

**RYEDALE DISTRICT COUNCIL
PLANNING COMMITTEE**

SCHEDULE OF ITEMS TO BE DETERMINED BY THE COMMITTEE

PLANS WILL BE AVAILABLE FOR INSPECTION 30 MINUTES BEFORE THE MEETING

Item Number: 5
Application No: 11/00927/MOUT
Parish: Malton Town Council
Appn. Type: Outline Application Major
Applicant: GMI Holbeck Land (Malton) Ltd
Proposal: Erection of retail units (Use Class A1), offices (Use Class B1), petrol filling station, car park and associated landscaping (Revised Details)
Location: Car Park Wentworth Street Malton North Yorkshire

Registration Date: 26 August 2011 **8/13 Week Expiry Date:** 25 November 2011
Case Officer: Shaun Robson **Ext:** 319

CONSULTATIONS:

Parish Council - Malton	Recommend refusal
Highways North Yorkshire	Recommend criteria for Section 106 and conditions
Neighbouring Parish Council - Norton-On-Derwent	Object
Sustainable Places Team (Yorkshire Area)	Recommend conditions
Yorkshire Water Services	No objection subject to conditions
Environmental Health Officer	Recommend conditions
Archaeology Section	Recommend conditions
Countryside Officer	No significant effect on protected species or habitats
Mr Jim Shanks	Recommend condition
Tree & Landscape Officer	Recommends compensatory tree planting.

Neighbour responses: David Harrison Group (Mr S Harrison), London Ebor Developments (Mr P Spencer), Mrs Elaine Blenkinsop, Mr Gavin Read, Dr James Behrens, Mr Paul Beanland, Cara Ware, Mrs Samantha Read, G Woodhead, Mr Malcolm Anderson, Wm Morrison Supermarkets PLC, Mr Barry Thomson, John Paley, Greg Pearson, Mrs Elizabeth Pearson, Mr David Angell, Mr Neil McDougall, Nicola Gledhill, J And E Clark, C Richardson, Mrs Susan Swales, Mr John Collins, The Occupier, Mrs D A Munn, J B Motors, Mr J Behren, Ms Josephine Downs, Miss Maxine Furnandiz, Mrs D Behrens, Mrs Elizabeth Taylor, Mrs Fiona Croft, Mrs Emma Brooksbank, Miss Charlotte Brader, Mr Richard Hopkinson, Mr Stewart Frank, Miss Samantha Wilde, Mrs Jennifer Richards, Mr Michael Keeney, Mr Mark Brigham, Mr Denys Townsend, Ms E Ticehurst, Mr Roger Mattingly, Mrs Nicola Ordidge, Mr David Lloyd-Williams, Mr Kenelm Storey, Mr Nicholas Brooksbank, Mrs Dorianne Butler, Mr Michael Behrens, Cllr Paul Andrews, Mr Mark Jones, Mr Neil Griffiths, Mr David Ring, Mrs Jan Anderson, Mr J Clarke, Mr Nicholas McNally, Mrs Janet Sharp, Mr T Tyson, Mr Mike Keeney, S Branch, R C Hopkinson, Simons Developments Ltd

PLANNING COMMITTEE

24 April 2014

& Fitzwilliam Trust Corporation, Mr Peter Wickison, Mrs Jan Devos, David Loyd Williams, Mr Malcolm Kirton, Mr Malcolm Chalk, Stuart Carruthers, Mrs Julie Kirton, Emma Brooksbank, Fitzwilliam (Malton) Estate, Mr Norman Maitland, Hannah Andrew, Howard Croft, Paul Francis, Michael Swanton, Ann Hagger, Joy Maxwell, Lettice Hall Bell, Lindsay Wrightson, Peter & Nittaya Ash, Tim Cluderay, David Fairbairn, Janet Swaine, Betty Scott, Martin Willsher, Alan Brayshaw, Mrs M D Taylor - Helps, R Holmes, Mrs J M Pickering, A Jeffries, Mrs M Birch, Mr J Cook, Robert J Brock, Saskia Syms, Mr Mike Potter, Mrs J Bell, Elizabeth Pope, Michel And Jamie William, Mr And Mrs A Morrison, Bridget Read, Stewart Frank, Catherine Foot, Fran Mason, Mr Nicholas Waddington, Mrs Ann Gray, Mr Christopher Gillam, Mr Malcolm Kirton, Mike Cooper, Deborah Trevor, Mike Hall, Jamdoms, Linda Stannard, Rebecca Sleightholm, Nicola Jesse, David Pettit, Deana Jeffery, Margaret Atkinson, Pat Walker, Sophie Bingham, Craig Walker, Shane Jarman, Barry And Vikki O'Brien, Carol Stuttard, Susan Hughes, Peter Rowley, Peter And Dorothy Burrow, Sandra Stark, Terence Greene, Caroline Sims, Richard Peters, Tim Hutchinson, Carol Peters, S.A Beswick, Mrs E.A Treasure, R.C Treasure, Mr G.A. Rex, Richard Jennings, Mr Michael Gray, J Welford, Mollie Woollard, Michael Arnold, Roger Hammon, W Asquith, Carol Bishop, G Woodcock, Stephen Gibson, Melanie St.Clair, Mr N Sheilds, J Harris, Carol, Chris Paxton, Kathy Greene, Robert Crisp, Sarah Bartliff, Alexander Pritchard, Mrs Yvonne Taylor, Lynn Cullis, John T, Simpson. Family, Debby Hardy, Paul Carrick, Paul Carrick, Joanne Legard, Mr And Mrs Brown, Mr And Mrs Middlebrook, A Stuttard, Julie Lund, Jane Bradley, Paul Moon, Jane And Roger Paterson, Adam Newell, Stuart McNeal, Rosemary Carter, Ruth Dixon, Chris Howarth, Phill Major, Hannah Yeung, Councillor Paul Andrews, Mr And Mrs J & D Sheaf, Tina Kelly, Mr And Mrs Jefferson, Ann Hunter, Gayle Dunkley, Paul Wainwright, Mark O'Brien, Jacqueline Walsh, Anne-Margaret Hetherington, David Hoggard, Tony Malt, Paul Webster, Gill Macrae, Audrey Davies, Mrs Cilla Parlett, Steve And Jacqui Walls, Mrs C Woodhouse, Leanne Oldfield, Sarah Hill, Joanna Kelly, Mr David Thompson, Neil Dale, Michael Bentley, Tony Hemesley, Graham Beaumont, Derek Kirby, Raymond Ward, Alec Featherstone, Margaret Baker, Mrs Jean Smith, Mr Mills, Alan Robson, Lonsdale Stephen, Graham Flint, K Megginson, Nathan Parry, Tracey Lloyd, Anne Rutter, Trevor Schofield, Mrs Elizabeth Betts, Jill Baldwin, A Killeby, Mrs B Walker, Mrs V Goodbold, Mrs Ros Cocker, Mrs C Raine, Chris Cooper, Chris Jones, John Woods, Gill Perks, Mr A Ellis, Rev Mike Smith, Mr D Wilson, Dr Alan Suggett, Mr B Jacques, Mr D Fairbairn, R B Stellings, Nick Fletcher, Mr R Batty, Mrs E Lund, Mr & Mrs T Harrison, Mrs Mary Marlowe, V & K Nicholson, Michael Povey, Ron Stark, Keith Sales, Sir Charles Legard, Steve Conroy, Elaine Dooley, David Hall, Mr And Mrs Luck, Mrs J Rowstron, Fitzwilliam Estate (Malton), David Walker, Mr Malcolm Ian Joyce, Mr Malcolm Fox, Mr Ian Hutchinson, Ms W E Barker, Lynn Cullis, Mr _

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Mrs Ballantyne,Mr Duncan Humphreys,Mr Jeremy Powell,A White,Mr David Wakely,Mrs Hilary Wood,Mr M Joyce,Mr & Mrs Haldenby,Jason Ash,Val And Neil Parkinson,Mr Tony Leeming,Mr Ian Butcher,Mrs J Watson,

Overall Expiry Date: 27 March 2014

1. SITE DESCRIPTION, BACKGROUND & PROPOSED DEVELOPMENT

- 1.1 The application site extends to 1.47 hectares and lies close to the northern edge of Malton Town Centre. The majority of the site is currently in use as a surface level public car park which serves Malton town centre, although there is also a community office building and toilet block located towards the south western corner of the site and a scout building and rifle club fronting onto Pasture Lane.
- 1.2 The main body of the site is adjoined to the north by a cemetery, whilst the north western corner of the site and access onto Pasture Lane are adjoined by residential properties (Smithson Court). The eastern boundary of the application site is adjoined by the upper level of the Wentworth Street Car Park (WSCP), which is subject to a separate application for alterations and improvements associated with the redevelopment of the application site (Ref. 11/00919/FUL). The access road serving the cemetery lies to the east of the upper level of the WSCP beyond which lies residential properties on Ropery Walk. The southern boundary of the site adjoins residential properties in Wentworth Mews and a small car park currently used for customer parking by JB Motors. The western boundary of the site is formed by Wentworth Street, which is flanked by residential and commercial uses, including the JB Motors garage, which lies directly opposite the site. A former school building lies to the north of the site access road onto Wentworth Street, which is now also in use by JB Motors.
- 1.3 Vehicular access to the site is currently taken from Pasture Lane to the north, Princess Road to the south and from Wentworth Street to the west.
- 1.4 There is also a substantial change in levels across the application site. The main body of the site is approximately 5m lower than Wentworth Street and rises up towards the cemetery and Pasture Lane to the north. The adjoining upper level of the car park is then approximately 3-4m above the level of the main body of the application site.
- 1.5 The current planning application was originally considered by Members at a Planning Committee Meeting on 29th March 2012. It was resolved to grant planning permission for the proposed development subject to the Secretary of State confirming that the application did not need to be referred to him for determination, the completion of a S.106 Agreement and the imposition of conditions. The Secretary of State subsequently confirmed in writing that he would not 'call in' the application for his own determination.
- 1.6 A separate outline application by Fitzwilliam (Malton) Estates (FME) for the demolition of the existing livestock market including associated buildings and redevelopment of the site for retail with 3-storey car parking and public square was also considered at the Planning Committee Meeting on 29th March 2012 and, following the resolution on the WSCP site, it was resolved to refuse planning permission for the Livestock Market scheme due to concerns relating to the application of the sequential test, the loss of the livestock market, design, and impact on the vitality and viability of the town centre when considered cumulatively with the WSCP scheme for which there was a resolution to grant planning permission.

- 1.7 FME subsequently lodged a S.78 Planning Appeal against the refusal of planning permission for the Livestock Market site scheme and, following a 5-day Public Inquiry held in September 2012, the appeal was allowed and costs were awarded against Ryedale District Council. The Inspector's Decision Letter dated 29th October 2012 made reference to significant flaws in the manner in which the application of the sequential test had been applied within the Committee Report for the Livestock Market site that were identified during the course of the Inquiry. It was therefore agreed in evidence by the Council's retail witness during that Inquiry (detailed at Paragraph 34 of the Inspector's Decision Letter), that in his view there was a need for Members to re-assess the resolution to grant planning permission for the WSCP scheme. Notwithstanding that those concerns were raised in the context of the application of the sequential test within the Livestock Market Committee Report, it was nonetheless considered appropriate for Members to reconsider this application.
- 1.8 Despite the previous resolution of Members to grant planning permission for the WSCP scheme, planning permission has not in fact been granted, notwithstanding that the application has not been called in by the Secretary of State. The reason for the delay arises out of the subsequent grant of planning permission on appeal for the Livestock Market site. That is to say, in the light of the Inspector's observations, Officers consider that it is appropriate that the matter is considered afresh by Members. Accordingly, the applicant has taken the opportunity to review and revise the proposals as well as updating supporting information. The amended supporting documentation was received on 26th November 2013 to take account of the revisions to the proposals. The general layout of the proposed development remains broadly as previously considered by Members, with the foodstore, smaller retail unit and office space contained within a single building fronting onto Wentworth Street, which sits on a broadly north – south axis across the site. The main amendments to the scheme in comparison to that previously considered by Members relate to a reduction in the proposed level of floorspace, amendments to the indicative car parking layout, alterations to the '*Landscape Garden*,' relocation of the travelator to the southern elevation of the building to replace the previously proposed pedestrian colonnade and alterations to the vehicular access at Pasture Lane / Smithson Court. The amendments to the scheme have been advertised and fully consulted upon, as detailed at Sections 3 & 4 of this Committee Report, and a full description of the development under consideration is contained below (Paragraphs 1.9 – 1.18). . It should therefore be noted that there are material differences between the scheme as currently proposed and that previously considered by Members at the Planning Committee meeting on 29th March 2012. Moreover, Members should consider this matter afresh in light of present circumstances and are in no way bound by their previous resolution.
- 1.9 The application (as amended) is made in outline with all matters reserved for future consideration and involves the construction of a retail foodstore of 4530 sq.m (gross) and a smaller integral retail unit (227 sq.m gross) fronting onto Wentworth Street with office accommodation (253 sq.m) to the first floor. A 6-8 pump petrol filling station with associated sales kiosk (59 sq.m) will be located towards the north western edge of the site to the rear of properties in Smithson Court.
- 1.10 Whilst the application is made in outline with all matters reserved for future consideration, the submission includes indicative plans and a Design & Access Statement, which illustrate the design principles that will be applied to the development of the site. The foodstore, smaller integral retail unit and office space will be arranged in a single building that fronts directly onto Wentworth Street and will sit on a broadly north-east to south-west axis across the site. An element of foodstore frontage will address Wentworth Street, along with the stand alone retail unit with offices above at first floor level.

- 1.11 A new public square (Wentworth Square) will be created to the south western corner of the site off Wentworth Street and access to the proposed foodstore will be taken from this square. The principal elevation of the building fronting onto Wentworth Street will contain an element of retail frontage associated with the foodstore, as well as the stand-alone retail unit with offices above at first floor level. The design approach that has been adopted will ensure that the building appears broadly as a two-storey development with a pitched roof design when viewed from Wentworth Street and the building will step vertically along this frontage in deference to the change in levels along Wentworth Street.
- 1.12 The ground floor of the proposed building will be set at a similar level to Wentworth Street and the change in levels that occurs across the site, coupled with a small amount of excavation immediately adjacent to Wentworth Street, will facilitate the provision of undercroft car parking beneath the store. The submitted illustrative plans demonstrate that the proposed retail units and Wentworth Square could be accessed on foot from the car park via stairs, travelators or lifts. The building would appear to be more akin to a 2.5 to 3-storey development when viewed from the south and east due to the change in levels across the site, although the entrance canopy and part of the building housing the travelator will be contained within a pitched roof structure that steps vertically along the southern elevation of the main foodstore building to reduce the overall scale and massing of the development.
- 1.13 The service and delivery yard associated with the foodstore is located to the north of the building to the rear of a former school building, which is currently in use by JB Motors.
- 1.14 A 6-8 pump petrol filling station with associated sales kiosk will be located to the north of the service yard associated with the foodstore and lies adjacent to residential properties on Smithson Court and a parcel of vacant land containing a range of redundant buildings, which is currently being advertised for sale as a development opportunity.
- 1.15 A total of 281 car parking spaces will be provided within the application site, including 18 disabled bays and 10 parent & child bays. Additional spaces will be added on adjacent land which will be under the control of the applicant. A further 171 spaces will be retained within the upper level of the Wentworth Street Car Park, which adjoins the eastern boundary of the application site. The upper level of the Wentworth Street Car Park is subject to a separate planning application for alterations to the parking layout and landscaping to include the demolition of an existing concrete sectional building, which is currently pending determination (Ref. 11/00919/FUL).
- 1.16 Vehicular access to the development will be from Pasture Lane (via Smithson Court) to the north of the store, with further pedestrian access points from Wentworth Street and Princess Street. The proposed development also includes off-site highway works to the Smithson Court / Pasture Lane junction, which forms the vehicular access point to the proposed development. It is proposed that Pasture Lane will be widened to accommodate a dedicated right hand turn lane into the site and a second lane of egress will also be provided from Smithson Court to prevent the blocking of left turn egress traffic onto Pasture Lane. It is proposed to review the operation of the junction to ascertain whether any works will be required for mitigation purposes.
- 1.17 The application proposals also include a number of measures designed to ensure safe and convenient pedestrian linkages between the site and the town centre, including the provision of a raised table on Wentworth Street, pedestrianisation of part of Pump Lane, footway improvements to Newbiggin and Finkle Street, provision of controlled pelican crossing on Newbiggin and new signage / information boards and public art / audio trails.

- 1.18 A financial contribution is also offered towards the A64 Brambling Fields off slip road, as well as towards the Traffic Regulation Order (TRO) and pavement widening associated with the implementation of the Finkle Street / Spital Street one-way system and a contingent payment towards monitoring of post-opening traffic and review of mitigation works which may be required to the Highfield Road / Town Street roundabout.

2. PLANNING POLICY CONTEXT

Decision Taking – General Principles

- 2.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 confirms that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 2.2 The Development Plan for the area comprises of:
- The ‘saved’ policies of the Ryedale District Local Plan (2002)
 - Ryedale Plan – Local Plan Strategy Development Plan Document (2013)
- 2.3 In addition, Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority to 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.

Development Plan

Ryedale District Local Plan (2002)

- 2.4 The Ryedale District Local Plan was adopted in 2002 and set out a number of policies to guide development through the whole of the District in the period up to 2006. The Authority was subsequently directed by the Secretary of State to save key policies in the Local Plan from 27th September 2007.
- 2.5 The application site is not subject to any site specific allocations or designations within the adopted Local Plan. The vast majority of the policies saved from 27th September 2007 have now been superseded by the Ryedale Plan – Local Plan Strategy DPD. None of the remaining saved policies of the Ryedale District Local Plan are directly relevant to the assessment of the current planning application. The current Proposals Map is the 2002 adopted Proposals Map.

Ryedale Plan – Local Plan Strategy DPD (2013)

- 2.6 The Ryedale Plan – Local Plan Strategy was adopted on 5th September 2013 and forms part of the Ryedale Plan. The purpose of the Ryedale Plan is to encourage new development and to manage future growth whilst ensuring that change across the District is based on a presumption in favour of sustainable development. The Ryedale Plan will help to support the delivery of new homes, jobs and shops to address the needs of local communities and it will look to ensure that these are carefully co-ordinated with the services and facilities that communities rely upon and which are essential to well-being and quality of life. It will influence the location, amount and type of new development in different places, shaping how they will look and feel in years to come. Crucially, the plan will also protect those things that are important in this area and which are highly valued by local people. These include Ryedale’s outstanding landscapes and rich cultural heritage, as well as the community facilities and services that are essential in supporting rural communities, particularly those in more isolated locations.

- 2.7 The Local Plan Strategy Document sets out the strategic issues facing the District and the challenges of addressing them. It includes a Vision and Objectives for the sort of place that Ryedale will be and sets out a Strategy and suite of strategic policies to achieve these and to promote and guide private and public investment, neighbourhood planning, community and voluntary work and support over the next 15 years.
- 2.8 The Local Plan Strategy recognises that, together, Malton and Norton form the largest settlement in the District and they are Ryedale's Principal Town with a joint population just over 12,000. The towns are home to key facilities such as the railway station and the District hospital and they have the greatest concentration of employers and shops. Developing the role of Malton therefore offers the potential to harness significant economic benefits for the District and Policy SP1 of the Local Plan Strategy therefore confirms that Malton and Norton (including Old Malton) will be the primary focus for growth over the plan period.
- 2.9 Policy SP19 of the Local Plan Strategy sets out a presumption in favour of sustainable development and confirms that, when considering development proposals, the Council should take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The policy goes on to indicate that the Council will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP19 confirms that planning applications that accord with policies in the Local Plan (and, where relevant, with policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise.
- 2.10 Policy SP7 (Town Centres & Retailing) of the Local Plan Strategy confirms that the Town Centres will be the focus for a diverse range of uses in the District. This will principally include retail activity and will also provide a focus for commercial and leisure uses, entertainment facilities, cultural activity and tourism. The policy suggests that new retail development will be accommodated in line with the Town Centre Hierarchy, which defines Malton as the Principal Town Centre and Norton, Pickering, Kirkbymoorside and Helmsley as Local Town Centres. Retail and other town centre development of a scale appropriate to these roles will be supported where proposals maintain and enhance the vitality and viability of each town centre.
- 2.11 Policy SP7 goes on to suggest that new retail development will provide a strong retail mix in terms of its type, range and quality which will address quantitative deficiencies in non-food (comparison) retailing, provide an improved range and choice of food (convenience) retailing and provide a greater range and choice of modern purpose built shop unit sizes, particularly in Malton. Policy SP7 confirms that 70% of new comparison floorspace will be directed towards Malton and Norton, which equates to approximately 5,394 sq.m (net) of new floorspace minus current commitments. In terms of convenience floorspace, Policy SP7 outlines that current commitments account for quantitative food convenience capacity retail to 2026. However, should any commitments fail to come forward, any additional convenience floorspace will be directed to Malton.
- 2.12 In addition, Policy SP7 confirms that appropriate land allocations at Malton will be made through the Local Plan Sites Document to accommodate the identified retail need at that time, taking into account commitments. A local floorspace threshold will also be applied for the assessment of planning applications for main town centre uses outside of the defined Town Centre Commercial Limits and not in accordance with the Plan. Where a proposal involves a combination of convenience and comparison floorspace, the threshold is set at 1,000 sq.m of the total gross retail floorspace of the scheme.

- 2.13 The Local Plan Strategy recognises that excellent edge of centre opportunities exist to accommodate new retail floorspace to support the role of Malton Town Centre. A 'Northern Arc' is identified to the north of the town, which stretches from the Livestock Market to Wentworth Street Car Park. The Local Plan Strategy outlines that, whilst the broad 'Northern Arc' is not derelict, parts of it are underused and there are clear opportunities to redevelop sites and buildings to accommodate additional retail space with excellent connectivity to the town centre.
- 2.14 The following policies of the Ryedale Plan – Local Plan Strategy DPD are also relevant to the assessment of the current application:
- Policy SP10 (Physical Infrastructure)
 - Policy SP12 (Heritage)
 - Policy SP14 (Biodiversity)
 - Policy SP16 (Design)
 - Policy SP17 (Managing Air Quality, Land & Water Resources)
 - Policy SP18 (Renewable & Low Carbon Energy)
 - Policy SP20 (Generic Development Management)
 - Policy SP22 (Planning Obligations, Developer Contributions & The Community Infrastructure Levy)

Material Considerations

National Planning Policy Framework (2012)

- 2.15 The National Planning Policy Framework (NPPF) was published in March 2012 and sets out how the Government's planning policies for England and how these should be applied. The NPPF is a material consideration in decision taking.
- 2.16 Paragraph 6 of the NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development and the guidance goes on to recognise that there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:
- **An Economic Role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
 - **A Social Role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;
 - **An Environmental Role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change, including moving to a low carbon economy.
- 2.17 Paragraph 14 confirms that a presumption in favour of sustainable development is therefore at the heart of the NPPF and should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking, this means approving development proposals that accord with the development plan without delay.

Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole or specific policies in the Framework indicate development should be restricted.

- 2.18 Within the overarching roles that the planning system ought to play, Paragraph 17 of the NPPF sets out a number of core land-use principles that should underpin both plan-making and decision-taking, including that planning should:
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;
 - Always seek to secure high quality design and a good standard of amenity for all existing and future occupiers of land and buildings;
 - Support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources.
 - Contribute to conserving and enhancing the natural environment and reducing pollution.
 - Encourage the effective use of land by reusing land that has been previously developed, provided that it is not of a high environmental value.
 - Conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
 - Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- 2.19 Paragraphs 18-219 of the NPPF set out the policies which, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. These policies will be referred to, where appropriate, throughout this report.
- 2.20 In relation to '*Ensuring the Vitality of Town Centres*,' Paragraph 23 of the NPPF confirms that local planning authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. They should also promote competitive town centres that provide consumer choice and a diverse retail offer and it is suggested that it is important that needs for retail uses are met in full and not compromised by limited site availability.
- 2.21 Paragraph 24 of the NPPF confirms that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and, only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should also demonstrate flexibility on issues such as format and scale.
- 2.22 Paragraph 26 advises that, when assessing applications for main town centre uses (including retail) outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set threshold. As detailed above, Policy SP7 of the Ryedale Plan – Local Plan Strategy confirms that the threshold is set at 1,000 sq.m of the total gross retail floorspace of the scheme where a proposal involves a combination of convenience and comparison floorspace. Paragraph 26 of the NPPF confirms that the impact assessment should include an assessment of:

- The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

2.23 Paragraph 27 of the NPPF confirms that, where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on existing, committed and planned public and private investment in a centre or centres and / or on the vitality and viability of a town centre, it should be refused.

National Planning Policy Guidance (NPPG)

2.24 The NPPG was published on 6th March 2014 and provides updated and revised planning practice guidance.

2.25 In respect of '*Ensuring the Vitality of Town Centres*,' the NPPG summarises the guidance contained within the NPPF relating to planning for town centres, including the need to plan positively, to support town centres to generate local employment, promote beneficial competition within and between town centres, and to create attractive places where people want to live, visit and work. The NPPG also reiterates that LPA's should assess and plan to meet the needs of main town centre uses in full, in broadly the same way as for their housing and economic needs, adopting a '*town centre first*' approach and taking account of specific town centre policy.

2.26 The NPPG also recognises that the NPPF sets out two keys tests that should be applied when planning for town centre uses which are not in an existing town centre and which are not in accordance with an up-to-date Local Plan – the sequential test and the impact test. The sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses (and therefore avoid the need to undertake the impact test). The sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside existing town centres (and therefore whether the proposal should be refused in line with policy).

2.27 The NPPG confirms that, in respect of decision-taking, it is for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission). The application of the test should be proportionate and appropriate for the given proposal. The NPPG also sets out the following considerations that should be taken into account in determining whether a proposal complies with the sequential test:

- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge-of-centre or out-of-centre location, preference should be given to accessible sites that are well-connected to the town centre. Any associated reasoning should be set out clearly.
- Is there scope for flexibility in the format and / or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.

- If there are no sequentially preferable locations, the sequential test is passed
- 2.28 The NPPG confirms that, in line with Paragraph 27 of the NPPF, where a proposal fails the sequential test, it should be refused. Compliance with the sequential and impact tests does not guarantee that permission is granted – local planning authorities will have to consider all material considerations in reaching a decision.
- 2.29 The NPPG confirms that the purpose of the impact test is to ensure that the impact over time of certain out-of-centre and edge-of-centre proposals on existing town centres is not significantly adverse. The test relates to retail, office and leisure developments which are not in accordance with an up-to-date Local Plan and outside of existing town centres. In terms of decision-taking, the NPPG confirms that it is for the applicant to demonstrate compliance with the impact test in support of relevant applications. Failure to undertake an impact test could in itself constitute a reason for refusing permission. The impact test should be undertaken in a proportionate and locally appropriate way, drawing on existing information where possible.
- 2.30 The NPPG confirms, as a guiding principle, that impact should be assessed on a like-for-like basis in respect of that particular sector. Retail uses tend to compete with their most comparable competitive facilities.
- 2.31 The NPPG acknowledges that where wider town centre developments or investments are in progress, it will also be appropriate to assess the impact of relevant applications on that investment. Key considerations will include:
- The policy status of the investment (i.e. whether it is outlined in the Development Plan)
 - The progress made to securing the investment (for example if contracts are established)
 - The extent to which an application is likely to undermine planned developments or investments based on the effects on current / forecast turnovers, operator demand and investor confidence.
- 2.32 The NPPG sets out a number of steps that should be taken in applying the impact test and confirms that a judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.
- 2.33 Where evidence shows that there would be no likely significant impact on town centres from an edge-of-centre or out-of-centre proposal, the local planning authority must then consider all other material considerations in determining the application, as it would for any other development.

Emerging Ryedale Plan – Local Plan Sites Document

- 2.34 Paragraph 216 of the NPPF confirms that decision-takers may also give weight to relevant policies in emerging plans according to:
- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
 - The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
 - The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

- 2.35 The Ryedale Plan – Local Plan Sites Document will primarily identify and allocate land for new housing, employment and, where necessary, retail development in accordance with the Local Plan Strategy. It will be accompanied by Proposals Maps which will set out development limits and town centre commercial limits, as well as other numerous designations. To date, the Council have prepared a Site Selection Methodology, which will inform the selection of sites for allocation through the Local Plan Sites Documents. The Local Plan Sites Document is therefore in the preliminary stages of preparation and, on this basis, can be afforded no material weight in the determination of the current application.

Emerging Malton & Norton Neighbourhood Plan

- 2.36 The Localism Act 2011 introduced an entitlement for any qualifying body to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development plan. A neighbourhood development plan is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan.
- 2.37 To date, Malton & Norton Town Councils are committed to preparing a Neighbourhood Plan for the twin towns. Whilst the detailed scope of this document and a timetable for its preparation is yet to be agreed, the Town Councils carried out a local public consultation exercise in 2011, which led to the publication of an Interim Draft Neighbourhood Plan in October 2011. However, it is evident that the preparation of the Malton & Norton Neighbourhood Plan against the requirements of the Neighbourhood Planning (General) Regulations 2012 is also in the preliminary stages and can be afforded little or no weight in the decision-making process at this point in time.

