approach of the emerging Local Plan Sites document. The Local Plan Sites document also cannot be considered to be at an advanced stage with Examination unlikely to take place until early 2016. Therefore it would be unreasonable to refuse the application on the grounds of prematurity.

Members will be mindful of the significant local opposition to the proposal. National policy advice on this issue is clearly set out in Circular 03/2009 which states as follows:

“B.21. While planning authorities are expected to consider the views of local residents when determining a planning application, the extent of local opposition is not, in itself, a reasonable ground for refusing development. To carry significant weight, opposition should be founded on valid planning reasons which are supported by substantial evidence.”

However, whilst a number of objections have been identified only the impact on the heritage asset can be sustained.

Conclusion

Ryedale does not have a 5 year housing land supply, i.e. a supply of sites that are suitable, available and deliverable. In the context of this decision that means that the settlement boundaries of Norton, (being relevant to the supply of housing), cannot be considered up-to-date and can carry only very limited weight. The proposal benefits from the presumption in favour of development in terms of paragraph 49 of the NPPF.

The fact that the proposal is put forward in advance of the Sites Document is not a sustainable objection in that the document is only at an early stage in its preparation and can only carry very limited weight.

Paragraph 14 of the NPPF however states:-

For decision-taking this means:

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out of date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.*

The NPPF specifically identifies impact on heritage assets as identified in paragraphs 129, 131, 132, 133 and 134.

Whilst it has been acknowledged that Ryedale does not have a 5 year housing supply in light of paragraph 14, and the assessment within this report, it is considered that the adverse impacts of the proposal on the setting of the listed building are not outweighed by the benefits of the scheme. Specifically the substantial harm to the setting of a listed building, by virtue of its position of the development within the foreground of the Listed Building thereby degrading the historic character of Sutton Grange Barn.

Paragraph 013 of the NPPG identifies that consideration needs to be weighed in the balance in terms of the impact of a proposal on a heritage asset, specifically how the development ‘materially’ detracts from an asset’s significance.

Policy SP12 of the Ryedale Plan – Local Plan Strategy states that the Council will *“Seek to ensure the sensitive expansion, growth and land use change in and around the Market Towns and villages, safeguarding elements of the historic character and value within their built up areas, including Visually Important Undeveloped Areas*, as well as surrounding historic landscape character and setting of individual settlements...”* and *“In considering and negotiating development proposals, the Council will seek to protect other features of local historic value and interest throughout Ryedale having regard to the scale of any harm or loss and the significance of the heritage asset..”*

It is considered that the proposed development neither represents a sensitive expansion to Norton, safeguards the historic character within the area nor protects an element of local historic value.

As such it the proposal is considered to be contrary to the requirements of Policy SP12 of the Ryedale Plan – Local Plan Strategy, Section 12 of the NPPF, Paragraph 013 of the NPPG and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

As a matter of planning judgement it is considered that although the proposed development has some planning benefits, the substantial harm to the setting of Sutton Grange Barn outweighs the benefits of the proposed development.

The proposal is therefore recommended for refusal.

RECOMMENDATION: Refusal

1. The proposed development by reason of its proximity to Sutton Grange Barn would result in an unacceptable level of harm to the setting and character of the Listed Building. Insufficient public benefits are derived from the development that outweigh the harm to the designated asset. The application is therefore considered to be contrary to Policy SP12 of the Ryedale Plan – Local Plan Strategy and the provisions of Section 12 of the National Planning Policy Framework, specifically paragraphs 129, 131, 132, 133, 134 and the statutory provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990.

APPLICATION NO: 13/01141/MFUL

PROPOSAL: Erection of 27no. 4-bed dwellings, 23no. 3-bedroom dwellings, 17no. 2-bed dwellings and 16no. 1-bed dwellings, associated garages, parking, public open space and landscaping

LOCATION: Land At Allotments, Broughton Road, Malton, North Yorkshire

UPDATE REPORT AND FURTHER RECOMMENDED CONDITIONS

Following the preparation of the Committee report the outstanding drainage issues have been satisfactorily addressed. A copy of the drainage plan is appended to this Update Report. Confirmation has been received from the Highway Authority that the internal road network and highway drainage system can be adopted. A formal recommendation from the Highway Authority has been received along with recommended conditions.

It has also been demonstrated to the satisfaction of Officers that the Public Open Space areas can be drained without affecting the use of these areas. No surface water drainage is proposed underneath the POS on the north western side. An underground 'crating' system is proposed on the central area, which will require a single manhole cover on the surface, this has been agreed by the Council's Surveyor. The central area will be grassed and it is envisaged that it will contain low level planting, a bench, litter bins and informal play areas. This method of draining surface water has also been used on the adjoining Phase 1. The POS areas are to remain with the developer, who will also be responsible for all future maintenance. The Council's Valuer has recommended conditions accordingly.

