



The Planning Inspectorate

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# **Report to Ryedale District Council and North York Moors National Park Authority**

**by Patrick T Whitehead DipTP(Nott) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 28<sup>th</sup> May 2015

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

**REPORT ON THE EXAMINATION INTO HELMSLEY PLAN**

**LOCAL PLAN**

Document submitted for examination on 16 May 2014

Examination hearing held on 3 March 2015

File Ref: PINS/W9500/429/6

## Abbreviations Used in this Report

|       |  |
|-------|--|
| AA    | Appropriate Assessment                   |
| CS    | Core Strategy                            |
| DtC   | Duty to Co-operate                       |
| LDS   | Local Development Scheme                 |
| MM    | Main Modification                        |
| NPPF  | National Planning Policy Framework       |
| NYCC  | North Yorkshire County Council           |
| NYMCS | North York Moors Core Strategy           |
| NYMNP | North York Moors National Park Authority |
| OAN   | Objectively Assessed Need                |
| RDC   | Ryedale District Council                 |
| RLPS  | Ryedale Local Plan Strategy              |
| SA    | Sustainability Appraisal                 |
| SCI   | Statement of Community Involvement       |
| SCS   | Sustainable Community Strategy           |
| SHMA  | Strategic Housing Market Assessment      |

## **Non-Technical Summary**

This report concludes that the Helmsley Plan Local Plan provides an appropriate basis for the planning of the town of Helmsley, providing a number of modifications are made to the plan. The Ryedale District Council and the North York Moors National Park Authority have specifically requested me to recommend any modifications necessary to enable the plan to be adopted.

All of the modifications to address this were proposed by the Authorities. Where necessary I have amended detailed wording and I have recommended their inclusion after considering the representations from other parties on these issues.

The Main Modifications can be summarised as follows:

- Amendments to Policy H1 updating the content, removing phasing information, and requirements relating to type of dwellings;
- Amendment to Policy H2 supporting text for clarification;
- Amendment to Policy H3 to provide consistency with national policy;
- Amendment to Policy H4 to clarify employment purposes;
- Amendments to Policies H6 and H7 to provide precision;
- Amendments to Policy H10 and supporting text to reflect new Government policy guidelines;
- Amendments to Policy H11 and supporting text to provide clarity of purpose;
- Amendments to Policy H14 and supporting text to provide consistency with policies in core strategies and
- Removal of design briefs to an appendix.

## Introduction

1. This report contains my assessment of the Helmsley Plan Local Plan 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, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) makes clear that to be sound, a Local Plan should be positively prepared; justified; effective and consistent with national policy.
2. The starting point for the examination is the assumption that the Authorities have submitted what they consider to be a sound plan. The basis for my examination is the submitted draft plan (May 2014) which is the same as the document published for consultation in January 2014.
3. My report deals with the main modifications that are needed to make the Plan sound and they are identified in bold in the report (**MM**). In accordance with section 20(7C) of the 2004 Act the Authorities requested that I should make any modifications needed to rectify matters that make the Plan unsound and thus incapable of being adopted (letter dated 23 February 2015). These main modifications are set out in the Appendix.
4. The main modifications that are necessary for soundness all relate to matters that were discussed at the Examination hearing. Following these discussions, the Authorities prepared a schedule of proposed main modifications and this schedule has been subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report. The Authorities have proposed some amendments in the light of those responses and I have also made some amendments to the detailed wording of the main modifications where these are necessary for consistency or clarity. None of these amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where necessary I have highlighted these amendments in the report, and distinguished them by bold italic text in the schedule of main modifications.
5. Following the ministerial statement: 'Planning update March 2015' (<http://www.gov.uk/government/speeches/planning-update-march-2015>) and the subsequent enactment of The Deregulation Act 2015, amendments were made to the published schedule of main modifications [doc PS4 - 12 March 2015 version] to take into account any implications of this change in Government policy. Specifically these are concerning the withdrawal of the Code for Sustainable Homes and the exemption for small housing sites from the allowable solutions element of the zero carbon homes target. None of these amendments [doc PS5] significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where appropriate, I have taken account of additional responses.
6. References in square brackets [ ] are to documents forming the supporting information to the submitted draft plan.

## Assessment of Duty to Co-operate

7. Section s20(5)(c) of the 2004 Act requires that I consider whether the Authorities complied with any duty imposed on them by section 33A of the 2004 Act in relation to the Plan's preparation.
8. The Helmsley Plan was conceived prior to the DtC. However, it is a result of the two Authorities cooperating on the production of a single plan for the town. The evidence presented [doc PD2] indicates that the Helmsley Plan does not raise any strategic cross-boundary issues beyond the areas of the two Authorities. Nevertheless the document shows that all key authorities and organisations have been fully engaged in the process and have been given adequate opportunity to influence the Plan. No cross-boundary issues have been identified and no neighbouring authorities have made representations objecting to the Helmsley Plan. It is also clear that there has been on-going liaison and co-operation with the nominated statutory bodies resulting in changes to the draft Plan prior to submission. Accordingly, the Authorities have met the requirement under the DtC. No evidence has been presented to the examination to suggest otherwise.

