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# **Report to Ryedale District Council**

**by Caroline Mulloy**

**an Inspector appointed by the Secretary of State**

**Date: 04 June 2019**

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

## **Report on the Examination of the Ryedale Local Plan Sites Document**

The Plan was submitted for examination on 29 March 2018

The examination hearings were held between 25 September and 4 October 2018

File Ref: PINS/Y2736/429/6

## **Abbreviations used in this report**

AA	Appropriate Assessment
DtC	Duty to Co-operate
HRA	Habitats Regulations Assessment
LDS	Local Development Scheme
LP	Local Plan
LPS	Local Plan Strategy
LPSD	Local Plan Sites Document
MHCLG	Ministry of Housing, Communities and Local Government
MM	Main Modification
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SSM	Site Selection Methodology
VIUA	Visually Important Undeveloped Areas

## Non-Technical Summary

This report concludes that the Ryedale Local Plan Sites Document (LPSD) provides an appropriate basis for the planning of the District, provided that a number of main modifications [MMs] are made to it. Ryedale Council has specifically requested me to recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out a sustainability appraisal (SA) and Habitat Regulations Assessment (HRA) of them. The MMs were subject to public consultation over a six-week period. I have taken account of consultation responses and the findings of the SA and HRA in writing this report. Following the period of consultation, I have made minor amendments to the detailed figures set out in **MM15** to address numerical errors in the figures. None of these minor amendments alter the substance or meaning of the main modifications. I have recommended the inclusion of the main MMs (including the minor amendment to **MM15**) in the Plan after considering all the representations.

The Main Modifications can be summarised as changes to policies so that they are justified, effective and consistent with national policy. In particular:

- Amendments to reflect the housing and employment land supply position at 31 March 2018;
- Delete reference to a site which may not be deliverable and which does not comply with national and local policy in relation to food retail;
- Amendments to policies to clarify that existing commitments would be treated as allocations in the future and that development should be consistent with the site's existing permission in the event that the current permission expires;
- Inclusion of an additional development principle on each housing site allocation to include the indicative yield;
- Amend the development principle relating to electric charging points on all housing site allocations to reflect the latest technology;
- Include additional development principles for relevant housing site allocation policies to address the issues of Mineral Safeguarding Areas and archaeology;
- Adjusting and clarifying the site-specific development requirements of the proposed site allocations.

## Introduction

1. This report contains my assessment of the Ryedale LPSD in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (NPPF) 2012 (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised NPPF was published in July 2018 and a further revised version in February 2019. It includes a transitional arrangement in paragraph 214 whereby, for the purpose of examining this Plan, the policies in the 2012 Framework will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the 2018 NPPF.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The LPSD, submitted in March 2018 is the basis for my examination. It is the same document as was published for consultation in November 2017.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM1, MM2, MM3** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out a SA and HRA of them. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses and the findings of the SA and HRA in coming to my conclusions in this report. As set out above, I have made minor amendments to the detailed figures set out in **MM15** to address numerical errors. These amendments do not alter the substance or meaning of the main modifications.
6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as 'Policies Maps' as set out in 'Local Plan Policies Map'.
7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, one of the published MMs (**MM18**) to the Plan's policies requires a corresponding change to be made to the Policies Map which was published for consultation alongside the MMs.

8. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include the consequential amendment as a result of the MMs set out at number 22 of the 'Policies Map Changes and Additional Modifications'.

## **Assessment of Duty to Co-operate**

9. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
10. The strategic cross-boundary matters for the Ryedale Plan were identified and addressed as part of the preparation of the Local Plan Strategy (LPS). Engagement with other local authorities and relevant organisations during the preparation of the LPSD has been a continuation of the on-going work which informed the preparation of the LPS utilising well-established mechanisms for discussion. Evidence of this engagement is set out in the Council's Statement of Legal Compliance and Procedural Issues (PD05).
11. As a two-tier area the LPSD has implications for a number of strategic county matters including infrastructure, highways, education provision and minerals. The Council has worked closely with North Yorkshire County Council (NYCC) including their Highways, Education and Heritage teams in relation to the proposed site allocations. It is clear that other local authorities and relevant organisations have had full opportunity to engage with the Council at all key stages in the process of preparing the LPSD.
12. The LPSD provides support in principal for the expansion of the National Agri-Food Innovation Campus site, the southern boundary of which adjoins the outer boundary of the York Green Belt. The approach reflects the ambitions of the Local Enterprise Partnership and the City of York.
13. The Council has clearly taken into account the wider strategic context and the interrelationships with neighbouring areas in terms of the distribution of housing, employment and retail development which accords with the LPS. It has demonstrated constructive and on-going engagement with local authorities and other organisations on strategic matters, in particular NYCC and has sought to effectively resolve issues. Furthermore, there are no concerns before me from other authorities and prescribed bodies regarding compliance with the duty to cooperate.
14. Overall, I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the Duty to Co-operate has been met.

## **Assessment of Soundness**

### **Background**

15. The LPSD has been prepared as part of the Ryedale Plan which covers the period 2012-2027. The LPS was adopted September 2013 and provides the strategic planning policy framework for the District. It establishes the amount and type of new development required within the Plan period to 2027. It contains a settlement hierarchy and principles of the development and growth of different settlements which has guided the identification of specific sites within the LPSD.

16. The LPSD does not identify specific sites in Helmsley which is identified as a Local Service Centre in the LPS. Site allocations for Helmsley are identified in the Helmsley Plan which was jointly prepared by the Council and the North York Moors National Park Authority and adopted July 2015.

## **Main Issues**

17. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings I have identified eight main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness rather than responding to every point raised by representors.

## **Housing**

### **Issue 1: Whether the scale and distribution of housing development is consistent with the LPS and the NPPF and whether the Plan is positively prepared and justified and effective with regards to housing?**

#### *Housing Supply and Delivery*

18. Policy SP2 of the LPS seeks to deliver at least 3,000 (net) new homes over the period 2012-2027 equating to around 200 dwellings per annum. In addition, the LPS establishes a locally based approach which enables housing provision to be increased from 200 to 250 dwellings per annum or from 3,000 to 3,750 dwellings over the period of the Plan; effectively a plan-led supply buffer. The LPSD makes provision to meet the higher requirement incorporating the supply buffer.
19. Policy SP2 of the LPS seeks to distribute the housing requirement in accordance with the strategy and settlement hierarchy with a particular focus on the market towns to ensure a sustainable pattern of development.
20. Between 1 April 2012 and 31 March 2018 there has been a significant number of housing completions (1552 dwellings) and sites granted planning permission (1345 dwellings) as of 31 March 2018. The Council considers that 91 units of those sites with planning permission are not deliverable. A 10% non-implementation allowance for small sites (small sites = 263 units) has also been deducted resulting in a contribution of 1227 units from sites with planning permission within the plan period.
21. The deliverability of a number of sites with planning permission have been questioned in particular a large site at Kirkbymoorside for 225 units. However, it is a greenfield site with few constraints and a reserved matters application has been submitted indicating the intention to bring the site forward. There is no cogent evidence before me to undermine the Council's estimate of delivery. Furthermore, the Council has undertaken an assessment of sites with planning permission to determine whether they are developable and deliverable in conjunction with land owners and agents.
22. Further contributions to housing supply are made by a site which has been granted planning permission subject to a Section 106 Obligation (46 units). Consequently, the contribution from existing commitments to the housing supply is **2825** units (1552 + 1227 + 46 units). On this basis, the residual requirement for the Plan period against the minimum housing requirement of 3000 units would be 175 units and 925 units against the higher requirement incorporating the plan-led supply buffer of 3,750.