Other Relevant Guidance / Documentation

- 2.38 The following guidance / documentation is also of relevance to the determination of the planning application:
- Malton Town Centre Strategy and accompanying Wentworth Street Car Park Development Brief (2009);
 - Ryedale Retail Capacity & Impact Assessment Update (2011);
 - Malton & Norton Strategic Transport Assessment (June 2010);
 - Malton & Norton Strategic Transport Assessment Addendum (October 2010);
 - Supplementary Planning Document – Developer Contributions Towards Strategic Transport Improvements in Malton & Norton Interim Version (July 2007);
 - Malton Conservation Area Assessment;

3. CONSULTATIONS

- 3.1 The table contained below summarises the consultation responses that have been received from the relevant statutory and non-statutory consultees in respect of the amended scheme received on 26th November 2013:

<p>England & Lyle Limited (Retail Planning Consultants appointed to advise the Council on this application)</p>	<p>Date Received:</p> <p>20th February 2014 & 9th April 2014</p>
	<p>Comments:</p> <p>The ‘<i>Review of Updated Retail Statement by Nathaniel Lichfield & Partners</i>’ (February 2014) prepared by England & Lyle draws the following conclusions:</p> <p>The Retail Statement prepared by NLP concludes that:</p> <ul style="list-style-type: none"> • In relation to the sequential approach, none of the opportunities identified are sequentially preferable to the application site for the development proposed. Furthermore, of those opportunities identified, none are fully suitable and available to accommodate the development. • In relation to the LM site in Malton in particular, this could not accommodate a new store of a size similar to that proposed on the WSCP Site (or indeed existing operator requirements for Malton). Commercial agents have confirmed that there is no operator demand for a store of the size which is proposed as part of the development approved on the LM site, nor is there any demand for a smaller store as part of this scheme. Agents have also confirmed that the scheme as approved is not commercially viable, or therefore deliverable. • The proposed foodstore would not result in any significant adverse impacts and would complement, rather than compete with, existing smaller traders in Malton Town Centre. In particular, the proposed development would not have any adverse impact upon the ability to attract investment in centres, including on the LM site and, indeed, over time, could help to increase the attractiveness of this site (and indeed the wider centre) to operators. It would also not have any adverse impact upon town centre viability, and would help to generate additional pedestrian footfall in the primary shopping areas, creating spin-off trade for existing businesses, as a result of its edge of centre location. • The new foodstore would result in a number of positive impacts, to which significant weight should be afforded in the determination of the application <p>We agree that none of the sites included in the sequential assessment is a suitable alternative to the WSCP site for the scale and type of retail development proposed in the current application. The WSCP site and the LM site offer opportunities for different types of retail development. The LM site could not physically meet the need for a large foodstore in Malton. It is not suitable for the development of a large foodstore. The LM site is not sequentially preferable to the WSCP site; the sites have equal sequential status. We accept that the application complies with the sequential approach to site selection.</p> <p>In assessing impact, any possible adverse impacts must be judged against the vitality and viability of centres. Malton, Pickering, Kirkbymoorside and Helmsley centres have a high level of vitality. Norton has a slightly lower but moderate level of vitality and viability.</p>

In convenience goods our assessment is that there would be almost sufficient capacity for the proposed foodstore in 2018 as well as the approved store on the LM site and there would be more than sufficient capacity for both stores in 2023. In comparison goods there would not be sufficient capacity for the comparison element of the proposed development in 2018 as well as the approved scheme on the LM site but there would be more than sufficient capacity for both schemes in 2023. Capacity is not a policy test; it is simply an indicator of the level of retail impact which may occur.

The overall levels of impact we have predicted in centres for convenience and comparison goods combined are 22% in Malton, 3% in Norton, 5% in Kirkbymoorside, 5% in Pickering and 4% in Helmsley. The relatively high levels of impact predicted in existing and proposed supermarkets outside these centres are not a material planning consideration because these stores are not protected in terms of planning policy.

Less than half of the overall impact on Malton town centre including Morrisons is attributable to the foodstore on the WSCP site and more than half to commitments including the LM scheme. The vast majority of the total cumulative trade diversion from Malton town centre would be from Morrisons which would continue to trade above its benchmark level. The likely impact on other shops in Malton town centre is limited.

We do not anticipate that there would be a significant adverse impact upon the overall vitality and viability of Malton or other centres. The levels of trade diversion predicted, and the assessment of vitality and viability of centres, makes it very unlikely that the adverse impacts on the vitality and viability of centres could be judged to be significant.

We agree that the proposed foodstore on the WSCP site is not likely to have any adverse impact upon the ability to bring forward any other planned investment on the edge of existing centres, including the Livestock Market site.

A supplementary note prepared by England & Lyle in response to concerns raised by interested parties, namely GVA (on behalf of Fitzwilliam Estates) and Councillor Andrews, was received by the Council on 9th April 2014. The points raised by England & Lyle within the supplementary note are summarised as follows:

- The Livestock Market scheme has been fully taken into account as a commitment in England & Lyle's capacity analysis and cumulative impact assessment of the scheme.
- Quantitative need in terms of retail capacity is no longer a policy test for decision taking in the NPPF. England & Lyle's review shows that the capacity for two new foodstores in 2018 is marginal but the impact assessment demonstrates that the development would not have a significant adverse impact, which is the policy test. There would be more than sufficient capacity in both convenience and comparison goods for both stores in 2023, based on a revised and more up-to-date assessment than that used for the Ryedale Plan.

- Councillor Andrews has commented on England & Lyle's Review report with reference to the assessment of need in the Ryedale Plan. NLP and England & Lyle have sought to ensure that the retail case underlying the justification for allowing new retail floorspace in Malton is up-to-date. The Review does that in detail. The main reason for the forecast of greater capacity than that assessed by Roger Tym & Partners for the Ryedale Plan is that England & Lyle have fully taken account of the significant over-trading in the Morrisons store which was not done by Roger Tym & Partners. It is a legitimate aim to reduce existing over-trading which reflects a demand for additional shopping floorspace.
- The Livestock Market scheme has also been 'factored in' to England & Lyle's review of the assessment of cumulative impact of the WSCP scheme and retail commitments in Ryedale. Without repeating the details of the cumulative impact assessment, the England & Lyle assessment indicates that less than half of the overall impact on Malton town centre including Morrisons is attributable to the foodstore on the WSCP site and more than half to commitments including the Livestock Market scheme. It is not anticipated that there would be a significant adverse impact on the vitality and viability of the town centre.
- The retailer interest in the Livestock Market scheme is welcomed and it is understood that Booths are willing to trade from a store of the size approved in the outline consent. The interest from Booths does not alter anything in the retail assessment of a foodstore on the WSCP site, other than in relation to planned investment in the town centre (see below). England & Lyle have allowed for a foodstore of the size approved on the Livestock Market site in the capacity analysis and the cumulative impact assessment. The case put forward by the applicant that there remains a need for another large foodstore in Malton to provide choice and competition for Morrisons and claw back leakage that is going to large stores elsewhere is accepted. The need for a large foodstore could not be met in the Livestock Market scheme. A store on the WSCP site and Booths on the Livestock Market site would have a complementary role.
- It is accepted that the WSCP application complies with the sequential approach. The Livestock Market site is not sequentially preferable to the WSCP site and it is not suitable for the development of a large foodstore. England & Lyle have advised that both sites are equal in sequential status.
- In terms of retail impact, GVA criticise the fact that NLP considered only two scenarios, precluding new foodstores on the WSCP and Livestock Market sites in 2018. England & Lyle's review considers a third scenario in which foodstores are developed on both sites and are trading in 2018. The largest overall cumulative impact is predicted to be on the Morrisons store, representing three-quarters of total trade diversion from Malton town centre. It is not anticipated that there would be a significant adverse impact upon the overall vitality and viability of Malton town centre which has a high level of vitality and viability. The predicted overall trading impacts on the other town centres are small.

	<ul style="list-style-type: none"> • England & Lyle’s comments in their initial Review about impact on planned investment in centres were made before the interest of Booths in the Livestock Market site was known. The applicants have stated that the proposed foodstore on the WSCP site would not have any adverse impact upon the ability to bring forward any other planned investment in / on the edge of existing centres, including the Livestock Market site. The confirmation of interest from Booths demonstrates that they are willing to locate in the Livestock Market scheme, in the knowledge that a planning application has been made for a large foodstore on the WSCP site. New investment by Booths in the Livestock Market has not been prejudiced by the proposals for the WSCP site. In any event the Livestock Market scheme is not a ‘town centre’ investment scheme in NPPF terms. It is an edge-of-centre development opportunity. <p>GVA’s letter of 31st March was received after completion of England & Lyle’s Review of NLP’s Updated Retail Statement and the DTZ report on commercial viability. GVA refer to errors and omissions in England & Lyle’s Review report and claim that the applicant’s approach to the key retail tests is flawed. However, the nature of any errors or flaws is not specified. GVA do not produce any technical evidence to support their assertions. England & Lyle have carried out a thorough and independent review of the applicant’s retail case. They have examined and updated some of the assumptions and forecasts made by Roger Tym & Partners which formed the evidence base for the Core Strategy and have tested the retail analysis undertaken by NLP to make an independent assessment of capacity and impact. This detailed assessment underlies England & Lyle’s advice to the Council and it represents a robust approach to ensuring that the report to the Planning Committee is technically sound.</p>
NYCC Highways	<p>Date Received:</p> <p>11th March 2014</p> <p>Comments:</p> <p>NYCC Highways are satisfied that the applicant has shown a suitable signal access can be provided at Smithson Court with sufficient capacity for both foodstore sites, although it is worth noting the layout provides little if any spare capacity for any future developments in this part of the town. The Technical Note 1 now covers all the junctions NYCC Highways had requested be assessed for both supermarket sites and, whilst for some junctions we are approaching capacity and slightly over in the case of Highfield Road / B1257 and Horse Market Road / B1248, the assessments have taken no account of any linked trips between the two sites and we are using 85th percentile trip rates rather than average rates.</p> <p>NYCC Highways have also recommended the imposition of a number of conditions on any future planning permission, as well as a S.106 Agreement to secure a number of highway improvements.</p>

Environment Agency	Date Received: 9 th January 2014
	Comments: No objections subject to conditions relating to the agreement of a surface water drainage scheme, hydro geological risk assessment, scheme for the installation of underground tanks and measures to address any unexpected contamination encountered during the course of the development.
Malton Town Council	Date Received: 10 th December 2013 & 16 th January 2014
	Comments: The initial response received on 10 th December 2013 outlined the following objections to the proposals: <u>Consultation Period</u> It is requested that the consultation period for the application is extended to the end of January 2014. It is suggested that the application is the most significant to have been put out to consultation in recent memory and the Town Council is keen to give it proper and full consideration and needs reasonable time to do this. <u>Foul Drainage</u> It is suggested that there is an issue with sewage odour in the lower parts of the town emanating from the sewage system, which have not been resolved. Whilst NYCC Highways, Yorkshire Water and RDC are each aware of the problem and have been actively engaged in instigating remedies, it appears that the information has not found its way either to the Planning Department or the unit of Yorkshire Water which receives and responds on application consultations. The Town Council have therefore written to the appropriate unit at Yorkshire Water advising them of the issue and attached a report on the drainage in the Malton area, which provides an <i>'authoritative description of and commentary on the condition and effectiveness of the system.'</i> It is also suggested that RDC's Health and Environment Manager (Steve Richmond) can confirm that there is an issue and provide background to it. The Town Council's concern in this context is the effect of the proposed connection from the site to the existing town system which has unresolved issues. It is suggested that, before significant incremental connections are made to the system the need for and potential opportunity for remedying deficiencies should be investigated thoroughly. The Town Council suggest that perhaps this might present an opportunity to invite developers to contribute to resolving main system issues which might be exacerbated by their proposed connections to the system.

Previous Comments

Confirmation is requested that the representation and comments made under the consultation process prior to the first presentation of the application to Committee in 2011 remain live in the consideration of this revised application.

Conservation Issues

It is suggested that there is a very real possibility that the development, if approved as proposed, will have an impact on the character and appearance of buildings in the Conservation Area. In these circumstances, given that the current landowner is also the administrator of the planning function, and the employer of the Conservation Officers, might it not be appropriate to take a second authoritative and independent opinion on the conservation issues by consulting English Heritage as well as the RDC's own Conservation Officers on the merits or otherwise of this application.

Other

The engagement of an external consultant to manage the application is welcomed.

An additional response received on 19th January 2014 raised further objections, which are summarised as follows:

- i. The Town Council urges Ryedale District Council to recognise the conflict of interest it faces if it were to proceed with having the application considered by its Planning Committee, and seek to have it considered by the Planning Inspectorate;
- ii. If Ryedale District Council is determined to have the application considered by the Planning Committee, it must be refused for the very reasons given by Planning Inspector Wildsmith in his judgement on the LMS appeal in 2012. In its conclusion to the Design & Access Statement, the applicant states that '*the proposed foodstore is of the right size and in the right location.*' This statement is entirely contrary to the Inspector's finding.
- iii. Even if the store could be justified on all other grounds, its location in the context of traffic management is completely impractical. The site is in the most difficult part of Malton to access, yet is expected to receive a multi factor increase in traffic through one access as opposed to the three currently available. Malton already has major issues with traffic management. In degree, the problems arising from the development as proposed on this site would eclipse all the other current issues added together.
- iv. The views of the Malton / Norton hinterland public are very strong on three principal aspects. It is by a significant majority:
 - In favour of a quality foodstore on the LMS site;
 - Against a new supermarket on the WSCP site; and
 - In favour of retaining public control of the Wentworth Street Car Park, and continuing the provision of long stay parking to meet an ever growing need.

- v. Is planning not a discipline which is intended ultimately to achieve the best outcome for the community. A wrong decision in this case has the potential to bring about the very worst outcome on a very broad front, and continue the blight upon development in the town. In this context, Ryedale Members should consider the very real possibility that an approval might be followed by the ‘banking’ of the site for final development only when it fits with the operator’s strategy. In an operator’s consideration of this, the town’s needs will have no bearing.

The Town Council also outline that they are obliged to represent the very strong opinions of its residents on this matter and it is hoped that the District Council and, if necessary, the Planning Committee will accept the merits of the very genuine and strong opposition to the application.

A further response was received from Malton Town Council on 27th March in respect of revised details on the application. It is suggested that there are elements in the additional details that strengthen the Town Council’s view that the application should be rejected. The key points are summarised below:

- The proposed store would have potential to inflict significant damage upon a town centre economy which is not currently in the best shape to resist that impact.
- The District Council’s commissioned expert, England & Lyle, judges that, because Malton currently had a 12% shop vacancy rate against a 13% average rate across all Yorkshire market towns it can therefore be described as healthy with ‘*a high level of vitality and viability.*’ The organisation Action for Market Towns is as mystified as the Town Council as to how such a conclusion can be drawn from this statistic. Nobody would disagree that in the current state of the economy market town centres in general are not best placed, hence the many and varied initiatives to try and restore vitality to that sector. The average must therefore represent less than healthy. Being just one percentage point better than average could not, in any scenario, be reasonably presented as healthy. Ironically, the principal of England & Lyle is, we understand, a director of the very organisation (Action for Market Towns) that is mystified at this interpretation.
- The DTZ report commissioned by the Council believes that ‘*the livestock market site will fail to attract a food store operator in its outline consented form.*’ We are all now aware that interest does exist. More telling still is the penultimate paragraph of the report. It is critical of many aspects of the site – it lacks prominence, has poor access and is dislocated from the town centre. Yet the report advises that this inferiority can be overcome by the size of the store and a broader offer than the competition. The clear suggestion is that, to be successful, this proposed store must impact heavily upon the existing competition. The concerns of the Town Council and a large majority of the local populace for the viability of the town centre are justified and confirmed by this (DTZ) report.

North Yorkshire Police	Date Received: 28 th November 2011
	Comments: North Yorkshire Police have provided advisory comments on the proposals which can be summarised as follows: <ul style="list-style-type: none"> • The finer detail of the design should not incorporate features which could generate crime or anti-social behaviour. • It is acknowledged that proposals are indicative at this stage, however, serious concern is expressed about many of the indicative / enclosed features that could be exploited by the undesirable element. The management of many of these spaces will be vital to ensure anti-social behaviour does not manifest itself. • If the potential for crime and anti-social behaviour is not '<i>designed out,</i>' then the amenity of residents and businesses surrounding the site could be severely affected. North Yorkshire Police therefore recommend that a planning condition should be imposed on any subsequent planning permission to provide full details of crime prevention measures that will be implemented to address the concerns raised.
Yorkshire Water	Date Received: 30 th December 2013, 4 th March 2014 & 28 th March 2014
	Comments: Yorkshire Water initially suggested that submitted drawing (217254 WD_WP_001 Revision P2 dated 16/11/11 by Arup) has previously been approved by YW in correspondence dated 30 th November 2011 and, as such, Yorkshire Water had no further comments to make as long as the drainage is constructed in accordance with. Clarification was subsequently sought as to whether the consultation response provided by Yorkshire Water had taken into account the amendments to the proposed scheme received by the Council on 26 th November 2013. A further response was subsequently received from Yorkshire Water on 4 th March 2014 which suggested that the submitted Flood Risk Assessment was not satisfactory from Yorkshire Water's viewpoint. The main issues are summarised as follows: <ol style="list-style-type: none"> i. The proposed alterations to the public sewer must be reasonable. The diversion of a gravity public sewer and substation with a private pumping station to then a public sewer is not considered to be reasonable. The developer may make a request under Section 185 of the Water Industry Act 1991 that Yorkshire Water carries out alteration to a public sewer. ii. The local public sewer network does not have capacity to accept any additional discharge of surface water from the proposal site. No more than 2 l/s surface water discharge to the public combined sewer, as previously agreed.

	<p>iii. The drainage plan is not legible (included in FRA). We request a more legible drawing so we can comment further.</p> <p>iv. Surface water from landscaped area (land drainage) must not connect to the public sewer.</p> <p>v. Please also note: surface water run-off from hardstanding (greater than 800 sq.m) and / or communal car parking (greater than 49 spaces) must pass through an oil, petrol and grit interceptor / separator of adequate design before any discharge to prospectively adoptable sewer / public sewer network. Roof water should not pass through the traditional 'stage' or full retention type of interceptor / separator. It is good drainage practice for any interceptor / separator to be located upstream of any off-site balancing, storage or other means of flow attenuation that may be required.</p> <p>A meeting was subsequently held between the applicant's agent and Yorkshire Water on 21st March 2014. A further consultation response was received from Yorkshire Water on 28th March 2014 stating no objection in principle to:</p> <p>i. The site layout shown.</p> <p>ii. The proposed separate systems of drainage on site and off site / with combined off site.</p> <p>iii. The proposed amount of foul water to be discharged to the public combined sewer.</p> <p>iv. The proposed amount of curtilage surface water to be discharged to the public combined sewer (at a restricted rate of 2 litres per second).</p> <p>v. The proposed points of discharge of foul and surface water to the public sewer.</p> <p>vi. The proposed use of the petrol / oil / grit separator / interceptor</p> <p>Submitted on drawing 12021 C1001 (Revision P2) and C1002 (Revision P3) dated 04/11/13 that has been prepared by Cooper Consulting Engineers subject to entering into a sewer diversion and a closure agreement.</p>
<p>Norton Town Council</p>	<p>Date Received:</p> <p>19th December 2012</p> <p>Comments:</p> <p>Norton-on-Derwent Town Council have objected to the proposals on the following grounds:</p> <ul style="list-style-type: none"> • This would be a significant overprovision of capacity within both Malton and Norton. The proposal would be likely to attract a store providing a very wide range of goods which would most likely be detrimental to a wide range of local independent retailers; • Access and congestion of the local road network. From Norton this proposed development can only make access through the towns even worse especially considering the issues that exist in Castlegate now.

	<p>The proposed access for the store itself coming off Pasture Lane is, in the opinion of the Town Council, totally inappropriate as this road is already heavily used with both Primary Schools being situated on it, and being the link to the Secondary School. It is felt that Pasture Lane does not have sufficient capacity to accommodate the expected number of vehicles.</p> <ul style="list-style-type: none"> • Long stay parking provision must be seen as a vital element for any town and its workforce, to significantly reduce that provision can only be detrimental to the town with the car park in Norton having to bear a greater share of long stay parking than can be accommodated. • Through the work on the Draft Neighbourhood Plan, the public consultation clearly shows that the vast majority of responses were against this sort of large retail development on this site.
Environmental Health Officer	<p>Date Received:</p> <p>29th February 2014</p>
	<p>Comments:</p> <p>The EHO acknowledged that the current proposals differ from those previously and suggested that it is unclear how the travelator will function – will it serve as a permanent means of access from the car park to Malton or just to the store. There are concerns that the use of it, without proper security or restriction on use, especially outside store opening hours, could be problematic. There may also be issues of light in this location.</p> <p>The EHO continues to be concerned about the residents of Smithson Court and the potential for them to be disturbed by vehicular movements. It is however suggested that, as some of the conditions previously suggested are about management of noise, these issues could be addressed here. However, it is important that conditions are imposed to restrict hours of use, hours of delivery, use of plant and equipment, means of preventing HGV's and other vehicles entering the area outside an agreed curfew and a construction noise / dust management plan. Controls will be sought especially over the petrol station use.</p> <p>The EHO believes that the previous conditions should be sufficient to cover these eventualities.</p>
NYCC Historic Environment Team	<p>Date Received:</p> <p>11th December 2013</p>
	<p>Comments:</p> <p>It is advised that the site lies within an area of archaeological potential and the recommendations contained within the submitted Desk Based Assessment requiring an archaeological watching brief to be maintained during the ground disturbance works associated with the proposed development is supported.</p>

	It is also advised that a suitable scheme of archaeological recording should be undertaken over this site / area in response to the proposed development to ensure that a detailed record is made of any deposits that will be disturbed. A condition is recommended accordingly.
Countryside Officer	Date Received: 5 th March 2014
	Comments: The Countryside Officer confirmed that they were satisfied that the development will not have a significant effect on protected habitats or species.
Tree & Landscape Officer	Date Received: 25 th February 2014
	Comments: The proposed site layout appears to indicate that the trees along the western side of the site which were planted during the 1980's would be lost to the development and, whilst these trees are not individually good specimens, they do as a group contribute to the local landscape. Whilst it is accepted that the space may be required to make the site viable, appropriate compensatory tree planting within the car parking areas should be considered in any reserved matters application.

4. PUBLICITY

- 4.1 The planning application was originally received by the Council on 23rd August 2011 and was advertised by the following means:
- Neighbour Letters expiring 29th September 2011;
 - Site Notices expiring 29th September 2011;
 - Press Notice expiring 28th September 2011
- 4.2 Further consultation was subsequently undertaken following the receipt of additional information as follows:
- Neighbour Letters expiring 7th February 2012;
 - Neighbour Letters expiring 28th March 2012
- 4.3 A total of 47 letters of objection and 2 letters of support were received from local residents and interested parties during the consultation periods outlined above and a summary of the responses received taken from the Committee Report of 29th March 2012 is contained at Appendix 1.

- 4.4 Following the receipt of revised information received on 26th November 2013 in respect of the proposal, a further re-consultation exercise was conducted by the Council. The consultation consisted of a press notice, site notices, neighbour consultations, statutory and non-statutory consultee consultations and notifications to respondents to the aforementioned consultation exercises in 2011 and 2012. A further consultation exercise was conducted with the Town Council, NYCC Highways and neighbours adjacent to the site access on 4th March 2014 following the receipt of revised highway information. The revised information consisted of clarification on certain aspects of the Transport Assessment and a plan illustrating a revised configuration of the access arrangements and details of the retaining wall to the site access. A summary of the consultation responses received is contained below.
- 4.5 A total of 101 objections have been received from members of the public in respect of the amended proposals and the concerns raised are summarised as follows:

Respondents	<p>Howard Croft, Emma Brooksbank (x2), Tom Tyson, Elizabeth Pearson, Julie Kirton, Paul Beanland, Malcolm Kirton (x2), Greg Pearson, John Paley, Jan Devos (x2), Norman Maitland (x2), Josephine Downs, Nicholas Brooksbank, Elizabeth Tilehurst, M.E. Anderson & Mrs J.E. Anderson MBE (x2), Rosemary Miller, Lynne E. Colt, E. Agar, G & A Robinson, R. Hopkinson, E. Alan Jones, Lynda Featherstone, Mr C Gillam, Lettice Bell, Mrs J Bell, Jacqueline Walsh, Anne-Margaret Hetheron, David Hoggard, Anthony Malt, Paul Webster, Gill Macrae, Duncan Humphreys, Jeremy Powell, A White, David Wakeley, Malcolm Joyce (x2), Ann Gray, Mollie Wollard, Michael Gray, Roger Hammon, W Asquith, Carol Bishop, Mr G Woodcock, Jo & Stephen Gibson, Melanie St Clair, Julie Lund, Mr & Mrs Middlebrook, Mr & Mrs Brown, Hannah Yeung, A Major, C M Howarth, Ruth Dixon, Mark O'Brien, Paul Wainwrigth, Gayle Dunkley, Ann Hunter, Mr & Mrs Jefferson, Mrs Jean Smith, Keith Sales, Sir Charles Legard, Emma Lund, R B Stellings, Mr B Jacques, Dr Alan Suggett, David Wilson, Rev Mike Smith, Andy Ellis, K Megginson, Graham Flint, Stephen Lonsdale, Alan Robson, Mr B Mills, Mr Nicholas Waddington, Mr Ian Hutchinson, Peter & Dorothy Burrow, Mrs E A Treasure, The Rev R C Treasure, S A Beswick, Nicola Gledhill, Chris Jones, Chris Cooper, John Woods, Gill Perks, Mr G A Rex, Mrs V Goodbold, Mr Robert J Brook, Mr Mike Potter</p> <p>7 further standardised letters of objection were received from unnamed respondents. A further 2 unnamed objections were received to the application.</p>
<p>Retail & Economic Impact</p> <ul style="list-style-type: none"> • The proposed development would result in a reduction in the number of people visiting shops and other outlets in the town centre. • The Livestock Market site is sequentially preferable, as identified by the appointed Inspector in respect of the Livestock Market appeal, and benefits from a valid planning permission. The Livestock Market site should therefore be developed as the sequentially preferable town centre site. • The proposed supermarket at WSCP would threaten the viability of the approved Livestock Market scheme. 	

- The proposed development would result in the closure of retail units and other businesses within the town centre.
- Sufficient foodstore provision already exists in the twin towns with Morrisons, Lidl, Sainsbury and ASDA, as well as the consented store on the Livestock Market site. The existing retail provision allows for footfall in the town centre and for small local businesses to compete.
- Malton's foodstores are all struggling, including the Sainsburys, Morrisons and ASDA stores.
- The new Lidl in Pickering has damaged daily footfall for other traders businesses and has badly hit Pickering Co-Op and Morrisons in Malton.
- It was previously the view of Ryedale District Council that there was only scope for one foodstore within Malton and, given planning permission has been granted for a foodstore on the Livestock Market site, where does this leave the WSCP proposals?
- The site is located too far from the town centre to encourage linked trips.
- The proposed reduction in the size of the store will make little difference to the impact it will have on the smaller shops in Malton.
- The proposed store would reduce the profitability of Morrisons but would not lead to lower prices.
- The proposed petrol filling station would lead to cheaper petrol, however, this may force the other petrol stations in the town to close, after which petrol prices at the proposed petrol filling station would rise.
- The applicant's claims that Morrisons is overtrading are inaccurate and unjustified. Morrisons only shows symptoms of overtrading in the last few days before Christmas.
- The surveys used by the applicant to illustrate that people currently using the WSCP are also using shops and services in the town centre cannot be used as evidence to show that shoppers using the superstore would walk into town to use the independent shops.
- The retail indices used by the applicant to demonstrate that Malton has fallen in the retail rankings are useless and misleading. The actual evidence is that business in Malton, far from declining, is actually bucking the trend. The retail researcher Venue Score showed a significant rise for Malton in its 2010 rankings.
- The WSCP site is not functionally better related to the town centre than Morrisons. There are points of interest between Morrisons and the town centre that encourage linked trips.
- The proposed improvements to the linkages between the site and the town centre would not encourage shoppers to make linked trips.
- It is likely that there will be a further application to enlarge the supermarket within a short period of time should planning permission be granted.
- Malton will be turned into a clone town of which speculative developers dream.
- If RDC remain determined to develop WSCP, a different end user must be found for it, such as a combination of car parking, housing and a medium range hotel.
- You will never stop people going to York to shop, especially given a John Lewis is opening at Monks Cross.
- The independent policy group '*Action for Market Towns*' has evidence that edge-of-town superstores destroy town centres, take away the livelihoods of independent businesses and retailers and – in net terms – create more job losses than they do jobs.
- A market town in Kent has been ruined by allowing developments away from the town centre and there are no specialist, local or interesting businesses left in the centre apart from largely fast food chains.
- It is important to understand that the jobs to be created within the scheme will not be additional to those that already exist and will be created at the expense of existing jobs. The evidence for this can be found in research about the impact of superstores on employment by the National Retail Planning Forum.

This research found that new out of centre superstores have a negative net impact on retail employment up to 12 miles away. The 93 stores studied by the forum were between them responsible for the loss of 25,685 employees. Every time a superstore of this kind opens, 276 people lose their jobs.