RECOMMENDATION: APPROVAL SUBJECT TO S106 AGREEMENT IN RESPECT OF DEVELOPER CONTRIBUTIONS

1 The development hereby permitted shall be begun on or before .

Reason:- To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

2 Before the development hereby permitted is commenced, or such longer period as may be agreed in writing with the Local Planning Authority, details and samples of the materials to be used on the exterior of the building the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority.

(NB Pursuant to this condition the applicant is asked to complete and return the attached proforma before the development commences so that materials can be agreed and the requirements of the condition discharged)

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 3 Prior to the commencement of the development hereby permitted, the developer shall construct on site for the written approval of the Local Planning Authority, a one metre square free standing panel of the external walling to be used in the construction of building. The panel so constructed shall be retained only until the development has been completed.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 4 Before the commencement of the development hereby permitted, or such longer period as may be agreed in writing with the Local Planning Authority, full details of the materials and design of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter these shall be erected prior to the occupation of any dwelling to which they relate.

Reason:- To ensure that the development does not prejudice the enjoyment by the neighbouring occupiers of their properties or the appearance of the locality, as required by the National Planning Policy Framework.

- 5 Prior to the commencement of the development, details of all windows, doors and garage doors, including means of opening, depth of reveal and external finish shall be submitted to and approved in writing by the Local Planning Authority

Reason: To ensure an appropriate appearance and to comply with the requirements of Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 6 Prior to the commencement of the development hereby approved, precise details of all ground surfacing materials shall be submitted to and approved in writing by the Local Planning Authority.

Reason:- In order to ensure a satisfactory external appearance, and to satisfy Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 7 The existing hedgerows on the northern, southern and eastern boundaries shall be retained with details to be submitted to and agreed in writing by the Local Planning Authority.

Reason:- The existing hedges are considered to be important features that will help retain habitat within the scheme and in the interests of the visual amenity of the scheme, and to satisfy Policies SP14 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 8 Before any part of the development hereby approved commences, plans showing details of landscaping and planting schemes shall be submitted to and approved in writing by the Local Planning Authority. The schemes shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed where appropriate to the development. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and shrubs including existing items to be retained. When selecting tree species particular attention should be paid to selecting species which are suitable to fit the space /environs that they are growing in and that they will have longevity in both horticultural and visually terms. All planting, seeding and/or turfing comprised in the above scheme shall be carried out in the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority.

Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development hereby approved and to comply with the requirements of Policy ENV7 of the Ryedale Local Plan

- 9 Before any part of the development hereby approved commences, plans showing details of proposed design of tree pits to fit a particular location commensurate with the latest innovations in tree pit design/materials in situations where conventional tree pits cannot be implemented owing to development constraints shall be submitted to the Local Planning Authority for approval in writing.

Reason:- to ensure that appropriate underground resources are installed to ensure that new trees survive initial planting establishment, do not cause disturbance to surrounding hard surfacing in future years, and grow on to maturity to enhance the development and contribute to the local and wider landscape.

- 10 Prior to the commencement of the development hereby approved, the following details shall be submitted to and approved in writing by the Local Planning Authority:

- i. A 20-year Management Plan for both areas of on-site public open space;
- ii. Precise details for a bespoke equipped play space on the north-western area of Public Open Space based on “Play England Design for Play Guide”;
- iii. Precise details, including cross-sectional drawings through the soakaway systems on the central on-site POS area and detailed specification and type of system to be used;
- iv. Precise details of the on-site features on the central area of POS, which should include two benches and a litter bin; and
- v. Precise details of all landscaping across both areas of on-site POS.

Thereafter, the development shall be undertaken in accordance with the details thereby agreed.

Reason:- In order to ensure the Public Open Space areas are functional, and to satisfy Policy SP11 of the Ryedale Plan - Local Plan Strategy.

- 11 The development shall be undertaken in accordance with Section 5.0 of the ‘Conclusions and Recommendations’ within the Extended Phase 1 Habitat Survey issued August 2013, with precise details to be submitted to and approved in writing by the Local Planning Authority.

Reason:- In order to fully take account of ecology that may be using the site and to meet the requirements of Policy SP14 of the Ryedale Plan - Local Plan Strategy.

- 12 Prior to the commencement of the development hereby approved, precise details of the play equipment and other structures to be sited on the areas of on-site Public Open Space, together with a 20-year management plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason:- In order to ensure the Public Open Space is functional and to satisfy Policy SP11 of the Ryedale Plan - Local Plan Strategy.

- 13 Unless otherwise agreed in writing by the Local Planning Authority, and prior to the occupation of any of any dwelling hereby approved, the following refuse collection and recycling bins shall be provided:-

- 180 litre green refuse bin;
- 55 litre green plastic bottle and can recycling box;
- 55 litre paper and cardboard recycling bag/box; and
- 40 litre glass recycling box.

