

**Item Number:** 7  
**Application No:** 13/01141/MFUL  
**Parish:** Malton Town Council  
**Appn. Type:** Full Application Major  
**Applicant:** Taylor Wimpey (North Yorkshire) Ltd (Mr I Pay)  
**Proposal:** Erection of 27no. 4-bed dwellings, 23no. 3-bedroom dwellings, 17no. 2-bed dwellings and 16no. 1-bed dwellings, associated garages, parking, public open space and landscaping  
**Location:** Land At Allotments Broughton Road Malton North Yorkshire

**Registration Date:**  
**8/13 Wk Expiry Date:** 2 January 2014  
**Overall Expiry Date:** 17 June 2014  
**Case Officer:** Alan Hunter **Ext:** Ext 276

#### CONSULTATIONS:

<b>Mr Jim Shanks</b>	Concerns raised
<b>Highways Agency (Leeds)</b>	No objection
<b>Land Use Planning</b>	Recommend conditions
<b>Sustainable Places Team (Yorkshire Area)</b>	Recommend condition
<b>Housing Services</b>	Requires off-site Affordable Housing
<b>Environmental Health Officer</b>	No objection
<b>Tree &amp; Landscape Officer</b>	Comments made regarding landscaping
<b>Archaeology Section</b>	No further work required - no objection
<b>Property Management</b>	Information received regarding affordable housing and public open space
<b>Countryside Officer</b>	Further site survey recommended
<b>Parish Council</b>	No views received to date
<b>NY Highways &amp; Transportation</b>	Views awaited
<b>Environmental Health Officer</b>	Comments received by Environmental Protection Officer - conditions recommended
<b>North Yorkshire Education Authority</b>	Contribution requested
<b>Forward Planning &amp; Conservation</b>	Views received
<b>Vale Of Pickering Internal Drainage Boards</b>	No objection

**Neighbour responses:** Josephine Dawns, Mrs Hazel Foster,

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#### SITE:

The application site is rectangular in shape measuring 104m in width by 239m in depth and approximately covers an area measuring 2.32 hectares. The site was used until recently as allotments. The site is also located outside the development limits of Malton and it is surrounded on three sides by land currently being developed for housing (Phase 1), also by the applicant. Beyond the site to the North and North West is the A64 Trunk Road, although the site does not directly abut the A64. Outgang Road, a single track lane, runs along the eastern boundary from Pasture Lane to farmsteads and small holdings to the north of the A64. On the opposite side of Outgang Road are Pasture House Farm and its associated buildings along with grazing land over the wider area. This area comprising Pasture House Farm and the grazing land opposite the site is a designated as Visually Important Undeveloped Area.

The application site slopes to the north-west and south-east with its highest part in the middle of the site and there is a levels difference of approximately 5m across the entire site. The proposed application site is also located within Flood Zone 1, representing the lowest risk of flooding from any source.

## **PROPOSAL:**

Planning permission is sought for the erection of 83 dwellings together with associated roadways, and open space. The proposal seeks to access the site from the adjoining development currently under construction, known as Phase 1. Two access points into the site are proposed, on the southern and northern sides. The scheme has a focal area of Public Open Space. The scheme features a series of internal roads and cul-de-sacs leading from the both the central POS and the two access points to allow development across the entire site. In addition to the central area of POS, a further area is proposed to the north-western side that extends an already approved area of POS on Phase 1. The scheme comprises the following:

- 16no. 1-bed dwellings
- 17 no. 2-bed dwellings
- 23 no. 3-bed dwellings
- 27 no. 4-bed dwellings

Of these; 30 dwellings are to be either terraced or 'quarter' houses; 34 are semi-detached; and 19 are detached.

The proposed dwellings are a mixture of single, two and three storey properties. No materials are proposed at this stage, and the applicant has asked for these to be agreed by condition. The ridge heights of the proposed dwellings vary from 5 metres at apex for the bungalows to 10.3 metres at apex for the three storey properties.