Highways

- Pasture Lane is not suitable to support the increase in HGV's required to service the retail units and the petrol filling station.
- The local highway network and existing junctions are already congested without the increased traffic associated with the proposed development
- The impact on the local highway network will be exacerbated by the housing development on Broughton Road.
- The surrounding road network is well-used by pedestrians, including school children and vulnerable adults, and the proposed development would pose increased road safety dangers.
- Loss of the existing car park.
- The transport documentation contains egregious basic errors that can only have been made by persons with little or no local knowledge of the road network and traffic problems in the centre of Malton.
- The blind corner adjacent to Yew Tree Cottage cannot be widened. This corner cannot accommodate HGV traffic in one direction and car traffic in another. If this is the preferred route to Wentworth Street (in order to avoid Butcher Corner, The Mount or Victoria Road), it is totally unsuited to its purpose.
- The traffic impact on Highfield Road has apparently not been measured. It has parking provision on one side, leaving it for long periods impassable for a flow of two-way traffic. An increased volume of cars and delivery HGV's can simply not be accommodated.
- The transport consultant's conclusions that there is '*great potential to provide sustainable travel to the site*' is wrong and can only have been written by someone who has never had to traverse the town centre by car.
- The upgraded pedestrian access is awkward and potentially hazardous.
- What undertaking has been given as to the length of the undertaking for the free car parking element. Can they start charging at any time for car parking or will the applicant agree to free in perpetuity.
- The proposed drop-off zone in Wentworth Street will greatly increase traffic to what is already a narrow and moderately busy street.
- A new large supermarket and petrol station development would be better positioned on the outskirts of town adjacent to the A64 where traffic could reach it without passing through the town.
- Where will people park for successful events such as the food fairs?

Amenity

- There should be a restriction on night time deliveries, given the residential nature of the surrounding area.
- The proposed development will have a severe detrimental impact on this residential part of Malton and will impact adversely on local residents.
- The building of a supermarket will mean that people are on site at all times of day, spoiling the peace and raising potential problems as a new place to hang out for youngsters.
- The area will become particularly brightly lit which may lead to sleep disturbance.

Environmental

- Supermarkets are responsible for a large amount of 'greenhouse' gases, partly due to their large volume of chilling cabinets but also to the long distance transport of their products.
- There will be an increase in carbon emissions due to more shoppers visiting all the major stores to compare prices.
- Without any calculation of the impact of *increased* CO₂ emissions as a result of increased stationary traffic in Malton Town Centre, chilled storage, centralised warehousing and HGV distribution (not to mention food miles, excess packaging, out of season produce and the carbon footprint of the building itself) the 'carbon saving' figure presented by the applicant is not only meaningless but misleading.
- Assuming much of the traffic flow from the proposed development will head through the town, how will pollution levels at Butcher Corner be managed.
- The environmental and archaeological objections to the scheme have not been addressed.
- Malton has two large industrial estates – if this development was really about the needs of the local community then a superstore could be built on either site with much less impact on the town of Malton.
- More retail development this close to the town centre will only erode the rural nature and character of this historic market town.

Community Consultation Exercise

- The online consultation questionnaire was completed by a number of persons and the results were overwhelmingly against the proposals. If there is a groundswell of local public support for the application, the applicant should have evidence. The truth is that the people of Malton do not want this development and expect their elected representatives to respect their wishes for good sound planning reasons.
- The presentation by the applicant of the consultation exercise is skewed. Where negative responses have been received, this is attributed not to strength of feeling, but to some unknown statistical anomaly. The applicant was given the answer it did not want, and so proceeds to denigrate those responding.
- The consultation questionnaire sought answers supporting the applicant by the way the questions were drafted and should be ignored by the Authority.
- The consultation leaflet was not received by a number of residents in the local area.

Design

- Security measures to prevent anti-social behaviour should be a requirement of any new development.

Other

- The public have stated that they do not want this development in Malton and Ryedale District Council are ignoring the wishes of the public.
- The decision should be made by Malton Town Council who have the best interests of the town.
- There is a conflict of interest in Ryedale District Council being in a position to grant planning permission to itself.
- There are private agendas at work – agendas which have nothing to do with the needs of the people of Malton & Norton.

- The types of convenience meals sold by supermarkets have high sugar, salt and fat contents and more choice in this kind of food can only perpetuate growing health problems.
- St Mary's RC and Malton Community Primary Schools should have been specifically consulted and asked for their comments on the proposals.
- Limited time afforded for observations on the application.
- The location has or will mean the loss of Scouts, shooting, archery for cadets and clubs as well as lost social support at Wentworth House.
- A much better use of the Wentworth Street Car Park would be to create a community recreational facility that would be to the benefit of all and make the centre of the town more attractive to visitors.
- Impact on house prices.

4.6 In addition, objections have been received from a number of local businesses, interest groups and local councillors which are summarised below:

<p>Peacock & Smith (On Behalf of Morrisons)</p>	<p>Peacock & Smith object to the proposals on behalf of Morrisons on the following grounds:</p> <p><u>Existing Foodstore Provision</u></p> <ul style="list-style-type: none"> • P&S highlight that there is a good range of convenience floorspace in Malton ranging from large format foodstores to discount operators and local independent stores. <p><u>Livestock Market Site</u></p> <ul style="list-style-type: none"> • In addition to the existing provision, P&S make reference to a foodstore planning application that gained consent at appeal in April 2012. The permission is for a smaller foodstore than is proposed on the Wentworth Street site and, although P&S consider that the Livestock Market proposal may cause harm to the vitality and viability of Malton and its existing shops, the site is considered to be sequentially preferable to the Wentworth Street site due to the close proximity to shops and services located within Malton Town Centre. It is also suggested that the Livestock Market does not currently have an operator and, as such, remains available to other operators and is therefore sequentially preferable in that respect. <p><u>Sequential Approach</u></p> <ul style="list-style-type: none"> • It is acknowledged that the area of the Livestock Market site is smaller than the identified minimum site area of 1.5ha the applicant requires, however, it is suggested that the applicant has not shown sufficient flexibility in the design and layout to fit the development onto the sequentially preferable Livestock Market site. • It has been deemed acceptable for a total of 4,092 sq.m (gross) of floorspace to be located on the Livestock Market site and it is therefore perfectly reasonable to request that the applicant shows flexibility in terms of the scale of the proposed foodstore, as well as design and layout.
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- Ryedale Council need to be wholly satisfied that there are no more centrally located sites that would be available, suitable and viable to accommodate the proposed development.
- Given that there is a sequentially preferable site, the application should be refused under the provisions contained within Paragraph 27 of the NPPF.

Retail Impact

- Based on the retail assumptions made by the application (which P&S believe to be flawed given the over estimation of clawing back expenditure from stores so far away from Malton), the proposed impact (which takes account of committed developments and the Livestock Market site) on the Morrisons store is 36.8%, which is a significant impact on the town's main anchor. Any reduction in visitors to the Morrisons store will result in fewer linked trips with the town centre and consequently will have a greater impact on the town centre than is suggested by the applicants.
- P&S consider that the level of impact has been under estimated due to an over estimated catchment area. It is considered that the outer reaches of Zone 4 and 5 should not be included within the catchment area for the following reasons:
 - The population located within the northern outer reaches of Zone 4 is not likely to travel to undertake their main food shop in Malton given the pull of the large town of Scarborough. The population who live to the north of Zone 4 will have to travel approximately 60 minutes to the proposed store. The convenience offer located in Scarborough is located within closer proximity to this section of the population and the existing foodstore provision in Scarborough is highlighted.
 - The population to the south west of Zone 5 is more likely to shop at York where there is considerable convenience choice.
- P&S disagree with the applicant's assessment that the proposal will clawback around £11m of expenditure which is currently leaking out of the defined Study Area.
- P&S suggest that the applicant's retail assessment seeks to justify the proposal by extending the store's catchment area to include settlements which are much more closely related to York and Scarborough. It is suggested that the proposed catchment area has been overestimated, with the effect that the impact on Malton Town Centre is likely to have been underestimated.
- P&S dispute that Morrisons is overtrading. The implementation of the extension completed in 2010 was to ease overtrading that was experienced in the existing store. Since the extension was completed, problems with over trading and congestion have ceased and the store now offers a full range of goods and is able to accommodate the full range of shoppers so there is no qualitative need for a further foodstore in Malton, particularly at a location that is outside the town centre boundary.

	<ul style="list-style-type: none"> • It is therefore suggested that the provision of a proposed store in an edge-of-centre location in Malton is likely to be to the significant detriment of the existing in-centre Morrisons store and therefore to the detriment of the town centre as a whole. <p><u>Summary & Conclusion</u></p> <ul style="list-style-type: none"> • It is clear that the application for a large edge-of-centre foodstore does not satisfy the criteria set out within Paragraph 26 of the NPPF. It is likely that the proposed development will draw a significant amount of trade away from the existing in-store Morrisons store to the detriment of the overall viability and vitality of the town centre. It is also concluded that the applicant has failed to adequately assess sequentially preferable sites.
<p>GVA (On Behalf of Fitzwilliam Estates)</p>	<p>Dates Received: 16th December 2013; 11th March 2014 & 31st March 2014</p> <p>A consultation response from GVA on behalf of Fitzwilliam (Malton) Estate dated 16th December 2013 set out the following objections to the proposed scheme:</p> <p><u>General</u></p> <ul style="list-style-type: none"> • FME’s existing objections to the proposal remain largely valid as the amended scheme differs only slightly from the original proposed, particularly in relation to the principle of development. <p><u>Procedure</u></p> <ul style="list-style-type: none"> • FME consider that, as the freehold interest in the application site is owned by the Council, the application should not be dealt with by the Council’s own officers. <p><u>Retail Justification & Policy</u></p> <ul style="list-style-type: none"> • The proposals remain speculative with no evidence of any committed retailer • There is no justification provided for the additional small shop unit and the sequential site assessment has failed to consider whether there are available sites within or on better integrated sites on the edge of the town centre that could accommodate this unit. • The exhaustive and independent scrutiny which has been applied to the need, preferred location and impact of a new food store in Malton, which has been accepted by the Council, has determined that: <ul style="list-style-type: none"> – There is only need for a moderate foodstore over the entire local plan period up to 2027 (LM site appeal decision); and – The LM site is the sequentially preferable location in which to meet the need and has the benefit of an extant planning permission (LM appeal decision)

- GVA suggest that the applicant's supporting statement largely ignores, or seek to selectively rewrite this recent planning history, and the clear cut conclusions on these matters. It is suggested that, if properly and objectively assessed, the extent that there are any new material considerations in this case, they further reinforce why planning permission should be refused. Notably:
 - The newly adopted Local Plan identifies that the LM site will fully meet the towns identified needs for the period up to 2027. The Plan seeks to reinforce the role of Malton, and the contribution the LMS proposals will make to meeting this objective has been accepted by the SoS on appeal.
 - The proposals seek to accommodate the identified capacity on a sequentially less preferable site, which is less well integrated into the town centre and will lead to a materially higher impact on its vitality and viability (Para. 32 of LM appeal decision) and are therefore contrary to an up to date Development Plan. As such, the NPPF establishes a presumption that the application will be refused unless material considerations indicate otherwise.
 - There is no need for a larger store than that already permitted on the LMS, or indeed for any additional floorspace up to 2027 beyond existing commitments (including LMS) and the applicant's decision to reduce the size of the store proposed reflects current trends towards more compact full range stores.
 - There has been no change in status of the WSCP as a sequentially less preferable location – it remains poorly connected in contrast to the LMS which, uniquely, has the potential to form a seamless extension to the town centre.
 - This conclusion has been reached having full regard to the Dundee case highlighted by the applicant. The Telford case adds nothing to this debate – whilst this establishes that a decision maker may conclude that two similar edge of centre sites are equal, it does not preclude the decision maker from concluding one is preferable where, as in this case it has clear and demonstrable advantages, which have been accepted by the Council.
 - The applicant's commercial evidence, which asserts that the LM site is not currently available or viable based on the absence of a named operator provides no justification for abandoning this site in favour of the WSCP scheme less than two months after the adoption of the Local Plan; it applies an artificial test.
 - The WSCP proposals remain speculative with no named or committed operator, despite being in the public domain for some time.
 - FME have established a legal position with the livestock market operators whereby the site is readily available and has accordingly commenced site investigations
 - FME is progressing with enabling development in Kings Head Yard. The proposed development will include improvements to the access route through the yard with associated landscaping and extensions to 9-13 Market Place. This will improve the accessibility and legibility of this key route between LMS and Market Place and, crucially, will release land required to enable the delivery of the service access for the proposed new retail developments on the LMS and the delivery of the new market square.

- FME has commenced preparation of its reserved matters application and discharge of conditions in order to progress implementation of the consent, subject to market conditions and securing an appropriate operator.
- FME is in an unusual position in that, as the main landowner in the town, which is committed to taking a long term view on its planned investment, it is now progressing towards implementation of the approved LMS scheme, but will not proceed if WSCP is approved.

- It is therefore considered that the case advanced by the applicants provides no basis on which the LPA could credibly (or indeed lawfully) countenance approval of the revised WSCP proposals.
- The evidence demonstrates that the LMS is a sequentially preferable site which is suitable and available to fully meet Malton’s shopping needs, and will have a positive impact on vitality and viability of the town centre, which is fully consistent with the provisions of the up-to-date Local Plan Strategy.
- Contrary to the applicant’s assertion that the WSCP proposals would act as a catalyst to bring forward the development on the LM site, the Inspector at the Inquiry acknowledged the impact of the WSCP on the ability to secure an operator for the LMS scheme stating:

‘whilst it is common ground that the grant of planning permission for a larger store on the WSCP site would make it more difficult for an operator to be found for the appeal proposal, this underscores the need and purpose of the sequential approach in seeking to promote and strengthen town centres.’

- FME confirm that they would be unlikely to bring forward the LMS scheme if the WSCP proposals are approved. This would represent a significant impact on planned investment in the town centre, which, in addition to the applicant’s failure to demonstrate compliance with the sequential approach, provides clear cut reasons for refusal having regard to the guidance in the NPPF.

Highways

- There are a number of inaccuracies in the assessment with a number of paragraphs referring to the previous scheme and not the updated larger scheme now proposed, although it is acknowledged that some of these are not fundamental.
- The swept paths in Appendix A and referred to in Paragraph 4.11 do not relate to the revised layout plans. As the revised plans show changes to the layout of the service yard and PFS in particular, the fact that the swept path does not reflect these changes is significant.
- There is no change to the assessment of junctions to allow for growth and committed development in the area since the application was originally assessed in 2011.

Parking

- Concerns are raised over the details of the proposed parking numbers

- There is no indication as to how the two areas of parking will be managed, which leaves clear concerns regarding the deliverability of these spaces in the long term.
- Overall the approach to parking is vague at best. Given the applicant's assertion that the parking provided will support existing businesses through linked trips, this is a fundamental issue. The provision of parking and its management is key to the developments supposed ability to support residents in Ryedale accessing Malton Town Centre and the facilities and services therein. The lack of clarity fails to demonstrate how this will be achieved and undermines the argument that the proposed and associated clawback of retail spend will support existing businesses in the town centre.

Community Consultation

- GVA raise a number of concerns over the public consultation exercise that was undertaken and the summary of responses contained within the submission documents.

Conclusions

- The application fails to address the impact of the proposed on Malton and Norton, ignoring existing committed development on the LM site. It remains the case that the LM development site is sequentially preferable and will better support the vitality and viability of Malton, as demonstrated at the Inquiry and EiP. FME remain committed to delivering this scheme and have commenced site investigations and preparation for submission of the RM application.
- There are gaps in the Transport Assessment accompanying the application, with no allowance made for key changes in traffic impacts from committed developments and no revised assessment of swept paths accessing the site despite the layout changes.
- The community consultation carried out was woefully inadequate given the significance of the scheme's impact.

An updated letter of objection was received from GVA on 11th March 2014 to be considered alongside their previous objections. It was suggested that the updated letter of objection provides additional, highly material evidence which it would be unlawful for the Council not to take into account when considering and determining GMI Holbeck Land's (GMIHL) proposal. The updated letter of objection reiterated the key retail planning points set out in their letter dated 16th December and also set out additional information that was considered to be material to the determination of the application, as summarised below:

Progress of Livestock Market Development

The updated letter of objection from GVA outlines that FME have made significant progress with the proposed development of the LMS, which includes:

- Completions of investigations across the site including carrying out full archaeological investigations, as required by Condition 13 (application to discharge imminent).

- Detailed design of the proposed highway works, in consultation with NYCC, as required by Condition 6 (application to discharge imminent).
- Progressing with detailed design of the proposed and preparing the Reserved Matters application (submission imminent).
- Submission of the Kings Head Yard proposals, which complement the proposed LMS development by way of opening up and improving access routes. This demonstrates FME's on-going commitment to investing in this project and the wider town; and
- Crucially, FME have remained pro-active in seeking an operator for the LMS scheme, successfully securing interest from EH Booths & Company Limited (see below)

Secured Occupier for the LMS Development

The updated letter of objection from GVA includes a Letter of Support from E H Booth & Company Limited, which demonstrates occupier interest in the proposed foodstore on the Livestock Market site. It is suggested that FME and Booths are in the process of negotiating an Agreement to Lease in respect of the supermarket as approved at Inquiry (Ref. 11/00412/MOUT). The Letter of Support from Booths confirms the following:

- The store as approved is consistent with meeting the identified need in the Malton catchment;
- They will be able to provide a full range of convenience goods, increasing choice and competition.
- The current outline planning consent demonstrates to their satisfaction that they can achieve a store of the size and layout required with adequate parking and servicing; and
- They remain very concerned regarding the unresolved nature of the GMIHL application on the Wentworth Street Car Park site.

The letter from GVA suggests that this is in direct contradiction to assertions made in reports produced by retail agents Pudney Shuttleworth, Cheetham & Mortimer and Chase & Partners on behalf of GMIHL and demonstrate the lack of credibility and reliability of these reports.

Implications for GMIHL's Application

GVA suggest that the Letter of Support received from Booths is a material consideration in determining the current application and the applicant's updated retail assessment relies heavily upon commercial reports produced by commercial agents, which assume the LM site is undeliverable and unviable. It is suggested that the Letter of Support reinforces and builds upon the objections previously made by GVA, further undermining the approach taken by the applicant, namely:

Sequential Approach

Paragraphs 6.9-6.18 & 6.42 of the applicant's updated retail assessment relies heavily upon the lack of occupier demand and the unsuitability of the approved store on the LMS, apparently demonstrating that '*there is no likely prospect of any retailer committing to the LM site*' and the assumption that there are '*significant doubts as to whether the scheme will be implemented.*'

The applicant therefore dismisses the LMS as neither viable, suitable nor available in the sequential assessment and GVA suggest that this conclusion is directly and completely contradicted by the Letter of Support issued by Booths.

Impact Assessment

GVA state that the applicant's impact assessment is based on the assumption the LMS will not be delivered (Scenario 1) or will only be delivered in 2023 (Scenario 2), which is again reliant on the retail agency advice and assumed lack of deliverability of the LMS. GVA suggest that, in light of the Letter of Support from Booths, the applicant's assessment of impact of the WSCP development is fundamentally flawed and cannot be relied upon in determining the application.

GVA also suggest that the applicant's updated retail assessment suggests that the WSCP proposal would not have an adverse impact on the ability to bring forward other investment, including the LMS proposals. GVA contend that this is in direct conflict with concerns raised by Booths regarding the outcome of the proposals on the WSCP.

It is suggested that the concerns raised by Booths support GVA's previous comment that approval of the WSCP application will have a significant impact on planned investment in the town centre, and is therefore contrary to national and local retail policy and that this view was upheld by the Inspector at the Inquiry who acknowledged the impact of the WSCP on the ability to secure an operator for the LMS scheme.

Conclusion

In conclusion, GVA suggest that, in light of secured occupier interest from Booths in the proposed development on the LMS, and on-going progress being made with Reserved Matters and conditions, FME would expect the application to be reported to Committee with a recommendation for refusal and FME considers that the Council must follow that recommendation. In the event that Ryedale were minded to approve the WSCP application, FME reserves the right to seek to have the application called in and / or to issue a High Court challenge together with an application that the Council pays FME's costs occasioned by any such action.

TA Addendum

GVA suggest that Table 4 of the Addendum to the submitted Transport Assessment indicates that the inclusion of WSCP development trips, plus committed development at the Taylor Wimpey and LMS, leaves the Horsemarket Road / Yorkersgate junction operating above capacity in the AM and PM peak. However, it is suggested that it is not clear whether the capacity issues are triggered by the WSCP proposals, nor whether the WSCP developer intends to mitigate the impacts.

A further response was received from GVA on behalf of Fitzwilliam (Malton) Estate on 31st March 2014 following a review of the assessments prepared on behalf of the Council by England & Lyle and DTZ. The issues raised are summarised as follows:

- Neither consultant (England & Lyle or DTZ) has taken into account the implications of the matters set out in GVA's letter of 11th March, although a competent and thorough assessment of the issues, and discussions with Fitzwilliam (Malton) Estates would have been expected to identify all these matters.
- The Council's Consultants' reports contain significant errors and omissions, and are based on a flawed and incomplete understanding of planning policy and a number of material considerations: the NPPF; the recently published NPPG; the up-to-date Development Plan and the evidence base which underpins it; the unambiguous conclusions of the Inspector following the LMS appeal; the status and progress made towards the implementation of the LMS consent; the current attitude and position of potential occupiers, including the identified occupier of the LMS scheme; or the implications of the WSCP for the major investment planned by Fitzwilliam (Malton) Estates.
- The applicant's case has been constructed on a series of unsubstantiated assertions and assumptions, not least of which is the proposition that the LMS proposals will not attract a quality operator and the WSCP proposals will. As a consequence, the applicant's entire case has been constructed on a series of unsubstantiated assertions and assumptions, not least of which is the proposition that the LMS proposals will not attract a quality operator and the WSCP proposals will. As a consequence, the applicant's entire approach to the key retail policy tests set out in Paragraphs 23-27 of the NPPF is fundamentally flawed. It is perhaps even more surprising and unfortunate that those appointed to review this approach, who would be expected to bring the requisite independence, expertise and rigour to the task have failed to do so.
- The GVA response also includes a further letter from Booths reiterating that they are able to achieve a store on the LMS site which meets their operational requirements on the basis of the current outline permission.
- The GVA response also includes correspondence from Fitzwilliam (Malton) Estate which suggests that its decision to proceed with the LMS scheme is based on the assumption that the speculative proposals for the WSCP are refused planning permission and any appeal is dismissed, and will be reviewed if the Council approves the WSCP proposals.
- It is also suggested that Fitzwilliam (Malton) Estate consider that, even if permitted, the WSCP proposals are unlikely to attract an operator given current market conditions. However, it is suggested, as a consequence of the WSCP development and attendant blight, Fitzwilliam (Malton) Estate would be unlikely to proceed with the LMS development. Thus the consequence of the grant of planning permission on the WSCP site would be to seriously jeopardise the development of the key LMS which has so recently been supported by the Core Strategy Inspector and the S.78 Inspector.
- GVA suggest that it is clear from the DTZ advice that the only opportunity in Malton which has a specific committed named occupier is the sequentially preferable LMS. It is suggested that Tesco, which appears to be the most likely potential occupier (if any) for the WSCP, regards Malton as a low priority opportunity, and in any event is known to be significantly reducing its expansion programme.

	<p>Accordingly, the evidence suggests that in the unlikely event that any resolution to approve the WSCP is upheld, following the almost inevitable call-in inquiry, the most likely outcome is the loss of major planned investment in the town centre on the LMS site and the opportunity to secure a quality food supermarket, and a prolonged period of blight as the WSCP site remains unimplemented.</p>
<p>JB Motors</p>	<p>JB Motors object to the proposals on the following grounds:</p> <p><u>Pedestrian Linkage Between Supermarket & Town Centre</u></p> <ul style="list-style-type: none"> • It is suggested that the proposed pedestrianisation of Pump Lane will cut off vehicle access to the company's customer parking spaces, automatic car wash, workshop side entrance and car sales showroom. It will make it illegal for cars to queue for the car wash and the bollards will severely restrict access to the petrol forecourt. • The pedestrian crossing and walkway across Wentworth Street and Pump Lane will be very dangerous for pedestrians waiting to cross and crossing the road. It is the main crossing point for vehicles arriving at the petrol forecourt from the North West and South East. Also during twice weekly fuel deliveries and busy times vehicles queue on Wentworth Street and Pump Lane. • Plans show the removal of a flower bed wall and resurfacing on JB Garage's property and appropriate notice has not been served. <p><u>Questionnaire Surveys</u></p> <ul style="list-style-type: none"> • Doubts are expressed in respect of the questionnaire results relating to the need for a new supermarket and it is suggested that the data needs to be reassessed. <p><u>Reduction in Size of Supermarket</u></p> <ul style="list-style-type: none"> • It is suggested that the reduction in the size of the proposed supermarket is negligible and can always be remodelled when planning is approved and it is too late to do anything about it.
<p>Malton & Norton Area Partnership</p>	<p>Date Received:</p> <p>13th December 2013</p> <p>Comments:</p> <p>The response received from Mr David Lloyd Williams (Chairman of Malton & Norton Area Partnership) raises the following objections:</p> <ul style="list-style-type: none"> • The reduction in the size of the store is very small and can be absorbed by reducing storage facilities. In any event, additional floorspace could be added as an amendment after any decision may have been made. • When Ryedale District Council was originally minded to approve the project, it did so because there was a capacity remaining for such a development. The capacity referred to has now been taken up by the Livestock Market approval, which, albeit slowly, now appears to be proceeding.

	<p>It is therefore difficult to see how this revised scheme can be considered at all, as what capacity there was has been now exceeded.</p> <ul style="list-style-type: none"> • It is hard to see how the Authority can legally still intend to make any decision about a development which, if approved, brings into the authority coffers a considerable sum of money. Every planning committee member, indeed any member, will have a direct interest in that any project within their Ward funded through such a windfall, could well have an impact on their re-election prospects in 2015. As they are paid as members, then that might, in common law, be held as a <i>'pecuniary interest.'</i> Common law or not, there is a moral issue. • Whatever County Highways may believe, there will be a massive issue with movements and congestion, both due to local movements, especially during peak times, but also during most of the daytime when vehicles will still need to both deliver, access the Showfield Lane Industrial Site, and pass through to access the cross District / County route to the A19 and A1. • It is suggested that the proposed development will add to existing issues with foul and surface water flows and that there is a strong argument for any developer to provide a completely new system to cope with the additional pressures. <p>Mr Lloyd Williams also included copies of correspondence sent directly to the applicant's agent and the Malton / Pickering Mercury, which raise the following additional points:</p> <ul style="list-style-type: none"> • Malton and Norton and the surrounding area already has a number of foodstores / supermarkets. These serve the area well and if people want to go further afield to either York or Scarborough, there are bigger stores available. • The local Neighbourhood Plan carried out an extensive survey of local residents and, overwhelmingly, there was a strong response to <i>'no to a superstore on the Wentworth Street Car Park.'</i> This is still the feeling and more so now that the Livestock Market site has been approved. • There are other possibilities for the site, for instance, a Travel Lodge with related restaurant and petrol outlet.
<p>Councillor Andrews</p>	<p>Date Received:</p> <p>A number of representations were submitted by Councillor Andrews following the previous consultation periods, which are summarised at Appendix 1. Councillor Andrews has subsequently submitted a number of comprehensive responses to the revised proposals received by the Council on 26th November 2013 and the objections raised are summarised below.</p> <p>Comments:</p> <p>The objections of Councillor Andrews are summarised as follows:</p> <ol style="list-style-type: none"> i. The site is outside the saved commercial limits of the old Ryedale Local Plan and there should be no substantial change to these limits without this being tested through the LDF process at the EiP. The application is therefore premature, and there is no reason to make an ad hoc decision in advance of this.

- ii. The applications are contrary to the Malton and Norton Neighbourhood Plan which complies with the Development Plan currently in force (i.e. the saved policies of the old Ryedale Local Plan). The NP has been the subject of a full public consultation conducted under the direction of a qualified planning consultancy (Directions) and is supported by an evidence base. It has been approved by both Malton and Norton Town Councils as an interim plan – in other words ‘*interim*’ pending the assessment required under the Localisation [sic] Act (which now has Royal Assent). The Neighbourhood Plan requires the redevelopment of the Cattle Market site but the retention of WWSCP as a long-stay car park. There are therefore two competing applications, and it would be inappropriate to prejudice the consideration of both sites without testing them through the LDF process at the EIP.
- iii. The site is located further from the town centre than the Cattle Market site and is therefore not favoured by the sequential test.
- iv. The site is not suitable for a supermarket, as it is located too far from the town’s historic centre to benefit it, and will instead draw trade away from to the detriment of the vitality and viability of the historic town centre conservation area.
- v. The Malton bypass is dual carriageway with single carriageway at either end and all junctions. In the holiday peak periods it becomes heavily congested and backs up. A new superstore in Malton will exacerbate these problems.
- vi. The site is accessed through the town centre by a network of narrow roads dating back to Medieval times, and there is no direct access planned from the A64 via Broughton Road, as originally contemplated when the bypass was designed. If the application is successful, there will be an unacceptable impact on the local highway network.
- Ryedale engaged Jacobs, formerly consultants to the Council, to write a Malton & Norton Strategic Transport Assessment (STA), and the Council is currently using this for the assessment of planning applications.
 - The STA considers nine scenarios for traffic likely to be generated by planned new development. It dismisses all of these and then a new option called Option 4A. This option comprises of 27ha new retail, 2165 new dwellings, 0.2 ha new education, 44 ha new employment and 3.3ha new leisure.
 - The STA is intended to assess the impact of proposed new development on existing junctions. In making this assessment, it is necessary to take into account development for which planning permission has been given (but not implemented) or for which planning would have to be granted if applied for (e.g. where the site is within development limits and / or is in accordance with existing policies). Clearly if traffic generated by new development would have no greater impact than traffic generated by existing development (plus the traffic generated by development which would have to be allowed if planning permission is applied for), then the proposed new development can said to be acceptable.