## Assessment of Soundness

### Preamble

9. The Helmsley Plan is identified by the Authorities as an allocation document which seeks to deliver the strategic levels of development set out for Helmsley in the RLPS [doc RDCD1] which sets the level of housing provision for Helmsley at approximately 150 dwellings (5% of the total provision) up to 2027. So far as the National Park Authority is concerned, the UK Government Vision and Circular 2010 [doc KND1] indicates that NPAs "*..have a key role as planning authorities but are neither housing authorities nor housing providers*" (para 76). Clarification was provided at the hearing, suggesting that NPAs do have to follow NPPF guidance, and current legal advice is that they do have to go through the SHMA process.
10. The NYMCS [doc NYMD1] does state that the Authority has historically permitted open market housing in the larger settlements on the periphery of the Park, and Core Policies B and J include the provision of additional open market and affordable housing in Helmsley which is identified as a Local Service Centre. The overall level of completions, focussed on the Local Service Centre and Service Villages, is anticipated at around 26 units per annum (para 9.6).
11. It is normal practice for the submitted plan to be accompanied by a map to show how the existing Policies Map accompanying the adopted Local Plan will be changed. However, in this instance the authorities have produced a complete submission version Policies Map to accompany the Plan (Appendix 2).

## Main Issues

12. Taking account of all the representations, written evidence and the discussions that took place at the examination hearing I have identified 7 main issues upon which the soundness of the Plan depends.

### Issue 1 – Housing land allocations

#### Overall housing requirement

13. The RLPS [doc RDCD1] was adopted in 2013 and so provides an up-to-date indication of the housing requirement. The Plan sets a District wide target of 200 dwellings per annum to meet the OAN, which includes meeting some of the needs of the National Park within the District. The majority of this new housing will be located in the Principal Towns of Malton and Norton with 5% of the total planned supply directed to Helmsley. This equates to the 150 dwellings required for Helmsley over the Plan Period ( para 5.3) through small and medium sized extension sites as shown in Section 4 Housing, p52 of the RLPS. The RLPS does not support a position whereby over the Plan Period the scale of new housing development would significantly exceed the cumulative housing target (para 4.21).
14. The figure of 150 dwellings equating to 5% of the total for the District was found sound by the Inspector at the Examination into the RLPS and overall, he concluded that "*..it establishes an effective, deliverable positively prepared and soundly based strategy for Ryedale*". There is no justification for revisiting the basis of the OAN and the allocation document is not the appropriate place to do this, as has been established by the courts (*Gladman Development Ltd v Wokingham Borough Council* [2014] EWHC 2320 (Admin)).
15. The RLPS also addressed the NPPF requirement that LPAs should "*..boost significantly the supply of housing*" by providing a 20% buffer of sites which, in the case of Helmsley suggests an overall total provision of around 180 units. It follows that the Plan's provision for 190 units – excluding the current commitments and the extra care accommodation – more than meets the RLPS housing requirement. To provide more sites would be contrary to the RLPS Inspector's conclusion that higher figures would not be appropriate in the light of the role, character and environmental constraints of Ryedale.
16. Arguments have been advanced that, on the one hand there should be no housing provision within the part of Helmsley within the National Park, and on the other, that the Helmsley Plan should take into account the wider housing needs of the National Park, not just those relating to Ryedale District. Neither of those arguments is convincing. The 2010 Circular recognises that National Parks are not suitable locations for unrestricted housing (para 78) but it does indicate that the Government expects NPAs to work with local authorities to ensure the needs of local authorities within the Parks are met. The NYMCS recognises this need through Core Policies B and J which support the provision of a relatively low level of open market housing (para 5.5).
17. On the second point, there is clear evidence that housing need for the whole of the NYMNPA area has been properly assessed. Appendix 11 to the North Yorkshire SHMA [doc TH1d], fig 7.12 shows a gross annual affordable housing

need within the whole National Park area of 135 dwellings, of which 38dpa is allocated to Ryedale District. The remainder is divided between Hambleton DC and Scarborough BC. Within Ryedale, the total is further subdivided to show a need for 5dpa for Helmsley. There is no convincing evidence to suggest that these figures are incorrect, or that any additional housing need should be met within Helmsley.

18. As a consequence of this analysis the overall housing requirement of at least 150 dwellings for the period to 2027 is appropriate and provides a sound basis for managing the supply of new homes over the Plan Period.

#### Policy H1 – New Residential Development

19. The Policy provides for the delivery of 224 dwellings and a 60 unit extra care facility over the Plan Period. The Authorities have made clear that the extra care accommodation will be provided specifically to address the requirements of NYCC and will not be deducted from the overall provision. The sites for development are divided into current commitments and proposed allocations.

##### *Existing Commitments*

20. The Authorities have proposed to amend the Policy by moving site NYMH8, for 20 dwellings south of Swanland Road, from the proposed allocations to existing commitments following the grant of planning permission **(MM4)**. There have been suggestions that the site for 14 residential units on land to the rear of the Black Swan should be removed from Policy H1 on the basis that this was a historic legacy site predating the start of the Helmsley Plan and the Authorities are seeking to count old permissions toward meeting new housing requirements. However, the Policy does make clear that the allocated sites do make provision for the development of 190 dwellings, well above the amount of land necessary to meet the OAN. The two sites identified as existing commitments, including the land to the rear of the Black Swan, provide for a further 34 dwellings over and above the 190. Development of both sites is known to be coming forward and so it is appropriate to include them within Policy H1 Existing Commitments. In this respect, with the inclusion of **(MM4)** the Policy is sound.