There are ten different house types:

1. 16no. 1 bed quarter houses, typically having a footprint measuring 5.5 m by 5.4 m and being 7.5m to the ridge height;
2. 8no. 2 bed quarter house, typically measuring 6m by 5.5m and having a ridge height of 7.5 m;
3. 5no. Canford - a 2 bed house type, measuring 4.4m by 8.3 m and being 7.4 m at ridge height;
4. 4no. Foxdale - a 2 bed semi-detached bungalow, having a footprint of 7.6m by 9.4m and being 5m to the hipped roof ridge height;
5. 11no. Gosford - a 3 bed semi-detached property, having a footprint measuring 5.1m by 8.7 m and being 7.5m to the ridge height;
6. 12no. Alton - a 3 bed three-storey semi-detached property having a footprint measuring 4.6 m by 9.2m and being 9m to the ridge height;
7. 10no. Bradenham - a 4 bed detached dwelling measuring 7.7 m by 8.9m and being 7.4m to the ridge height;
8. 6no. Downham - a 4 bed detached dwelling measuring 8.3m by 8.8m and being 8m to the ridge height;
9. 8no. Oakham - a 4 bed detached dwelling measuring 5.2m by 9.2m and being 10.3m to the ridge height; and
10. 3no. Langdale - a 4 bed detached dwelling measuring 10.2m by 12m and being 7.2m to the ridge height.

The following documents have been submitted with the proposal and are available to view online:

- Design and Access Statement
- Planning Statement
- Archaeology Statements
- Travel Plan
- Transport Assessment
- Flood Risk Assessment and Surface Water Management Strategy
- Noise Statement
- Statement of Community Involvement
- Ground Condition report
- Ecology and Wildlife report

This application has been screened by officers and it has been determined that the proposal does not constitute 'Environmental Assessment Impact' development.

### **HISTORY:**

There is no directly relevant planning history relating to this application site. However, Members should be aware of the relatively recent planning permissions on the adjoining land (Phase 1):

10/00899/MFUL – Residential development including dwellings, associated garages, open space, electricity sub-station and provision of a new Broughton Road to Pasture Lane Link road (site area 12.93ha)

11/01182/MREM - Erection of 3 no. five bedroom, 110 no. four bedroom, 101 no. three bedroom and 48 no. two bedroom dwellings, associated garages, public open space, electricity sub station, formation of Broughton Road to Pasture Lane link road and landscaping (outline approval 10/00899/MOUT dated 07.11.2011 refers) (264 dwellings in total)

The Local Planning Authority is also currently considering the following application on the adjoining site, Phase 1:

14/00346/73A -Variation of Conditions 11(1)(a) and 15 by replacement of "50 No. dwellings" by "80 no. dwellings" - maximum number of occupied dwellings that relate to the temporary vehicular access arrangements and the completion of construction of the listed highway works - and Variation of Condition 16 to allow the use of the temporary access for 24 months from the first occupation of a dwelling on the site (until April 2016) - addition of a further 12 months of use. All Variations in relation to approval 10/00899/MOUT dated 07.11.2011.

### **POLICY:**

#### National Policy Guidance

National Planning Policy Framework 2012 (NPPF)  
National Planning Policy Guidance 2014, (NPPG)

#### Local Planning Strategy; adopted 5 September 2013

Policy SP1 - General Location of Development and Settlement Hierarchy  
Policy SP2 - Delivery and Distribution of New Housing  
Policy SP3 - Affordable Housing  
Policy SP4 - Type and Mix of New Housing  
Policy SP11 - Community Facilities and Services  
Policy SP13 - Landscapes

Policy SP14 - Biodiversity  
Policy SP15 - Green Infrastructure Networks  
Policy SP16 - Design  
Policy SP17 - Managing Air Quality, Land and Water Resources  
Policy SP18 - Renewable and Low Carbon Energy  
Policy SP19 - Presumption in favour of sustainable development  
Policy SP20 - Generic Development Management Issues  
Policy SP22 - Planning Obligations, Developer Contributions and the Community Infrastructure Levy

2007 - Draft SPD - Developer Contributions towards Strategic Transport Improvements at Malton and Norton

### **APPRAISAL:**

The main considerations in relation to this application are:

- The principle of the proposed development;
- The layout, design, density, housing mix and external appearance of the proposed development;
- Whether the proposed dwellings will have a satisfactory level of residential amenity;
- Whether the proposed development will have an adverse effect upon the amenity of adjoining properties;
- Highway safety;
- Drainage;
- Designing out crime;
- Impact upon the character of the surrounding area;
- Protected species;
- Potential ground contamination;
- The potential impact of the proposals upon archaeology;
- Public Open Space; and
- Developer contributions.