23. In addition, the remaining land allocation in the Helmsley Plan accounts for 50 units and the LPSD proposes to allocate 859 dwellings together with 245 units on sites which are allocated in the Plan but now have planning permission. In total the supply of housing would, therefore, be **3,979** units, some 30% above the minimum housing land requirement and some 6% above the higher requirement figure. The deliverability of some of the allocated sites has been questioned; however, the sites at Slingsby and Amotherby have developer interest and procedures are under way to compulsory purchase land at Helmsley. Consequently, I am satisfied that these sites will come forward in the Plan period.
24. The standard five-year requirement would be 1000 units (5 x 200). The LPS also establishes a 'Zone of Tolerance' (ZoT) which is in addition to the plan-led supply buffer. Essentially, the ZOT only readjusts the five-year housing land supply (5YHLS) requirement if housing exceeds 250 dwellings per annum (dpa)- effectively a 25% over-delivery tolerance. Since the base date of the Plan delivery has exceeded 250 dpa by 115 units hence the revised 5YHLS figure is 885 units or 177 dpa (1000-115 units). As housing completions have consistently exceeded the planned annual housing requirement an additional supply buffer of 5% is applicable. This would result in a 5YHLS figure of 929 units or 186 dpa or 935 units or 187 dpa if the buffer is calculated against the LPS requirement of 200 dpa.
25. The Strategic Housing Land Availability Assessment: Update 2018 (SHLAA) sets out that the supply of housing land in the five-year period would be **1054** after deducting specific non-deliverable sites and applying a non-implementation allowance for small sites with planning permission. Consequently, the Council would have a 5YHLS of 5.66 years compared to the recalibrated target and buffer of 186 dpa and a 5.63 5YHLS if the buffer is calculated against the LPS requirement of 200 dwellings. In addition, the Council has since granted planning permission for 239 dwellings at land to the East of Whitby Road, Pickering (SD5) which further bolsters the 5YHLS.
26. Furthermore, the sites have been assessed in terms of their deliverability through the SHLAA process in conjunction with landowners, land agents and housebuilders. Viability work confirms that the site allocations would be deliverable with policy compliant levels of affordable housing and other policy requirements. In summary, the LPSD provides enough flexibility to meet both the 5YHLS and the LPS requirement and is consistent with the NPPF which seeks to significantly boost the supply of housing.
27. The text in paragraph 2.8 and also the housing figures set out in Appendix 2, to be renumbered to Appendix 3 need to be updated to reflect the housing land supply position at 31 March 2018 (**MM3** and **MM23**). A Housing Trajectory is required to be included at Appendix 4 (**MM24**). These modifications are necessary to ensure that the data in the final LPSD is accurate and that monitoring of progress on housing delivery in the District will be effective.

### *Distribution of housing development*

#### Site selection Methodology

28. Policy SP1 of the LPS sets out a settlement hierarchy for the District which includes the Principal Towns of Malton and Norton - the primary focus for growth. The Local Service Centres (Market Towns) of Pickering, Kirkbymoorside and Helmsley are the Secondary Focus for Growth whilst the Local Service Centres (Service Villages) are the tertiary focus for growth. In all other villages, hamlets

and in the open countryside development is restricted to that which is necessary, amongst other things, to support a sustainable rural economy and communities. A set of principles are included to guide development at the towns.

29. Policy SP2 of the LPS seeks to distribute the housing land requirement in accordance with the settlement hierarchy. Approximately 50% of the planned supply (3000 net new homes) is directed to Malton and Norton (1500 dwellings) with 25% (750 dwellings) to Pickering, 10% to Kirkbymoorside (300 dwellings), 5% to Helmsley (150) and 10% (300) to the service villages. In allocating housing land to each town or village account has been taken of sites which have been completed or are under construction and sites which have planning permission, but which have not yet started. The residual requirement is to be met from the proposed allocations.
30. The Site Selection Methodology (SSM) was developed from the objectives of the Ryedale Plan SA Scoping Report which were then overlain with local sustainability considerations. Over 300 sites were assessed in and around settlements where housing development was acceptable in principle in the LPS. The process has been an iterative one taking account of a wide range of environmental and infrastructure constraints and it has been subject to extensive consultation with technical consultees and the development industry.
31. Whilst some sites may have performed well in the appraisal process, they may not have been taken forward in the LPSD as the housing requirement for that particular settlement has already been met by way of completions or planning permissions. This approach avoids the over-allocation of land in settlements and ensures consistency with the scale and distribution of development set out in the LPS and is, therefore, justified.
32. Although some may disagree with the outcome of the SSM in relation to the assessment of individual sites; the process has been undertaken in a systematic, iterative and transparent way; assesses an appropriate range of alternative sites; and provides clear reasoning for the selection or rejection of sites. On this basis, I am satisfied that the site selection process is appropriate.

#### Principal towns-Malton and Norton

33. A significant proportion of the housing requirement (1500 dwellings) for Malton/Norton is accounted for by existing commitments. The residual requirement for Malton and Norton will be met through the allocation to the east of Beverley Road, Norton and a previously developed site off Malton Road. These allocations would be around 600 dwellings which would exceed the residual requirement; however, Malton/Norton are the Principal towns, and this enables the Plan to provide a supply buffer.
34. Other options for site allocations within Malton and Norton were considered through the SSM process; however, these sites were constrained in terms of flood risk; the effects on heritage assets; they made an important contribution to the setting of the settlement; or were too small to deliver the social and infrastructure benefits of a larger allocation.
35. The allocations are consistent with the principles for Malton and Norton set out in the LPS which, amongst other things seek to retain the compact and accessible Market Town 'feel'; avoid coalescence with Old Malton and; create sensitive new



edges to the towns and repairing existing edges as they abut the open countryside.

#### Local Service Centres (Market Towns)-Pickering

36. The LPS requirement for Pickering is 750 dwellings, a proportion of which has been met through existing commitments. The residual requirement will be met on two sites at Whitby Road and Malton Road which take into account environmental and character constraints such as the historic strip field patterns and more than meet the residual requirement for the town. The sites also conform to the development principles for the town set out in the LPS including avoiding coalescence with Middleton and controlling pressure for incremental urbanisation of the approach into Pickering along the Malton Road.
37. Strategic transport modelling assessed the impact of new development in Pickering and further assessment will be undertaken through the planning application process. Furthermore, both sites provide good access to the existing road network. The SSM considered other site options in Pickering; however, it concluded that these sites would have significant impacts on the strip fields and their setting.