- However, the STA goes one step further. Instead of taking into account permissions which would have to be granted because the site is within existing policy, the STA also takes into account sites which existing policies would require to be refused, but which Ryedale's political administration would like to see approved (e.g. controversial matters such as a supermarket on Wentworth Street Car Park).
- So, when the application comes to be assessed against highway criteria, the criteria it will be assessed against is the disputed STA. As the STA assumes that WWSCP will be redeveloped for a supermarket, there will be no highways objection. This is completely and utterly wrong.

- vii. As regards WWSCP being an area of '*underused land*,' this is disputed, as the Council have priced themselves out of the market by charging extortionate fees. WWSCP is often full on Cattle market days, and on Saturdays the lower level can be three quarters full at peak times. WWSCP is needed not just for shoppers but also for people who live and work in Malton town centre. They will not use it if the weekly cost amounts to the loss of a day's wage. Further, many visitors to town cannot find the car park because it is not sufficiently signposted.
- viii. The Council will have little ability to actually control what proportion of the supermarket will sell convenience goods and what proportion will sell comparison goods.
- ix. Councillor Andrews also disputes that the proposed development will not undermine or destroy the vitality and viability of the existing town centre.

Councillor Andrews subsequently provided further comments on the proposals following a review of the assessments prepared by England & Lyle and DTZ in respect of the application proposals on behalf of the Council. The main issues raised are summarised as follows:

- There is nothing in either report [England & Lyle & DTZ] that would make me change my views. In fact, the DTZ report would seem to confirm them.
- Mr England's report fails to adequately explain why the figures in the adopted Ryedale Plan should be superseded by NLP's figures, or why the general principle of there being room for only one new foodstore, as, in effect, stated in the adopted Ryedale Plan should be breached.
- Mr England's report fails to address the reasoning and findings of the Inspector's findings in the LMS case.
- Both Mr England and DTZ have been shown to be mistaken in their fundamental assumption that the LMS site is undeliverable.
- It is suggested that the England & Lyle and DTZ reports fail to address issues previously raised by Councillor Andrews.
- Councillor Andrews also recognises that the DTZ Report suggests that the WSCP site '*lacks prominence, has poor access and is dislocated from the existing retail area in the town centre...it is inferior in terms of prominence and quality of access for customers and service vehicles.*' It is therefore suggested that, in other words, it is not a good site for a superstore.

	<p>Councillor Andrews goes onto suggest that, on the other hand, there is an operator who is keen to take on the alternative sequentially preferable site which has been recommended by an impartial Government Inspector, after thorough debate of the merit of both sites. It is therefore requested that progress is made and the way made clear for Booths to take on the Livestock Market site so that Malton Town Centre can be properly revitalised in the interests of good planning.</p>
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4.7 A total of 89 letters in support of the planning application have been received, which are summarised as follows:

Respondents	<p>Barry Thomson, Audrey Davies, C Richardson, Jill Baldwin, Neil Dale, Michael Bentley, Tony Hemesley, G W Beaumont, Martine Taylor-Helps, Derek Kirby, Raymond Ward, Alec Featherstone, Margaret Baker, Hilary Wood, Arthur & Susan Haldenby, Malcolm Fox, Jason Ash, A Stuttard, Stuart McNeal, Adam Newell, Roger & Jane Paterson, Paul Moon, Jane Bradley, R D Stark, Steve Conroy, Elaine Dooley, David & Patricia Hall, Mrs J Rowstron, Vivienne & Keith Nicholson, Mary Marlowe, Mr & Mrs T Harrison, Robert Batty, Nick Fletcher, David Fairbairn, Peter Rowley, Sue Hughes, Carol Stuttard, Shane Jarman, Craig Walker, Sophie Bingham, Patricia Walker, Mr & Mrs Atkinson, Deana Jeffrey, David Pettit, Mrs N Jesse, Rebecca Sleightholm, Linda Stannard, Michael Hall, Deborah Trevor, Mike & Andrea Cooper, J Harris, Mr N Shields, Joanne Legard, Paul Carrick, Debby Hardy, John T, Lynn Cullis, Yvonne Taylor, Alexander Pritchard, A M Stark, Terry Greene, Carol Peters, Richard Peters, Caroline Sims, Mike Arnold, J Welford, Sarah Bartliff, RE & V Crisp, Kathleen Greene, Tina Kelly, Mr & Mrs Sheaf, Leanne Oldfield, Sarah Hill, Joanna Kelly, W.E. Barker, Peter & Nittaya Ash, Tim Cluderay, Saskia Syms, David Walker</p> <p>A further 10 unnamed emails and letters in support of the application were received.</p>
	<ul style="list-style-type: none"> • The proposed development would generate investment and new jobs. • The new store would increase footfall and provide healthy competition and hopefully attract more big name stores to fill the many empty shops currently in the town. • The proposals provide more choice and bring people into Malton who will spend in the area. • Malton needs more affordable choice for working families – currently there is a need to travel to Monks Cross to buy clothes. A larger supermarket would hopefully provide the opportunity to buy clothes from there. • The support to existing local businesses would not change if a supermarket was built on Wentworth Street. • There is a need to move with the times and stop the exodus of people to do their food shopping miles away when they can do it locally. • The development would not prejudice the independent shops in Malton but would merely allow families to do their existing supermarket shopping at a more convenient store for them. Families would make greater use of local shops whilst they are in the town. • There is currently a need to travel out of the town for realistically priced petrol. The new petrol filling station would bring competition and lower prices.

- There will be cost savings for residents in not having to travel to places such as York and Scarborough to access retail facilities with a full range of products.
- If Malton wants to be the main hub of Ryedale then such developments are needed to service the ever expanding market towns of the area.
- With all the current and proposed housing development in Malton and Norton there will be an increasing need for supermarket facilities for the towns.
- The existing number of empty shops and charity shops gives a poor impression to visitors to the town.
- The development is in keeping with the look of the town, provides additional car parking and improves access to the town centre.
- The car park is currently underused and is an eyesore with barriers, bollards, recycling bins etc. all over the place.
- The provision of 3 hours free parking is welcomed and will bring more people into the town.
- An investment of this scale and cost will make more money for the local council which in turn can be used elsewhere.
- Driffield has a Tesco store in the middle of town and has lots of local shops open, which puts Malton to shame.
- There was opposition from traders to the Saturday markets revival in 1984 or thereabouts, fearing the negative impact on their trade. However, the footfall increased on Saturdays and any fears proved unfounded.
- Morrisons supermarket has been in the town for many years and there is no connection between the demise of independent retailers since the turn of the century and their presence. It is simply that online shopping, new shopping centres offering larger choices along with cheaper fuel and even charity shops have all contributed to the current situation. Also the shop landlords have failed to respond by reducing rates as footfall decreased.
- Malton is not considered a tourist town in the same way as Pickering and Helmsley and this presents an ideal opportunity to draw and keep more people into the town and bring much needed competition to Morrisons.
- There will be a reduction in congestion in Castlegate as residents of Malton and villages to the west do not have to drive to Morrisons.
- There will be a reduction in congestion over the County Bridge and in Church Street, Norton, through the provision of an alternative petrol station.
- The favouring of a 'high end' foodstore by some parties is understood. However, this is something that will be unaffordable for many and, as such, it is argued that there is room for two food shops in Malton, patronised by customers in different income brackets.
- Whilst there is a minority against the development, the greater benefits to the majority must be considered.
- The local media has been dominated by the very narrow focus of a small number of self-interest groups and that the wider benefit to the whole of the Ryedale population has been lost in the argument.
- Fitzwilliam Estates only seem to be concerned with the promotion of high end retail with little care for the majority of residents. The fact that Fitzwilliam Estate is promoting another smaller supermarket of Booths demonstrates a lack of understanding of what the vast majority of Malton / Norton's population needs.

4.8 In addition, four consultation responses outlining general observations in respect of the proposals were received from Mr Barry O'Brien, Mr Dick Jennings, Lindsay Wrightson and Mr & Mrs Ballatyne.

5. APPLICANT'S STATEMENT

5.1 The following summary of the case in support of the application is made on behalf of the applicant:

'The proposals comprise the demolition of existing buildings and development of a new foodstore of 4,530sqm gross floorspace, an associated petrol filling station, a smaller non-food retail unit (comprising 227 sqm gross), car parking, servicing, highways works and hard and soft landscaping. The size of the foodstore has been reduced slightly since the application was originally submitted, in order to take into account the most recent discussions with operators. The collonade which previously formed part of the scheme has been replaced with a travelator and lifts, in order to help protect the amenity of residents of Wentworth Mews.

An Updated Retail Statement has been prepared by NLP in order to address the key tests of the sequential approach and impact, as contained within the National Planning Policy Framework (NPPF).

In relation to the sequential approach, it has been demonstrated that none of the opportunities identified are sequentially preferable to the application site. Furthermore, none of these opportunities are fully suitable and available to accommodate the development.

In relation to the Livestock Market (LM) site in Malton, in particular, this could not accommodate a new store of a size similar to that proposed on the Wentworth Street Car Park (WSCP) site (or indeed existing operator requirements for Malton). Commercial agents have confirmed that there is no operator demand for a store of the size approved on this site, nor is there any demand for a smaller store as part of this scheme. Agents have also confirmed that, whilst there is likely to be interest in the development of a foodstore of the size proposed on the WSCP site, the scheme approved on the LM site is not commercially viable, or therefore deliverable.

It has been demonstrated that the proposed foodstore would not result in any significant adverse impacts and would complement, rather than compete with, existing smaller traders in Malton Town Centre. In practice, the proposed new store would compete most directly with the existing Morrisons store in Malton (which is currently performing strongly), as well as a range of stores located outside of Ryedale District, including those in York and Scarborough.

The proposed development would not have any adverse impact upon the ability to attract investment in centres, including on the LM site and, over time, could help to increase the attractiveness of this site (and indeed the wider centre) to operators. It would also not have any adverse impact upon town centre viability, and would help to generate additional pedestrian footfall in the primary shopping areas, creating spin-off trade for existing businesses, as a result of its edge of centre location.

A range of other technical reports have also been prepared to accompany the planning application. The Transport Assessment (last updated January 2014) prepared by Pell Frischmann demonstrates that the site would be accessible by sustainable modes of transport. It also demonstrates that, taking into account highway improvements, the traffic generated by the development would have no significant effect upon the performance of the local highway network.

The revised Design and Access Statement (November 2013) prepared by DLG illustrates how the scheme would be sensitively designed to a high quality, reflecting the location and setting of the site. It demonstrates how the scheme would incorporate appropriate landscaping and publicly accessible space, which enhances the appearance of the area at the northern end of Malton Town Centre. It also provides details of a framework for proposed improvements to pedestrian linkages, which will help increase the proportion of linked trips with the town centre.

The Updated Planning Statement (NLP) and Revised Regeneration Statement (Arup) (both November 2013) also demonstrate that the new foodstore would result in a number of positive impacts, to which significant weight should be afforded in the determination of the subject application. In particular, the development would:

- *deliver significant economic benefits, representing a major investment in the local area, creating 246 gross direct new jobs (or 198 net additional full time equivalent jobs in Ryedale, after taking into account leakage / displacement of jobs, as well as indirect / induced employment);*
- *significantly enhance consumer choice, and the accessibility and availability of large foodstores to residents of Ryedale, meeting the identified need for a new large store in Malton, to provide competition to Morrisons, and clawing-back a significant proportion of spending which is currently leaking out of the area;*
- *enhance the range and choice of petrol filling stations available to residents of Malton and Norton, where there are currently just two such facilities, providing additional competition and reducing the need to travel further afield;*
- *reduce the vehicular mileage travelled by those undertaking food shopping (by around 3.3 million km per annum), by reducing the need to travel to large stores located beyond the local area, including those in York and Scarborough;*
- *generate a significant quantum of 'spin-off' expenditure for existing businesses in Malton Town Centre, through additional linked trips generated by the new foodstore, and the spending clawed-back from beyond the district - which would more than offset the forecast trade diversion from smaller traders in the centre;*
- *help to increase the attractiveness of the LM site and wider town centre to other retail operators, including additional national multiples, which will help to enhance the centre's non-food offer and strengthen its role as the main centre serving Ryedale District;*
- *provide a new and extended town centre car park, incorporating around 460 spaces, which represents an increase of around 90 spaces (when combined with the upper car park to be retained by RDC, and spaces underneath a proposed Phase 2 retail unit);*
- *incorporate a range of energy efficiency measures, and make a significant contribution towards reducing carbon emissions, and minimise vulnerability to climate change; and*
- *make a significant contribution to the regeneration of the Northern Arc area, as identified in the emerging Local Plan Strategy and helping, in the longer term, to facilitate the delivery of the LM site redevelopment.*

Taking into account all of the above, it is considered that the proposed development would represent sustainable development, in economic, social and environmental terms, in the context of the NPPF.

The Updated Planning Statement also demonstrates that the proposed development would be in accordance with the aims and objectives of the adopted development plan. It would be of a scale and function consistent with that of Malton/Norton as a Principal Town and district-wide service centre, as well as the important need for a new large foodstore which meets the main/weekly food shopping needs of residents of Malton and Ryedale – a need which would not be met by the approved scheme on the LM site. Whilst the application is in outline only, the development would be sensitively designed, taking into account the location and setting of the site, and would facilitate improved pedestrian linkages between the site and the wider Malton Town Centre.

Taking all relevant considerations from paragraphs 18 to 219 of the NPPF into account, and the accordance with the relevant policies of the development plan, it is considered that the application proposal represents sustainable development and, as such, there should be a presumption in favour of the scheme.'

6. OFFICER'S APPRAISAL

- 6.1 The Ryedale Plan – Local Plan Strategy establishes the approach for providing new homes, shops, community and visitor facilities over the plan period. It identifies the most appropriate locations for different types of development and provides a basis and rationale for distributing new development in the District and, under the provisions of the Strategy, most new development and growth will be directed to the most sustainable locations.
- 6.2 The Local Plan Strategy recognises that together, Malton and Norton form the largest settlement in the District and they are Ryedale's Principal Town with a joint population just over 12,000. The towns are home to key facilities such as the railway station and the District hospital and they have the greatest concentration of employers and shops. Developing the role of Malton therefore offers the potential to harness significant economic benefits for the District and Policy SP1 of the Local Plan Strategy therefore confirms that Malton and Norton (including Old Malton) will be the primary focus for growth in Ryedale over the plan period.
- 6.3 Policy SP19 of the Local Plan Strategy sets out a presumption in favour of sustainable development and confirms that, when considering development proposals, the Council should take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The policy goes on to indicate that the Council will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP19 confirms that planning applications that accord with policies in the Local Plan (and, where relevant, with policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise.
- 6.4 Having regard to the adopted Development Plan policies and the NPPF taken as a whole, the key issues in the assessment of the proposed development are as follows:
- Town Centres & Retailing
 - Economic Considerations
 - Design
 - Heritage
 - Managing Air Quality, Land and Water Resources
 - Renewable and Low Carbon Energy
 - Biodiversity
 - Physical Infrastructure

- Amenity and Safety
- Planning Obligations

Town Centres & Retailing

- 6.5 The defined Market Towns across Ryedale are a focus for business and generate economic growth, helping to create jobs, lifting local incomes and attracting investment and visitors. They also provide shops and essential services for local people and surrounding village communities and act as a focus for cultural activities, leisure and recreation and supporting the specific role of each of the Town Centres is central to the Local Plan Strategy.
- 6.6 The Local Plan Strategy acknowledges that Malton Town Centre is the main town centre serving the District, offering the most extensive range of retail and other town centre uses, including a good range of independent retailers and a strong food offer from modern delis, traditional butchers and grocers selling high quality and often locally sourced provisions. It is also recognised that the Town Centre has proved resilient to prevailing economic conditions and, whilst there were a number of shop closures following the onset of the recession, vacancy levels have subsequently fallen with the opening of a mix of new independent retailers and national retailers. In addition, it is suggested that events such as the Malton Food Lovers Festival are attracting new and repeat visitors to the town.
- 6.7 Notwithstanding this, the Local Plan Strategy recognises that Malton is not achieving its full potential and has experienced a continued decline in national retail rankings over the last decade due to the lack of national retailer representation to complement the strong independent offer. The Local Plan Strategy therefore acknowledges that action needs to be taken to build upon the opportunities to support and enhance the role of the town, particularly as the District's main centre for shopping. Malton Town Centre currently lacks a range of suitably sized shops and shop formats that would be attractive to high street multiple retailers that would help to address key gaps in existing provision, notably fashion retailing. In addition, the Local Plan Strategy acknowledges that choices of supermarket shopping are limited, with a predominance of discount type food stores and only one supermarket offering a wide range and choice of goods. The Ryedale Retail Capacity & Impact Assessment Update prepared by Roger Tym & Partners, which formed part of the evidence base for the preparation of the Local Plan, suggests that broadening the range and choice of shops at Malton will be integral to the long term success of the town, given nearby larger centres. This includes a requirement for further additional non-food shops and improving the supermarket offer to include provision for a higher order food store.
- 6.8 In reflection of Malton's role as the main retail centre serving Ryedale, the Local Plan Strategy seeks to direct most new retailing and town centre uses to Malton in order to support and promote its role as a shopping destination, employment, leisure and cultural centre for Ryedale. It is important that new uses are located close to the Town Centre, in order to maximise linked trips which will help to support existing town centre businesses and therefore the vitality and viability of the town centre as a whole. The Malton Town Centre Commercial Limits define the predominant extent of the Town Centre and its Primary Shopping Area. However, the Local Plan Strategy acknowledges that this area forms part of the medieval historic core of the town and, as a result, the opportunities to accommodate the amount of new retail space required within the current commercial limits and in the formats that provide for modern retail requirements are very limited.

- 6.9 However, the Strategy recognises that excellent edge of centre opportunities exist to accommodate new retail floorspace to support the role of Malton Town Centre. A ‘*Northern Arc*’ is identified to the north of the town, which stretches from the existing Livestock Market to Wentworth Street Car Park. The Local Plan Strategy outlines that, whilst the broad ‘*Northern Arc*’ area is not derelict, parts of it are underused and there are clear opportunities to redevelop sites and buildings to accommodate additional retail space with excellent connectivity with the existing Town Centre. The Local Plan Strategy does not allocate specific sites within the ‘*Northern Arc*’ for new uses, however, the livestock market area is identified as being of strategic significance, providing a key opportunity to accommodate a mix of uses and, in particular, to provide much needed space for additional non-food retailing to form a logical extension to the Town Centre, once developed. The Livestock Market site benefits from an extant outline planning permission for the demolition of the existing livestock market buildings and the erection of 4 No. retail units with a total combined gross external floorspace of 4,092 sq.m. The main approved retail unit comprises of a convenience foodstore with a gross external floorspace of 2,360 sq.m, with the 3 No. smaller units providing a gross external floorspace of 1,732 sq.m. Condition 16 of the outline planning permission requires that the approved development shall provide a minimum of 1,575 sq.m (gross internal area) of comparison goods floorspace.
- 6.10 In this context, Policy SP7 (Town Centres & Retailing) of the Local Plan Strategy therefore confirms that the Town Centres will be the focus for a diverse range of uses in the District. This will principally include retail activity and will also provide a focus for commercial and leisure uses, entertainment facilities, cultural activity and tourism. The policy suggests that new retail development will be accommodated in line with the Town Centre Hierarchy, which defines Malton as the Principal Town Centre and Norton, Pickering, Kirkbymoorside and Helmsley as Local Town Centres. Retail and other town centre development of a scale appropriate to these roles will be supported where proposals maintain and enhance the vitality and viability of each Town Centre.
- 6.11 Policy SP7 goes onto suggest that new retail development will provide a strong retail mix in terms of its type, range and quality which will address quantitative deficiencies in non-food (comparison) retailing, provide an improved range and choice of food (convenience) retailing and provide greater range and choice of modern purpose built shop unit sizes, particularly in Malton. Policy SP7 confirms that 70% of new comparison retail floorspace will be directed towards Malton and Norton, which equates to approximately 5,394 sq.m (net) of new floorspace minus current commitments. In terms of convenience floorspace, Policy SP7 outlines that current commitments account for the quantitative food convenience retail to 2026. However, should any commitments fail to come forward, any additional convenience floorspace will be directed to Malton.
- 6.12 In addition, Policy SP7 confirms that appropriate land allocations at Malton will be made through the Local Plan Sites Document to accommodate the identified retail need at the time, taking into account commitments. A local floorspace impact threshold will also be applied for the assessment of planning applications for main town centre uses outside of the defined Town Centre Commercial Limits and not in accordance with the Plan. Where a proposal involves a combination of convenience and comparison floorspace, as is the case with the current application proposals, the threshold is set at 1,000 sq.m of the total gross retail floorspace of the scheme.
- 6.13 The NPPF, published in March 2012, sets out central Government’s policies on, *inter alia*, ensuring the vitality of town centres and is a material consideration in the determination of the planning application. Paragraph 23 of the NPPF confirms that local planning authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.

- 6.14 They should also promote competitive town centres that provide customer choice and a diverse retail offer and it is suggested that it is important that needs for retail uses are met in full and are not compromised by limited site availability.
- 6.15 Paragraph 24 of the NPPF confirms that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and, only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should also demonstrate flexibility on issues such as format and scale.
- 6.16 Paragraph 26 of the NPPF advises that, when assessing applications for main town centre uses (including retail) outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set threshold. As detailed above, Policy SP7 of the Ryedale Plan – Local Plan Strategy confirms that the threshold is set at 1,000 sq.m of the total gross retail floorspace of the scheme where a proposal involves a combination of convenience and comparison floorspace. Paragraph 26 of the NPPF confirms that the impact assessment should include an assessment of:
- The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.
- 6.17 Paragraph 27 of the NPPF advises that, where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on existing, committed and planned public and private investment in a centre or centres and / or on the vitality and viability of a town centre, it should be refused.
- 6.18 The planning application is accompanied by a Retail Statement prepared by NLP, which assesses the proposals against the key retail policy tests set out within the NPPF. The application of the sequential test and impact of the proposals on the vitality and viability of the town centre is also a fundamental concern of the objections to the proposals received from Malton Town Council, Norton Town Council, Peacock & Smith (on behalf of Morrisons), GVA (on behalf of Fitzwilliam Estates), Malton & Norton Area Partnership, Councillor Andrews, as well as the majority of objections received from local residents.
- 6.19 The Council have therefore appointed England & Lyle Limited to undertake an independent review of the retail policy implications of the proposed development. In addition to the retail policy advice provided by England & Lyle, the Council have also appointed property specialists DTZ to advise on the commercial retail considerations in relation to the planning application. The advice provided by DTZ is concerned with operator requirements / demand for foodstores in Malton and Ryedale as a whole; conclusions regarding the commercial attractiveness and deliverability of the application proposal; and queries / statements relating to the attractiveness, deliverability and viability of the approved Livestock Market scheme.

- 6.20 Fitzwilliam (Malton) Estates have raised concerns that, as the freehold interest in the application site is owned by the Council, the application should not be assessed by the Council's own officers. However, there is no legislative impediment to the Council determining the application in the ordinary way based upon sound planning reasons.

Sequential Test

- 6.21 The NPPF requires that planning applications for main town centre uses, which are not in a defined centre and do not accord with an up-to-date Development Plan should be subject to a sequential test. Such uses should be located in town centres, followed by edge-of-centre locations and, only if suitable sites are not available, should out-of-centre sites be considered. When considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites that are well connected to the town centre.
- 6.22 The application site is located approximately 30m walking distance from the northern edge of the defined Town Centre Commercial Limits and also lies within the 'Northern Arc' area defined by the Local Plan Strategy. Annex 2 of the NPPF defines 'edge of centre' for retail purposes as a location that is well-connected and up to 300m from the Primary Shopping Area. A Primary Shopping Area is not specifically defined within Malton Town Centre within any development plan document, although Policy SP7 does refer to specific streets which can be classed as containing Primary Shopping Frontages. Given that the site only lies approximately 30m from the northern edge of the Town Centre Commercial Limits and enjoys excellent connectivity with the wider town centre, it is clear that the application site can be defined as edge-of-centre for the purposes of the application of the sequential test.
- 6.23 The recently published National Planning Practice Guidance (NPPG) sets out considerations that should be taken into account in determining whether a proposal complies with the sequential test:
- With due regard to the requirement for flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge-of-centre or out-of-centre location, preference should be given to accessible sites that are well-connected to the town centre. Any associated reasoning should be set out clearly.
 - Is there scope for flexibility in the format and / or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge-of-centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
 - If there are no suitable sequentially preferable locations, the sequential test is passed.
- 6.24 The proposed development comprises of a new foodstore of 4,530 sq.m gross floorspace, an associated petrol filling station, a smaller non-food retail unit (comprising 227 sq.m gross), office space (253 sq.m) car parking, servicing, highways works and hard and soft landscaping. Officers are of the opinion that there are no in-centre sites within Malton or any other designated centres within the catchment area of the proposed development that are capable of accommodating the proposed development. Indeed, with particular reference to Malton, the Local Plan Strategy acknowledges that *'the Malton Town Centre Commercial Limits define the predominant extent of the Town Centre and its Primary Shopping Area. However, this area forms part of the medieval historic core of the town and, as a result, the opportunities to accommodate the amount of new retail space required within the current commercial limits and in the formats that provide for modern retail requirements, are very limited.'*

6.25 Whilst a minimum site area of 1.5ha would be required to accommodate the proposed development, the Updated Retail Statement that accompanies the application assesses all potential alternative sites within / to the edge of centres across Ryedale, as follows:

- Former Mount Hotel Site, Malton;
- York House, Malton;
- Malton Tennis Club Site;
- Land at Pasture Lane, Malton;
- Former Clothing Factory, Welham Road, Malton;
- St. Nicholas Car Park, Norton;
- Land North of Church Street, Norton;
- Vivis Lane, Pickering;
- Other Sites in Pickering;
- Town Farm Car Park, Kirkbymoorside;
- Land South of New Road, Kirkbymoorside

6.26 It is accepted that none of the sites identified above are suitable alternatives to the application site to accommodate the scale and type of retail development proposed by the current application.

6.27 The Livestock Market Site in Malton is also considered in detail within the submitted Updated Retail Statement. The Livestock Market site benefits from an extant planning permission for retail development for four new retail units, comprising of a 2,360 sq.m (gross) foodstore and three smaller comparison goods units (1,732 sq.m gross in total) and a three-storey car park, granted on appeal on 29th October 2012. The Inspector concluded that the Livestock Market site was both sequentially preferable to the WSCP site to accommodate the actual development proposed but also that the Livestock Market site was generally sequentially preferable, stating at Paragraph 32:

'However, whilst it is common ground that the grant of planning permission for a larger store on the WSCP site would make it more difficult for an operator to be found for the appeal proposal, this underscores the need and purpose of the sequential approach in seeking to promote and strengthen town centres. Despite the Officers' conclusion in the LM Committee Report, the submitted evidence as a whole, leads me to conclude that the WSCP site is a sequentially less preferable edge-of-centre site than the appeal site. Moreover, having visited both sites as part of my inspection, I consider that a development on the WSCP site would have poorer pedestrian links to the town centre than the LM site, notwithstanding the fact that enhancement works to the connecting route are proposed.'

6.28 The Livestock Market Inspector's Appeal Decision is an important material consideration and must carry significant weight in decision-making. However, it is not a binding precedent. The Inspector's conclusion as to why the Livestock Market site is sequentially preferable to the WSCP is not fully reasoned other than pointing to poorer pedestrian links. The issue of sequential preference is one for informed planning judgement. Officers have commissioned an independent review of the applicant's Updated Retail Statement by England & Lyle, who have submitted a report dated February 2014. In the report they consider whether the Livestock Market site is sequentially better located than the WSCP site. England & Lyle note that both sites are within the 'Northern Arc' and that the differences in accessibility to the town centre are minimal. Officers agree, for the reasons set out below that the differences are so negligible that the sites are, for all practical purposes, on an equal footing in terms of sequential testing.

- 6.29 The Livestock Market Site lies adjacent to the defined Town Centre Commercial Limits of Malton Town Centre and is therefore located slightly closer to the town centre than the application site, although the difference is minimal given the application site itself only lies 30m from the Town Centre Commercial Limits and it is noted that both sites lie within the extent of the 'Northern Arc,' which is identified as an area that offers opportunities to redevelop sites and buildings to accommodate additional retail space with excellent connectivity with the existing Town Centre. Furthermore, it is considered that there are minimal differences between the sites in terms of accessibility and connectivity with the town centre, and the consequent ability to generate linked trips. Both sites offer easy access to the town centre for pedestrians using existing connections that are easy to follow. On this basis, it is considered that the application site and Livestock Market site should be considered as being '*sequentially equal.*'
- 6.30 It is noted that applications for planning and listed building consent have recently been submitted by Fitzwilliam (Malton) Estates for the erection of a two storey retail extension to existing store with attached stairwell building on three levels and external flight of steps together with formation of retail unit(s) on two floors within Building D to include installation of new shop fronts, windows and chimneys all following removal of three existing outbuildings (LPA Ref. 14/00059/FUL & 14/00060/LBC) at Kings Head Yard, which lies to the direct south of the consent Livestock Market site. The Planning Statement that accompanies the Kings Head Yard application confirms that the development proposed can be viewed as a stand-alone proposal, albeit a precursor to the Livestock Market development. It is suggested that the proposed development will support the expansion of an existing retail business, as well as opening up a key route into the town centre from the Livestock Market development and residential properties to the east. It is accepted that the Kings Head Yard proposals will provide an improved link between the town centre and the Livestock Market site, however, these improvements are not considered to be so significant as to alter the conclusion that the Livestock Market site and WSCP should be considered '*sequentially equal,*' notwithstanding the fact that the Kings Head Yard proposals do not yet benefit from planning and listed building consent.
- 6.31 Notwithstanding this, in applying the sequential test, Paragraph 24 of the NPPF confirms that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. In this respect, as outlined above, the NPPG confirms that it is necessary to consider whether there is scope for flexibility in the format and / or scale of the proposal. It is not necessary to demonstrate that a potential town centre or edge-of-centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
- 6.32 The NPPG also advises that the use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification must be provided where this is the case and land ownership does not provide such a justification. The NPPG also recognises that, as promoting new development in town centre locations may be more expensive and complicated than elsewhere, local planning authorities need to be realistic and flexible in terms of their expectations.
- 6.33 Furthermore, where alternative sites are to be considered, their suitability should be assessed in terms of their physical capability to accommodate the form of development proposed in the application (*Tesco Stores Limited v Dundee City Council [2012] UKSC13*), subject always to the requirement to demonstrate an appropriate degree of flexibility.