This application is a 'Major' application and in accordance with the Council's Scheme of Officer Delegation has to be determined by the Planning Committee. The application was originally submitted in October 2013. The applicant sought an extension of time until 30 June 2014 in order to resolve outstanding issues with the application. Following a series of meetings and negotiations revised plans have been submitted and have been the subject of re-consultation until 18 June 2014. Officers raised the following concerns about the initial proposals relating to the layout of the scheme, housing mix, level of affordable housing provision, the design of some of the plots; Public Open Space (POS) provision, parking arrangements, and level of developer contributions.

#### Principle of development

The allotments that previously existed on the site were privately owned and there is no statutory protection available to the allotment holders in this case. Furthermore, any such protection, if it did exist, would be a separate mechanism of control outside of the planning system. In addition, Members should also be aware that the allotment holders have been given the opportunity to be re-located to an alternative site nearby and the planning statement mentions that financial assistance has been provided by the Town Council for this purpose. The site is currently vacant.

Policy SP11 provides protection for community uses, such as Allotments, and states:

*'Existing local retail, community, cultural, leisure and recreational services and facilities that contribute to the viability of the towns and villages and well-being of local communities will be protected from loss/redevelopment unless it can be demonstrated that:*

- *There is no longer a need for the facility or suitable and accessible alternative exist, or*
- *That it is no longer economically viable to provide the facility, or*

- *Proposals involving replacement facilities provide an equivalent or greater benefit to the community and can be delivered with minimum disruption to provision.'*

In this case, the use has ceased and Malton Town Council who administers the allotment have (as stated above), made available alternative land for allotment holders which has been taken up. The new allotment site measures 6.23 acres in area and is larger than the site in question (5.76 acres). The new site is also located nearby and it is located approximately 100m to the north-west of the application site. As a result of the alternative and larger provision having been made available locally, it is considered that Policy SP11 is met.

The adopted Local Planning Strategy is based on a residential strategy which seeks to focus new residential development in sustainable settlements comprising the four market towns and the selected 'service villages'. Malton is designated as the 'principal town' and the most sustainable settlement in the District. It is also the focus of all major growth over the 15 year plan period. The Town has excellent public transport links, schools, employment opportunities and retail provision. Whilst the site is located outside the development limits of Malton, the Local Plan Strategy recognises that these will be reviewed as part of the site allocation work. The site is surrounded on three sides by land that has already been granted planning permission for residential development, with construction under way (Phase 1). The site would also be within walking distances of major services, facilities and jobs.

Para. 49 of NPPF states:

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

The Council does not currently have a 5 year supply of housing (4.46 years of housing supply). Therefore in accordance with para. 49 of NPPF, the proposal must be considered against para. 14 of NPPF.

Para. 14 states:

*' .... For decision-taking this means:*

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

In this case Policy SP2 (Delivery and Distribution of new housing) of the Local Planning Strategy is the principal policy relating to housing supply and under the terms of para. 49 has to be considered 'out of date'. Incidentally, Policy SP2 seeks to provide an additional 3,000 dwellings over the plan period with 1,500 to be in Malton/Norton. The Council is currently working on the Housing Land Allocations, which it is not appropriate to pre-judge. However, in view of the site's location and accessibility it is considered to be consistent with the thrust within Policy SP2. Therefore, even if weight could be attached to Local Planning Policy SP2 it is considered that the scheme would be consistent with that policy. It should be noted, however, that Policy SP1 (General Location of new development and settlement hierarchy) and Policy SP19 (presumption in favour of sustainable development) are still considered to be relevant along with NPPF and NPPG. The proposal is not considered to be contrary to Para. 55 of NPPF, which seeks to restrict new residential development in isolated open countryside locations, because the site is not isolated but well related to the built form of the 'principal town' and there is consent for new development which effectively envelops the site. All other relevant paragraphs of NPPF seek to encourage sustainable residential development in locations such as Malton.