Reason:- For the avoidance of doubt, and to satisfy Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 14 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved by the Local Planning Authority before development commences.

Reason: To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which prevent overloading and to comply with Policy SP17 of the Ryedale Plan - Local Plan Strategy and National Planning Policy Framework.

- 15 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason:- In the interests of satisfactory and sustainable drainage.

- 16 No development shall take place until a scheme for the disposal of foul and surface water drainage, including details of any balancing works and off-site works, including details of a phased programme of implementation have been submitted to and approved by the Local Planning Authority.

Reason:- To ensure that the development can be properly drained and to comply with Policy SP17 of the Ryedale Plan - Local Plan Strategy and the National Planning Policy Framework.

- 17 Unless otherwise approved in writing by the Local Planning Authority, no dwelling shall be occupied or surface water piped from that phase of the development until the foul and surface water drainage works for that phase have been completed in accordance with the approved drainage scheme.

Reason:- To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal and to satisfy Policy SP17 of the Ryedale Plan - Local Plan Strategy and the National Planning Policy Framework.

- 18 No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:-

- Surface water run-off rate will be limited to the Greenfield rate from a 1 in 1 year event;
- Sufficient attenuation and long-term storage at least to accommodate a 1 in 30 year storm. The design should also ensure that storm water resulting from a 1 in 100 year event, plus 30% to account for climate change, and surcharging the drainage system can be stored on the site without risk to people or property and without overflowing into a watercourse;
- Details of how the scheme shall be maintained and managed after completion.

Reason:- To prevent the increased risk of flooding, both on and off site, and to satisfy Policy SP17 of the Ryedale Plan - Local Plan Strategy and the National Planning Policy Framework.

- 19 Prior to the commencement of the development, precise details of obscure glazing for Plots 321, 320, 264, 267, 276 and 271 shall be submitted to and approved in writing by the Local Planning Authority. The approved obscure glazing shall be installed before the first occupancy of any of the dwellings, and thereafter permanently maintained to the specification of the approved details.

Reason:- In order to protect the amenity of the adjoining properties and to satisfy Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 20 Unless otherwise agreed in writing with the Local Planning Authority, development shall not commence until information on the use of the site and any adjacent sites since 2007 is submitted to supplement the original Preliminary Appraisal (Desk Top Study) for land at Outgang Road, Malton (Sirius, Report No C2565, December 2007) and approved in writing by the Local Planning Authority. This shall include an assessment of the new information in accordance with Contaminated Land Report 11 and BS 10175 (2013) Code of Practice for the Investigation of Potential Contaminated Sites.

Unless otherwise agreed in writing with the Local Planning Authority, development shall not commence until a Phase 2 Site Investigation Report and if required, or requested by the Local Planning Authority, a Remediation Scheme has been submitted to and approved in writing by the Local Planning Authority. Reports shall be prepared in accordance with Contaminated Land Report 11 and BS 10175(2013) Code of Practice for the Investigation of Potential Contaminated Sites. The development shall not be occupied until the approved remediation scheme has been implemented and a verification report detailing all works carried out has been submitted to and approved in writing by the Local Planning Authority.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing to the Local Planning Authority and work cease until the extent of the contamination has been investigated and remedial action, which has been agreed in writing with the Local Planning Authority has been completed.

Reason:- To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, and to satisfy the National Planning Policy Framework.

- 21 Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted development) Order 1995 (or any Order revoking, re-enacting or amending that Order) on the quarter-houses located on Plots 264 - 279 and 318 - 325, development of the following classes shall not be undertaken on the quarter houses located on plots 264-279 and 318-325 other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:

Class A: Enlargement, improvement or alteration of a dwellinghouse

Class B: Roof alteration to enlarge a dwellinghouse

Class C: Any other alteration to the roof of a dwellinghouse

Class D: Erection or construction of a domestic external porch

Class E: Provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of a dwellinghouse or the maintenance, improvement or other alteration of such a building or enclosure.

Reason:- To ensure that the appearance of the area is not prejudiced by the introduction of unacceptable materials and/or structure(s) and to satisfy Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 22 Prior to the commencement of development hereby approved, details of the existing and finished site levels (including road and finished ground floor levels of the proposed dwellings) measured in relation to a fixed datum point, shall be submitted to and approved in writing with the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved levels details unless otherwise agreed in writing with the Local Planning Authority.

Reason:- For the avoidance of doubt and to ensure that the finished development has a satisfactory external appearance and to satisfy Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 23 Prior to the commencement of the development hereby approved, the following details for Plots 264 - 279 and Plots 318 - 325 shall be submitted to and approved in writing by the Local Planning Authority:

i. Details of external lighting;

ii. Details of bin storage areas;

iii. Details of cycle storage areas; and

iv. Details and management proposals of the shared private amenity areas.