#### Local Service Centres (Market Towns)-Kirkbymoorside

38. The housing requirement for Kirkbymoorside is 300 dwellings. Limited housing development has taken place in Kirkbymoorside since 2012 with only 15 completions up to 31 March 2017. However, planning permission has been granted for 225 dwellings to the west of the town and there are other extant permissions.
39. Kirkbymoorside has a number of environmental constraints which has limited the choice of sites including the strip field system and designated heritage assets. In addition, some omission sites were to the south of the A170 or would erode the gap between Keldholme and Kirkby Mills, contrary to the development principles for the town. In order to provide a supply buffer, the Council has allocated three sites equating to approximately 61 dwellings resulting in a slight over-provision. For the reasons set out below these sites broadly accord with the principles set out in the LPS for Kirkbymoorside.

#### Local Service Centres (Service Villages)-Amotherby and Slingsby

40. Policy SP2 of the LPS identifies ten Local Service Centres (Service Villages) which have some facilities as a tertiary focus for growth. Around 10% (300 dwellings) of the planned housing supply is directed to the service villages. The higher requirement incorporating the plan-led supply buffer is 360 dwellings. Existing commitments equate to 384 dwellings for the service villages. Proposed allocations in Amotherby (40 dwellings) and Slingsby (36 dwellings) would add a further 76 dwellings taking the overall supply to 460 dwellings, 100 dwellings in excess of the higher requirement.
41. The allocation of sites in the Service Villages has been significantly influenced by the level of completions and extant planning permissions. Several villages have already seen development within the Plan period or have extant permissions and so the focus was on villages which have experienced little or no development. Although the allocations would result in an over-allocation compared to the LPS requirement, those sites would meet a specific need in those villages for market and affordable housing. Alternative sites were considered through the SSM

process in those villages; however, many of those sites were constrained in terms of highways, visual or landscape constraints.

42. Overall, I consider that the scale and distribution of development is consistent with the LPS and the NPPF which seeks to significantly boost the supply of housing and encourages patterns of development which facilitate the use of sustainable modes of transport and which would maintain or enhance the vitality of rural communities.

*Conclusion on Issue 1*

43. *Considering the above, I conclude that subject to the modifications referred to above, the scale and distribution of housing development is consistent with the LPS and the NPPF and that the Plan is positively prepared and justified and effective with regards to housing.*

**Issue 2: Whether the LPSD provides an effective framework to meet the needs for different types of housing and the needs of different groups in the community and whether it is consistent with the LPS and national policy?**

44. Policy SP3 of the LPS seeks 35% of new dwellings to be affordable through on-site provision. On small sites below five dwellings or 0.2 ha a pro-rated financial contribution towards off-site provision is required. In settlements in West and South-West Ryedale 35% of new dwellings are required to be affordable through on-site provision together with an additional contribution equivalent to a further 5% of provision as part of developments of five dwellings or more. In practice, the Council has agreed to implement Policy SP3 in a way which reflects the Ministerial Statement 'Support for small scale developers, custom and self-builders'<sup>1</sup>. Policy SP4 of the LPS seeks to increase housing choice and high-quality housing and make specialist provision for extra-care facilities and other specialist accommodation for example for the elderly.
45. A number of sites have been completed or have planning permission including for extra-care facilities, retirement village, rural exception sites and supported accommodation for vulnerable people. The plan provides a range of sites which are focussed in the market towns and larger villages where affordable housing need is greatest. The allocation of large sites supports a range of market and affordable tenure and housing to meet specialist needs in accordance with Policy SP3 and SP4 of the LPS. Furthermore, viability work indicates that greenfield sites such as those in the LPSD will be able to deliver policy compliant levels of affordable housing in accordance with Policy SP3 of the LPS.

*Conclusion on Issue 2*

46. *The LPSD provides an effective framework to meet the needs for different types of housing and the needs of different groups in the community and is consistent with the LPS and national policy.*

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<sup>1</sup> House of Commons: Written Statement (HCWS50) DCLG 28 November 2014

**Issue 3: Whether the LPSD provides an effective framework to meet the needs of Gypsies and Travellers and whether it is consistent with the LPS and national policy.**

47. Policy SP5 of the LPS commits the Council to identifying land for additional Gypsy and Traveller pitches if an updated assessment reveals a requirement. However, a Gypsy and Traveller Assessment produced in 2016 concluded that the existing Tara Park site at Malton is sufficient to meet identified needs and that consequently there was no requirement to provide additional pitches within the Plan period. Any future applications would be considered against LPS policies. The approach is, therefore, appropriate.

*Conclusion on Issue 3*

48. *The LPSD provides an effective framework to meet the needs of Gypsies and Travellers and it is consistent with the LPS and national policy.*

**Issue 4: Whether the scale and distribution of employment development is consistent with the LPS and the NPPF and whether the Plan is positively prepared and justified and effective with regards to employment?**

49. Policy SP6 of the LPS sets out a requirement of up to 37 hectares of land for employment use, with a further 8 hectares of net additional employment land to be provided in the broad location if so required. It seeks to distribute the employment land requirement to settlements in accordance with Policy SP1 of the LPS. It allocates around 30-36 hectares to Malton and Norton; 5.55 to 6.75 hectares to Pickering and around 1.85-2.25 hectares to Kirkbymoorside and Helmsley.
50. The Site Selection Methodology (SSM) helped to inform the selection of sites. Fewer sites were submitted under the 'call for sites' in comparison to housing sites. Nevertheless, the sites submitted were subject to an iterative assessment process, incorporating sustainability appraisal. Whilst some of those promoting sites may not agree with the outcome of the process, it is clear why some sites were taken forward and why others were rejected. Access to the strategic road network has been particularly influential in the site selection process.
51. Land will comprise a portfolio of sites to meet demands and aspirations for the diversification of the Ryedale economy and to support existing sectors such as advanced engineering, food and drink and manufacturing and potential growth sectors such as Knowledge/Science based activity. A significant proportion of the requirement has been released in advance of the preparation of the LPSD. Completions, commitments and Helmsley Plan allocations account for around 29.3 ha of the initial tranche of the employment land requirement (37ha). Consequently, the residual requirement is around 8.45 ha to 16.05 ha. In reaching the residual figure the modest over-supply (0.32 ha) in Kirkbymoorside/Helmsley has not been subtracted from the overall residual requirement as each settlement has their own requirement in the LPS. The LPSD identifies a site in Pickering at Thornton Road (6.6ha) in order to meet the residual requirement.
52. In terms of Malton/Norton, residual employment land at York Road and Norton Grove and a site at Eden House Road (17ha) has had outline planning permission for 10 years and is subject to reserved matters application. These sites will provide for the short to medium term quantitative and qualitative employment

needs of the towns. Nevertheless, there would be a small shortfall against the requirement equating to between 2.9ha to 9.3 ha in the longer term.