In view of the above, together with the sustainable location of the site, and the proposal effectively completing an already approved development on the wider area, the principle of residential development on the site is considered to be acceptable. This is subject to any impacts associated with the proposal that are considered to cause 'significant' and 'demonstrable' harm in accordance with para. 14, which will be addressed below.

The layout, design, density, housing mix and external appearance of the proposed development

Following initial officer concerns, the layout and design of the scheme has been substantially altered. This has resulted in a focal area of Public Open Space which both access points lead to. There is then a series of internal roads, cul-de-sacs and private drives that lead from these access ways that help to create clear, logical, and legible form of development. The proposed layout makes a logical use of the land that seamlessly integrates the proposed development into the Phase 1. For example, the house types chosen are similar, the POS is linked together on the western side, and pedestrian linkages run concurrently. Officers have sought to balance the affordable housing need provision of 1 and 2 bedroom properties into a layout and design that is befitting of this area. This has resulted in the use of 'quarter' houses. This house type is designed in such a way, that it gives the impression of being a single larger unit. This particular house type has also been used as an 'end stop' to good effect on plots 323 and 324. Where possible the POS has been designed in a manner that integrates the development together and which provides natural surveillance.

The individual house types have also been revised following officer concerns and on the whole substantial improvements have been made. This has resulted in house types that relate better to the area, have varied roof heights, have reduced potential overlooking from balcony areas, and which use more traditional roof pitches. In general these house types are considered to be acceptable on this submission and to ensure a good design outcome.

One of the key issues that Officers have addressed with the developers was the amount of parking spaces to the front of dwellings, and the narrow spaces between dwellings. Many of the dwellings now feature garages set further into the plot giving a more open feel and creating important spacings between properties. By setting the garages further into the plots, it will also allow cars to be parked more discreetly.

The 'Langdale' house type has also been successfully used to effectively turn corners within the scheme, as it is appropriately fenestrated across two fronting elevations.

In accordance with Policy SP4, 5% of the dwellings have to be bungalows. The revised plans proposes 4 bungalows. It should be noted that these proposed bungalows would be the only bungalows within both Phase 1 and 2 (347 dwellings in total).

The proposed scheme contains an improved housing mix, comprising mainly attached and semi-detached properties. The density of the scheme, at approximately 36 dwellings per hectare represents an efficient use of land and is consistent with the objectives contained within both national and local policy.

Consideration was given to providing pedestrian links onto Outgang Road. However, to be consistent with Phase 1, it was considered that there should be no direct access onto Outgang Road in order to retain the rural appearance of this single track lane. Landscaping is proposed along that boundary to retain that rural appearance. As a result access to and from the site is via those points approved on Phase 1, being directly onto Broughton Road via purposefully designed junctions and footways.

The proposed layout, design, density and housing mix is considered to be acceptable and to result in a sustainable and balanced community, that relates well to its surroundings.

#### Whether the proposed dwellings will have a satisfactory level of residential amenity

The Noise report submitted for Phase 1 considered the noise implications from the A64 and appropriate mitigation was agreed. An updated Noise report has been submitted which states that a 3m high barrier was erected on the northern boundary tapered to 1.5m to meet a landscaped mound on Broughton Road. Along with 2.2m high boundary fencing for some of the closest properties to Broughton Road. These measures ensured the majority of the new houses had noise levels within their garden areas below recommended limit of 50db (as required by the World Health Organisation). Based on the current proposal, the highest noise level within the site is predicted to be 51db, and providing a 1.8m high close boarded fence is erected on the boundary of Plots 330 and 331, this will satisfactorily mitigate any potential noise nuisance from the proposed dwelling.

Further to the east is Showfield Lane industrial site (approximately 240m at its closest) and a farm (Pasture House Farm) on the opposite side of Outganag Road. The proposed dwellings are considered to be no closer to those potential noise sources than the approved scheme. The Environmental Health Officer has confirmed that there are no objections to the proposal in terms of potential noise and disturbance.