##### *Deliverability of Allocated sites*

21. Turning to the allocated sites, the most fundamental matter is whether the proposed housing land allocations are deliverable within the Plan period. From the documentation and the representations received there were initial doubts regarding the availability and deliverability within the Plan period of sites 174 and 183, which make up half of the total provision, and all of the housing allocations outside of the NP (95 dwellings). The Development Brief for site 183 indicated that it is subject to a restrictive covenant which prevents its development for residential use, and that it may not come forward within the timescale of the Plan.
22. In addition, there was an indication that site 174 is subject to a ransom position preventing access. In the absence of convincing evidence to show that any obstacles to development of these sites could be overcome, and that they would be developable within the Plan period, the Plan could not be found

sound and the Examination was suspended.

23. The Authorities reported that a number of attempts to bring Site 183 forward through negotiation have not resulted in a positive outcome. Ryedale District Council therefore sought, and gained authority to compulsory purchase Sites 183 and EMP1 under section 226(1)(b) of the Town and Country Planning Act 1990. RDC has also allocated funding to undertake this process and is committed to taking it forward.
24. The compulsory purchase of Sites 183 and EMP1 would enable access to be achieved through to Site 174 and then consequently EMP2. The process of compulsory purchase will also extinguish covenants that are incompatible with the intended use of the site as shown in the Helmsley Plan. Therefore the restriction of the use of Site 183 to commercial uses only, would be extinguished through the process of compulsory purchase. The authority for the compulsory purchase was requested from RDC Planning Committee on 16 December 2014 [minutes at docs R3 and R4] and formal notification for compulsory purchase of sites EMP1 and 183 has now been issued.
25. On this basis the Authorities have now provided convincing evidence of the deliverability of Sites 183, EMP1 and consequently 174 and EMP2; specifically that they can come forward for their intended uses within the Plan period of the Helmsley Plan. The actions taken by RDC have satisfactorily resolved the issues regarding deliverability of sites within the Plan period, and in this regard no modifications are necessary to Policies H1 and H4 or the supporting text.

*Omission sites*

26. As a consequence of findings that the total amount of land allocated is appropriate to meet the OAN, and that all sites can be made available (if necessary through the use of compulsory purchase powers) and developed within the Plan period, alternative allocations are not necessary. Nevertheless consideration has been given to the various omission sites put forward.
27. The two significant sites, NYMH1 (extension) and NYMH2, were given detailed consideration by the Authorities and not included as allocations for reasons given in Appendix 2 to the Plan. They are identified on the plan which accompanies the Appendix. Both are within the NYMNPA area. The allocation of either of these sites would be inappropriate and unnecessary.
28. NYMH1 (extension) would allow for approximately 30 additional dwellings. Whilst the analysis in Appendix 2 emphasised the importance of the former medieval strip pattern which characterises the site, at the hearing greater emphasis was placed on the visual impact of any development of this site. It appears from visiting the site that its character is similar to that of the allocated site NYMH1, in that both show clear remnants of the medieval open field system. However, the extension of the allocation northwards would increase the visibility of the development both locally, and within the wider landscape of this part of the National Park. The landscape advice sought by the NYMNPA [doc TL1) supports this conclusion. In particular, photos 5 & 6 in the report show the increasing visibility of the northern part forming the proposed extension to site NYMH1.



29. Site NYMH2 is located to the north-west of Helmsley on rising ground leading to a prominent ridgeline. It forms a significant part of a wedge of open land, including playing fields and a cemetery, which links the open countryside with the built-up centre of the town. However, from a relatively short distance along Baxton's Sprunt, only the visual presence of All Saint's Church and Helmsley Castle give any real indication of proximity to Helmsley. Development here would appear prominent in the open landscape and significantly affect the visual character of this part of the National Park. The advice to NYMNP [doc TL2] gives a clear indication that, in landscape and visual terms, the site has little or no capacity for housing development. It is accompanied by photos 1 – 4 which provide visual evidence of the potential impact of development, supporting those conclusions.
30. Other potential sites (NYM4 - NYM7; and sites 458 – 459), seen during visits, are located both within and adjacent to the proposed Development Boundary. They are all small (below the 0.3ha threshold) and would not make a significant contribution to the amount of housing land available. They would be more appropriately considered as windfall opportunities against the criteria in Policy H2.
31. On a related issue, it has been suggested that NYMH3 has the potential to deliver a greater quantity of dwellings than the 35 units identified in Policy H1. An alternative of 'about 40 residential units' has been suggested. However, the "Strategic Assessment" of the site, submitted in support of the proposed alteration provides a detailed assessment on p22, based on a preferred "Masterplan Strategy", which confirms the potential to deliver 35 units whilst prioritising houses designed to meet the needs of older residents. On this basis, and without further convincing evidence, there is no justification for amending the quantity of dwellings shown in Policy H1.

#### *Requirement for bungalows*

32. The requirement for 5% of all new dwellings on proposals of more than 50 units to be bungalows is derived from the RLPS Policy SP4 and is intended to address the aging population of the town. In practice, the Policy would be applied to only one allocation, NYMH1, which is located in the NYM part of the Plan area, resulting in the provision of only 3 bungalows in total. Accordingly, justification for the Policy is inadequate, whilst its effectiveness in meeting the requirements of the ageing population is questionable.
33. The Authorities state that it was considered appropriate to apply the same requirements of the RLPS Policy SP4 to the whole of Helmsley Plan for consistency. The current situation is that a planning application for the one site allocated in the Helmsley Plan which is above this 50 dwelling threshold has already been submitted for consideration by the LPA. The Authorities have therefore sought to remove this requirement through modifications to Policy H1 (**MM7**) and deletion of para 5.11 of the supporting text (**MM10**) resulting in a sound Policy.