6.34 Peacock & Smith have lodged an objection to the application on behalf of Morrisons and suggest that the applicants have not shown sufficient flexibility in their design and layout to enable the Livestock Market to accommodate the proposal. Given that the Livestock Market site is also edge-of-centre and is not sequentially preferable to the application site, it is not necessary for the applicant to demonstrate that the Livestock Market site cannot accommodate a proposal of the type the subject of the application. Nonetheless, the applicant has addressed the issue and has identified that there is an urgent need for a new large foodstore in Malton capable of meeting main / weekly food shopping needs and providing effective competition to both Morrisons at Castlegate and other large stores located outside Ryedale District, thereby reducing the need to travel to such stores. It is also identified that there is a need to enhance the existing choice of petrol filling stations serving the local area. It is suggested that the current application proposals seek to meet these needs and respond to the requirements of retail operators. The applicant contends that there are a number of reasons why the Livestock Market site is not suitable to accommodate a new store of a similar size to that proposed as part of the current application, which are summarised as follows:

- **Site Size** – the Livestock Market site extends to 0.9ha and is therefore too small to accommodate a large foodstore with associated customer parking and servicing requirements that is capable of meeting main food shopping needs. There is no prospect that a foodstore of the scale proposed by the application could be accommodated on the Livestock Market site, even before account is taken of the proposed petrol filling station and the need to provide servicing requirements for the store which do not impact upon highway safety.
- **Shape of Site** – the site is irregular in shape and, accordingly, it is clear that the Livestock market site could not accommodate a store with a footprint comparable to the WSCP scheme. Furthermore, given the irregular shape of the site, it is difficult to see how the site could accommodate a foodstore materially larger than that previously granted planning permission.
- **Heritage** – the Livestock Market site lies immediately adjacent to both the Malton Conservation Area and a number of existing listed buildings. Although the Inspector concluded that the approved scheme would not have an adverse impact on the setting of the heritage assets, the impact of a store around twice the size would clearly be more significant, particularly given the size and irregular shape of the site, and there is no evidence to suggest a scheme could be designed which would not harm the setting of the Conservation Area and listed buildings.
- **Access / Highways Impact** – access to the Livestock Market site is gained from a number of small town centre roads, none of which are of a suitable standard to serve a large foodstore development in terms of both customer access / egress and servicing. There is also evidence of significant on-street parking in the vicinity of the site, parking which would inevitably be displaced into surrounding streets, including residential areas. It is difficult to see how the development of a foodstore around twice the size of that approved on the Livestock Market site, and its related traffic generation, could be satisfactorily accommodated, in terms of both parking demand and vehicular impact. The additional traffic generated by a larger store simply could not be accommodated on this section of the local highway network, without significant adverse impacts.
- **Residential Amenity** – there are a number of residential properties located on the northern boundary of the site at its eastern end along Victoria Road. Whilst the Inspector accepted that the approved Livestock Market site scheme would not have an adverse impact upon the living conditions of these properties, it is likely to be difficult to accommodate a new foodstore of around twice the size of that approved, along with the associated petrol filling station and servicing requirements, without having such an impact.

- 6.35 The applicant's supplementary information concludes that, in the context of the issues outlined above, a large foodstore on the Livestock Market site, which is comparable to that proposed by the current application, could only be developed over two or more storeys. It is also likely that such a store would need to be accommodated by decked parking, in order to provide a sufficient number of spaces. The applicant contends that this would be unacceptable to the main foodstore operators, who do not split their convenience goods sales area over different floors and such a compromised scheme would be highly unlikely to attract any retailer interest. These findings have been broadly endorsed by DTZ, who were appointed by the Council to advise on the commercial retail considerations in relation to the planning application. The applicant also suggests that it is also highly questionable as to whether a scheme could be developed which would be satisfactory in heritage, residential amenity and highways / transportation terms.
- 6.36 The applicant's findings in this respect are broadly accepted and, even taking into account the scope for flexibility in the format and scale of the proposal, it is not considered that the Livestock Market site offers a suitable practical alternative to accommodate the proposed development. However, even if the Livestock Market site was considered to be a suitable practical alternative to accommodate the proposed development, the WSCP and Livestock Market sites are considered to be '*sequentially equal*' and, accordingly, would not result in the sequential test being failed.
- 6.37 The NPPG advises, in applying the sequential test, that it is necessary to consider what contribution more central sites are able to make individually to accommodate the proposal and it is noted that an objection received from GVA on behalf of Fitzwilliam (Malton) Estates suggests that the sequential assessment has failed to consider whether there are available sites within or better integrated sites on the edge of the town centre that could accommodate the proposed smaller retail unit. The constituent main town centre elements of the application proposals comprise of a foodstore (4530 sq.m), a retail unit (227 sq.m) and office accommodation (253 sq.m) and, based upon Officer's local knowledge of centres and a review of commercial property websites to identify potential available sites / premises, Officers are satisfied that there are no suitable and available sequentially preferable premises or potential development sites that could accommodate any of the constituent main town centres uses. Furthermore, it is considered that the provision of the stand alone retail unit provides benefits from a design perspective, helping to create an active and interesting public frontage along the Wentworth Street frontage.
- 6.38 It is therefore accepted that the application complies with the sequential approach to site selection set out at Paragraph 24 of the NPPF and there are no sequentially preferable sites that are suitable and available alternatives to accommodate a large foodstore development.

Impact Considerations

- 6.39 The NPPF confirms that, when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate locally set threshold (if there is no locally set threshold, the default threshold is 2,500 sq.m). Policy SP7 of the Ryedale Plan – Local Plan Strategy confirms that where a proposal involves a combination of convenience and comparison floorspace, as is the case with the current application proposals, the threshold is set at 1,000 sq.m of the total gross retail floorspace of the scheme. The current application proposals include a new foodstore of 4,530 sq.m gross floorspace, a smaller non-food retail unit (comprising 227 sq.m gross) and office space (253 sq.m) and therefore exceed both the locally set threshold and the default threshold contained within the NPPF for the requirement for an impact assessment.

- 6.40 Paragraph 26 of the NPPF confirms that the impact assessment should take account of:
- The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.
- 6.41 Paragraph 27 of the NPPF confirms that where an application is likely to have a significant adverse impact on one or more of the above factors, it should be refused.
- 6.42 The planning application is accompanied by an Updated Retail Statement prepared by Nathaniel Lichfield & Partners. The impact assessment contained within the Updated Retail Statement considers two potential scenarios:
- **Scenario 1** – this is based upon what NLP regard as the '*most realistic scenario*' taking into account advice received from commercial agents outlining a lack of operator interest in the Livestock Market Site. This scenario therefore assumes that WSCP site is developed for a new large foodstore in isolation over the period to 2018.
 - **Scenario 2** – this scenario considers a situation whereby a store of the size approved on the Livestock Market site is developed out over the longer period to 2023, although NLP suggest that this scenario is unlikely.
- 6.43 NLP state that the assumption that the Livestock Market store comes forward over the period to 2023 is considered to be a cautious approach, particularly in the context of the views from their commercial agents that there is no demand for a foodstore of the size currently proposed on the Livestock Market site and that the approved scheme is undeliverable. Notwithstanding this, the Retail Review undertaken by England & Lyle agrees that Scenario 2 represents a possible cumulative impact situation in Malton if both schemes were to be developed.
- 6.44 England & Lyle have therefore undertaken an independent review of the retail impact assessments for convenience and comparison goods and have fully reviewed NLP's Scenario 1 and Scenario 2 assumptions. In addition, although NLP have not considered the potential cumulative impact of the proposed and consented development on the WSCP site and Livestock Market site coming forward by 2018, England & Lyle have reviewed a scenario for 2018 in which both schemes are developed for sensitivity purposes.
- 6.45 It is noted that Fitzwilliam (Malton) Estates have suggested that they would not bring forward the approved Livestock Market site if the current proposals are approved and this would represent a significant impact on planned investment in the town centre. However, the Livestock Market lies to the northern edge of the defined Town Centre Commercial Limits and is not therefore in-centre, which is a pre-requisite of the impact test contained at Paragraph 26 of the NPPF. In any event, the Livestock Market site is a sequentially equivalent site to WSCP. It is noted that the Local Plan Strategy identifies that the Livestock Market site abuts the existing town centre and has the ability, once developed, to form a logical extension to the town centre. Whilst the WSCP lies slightly further from the town centre, the difference is minimal and both sites lie within the identified '*Northern Arc*,' which is identified as an area that offers potential to redevelop sites and buildings with excellent connectivity to the town centre. It is considered that the application proposals provide an opportunity to improve choice and competition in Malton and to claw back expenditure, thus helping to broaden the town's consumer base.

The site's location in the 'Northern Arc,' as well the proposed improvements to pedestrian linkages and the applicant's commitment to the provision of three hours free parking, will also act to encourage linked trips and, as such, it is considered that the WSCP also has potential to form an extension to the town centre. Notwithstanding this, the impact of the application proposals upon the consent scheme for the Livestock Market site will be fully considered within this Committee Report.

The Retail System in Ryedale

- 6.46 Malton town centre is the principal town centre in Ryedale District, and contains a range of uses which serve the retail and service needs of both residents in the town itself, and the district as a whole. It has been the 'market town' for the surrounding area for many centuries. Its present offer includes Morrisons supermarket on Castlegate, within the town centre boundary, a small Sainsbury's Local store in Newbiggin, just within the town centre boundary, and a range of smaller specialist food shops. The District also includes the smaller centres of Norton, Pickering, Kirkbymoorside and Helmsley. All of these centres contain a range of uses which meet the day to day needs of their respective catchments, which generally comprise the town itself, and the surrounding rural areas. Just outside of the district but within a comparatively easy car journey are the larger retail centres of York and Scarborough, as well as large out-of-centre developments such as Monks Cross.
- 6.47 There are several commitments for new retail development in the District. In Pickering a new Lidl discount store has recently opened. In Malton outline planning permission was granted on appeal in October 2012 for redevelopment of the Livestock Market site on the edge of Malton town centre for a foodstore of 2,360 sq.m. gross and three unit smaller units comprising 1,732 sq.m. gross. In Kirkbymoorside there are planning consents for a Tesco supermarket and a smaller food store approved in February 2014, both outside the town centre. Planning permission was granted for the development of an Aldi discount foodstore on Welham Road, Norton in February 2013. However, it is understood that Aldi have subsequently withdrawn from this scheme and the permission will not be implemented as approved. A subsequent planning permission was granted for comparison goods retail units and a children's day nursery on the same site in July 2013.
- 6.48 The study area used in the Ryedale Capacity Study has been adopted by the applicants as the catchment area of the proposed retail development. The definition of the catchment area has been criticised by Peacock & Smith on behalf of Morrisons and by some other objectors to the application. The criticism is that residents of some of the outer zones in the study area live closer to large foodstores in Scarborough, York and Thirsk for main shopping and so are unlikely to shop in Malton if a new large foodstore opens on the WSCP site. The validity of the definition of the catchment area can be assessed by analysing the pattern of main food and grocery shopping to Morrisons in Malton using data from the household survey carried out for the Retail Study, and inevitably at the edges of a primary catchment area there will be overlapping catchments of other centres. Shopping patterns to Morrisons can also be considered to be a good indicator of the likely pattern of main food shopping to the proposed foodstore on the WSCP site.
- 6.49 Morrisons in Malton draws its main food shopping trade from all parts of the study area, with the exception of a small rural area outside Ryedale District on the edge of Scarborough, where residents understandably look more towards Scarborough for shopping. In the vast majority of the study area a large proportion of residents mostly visit Malton for their main food shopping. The area used by NLP as the catchment area of the proposed store is acceptable. This area is the 'primary catchment area' of the store. It is estimated that 15% of the turnover of shops in centres in Ryedale is drawn from outside this primary catchment area and it is agreed that 15% of the turnover of the proposed store is also likely to come from beyond the primary catchment area, including visitors to Malton.

The Morrisons store in Malton is trading extremely well and, whilst the store was extended in 2010, it continues to display symptoms of overtrading in both quantitative and qualitative terms, as set out in further detail below.

- 6.50 In convenience goods, 68% of residents' expenditure is spent in centres and stores within the study area, representing a 32% leakage of spending. Most of this leakage is going to Morrisons in Eastfield at the southern edge of Scarborough, and the Asda and Sainsbury's stores at Monks Cross in York, followed by Sainsbury's in Scarborough, Tesco at Clifton Moor in York and Tesco in Thirsk. It is agreed that there is significant scope to 'claw back' spending currently flowing to retail facilities outside of the district, through new development which enhances the existing range and choice of provision in Ryedale.
- 6.51 In comparison goods, about 31% of residents' expenditure is spent in centres and stores within the study area, representing a 69% leakage of spending. Most of this leakage is going to York city centre, Scarborough town centre, Monks Cross and Clifton Moor in York, and the factory outlet shopping centre at Naburn south of York. The planning permission recently granted for a significant amount of new retail floorspace at Monks Cross (including a John Lewis store) is likely to attract shoppers from Ryedale and further increase leakage from the study area.
- 6.52 The analysis of shopping patterns in the local area shows a high level of over-trading in the Morrisons store in Malton. 'Over-trading' is the extent to which the Morrisons store has an actual turnover higher than its benchmark or company average turnover. Peacock & Smith have claimed that, although Morrisons was over-trading in the past, it is no longer over-trading since the store was extended in 2010. The evidence from the household survey, carried out in 2011 after Morrisons' extension was built, is that the Morrisons store is still trading extremely well at a level around 60% higher than the company's benchmark level.
- 6.53 Malton town centre has a good level of vitality and viability. It provides an attractive shopping environment. The centre appears to be performing well at its level in the retail hierarchy, with a wide range of uses which meet day to day shopping and service needs, and acts as a focus for the local community. It contains several multiples and a good range of independent shops. There are 18 convenience goods shops including Sainsbury's Local and Heron Foods. These shops have been able to co-exist in a complementary way with Morrisons. The vacancy rate is slightly below the current national average.
- 6.54 Pickering, Kirkbymoorside and Helmsley centres have a high level of vitality and viability. In Pickering, whilst the range of uses it contains is limited, the centre is performing well. Kirkbymoorside is also performing well in its role of meeting the day-to-day needs of its catchment population. Helmsley provides an attractive environment for shoppers and visitors. Norton centre has a different and more localised role than Malton town centre. It has a slightly lower but moderate level of vitality and viability.

Retail Capacity

- 6.55 There is no longer a policy test to demonstrate evidence of need for new shopping floorspace for decision taking, although it is acknowledged that quantitative need in terms of retail capacity is a factor in assessing whether a proposed development would have an adverse impact on existing centres. If there is capacity for new floorspace, the likely impact on centres will not be as great as if there is no capacity because centres will be better able to withstand a degree of trade diversion.

- 6.56 Policy SP7 of the Local Plan Strategy indicates that current commitments account for the quantitative convenience retail needs to 2026 and it is noted that a number of objectors to the scheme have contended that there is no need for the foodstore proposed at WSCP, or indeed any other additional convenience retail floorspace beyond existing commitments to 2026, in this context. The recognition within Policy SP7 that current commitments meet convenience retail needs to 2026 was based upon the findings of the *'Ryedale Retail Capacity & Impact Assessment Update'* prepared by Roger Tym & Partners, which formed part of the evidence base for the Local Plan Strategy. However, it should be acknowledged that the Retail Capacity & Impact Assessment Update was prepared in 2011 and it is clearly important that forecasts of need are kept under regular review. The assessment of capacity for additional retail floorspace must be considered on the basis of the latest available evidence to ensure that retail needs are met in full and the current level of forecast convenience retail capacity is therefore considered in detail below.
- 6.57 NLP have updated the capacity analysis in the Retail Study to assess the capacity available to support the new foodstore proposed on the WSCP site taking into account the extent to which the proposed development would increase the existing expenditure retention level by reducing leakage of spending and providing effective competition to Morrisons. It also takes into account the scope of committed developments including the approved scheme on the Livestock Market site, and over-trading in Morrisons. NLP forecast that the quantitative capacity to support new foodstore development in Malton is larger than that identified in the Retail Study. As outlined above, a number of objectors to the scheme have questioned the need for a further foodstore in addition to existing commitments and Peacock & Smith and others have also commented that the assumptions on clawback are over-estimated. It should be noted that claw back is a key element in the assessment of capacity and impact.
- 6.58 An independent review has been made of the assumptions in the capacity analysis, taking account of expenditure growth in the study area, the amount of spending that will be retained in the study area (the retention level), over-trading and the turnover of commitments. In convenience goods, the assessment is that there would be almost sufficient capacity for the proposed foodstore in 2018 as well as the approved store on the Livestock Market site and there would be more than sufficient capacity for both stores in 2023. In comparison goods, there would not be sufficient capacity for the comparison element of the proposed development in 2018 as well as the approved scheme on the Livestock Market site but there would be more than sufficient capacity for both schemes in 2023. The main reason for the forecast of greater capacity than that assessed by Roger Tym & Partners as part of the evidence base for the Local Plan Strategy is that the independent review undertaken by England & Lyle fully takes into account the significant overtrading of the existing Morrisons store. Over-trading should represent the difference between the actual turnover of the store and its *'benchmark turnover.'* The assessment undertaken by Roger Tym & Partners in 2011 made insufficient allowance for overtrading in the Morrisons store. Allowing for all of the overtrading in Morrisons clearly increases the available capacity for convenience retail floorspace..

Retail Impacts

- 6.59 The independent review of the applicant's retail impact assessment provides the basis for advising the Council on the adequacy of the approach adopted by the applicants and the acceptability of the findings and conclusions on retail impact. Impact has been reviewed for convenience and comparison goods. The predicted trading impact of the proposed development has been assessed for 2018 (consistent with NLP's Scenario 1) and then also taking account of the cumulative impact of the scheme on the Livestock Market site in 2018. The cumulative impacts of both schemes in 2023 are also assessed (based on NLP's Scenario 2). An overall assessment has been made of the cumulative impact of the two schemes for convenience and comparison goods combined in relation to the total turnover of stores and centres in 2018 and 2023.

- 6.60 It is anticipated that in convenience goods the proposed development on the WSCP site would draw 15% of its trade from inflow / visitor spending, 40% from clawback of leakage and the remaining 45% from trade diversion within the catchment area. In comparison goods, the proposed development on the WSCP site is expected to draw 15% of its trade from inflow / visitor spending, 55% from clawback of leakage and the remaining 30% from trade diversion within the catchment area. In terms of cumulative impact, it is assumed that, to an extent, the WSCP scheme and the Livestock Market scheme would compete with each other and draw some of their trade from the other scheme, albeit that, were both to commence trading, there is plainly an increased opportunity for clawing back trade to the town which presently leaks outside of the district.
- 6.61 In convenience goods, the largest cumulative impacts of the proposed development together with the Livestock Market scheme and commitments in 2018 are predicted to be on Morrisons in Malton (30%), the Co-op in Pickering (16%), Lidl and Asda in Norton (11%), the new Tesco in Kirkbymoorside (8%), Kirkbymoorside centre (7%) and other shops in Malton (6%). The predicted cumulative impacts in 2023 are very similar to those predicted for 2018 because the turnovers of stores / centres and the turnovers of the proposed schemes have been increased in line with expenditure growth.
- 6.62 In comparison goods, the largest predicted cumulative impacts in 2018, taking account of the Livestock Market scheme and commitments, are on Malton town centre (12%), the Welham Road scheme in Norton (10%), Lidl in Pickering (9%), Tesco in Kirkbymoorside (9%), Pickering centre (5%), the Livestock Market scheme (5%) and the WSCP scheme (5%). Again, the predicted cumulative impacts in 2023 are very similar to those predicted for 2018 because the turnovers of stores / centres and the turnovers of the proposed schemes have been increased in line with expenditure growth.
- 6.63 The overall levels of impact predicted in centres for convenience and comparison goods combined are 22% in Malton (including Morrisons), 5% in Kirkbymoorside, 5% in Pickering, 4% in Helmsley and 3% in Norton. By far the largest overall impacts would be on existing and proposed supermarkets outside these centres. Impacts on stores outside centres are not a material planning consideration because these stores are not protected in terms of planning policy.
- 6.64 The overall trade diversion from Malton town centre as a whole is over 20% but 75% of the total trade diversion in the town centre is from Morrisons. The vast majority of the total cumulative trade diversion from Malton town centre would be from Morrisons which would continue to trade above its benchmark level. The likely impact on other shops in Malton town centre is limited. Less than half of the overall impact on Malton town centre including Morrisons is attributable to the foodstore on the WSCP site and more than half to commitments including the Livestock Market scheme. Most of the anticipated overall trade diversion from Malton town centre is accounted for by developments that have already been approved.

Impact on the Vitality and Viability of Centres

- 6.65 In assessing impact, any possible adverse impacts must be judged against the vitality and viability of centres. Malton, Pickering, Kirkbymoorside and Helmsley centres have a relatively high level of vitality. Norton has a slightly lower but moderate level of vitality and viability. The impact assessment shows that there would not be a significant adverse impact upon the overall vitality and viability of Malton or other centres. The levels of trade diversion predicted, and the assessment of vitality and viability of centres, makes it very unlikely that the adverse impacts on the vitality and viability of centres could be judged to be significant.

- 6.66 In 2018 the total turnover in Malton town centre, including the Livestock Market and WSCP schemes, after trade diversion from Morrisons and other shops, would be 40% higher than its turnover in 2018 without the new developments.
- 6.67 Peacock & Smith claim that the impact on Morrisons has been under-estimated. However, the overall trading impact on Morrisons has realistically been assessed to be 32%. This level of impact has to be judged against the fact that the store is currently trading at a level around 60% above Morrisons' company average turnover. Even taking account of the cumulative trade diversion to the Livestock Market and WSCP schemes, the Morrisons store would still be trading at a higher than benchmark level. The store also continues to show qualitative symptoms of overtrading, including car park congestion and a degree of overcrowding and queuing within the store. There is no reason to expect that a lower turnover in the Morrisons store would have an adverse impact on the vitality and viability of the town centre as a whole.
- 6.68 The applicants argue that, by resulting in more people using Malton for regular food shopping, the proposals will broaden the centre's overall customer base and help to generate additional 'spin-off' spending for town centre traders. Peacock & Smith claim that a loss of trade in Morrisons would result in fewer linked trips to the town centre. However, it is to be expected that the proposed development on the WSCP site, together with the Livestock Market scheme, would generate spin-off trade to other shops and services through linked trips. The applicants also highlight the main positive impacts of the proposed development, as follows:
- Job Creation
 - Improved consumer choice for food shopping in Malton
 - Clawing back trade from more distant locations and promoting a more sustainable pattern of development
 - Regeneration benefits in the redevelopment of a previously developed site, and
 - Sustainable development – reducing travel to large foodstores in Scarborough, York and Thirsk.

Impact on Planned Investment in Centres

- 6.69 Fitzwilliam (Malton) Estates in their objection have stated that they will not bring forward their consented scheme if the current application is approved and this would represent a significant impact on planned investment in the town centre. However, the Livestock Market lies to the northern edge of the defined Town Centre Commercial Limits and is not therefore in-centre, which is a pre-requisite of the impact test contained at Paragraph 26 of the NPPF. In any event, the Livestock Market site is a sequentially equivalent site to WSCP.
- 6.70 Notwithstanding this, in light of the evidence produced in support of the application, advice has been sought by the Council from DTZ on the commercial prospects for development on the WSCP and Livestock Market sites and, in particular, the deliverability of the Livestock Market scheme. The report prepared by DTZ considers a number of factors that would influence the deliverability of the Livestock Market scheme, which are summarised below:

Access & Prominence	<p>The road network in the immediate vicinity is typical of a rural market town being narrow and reflecting the historic layout of the settlement. As such, it is constrained but has coped with the existing vehicle usage associated with the operation of the Livestock Market.</p> <p>Whilst the site is in a good location, the proposed design is inward facing arranged around a small new square. As a result, the retail frontages are hidden from the immediate road network and retail streets, thus lacking prominence sought by foodstore operators.</p>
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Car Parking	<p>An integral part of the proposed scheme incorporates a multi-storey car park, which is an expensive and consequently unusual solution in a rural market town the size of Malton. It is considered a commercial disadvantage by the main foodstore operators.</p> <p>The solution strongly preferred by food store operators is a surface level car park at the same grade as the store sales area allowing customers to park next to, or near the store entrance. The multi-storey car park proposed at the Livestock Market site will be a major compromise for all food store operators.</p>
Size & Layout	<p>The size of the consented anchor store is below the potential requirements of Booths, Sainsburys and Tesco. It is also larger than Aldi require for a new store in Malton. The outline consent, as currently configured, does not match any of the potential requirements identified for Malton.</p> <p>The shape of the consented anchor store requires the main foodstore operators to compromise their internal layouts, with Booths being the possible exception as it is more flexible in internal layout, adopting an approach which tends to be bespoke to individual locations. The anchor store footprint is smaller than the more usual Booths stores and the multi-storey car park will also not be acceptable to Booths. It is therefore concluded that the scheme will not be considered by the operator in its outline consented form.</p>
Petrol Station	None
Deliverability	<p>The scheme has outline planning permission and the expectation in a competitive market is for the development process to have commenced, driven by the anchor store i.e. a foodstore. In a competitive market, it is in the interest of the developer and occupier to get ahead of competing schemes, particularly in a location with a small market in order to secure an operator. There is no evidence of marketing or development activity on the Livestock Market and the implication is there is no occupier interest for the anchor store.</p> <p>The site is owned by Fitzwilliam (Malton) Estates, with the exception of existing highways which will require road closure orders before the consented scheme can be delivered. It should also be noted that it is very likely that there will be sewers and other statutory services buried under the adopted roads. These will require termination, relocation or redirection prior to the start of construction as part of the usual development process. There is little on-site activity to suggest this is taking place.</p> <p>In addition, the Livestock Market remains operational though it is understood the lease expired in 2013. It is understood the current tenant operating the Livestock Market has a new lease which contains a rolling break clause operable with three months notice. This allows Fitzwilliam Estates to secure possession for redevelopment when required.</p> <p>These factors will cause delay to delivery if they have not yet been dealt with by Fitzwilliam Estates. If they have not been investigated thoroughly, they could frustrate the development and prevent delivery of the consented scheme.</p>

- 6.71 On this basis, DTZ conclude that, whilst the Livestock Market site is located closer to the prime retail core than WSCP, the existing form of the consented scheme including the multi-storey car park, floor area and layout of the anchor store will deter the foodstore operators from seriously considering it. DTZ suggest that it is difficult to conceive this scheme will be of interest to Aldi, Booths, Sainsburys or Tesco in its consented form. It is concluded that the location may appeal to Booths or Aldi but not in the form of the consented scheme. It will require a redesign to include a surface car park that correlates to a scheme more suited to either Booths or Aldi, although such a redesign will be challenging to achieve.
- 6.72 However, following receipt of the advice received from DTZ, further correspondence was received from GVA, acting on behalf of Fitzwilliam (Malton) Estates, providing confirmation that Booths are in the process of negotiating an Agreement to Lease in respect of the approved foodstore on the Livestock Market site. The Letter of Support received from Booths appended to the GVA letter dated 11th March 2014 confirms the following:
- The store as approved is consistent with meeting the identified need in the Malton catchment;
 - They will be able to provide a full range of convenience goods, increasing choice and competition.
 - The current outline planning consent demonstrates to their satisfaction that they can achieve a store of the size and layout required with adequate parking and servicing; and
 - They remain very concerned regarding the GMIHL application on the Wentworth Street Car Park site.
- 6.73 A further letter from Booths dated 1st April 2014 was subsequently submitted by GVA on behalf of Fitzwilliam (Malton) Estates. The correspondence reiterated that the outline consent for the Livestock Market site is acceptable and that Booths would like some input into the details to be submitted as part of the Reserved Matters process. Booths therefore have an interest in the Livestock Market site, which is to be welcomed. However, their interest is predicated upon the agreement of commercial terms and a suitable design, hence their desire for an input into the Reserved Matters submission for the Livestock Market site.
- 6.74 Despite the advice received from DTZ highlighting concerns over the deliverability of the approved foodstore on the Livestock Market site, the subsequent correspondence received from GVA highlights retailer interest on behalf of Booths and suggests that the outline consent delivers a store and layout with adequate parking and servicing to meet their requirements. The confirmation of interest from Booths in the approved scheme on the Livestock Market site is acknowledged and Booths will be a welcome addition to the retail offer in Malton. However, the expression of interest in the Livestock Market site from Booths should not, in Officer's view, be seen as a reason to prevent the provision of a larger foodstore on the WSCP.
- 6.75 The independent review of the application undertaken by England & Lyle illustrates that, whilst the capacity for two new foodstores (i.e. Livestock Market site and WSCP) in 2018 is marginal, the impact assessment demonstrates that the two stores would not have a significant adverse impact on town centre vitality and viability in 2018, which is the policy test set out in the NPPF. Furthermore, there would be more than sufficient capacity in both convenience and comparison goods for both stores in 2023, based on a revised and more up-to-date assessment than that used to inform the preparation of the Ryedale Plan – Local Plan Strategy. Although it is evident that a Booths store would provide an improved range and choice of convenience retailing, as sought by the Local Plan Strategy, it is accepted that another large foodstore in Malton would provide choice and competition for Morrisons and claw back leakage that is going to stores elsewhere and this has been reflected within a number of letters of support received from local residents in respect of the application. A large foodstore on WSCP and a Booths store on the Livestock Market site would have a complementary role to one another.