53. However, the calculations do not include land identified as a broad location for employment to the north of Malton. The broad location would meet the shortfall, including the additional 8 ha if so required in the longer term. Formal allocation of the land would result in a significant over-supply of employment land. Take-up rates of employment land have been relatively steady and furthermore, any surplus land may come under pressure for residential development. Under these circumstances, I consider that the approach of identifying a broad location is an appropriate one. It would provide a flexible and responsive supply of employment land if so required following completion of land to the west.
54. In Pickering, the existing commitments and allocations would almost meet the LPS requirement, leaving a very small residual requirement of 0.15 ha. The proposed allocation (Policy SD12) is situated to the south of the existing employment site and would form a logical extension in accordance with the development principles for Pickering identified in the LPS. At Kirkbymoorside, the commitments and the existing employment site at Kirkbymoorside Road more than meets the requirement and is situated in accordance with the development principles set out in the LPS. At Helmsley, the allocation in the Helmsley Plan meets the requirement.
55. Policy SD12 identifies both existing employment land commitments and new allocations and so it is necessary to amend the title of the Policy to reflect this dual purpose (**MM16**). Furthermore, the figures in the Policy need to be updated to reflect the employment land supply position at 31 March 2018. Following consultation on the modifications, I have made minor amendments to the employment land figures set out at **MM15** of the modifications to correct minor numerical errors. This minor amendment does not alter the substance or meaning of the modifications. These modifications (**MM15; MM16**) are necessary to ensure that the data in the final LPSD is accurate and that monitoring of progress on employment delivery in the District will be effective.
56. Policy SD13 allocates land for the expansion of existing employers if so required which would be in addition to the employment land requirement. These sites are discussed in detail below.
57. The SSM considered a number of other employment site options, including those assessed as part of the Employment Land Review; however, these were not taken forward due to site specific constraints or as they were not consistent with the LPS.
58. Overall, I consider that the LPSD identifies sufficient land to meet the requirement in the LPS in the locations identified in Policy SP6 of the LPS. Moreover, the approach is consistent with the NPPF which seeks to support sustainable economic growth and ensure that local planning authorities plan proactively to meet economic growth.

#### *Conclusion on Issue 4*

59. *Considering the above, I conclude that the scale and distribution of employment development is consistent with the LPS and the NPPF and that the Plan is positively prepared and justified and effective with regards to employment.*

**Issue 5: Whether the scale and distribution of retail development is consistent with the LPS and NPPF and whether the Plan is positively prepared and justified and effective with regards to retail?**

60. Policy SP7 of the LPS sets out a Town Centre Hierarchy which identifies Malton as the Principal Town Centre and Norton, Pickering, Kirkbymoorside and Helmsley as Local Town Centres. The Ryedale Retail Capacity and Impact Assessment Update 2011 identified that in order to maximise the retention of retail expenditure in the District approximately 1890 (net) square metres of additional convenience (food) floorspace and 7,706 (net) square metres of comparison (non-food) retailing floorspace would be required to 2026 and this requirement is reflected in Policy SP7.
61. The existing planning permission for the redevelopment of the Livestock Market Site in Malton accounts for the convenience retail requirement of the LPS. Directing the majority of convenience floorspace to the main town is consistent with the spatial strategy in the LPS and the NPPF which seeks to ensure the vitality of town centres. In terms of comparison retail, Policy SP7 apportions the requirement in line with the town centre hierarchy. Malton/Norton will accommodate around 70% (5,394m<sup>2</sup>) and 15% (1,156m<sup>2</sup>) will go to Pickering and 15% (1,156m<sup>2</sup>) to Kirkbymoorside and Helmsley combined.
62. The ancillary element at the Malton Agri-Business Park, the Livestock Market site and new retail space at the Kings Head Yard, Malton account for a significant proportion of the comparison retail space. Policy SD14 Retail Commitments seeks to ensure that continued support will be given for retail development on these sites in the event that existing permissions are not implemented.
63. The planning permission for mixed use development at the former Dewhirst Factory Site in Norton has now lapsed. Planning permission was refused for a petrol filling station and a convenience food shop on the site of the former Dewhirst site on the basis that it is not the most sequentially preferable site for food retail and thus the site may only be suitable for non-food retail. This would not match the aspirations of the landowner and so the deliverability of the site is in question. Moreover, the allocation of the site for convenience retail would not be in accordance the NPPF. It is, therefore, necessary to remove reference to the former Dewhirst site from Policy SD14 and supporting text and update the residual requirement in the interests of effectiveness and consistency with national policy (**MM18; MM19**).
64. As a result of the deletion of the Dewhirst site, the residual requirement for comparison goods in Malton/Norton would be 2,106m<sup>2</sup>. No site-specific allocations are made in the LPSD to meet this shortfall, the consequence of which could be continued leakage of expenditure to centres such as York, Scarborough and Thirsk. The national retail industry has been subject to restructuring and high streets are competing with the increasing dominance of internet shopping. Consequently, there has been little interest in comparison goods retailing within the District from larger operators and it is unlikely that Malton/Norton or other market towns would be able to directly compete with these higher order centres.
65. Nevertheless, the overall approach of the Plan is to protect existing retail units and encourage the increase in small, independent and 'high-end' food shops/cafes in Malton and the approach of promoting Malton as a Yorkshire Food Capital has been successful. Encouraging indigenous retailers is a more sustainable approach than

relying on national multiple retailers in the current climate and will help to support the role of Malton as a Principal town.

66. Moreover, whilst no site-specific allocations are made in the LPSD to meet this shortfall, the LPS identifies the 'Northern Arc' area of opportunity which is identified to provide opportunities for the redevelopment of sites for town centre uses. Retail development within the Northern Arc would be in addition to the existing commitments and would contribute to the shortfall in the requirement.
67. The comparison goods retail requirement for the market towns of Pickering, Kirkbymoorside and Helmsley would be met through the redevelopment of land and buildings within or on the edge of the Town Centre Commercial limits and/or the expansion or intensification of existing retail uses reflecting a lack of obvious sites within these historic towns.
68. Overall, I am satisfied that the convenience goods retail requirement would be met. Furthermore, I consider that the LPSD together with Policy SP7 of the LPS provides an appropriate policy framework to respond to market opportunities as and when they arise in order to meet the comparison (non-food) retail requirement. The approach is in accordance with paragraph 23 of the NPPF which seeks to recognise town centres as the heart of communities; requires local planning authorities to define a network and hierarchy of town centres; and allocate a range of suitable sites to meet retail and town centre needs.

#### *Conclusion on Issue 5*

69. *Taking account of the above, I consider that the scale and distribution of retail development is consistent with the LPS and the NPPF and that the Plan is positively prepared and justified and effective with regards to retailing subject to modifications (MM18; MM19).*

#### **Issue 6: Whether the proposed site allocations are appropriate, deliverable and consistent with national policy and the LPS?**

##### **Overview of the land allocations**

###### *Strategic Road Network*

70. The cumulative effect of planned levels of development on the strategic and local road network was assessed as part of the preparation of the LPS. Further modelling of specific sites including emerging allocations and commitments has been undertaken to inform the site selection process at Malton/Norton and Pickering.
71. Additional junction assessments and merge/diverge assessments have been undertaken of key A64 junctions of Brambling Fields; Old Malton/Eden Camp/Musley Bank which concluded that they will continue to operate in capacity in 2027 with the additional local plan allocations. Furthermore, should any capacity issues arise in the future, if necessary, appropriate mitigation could be conditioned on future planning permissions.
72. Policy SD1 of the LPSD seeks to ensure that large housing site commitments are treated as land allocations in the event that the current permissions expire. Policy SD12 takes a similar approach in relation to sites which currently have planning permission for employment uses. However, there may have been a material change in the operation of the strategic road network from the granting of the

original planning permission to the lapsing/renewal of a permission. Consequently, modifications to both Policy SD1 (**MM4**) and SD12 (**MM16**) are necessary to clarify that such sites would be treated as allocations in the future and that development should be consistent with the site's existing permission in the event that the current permission expires. These modifications are necessary for the policy to be effective and consistent with national policy. It is also necessary to include an additional development principle to clarify that sites granted planning permission before 31 March 2018 will be identified as existing commitments and sites granted permission after this will be treated as allocations in the interests of clarity and in order to be effective (**MM4**).