Thereafter, the development shall be undertaken in accordance with the details thereby agreed.

Reason:- In order to reduce the risk of crime and anti-social behaviour and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy and the National Planning Policy Framework.

- 24 No dwelling the subject of this application shall be occupied until such time as the application site has direct access to the Public Highway, to the reasonable satisfaction of the Local Planning Authority.

Reason:- To ensure the application site has access to the public highway and to satisfy Policy SP20 of the Ryedale Plan - Local Plan Strategy.

25 Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, unless the following drawings and details have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

(1) Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:

- (a) the proposed highway layout including the highway boundary
- (b) dimensions of any carriageway, cycleway, footway, and verges
- (c) visibility splays
- (d) the proposed buildings and site layout, including levels
- (e) accesses and driveways
- (f) drainage and sewerage system
- (g) lining and signing
- (h) traffic calming measures
- (i) all types of surfacing (including tactiles), kerbing and edging.

(2) Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:

- (a) the existing ground level
- (b) the proposed road channel and centre line levels
- (c) full details of surface water drainage proposals.

(3) Full highway construction details including:

- (a) typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
- (b) when requested cross-sections at regular intervals along the proposed road showing the existing and proposed ground levels
- (c) kerb and edging construction details
- (d) typical drainage construction details.

(4) Details of the method and means of surface water disposal.

(5) Details of all proposed street lighting.

(6) Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

(7) Full working drawings for any structures which affect or form part of the highway network.

(8) A programme for completing the works.

The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority with the Local Planning Authority in consultation with the Highway Authority.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

26 No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy, and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

- 27 There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme of their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy, and in the interests of highway safety.

- 28 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of the major road have been provided. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy, and the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

- 29 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved:

(i) have been constructed in accordance with the submitted drawing (Reference Y81:825.03 Rev E)

Once created, these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy, and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

- 30 Notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 1995 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy, and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity of the development.

- 31 There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority in consultation with the Highway Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site, and be kept available and in full working order and used until such time as the Local Planning Authority in consultation with the Highway Authority agrees in writing to their withdrawal.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy, and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

- 32 Unless approved otherwise in writing by the Local Planning Authority, there shall be no establishment on a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction of the site, until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

(i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway

(ii) on-site materials storage area capable of accommodating all materials required for the operation of the site

(iii) the approved areas shall be kept available for their intended use at all times that construction works are in operation.

The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy, and to provide for appropriate on-site vehicle parking and the storage facilities, in the interests of highway safety and the general amenity of the area.

- 33 Prior to the development being brought into use, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. This shall include:

(i) the appointment of a travel co-ordinator

(ii) a partnership approach to influence travel behaviour

(iii) measures to encourage the use of alternative modes of transport other than the private car by persons associated with the site

(iv) provision of up-to-date details of public transport services

(v) continual appraisal of travel patterns and measures provided through the travel plan

(vi) improved safety for vulnerable road users

(vii) a reduction in all vehicle trips and mileage

(viii) a programme for the implementation of such measures and any proposed physical works

(ix) procedures for monitoring the uptake of such modes of transport and for providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

Reason:- In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy, and to establish measures to encourage more sustainable non-car modes of transport.

- 34 The development hereby permitted shall be carried out in accordance with the following approved plan(s):.

Reason: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVES:

- 1 The applicant/developer is advised that this application should be read in conjunction with the Section 106 Agreement dated
- 2 In accordance with Condition 8, the applicant/developer is advised that the landscaping should enhance the opportunities for habitat creation pursuant to Policy SP14 of the Ryedale Plan - Local Plan Strategy.
- 3 In accordance with the Noise Report, and pursuant to Condition 9, Plots 330 and 331 should have a close-boarded fence around their rear and side elevations.
- 4 The site of the proposed development is underlain by the Coralline Oolite formation which is designated a Principal Aquifer. Principal Aquifers provide significant quantities of water for people and may also sustain rivers, lakes and wetlands. It is therefore important that groundwater is protected from pollution associated with the construction and occupation of the development.

The Environment Agency recommend that the applicant prepares a Construction Environmental Management Plan (CEMP). The CEMP should identify potential groundwater hazards associated with construction of the development and should evaluate the likelihood and consequences of each hazard. Mitigation for dealing with the likelihood risks should be identified and implemented.

The applicant is advised to refer to the relevant published Environment Agency pollution prevention guidelines, in particular 'Working at construction and demolition sites: PPG6'. Pollution prevention guidelines can be accessed on the Environment Agency's website at <http://www.environmentagency.gov.uk/business/topics/pollution/39083.aspx>

- 5 The Environment Agency understand that sustainable drainage systems (SuDS) are proposed for the discharge of surface water run-off. Where infiltration SuDS are proposed for surface run-off from roads, car parking and amenity areas, they should have a suitable series of treatment steps to prevent the pollution of groundwater.