The proposed dwellings are also considered to have a satisfactory level of amenity space, both private and shared were applicable. There is also considered to be functional Public Open Space within walking distance of all the proposed dwellings. In view of this, the proposed development is considered to ensure a satisfactory level of residential amenity for the proposed development.

#### Whether the proposed development will have an adverse effect upon the amenity of adjoining properties

On the opposite side of Outgang Road to the east of the site is Pasture House Farm, and its associated buildings. That site is also the subject of an application for 227 dwellings (14/00427/MOUTE) which the Local Planning Authority is currently considering. The site is bounded to the other three sides by Phase 1.

There is considered to be a satisfactory separation distances between the proposed development, and both the existing approved development. It is also considered that the approval of this proposal would not prejudice its determination of application 14/00427/MOUTE, in terms of residential amenity impacts from this proposed development.

There is some concern at the proximity of plots 320 and 321 to approved Plots 120 - 122. However there is a block of three garages between the respective plots. Obscure glazing is proposed on the elevations for the 1-bed and 2-bed quarter houses closest to the southern boundary of the application site (Plots 264, 267, 276, 279 and 321). A condition is considered necessary to require precise details of this obscure glazing due to their relatively close relationship with plots located on the approved scheme. The remainder of the proposed dwellings will have in excess of the widely accepted separation distances for new properties of 20m for a rear to rear elevation, and 12m for rear to-side elevation.

As a result the proposed development is not considered to have a material adverse effect upon the amenity of the existing neighbouring occupiers or the amenities of those dwellings approved in Phase 1.

#### Highway safety

The site will gain access from Broughton road via the approved new junction on Phase 1, a copy of the earlier approved junction is appended to this report for Members information. A condition is also recommended to ensure that the proposed new road network linking the application site to the public highway is constructed prior to the occupation of the first dwelling. This is to ensure that the development is served by the public highway. The Highways Agency has no objection to the proposal from a strategic perspective.

The local Highway Authority has stated that the development will lead to an additional 31 movements through Butcher Corner in accordance with the applicant's Transport Assessment. The junction at Butcher Corner is also an Air Quality Management Area and it has been widely recognised across all significant new developments in Malton and Norton over the last 6 years that contributions are necessary to mitigate the recognised impacts. Based on the Draft 2007 Developer Contributions Supplementary Planning Document a cost of £7,500 per pcu is requested from developers. In this case the total contribution to mitigate against this impact is calculated to be £232,500.

The Highway Authority has raised concerns in relation to the proposed soakaway drainage system in the highway areas. Amended drainage details have been submitted indicating that it is possible to drain the surface water in the highway and to an adoptable standard. At the time of preparing this report, confirmation is awaited from the Highway Authority with regard to the acceptability of this scheme. Members will be updated at the meeting.

It is understood that in all other respects, including the ability of the surrounding road network to accommodate the development; the roadways; pedestrian routes; parking and turning provision; the scheme is acceptable to the Highway Authority. Their written views are awaited and Members will be updated at the meeting.

#### Affordable Housing provision

In accordance with Policy SP3 of the Local Planning Strategy 35% of the on-site dwellings are required to be provided as affordable housing. The affordable housing proposals are:

- 16no. 1-bed quarter houses (603sqft each)
- 8 no. 2-bed quarter houses (653sqft each)
- 5 no. 2-bed dwellings (689sqft each)

This reflects the latest level of housing need in the SHMAA.

The SHMAA also seeks a tenure of 90% for social rent and 10% intermediate housing. In terms of this scheme of 29 affordable units, it equates to:

- 3 units for intermediate housing –Plots 313-315
- 26 units for social rent- Plots 316-325 and 264- 279.

The proposed affordable housing provision is located in two separate locations, at either end of the application site. It is considered that these locations would deliver a housing scheme that is balanced and mixed. The two groupings will also make it easier for a Registered Provider to manage them in perpetuity.

The above terms will need to be secured via a Section 106 Agreement.

#### Drainage

Foul drainage is proposed to access the mains system, to which Yorkshire Water has no objection. There is therefore sufficient capacity to accommodate this additional flow. Yorkshire Water recommends standard planning conditions.