73. For the reasons stated, and subject to the modifications to Policy SD1 and SD12, I am satisfied that the allocations would not have an adverse effect on the operation of the strategic road network and that the approach to supporting existing housing and employment site commitments set out Policy SD1 and SD12 is justified.

#### *Local Road Network*

74. Malton/Norton town centres suffer congestion at peak times, particularly around a junction known as Butcher Corner. The cumulative effect of the planned level of development on the local road network at Malton and Norton was assessed to support the preparation of the LPS in 2010.
75. The Malton and Norton Transport model assessed various development scenarios and concludes that the impact of sites with planning permission as well as those proposed in the Plan on key junctions in the network can be mitigated with improvements. The modelling work recognises that Butcher Corner would continue to operate at/overcapacity in peak periods. However, it demonstrates that congestion at the junction triggers the redistribution of traffic across the network which in turn prevents exponential increases in queue lengths at the junction.
76. The modelling also demonstrates that the Brambling Fields junction of the A64 is used when traffic redistributes to avoid congestion. The most significant allocation to the east of Beverley Road (Policy SD3) is situated close to the junction ensuring access to the strategic road network without having to travel through Malton/Norton town centre.
77. Moreover, the allocation at Ryedale House (SD4) is currently in employment use and the development of the site for residential would not increase the number of transport movements. On the basis of the evidence, I am satisfied that the proposed allocations would not have an adverse effect on traffic congestion in Malton/Norton.

#### *Mineral Safeguarding Areas*

78. A number of the proposed housing allocations (SD3, SD5, SD6, SD8, SD9, SD10 and SD11) together with land in proximity to the identified Malton Broad Location for Employment (SD12) and land at Amotherby BATA site (SD13) are in a safeguarding area of mineral resource. In order to ensure that a development proposal does not prevent or unduly restrict the use of the safeguarded site additional text is required in the introduction to clarify the approach to the consideration of sites within Mineral Safeguarding Areas (**MM2**) in order to be consistent with national policy. Additional development principles for each of the affected site allocations would highlight the need for a mineral resource

assessment at the planning application stage and ensure that the safeguarded mineral resource is taken into account properly as part of future development proposals in accordance with the Framework. These modifications are necessary to ensure that the approach is justified, effective and consistent with national policy. With these modifications (**MM6, MM8, MM9, MM11, MM12, MM13, MM14; MM16; MM17**), I consider that the approach to development within Mineral Safeguarding Areas is justified and effective.

### *Archaeology*

79. The Vale of Pickering exhibits significant evidence of continuing human habitation which may be of national importance. Whilst some of the site allocations have a high likelihood of containing archaeological remains of potentially national importance they were considered the most sustainable options to deliver the housing and employment needs of the area.
80. The proposed allocations may result in the loss of a small proportion of a much larger archaeological resource. Historic England considers that it is acceptable to allocate land in these areas provided that any development proposals are informed by a robust archaeological assessment which will help further knowledge and understanding of the Vale of Pickering.
81. It is necessary to include additional wording in the introduction to the LPSD to explain the rationale behind choosing sites which have the potential to impact on the archaeology of the Vale of Pickering in the interests of effectiveness (**MM1**). An appendix is necessary which sets out the detailed approach towards archaeological assessment, investigations, evaluation and mitigation (**MM22**) in order to provide guidance to developers. Furthermore, an additional development principle is necessary for each of the relevant allocated sites (SD3-**MM6**; SD6-**MM9**; SD10-**MM13**; SD11-**MM14**; SD12-**MM16**) to ensure that archaeology is properly considered as part of a planning application. These modifications are required in order to ensure that the approach is justified, effective and consistent with national policy. I am satisfied that, with these modifications, the LPSD takes an appropriate approach to archaeology and that the Plan is sound in this regard.

### *Indicative Yield*

82. For the purpose of clarification and effectiveness, it is necessary to include the indicative yield for each housing site allocation in the relevant policy (**MM6; MM7; MM8; MM9; MM10; MM11; MM12; MM13; MM14**).

### *Electric charging points*

83. In order to respond to technical advances in rapid vehicle charging since submission it is necessary to amend the wording of the policies to remove reference to the provision of a 13 amp electrical socket and simply state the 'capability for electric vehicle charging'. These modifications are necessary in the interests of effectiveness (**MM6; MM7; MM8; MM9; MM10; MM11; MM12; MM13; MM14**).

### *Air Quality*

84. The Systra Malton and Norton Air Quality Assessment (Local Plan Assessment and Air Quality Action Plan Recommendations) utilises the traffic data from the Malton and Norton Transport Model and assesses the impact of additional development and traffic in the local road network over the Plan period based on various



scenarios. It concludes that in all 2027 scenarios pollutant levels would be well below objective levels and there would be notable improvement in air quality in 2027 compared to current pollutant levels. On this basis, I am satisfied that the proposed allocations would not have an adverse effect on air quality in Malton/Norton.

## **Housing Allocations**

### Policy SD3 Land to the East of Beverley Road, Norton

85. The site is around 24 hectares, with a potential yield of 600 dwellings (560 in Plan period) and represents a sizeable urban extension. The allocation would provide a mix of market and affordable housing and deliver significant contributions towards the improvement of the town's infrastructure including a new link road, reserved land for a primary school and substantial areas of recreational open space.
86. The indicative master plan shows the proposed link road from Beverley Road to Scarborough Road (via Hugden Way) which would have the benefit of providing an alternative route, particularly for Heavy Goods Vehicle movement through the centre of Malton and Norton. An additional development principle is required to reflect the need to provide measures for safe pedestrian movements across the link road (**MM6**).
87. The site is situated to the south of the industrial estate and Karro Foods. It is necessary to modify the development principle which requires a substantive landscape, visual and noise attenuation buffer to clarify that the buffer is required between the housing development and the neighbouring industrial estate (**MM6**).
88. An additional development principle is required to ensure that the design and layout reflects the need to mitigate odour and noise associated with the factory in order to ensure that the development does not compromise the operation of the factory and to protect the living conditions of future occupiers (**MM6**). Moreover, the supporting text of paragraph 2.26 is required to clarify the approach to the development principles and the technical information which would be required with regards to the mitigation of potential impacts (**MM5**).
89. On the basis of the evidence before me, I consider that the site is available now and two volume house builders would progress the development of the site starting in 2019/20 at a rate of around 100 dwellings per annum. The above modifications are necessary in the interests of effectiveness and consistency with national policy. *Subject to these modifications, the site is appropriate and deliverable and consistent with national policy and the LPS.*