The design of the SuDS should be subject to a risk assessment, considering the types of pollutants likely to be discharged, design volumes and the dilution and attenuation properties of the aquifer. Mitigation for dealing with risks to groundwater should be identified and implemented.

- 6 The discharge of clean roof water to ground is acceptable provided that all roof water downpipes are sealed against pollutants entering the system from surface water run-off or any other forms of discharge. The method of discharge must not create new pathways for pollutants to groundwater or mobilise contaminants already in the ground.

- 7 It is recommended that before a detailed planning submission is made, a draft layout is produced for discussion between the applicant, the Local Planning Authority and the Highway Authority in order to avoid abortive work. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition.

Background Papers:

Adopted Ryedale Local Plan 2002
Local Plan Strategy 2013
National Planning Policy Framework
Responses from consultees and interested parties

Proposed Residential Development at Outgang Lane Allotments, Malton.



House Type Legend - Social

House Type	No.	Beds	Storey	Grft.	Total Grft.
B15 One Bed Quad	16	2	2	603	9,648
B25 Two Bed Quad	8	2	2	683	5,474
B35 Three Bed Quad	2	2	2	189	1,512
Total	26	6	78	1,475	16,634

House Type Legend - Private

House Type	No.	Beds	Storey	Grft.	Total Grft.
Private 1	4	2	1	722	2,888
Private 2	2	2	1	1,085	4,340
Private 3	12	3	2.5	1,085	13,020
Private 4	10	4	2	1,133	11,580
Private 5	8	4	3	1,244	9,952
Private 6	4	3	3	1,244	9,952
Private 7	3	4	2	1,330	4,950
Total	54	24	18	15,300	158,970

Site Total - 83 - 71,587
 Social - 35%

Site Layout Key

- Social Housing
- Indicative Trees
- Indicative Hedges
- Landscaping indicative only
- Site Boundary
- Architects drawing for detail design

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- E JD Plots 322-330 moved to add landscaping to highway, 20/11/13. All trees removed from drawing. Refer to landscape architects drawing. 18.06.14
- D JG Layout amended following comments. Planners 16.05.14. And TW comments. 22.05.14
- C JD Bungalow added & turning 2 x VP spaces (2002 to 2003) in turning parking area. All 7 garage rows moved back to footpaths and railings added to footpath links. 11.02.14
- B JD Storey heights illustrated. colour information added & amended to existing plans. 294-304 hatched. 15.01.14
- A JD Amended to TW marked up drawing following meeting with Pyscove DC. See email 10.12.13. 09.01.14

Prepared by: Moba
 Date: []

PRA ARCHITECTS
 15 THE SQUARE, MALTON, NORTH YORKSHIRE, YO10 1JH, UK
 T: 01904 833779 E: malton@praarchitects.co.uk W: www.praarchitects.co.uk

Proposed Site Layout
 Taylor Wimpey
 10.12.2013
 DRAWN BY: N81825.03
 CHECKED BY: E
 SCALE: 1:500@A1



Proposed Site Layout.

Our Ref: WT/RMB/
Date: 24th June 2014

Mr S Robson
Ryedale District Council
Ryedale House
MALTON
North Yorkshire
YO17 7HH

Dear Mr Robson

RE: APPLICATION NUMBER 14/00340/MFUL
DESCRIPTION: FORMATION OF A MINIATURE RAILWAY TRACK AND
EXTENSION OF EXISTING CAR PARK AT CEDAR BARN
FARM SHOP, THORNTON DALE.
APPLICANT: C W AVISON & CO

Further to comments received from the North Yorkshire County Council Highways and Transport Department and your recent e-mail, I write with regards to a recent on site meeting between the applicant, myself and Stephen Boyd from the Highways, to address any concerns.

An on-site meeting at Cedar Barn Farm Shop, Thornton Dale was held on Wednesday 11th June 2014 regarding the provision of additional car parking spaces and improved signage at the proposed location.

It was discussed at the meeting that the applicant would provide additional car parking spaces in the already established car park at Cedar Barn via marking on the ground space allocations to be 2.4 meters wide by 4.8 meters long with the provision of at least 3% disabled parking spaces, which we believed to be industry requirements. In addition to the marked out car parking spaces there is also to be an overflow area for additional car parking to the south side of the established car park. This area will also incorporate space for two coaches.

With all of the above in mind, please find enclosed a plan detailing the proposed new car parking space layout showing the marked out car parking and overflow area.