Surface water is proposed to be drained to soakaways, which is a sustainable drainage method. This is consistent with the drainage on Phase 1. The applicant's have stated that this form of drainage is working well on the adjoining site and this approach is also stated to be acceptable in principle within the submitted Flood Risk and Drainage Management Strategy.

The Environment Agency has no objection to the proposal subject to a surface water condition requiring surface water run off to be restricted to the Greenfield run-off rate of 1 in 1 year event and sufficient long-term storage to accommodate a 1 in 30 year storm plus a factor for climate change. In addition, the Environment Agency also recommends standard informatives that cover surface water drainage and ground water protection. The Rye Internal Drainage Board has been consulted and has no objection to the proposal.

It is proposed to have soakaways and drainage infrastructure located within the individual plots, the POS, and within the highway. The specific design, size and capacity of these soakaways would be addressed at Building Control stage. Nevertheless, officers consider that in the circumstances it needs to be demonstrated that in principle, the site can be drained, surface water can be drained and the Highway Authority can adopt the drainage in the highway. Officers are also mindful that the drainage solution should not unduly compromise the scheme in other ways, such as landscaping, the functionality of the POS, and any ground level increase to accommodate the drainage. The applicants have submitted additional information in this respect and the views of the Highway Authority views are awaited. Members will be updated at the meeting. Furthermore, the applicant has confirmed that the Environment Agency's drainage requirements can be accommodated without significant changes to land levels. Nevertheless, a land level condition is recommended as there are no technical drawings currently submitted to demonstrate this to date.

#### Designing out crime

Paragraphs 58 and 69 of the National Planning Policy Framework require the creation of a safe, secure, sustainable environment. Para 010 of National Planning Practice Guidance requires that 'designing out crime and designing in community safety should be central to the planning and delivery of new development'. Furthermore section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and to do all they reasonably can prevent crime and disorder.

The Police Designing out Crime Officer has identified the following areas of concern with the scheme:

1. That not every occupant can directly overlook the two shared parking areas.
2. The quarter houses having their front doors accessed via the shared parking areas, where there is less natural surveillance.
3. Whether the parking courts will be lit.
4. Lack of defensible space for the quarter houses accessed from the rear as there is no separation from amenity space and that belonging to the properties.
5. No indication whether the amenity areas would be public or private space.
6. The parking areas could encourage the congregation of youths and anti-social behaviour.
7. No indication of communal drying areas, bin storage or cycle storage
8. No details of bin storage facilities.
9. That the location of the affordable housing on the eastern side will 'ghettoise' that area.
10. The POS areas have the potential to attract nuisance and antisocial behaviour.

The above concerns are understood. However, it is noted that the shared parking areas are both well surveyed by the dwellings on the two different sides, containing both ground and first floor windows. This is considered to reduce the risk of crime and anti-social behaviour in these areas. Furthermore these areas are to be private areas and not public areas. The quarter houses are orientated to front both the street and rear parking areas equally, thereby reinforcing the feeling of natural surveillance. Both of the proposed private shared parking areas are to be transferred to a Registered Provider to manage, and a suitably worded condition to address external lighting, bin storage areas, and cycle storage areas is recommended. Whilst the affordable housing will be concentrated in two distinct areas within the scheme, there is no evidence to suggest the design outcome would 'ghettoise' the area and the suggestion is strongly refuted by officers. The amendments to the scheme and house types, particularly the quarter houses have been chosen and sited specifically to meet identified housing need in the SHMAA, and in a form that the Registered Providers are prepared to purchase and manage.

The POS areas are to be passed by the developer to a company to manage once completed. The comment about them being used for anti-social behaviour and potential nuisance it considered to be without foundation. These areas are well surveyed by existing properties and the central area of POS is the focal point of the scheme.

Subject to the conditions discussed above being imposed it is considered that the concerns raised are not sustainable objections to the scheme. The requirement to take reasonable steps to reduce the risk of crime has been met. Furthermore, these concerns are not considered to be sufficient to be classed as 'significant' or 'demonstrable' effects that would outweigh the public benefits associated with the scheme in accordance with para 14 of the NPPF.