### SD4-Land to the west of Old Maltongate (Ryedale House), Malton

90. The site comprises the offices of Ryedale District Council and has an indicative yield of around 60 dwellings. The site would provide a mix of market and affordable homes within walking distance of the town centre. As the site is currently in employment use as offices the development of the site would not increase the number of transport movements.
91. The Council seeks to relocate its existing offices to an integrated public service centre hub in Malton town Centre together with other agencies. The site has been subject to an assessment by an independent chartered surveyor who has identified no viability issues. It was originally anticipated that the site would become available by Spring 2021 and be developed within two years; however, I

understand that progress has now been delayed and the Council has informed Homes England that they will not be in a position to accept the Accelerated Construction Offer within the initial timescale. Nevertheless, the Council remain committed to the redevelopment of Ryedale House and the development of the public service hub and I consider that the site would be deliverable within the plan period. *In conclusion, with these modifications, the site is appropriate and deliverable and consistent with national policy and the LPS.*

Policy SD5 Land to the east of Whitby Road, Pickering

92. The LPSD indicates an approximate yield of 250 dwellings for this 8 ha site. Planning permission was granted for 239 dwellings, open space, landscaping and associated infrastructure on 5 October 2018. The development would provide a mix of market and affordable housing and housing for older persons in the form of bungalows. Sustainable drainage would be integrated into the design reflecting the Ground Source Protection Zone.
93. The proposal would contribute towards highway safety improvements at the roundabout and Whitby Road through CIL. Although within an Area of High Landscape Value, the site is relatively visually contained, and a landscape buffer is to be included on the northern and eastern edge.
94. The site is available for residential development with completions anticipated 2019 with a yield of at least 35 dwellings per annum with the site completed by 2025. On the basis of the evidence before me, I consider this to be a realistic estimate. *In conclusion, the site is appropriate and deliverable and consistent with national policy and the LPS.*

Policy SD6 Land to the west of Malton Road, Pickering

95. The site is situated in an accessible location close to the town centre. It is around 3.7 hectares and the Plan includes an indicative yield of 110 dwellings. The site would provide a mixture of market and affordable housing, a Local Equipped Area for Play (LEAP) and an important green infrastructure corridor on the western part of the site which would avoid development on land at risk of flooding.
96. Bullet point two of the development principles relating to open space/Green Infrastructure needs to be strengthened in order to ensure that the setting of the listed Vivis Mill is protected by way of a landscape buffer. This modification (**MM9**) is required in the interests of effectiveness and consistency with national policy.
97. The land owner indicates that a planning permission will be sought post allocation of the site. Development is anticipated to start within 2 years at a rate of around 25-30 per annum. On the basis of the evidence before me, I consider this to be a realistic estimate. *In conclusion, the site is appropriate and deliverable and consistent with national policy and the LPS.*

Policy SD7 Land to the South of Swineherd Lane, Kirkbymoorside

98. The site is around 1.46 ha with an indicative yield of 35 dwellings. The development of the site would bring the built edge of Kirkbymoorside closer to the villages of Keldholme and Kirkbymills; however, a significant expanse of fields would remain and coalescence with Keldholme would not, therefore, occur. The sports field to the south together with adjacent fields would prevent coalescence with Kirkbymills.

99. Whilst the site is within an existing Visually Important Undeveloped Area (VIUA), development would be seen against the backdrop of the existing modern estate development to the west and the playing fields to the south. The site is part of an extensive VIUA to the west of the town and the loss of this site would not undermine the integrity or purpose of the designation. Development principles seek to ensure that careful attention is paid to the scale of development on the eastern boundary and that a landscape buffer on the eastern boundary is provided. Taking account of: the environmental and landscape constraints of Kirkbymoorside; deliverability concerns regarding other potential housing sites; and the proposed mitigation measures, I consider that the release of the site from the VIUA is justified.
100. The developer has indicated a yield of around 45 dwellings as a mixture of market and affordable units. A planning application is likely to be submitted early 2019 and development is anticipated to commence 2019/20 and be built at a rate of 30 dwellings per annum. On the basis of the evidence before me, I consider this to be a realistic estimate. *The site is appropriate and deliverable and consistent with national policy and the LPS.*

Policy SD8 Land to the north of Keld Head Close, Kirkbymoorside

101. The site is around 0.8 hectares with an indicative yield of 18 dwellings. It is adjacent to modern estate development and would comprise a mixture of market and affordable housing.
102. Development principles seek to restrict development to two storey and retain and enhance boundary landscaping as part of the development which would help to assimilate the development into the surrounding landscape and minimise the effect on the adjacent Area of High Landscape Value.
103. There is not an identified developer for the site, however, as a small, greenfield site with few constraints there is no reason to believe that the site would not come forward for development within the plan period. The site would also contribute to the provision of small housing sites in accordance with the NPPF. *The site is appropriate and deliverable and consistent with national policy and the LPS.*

Policy SD9 Brickworks Site, to the north of Swineherd Lane, Kirkbymoorside

104. The site is a former Brickworks situated to the north east of the town. It is around 0.38 ha and has planning permission for 6 dwellings. Due to the location of the site within the VIUA, and its elevated position the development principles seek to restrict the height to two storeys and establish a strong frontage to the road. As a previously developed site it does not contribute visually to the VIUA designation.
105. It is necessary to revise the yield to reflect the planning application (**MM4a**) in the interests of effectiveness. *The site is appropriate and deliverable and consistent with national policy and the LPS.*

Policy SD10-Land to the south of Amotherby Primary School, Amotherby

106. The site is around 2.83ha with an indicative yield of 40 dwellings included in the Plan; although master planning work demonstrates capacity for around 44-45 units. The site would provide market and affordable housing, children's play space and a 'kiss and drop' facility for the adjacent primary school which will help to alleviate parking issues on Amotherby Lane.

107. Due to the depth of the site a substantial buffer can be created to reduce the potential of noise from the busy B1257 road. Development principles also seek to ensure the retention of the hedge along the main road which would help to reduce the visibility of the development when viewed from the Area of Outstanding Natural Beauty. There is no evidence to suggest that the scale of development would exceed the environmental or infrastructure capacity of the village.
108. Discussions have taken place with potential developers and master planning work undertaken. It is anticipated that the site would be built out within 5 years and on the basis of the evidence before me, I agree. *In conclusion, the site is appropriate and deliverable and consistent with national policy and the LPS.*

Policy SD11 Land to the south of Aspen Way, Slingsby

109. The site is around 1.7ha and has an indicative yield of 36 dwellings in the Plan. In order to ensure that the trees on the western edge of the site and the character and appearance of the Slingsby Conservation Area are protected it is necessary to include an additional development principle (**MM14**) to ensure that the development relates sensitively to the Conservation Area and enhances the entrance to the village. This modification is necessary in the interests of effectiveness and consistency with national policy.
110. The Council is minded to approve an outline planning permission for 38 dwellings including affordable housing subject to the signing of a Section 106 planning agreement and a reserved matters application is anticipated 2019. It is anticipated that the site would be built out in two to three years and on the basis of the evidence before me, I agree. *In conclusion, the site is appropriate and deliverable and consistent with national policy and the LPS.*

## **Employment Land Allocations**

Land to the south of Thornton Road Industrial Estate, Pickering (B1 and B2 Uses)

111. The site is around 6.6ha and is situated to the south of the existing industrial estate to the south east of the town. The site would represent a logical extension to the existing estate and as a previously developed site avoids any damage to the strip fields system. A planning application has been granted subject to a Section 106 obligation. There is developer interest in the site and the Local Enterprise Partnership has earmarked funding to overcome abnormal costs associated with contamination, surface water management and remediation. *In conclusion, the site is appropriate and deliverable and consistent with national policy and the LPS.*

Broad location-Land to the north of the A64 and to the east of the A169, Malton (B1, B2, B8 uses).