It was also discussed that further signs will be erected within the car park to ensure car park users are directed accordingly to either the disabled area or to the exit to ensure there are no congestion issues at peak times. In addition to the extra signage within the car park, the already present A170 main road signs will be re-erected in more prominent positions to ensure road users are aware that there are entrances and exits to and from Cedar Barn Farm Shop.



15 Market Place, Malton,
North Yorkshire, YO17 7LP
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Email: malton@cundalls.co.uk
Website: www.cundalls.co.uk

Also at;
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In association with;
Cundalls RFAS
Reagarth Farm, Helmsley
North Yorkshire. YO62 5XH
Tel: 01439 772 000 Fax: 01439 772 111
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All of the above was discussed at length with Stephen Boyd of North Yorkshire County Council Highways and Transport Department and it was agreed that these measures, if completed before the attraction was brought into use, would be suitable and sufficient for the Highways concerns to be met.

I hope that all of the above and enclosed provides more clarity to this situation and if you require any further information from me, please do not hesitate to give me a call at any time.

Yours sincerely

William Tyson BSc (Hons) MRICS FAAV

t. 01653 697820
m. 07977 560109
e. will.tyson@cundalls.co.uk

Enc:

R:\Agriculture\PLANNING\Cedar Barn, Thornton Dale - Avison



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Cedar Barn

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3% Disabled Parking Area

53 car parking spaces available
2 coach parking spaces

Proposed marked car parking spaces

Coach Spaces

Overflow Parking Area (unmarked)

NOT TO SCALE

Glenys Yates

SMR.

NO OBJECTION.

From: dm@ryedale.gov.uk
Sent: 17 June 2014 17:38
To: Development Management
Subject: Consultee Comments for Planning Application 14/00409/FUL

A consultee has commented on a Planning Application. A summary of the comments is provided below.

Comments were submitted at 5:24 PM on 17 Jun 2014 from emma.woodland@ryedale.gov.uk.

Application Summary

Reference: 14/00409/FUL

Address: Building Opposite Glebe Farm Bull Moor Lane Flaxton Malton

Proposal: Erection of single storey extension forming office and staff amenities to serve existing marquee hire business

Case Officer: Shaun Robson

[Click for further information](#)

RYEDALE DM
all 18/6.
18 JUN 2014
DEVELOPMENT
MANAGEMENT

Comments Details

Comments: No Objection- This is a much neater design and relates better to the host building





CONSULTANTS LTD



G1332/TH/th

Mr S Robson
Ryedale District Council
Ryedale House
Malton
North Yorkshire
YO17 7HH

By email only

24 June 2014

Dear Shaun

STEAM AND MOORLAND GARDEN CENTRE, STEAM AND MOORLAND MACHINERY CENTRE, MALTON ROAD, PICKERING, NORTH YORKSHIRE YO18 7JW: APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR AN EXISTING USE IN BREACH OF CONDITION 06 ATTACHED TO PLANNING PERMISSION REFERENCE 00/00400/OUT: REFERENCE 13/01242/CLEUD

I refer to the above application which is to be determined by the planning committee on 1 July 2014. We have now reviewed the report to committee and comment below. Please circulate this letter and enclosure to the members of the Planning Committee in advance of the committee on 1 July 2014.

The application seeks a Certificate confirming that the breach of condition 06 of planning permission 00/00400/OUT, by way of the sale of goods other than those listed for more than ten years, is lawful.

Condition 06 attached to the outline permission relates only to the area edged red on the application drawings; this was the application site for the original outline permission for the garden centre. It follows that this land is the 'site' for the purposes of the current application.

The use of the application site is as a garden centre. As previously advised in my letter of 21 May 2014, it has been held by the courts, in *Arun District Council v Wiggins* 14/11/96, that 'A "garden centre" is clearly premises "used for the retail sale of goods" under Article 3 and Schedule A Class A1 of the Town and Country Planning Use Classes Order 1987 and its predecessors'. The judgement relates to land and buildings. The use of all of the application site is therefore a use within Class A1, whether it is enclosed or open sales space.

The Court has held (*F W Gabbitas v SSE and Newham LBC* [1985] JPL 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is

no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a Certificate "on the balance of probability". The local planning authority should proceed on the basis that neither the identity of the applicant, nor the planning merits of the use, are relevant to the consideration of the purely legal issues which are involved in determining an application for a certificate of lawfulness.

The application is supported by clear and unambiguous evidence relating to the sale of goods in breach of condition 06, which the Council have been unable to contradict. This evidence takes the form of sworn statements and an invoice record covering the seven years between 2007 and 2013. The statements of Mr Hopkinson and Mr Turnbull address the years for which invoices are no longer held on file (2003-2006). Both Mr Hopkinson and Mr Turnbull are fully aware that it is an offence to knowingly or recklessly provide false information in such statements.