#### Impact upon the character of the area

Policy SP13- Landscapes provides protection to the open countryside, and splits the District into five different character areas. The site in question falls within the Vale of Pickering landscape area, which is typically low lying land between the Yorkshire Wolds, the North York Moors and the Howardian Hills Area of Outstanding Natural Beauty.

As stated above, the site is surrounded on three sides by Phase 1 of the Taylor Wimpey development; being the western, northern, and southern sides. On the eastern side is an area, the subject of a current application for housing (14/00427/MOUTE). Further to the east is the Showfield Lane Industrial Estate. The site has its highest point in the middle of the site at approximately 5m above its lowest ground level. The site is located between the existing built fabric of the Town and the A64 by-pass. In view of the typography of the site and its close relationship to the built-up area of Malton, together with the approved Phase 1, the proposal is not considered to have an adverse effect upon the character of the surrounding area.

The Council's Tree and Landscape Officer has been consulted on the application and has not objected to the principle of development on the site. Concern has, however, been expressed relating to the suitability of the planting proposed. Following verbal discussions it is considered that the existing hedges on the southern and northern boundaries should be retained within the scheme and precise details should be required of the planting for the POS and the individual plots.

#### Protected species

A protected species survey has been undertaken which has not identified that there are any protected species using the site. There is some possibility of protected species being located in the wider area, and suggested precautions are recommended. These precautions include covering foundations; that habitat removal should only take place outside the bird breeding season; that care during works to protect hedgehogs and prevent the spread of ragwort, and a landscaping scheme that encourages ecological enhancements. It is recommended that these issues can be addressed by condition. The Countryside Management Officer has however, recommended further survey work and environmental enhancements. It should be noted that the new allotment have been created elsewhere on arable land to the north-west, and to that extent, the loss of habitat on the application site will have off-set this on another larger site nearby. It should be noted the new allotment site is not owned by the applicant and it is not possible to control this other site, therefore no conditions can be imposed in respect of the habitat off-set.

In addition, the applicant's ecologist has stated the following in response:-

*"We have re-reviewed our report, the 2007 Scott-Wilson Extended Phase 1 Habitat survey report (wider site) and aerial photographs for the Site and do not believe that further survey for reptiles is necessary, as was our consensus following our Site visit last year. Furthermore, Scott-Wilson Ecology were of the same opinion and connectivity to the Site for reptiles has not improved since their survey visit.*

*Whilst the mosaic of habitats at the Site comprising scrub, hedgerow bases and colonising ephemerals/ perennials offer habitat suitable to support reptiles, and indeed slow worms are frequently found within allotment habitats within southern England, this species is uncommon in northern England, and furthermore, given that the Site is surrounded predominantly by arable land and roads, there is no suitable connective habitat from other suitable reptile habitats to the Site for reptiles to disperse through.*

*With regards to the potential loss of biodiversity at the Site, the areas of POS can be planted and maintained to support suitable foraging habitats for badgers and hedgehogs, and adequate cover for hedgehogs. Whilst habitats at the Site will remain suitable for tree sparrow and house sparrow, we would not anticipate grey partridge to be present at the Site when the allotments were fully utilised, and acknowledge that the future use of the Site will not be suitable for this species, however, the widespread agricultural land within the local area offers suitable habitat for this species. Furthermore, with a landscaping scheme that includes nectar, berry and nut rich native species of hedgerow, trees and shrubs, alongside residential gardens, we would anticipate that the diversity of garden birds occurring at the Site will increase as a result of the proposals.*

It is therefore considered to be unnecessary to require any further ecological surveys.

#### Potential ground contamination

The Ground Condition Report submitted with the application identified that the site was at a low-moderate risk of potential contamination. The Council's Contaminated Land Officer has considered the report and recommends conditions requiring the submission of a Phase 2 Site Investigation Report prior to the commencement of development.

#### The potential impact of the proposals upon archaeology

The County archaeologist initially requested additional reports on trial trenching that has taken place. On receipt of the report the County archaeologist has confirmed that they have no objection to the proposed development.

#### Public Open Space

Policy SP11 of the Local Planning Strategy requires new development to contribute to the provision of Public Open Space (POS).