112. Land in the vicinity of the Malton Agri-Business Park has been identified as a broad location for further employment land in the area indicated on the Local Plan Policies Map if so required in the Plan period.
113. The site is highly accessible to the strategic road network but does have some constraints including archaeology; location within a Mineral Safeguarding Area; the need for sustainable drainage systems to avoid potential contamination of the River Derwent SAC; and the need to consider the proximity to the A64 junction. These constraints are reflected in the development principles and with appropriate consideration and mitigation should not preclude the development of the site. *In*

*conclusion, the broad location is appropriate and deliverable if so required in the Plan period. Moreover, the site is consistent with national policy and the LPS.*

### **Expansion Land for Existing Employers (Policy SD13)**

114. Three sites have been identified as expansion land for existing employers which have been carried forward from the previous Local Plan. The businesses in question have confirmed that the expansion land is still required. The sites are deliberately situated outside development limits in order to protect them for their intended use and relieve pressure to develop the sites for housing.
115. Part of the Sylatech site, Kirkbymoorside has been built on to provide an expansion block; however, the rest of the site remains undeveloped. Whilst there may be some pressure to develop the site for housing; housing site allocations are already proposed in Kirkbymoorside which performed better through the sustainability appraisal and residential development to the south of the A170 would be contrary to the LPS.
116. Land to the south of Malton Foods (Zwanenberg), Amotherby is situated within the Area of Outstanding Natural Beauty. Any proposal would require careful consideration in terms of height and massing against the criteria in Policy SP13 (Landscapes) of the LPS.
117. The land to the north of the BATA, Amotherby lies within a Minerals Safeguarding Area and for the reasons set out at paragraph and an additional bullet development principle is included to reflect this (**MM17**). Proposals for development on these sites would be considered against policies in the LPS.
118. The approach of identifying expansion land for existing employers is consistent with the LPS and the NPPF which seeks to build a strong, competitive economy and support existing business sectors. In conclusion, the sites are appropriate and deliverable if so required for expansion land in the Plan period.

*Conclusion on Issue 6: Overall, subject to the modifications set out above, the site allocations are appropriate, deliverable and consistent with national policy and the LPS.*

### **Issue 7: Whether the proposed specific site allocations are justified, effective and consistent with national policy and the Local Plan Strategy? (Policy SD15)**

119. Flamingo Land and National Agri-Food Innovation Campus (NAFIC) are both large sites situated within the open countryside. The previous Local Plan defined development limits for those sites within which additional development would be supported in principle.

#### Flamingo Land

120. Flamingo Land is a major tourist attraction consisting of a fun park, zoo and holiday village. The owner of Flamingo Land has identified plans for expansion which have only emerged recently. These plans include an extension to the zoo and the holiday park which would help to provide support for the local economy.
121. Additional text to Policy SD15 is, therefore, required to provide the framework for the consideration of potential expansion through the development management process with specific reference to highway safety and the potential landscape and visual effects (**MM20**). This modification is required in the interests of

effectiveness and consistency with national policy. Any proposal would need to comply with Policies SP8, SP13 and SP20 of the LPS.

### National Agri-Food Innovation Campus (NAFIC)

122. The site is the base for the Government's Food and Environmental Research Agency together with other organisations based around agri-food and health. The boundaries (as opposed to development limits) of the site were defined in the previous Local Plan and have simply been carried forward into the LPSD without modification.
123. The Local Economic Partnership is keen to support science-based industry around research and bioscience activities. Any further activity is anticipated within existing buildings and site boundaries which would limit any potential visual or landscape impacts. Any development at the site would be assessed through the planning application process and subject to policies of the LPS.

*Conclusion on Issue 7: On the basis of the above and subject to the modifications set out above the proposed specific site allocations are justified, effective and consistent with national policy and the LPS.*

### **Issue 8: Whether the proposed Visually Important Undeveloped Areas (VIUA) are justified, effective and consistent with national policy and the Local Plan Strategy?**

124. Policy SP16 of LPS defined VIUA's as a policy designation to protect specific open sites in or on the edge of settlements. Sites are identified as VIUA's for one or more of the following reasons: a site makes a significant contribution to the character or setting of the settlement; a site provides an attractive setting for buildings within a settlement; and/or a site makes a significant contribution to the historical form and layout of a settlement.
125. A review of the VIUA's has been carried out and the results are set out in the VIUA's Background Paper (October 2017). The methodology for the review is systematic, transparent and proportionate with sites assessed against the defined criteria and site assessment work. The reasons for the deletion or amendment of existing sites and the allocation of new sites are clearly set out. Furthermore, specific consultation was undertaken on the VIUA in 2016.
126. Some sites have been deleted as they have been the subject of a planning permission and are under construction or completed. One site at the Lodge, Middleton Road, Pickering has been removed due to a change in the character of the site and the presence of mature trees covered by a Tree Preservation Order. A number of the VIUA's have been altered to utilise physical boundary features. These deletions and alterations are both factual and logical amendments and do not alter the purpose or integrity of the VIUA designations set out in the LPS. Furthermore, many of the VIUA's have been carried forward without amendment.
127. Deletions are proposed in Kirkbymoorside to the north and south of Swineherd Lane in order to accommodate new residential allocations. These are discussed in the section on housing.
128. The LPSD must strike the balance between meeting objectively assessed needs and protecting and enhancing the natural and historic environment. I have concluded that the LPSD provides sufficient land to meet the housing and economic land requirements of the LPS and the VIUA designation would not,

therefore, be incompatible with the Framework or the presumption in favour of sustainable development.

129. Additional wording is necessary to the supporting text of Policy SD16 to clarify that proposals for development within VIUA will be considered in accordance with the requirements of Policy SP16 of the LPS in the interests of clarity and to provide certainty to developers (**MM21**) in the interests of effectiveness.