At paragraph 8.4 the committee report states the "extensive series of receipts cover 13 areas". However, it goes on to list only 10 categories. Home Scents and Toiletries, Giftware and Garden Building Greenhouses and Accessories have been omitted. The sale of these goods has been demonstrated to have taken place over the past ten years by the evidence submitted with the application.

The issue of if, and where, DIY and hardware products were sold from the garden centre was addressed in Mr Hopkinson's supplemental statement. This clarifies that DIY tools have been sold from the garden centre building since shortly after the garden centre began trading. The sworn statement of Mr Turnbull corroborates the evidence of Mr Hopkinson. Again, both Mr Hopkinson and Mr Turnbull are fully aware that it is an offence to knowingly or recklessly provide false information in such statements.

In any event, DIY and hardware products is just one of the 13 categories of goods to which the application relates. The report to committee does not refer to the evidence relating to the remaining 12 categories of goods, either to refute it or accept it.

It has been clearly demonstrated within the application that a broad range of items have been sold in breach of condition 06 from the application site for more than the past 10 years.

- * I enclose for the Committee's information a copy of the draft certificate sought. This was forwarded to yourself and Mr Winship on 16 April 2014 following our meeting.

We note that the Council may issue a certificate in a form other than that applied for if they consider the evidence supports such action. The evidence submitted with the application is sufficiently precise and unambiguous 'on the balance of probabilities' to establish that the goods referred to in the application have been sold in breach of condition 06 of permission 00/00400/OUT, from the application site for at least the relevant ten year period.

The Committee are therefore respectfully urged to grant a Certificate of Lawfulness in the form of the enclosed draft, or such other form as they see fit.

I would be grateful if you would confirm by return that this letter and draft certificate will be circulated to the Committee members prior to 1 July 2014.

Yours sincerely
for MALCOLM SCOTT CONSULTANTS LTD

T. Hubbard

TRACY HUBBARD
tracyh@malcolmscottcons.co.uk
www.malcolmscottcons.co.uk

cc: Mr C. Hopkinson, Steam and Moorland Garden Centre
Mr A Winship, Ryedale District Council
Mr G Housden, Ryedale District Council

(140614.ltr.ryedale.th)

IT IS HEREBY CERTIFIED that on 25 October 2013 the matter described in the First Schedule hereto, constituting a failure to comply with a condition or limitation subject to which planning permission has been granted, in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191(3) of the Town and Country Planning Act 1990 (as amended), for the following reason:-

Reason:

No enforcement action could be taken as the breach of condition 06* attached to planning permission 00/0400/OUT granted on 4 August 2000 as specified had been continuous for a period of time in excess of ten years.

Reference: 13/01242/CLEUD

Signed.....(Council's Authorised Officer)

Date.....

First Schedule

Use of the land and building(s) for sale (within Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended) of the following goods in breach of condition 06 attached to planning permission 00/0400/OUT:

Non-gardening books
Indoor Toys and Games
Outdoor Toys and Games
Food for Consumption Off the Premises
Non-Gardening Clothing
Non-Gardening Footwear
DIY and Hardware products including Hand and Electrical Tools
Homeware
Gift Ornaments
Home Scents and Toiletries
Giftware
Garden Buildings, Greenhouses and Accessories
Gas, Coal, Logs and Winter Accessories

Second Schedule

Land and building(s) at Steam and Moorland Garden Centre, Malton Road, Pickering, North Yorkshire, YO18 7JW, edged black on the attached plan.

* The details of which are set out in full in the attached Annex A.

ANNEX A

This is the Annex referred to in the Lawful Development Certificate relating to Steam and Moorland Garden Centre, Malton Road, Pickering, North Yorkshire, YO18 7JW