#### *Phasing of Sites*

34. There has been criticism of the Plan for including a section on phasing of the housing allocations which, it is suggested is contrary to the provisions of the

NPPF, para 47, which seeks to significantly boost the supply of housing. Footnote 11 to para 47 advises that, "...to be considered deliverable, sites should be available now...". Clearly phasing without justification would not be in accord with this advice. Policy H1 does not include phasing by use of different start dates, but does include indicative end times for some sites. Accordingly, using the term '*phasing*' is misleading and inappropriate.

35. The Authorities have accepted the criticism and responded with modification **(MM9)**. This provides a replacement title to the section, replacing '*Phasing of Sites*' with '*Delivery of Sites*', and providing replacement text to paras 5.6 and 5.7. The modification successfully addresses the concerns leading to soundness.
36. It is also necessary, for clarity, to amend the first sentence of Policy H1 which – by referring to the management of the delivery of new homes - implies that development will be phased. Replacement text is proposed through **(MM3)** to achieve soundness.

*Other issues relating to Policy H1*

37. Para 5.10 of the Plan contains a reference to the Lifetime Homes Standard. The ministerial statement referred to in para 5, above, clarifies the Government's intention to create a new approach for the setting of technical standards for new housing, comprising new additional optional Building Regulations. As a consequence, and to ensure soundness, the Authorities have proposed replacement text for the last sentence of para 5.10 **(MM33)**.
38. The locational identification of the sites 183 and 174 is incorrect which could lead to confusion during future more detailed consideration of proposals. This matter is addressed through the Authorities' proposed amendments **(MM5 & MM6)** resulting in soundness.

Policy H2 – Windfall Development

39. The Policy relating to windfall developments is generally supported. Requests for clarification, for example that windfalls do not count towards the total housing provision figure, and clarification of the elements contributing towards the historic character of Helmsley were incorporated into the Publication Version of the Plan.
40. Concerns were raised that the Policy is overly restrictive in requiring developments outside the defined Development Limit to be those of an essential or exceptional nature, leading to the prevention of beneficial development. However, both the RLPS (Policy SP2) and the NYMCS (Policy J) provide clear justification for a restrictive approach to proposals outside the defined Development Limit. As a consequence of discussion the Authorities have now proposed further clarification of the requirements through additional text to follow para 5.19, including reference to the strategic policies **(MM13)**. There has been a further representation questioning the logic of the proposed text. As a result I believe a further addition to MM13 would provide greater clarity, resulting in a sound Policy. This does not change the substance of the MM and has been included in the schedule.

41. Para 5.18 sets out the criteria used to establish the Development Limit which is defined on the Policies Map. Criterion (g) indicates that important open areas on the edge of the town have been excluded from the Development Limit. The Proposals Map has been amended to show the extent of those open areas, including the Grade 1 Historic Park and Garden at Duncombe Park, the Howardian Hills AONB, the Area of High Landscape Value and the Visually Important Undeveloped Area (see para 64 below). For clarity, it is necessary to reference these in Criterion (g) and a proposed modification **(MM12)** provides the necessary text, resulting in soundness. It is also necessary for consistency within the Plan to amend the concept drawing on p8 to denote the extent of the Historic Park and Garden at Duncombe Park **(MM2)**.

### Policy H3 – Affordable Housing Provision

42. In December 2014 DCLG published a written ministerial statement on support for small-scale developers, custom and self-builders. This introduced changes to national planning policy relating to affordable housing. These include, *inter alia*, for designated rural areas under section 157 of the Housing Act 1985, a lower threshold of 5-units or less, beneath which affordable housing and tariff style contributions should not be sought. The whole of Helmsley, both within and without the National Park, is designated as a rural area.
43. Policy H3 in the Submission Draft sets a threshold of 5 *or more* units which is not consistent with the ministerial statement threshold of 5 *or less* units. The Authorities have acknowledged the inconsistency and have proposed to amend the text of Policy H3 through **(MM14)**, resulting in a sound Policy.

### **Issue 2 – Employment land allocations**

44. The main issues raised relating to the provision of employment land are the deliverability of the two allocated sites, EMP1 and EMP2, and the related issue of providing better access to the existing employment sites at Sawmill Lane.
45. Allocation EMP1, the land to the west of Riccal Lane, has been the subject to protracted and so far unsuccessful negotiations along with housing allocation 183 (para 21, above). In addition to its role as an employment site, it provides the key to unlocking the potential development of allocation EMP2 through the provision of access.
46. As reported above in respect of housing allocation 183 (para 23), RDC has sought to address the impasse with the owners of sites 183/EMP1 through seeking authority for their compulsory purchase. In addressing the issue of deliverability of the housing allocation, this action will ensure that the two employment sites can be delivered within the Plan period.
47. However, there are others matters to be addressed in order for the Policy to be found sound. Firstly, the locational identification of the two sites is incorrect which could lead to confusion during future more detailed consideration of proposals. This matter is addressed through the Authorities' proposed amendments **(MM15 & MM16)**. Secondly, the Policy makes no reference to the development briefs which set out the principles for

development of the sites, a matter addressed through modification **(MM17)**. Finally, the Authorities have determined that, for amenity reasons, new employment uses should be restricted to the business use classes excluding, for example, *sui generis* uses. For clarification, a note to this effect in is included in para 6.2 through **(MM18)**. With these modifications Policy H4 is sound.