Land to north of Peasey Hills, Malton

130. Policy SP2 of the Local Plan Strategy seeks to avoid coalescence between Old Malton and Malton. The existing VIUA provides some separation between Malton and Old Malton; however, the development of the proposed VIUA would leave only a relatively narrow field between the western side of Old Malton and the estate development on the eastern edge of Malton. Development would result in visual enclosure and the sense of space would be significantly eroded. Furthermore, development would undermine the individual character and identity of the settlements.
131. St Mary's Priory Church is a Grade 1 listed building and Scheduled Monument. The church, although reduced in size, is the only surviving building of the Gilbertine Priory of St Mary and is the only church of the Gilbertine Order still in regular use. The Church has evidential, historical, aesthetic and communal value which contribute to its significance. In particular, the Church was designed to be an impressive and dominant feature in its surroundings reflecting its status and that of its founder and it dominates the relatively small settlement of Old Malton.
132. There are uninterrupted views of the Church from Westgate Lane, parts of Rainbow Lane and public rights of way and from Rainbow Lane, the profile of the church breaks the outline of the Yorkshire Wolds on the skyline. The fields form part of the rural setting of the Church and views across them allow the church to be appreciated in a rural context. Consequently, I consider that any development in the proposed VIUA would reduce the dominance and prominence of the Church within the landscape and reduce its significance.
133. The character of the Conservation Area is formed by prominent buildings and building group, including St Mary's Priory Church; a strong and legible historic village form and hierarchy of spaces, groups of farmsteads; traditional vernacular buildings and open spaces and trees along the River Derwent. Views across the proposed VIUA allow the linear nature and historical development of the village as burgage plots to be appreciated. Whilst the Flatts would remain, when viewed from Westgate Lane and Rainbow Lane, views of Old Malton Conservation would be dominated in the foreground by development.
134. For the reasons stated, I conclude that development of this piece of land would undermine the significance of both St Mary's Priory Church and Old Malton Conservation Area and reduce the separation between Malton and Old Malton. I, therefore, consider that the designation of the VIUA is justified.

Land north of Westgate Lane, Malton

135. The site lies between the above site and the A64. The mosaic patchwork of hedgerows and trees and the open nature of the space, together with the site above, provides an attractive setting for Old Malton and provides views of the Grade 1 listed church and Old Malton Conservation Area. I, therefore, consider that the designation of the VIUA is justified.

Land between Welham Road and Langton Road, Norton

136. The fields are situated to the south of Norton and to the north of Whitewall/Blazeley's Lane and in between Welham and Langton Road. The collection of fields has a more unusual, irregular pattern than surrounding fields and enable clear views to Norton and Malton beyond. It is one of the few locations where such clear views of the twin settlements can be gained. Furthermore, Whitehall/Blazeley's Lane is very well used by walkers/dog walkers going up to Scott's Hill. The fields, therefore, make an important contribution to the setting of Norton and Malton.
137. The paddock in front of the Stables has been part of the training facilities and until recently included a circular gallop which is still discernible. Whilst the fields are separated from the Stables by a lane, there is, nevertheless, a clear visual, historical and functional link between the fields and the Grade II Listed buildings. Consequently, I consider that the fields make an important contribution to the setting of the group of listed buildings.
138. I am aware the planning permission was granted at appeal for a site to the west of Langton Road and the east of Mill Beck. However, I consider that this appeal site is visually more self-contained and does not provide such extensive views to Norton/Malton as the proposed VIUA designation. I, therefore, consider that the designation of the VIUA is justified.

Land at Folliott Ward Close, Middlecave Road, Malton.

139. The two parcels of land are prominent corner sites and the trees contribute to the verdant character of the area. The site provides an attractive setting for the surrounding buildings. I, therefore, consider that the designation of the VIUA is justified.

Land at Mickle Hill, Pickering.

140. The designation relates to a collection of strip fields known as Mickle Hill and land to the south of Pickering. The fields are particularly prominent and afford views of the gently rising land of Mickle Hill. The land to the south of Mickle Hill has lateral strip fields and further contributes to this inter-visibility. The presence of Mickle Hill and the field pattern has significantly influenced the form and character of Pickering and as such the fields make a significant contribution to the character and setting of the settlement. I, therefore, consider that the designation of the VIUA is justified.

Ampleforth.

141. A number of VIUA's are identified in Ampleforth as a result of the Conservation Area Appraisal including the verges along Main Street. Land to the east of St. Benedict's School consists of a field to the south of Back Lane. The land affords open views of the valley and gently falls away from the road and it contributes to the setting of the Conservation Area. Overall, the areas provide an attractive setting for the listed/historical buildings within the village and are important in terms of the historical form and layout of the settlement. The designation of the Ampleforth VIUA's are, therefore, justified.



Amotherby.

142. An area of land is designated between Amotherby and Swinton south of the B1257. It is an area of open land which ensures that Amotherby and Swinton do not coalesce. It is, therefore, important in ensuring that the separate identities of the settlements are maintained. The VIUA is, therefore justified.

Slingsby.

143. The designation of land to the north of Slingsby Castle and west of the Lawns, is necessary in order to protect the undeveloped views to Slingsby Castle Scheduled Monument and the Listed Church. The northern-most field also contains the Mowbray Oak, an Ancient Tree and a part of a collection of trees which provide an important vista from the public footpath. The VIUA is, therefore, justified.

Hovingham.

144. The designation of an area of land to the north of the Worsley Arms and south east of the Village Hall and tennis courts as an VIUA is necessary in order to protect the setting of the listed Worsley Arms complex. The VIUA is, therefore, justified.

Welburn.

145. This area of land is situated to the west of the Church of St. John and lies within the Conservation Area. It makes a significant contribution to the setting of the grade II listed Church and the historical form and layout of the settlement. The VIUA is, therefore, justified.

Langton.

146. The existing Langton VIUA covers areas of grass verge and also a garden/paddock which lies to the north of the village. The garden/paddock is a substantial area of land which lies in a central position in the village and which enables views out from the village into the open countryside. It, therefore, makes a significant contribution to the form and character of the village. The retention of the Langton VIUA is, therefore, justified.

*Conclusion on Issue 8: For the reasons stated, the proposed Visually Important Undeveloped Areas are justified, effective and consistent with national policy and the Local Plan Strategy.*

## Assessment of Legal Compliance

147. My examination of the legal compliance of the Plan is summarised below.
148. The Ryedale Local Plan Sites Document has been prepared in accordance with the Council's Local Development Scheme. Consultation on the Local Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement. Sustainability Appraisal has been carried out of the submitted LPSD and MMs and is adequate.
149. The Habitats Regulations Appropriate Assessment Screening Report (November 2017) concluded that an Appropriate Assessment was necessary. Consequently, a full assessment was undertaken of the relevant policies and mitigation has been secured through the LPSD.
150. The Council subsequently revised the HRA in response to a Judgement issued by the Court of Justice of the European Union<sup>2</sup>. This has involved undertaking a screening exercise in respect of the policies without taking into account any measures intended to avoid or reduce the project's harmful effects on a European designated site and an Appropriate Assessment. Natural England has confirmed that it has no objections to the revised HRA.
151. The LPSD site allocation policies are designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change, in particular with regards to flood risk.
152. The LPSD complies with all relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## Overall Conclusion and Recommendation

153. The LPSD has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
154. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Ryedale Local Plan Sites Document satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*Caroline Mulloy*

Inspector

This report is accompanied by an Appendix containing the Main Modifications.

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<sup>2</sup> *People over Wind, Peter Sweetman v Coillte Teoranta Case C-323/17*