- 6.76 The correspondence received from GVA indicates that Booths remain ‘*very concerned*’ regarding the WSCP proposals, although it is not explicitly stated that they would not proceed if the WSCP proposals were approved and it is noted that Booths have expressed an interest in the Livestock Market site in full knowledge of the planning application that has been made on the WSCP site. Fitzwilliam (Malton) Estates have, however, suggested that they be unlikely to bring forward the Livestock Market site scheme if the WSCP proposals were approved, which would represent a significant impact on planned investment in the town centre. However, Officers are of the view that this statement should be treated with a degree of caution given that, whilst ‘*very concerned*,’ Booths have not explicitly stated that they would not proceed with a store on the Livestock Market site were the WSCP proposals to be approved. With this in mind, there is no reason to believe that further investment in the Livestock Market site in the form of comparison shopping development would not follow the development of a Booths store, as it is considered that Booths would act as a catalyst for the development of the consented non-food retail units. On this basis, Officers are of the opinion that Fitzwilliam (Malton) Estates’ comments in respect of not bringing forward the Livestock Market site should planning permission be forthcoming for the WSCP proposals should be treated with a degree of caution.
- 6.77 Notwithstanding this, the Livestock Market site lies to the northern edge of the town centre and is not therefore ‘*in-centre*,’ which is a pre-requisite of the impact test contained at Paragraph 26 of the NPPF and, in any event, the Livestock Market site is a sequentially equivalent site to WSCP. The planned investment within the Livestock Market site is not therefore conferred policy protection under the provisions of the impact test contained at Paragraph 26 of the NPPF and, as such, any impact on investment in the Livestock Market site would not form reasonable grounds for refusing planning permission for the WSCP proposals.

Summary of Retail Policy Considerations

- 6.78 The application proposals comply with the sequential approach to site selection. No alternative sites offer a suitable alternative to the WSCP site for the scale and type of retail development proposed in the application. The Livestock Market site is not sequentially preferable to the WSCP site; the sites have equal sequential status. Nevertheless, it is not considered that Livestock Market site offers a suitable practical alternative to accommodate the proposed development in any event.
- 6.79 Capacity is not a policy test; it is simply an indicator of whether any retail impact may occur. Policy SP7 of the Local Plan Strategy indicates that current commitments account for the quantitative convenience retail needs to 2026. The recognition within Policy SP7 that current commitments meet convenience retail needs to 2026 was based upon the findings of the ‘*Ryedale Retail Capacity & Impact Assessment Update*’ prepared by Roger Tym & Partners, which formed part of the evidence base for the Local Plan Strategy. However, it should be acknowledged that the Retail Capacity & Impact Assessment Update was prepared in 2011 and it is clearly important that forecasts of need are kept under regular review. The assessment of capacity for additional retail floorspace must be considered on the basis of the latest available evidence to ensure that retail needs are met. The independent assessment of the proposals undertaken by England & Lyle demonstrates that the capacity for the proposed foodstore, as well as the approved scheme on the Livestock Market site, would be marginal in 2018, however, the impact assessment demonstrates that the development of both schemes would not have a significant adverse impact on town centre vitality and viability in 2018, which is the policy test outlined in the NPPF. Furthermore, there would be more than sufficient capacity in both convenience and comparison goods for both stores in 2023, within the Local Plan period.

- 6.80 In assessing impact, any possible adverse impacts must be judged against the vitality and viability of centres. Malton, Pickering, Kirkbymoorside and Helmsley centres have a high level of vitality. Norton has a slightly lower but moderate level of vitality and viability. The overall levels of cumulative impact predicted in centres for convenience and comparison goods combined are 22% in Malton, 3% in Norton, 5% in Kirkbymoorside, 5% in Pickering and 4% in Helmsley. Impacts on existing and proposed supermarkets outside these centres are not a material planning consideration because these stores are not protected in terms of planning policy.
- 6.81 The vast majority of the total cumulative trade diversion from Malton town centre would be from Morrisons, which would continue to trade above its benchmark level. The likely impact on other shops in Malton town centre is limited. It is not anticipated that there would be a significant adverse impact upon the overall vitality and viability of Malton or other centres. The levels of trade diversion predicted, and the assessment of vitality and viability of centres, makes it very unlikely that the adverse impacts on the vitality and viability of centres could be judged to be significant.
- 6.82 It is agreed that the proposed foodstore on the WSCP site is not likely to have any adverse impact upon the ability to bring forward any other planned investment in existing centres. Whilst it has been suggested that Fitzwilliam (Malton) Estates would not bring forward the Livestock Market site scheme, which has secured retailer interest from Booths, if the WSCP proposals were approved, it has been demonstrated that, whilst the capacity for two new foodstores (i.e. Livestock Market site and WSCP) in 2018 is marginal, the two stores would not have a significant adverse impact on town centre vitality and viability in 2018, which is the policy test set out in the NPPF. Furthermore, there would be more than sufficient capacity in both convenience and comparison goods for both stores in 2023, based on a revised and more up-to-date assessment than that used to inform the preparation of the Ryedale Plan – Local Plan Strategy. Although it is evident that a Booths store would provide an improved range and choice of convenience retailing, as sought by the Local Plan Strategy, it is accepted that another large foodstore in Malton would provide choice and competition for Morrisons and claw back leakage that is going to stores elsewhere and this has been reflected within a number of letters of support received from local residents in respect of the application.
- 6.83 Officers are of the view that the statement from Fitzwilliam (Malton) Estates that they would not bring forward the redevelopment of the Livestock Market site if the WSCP proposals are approved should be treated with a degree of caution given that, whilst *'very concerned,'* Booths have not explicitly stated that they would not proceed with a store on the Livestock Market site were the WSCP proposals to be approved. With this in mind, there is no reason to believe that further investment in the Livestock Market site in the form of comparison shopping development would not follow the development of a Booths store, as it is considered that Booths would act as a catalyst for the development of the consented non-food retail units.
- 6.84 Notwithstanding this, the Livestock Market site lies to the northern edge of the town centre and is not therefore *'in-centre,'* which is a pre-requisite of the impact test contained at Paragraph 26 of the NPPF and, in any event, the Livestock Market site is a sequentially equivalent site to WSCP. The planned investment within the Livestock Market site is not therefore conferred policy protection under the provisions of the impact test contained at Paragraph 26 of the NPPF and, as such, any impact on investment in the Livestock Market site would not form reasonable grounds for refusing planning permission for the WSCP proposals.
- 6.85 On this basis, whilst Policy SP7 indicates that there is no requirement for additional convenience floorspace up to 2026, an up-to-date independent assessment has demonstrated that, whilst the capacity for the Livestock Market site and WSCP stores is marginal in 2018, there would be no significant adverse impact on the town centre and there is more than sufficient capacity for both stores in 2023.

Officers are therefore satisfied that a foodstore of the scale proposed on WSCP would comply with the broad thrust and clear aims and objectives of Policy SP7 and would also satisfy the key retail policy tests contained within the NPPF – the sequential and impact tests.

- 6.86 However, compliance with the sequential and impact tests within the NPPF and, in this case, the broad thrust and clear aims and objectives of Policy SP7 of the Local Plan Strategy, does not guarantee that planning permission should be granted – the LPA will have to consider all material considerations in reaching a decision.

Economic Considerations

- 6.87 Paragraph 18 of the NPPF confirms that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future. The guidance goes on to advise that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should act to encourage and not act as an impediment to sustainable growth. The NPPF therefore advises that significant weight should be placed on the need to support economic growth through the planning system.
- 6.88 The Updated Planning Statement that accompanies the application estimates that the proposed development will generate 206 full time equivalent (FTE) jobs in Ryedale, and a further 50 FTE construction jobs. It is noted that a number of objectors have suggested that the application proposals may lead to the closure of a number of retail units and other businesses within the town centre and it is noted that there may be a degree of job displacement resulting from the predicted impact of the proposed development and existing commitments on retail facilities within Malton. However, the vast majority of the total cumulative trade diversion from Malton Town Centre resulting from the proposed development and existing commitments would be on Morrisons, which would continue to trade above its benchmark level. The likely impact on other shops on Malton is predicted to be limited. It is therefore considered that the level of job displacement arising from the proposals will be low and that the applications proposals will, in fact, result in a significant net increase in jobs for residents of Malton and the wider District. The estimated level of job creation is accepted as a substantial positive aspect of the proposed development and is considered to support the Government's objectives to secure economic growth as outlined at Paragraph 18 of the NPPF.
- 6.89 In addition, there is currently a significant degree of leakage of both convenience and comparison expenditure flowing to retail centres outside the District, including York City Centre, Scarborough Town Centre, as well as Monks Cross and Clifton Moor in York. England & Lyle have advised that the proposed development would draw 40% of its trade from clawback of leakage. The anticipated level of clawback will result in more people using Malton for main food shopping and broaden the town's customer base, which will generate 'spin-off' trade to other shops and services through linked trips. A number of objections to the proposals have suggested that the site is located too far from the town centre to generate linked trips and that the proposed improvements to linkages between the site and the town centre will not encourage such trips. However, the site lies approximately 30m to the north of the Town Centre Commercial Limits and currently offers easy access to the town centre for pedestrians using existing routes that are easy to follow. The application also includes improvements to the existing pedestrian linkages, including the provision of a raised table on Wentworth Street, pedestrianisation of Pump Lane, footway improvements to Newbiggin and Finkle Street, provision of controlled pelican crossing on Newbiggin and new signage / information boards and public art / audio trails. The applicant has also set out a commitment to provide 3 hours free parking for all users of the car park, with usage not being conditional upon supermarket patronage.

It is therefore accepted that the proposals offer potential for linked trips between the site and the wider town centre and, coupled with the anticipated clawback of leakage, it is considered that the proposed development will provide benefits for existing traders within the town centre in this regard.

- 6.90 GVA have lodged an objection to the application proposals on behalf of Fitzwilliam (Malton) Estates (FME), which suggests that FME will not bring forward the consented Livestock Market scheme if the WSCP proposals are approved. GVA suggest that this would represent a significant impact on planned investment in the town centre. However, as detailed at Paragraph 6.82, it is considered that the statement of Fitzwilliam (Malton) Estate in this regard should be treated with a degree of caution. Furthermore, the independent impact assessment carried out by England & Lyle demonstrates that, whilst the capacity for two new foodstores (i.e. Livestock Market site and WSCP) in 2018 is marginal, the two stores would not have a significant adverse impact on town centre vitality and viability in 2018, which is the policy test set out in the NPPF. Furthermore, there would be more than sufficient capacity in both convenience and comparison goods for both stores in 2023, based on a revised and more up-to-date assessment than that used to inform the preparation of the Ryedale Plan – Local Plan Strategy. Although it is evident that a Booths store would provide an improved range and choice of convenience retailing, as sought by the Local Plan Strategy, it is accepted that there remains a need for another large foodstore in Malton to provide choice and competition for Morrisons and claw back leakage that is going to stores elsewhere and this has been reflected within a number of letters of support received from local residents in respect of the application. Notwithstanding this, the Livestock Market site lies to the northern edge of the town centre and is not therefore ‘*in-centre*,’ which is a pre-requisite of the impact test contained at Paragraph 26 of the NPPF and, in any event, the Livestock Market site is a sequentially equivalent site to WSCP. The planned investment within the Livestock Market site is not therefore conferred policy protection under the provisions of the impact test contained at Paragraph 26 of the NPPF and, as such, any impact on investment in the Livestock Market site would not form reasonable grounds for refusing planning permission for the WSCP proposals. .
- 6.91 Officers are therefore of the opinion that the application proposals will give rise to substantial economic benefits to Malton and the District as a whole through job creation, clawback of expenditure, enhanced consumer choice in Malton and the creation of linked trips, which would outweigh any possible negative impacts on the town centre. The proposals are therefore considered to broadly support the Government’s stated commitment to securing economic growth in order to create jobs and prosperity, as set out at Paragraph 18 of the NPPF.

Highways

- 6.92 The Local Plan Strategy recognises that although the twin towns will be the focus for new jobs, shops and homes in Ryedale over the Plan Period, they currently experience acute traffic congestion which detracts from their appearance and attractiveness. A package of transport improvement measures has therefore been identified and will be required in order to release additional capacity, manage congestion and improve safety and air quality.
- 6.93 Policy SP10 (Physical Infrastructure) of the Local Plan Strategy confirms that the Council will support, *inter alia*, a requirement for new development schemes, where appropriate, to improve connectivity with existing footpaths, cycle routes, public rights of way and public transport facilities and ensuring an appropriate level of car parking is provided as part of any development scheme. Policy SP20 (Generic Development Management Issues) confirms that new development should ensure that access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians or cyclists.

Policy SP20 also indicates that access into and within buildings will be expected to be of a standard that allows all to access the building unimpeded and a Travel Plan may be required to set out how the use of the building can be made more sustainable by reducing the need to travel by private car.

- 6.94 The application site is currently in use as a surface level pay and display car park with vehicular access currently taken from the north via Smithson Court, from the west via Wentworth Street and from the south via Princess Court. However, between the hours of 18.00 and 06.00, access is restricted solely to the Pasture Lane entry point.
- 6.95 The proposed development will result in the existing vehicular access points from Wentworth Street and Princess Court being closed and vehicular access to the proposed development from these locations being removed. The sole point of vehicular access to the proposed development will therefore be via the existing Pasture Lane access to the north. It is proposed that this access point will be improved as part of the development, which will include the widening of the carriageway to accommodate a dedicated right hand turn lane into the site to avoid blocking the flow of traffic on Pasture Lane and the provision of pedestrian crossing facilities.
- 6.96 It is proposed that undercroft parking will be provided beneath the store with travelators and lifts providing unimpeded access to the store entrance. A total of 452 car parking spaces will be provided across the site, which includes the 'upper deck' of the WSCP to the east of the application site, which will be retained as a town centre car park owned and managed by the Council. The applicant has set out a commitment to provide 3 hours free parking for all users of the car park, with usage not being conditional upon supermarket patronage. The terms of use of the 'upper deck' of the WSCP as a town centre car park will be determined by the Council.
- 6.97 The application also includes improvements to the existing pedestrian linkages, including the provision of a raised table on Wentworth Street, pedestrianisation of Pump Lane, footway improvements to Newbiggin and Finkle Street, provision of controlled pelican crossing on Newbiggin and new signage / information boards and public art / audio trails to improve existing connectivity with the town centre.
- 6.98 A S.106 Agreement will also be entered into, which will secure the following highway matters:
- A contribution towards the implementation of a one-way system on Finkle Street, Newgate and Spital Street together with improvements to footpaths.
 - A contribution towards the introduction of measures to mitigate the impact of congestion at the junction of Town Street and Highfield Road.
 - A contribution towards the costs associated with the making and implementation of Traffic Regulation Orders.
 - A contribution towards the A64 Brambling Fields scheme.
 - A contribution towards improvements at Yorkersgate / B1248 junction.
- 6.99 A number of objections to the proposals have been received on highways grounds, relating to concerns over the capacity of the local highway network to accommodate the proposed development, congestion, parking numbers and future management of car parking, impact of increased numbers of HGVs on the highway network and pedestrian safety.
- 6.100 The planning application is accompanied by a Transport Assessment (November 2013) prepared by Pell Frischmann which considers the transport issues associated with the proposed development. A Framework Travel Plan also accompanies the application and sets out measures proposed to encourage the use of sustainable modes of transport for both staff and visitors to the proposed development.

During the course of the application and following discussions with NYCC Highways, the applicant submitted an updated Transport Assessment in January 2014 and a Technical Note including a Sensitivity Test to assess the cumulative impact of the proposed development and committed housing development in Malton, as well as the approved scheme on the Livestock Market site..

- 6.101 The submitted highways information has been carefully reviewed and considered by NYCC Highways as the local highway authority. NYCC Highways have advised that the Technical Note submitted by the applicant covers all of the junctions to be assessed for the proposed development and the approved Livestock Market scheme and, whilst some junctions are approaching capacity or slightly over in the case of Highfield Road / B1257 and Horse Market Road / B1248, NYCC Highways are satisfied that a suitable signal access can be provided at Smithson Court / Pasture Lane with sufficient capacity available for the proposed development and the approved Livestock Market scheme. It should be noted however that in drawing conclusions in respect of the respective junctions, the assessments have taken no account of any linked trips between the two sites and also utilise 85th percentile trip rates rather than average rates. NYCC Highways have, however, also recommended the imposition of a number of conditions on any future planning permission, as well as a S.106 Agreement to secure a number of highway improvements. On this basis, Officers are satisfied that the vehicular traffic generated by the proposed development can be satisfactorily accommodated on the highway network and will not lead to a significant increase in congestion in the town.
- 6.102 It is noted that a number of concerns have been raised in respect of pedestrian safety, particularly in light of Pasture Lane / Highfield Road being a route well used by those attending local schools. It is acknowledged that the proposed development will result in an increase in traffic movements along Pasture Lane, however, in view of the existing pedestrian infrastructure, it is not considered that an increase in vehicle movements will unduly compromise pedestrian safety. Pasture Lane and Highfield Road benefit from footpaths on either side of the carriageway and these footpaths are generally wide and lit by street lighting columns. The footpath along the northern side of Pasture Lane close to the access to the site is also separated from the vehicular carriageway by a grass verge.
- 6.103 Approximately 281 car parking spaces will be provided within the application site, including 18 disabled bays and 10 parent & child bays. Additional spaces will be added on adjacent land which will be under the control of the applicant. The applicant has also outlined a commitment to provide 3 hours free parking for all users of the car park, with usage not being conditional upon supermarket patronage. A further 171 spaces will be retained within the upper level of the Wentworth Street Car Park, which adjoins the eastern boundary of the application site. The upper level of the Wentworth Street Car Park is subject to a separate planning application for alterations to the parking layout and landscaping to include the demolition of an existing concrete sectional building, which is currently pending determination (Ref. 11/00919/FUL). On this basis, there would be a total of approximately 452 parking spaces across the entire WSCP site, which represents an increase of 72 spaces on the current situation.
- 6.104 The application site is located within the 'Northern Arc' to the north of Malton Town Centre and the central location of the site ensures that the residential areas of Malton and Norton area accessible on foot and bicycle. There are also existing public transport services in the locality that provide potential for customers and staff to access the site by public transport, primarily by bus and it is also proposed to provide a dedicated taxi bay to the front of the store on Wentworth Street. The location of the site and proposed improvements to the pedestrian linkages between the site and the town centre will also act to encourage linked trips. Furthermore, it is anticipated that the proposed store would draw 40% of its trade from clawback of expenditure currently flowing outside of the District and will therefore result in a reduction in the need for residents to travel to large foodstores in York, Scarborough and Thirsk for main food shopping.

It is therefore considered that the proposed development would be conveniently accessible by a range of modes of transport and offers potential to minimise journey lengths for shopping through the clawback of expenditure.

- 6.105 Officers are therefore satisfied that the proposed development will not have an adverse impact on road safety, traffic movement or the safety of pedestrians or cyclists. The proposals would also be conveniently accessible by a range of modes of transport and would lead to an increase in the level of car parking available across the wider site in comparison with the existing situation. It is therefore considered that the proposals would accord with Policies SP10 & SP20 of the Local Plan Strategy in this regard.

Design

- 6.106 Policy SP16 (Design) of the Ryedale Plan – Local Plan Strategy confirms that development proposals will be expected to create high quality, durable places that are accessible, well-integrated with their surroundings and which reinforce local distinctiveness; provide a well-connected public realm which is accessible and usable by all, safe and easily navigated; and protect amenity and promote well-being. Policy SP16 therefore sets out a number of key design principles that new development will be expected to adhere to. Policy SP20 (General Development Management Issues) complements Policy SP16 and, in terms of design, confirms that the design of new development will follow the principles established in Policy SP16.
- 6.107 The planning application is submitted in outline with all matters reserved. However, the submission includes indicative plans and a Design & Access Statement, which illustrate the design principles that will be applied to the development of the site and a planning condition can be imposed on any subsequent planning permission to ensure that the details submitted at Reserved Matters stage conform with the principles and parameters contained in the Design & Access Statement and illustrative plans.
- 6.108 The foodstore, smaller integrated retail unit and office accommodation will be arranged in a single building that fronts directly onto Wentworth Street and will sit on a broadly north-east to south-west axis across the site. The proposed layout is consistent with advice contained within the Wentworth Street Car Park Development Brief, which states that the building should be located as close as practical to the western perimeter of the site. In terms of scale and massing, it is proposed that the large volume of the main foodstore building will be wrapped within the smaller volume of the perimeter buildings contained the stand-alone retail unit and office space, as well as the entrance canopy, which are two storeys in height. The design approach that has been adopted helps to provide a sense of domestic scale and character through the introduction of two-storey pitched roof design perimeter buildings that contain the main bulk and massing of the foodstore building. The roofline of the perimeter building also steps vertically along the Wentworth Street frontage of the site to reflect the change in levels along the street and to also respond positively to the two-storey terraced properties along Wentworth Street, which also incorporate stepped rooflines.
- 6.109 The ground floor of the proposed building will be set at a similar level to Wentworth Street and, due to the substantial change in levels that occurs across the site, the building would appear to be more akin to a 2.5 to 3-storey development when viewed from the south and east, although the two-storey perimeter building with a pitched roof design that will house the travelator will help to reduce the overall scale and massing of the southern elevation of the building. Notwithstanding this, it is noted that there is existing three-storey development in the immediate vicinity of the application site and the eaves level of the southern elevation of the building is comparable with existing development adjacent to the site. It is therefore considered that the scale of the proposed building in relation to the surrounding built form is generally acceptable.

- 6.110 The illustrative plans and Design & Access Statement demonstrate that the building will have a simple, traditional vernacular, constructed from traditional materials, which are complementary to the surrounding area. The ground floor elevations would be formed by a masonry base, above which the elevations would be composed of timber with an expressed frame and infill panels of timber or metal windows. The two-storey perimeter buildings that envelop the main bulk of the foodstore will also incorporate a pitched roof design in deference to the surrounding roofscape. The Wentworth Street frontage of the site will contain an element of retail frontage associated with the foodstore, as well as the stand-alone retail unit with offices above at first floor level and will facilitate the creation of an active and interesting public frontage along the principal Wentworth Street frontage. It is therefore considered that the use of high quality materials and the approach that has been taken in respect of the articulation of the main elevations of the building will ensure that the building sits comfortably within the wider streetscene.
- 6.111 The main area of landscaped space within the site will be located towards the southern boundary between the southern elevation of the building and properties on Wentworth Mews and will take the form of a '*Landscaped Garden*.' This area of landscaping will provide relief between the properties on Wentworth Mews and the southern elevation of the proposed building and will also maintain the privacy of the occupants of these properties. The '*Landscaped Garden*' will be supplemented by further incidental soft landscaping throughout the site, which will help offset the loss of existing trees within the site as a result of the proposed development. It is also proposed to create a new public square (Wentworth Square) to the south western corner of the site off Wentworth Street and access to the proposed foodstore will be taken from this square. It is envisaged that Wentworth Square will be predominantly hard landscaped with limestone paving and granite setts throughout. The application proposals also include a number of other public realm improvements designed to improve pedestrian linkages between the site and the town centre, including the provision of a raised table on Wentworth Street, pedestrianisation of Pump Lane, footway improvements to Newbiggin and Finkle Street, provision of controlled pelican crossing on Newbiggin and new signage / information boards and public art / audio trails. It is therefore considered that the development incorporates appropriate hard and soft landscaping measures that will enhance the setting of the development and the proposed improvements to the public realm and pedestrian linkages will help to encourage greater connectivity between the application site and the wider town centre.
- 6.112 A consultation response has been received from North Yorkshire Police highlighting previous incidents of anti-social behaviour and the congregation of youths at WSCP and that measures have been put in place to '*design out*' these incidents of anti-social behaviour and access to the car park is now effectively controlled between 6pm and 6am. It is therefore suggested that it is vital that the finer detail of the design does not incorporate features which could generate crime or anti-social behaviour and it is noted that this is also a concern that has been raised by local residents. North Yorkshire Police have raised concerns that many of the covered / enclosed features of the proposed development (e.g. covered walkways, seating, underground car parking) could give rise to potential for anti-social behaviour, which could impact upon the amenities of surrounding residents and businesses. It is therefore advised that a planning condition should be put in place requiring the applicant to provide full details of the crime prevention measures that will be incorporated into the development. It is considered that the approach suggested by North Yorkshire Police (i.e. imposition of a condition in respect of crime prevention measures) will ensure that the proposed development will not increase crime or the fear of crime. The imposition of such a condition will also address the EHO's concerns regarding the use and function of the travelator.

- 6.113 In summary, it is considered that the application proposals constitute a high quality form of design that will help to reinforce local distinctiveness in view of the design approach that has been taken in respect of the layout, siting, scale and appearance of the proposed development. It is also felt that the hard and soft landscaping approach that has been adopted and improvements to the public realm and pedestrian linkages will ensure that the development is accessible and usable by all and appropriate measures can be put in place to reduce crime and the fear of crime. The proposals are therefore considered to accord with Policies SP16 and SP20 of the Ryedale Plan – Local Plan Strategy in this respect.

Heritage

- 6.114 Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority to 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.
- 6.115 Policy SP12 (Heritage) of the Local Plan Strategy confirms that distinctive elements of Ryedale's historic environment will be conserved and, where appropriate, enhanced. To assist in protecting the District's historic assets and features, the policy confirms that the Council will, *inter alia*, 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 landscape character and setting of individual settlements. Designated historic assets and their settings, including Listed Buildings, Conservation Areas, Scheduled Monuments and Registered Parks and Gardens will be conserved and, where appropriate, enhanced.
- 6.116 The application site lies approximately 40m to the north east of the Malton Conservation boundary and the Grade II Listed New Malton Cemetery Chapel & Chapel of Rest and Behren's Mausoleum also lie to the north east and east of the application site respectively. It is therefore acknowledged that the proposed development has potential to impact upon the setting of these designated heritage assets. In this respect, it is considered that the design approach that has been adopted responds appropriately to the proximity of the site to these designated heritage assets and will not lead to material harm to their setting, particularly as the setting is already essentially urban in nature.
- 6.117 The application is also accompanied by an Archaeological Evaluation Report in view of the site's location within an area of archaeological potential. The consultation response received from the NYCC Historic Environment Team supports the recommendation within the report for an archaeological watching brief to be maintained during the ground disturbing works associated with the proposed development. It is therefore advised that a suitable scheme for archaeological recording should be undertaken over the site in response to the proposed development to ensure that a detailed record is made of any deposits that will be disturbed. The requirement for a scheme of archaeological recording can be secured by way of a planning condition imposed on any subsequent planning permission.

Managing Air Quality, Land and Water Resources

- 6.118 Policy SP17 (Managing Air Quality, Land & Water Resources) sets out how land resources and air quality will be protected and improved and how flood risk and water resources will be managed.

- 6.119 The policy identifies that water resources will be managed by, *inter alia*, protecting surface and groundwater from potentially polluting development and activity. The application site is underlain by the Coralline Oolite Formation, which is designated as a principal aquifer, which provides significant amounts of water for people and may also sustain rivers, wetlands and lakes. The development includes the provision of a petrol filling station comprising the underground storage of hazardous substances that could potentially pose a risk to the quality of the underlying groundwater. It is therefore very important that the potential risks to groundwater are adequately assessed and mitigation measures are implemented to reduce the identified risks to an acceptable level. The Environment Agency have therefore recommended the imposition of planning conditions requiring a hydro geological risk assessment and a scheme to install the underground tanks to be submitted to and approved by the LPA before development is commenced, as well as a condition to address any unexpected contamination encountered during the course of construction works. It is considered that the suggested approach will ensure that the proposed development will not pose unacceptable risks to groundwater.
- 6.120 Policy SP17 of the Local Plan Strategy confirms that flood risk will be managed by requiring the use of sustainable drainage systems and techniques, where technically feasible and by guiding new development to areas with the lowest probability of flooding, whilst taking account of the need to regenerate vacant and previously developed sites within towns. The application site is located in Flood Zone 1, which is land classified as having the lowest probability of flooding. However, the application site exceeds one hectare in size and, as such, a Flood Risk Assessment was required to support the application. The submitted Flood Risk Assessment concludes that the development would not be at risk from flooding, nor would it increase the risk of flooding elsewhere. The Environment Agency have not raised an objection to the proposals on flood risk grounds subject to a planning condition which secures the submission and agreement of a detailed surface water drainage scheme for the site.
- 6.121 It is acknowledged that a number of concerns have been raised in respect of the ability of the existing foul drainage network to accommodate the proposed development and a consultation response received from Yorkshire Water dated 4th March 2014 suggested that the submitted Flood Risk Assessment was not satisfactory on various aspects relating to drainage. However, following a meeting between the applicants and Yorkshire Water on 21st March to discuss the identified issues, Yorkshire Water provided a further consultation response on 28th March 2014 confirming that there is no objection in principle to the submitted details in terms of site layout; separate systems of drainage; amount of foul water to be discharged to the public combined sewer; proposed amount of surface water to be discharged to the public sewer; the proposed point of discharge of foul and surface water to the public sewer and the use of a petrol / oil / grit interceptor subject to entering into a sewer diversion and closure agreement. A condition is however recommended requiring a detailed surface water drainage scheme for the site to be submitted to and approved in writing by the LPA.
- 6.122 The Malton Air Quality Management Area (AQMA) was designated in December 2009 and includes parts of Castlegate, Old Maltongate, Wheelgate and Yorkersgate leading from Butcher Corner junction, where there is a mix of residential and business properties. The AQMA relates to annual average levels of nitrogen dioxide that breach the air quality objective, as set by the Air Quality (England) Regulations 2000 and the elevated levels of nitrogen dioxide are mainly due to road traffic emissions. It is noted that a number of objections have been raised regarding the potential for the proposed development to have an adverse impact upon air quality within the town centre.