### **Issue 3 – Retail and commercial development**

48. The policies for retail and commercial development, H5 - H7 indicate that certain proposals would 'be resisted'. These policies do not give the positive steer required by the NPPF (para 154): that policies should indicate clearly what will or will not be permitted. If it is the intention of Policy H6 that permission will only be granted for proposals resulting in the loss of retail floorspace in certain circumstances, it should say so rather than simply suggest they would be resisted. Similarly, Policy H7 should indicate clearly the circumstances in which proposals resulting in the loss of community facilities would be permitted.
49. The Authorities have accepted that the policies need revision in order to be found sound, and have proposed appropriate modifications for Policy H6 **(MM19)** and for Policy H7 **(MM20)**. With these amendments incorporated both policies are sound.
50. So far as Policy H7 is concerned the NHS Property Services has raised concern that the Policy revision proposed by MM20 does not make specific reference to healthcare facilities as '*community facilities*' and requests clarification be included to avoid misinterpretation. This is not a matter previously raised by the representor and, in any event, it is difficult to interpret healthcare facilities as anything other than part of the overall community facilities so the Policy is sound without modification. The Authorities have proposed to address the concern by adding a footnote to the supporting text, which they may wish to pursue as an additional modification (AM).

### **Issue 4 – Renewable energy**

51. Policy H10 requires all new build residential development to meet the highest Code for Sustainable Homes standard. Prior to the hearing being held, the Government had declared its intention to phase the Code out and replace it through new measures in the Building Regulations so the Policy, as drafted, would be meaningless on adoption. The Authorities had proposed modifications to the Policy and its supporting text in response to concerns raised by representors.
52. However, a recent written ministerial statement by the Secretary of State for Communities and Local Government made changes to Government policy. This included withdrawal of the Code for Sustainable Homes. The statement advises that, following enactment of the Deregulation Act (26 March 2015), LPAs should not set "*...any additional local technical standards or requirements relating to the construction, internal layout or performance of new buildings, including requiring any level of the Code for Sustainable Homes*". Further advice indicates that local plans should not be used to apply the new national technical standards.

53. The Authorities' proposed Main Modifications **(MM21)**, changing the title and the wording of the Policy, and **(MM23)**, adding a further paragraph (9.3) to the supporting text remain the same as before. However, in line with the ministerial statement, **(MM22)** has been further amended with reference to the Code for Sustainable Homes. The ministerial statement also revises Government policy to provide exemption for small housing sites of 10 units or fewer from the allowable solutions element of the zero carbon homes target so that an additional amendment to para 9.3 is necessary to provide consistency **(MM32)**. With these Main Modifications, the Policy is sound.

## Issue 5 – Green Infrastructure

54. Policy H11 is a reflection of perceived opportunities through the Helmsley Plan to improve the provision of green infrastructure – a collective term used to cover woodland, grassland, rivers, streams, hedges and verges. However, the Policy is not sufficiently clear in its intent and it is not properly justified by the text. The definition of what comprises green infrastructure assets is inadequate, and there is no clear indication of what would comprise a net gain in green infrastructure in any particular circumstance. The implications of the policy for individual proposals are not clear so that it is difficult to see how it could be applied to any particular application.
55. The Authorities recognise shortcomings with the Policy and have proposed revisions to the text, including a requirement for '*net gain in biodiversity*' and for '*enhancements*' to green infrastructure **(MM26)**. They have also proposed a further modification, providing additional text to the Policy, including a reference to the development briefs in Appendix 1 and clarifying the Policy's implications for non-allocated '*windfall sites*' **(MM27)**. These modifications provide a sound policy.
56. However, the Policy requires further justification and guidance in order to be effective and properly justified. The Authorities have responded with a reference to the supporting evidence for the RLPS Policy SP15: the Yorkshire and Humber Green Infrastructure Mapping Project finalised in 2011 [doc TE5]. They have proposed a modification **(MM24)** providing additional text to para 10.1 referring to the Mapping Project which sets out a range of Green Corridors within the region, identifying the related green infrastructure areas in the locality, and the specific features that contribute to the networks in Helmsley. A further new paragraph is proposed to follow para 10.1 to strengthen the justification by indicating the sort of contributions that new developments should seek to make towards improving the green infrastructure networks **(MM25)**. Taken together, these modifications provide a sound policy with sufficient reasoned justification to ensure effectiveness.

## Issue 6 – Telecommunications

57. A number of issues were identified with Policy H14 Telecommunications and IT Installations. As drafted, the Policy is not consistent with national policy in the NPPF (para 46) which advises that LPAs should not question the need for telecommunications equipment. Therefore the first criterion should not be incorporated in the Policy.
58. There is inconsistency between the Policy, criterion 3, as drafted, and the

NYMCS, Policy 25, which requires there to be no unacceptable adverse visual impact upon the character of the locality and the wider landscape, or the various requirements regarding character, design and amenity, of the RLPS, Policy SP10. Lastly, the Policy has no requirement for the removal of equipment in line with the specific requirement of criterion 5 of NYMCS Policy 25.

59. The shortcomings of Policy H14 have been recognised by the Authorities and have been addressed through **(MM28)**, providing additional text to para 15.1, and **(MM29)** which proposes deletion of the first criterion, amended text for what will become criterion 2, and the inclusion of new criterion 3 making provision for the removal of redundant equipment. A further representation has raised concern with the insertion of '*visual*' as a qualification to '*adverse impact*', noting that the impact on heritage assets may also be physical in nature. The Authorities have accepted the criticism and amended MM28 and MM29 accordingly. These modifications result in a sound Policy.