There are two on-site areas of Public Open Space each measuring 630m<sup>2</sup>; one central area and an area on the north-western side that is adjacent to an area of POS approved on Phase 1. There is also a requirement for an off-site financial contribution of £146,256 towards adult and youth leisure provision or enhancement.

The central area of Public Open Space will be an open grassed area with suitable landscaping. The area to the west will link with an area of POS approved on Phase 1 and provide an enlarged area for children to play, with a fuller array of play equipment. The Council's Valuer is currently in discussions with the developer about this aspect, and it is anticipated that the specific details of this will be addressed by a suitably worded planning condition. The land underneath the central area of POS will be used to store and attenuate surface water drainage with one inspection chamber on the POS area. This is not considered to adversely affect the functionality of the POS area.

In summary, the proposed POS provision is considered to be sited in acceptable locations and capable of being functional POS, subject to precise details.

#### Developer contributions

If Members of the Planning Committee approve this application the following developer contributions are required:

- Affordable Housing: On site provision of 29 dwellings as detailed above.

- Public Open Space provision - Two on site areas of POS each measuring 630m<sup>2</sup> together with an off-site commuted payment of £146,252 towards adult and youth provision for sport and leisure.
- A Developer contribution of £232,500 towards the new Brambling Fields junction.
- A developer contribution of £227,733 towards education provision at the request of NYCC.

Financial contributions totalling over £600,000 have therefore been negotiated with the Developer together with 29 on site affordable homes and two areas of POS. The scheme is therefore considered to contain a significant public benefits in this respect.

#### Other consultation responses

No written views have been received from Malton Town Council. There have been 2 letters of objection that have raised the following issues; highway safety and congestion of traffic using the proposed site together with the approved new housing development on Broughton Road and movements to key places around Malton such as Schools; the impact upon Derwent Surgery; impact upon school provision; loss of view; loss of the allotments; position of new allotments.

Additional education provision has already been addressed through a commuted sum in the appraisal above. Highway safety and the movement of vehicles from the site, together with the capacity and need for controlled crossing has been considered by the Highway Authority who has no objection in this respect. The availability of appointments at Derwent surgery is matter for the Surgery directly, as they are funded separately, and no developer contributions are required in this respect. The loss of a view is not a material planning consideration. The alternative position and provision of the allotments nearby has already been decided by others and they are in operation. There is no statutory protection for the existing unused allotments.

#### Conclusion

Subject to the satisfactory resolution of the outstanding drainage issues identified above, there are considered to be no grounds to refuse the application based on guidance within the NPPF, or any grounds that would represent significant or demonstrable harm in accordance with Para 14 of NPPF. Therefore, in view of the above, the recommendation on this application is one of approval subject to the resolution of the outstanding drainage issues and a S106 agreement in respect of developer contributions.

#### **RECOMMENDATION: Approval subject to resolution of outstanding drainage issues and Section 106 Agreement in respect of developer contributions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 8 Before any part of the development hereby approved commences, plans showing details of landscaping and planting schemes shall be submitted to and approved in writing by the Local Planning Authority. The schemes shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed where appropriate to the development. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and shrubs including existing items to be retained.. All planting, seeding and/or turfing comprised in the above scheme shall be carried out in the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

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

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

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

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

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

- 11 Prior to the occupation of any of any dwelling hereby approved, the following refuse collection and recycling bins shall be provided:-

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

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

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

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

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

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

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

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

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

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

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

The scheme shall also include:-

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

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

- 17 Prior to the commencement of the development, precise details of obscure glazing for Plots 321, 320, 264, 267, 276 and 271 shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

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

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

Class A: Enlargement, improvement or alteration of a dwellinghouse

Class B: Roof alteration to enlarge a dwellinghouse

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

Class D: Erection or construction of a domestic external porch

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

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

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

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

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

- i. Details of external lighting;
- ii. Details of bin storage areas;
- iii. Details of cycle storage areas; and
- iv. Details and management proposals of the shared private amenity areas.

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

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

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

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

- 23 Any conditions as requested by the Highway Authority.

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

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

#### **INFORMATIVES:**

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

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

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

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

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

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

**Background Papers:**

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