- 6.123 Policy SP17 of the Local Plan Strategy sets out measures to protect and improve air quality, including by locating and managing development to reduce traffic congestion and air pollution and requiring development proposals within and adjoining the Malton Air Quality Management Area to demonstrate how effects on air quality will be mitigated and further human exposure to poor air quality reduced. To this end, the Council's Local Transport Plan proposes a package of works to address congestion in Malton Town Centre, which includes the introduction of a one-way system that involves the minor arm of Spital Street changing to egress onto Newbiggin / Wheelgate. The *'Developer Contributions Towards Strategic Transport Improvements at Malton & Norton (Interim Version)'* Supplementary Planning Document (SPD) also sets out financial contributions that developers will be expected to make to highway improvements in Malton that will take traffic away from the centres of Malton and Norton, particularly from the junction at Butcher's Corner. The aim of the contributions is to reduce congestion and associated delays in the town centre, thus improving air quality. The contributions are based on the number of vehicular trips through Butcher's Corner during the AM peak, which are generated by the development being considered. The developers have offered to make a financial contribution towards these proposals as part of the application, which will be secured by way of a S.106 Agreement.
- 6.124 Furthermore, the planning application is accompanied by a Note on Impact on Air Quality and the Environmental Health Officer has advised that there is no objection to the proposals in respect of air quality, subject to the imposition of a planning condition requiring the submission and agreement of a Travel Plan which provides for a range of measures, including proposals to minimise the impact of the development on local air quality.
- 6.125 Policy SP20 of the Local Plan Strategy confirms that new development proposals which will result in an unacceptable risk to human life, health and safety or unacceptable risk to property will be resisted. Developers will be expected to address the risks / potential risks posed by contamination and / or unstable land in accordance with national and international standards and guidance. The planning application is accompanied by a Phase I & II Geo-Environmental Assessment and no objections have been raised to the proposed development on the grounds of land contamination by the Environment Agency or the Environmental Health Officer. The Environment Agency have, however, recommended the imposition of a planning condition to address any unexpected contamination encountered during the course of construction works.

Renewable & Low Carbon Energy

- 6.126 The Ryedale Plan – Local Strategy recognises that buildings have a long lifespan and contribute to Ryedale's carbon dioxide emissions and so it is important that new homes and buildings have as low an impact as possible. Policy SP18 (Renewable & Low Carbon Energy) confirms that all new development should demonstrate that all levels of the Energy Hierarchy have been considered, taking into account the nature, scale and location of the development. For major non-residential development, the proposal will be required to demonstrate that it meets the highest BREEAM standard (or its successor) that is feasible and viable for the type of development on the proposed site.
- 6.127 The application is submitted in outline with all matters reserved and the submitted Design & Access Statement confirms that measures aimed at reducing energy consumption during operation and allowing for the integration of on-site renewable energy technologies will be decided upon by the foodstore operator. However, the Design & Access Statement confirms that the building has been designed in order to be as flexible as possible and could incorporate the following measures:
- The roof design allows for the future incorporation of wind cowls and / or rooflights that could both be used to reduce energy use;

- The roof design also allows for future installation of solar thermal or photovoltaic panels for hot water / electricity production;
 - A combined heat and power system could be provided, reducing energy consumption.
 - Areas of green roof could be incorporated into the design.
 - Rainwater harvesting could be used for non-potable water.
- 6.128 It is also advised that a planning condition could be imposed on any subsequent planning permission requiring the submission and agreement of a report identifying how the predicted CO₂ emissions of the development will be reduced by at least 10% in excess of Building Regulations targets through the use of on-site renewable energy equipment, sustainable building techniques and / or other sustainability measures. It is noted that objections have been raised outlining concerns in respect of the increase in carbon emissions associated with the proposed development, however, it is considered that the imposition of a condition to secure a minimum 10% reduction in carbon emissions will lead to a satisfactory reduction in carbon emissions associated with the proposed development.

Biodiversity

- 6.129 Policy SP14 (Biodiversity) of the Local Plan Strategy confirms that biodiversity in Ryedale will be conserved, restored and enhanced by, *inter alia*, requiring a net gain in biodiversity to be provided as part of new development schemes and resisting development proposals that would result in significant loss or harm to biodiversity in Ryedale.
- 6.130 The planning application is accompanied by a Habitat Survey & Protected Species Assessment prepared in August 2011. A further '*Report Confirmation*' was submitted in January 2014 which outlines that, due to the habitats identified at the site, it is unlikely that site conditions will have changed significantly since the original assessment was prepared in August 2011. The River Derwent Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) is located approximately 0.8km to the south of the site and the Howardian Hills Area of Outstanding Natural Beauty (AONB) is located approximately 2km from the site. There are also five Sites of Importance for Nature Conservation (SINC) within 2km of the site. However, in view of the distance of the site from these statutorily and non-statutorily designated sites and the nature of the proposed development, it is not anticipated that there will be any impact on the River Derwent SSSI and SAC, the Howardian Hills AONB or the five SINC's as a result of the application proposals.
- 6.131 The application site itself is predominantly of low conservation value comprising of areas of hardstanding with close-mown amenity grassland. There are however existing trees and hedgerows within the site that are of greater conservation value. There will be a degree of tree and hedgerow loss within the site to facilitate the proposed development, however, new areas of soft landscaping and replacement tree planting will be provided, including a '*Landscaped Garden*' to the south of the proposed building. It is considered that the proposed areas of soft landscaping and replacement tree planting, subject to securing a diverse range of tree and shrub planting, will enhance the conservation value of the site and the submission of a detailed hard and soft landscaping scheme can be secured by way of planning condition.
- 6.132 It is noted that the broadleaved trees and hedgerows located to the boundaries of the site may be utilised by a number of bird species as nesting habitat. As outlined above, there will be a degree of tree loss as a result of the development proposals and, in order to mitigate this loss, there will be a requirement to provide replacement native trees and shrubs. In addition, the submitted Habitat Survey & Protected Species Assessment recommends that nest boxes should be erected and that any vegetation clearance works should be undertaken outside the bird nesting period, unless checks by an appropriately qualified ecologist find active nests absent immediately prior to works commencing and these matters can be secured by way of planning condition.

- 6.133 The submitted Habitat Survey & Protected Species Assessment confirms that the existing buildings within the site were assessed in terms of their suitability to support roosting bats and the only building identified as having potential was the Ryedale Community House building. An initial building inspection and activity survey was undertaken and identified no evidence of roosting bats. On this basis, the submitted Habitats Survey & Protected Species Assessment does not anticipate an impact upon roosting bats, although recommendations are made in respect of precautionary working methods, enhancements to the site for roosting bats, tree loss mitigation, lighting and further activity surveys in respect of the low potential buildings to the north west of the site prior to their demolition. The recommended mitigation measures can be secured by way of planning condition.
- 6.134 It is not anticipated that the proposed development will adversely impact on other protected species, including badgers, great crested newts, water vole, otter, reptiles or white clawed crayfish.
- 6.135 It is therefore considered that the application proposals, through the proposed soft landscaping incorporating native tree and shrub replacement planting and other mitigation measures outlined within the submitted Habitat Survey & Protected Species Assessment, will lead to a net gain in biodiversity in accordance with Policy SP14 of the Local Plan Strategy. A condition can be imposed on any subsequent planning permission to secure the recommended mitigation and enhancement proposals set out in the submitted Habitat Survey & Protected Species Assessment.

Amenity & Safety

- 6.136 Policy SP20 (Generic Development Management Issues) of the Local Plan Strategy confirms that new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. The policy also indicates that developers will be expected to apply the highest standards outlined in the World Health Organisation, British Standards and wider national and international standards relating to noise.
- 6.137 The proposed development will be accessed from Pasture Lane via Smithson Court and this will form the only means of vehicular access into the site for use by staff, customers / car park users and deliveries to both the proposed retail and office units and the petrol filling station. There are existing residential properties on Smithson Court, which lie to the direct north of the application site and are arranged in three separate '*blocks*' – the first being orientated north – south and fronting directly onto Pasture Lane, the second also being orientated north – south with a small parking court to the front between the dwellings and the road, and the third being broadly orientated east – west with a small grassed area between it and the road.
- 6.138 The forecourt area associated with the proposed petrol filling station is indicatively shown to be located approximately 16m to the south of the southernmost corner of the nearest residential property within Smithson Court, whilst the service yard associated with the foodstore is located 48m to the south of these properties beyond the petrol filling station. There are also existing residential properties on Wentworth Street and the rear boundary of the nearest residential property on Wentworth Street is indicatively shown to be located 10m from the petrol filling station forecourt and 8m from the service yard associated with the foodstore. By virtue of the relationship between the proposals and existing residential properties on Smithson Court and Wentworth Street, it is acknowledged that the proposed development has potential to impact on the amenities of existing residents by virtue of noise and general disturbance, as well as from any external lighting associated with the proposed development.

- 6.139 The planning application is accompanied by a Noise & Vibration Assessment that has been considered in detail by the Environmental Health Officer (EHO). The EHO has raised some concerns in respect of the residents of Smithson Court and the potential for them to be disturbed by vehicular movements associated with the proposed development. However, the EHO has recommended the imposition of planning conditions restricting hours of use, hours of delivery, use of plant and equipment and the means of preventing HGV's and other vehicles entering the site outside the agreed hours of operation, which alleviate these concerns and will ensure that there will not be any significant adverse impact on residents of Smithson Court of Wentworth Street by virtue of noise and general disturbance. The EHO has also suggested the imposition of a condition to agree a construction noise / dust management plan to minimise the impact on neighbouring residents during the construction phase. Furthermore, a planning condition can also be imposed to ensure that any external lighting at the site is agreed with the LPA prior to installation and operation to ensure that existing residents are not significantly affected by external lighting associated with the proposals.
- 6.140 There are also existing residential properties to the direct south of the application site within Wentworth Mews and the rear elevations of these properties will be located approximately 16m from the southern elevation of the perimeter building housing the travelator and 20m from the main bulk of the foodstore at its nearest point. The impact of the proposed development on existing properties in Wentworth Mews in terms of overlooking, overbearing impact, loss of privacy, noise and lighting disturbance will therefore need to be carefully considered.
- 6.141 The perimeter building housing the travelator runs along the southern elevation of the main foodstore building and is located approximately 16m from the rear elevations of properties on Wentworth Mews, which contain a number of windows and, as such, there is potential for overlooking of the rear of the properties from customers using the travelator. However, the submitted indicative plans indicate the vertical partitions are proposed to the external elevation of the perimeter building where it is located in closest proximity to Wentworth Mews, which will significantly restrict views available between the travelator and the rear elevations of properties in Wentworth Mews. Furthermore, a '*Landscaped Garden*' is proposed along the southern boundary of the site between the properties on Wentworth Mews and the proposed building. This area of landscaping will provide relief between the properties on Wentworth Mews and the southern elevation of the proposed building and the associated planting will provide a degree of screening benefit that will help to maintain the privacy of the occupants of these properties. It is not therefore considered that the proposed development will have a significant adverse impact on residents of Wentworth Mews by virtue of overlooking.
- 6.142 The ground floor of the proposed building will be set at a similar level to Wentworth Street and, due to the substantial change in levels that occurs across the site, the building would appear to be more akin to a 2.5 to 3-storey development when viewed from the south and east, although the two-storey perimeter building with a pitched roof design that will house the travelator will help to reduce the overall scale and massing of the southern elevation of the building. The application is supported by a Maintaining Daylight & Privacy Report and a Daylight and Sunlight Report and, having reviewed this report in detail, Officers agree that the proposed building would not have a significant adverse impact on the residential amenities of occupants of properties within Wentworth Mews by virtue of overshadowing or overbearing impact.
- 6.143 It is not considered that residents of Wentworth Mews will be unduly affected by noise emanating from activities associated with the proposed development as the shielding provided by the building will protect them from the major noise sources associated with the development. Furthermore, the imposition of the planning conditions outlined at Paragraph 6.53 will provide further safeguards against noise disturbance for residents of Wentworth Mews. In addition, the suggested planning condition in respect of external lighting will ensure that residents of Wentworth Mews are not significantly affected by lighting associated with the proposals.

- 6.144 It is not therefore considered that the proposed development would have a material adverse impact on the amenity of any surrounding residents and would therefore accord with Policy SP20 in this respect.

Physical Infrastructure & Planning Obligations

- 6.145 The Local Plan Strategy recognises that new housing, employment and retail development will place additional demands on existing services, community facilities, utilities infrastructure and the transport network. Ryedale is not expected to receive any significant funding towards providing infrastructure from public agencies and consequently there will predominantly be a reliance on infrastructure being provided as part of the provision of new development. Policy SP10 therefore identifies improvements to physical infrastructure which are critical and necessary to support the Strategy, which will be secured through planning obligations and tariff based contributions over the plan period in tandem with new development. Policy SP22 outlines the approach that will be taken towards planning obligations, developer contributions and the Community Infrastructure Levy.
- 6.146 The following contributions towards improvements to social, physical or utility infrastructure will be secured by way of a S.106 Agreement / S.278 Agreement in respect of the proposed development:

- Required S.278 Works:
 - a. Pasture Lane Junction, including a Puffin Crossing and Smithson Court works (including TROs);
 - b. Taxi / Loading Bay on Wentworth Street (including TRO's) and raised table crossing point;
 - c. Pump Lane improvements, including 'No Waiting' TRO;
 - d. Commuted sums towards signal maintenance
- Finkle Street / Spital Street One-Way System – contribution towards TRO and pavement widening
- Contingent contribution to Old Malton Roundabout if traffic monitoring identifies a problem that highway modifications can improve
- Brambling Fields Contribution in line with Supplementary Planning Document – Developer Contributions Towards Strategic Transport Improvements in Malton & Norton Interim Version (July 2007);
- Wayfinding Infrastructure
- Public Art
- Retailers Marketing Workshops
- Audiotrail
- Display Cabinets

Other Issues

Length of Consultation Period

- 6.147 A number of respondents have raised concerns in respect of the length of the consultation period and it is suggested that the period given to make representations was insufficient to enable interested parties to give proper and full consideration to the proposals. Following the receipt of revised information on the proposals on 26th November 2013, the application was advertised by way of a press notice, site notices, neighbour consultations, statutory and non-statutory consultee consultations and notifications to respondents to the previous consultation exercises undertaken in 2011 and 2012 in respect of the proposed development.

The period given for the submission of representations was in accordance with the statutory requirements set out in the Town & Country Planning (Development Management Procedure) (England) Order 2010.

Procedural Issues

- 6.148 A number of respondents have raised concerns that a conflict of interest exists in terms of Ryedale District Council being in a position to grant planning permission for development on land within its ownership. However, there is no legislative impediment to the Council determining the application in the ordinary way and the recommendation advanced by Officers is based upon sound planning reasons in the context of the adopted Development Plan for the area and other material considerations.
- 6.149 Notwithstanding this, the application will again be referred to the Secretary of State to establish whether the application needs to be referred to him for determination.

Community Consultation Exercise

- 6.150 A number of respondents have raised concerns in respect of the community consultation exercise that was undertaken by the applicant and the manner in which the results have been presented. A number of responses also made reference to surveys of local residents undertaken as part of the preparation of the Malton & Norton Neighbourhood Plan, which did not support a supermarket at WSCP.
- 6.151 The Ryedale SCI outlines that formal pre-application consultation is essential for '*major*' applications. The SCI confirms that developers will be encouraged to undertake effective community involvement and a statement is required to accompany applications, which will include:
- The potential issues relating to the development and the process of consultation;
 - A description of the approach taken including the methods used (and why) and the stakeholders / community groups involved;
 - An outline of key outcomes and an explanation of how they were considered by the developer and / or how they will be addressed in the development, including why specific issues and concerns have not been addressed;
 - An outline of the benefits of the consultation exercise (including how the community has benefited the development or the process of development)
- 6.152 The planning application is accompanied by a Supplementary Community Consultation Statement prepared by the Nathaniel Lichfield & Partners, which sets out the findings of a consultation exercise undertaken by the applicant with members of the local community in Ryedale in respect of the amended proposals. Whilst it is noted that a number of objectors have criticised the findings and conclusions of the Supplementary Community Consultation Statement, it is considered that the consultation exercise undertaken by the applicant satisfies the requirements of the Ryedale SCI. Furthermore, it should be acknowledged that the exercise undertaken by the applicant does not replace the statutory consultation exercise undertaken by the Council and the objections received to the application following the Council's consultation period, as well as letters of support, have been fully noted and considered in the assessment of the planning application.

Impact of Pedestrianisation of Pump Lane and TRO's on JB Motors

- 6.153 The consultation response received from JB Motors suggests that the proposed pedestrianisation of Pump Lane will cut off vehicle access to the company's customer parking spaces, automatic car wash, workshop side entrance and car sales showroom.

It will make it illegal for cars to queue for the car wash and the bollards will severely restrict access to the petrol forecourt. In addition, it is suggested that the submitted plans show the removal of a flower bed wall and resurfacing on JB Motors' property and appropriate notice has not been served.

- 6.154 The TRO will be advanced by the Local Highway Authority as a response to the proposed foodstore and a S.278 Agreement will be required to secure the works. The existing rights of access enjoyed by JB Motors from Pump Lane to their existing facilities will not be affected by the TRO. In terms of land ownership, neither Pump Lane or the JB Motors premises are contained within the red line boundary of the application site and, accordingly, there was no requirement for the applicant to serve notice on JB Motors.

Prematurity

- 6.155 Councillor Andrews contends that the site is outside the saved commercial limits of the old Ryedale Local Plan and there should be no substantial change to these limits without this being tested through the LDF process at the Examination in Public. It is therefore contended that the application is premature, and there is no reason to make an *ad hoc* decision in advance of this.
- 6.156 The NPPG advises that, in the context of the NPPF 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 planning permission would significantly and demonstrably outweigh the benefits, taking the policies in the NPPF and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to instances 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 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.
- 6.157 The NPPG goes onto advise that the refusal of planning permission on the grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of planning permission for the development concerned would prejudice the outcome of the plan making process.
- 6.158 The application site comprises of previously developed land within the 'Northern Arc' to the north of the town centre, which is identified within the Local Plan Strategy (adopted September 2013) as an area that provides opportunities to redevelop sites and buildings to accommodate additional retail space with excellent connectivity with the existing town centre. The application involves the provision of a higher order foodstore within Malton, consistent with the town's role as the main retail centre within Ryedale and it is therefore clear that the proposed development would accord with Policy SP1 of the Local Plan Strategy, which confirms that Malton and Norton (including Old Malton) will be the primary focus for growth in Ryedale over the plan period. Furthermore, whilst Policy SP7 of the Local Plan Strategy identifies that quantitative needs for convenience floorspace up to 2026 are met by current commitments, it is accepted, on the basis of an up-to-date assessment, that the capacity for the proposed foodstore, as well as the approved scheme on the Livestock Market site, would be marginal in 2018, however, the impact assessment demonstrates that the development of both schemes would not have a significant adverse impact on town centre vitality and viability in 2018, which is the policy test set out in the NPPF.

Furthermore, there would be more than sufficient capacity in both convenience and comparison goods for both stores in 2023. The application proposals will result in the provision of a large foodstore within Malton to support the town's role as the main retail centre serving Ryedale and the anticipated clawback of leakage will broaden the town's customer base resulting in more people using Malton for main food shopping, which will generate '*spin off*' trade to other shops and services through linked trips. The application site's location within the '*Northern Arc*' will also help maximise the potential for linked trips, thus helping to maintain and enhance the vitality and viability of Malton Town Centre and the proposals will also provide an improved range and choice of convenience retailing in line with the objectives of Policy SP7. Officers are also satisfied that the proposals would satisfy the key policy tests contained within the NPPF – the sequential and impact tests.

- 6.159 Officers are of the opinion that the application proposals would give rise to a number of substantial social, economic and environmental benefits and there are not considered to be any impacts associated with the proposed development that would outweigh these benefits. The proposed development is not therefore considered to be so substantial or that its cumulative effects would be so significant that the grant of planning permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to an emerging [Local Plan](#) or [Neighbourhood Planning](#).
- 6.160 Furthermore, the emerging Ryedale Plan – Local Plan Sites Document and the Malton & Norton Neighbourhood Plan are both in the preliminary stages of preparation and can be afforded little or no material weight at this point in time.
- 6.161 On this basis, it is evident that there are no reasonable grounds for refusing planning permission on the grounds of prematurity.

7. ASSESSMENT OF COMPLIANCE WITH DEVELOPMENT PLAN AND CONTRIBUTION TOWARDS THE ACHIEVEMENT OF SUSTAINABLE DEVELOPMENT

- 7.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 confirms that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 7.2 Policy SP19 of the Ryedale Plan – Local Plan Strategy Local sets out a presumption in favour of sustainable development and confirms that, when considering development proposals, the Council should take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The policy goes on to indicate that the Council will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Policy SP19 confirms that planning applications that accord with policies in the Local Plan (and, where relevant, with policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise.
- 7.3 The current application is submitted in outline with all matters reserved for future consideration and involves the construction of a retail foodstore of 4530 sq.m (gross) and a smaller integral retail unit (227 sq.m gross) fronting onto Wentworth Street with office accommodation (253 sq.m) to the first floor. A 6-8 pump petrol filling station with associated sales kiosk (59 sq.m) will be located towards the north western edge of the site to the rear of properties on Smithson Court.

- 7.4 The application site comprises of previously developed land within the 'Northern Arc' to the north of the town centre, which is identified within the Local Plan Strategy as an area that provides opportunities to redevelop sites and buildings to accommodate additional retail space with excellent connectivity with the existing town centre. The application involves the provision of a higher order foodstore within Malton, consistent with the town's role as the main retail centre within Ryedale and it is therefore clear that the proposed development would accord with Policy SP1 of the Local Plan Strategy, which confirms that Malton and Norton (including Old Malton) will be the primary focus for growth in Ryedale over the plan period.
- 7.5 Policy SP7 of the Local Plan Strategy identifies that quantitative needs for convenience floorspace up to 2026 are met by current commitments, which suggests that there is no quantitative requirement to bring forward any additional convenience floorspace during this period and, accordingly, the provision of an additional large foodstore on WSCP would not comply with Policy SP7 in this context. However, the assumption within Policy SP7 that quantitative needs for convenience floorspace up to 2026 are met by current commitments is based upon the findings of the 'Ryedale Retail Capacity & Impact Assessment Update' prepared by Roger Tym & Partners, which formed part of the evidence base for the Local Plan Strategy. It should however be acknowledged that the Retail Capacity & Impact Assessment Update was prepared in 2011 and it is clearly important that forecasts of need are kept under regular review. The assessment of capacity for additional retail floorspace must be considered on the basis of the latest available evidence to ensure that retail needs are met in full.
- 7.6 It is accepted, on the basis of the up-to-date independent assessment undertaken by England & Lyle, that the capacity for the proposed foodstore, as well as the approved scheme on the Livestock Market site, would be marginal in 2018, however, the impact assessment demonstrates that the development of both schemes would not have a significant adverse impact on town centre vitality and viability in 2018, which is the policy test set out in the NPPF. Furthermore, there would be more than sufficient capacity in both convenience and comparison goods for both stores in 2023. The application proposals will result in the provision of a large foodstore within Malton to support the town's role as the main retail centre serving Ryedale and the anticipated clawback of leakage will broaden the town's customer base resulting in more people using Malton for main food shopping, which will generate 'spin off' trade to other shops and services through linked trips. The application site's location within the 'Northern Arc,' which is identified within the Local Plan Strategy as providing excellent edge-of-centre opportunities to accommodate new retail space, will help maximise the potential for linked trips, thus helping to maintain and enhance the vitality and viability of Malton Town Centre, which is a key objective of Policy SP7. Furthermore, the application proposals will provide an improved range and choice of convenience retailing, which is again an identified objective of Policy SP7. In this context, whilst Policy SP7 indicates that there is no requirement for additional convenience floorspace up to 2026, an up-to-date independent assessment has clearly demonstrated that, whilst the capacity for the Livestock Market and WSCP stores would be marginal in 2018, the development of both stores would not have a significant adverse impact on town centre vitality and viability in 2018, and that there would be more than sufficient capacity for both stores in 2023. Officers are therefore satisfied that a foodstore of the scale proposed on WSCP would comply with the broad thrust and clear aims and objectives of Policy SP7.
- 7.7 Furthermore, it has been demonstrated that the application proposals would satisfy the key retail policy tests set out in the NPPF – the sequential and impact tests. The NPPF is a material consideration in the assessment of the planning application. Paragraph 24 of the NPPF requires LPA's to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan.

The application site lies approximately 30m from the northern edge of the defined Town Centre Commercial Limits and enjoys excellent connectivity with the wider town centre and, as such, it is clear that the application site can be defined as edge-of-centre for the purposes of the application of the sequential test.

- 7.8 The recently published NPPF confirms that it is for the applicant to demonstrate compliance with the sequential test and the planning application is accompanied by an Updated Retail Assessment, which includes a sequential test that assesses a number of alternative sites in Ryedale, including the Livestock Market site. The Livestock Market site benefits from an extant planning permission for a new retail development granted on appeal in 2012 and, in allowing the appeal, the appointed Inspector concluded that the Livestock Market site was sequentially preferable to WSCP. Whilst the Inspector's appeal decision is an important material consideration, it is not a binding precedent and the issue of sequential preference is one of planning judgement. The Updated Retail Assessment has been independently assessed by England & Lyle, who note that both sites are located within the '*Northern Arc*' and the differences in accessibility to the town centre are minimal. An application has recently been submitted by Fitzwilliam (Malton) Estates at Kings Head Yard, which will provide an improved link between the town centre and Livestock Market site. However, Officers are satisfied that these improvements are not so significant as to alter the conclusion that the Livestock Market and WSCP should be considered '*sequentially equal*,' notwithstanding the fact that the Kings Head Yard proposals do not yet benefit from planning and listed building consent. On this basis, it is concluded that the application site and the Livestock Market site should be assessed as being '*sequentially equal*.'
- 7.9 Notwithstanding this, full consideration has been given to whether the Livestock Market site could accommodate a new store of a similar size to that proposed as part of the current application and it is accepted, even taking into account the scope for flexibility in the format and scale of the proposal, that the Livestock Market site does not offer a suitable, practical alternative to accommodate the proposed development. However, even if the Livestock Market site was considered to be a suitable, practical alternative to accommodate the proposed development, the WSCP and Livestock Market sites are considered to be '*sequentially equal*' and, accordingly, would not result in the sequential test being failed. Officers are also satisfied that none of the other sites identified in the Updated Retail Assessment are suitable alternatives to accommodate the proposed development and that the constituent elements of the proposed development could not be accommodated on more central sites.. It is therefore considered that the proposed development complies with the sequential approach to site selection set out at Paragraph 24 of the NPPF.
- 7.10 In terms of retail impact, whilst capacity is not a policy test within the NPPF, it does provide an indication of whether retail impact may occur. The independent assessment of the proposals undertaken by England & Lyle demonstrates that the capacity for the proposed foodstore, as well as the approved scheme on the Livestock Market site, would be marginal in 2018, however, the impact assessment demonstrates that the development of both schemes would not have a significant adverse impact on town centre vitality and viability in 2018, which is the policy test outlined in the NPPF. Furthermore, there would be more than sufficient capacity in both convenience and comparison goods for both stores in 2023.
- 7.11 The vast majority of the total cumulative trade diversion from Malton Town Centre would be from Morrisons, which would continue to trade above its benchmark level. The likely impact on other shops in Malton Town Centre is limited. It is not anticipated that there would be a significant adverse impact upon the overall vitality and viability of Malton or other centres. The levels of trade diversion predicted, and the assessment of the vitality and viability of the centres, makes it very unlikely that any adverse impacts on the vitality and viability of centres could be judged to be significant.