### Issue 7 – Development briefs

60. The inclusion of development briefs as a component part of the Plan submitted for Examination creates the difficulty that, if circumstances change in respect of any of the sites, the brief can only be amended or modified by subjecting that part of the Plan to a further statutory Examination. This does not provide a flexible and responsive approach to the control of development.
61. The Authorities have agreed that the development briefs should be removed from the Plan and, instead, have proposed these should be attached as an appendix, entitled *Appendix 1 Development Briefs* **(MM30)**. Accordingly, so far as housing sites are concerned, they have proposed to change the wording of Policy H1 **(MM8)** and provide additional text following para 5.12 **(MM11)**. Changes are proposed to Policy H4, so far as Site EMP2 is concerned **(MM17)** and to para 6.2 in relation to both sites EMP1 and EMP2 **(MM18)**. A further addition is proposed to Policy H11, making reference to the Appendix **(MM27)**. These Main Modifications ensure that the Plan is sound in respect of the development briefs.

### Other matters

62. A number of proposed modifications have been put forward by the Authorities which, on reflection, do not amount to Main Modifications required to address issues of soundness. These are referenced in the schedule published for consultation as MM28 relating to para 14.2 referring to a potential use for contributions towards open space provision which has not been justified in the context of this Examination; and MM32 – MM34 which relate to text removed to Appendix 1 and therefore no longer part of the Plan. The remaining Main Modifications have been renumbered as appropriate.
63. The Plan contains no indication of the Plan Period. The first reference is within the Vision for Helmsley and supporting text at para 3.3 which advise that it will set the spatial approach for development up to 2027. This is an omission which must be addressed if the Plan is to have meaning to users. The Authorities have sought to address this through **(MM1)** which provides a timescale of 2014 – 2027 to be incorporated through text on the front cover.

This results in a sound Plan in this respect.

64. The Authorities have proposed to create a new Appendix 5 providing a list of superseded policies as a result of the adoption of the Helmsley Plan, with additional clarifying text **(MM31)**. This is clearly necessary to provide a sound document.

### **Policies Map**

65. The Authorities have provided a revised Policies Map incorporating the changes referred to in para 41, above, through **(MM12)**, and the attached Appendix 2.

## Assessment of Legal Compliance

66. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

| <b>LEGAL REQUIREMENTS</b>   |   |
|---|---|
| Local Development Scheme (LDS)                                    | The Helmsley Plan is identified within the approved Ryedale LDS January 2015 [doc RDCD 3] and the North York Moors NPA LDS May 2013 [doc NYMD4] the former of which sets out an expected adoption date of September 2015. The Helmsley Plan's content and timing are compliant with the LDS.  |
| Statement of Community Involvement (SCI) and relevant regulations | The Ryedale SCI [doc RDCD2] was adopted in November 2006 and that of the North York Moors NPA in August 2006 [doc NYMD3]. The consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modification' changes (MM)  |
| Sustainability Appraisal (SA)                                     | SA [doc SD2] has been carried out and is adequate. The 'main modification' changes have also been subject to SA.  |
| Appropriate Assessment (AA)                                       | The Habitats Regulations AA Screening Report (January 2014) [doc SD4] shows that, particularly in relation to the allocation of land for development, the plan may have some negative impact, and a full assessment should be undertaken. The AA was carried out [doc SD6] and concluded that, with the application of mitigation measures, the Helmsley Plan will not give rise to any effects that would harm the integrity of the Natura 2000 sites.<br>The 'main modification' changes have also been subject to Habitat Regulations Assessment and concluded that no further AA work is necessary. |
| National Policy   | The Helmsley Plan complies with national policy except where indicated and modifications are recommended.   |
| Sustainable Community Strategy (SCS)                              | Satisfactory regard has been paid to the SCS (Imagine Ryedale 2013) [doc RDCD17] and the NPA's Management Plan 2012 [doc NYMD2].  |
| Public Sector Equality Duty (PSED)                                | The Helmsley Plan complies with the Duty [doc PD1, October 2013]  |
| 2004 Act (as amended) and 2012 Regulations.                       | The Helmsley Plan complies with the Act and the Regulations.  |



## Overall Conclusion and Recommendation

67. The Plan has a number of deficiencies in relation to soundness and 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.
68. The Council has requested that I recommend main modifications to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Helmsley Plan local plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*Patrick T Whitehead*

Inspector

This report is accompanied by Appendix 1 containing the Main Modifications and Appendix 2 showing the Policies Map as modified.

## Appendix 1

### Main Modifications

The modifications below are expressed in the conventional form of ~~strike through~~ for deletions and underlining for additions of text.

| Ref | Page in Submitted Plan | Policy/Paragraph      | Main modification  |
|-----|------------------------|-----------------------|--|
| MM1 | Cover                  |                       | Insert timescale for Plan 2014 to 2027   |
| MM2 | 8                      | Concept Drawing       | Amend the concept drawing to denote the extent of the Grade I Historic Park and Garden at Duncombe Park.   |
| MM3 | 15                     | Policy H1             | Delete <del>"The delivery of at least 150 new homes will be managed over the period 2014 to 2027. This will be achieved as follows:"</del> and replace with <u>"The delivery of at least 150 new homes will be provided over the period 2014 to 2027. The timescales for development are provided for indicative purposes only"</u> .  |
| MM4 | 15                     | Policy H1             | Remove site NYMH8 from proposed allocation to current commitments.   |
| MM5 | 15                     | Policy H1             | Change description of site 183 to read <u>"Land to the East of Riccal Drive"</u>   |
| MM6 | 15                     | Policy H1             | Change description of site 174 to read <u>"Land to the South of Riccal Drive"</u>  |
| MM7 | 15                     | Policy H1             | Delete reference to requirement that <del>"at least 5% of all new dwellings of more than 50 units must be bungalows"</del>   |
| MM8 | 15                     | Policy H1             | Delete reference to <del>"detailed planning permission will be supported where proposals fulfil the principles set out in the development briefs contained within this plan"</del>   |
| MM9 | 16                     | Paragraphs 5.5 to 5.7 | Amend Paragraphs 5.5 to 5.7 to read as follows:<br><br><u>"5.5 Delivery of Sites</u><br><br><u>5.6 Whilst none of the sites face major constraints in terms of delivery, the Authorities are aware that a number of the sites may require a greater lead-in time to achieve development than others. The allocations are not phased as all sites are capable of coming forward from 2014 onwards. The <b>delivery</b> of sites in Helmsley also assists in ensuring allocated land</u> |