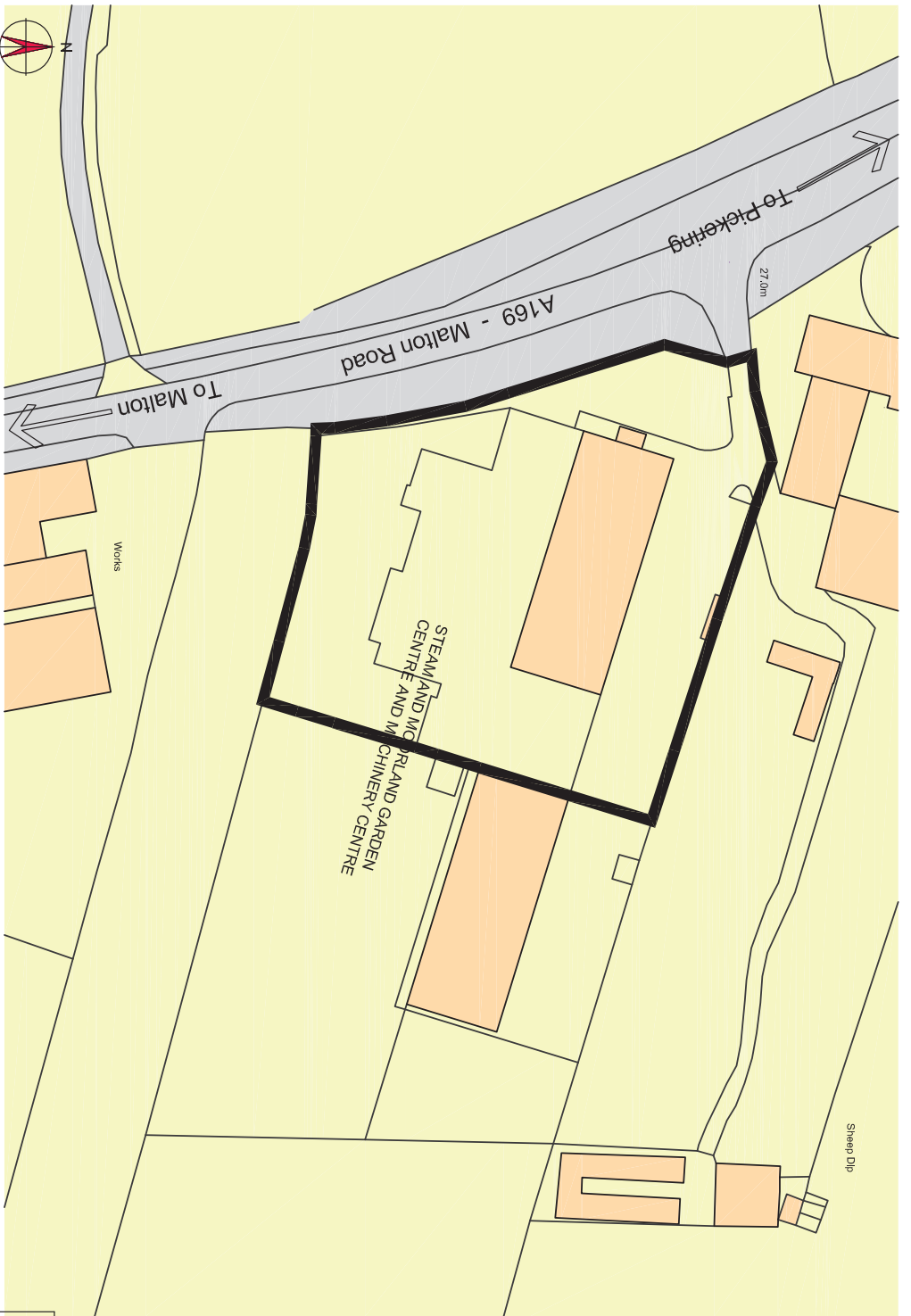
Condition 06 attached to planning permission 00/0400/OUT granted on 4 August 2000 for the erection of garden centre states:-

'The building(s) hereby approved shall only be used as a garden centre for the display and sale of the following categories of goods:

- (i) Pot and bare rooted plants, ornamental fruit bushes and trees, seeds/bulbs, vegetable and bedding plants, ornamental and fruit trees, cut flowers;*
- (ii) Garden requisites such as composts, fertilisers, weed killers/disinfectants, spray equipment, netting, cloches, plant supports;*
- (iii) Gardening and greenhouse tools and equipment;*
- (iv) Gardening protective clothing and footwear;*
- (v) Garden pond liners, pumps and equipment, pebbles, aquatic plants, fish and fish foods;*
- (vi) Fencing, path and patio construction materials such as gravel, paving slabs, edging materials;*
- (vii) Garden furniture and ornaments such as seating, umbrellas, barbecue and barbecue fuel, bird tables, feeders and bird feed;*
- (viii) Incidentals such as gardening books and videos, cards, artificial flowers, small animal feed (e.g. rabbit food); and*
- (ix) Natural and artificial Christmas trees, Christmas decorations, table decorations, Christmas cards.*

The building(s) and land shall not be used for any other purposes (including any other purposes in Use Class A1 of the Schedule of the Town & Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).

Reason:- The site is in open countryside where current planning policy would not normally permit general retail uses.'




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All dimensions and levels to be checked on site, and discrepancies reported before works commence.

FOR PLANNING PURPOSES ONLY

CLIENT	Hopkinson and Sons Ltd.
SITE	Steam and Woodland Garden and Machinery Centre, Malton Road, Pkering, North Yorkshire
PROJECT	Certificate of Lawfulness
PROJECT STAGE	Application
DRAWING	Lawful Use Certificate
SCALE	1:1250 @ A4
DATE	Apr 2014
	BY: sgh
	CHECKED: TH
	DWG No. G1332-02
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