- 7.12 It is also accepted that the proposed foodstore on the WSCP site is not likely to have any adverse impact upon the ability to bring forward any other planned investment in existing centres. Whilst it has been suggested that Fitzwilliam (Malton) Estates would not bring forward the Livestock Market site scheme, which has secured retailer interest from Booths, if the WSCP proposals were approved, it has been demonstrated that, whilst the capacity for two new foodstores (i.e. Livestock Market site and WSCP) in 2018 is marginal, the two stores would not have a significant adverse impact on town centre vitality and viability in 2018, which is the policy test set out in the NPPF. Furthermore, there would be more than sufficient capacity in both convenience and comparison goods for both stores in 2023, based on a revised and more up-to-date assessment than that used to inform the preparation of the Ryedale Plan – Local Plan Strategy. Although it is evident that a Booths store would provide an improved range and choice of convenience retailing, as sought by the Local Plan Strategy, it is accepted that there remains a need for another large foodstore in Malton to provide choice and competition for Morrisons and claw back leakage that is going to stores elsewhere and this has been reflected within a number of letters of support received from local residents in respect of the application. A large foodstore on WSCP and a Booths store on the Livestock Market site would have a complementary role to one another.
- 7.13 Officers are of the view that the statement from Fitzwilliam (Malton) Estates that they would not bring forward the redevelopment of the Livestock Market site if the WSCP proposals are approved should be treated with a degree of caution given that, whilst ‘*very concerned*,’ Booths have not explicitly stated that they would not proceed with a store on the Livestock Market site were the WSCP proposals to be approved. With this in mind, there is no reason to believe that further investment in the Livestock Market site in the form of comparison shopping development would not follow the development of a Booths store, as it is considered that Booths would act as a catalyst for the development of the consented non-food retail units.
- 7.14 Notwithstanding this, the Livestock Market site lies to the northern edge of the town centre and is not therefore ‘*in-centre*,’ which is a pre-requisite of the impact test contained at Paragraph 26 of the NPPF and, in any event, the Livestock Market site is a sequentially equivalent site to WSCP. The planned investment within the Livestock Market site is not therefore conferred policy protection under the provisions of the impact test contained at Paragraph 26 of the NPPF and, as such, any impact on investment in the Livestock Market site would not form reasonable grounds for refusing planning permission for the WSCP proposals. Officers are therefore satisfied that the application proposals comply with the impact test outlined at Paragraph 26 of the NPPF.
- 7.15 On this basis, whilst Policy SP7 indicates that there is no requirement for additional convenience floorspace up to 2026, an up-to-date independent assessment has clearly demonstrated that, whilst the capacity for the Livestock Market site and WSCP stores is marginal in 2018, there would be no significant adverse impact on the town centre and there is more than sufficient capacity for both stores in 2023. Officers are satisfied that a foodstore of the scale proposed on the WSCP would comply with the broad thrust and clear aims and objectives of Policy SP7 and would also satisfy the key retail policy tests contained within the NPPF – the sequential and impact tests.
- 7.16 However, compliance with the sequential and impact tests within the NPPF and, in this case, the broad thrust and clear aims and objectives of Policy SP7 of the Local Plan Strategy, does not guarantee that planning permission should be granted – the LPA will have to consider all material considerations in reaching a decision. The table contained below therefore briefly summarises the assessment of the application proposals against the other relevant Development Plan policies:

Policy Requirement & Relevant Local Plan Strategy Policy	Summary
Highways (Policies SP10 & SP20)	<p>The submitted highways information has been carefully reviewed and considered by NYCC Highways as the local highway authority. NYCC Highways have advised that the Technical Note submitted by the applicant covers all of the junctions to be assessed for the proposed development and the approved Livestock Market scheme and, whilst some junctions are approaching capacity or slightly over in the case of Highfield Road / B1257 and Horse Market Road / B1248, NYCC Highways are satisfied that a suitable signal access can be provided at Smithson Court / Pasture Lane with sufficient capacity available for the proposed development and the approved Livestock Market scheme. . It should be noted however that in drawing conclusions in respect of the respective junctions, the assessments have taken no account of any linked trips between the two sites and also utilise 85th percentile trip rates rather than average rates. NYCC Highways have, however, recommended the imposition of a number of conditions on any future planning permission, as well as a S.106 Agreement to secure a number of highway improvements. On this basis, Officers are satisfied that the vehicular traffic generated by the proposed development can be satisfactorily accommodated on the highway network and will not lead to a significant increase in congestion in the town.</p> <p>Furthermore, the proposed development would be conveniently accessible by a range of modes of transport and offers the potential to minimise journey lengths for shopping through the clawback of expenditure. The proposals would also lead to an increase in the number of parking spaces in comparison with the existing situation and it is not considered that an increase in traffic movements along Pasture Lane associated with the proposed development would unduly compromise pedestrian safety.</p> <p>It is therefore considered that the proposals would accord with Policies SP10 & SP20 of the Local Plan Strategy in this regard.</p>
Heritage (Policy SP12)	<p>S.66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority to 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.</p> <p>The site lies in close proximity to Grade II listed buildings and the Malton Conservation Area and it is acknowledged that the proposed development has potential to impact upon the setting of these designated heritage assets. In this respect, Officers are of the opinion that the design approach that has been adopted responds appropriately to the proximity of the site to these designated assets and will not lead to a material harm to their setting, particularly as the setting is already essentially urban in nature.</p>

	<p>A suitable scheme of archaeological recording will be required over the site in response to the proposed development to ensure that a detailed record is made of any archaeological deposits that will be disturbed. The requirement for a scheme of archaeological recording can be secured by way of condition.</p> <p>Officers are therefore of the opinion that the proposals are in line with the statutory requirements of S.66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 and would accord with Policy SP12 of the Local Plan Strategy and the NPPF in relation to heritage matters.</p>
Biodiversity (Policy SP14)	<p>The planning application is accompanied by a Habitat Survey & Protected Species Assessment prepared in August 2011. A further 'Report Confirmation' was submitted in January 2014 which outlines that, due to the habitats identified at the site, it is unlikely that site conditions will have changed significantly since the original assessment was prepared in August 2011.</p> <p>It is considered, on the basis of the submitted information, that the application proposals, through the proposed soft landscaping incorporating native tree and shrub replacement planting and other mitigation measures outlined within the submitted Habitat Survey & Protected Species Assessment, will lead to a net gain in biodiversity in accordance with Policy SP14 of the Local Plan Strategy. A condition can be imposed on any subsequent planning permission to secure the recommended mitigation and enhancement proposals set out in the submitted Habitat Survey & Protected Species Assessment</p>
Design (Policy SP16 & SP20)	<p>The application is submitted in outline with all matters reserved, although the submission includes indicative plans and a Design & Access Statement, which illustrate the design principles that will be applied to the site.</p> <p>Officers are of the opinion that the application proposals constitute a high quality form of design that will help to reinforce local distinctiveness in view of the design approach that has been taken in respect of the layout, siting, scale and appearance of the proposed development. It is also felt that the hard and soft landscaping approach that has been adopted and improvements to the public realm and pedestrian linkages will ensure that the development is accessible and usable by all and appropriate measures can be put in place to reduce crime and the fear of crime. The proposals are therefore considered to accord with Policies SP16 and SP20 of the Ryedale Plan – Local Plan Strategy, as well as the NPPF in this respect.</p>
Managing Air Quality, Land & Water Resources (Policy SP17)	<p>The application site is underlain by the Coralline Oolite Formation, which is designated as a principal aquifer and the provision of the proposed petrol filling station could potentially pose a risk to the quality of the underlying groundwater. The Environment Agency have therefore recommended the imposition of planning conditions requiring a hydro geological risk assessment and a scheme to install the underground tanks to be submitted to and approved by the LPA before development is commenced, as well as a condition to address any unexpected contamination encountered during the course of construction works and it is considered that such an approach will ensure that the proposed development will not pose unacceptable risks to groundwater.</p>

	<p>The application site lies within Flood Zone 1 and it is accepted that the proposed development would not be at risk from flooding, nor would it increase the risk of flooding elsewhere. Yorkshire Water have confirmed that there is no objection in principle to the submitted details in terms of site layout; separate systems of drainage; amount of foul water to be discharged to the public combined sewer; proposed amount of surface water to be discharged to the public sewer; the proposed point of discharge of foul and surface water to the public sewer and the use of a petrol / oil / grit interceptor subject to entering into a sewer diversion and closure agreement. A condition is however recommended requiring a detailed surface water drainage scheme for the site to be submitted to and approved in writing by the LPA.</p> <p>The Malton AQMA was designated in 2009 and Policy SP17 of the Local Plan Strategy sets out measures to protect and improve air quality, including by locating and managing development to reduce traffic congestion and air pollution and requiring development proposals within and adjoining the Malton Air Quality Management Area to demonstrate how effects on air quality will be mitigated and further human exposure to poor air quality reduced. The developer has offered to make financial contributions towards highway works set out in the Local Transport Plan and the '<i>Developer Contributions Towards Strategic Transport Improvements at Malton & Norton (Interim Version)</i>' SPD to address congestion in the town and take traffic away from the centres of Malton and Norton. The Environmental Health Officer has advised that there is no objection to the proposals in respect of air quality, subject to the imposition of a planning condition requiring the submission and agreement of a Travel Plan which provides for a range of measures, including proposals to minimise the impact of the development on local air quality.</p> <p>The planning application is accompanied by a Phase I & II Geo-Environmental Assessment and no objections have been raised to the proposed development on the grounds of land contamination by the Environment Agency or the Environmental Health Officer, although a planning condition is recommended to address any unexpected contamination encountered during the course of construction works.</p> <p>It is therefore considered that the application would satisfy the requirements of Policy SP17 in terms of the protection, improvement and management of air quality, land and water resources.</p>
<p>Renewable & Low Carbon Energy (Policy SP18)</p>	<p>The submitted Design & Access Statement confirms that measures aimed at reducing energy consumption during operation and allowing for the integration of on-site renewable technologies will be decided upon by the foodstore operator, although the building has been designed to incorporate a number of potential measures.</p> <p>A condition can be imposed requiring details of how predicted CO₂ emissions of the development will be reduced by at least 10% in excess of Building Regulations targets through the use of on-site renewable energy equipment, sustainable building techniques and / or other sustainability measures and it is considered that such an approach will lead to a satisfactory reduction in carbon emissions associated with the proposed development and, as such, the proposals are considered to be broadly</p>

	consistent with the requirements of Policy SP18 of the Local Plan Strategy.
Amenity & Safety (Policy SP16 & SP20)	<p>The EHO has reviewed the application proposals and has advised that the imposition of planning conditions restricting hours of use, hours of delivery, use of plant and equipment and the means of preventing HGV's and other vehicles entering the site outside the agreed hours of operation will ensure that there will not be any significant adverse impact on neighbouring residents on Wentworth Street and Smithson Court by virtue of noise and general disturbance.</p> <p>There are also existing residential properties to the south of the site within Wentworth Mews and the relationship between these properties and the proposed development has been carefully assessed and it is not considered that the proposed development will impact significantly upon the amenities of residents within Wentworth Mews by virtue of overlooking, overshadowing, overbearing impact, noise or external lighting.</p> <p>It is therefore considered that the proposed development are in compliance with Policies SP16 & SP20 of the Local Plan Strategy.</p>

- 7.17 Furthermore, it is considered that the application proposals will result in a significant net increase in jobs for residents of Malton and the wider District and the anticipated level of net job creation is viewed to be a substantial positive aspect of the proposals. It is anticipated that the proposed development would draw 40% of its trade from the clawback of expenditure that is currently flowing to centres outside the District. The clawback of expenditure will result in more people using Malton for main food shopping and broaden the town's customer base, which will generate *'spin off'* trade to other shops and services through linked trips. The site is located in close proximity to the town centre and the proposed improvements to pedestrian linkages, coupled with the applicant's commitment to provide 3 hours free parking at the site, will encourage linked trips to take place and, alongside the forecast clawback of expenditure, will provide benefits for existing traders in the town in this regard. Officers therefore consider that the application proposals will give rise to substantial economic benefits to Malton and the District as a whole and would broadly support the Government's stated commitment to securing economic growth in order to create jobs and prosperity, as set out at Paragraph 18 of the NPPF.
- 7.18 On this basis, Officers are of the opinion that the application proposals would give rise to a number of substantial social, economic and environmental benefits and there are not considered to be any adverse impacts associated with the proposed development that would significantly and demonstrably outweigh these benefits. It is acknowledged that there is a degree of conflict with Policy SP7 of the Local Plan Strategy, given that the policy identifies that convenience retail needs will be met by existing commitments up to 2026. However, based on an up-to-date independent assessment, whilst the capacity for the Livestock Market site and WSCP stores is marginal in 2018, there would be no significant adverse impact on the town centre and there is more than sufficient capacity for both stores in 2023. Officers are satisfied that a foodstore of the scale proposed on WSCP would comply with the broad thrust and clear aims and objectives of Policy SP7. Officers are therefore of the opinion that the proposed development constitutes a sustainable form of development that would broadly accord with aims and objectives of the adopted Development Plan and policies contained therein and in accordance with the requirements of Policy SP19 of the Local Plan Strategy and the NPPF, there should be a presumption in favour of the proposed development.

8. HUMAN RIGHTS

- 8.1 It is considered that a decision made in accordance with this recommendation would not result in any breach of Convention rights.

9. RECOMMENDATION

- 9.1 That the application be notified to the Secretary of State under the Town & Country Planning (Consultation) (England) Direction 2009 and that, consequent upon the Secretary of State deciding not to intervene and require that the planning application be referred to him, outline **PLANNING PERMISSION BE GRANTED** subject to::

- a. The completion of an agreement between the applicant and the Council and any other party pursuant to S.106 of the Town & Country Planning Act 1990 and subject to the Council Solicitor being authorised to negotiate with the applicant regarding such agreement to secure:
- i. A contribution towards the implementation of a one-way system on Finkle Street, Newgate and Spital Street together with improvements to the footpaths.
 - ii. A contribution towards the introduction of measures to mitigate the impact of congestion at the junction of Town Street and Highfield Road.
 - iii. A contribution towards the costs associated with the making and implementation of Traffic Regulation Orders.
 - iv. A contribution towards the A64 Brambling Fields scheme.
 - v. A contribution towards improvements at Yorkersgate / B1248 junction.
 - vi. Provision of wayfinding infrastructure.
 - vii. Provision of public art.
 - viii. Provision of retailers' marketing workshops.
 - ix. Provision of an audiotrail.
 - x. Provision of display cabinets.
- b. The following conditions subject to the Council solicitor being authorised to negotiate further with the applicant regarding the detailed wording of such conditions as required and to (a) make such amendments to the detailed wording of those conditions; and (b) to add any further conditions not listed below, as necessary, and agreed with the applicant – as set out in the report:

RECOMMENDATION: That the application be notified to the Secretary of State under the Town & Country Planning (Consultation) (England) Direction 2009 and that, consequent upon the Secretary of State deciding not to intervene and require that the planning application be referred to him, that the application be Approved subject to the following conditions.

- 1 Approval of the details of the access, layout, scale, appearance and landscaping of the development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced and the development shall be carried out as approved.

This condition is imposed in order to comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

This condition is imposed in order to comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3 The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

This condition is imposed in order to comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

- 4 The details to be submitted pursuant to Condition 1 shall conform with the principles and parameters contained in the submitted Design and Access Statement in relation to:

- i. the location of the built development areas comprised in the description of development;
- ii. the location of access routes and in particular the details of principal routes into and out of the site and the principle of the primary entrance to the supermarket on Wentworth Street ;
- iii. the height, width and length of the supermarket building including car parking under the building; and
- iv. the appearance of the supermarket building including in particular the elevational treatment of the frontage to Wentworth Street

Reason:- This condition is imposed in the interests of the character and appearance of the area, the amenity of adjacent uses and in respect of access issues and to satisfy the requirements of Policy SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 5 A separation distance of no less than 16 metres between the proposed development and the external elevations of Wentworth Mews shall be provided. For the purposes of this condition 'the proposed development' is taken to be any built element of the proposals - including any retail or office building, pedestrian colonnade or similar structure but not including any fencing.

Reason:- This condition is imposed in the interests of the character and appearance of the area, the amenity of adjacent uses and in respect of access issues and to satisfy the requirements of Policy SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 6 No development shall be commenced until:

- i. Details of car parking arrangements within the site which shall, notwithstanding the indicative status, accord with drawing numbers 3888 PL 004 Revision B, W50667/Option 6, W50667/07, W50667/06; and
- ii. Details of both hard and soft landscaping works (to the extent not required to 6(i) above), including, in the case of soft landscaping works: planting plans, written specifications, schedules of plants, noting species, plant sizes and proposed numbers / densities where appropriate and an implementation programme

have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full as part of the development in accordance with the approved scheme and retained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 7 There shall be no access or egress by any heavy goods vehicles used for site preparation or for construction on the application site 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 for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The measures shall be implemented in accordance with the approved details and programme unless otherwise agreed in writing by the Local Planning Authority in consultation with the Highway Authority.

This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 8 No part of the development shall be brought into use until the existing vehicular access on to Wentworth Street has been permanently closed off and the highway restored. These works shall be in accordance with details which have first been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access shall be created without the written approval of the Local Planning Authority in consultation with the Highway Authority.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 9 There shall be no excavation or other groundworks, other than for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:

- i. The details of the required highway improvement works, listed below (including a phasing and completion programme), have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- ii. An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations.
- iii. A programme for the completion of the proposed works has been submitted.

The required highway improvements shall provide for:

- a. The provision of a new signalised junction to include a right turn lane at Pasture Lane / Smithson Court with formal pedestrian crossing facilities on Pasture Lane and across Smithson Court, which shall, notwithstanding the indicative status, accord with drawing number W50667/Option6.
- b. The realignment and widening of Smithson Court and provision of footways on both sides of the road.
- c. Provision of new private accesses off Smithson Court.
- d. Alterations to the footways on Wentworth Street, provision of raised table and zebra crossing and provision of loading bay and pick up point.
- e. A scheme to improve pedestrian access on Pump Lane and the introduction of parking restrictions.
- f. Provision of a Puffin Crossing on Newbiggin.

No part of the development shall be brought into use until the highway works listed under condition number 7 of this permission have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition number 7 of this permission and such that the carriageway and any footway/footpath from which it gains access has been constructed to basecourse macadam level and kerbed and connected to the existing highway network with street lighting installed and in operation.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 10 There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on site until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under Condition 9:

- a. The provision of a new signalised junction to include a right turn lane at Pasture Lane / Smithson Court with formal pedestrian crossing facilities on Pasture Lane and across Smithson Court.
- b. The realignment and widening of Smithson Court and provision of footways on both sides of the road.
- c. Provision of new private accesses off Smithson Court.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 11 No part of the development shall be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under Condition 9:

- a. Alterations to the footways on Wentworth Street, provision of raised table and zebra crossing and provision of loading bay and pick up point.
- b. A scheme to improve pedestrian access on Pump Lane and the introduction of parking restrictions.
- c. Provision of a puffin crossing on Newbiggin.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 12 There shall be no commencement of construction works on the proposed new store until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority:

- i. Tactile paving
- ii. Vehicular, cycle and pedestrian accesses
- iii. Vehicular and cycle parking
- iv. Vehicular turning arrangements
- v. Manoeuvring arrangements
- vi. Loading and unloading arrangements

The development shall be carried out in accordance with the approved details.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 13 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition 12 have been constructed which shall, notwithstanding the indicative status, accord with drawing numbers 3888 PL 004 Revision B, W50667/Option 6, W50667/07, W50667/06.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 14 No external lighting equipment shall be used during site preparation or construction other than in accordance with details submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 15 There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on 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-contractor vehicles clear of the public highway.
- ii. On-site materials storage capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use in accordance with the approved details at all times that construction works are in operation and signage erected to direct that all vehicles in use in connection with development of the site shall park in the approved areas.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 16 Prior to the development being brought into use, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. This shall provide for the following matters in relation to the development:

- i. The appointment of a Travel Plan 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 travelling to the site.
- iv. Provision of up-to-date details of public transport services serving the development.
- v. Continued 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 measures (i) to (vii) and any proposed physical works.
- ix. Procedures for monitoring the uptake of such alternative modes of transport and for providing evidence of compliance.
- x. Proposals to minimise the impact of the development on local air quality, including the feasibility of provision of 'Motor Vehicle Low Emission Measures,' such measures to be considered being: provision of separate refuelling points at the Petrol Filling Station for low emission vehicles, electric vehicle charging bays to be provided in the Petrol Filling Station and car park and the use of low emission vehicles for any home shopping delivery scheme which may be operated from the store.

From the bringing into use of the development the Travel Plan shall be implemented in accordance with the approved details and the development shall thereafter be carried out and operated in accordance with the approved Travel Plan.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

- 17 If during development contamination not previously identified as found to be present be found then the Local Planning Authority should be notified and no further development shall be carried out until the extent of the contamination has been investigated and a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and agreed in writing with the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason:- This condition is imposed because previous uses of the site may have resulted in contamination that has not been identified by the Phase I and II Geo-environmental Assessments previously carried out at the site and to satisfy the requirements of Policy SP17 of the Ryedale Plan - Local Plan Strategy and Section 11 of the National Planning Policy Framework.

- 18 Loading, unloading or movements of supermarket deliveries and home shopping vehicles at the approved supermarket, and deliveries to the petrol filling station shall be restricted to between the hours of 9:00 and 19:00 on Sundays, and 07.00 and 22:00 on all other days , unless agreed otherwise in writing by the Local Planning Authority.

Reason:- This condition is imposed in the interest of the residential amenities of the area and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 19 Prior to the operation of the foodstore and the petrol filling station hereby approved a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority and thereafter adhered to unless otherwise agreed in writing by the Local Planning Authority. The submitted scheme shall include measures to be implemented at the site to minimise noise disturbance to local residents from deliveries and other servicing and operational requirements.

Reason:- This condition is imposed in the interest of the residential amenities of the area and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 20 No fixed plant and / or machinery shall come into operation until a scheme containing details of the fixed plant and machinery serving the development hereby permitted together with associated mitigation measures is submitted to and approved in writing by the Local Planning Authority. Such scheme will include the anticipated rating level of plant noise emitted from the site between the hours of 23.00 and 07.00 and separately between 07.00 and 23.00 when assessed at the nearest noise sensitive property. The measurements and assessment shall be made in accordance with BS4142: 1997. Any fixed plant and/or machinery shall be provided in accordance with an approved scheme.

Reason:- This condition is imposed in the interest of the residential amenities of the area and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 21 Prior to the of development (other than demolition and site clearance) full details of the boundary treatment proposed along the boundaries of the site with Smithson Court shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full as part of the development in accordance with the approved scheme and retained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason:- This condition is imposed in the interest of the residential amenities of the area and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 22 Before the commencement of development a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall identify the measures and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the demolition, site preparation, groundwork and construction phases of the development and to manage the Heavy Goods Vehicle access to and from the site associated with such phases including the proposed routeing to be used by such traffic. The Construction Environmental Management Plan shall include details of measures to be employed to prevent the egress of mud and other detritus onto the public highway including wheel washing facilities where considered necessary by the Local Planning Authority in consultation with the Highway Authority. These measures 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 agrees in writing to their withdrawal. Unless otherwise agreed in writing by the Local Planning Authority, once approved, the Construction Environmental Management Plan shall be adhered to at all times and until the Local Planning Authority in consultation with the Highway Authority agree in writing that its operation can be withdrawn. Unless otherwise first agreed in writing by the Local Planning Authority, once approved the Construction Environmental Management Plan shall be adhered to at all times and until the Local Planning Authority in consultation with the Highway Authority agree in writing that its operation can be withdrawn including keeping available through the working day and in full working order any equipment or facilities proposed.

Reason:- This condition is imposed in the interest of the residential amenities of the area and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 23 Details of the dates, times and duration of all piling operations shall be submitted to the Local Planning Authority at least fourteen days before such operations commence.

Reason:- This condition is imposed in the interest of the residential amenities of the area and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 24 Prior to the foodstore being brought into use details of means of prevention of vehicular access to the car park (outside of hours to be agreed with the Local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority and thereafter provided, retained and operated in accordance with the approved scheme or such other scheme approved in writing by the Local Planning Authority which may supersede it.

Reason:- This condition is imposed in the interest of the residential amenities of the area and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 25 Prior to the development being brought into use an external lighting scheme for the site shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved external lighting scheme shall be implemented in accordance with the approval (or any amendment thereto or replacement external lighting scheme approved in writing by the Local Planning Authority in consultation with the Local Highway Authority) prior to the development being brought into use.

26 The foodstore and comparison retail unit hereby approved shall not be open to the general public outside the hours of 10:00 and 18:00 on Sundays and 07:00 and 22:00 on all other days unless otherwise agreed in writing by the Local Planning Authority.

Reason:- This condition is imposed in the interest of the residential amenities of the area and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

27 The Petrol Filling Station hereby approved shall not be open to the general public between the hours of 23.00 and 07.00 unless otherwise agreed in writing by the Local Planning Authority.

Reason:- This condition is imposed in the interest of the residential amenities of the area and to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

28 The development of the Petrol Filling Station hereby permitted shall not be commenced until such time as a scheme to install the underground fuel tank(s) has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include the full structural details of the installation, including details of:

- i. Excavation;
- ii. The tank(s);
- iii. Tank surrounds;
- iv. Associated pipework;
- v. Monitoring system(s);

The scheme shall be fully implemented and subsequently retained in accordance with the scheme unless otherwise agreed in writing by the Local Planning Authority.

Reason:- This condition is imposed because the site is located on the Corallian Limestone, which is designated as a Principal aquifer. The site is therefore vulnerable to any potentially polluting activity and the proposed petrol filling station poses a potential pollution risk.

29 Construction [of any building] shall not begin until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the scheme has been implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority, The scheme shall provide for:

- i. Storage to accommodate surface water run-off from a 1 in 30 year rainfall event without flooding of the site, to include an allowance of 20% to take into account climate change.
- ii. A design which will ensure that storm water from a 1 in 100 year event, to include an additional allowance for increased storm water through climate change, and surcharge to the drainage system can be stored on site without risk to people or property and without overflowing to the watercourse;
- iii. Detailed surface water calculations for the whole scheme;
- iv. Surface water run-off from the site to be limited to 2 litres per second;
- v. Details of the scheme will be maintained and managed after completion;
- vi. Details of operation of the scheme were the surface water pumping station to fail.

Reason:- This condition is imposed to prevent the increased risk of flooding and ensure future maintenance of the surface water drainage system and to satisfy the requirements of Policy SP17 of the Ryedale Plan - Local Plan Strategy.

30 No development shall take place until such time as the implementation of a programme of archaeological work has been secured by the applicants in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the Local Planning Authority.

Reason:- This condition is imposed as the site is of archaeological interest.

31 Unless otherwise agreed in writing by the Local Planning Authority no building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the sewer which crosses the site.

Reason:- This condition is imposed in order to allow sufficient access for maintenance and repair at all times.

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

Reason:- This condition is imposed to ensure satisfactory and sustainable drainage and to satisfy the requirements of Policy SP17 of the Ryedale Plan - Local Plan Strategy.

33 No development shall take place until details of the proposed means of foul drainage, including details of any off-site works have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason:- This condition is imposed in order to ensure that the site can be properly drained and to satisfy the requirements of Policy SP17 of the Ryedale Plan - Local Plan Strategy.

34 There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to the completion of the approved foul drainage works.

Reason:- This condition is imposed to ensure satisfactory and sustainable drainage and to satisfy Policy SP17 of the Ryedale Plan - Local Plan Strategy.

35 Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

Reason:- This condition is imposed to ensure satisfactory and sustainable drainage and to satisfy Policy SP17 of the Ryedale Plan - Local Plan Strategy.

36 The development shall be carried out in accordance with the recommended mitigation and enhancement proposals as set out in Section 5 of the Habitat Survey and Protected Species Assessment. These are to include precautionary working method demolition, pre demolition bat surveys and enhancement of new buildings for bat use.

Reason:- This condition is imposed in the interests of protected species.

37 The foodstore and non-food unit hereby approved shall not cumulatively provide any more than 1903m² convenience floorspace (net) or 974m² comparison floorspace (net).

Reason:- This condition is imposed in order to ensure the development does not have any adverse effect on the vitality and viability of Malton town centre or any other centre.

38 The 253m2 of office accommodation hereby approved shall only be used for purposes falling within Use Class B1a (office uses other than a use within class A2), as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) and specified in the submitted application.

Reason:- This condition is imposed in order to ensure the development does not have any adverse effect on the vitality and viability of Malton town centre or any other centre.

39 No construction of any building shall take place until the Local Planning Authority has approved a report provided by the applicant identifying how the predicted CO2 emissions of the development will be reduced by at least 10% through the use of on-site renewable energy equipment, sustainable building techniques and/or other sustainability measures. The carbon savings which result from this will exceed what is required to comply with Part L of the Building Regulations. The development shall then proceed in accordance with the approved report or any superseding report which has been approved in writing by the Local Planning Authority.

Reason:- This condition is imposed in the interest of sustainability and to minimise the development's impact on climate change and satisfy the requirements of Policy SP17 of the Ryedale Plan - Local Plan Strategy.

40 The development shall not commence until the proposed off-site highway works associated with decision number 10/00899/MOUT (or any associated planning permission granted under Section 73 of the Town and Country Planning Act 1990) at Broughton Road, Malton including the realignment of Pasture Lane, the provision of a new roundabout with Broughton Road and alterations to create a 3-arm signalised junction at the Newbiggin / Broughton Road / The Mount junction have been commenced.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

41 The development shall not be brought into use until the highway works described in Condition 40 have been opened to traffic.

Reason:- This condition is imposed in the interests of highway safety and to satisfy the requirements of Policy SP16 of the Ryedale Plan - Local Plan Strategy.

42 No development shall take place until details of crime prevention measures have been submitted to and approved in writing by the Local Planning Authority. The details shall include a timetable for the implementation of approved measures. The development shall then proceed in accordance with the approved measures and timetable. The approved measures shall, thereafter, be retained as approved.

Reason:- This condition is imposed in the interests of promoting healthy communities, and reducing crime and fear of crime through design. And to satisfy the requirements of paragraph 69 of the National Planning Policy Framework and Policy SP16 of the Ryedale Plan - Local Plan Strategy.