| Ref  | Page in Submitted Plan | Policy/Paragraph | Main modification   |
|------|------------------------|------------------|---|
|      |                        |                  | <p><u>supply is available for development as part of the Ryedale Local Plan Strategy.</u></p> <p><u>5.7 The delivery of housing will be monitored through the Monitoring Reports of each Authority and Ryedale District Council's annual Strategic Housing Availability Assessment (Part 1 Annual Update). The delivery of housing through the Helmsley Plan will also be monitored in a Ryedale District context to ensure that the District Housing target in the Ryedale Plan is met."</u></p> |
| MM10 | 17                     | Paragraph 5.11   | Delete paragraph.   |
| MM11 | 17                     | New text         | After paragraph 5.12 add " <u>further details on the requirements for each site are contained in the development briefs attached to appendix 1</u> "  |
| MM12 | 18                     | Paragraph 5.17   | Add to criteria g the following text " <u>These include the Grade I Historic Park and Garden at Duncombe Park, Howardian Hills AONB, the Area of High Landscape Value and the Visually Important Undeveloped Area (the last two being set out in the Ryedale Local Plan Strategy)</u> ".  |
| MM13 | 19                     | New text         | Add further paragraph after 5.19 which says " <u>Any proposals for new housing outside of the development limit identified on the Policies Map will need to meet the requirements <b>for new housing development in the</b> open countryside as set out in either the NYMNP Core Strategy or the Ryedale Local Plan Strategy. Definitions of essential needs are set out in point 3 of NYMNP Core Policy J and Policy SP2 of the Ryedale Local Plan Strategy</u> ".                               |
| MM14 | 20                     | Policy H3        | Change the threshold in the first line from 5 or more units to 6 or more units. Remove second sentence which says " <del>below the threshold of 5 dwellings or 0.2ha a pro-rated financial contribution will be sought from all residential development where this is viable</del> ".   |
| MM15 | 21                     | Policy H4        | Change description of Site EMP1 to " <u>Land to the West of Riccal Drive</u> "  |
| MM16 | 21                     | Policy H4        | Change description of Site EMP2 to " <u>Land to the South of Riccal Drive</u> "   |
| MM17 | 21                     | Policy H4        | After "Site EMP2, land to the <b>South</b> of Riccal Drive – up to 0.6ha" insert " <u>detailed</u>  |

| Ref  | Page in Submitted Plan | Policy/Paragraph | Main modification  |
|------|------------------------|------------------|--|
|      |                        |                  | <u>planning permission will be <b>granted</b> where the proposal accords with the principles set out in the development briefs attached as Appendix 1 to this plan</u> ".  |
| MM18 | 21                     | Policy H4        | Amend the fourth sentence of paragraph 6.2 in the plan to state " <u>EMP1 and EMP2 allocated 1.9ha of land in Helmsley for employment purposes in the B1, B2 and B8 use classes, subject to amenity considerations set out in the development briefs in Appendix1</u> "  |
| MM19 | 24                     | Policy H6        | Amend wording of policy to say " <u>Proposals which will result in the loss of retail floorspace on Primary Retail Frontages along Bridge Street, Borogate, Church Street and Market Place will only be permitted where it can be demonstrated that it is no longer suitable or viable for retail use</u> "  |
| MM20 | 24                     | Policy H7        | Amend wording of policy to say " <u>Proposals which will result in the loss of community, cultural, leisure and recreational facilities (including Helmsley Town Hall, Helmsley Arts Centre and Recreational Facilities at Baxtons Lane) will only be permitted where:-</u> "  |
| MM21 | 27                     | Policy H10       | Change the title of the policy to " <u>Renewable Energy and Sustainable Building</u> ". Add to the beginning of the policy :-<br>" <u>Proposals for new residential development should demonstrate that they have been designed to reduce the need for energy consumption and that the buildings utilise energy more efficiently. Proposals that generate renewable energy and/or low carbon sources of energy will be supported where they do not harm the character of Helmsley</u> ". |
| MM22 | 27                     | Policy H10       | Add the following text to the supporting text -<br>" <u>Buildings have a long lifespan and contribute towards carbon dioxide emissions so it is important that new homes and buildings have as low an impact as possible. The current recognised standards aimed at reducing energy emissions are the Code for Sustainable Homes (<b>withdrawn 25 March 2015</b>) and</u>  |

