



# **HEARING STATEMENT**

## **Examination of the New Settlement (Maltkiln) Development Plan Document (DPD) – Matter 2**

**Prepared for: Mr B Dent**

**Date: September 2024**

**Prepared by: Stuart Vendy**



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**1. INTRODUCTION**

- 1.1. Veritas Planning Ltd. has been instructed to represent Mr B. Dent in relation to the Examination in Public (“EiP”) of the New Settlement (Malkiln) Development Plan Document (“Malkiln DPD”).
- 1.2. The following Hearing Statement provides our response to the Matters, Issue and Questions provided by the Inspector on 30<sup>th</sup> July 2024. The responses are specific to the questions that the Inspector has agreed my client should contribute to, and in the format and order of the Matters, Issues and Questions provided by the Inspector.
- 1.3. For the reasons provided in this Hearing Statement, my client’s position is that the DPD as currently prepared is unsound, in conflict with policy requirements, has not been positively prepared and is not justified with sufficient evidence. There are also material issues with the Council’s approach to consultation, in particular given the long delay between the DPD being prepared and this EiP. The DPD should not be adopted.

## **2. RESPONSES TO THE INPSECTORS MATTERS, ISSUES AND QUESTIONS**

### **MATTER 2 – VISION, OBJECTIVES AND GENERAL PRINCIPLES**

#### **Issue 1 – General Principles**

#### **Q1. Are the policies in the DPD positively prepared, justified, effective and consistent with national policy?**

- 2.1. There have been a number of factors resulting in delays to the preparation of Malkiln DPD. The effect of these delays is that the proposed new settlement will make no meaningful contribution to the adopted Harrogate Local Plan strategy through the delivery of significant housing during this plan period. Pursuit of the Malkiln settlement further is unnecessary to meet identified needs, and prejudices the emerging strategy of the North Yorkshire Local Plan.
- 2.2. The adopted Harrogate Local Plan anticipated that the Malkiln Settlement would contribute to the Housing Trajectory (SDNS14: App 2, Picture 2.1) during 2024/25. This has not been achieved. Notwithstanding, Harrogate Borough Council have achieved a cumulative delivery of housing in excess of requirements for sometime, and currently have a healthy 7.3 year housing land supply identified against targets. The Malkiln settlement is not therefore expected or required in order to meet the adopted Local Plan targets. This is recognised in the Malkiln DPD (CDNS01, para 5.5).
- 2.3. The further pursuit of the Malkiln DPD risks prejudging the scale and location of new housing development within the newly formed North Yorkshire Council area. There is no pressing need for such an approach given that the site will make no meaningful contribution to the adopted Harrogate Local Plan Strategy that the Maltkin DPD is pursuant to.
- 2.4. The emerging NYC Local Plan provides the correct forum for ensuring that an appropriate approach to housing delivery is taken across the new Authority area. A comparative exercise of alternative options that now falls within the new larger Council boundary can now be undertaken to meet housing needs. At the very least, in the interest of good planning, this assessment should be undertaken and should include Maltkin and other similar opportunities.
- 2.5. To not do so, risks undermining key locational principles of achieving sustainable development.

- 2.6. In summary, the proposed Malkiln DPD does not take account of the removal of our client's land, and does not assess the implications of this in terms of delivering the aims and objectives of the adopted Harrogate Local Plan. This is in the context of a strategic planning environment in the new North Yorkshire Council area that suggests a significantly different approach to the delivery of a strategic housing allocations could be arrived at to deliver housing beyond the plan period of the adopted Harrogate Local Plan.
- 2.7. The Malkiln DPD has not therefore been positively prepared, is not justified with sufficient evidence and is unlikely to be effective in delivering the aims of sustainable development. Consequently, the emerging DPD fails to reflect the existing national policy requirement to deliver sustainable development through plan making.

**Issue 3 - Development Framework – Policies NS1, NS2 and NS3**

**Q1. The owner of a large area of land within the proposed new settlement boundary has withdrawn their support for the DPD and now states that this land is no longer available for development. Does this change in circumstances cause any soundness issues for the DPD? If so, how can they be rectified?**

- 2.8. Part of our client's land had been subject of Option Agreement which the land promoter has allowed to lapse. There is no intention or desire to agree any further Option Agreement or similar, and our client's land is no longer available for this development. This change in circumstances has occurred since this was last considered in a public consultation (Reg. 19, Oct 2022).
- 2.9. My client has sought to engage with NYC in relation to making further representations to the emerging document to reflect this change in circumstances, but no formal representation process has been provided for since the Regulation 19 consultation concluded in 2022. The public have similarly had no opportunity to comment upon the implications of this withdrawal.
- 2.10. There have however been several internal NYC meetings to discuss a series of options and alternative strategies for delivery. Most notably, the 12<sup>th</sup> December 2023 (SDNS10 & 11) meeting of the Council Executive Committee. No public consultation on these options (Sec. 4 of SDNS10) has been undertaken since my client's withdrawal. The emerging Malkiln DPD has not therefore been prepared with reasonably up to date evidence of the public's views on

available options in the light of changes that have a bearing on the delivery of the new settlement.

- 2.11. For good order, my client's withdrawal of their land from the project will have profound effects on the ability to deliver infrastructure, facilities and housing accommodation, and will likely fundamentally undermine the sustainability of the proposal.
- 2.12. Specifically, the Malkiln DPD will not be able to deliver the requirements of Reg. 19 Malkiln DPD policy NS1 and will likely put at risk the strategic Green Gap set out in policy NS2 if it proceeds without my client's land. The requirement in policy NS3 for the developer to engage in a master planning exercise to set out design principles appears to have been set aside given the submission and pursuit of a planning application (NYC Ref: 19/00017EIAMAJ).
- 2.13. The provisions of the emerging Malkiln DPD therefore conflict with the requirements of policy DM4 of the adopted Local Plan as they do not deliver the necessary commercial, residential and community uses in a sustainable manner.
- 2.14. For the avoidance of doubt, the delivery of the scheme currently envisioned with the Malkiln DPD would require a substantial portion of my client's land, as well as that of third parties. If my client and any other necessary parties are not willing to sell their land, this brings into prospect the possibility of the Council pursuing compulsory purchase of the land. This is a substantive change in circumstances from that apparent at the time of the Regulation 19 consultation. The confirmation of a Compulsory Purchase Order is required to be supported by a compelling case in the public interest. Whilst it is not the role of this EiP to consider whether such a threshold has been met, the timescales and deliverability of the strategy in the Malkiln DPD is of course material to the Inspector's considerations.
- 2.15. Similarly, ownership matters associated with third parties such as Johnsons Nurseries Ltd. are still to be resolved and are far from completed. Whilst it is understood that Johnsons are supportive in principle, the arrangements for the relocation of this large facility are yet to be established, and the consequent impacts, costs and timescales of the requirement remain unknown.

2.16. The withdrawal of my client's land fundamentally undermines the ability to deliver the Vision and Objectives set out in paragraph 2.1 of the Reg. 19 Malkiln DPD, and makes it unsound.

**SJV**

**Sept 2024**