| Ref  | Page in Submitted Plan | Policy/Paragraph     | Main modification  |
|------|------------------------|----------------------|--|
|      |                        |                      | <p>the Building Research Establishment Environmental Method (BREEAM). At present Building Regulations require that all new development must meet at least level 3 of the Code for Sustainable Homes. However the Government has announced its intention to introduce new standards for energy performance and allowable solutions through Building Regulations in 2016. Whilst it is not a policy requirement both Authorities will actively support developments which seek to exceed these minimum requirements. The Local Planning Authorities will take into account the feasibility and viability issues associated with the delivery of decentralised renewable and low carbon energy, including the use of Allowable Solutions. It should be noted that residential sites of 10 units or fewer are excluded from this requirement”.</p> |
| MM23 | 27                     | Renewable Energy     | <p>Add a paragraph (9.3) which says <u>“Applicants will need to consider the range of technologies available, their feasibility and the impact on the location in question. Careful attention must be made to the siting, colour and materials of the technology in order to ensure it does not harm the character of Helmsley. In the National Park area of the town reference should be made to the NYMNP SPD on Renewable Energy. Applications in the Ryedale area of the town will be considered against the Energy Hierarchy set out in SP18 of the Ryedale Local Plan Strategy”</u>.</p>   |
| MM24 | 28                     | Green Infrastructure | <p>Add the following text to the end of paragraph 10.1 <u>“Green infrastructure can be a multi-functional resource such as providing recreational benefit, enhancing and protecting biodiversity, and where possible creating new habitats using indigenous planting. The Yorkshire and Humber Green Infrastructure Mapping Project set out a range of district, sub-regional and regional Green Corridors. Helmsley has a rich variety of contiguous and overlapping green infrastructure areas including:</u><br/><u>the River Rye (Sub-Regional Corridor)</u></p>   |

| Ref  | Page in Submitted Plan | Policy/Paragraph     | Main modification   |
|------|------------------------|----------------------|---|
|      |                        |                      | <ul style="list-style-type: none"> <li>• <u>North York Moors Green Infrastructure Area</u></li> <li>• <u>Howardian Hills Green Infrastructure Area</u></li> <li>• <u>The District Corridor of the Cleveland way (Cleveland and Hambleton Hills).</u></li> </ul> <p><u>There are many specific features that contribute to these networks in Helmsley. These include:</u></p> <ul style="list-style-type: none"> <li>• <u>The corridors of Borough and Spital Becks</u></li> <li>• <u>The former railway line,</u></li> <li>• <u>The playing fields</u></li> <li>• <u>Duncombe Park National Nature Reserve</u></li> <li>• <u>Helmsley Castle and the adjoining Walled Gardens”</u></li> </ul> |
| MM25 | 28                     | Green Infrastructure | <p><u>Insert further new paragraph following (paragraph 10.1) “It is important that new development opportunities seek to improve, integrate and enhance these existing features that contribute to these Green Infrastructure Networks to build in biodiversity resilience. This can include considering the effects of garden space, open space and landscape buffers with these various networks”.</u></p>   |
| MM26 | 28                     | Policy H11           | <p><u>Amend policy to say “All development proposals within the Plan area should require a net gain in biodiversity and for green infrastructure networks to be enhanced where possible. This will provide opportunities for activity and relaxation and should include the expansion and enhancement of green infrastructure assets. Where there is existing green infrastructure this should be protected”.</u></p>   |
| MM27 | 28                     | Additional text      | <p><u>Add the following to the end of Policy H11: “The development briefs in Appendix 1 set out the opportunities of the allocated sites in linking with these green infrastructure networks. Development proposals on non-allocated ‘windfall sites’ should address opportunities to link with and enhance green infrastructure networks where possible and in proportion to the scheme. ‘Windfall’ development proposals will not be expected to provide Green Infrastructure where a meaningful</u></p>  |

| Ref  | Page in Submitted Plan              | Policy/Paragraph   | Main modification  |
|------|-------------------------------------|--------------------|--|
|      |                                     |                    | <u>contribution cannot be made due to the absence of available greenspace</u> ".   |
| MM28 | 31                                  | Paragraph 15.1     | Add " <u>as installations can cause visual harm to the landscape and built environment and have a direct physical impact upon heritage assets</u> ".   |
| MM29 | 31                                  | Policy H14         | Amend policy to say:-<br><u>"Proposals for IT and telecommunications infrastructure will be permitted where:</u> <ul style="list-style-type: none"> <li>• <u>There are no satisfactory alternatives following an assessment of erecting apparatus on existing buildings where appropriate, masts or other structures; and</u></li> <li>• <u>The siting and appearance of the proposed apparatus and association structures will have no unacceptable adverse impact on the Conservation Area, the historic environment or the wider landscape particularly the National Park; and</u></li> <li>• <u>Provision is made for the removal of the equipment when it is redundant</u>".</li> </ul> |
| MM30 | 35                                  | Development Briefs | Rename as " <u>Appendix 1 Development Briefs</u> "   |
| MM31 | New page at the end of the document | Additional Text    | Create new Appendix 5. Add title " <u>List of Superseded Policies as a Result of the Adoption of the Helmsley Plan</u> "<br>Add the text: " <u>Ryedale Local Plan (2002) Saved Policy EMP5 – Industrial/ business development allocation, Helmsley</u> "   |
| MM32 | 27                                  | Paragraph 9.3      | Add the following text to the end of paragraph 9.3: " <u>, excluding residential sites of 10 units or fewer where it is not required.</u> "  |
| MM33 | 17                                  | Paragraph 5.9      | Replace last sentence with the following " <u>Dwellings should be designed so that they are flexible and can be adapted to meet changes in lifestyle for example coping with illness</u> ".  |

## Appendix 2

