

Report to Malton Town Council meeting 26th July 2023

Ryedale Local Plan Review

As members will recall, the Mayor wrote to NYC on 16th May requesting a meeting to discuss this council's concerns in regard to the Ryedale Plan and its review. NYC replied on 31st May, noting our concerns, and informing us that NYC executive were on 4th July to be recommended to halt work on the Review. The main reason for this was based on the legal advice of David Manley KC which Ryedale had received in November 2022 to the effect that there was a "significant" risk that a partial review for a period of 5 years would be found to be unsound by a local plans inspector.

In the circumstances, MTC sought and obtained the advice of London Counsel, Paul Stinchcombe KC of 39 Essex Chambers. There was a virtual conference between Mr. Stinchcombe and Cllrs. Andrews, Thackray and Pritchard. Mr. Stinchcombe's advice followed the reasoning of David Manley KC, but came to a different conclusion. David Manley had said that a review for a shorter period than 15 years could be justified by a clear local justification, and Mr. Stinchcombe's advice is that not only is there a clear local justification, but a decision to halt the review is susceptible to judicial review and could be a good reason to ask the Secretary of State to apply statutory powers of intervention.

David Manley KC works from a chambers in Manchester. The general view of the legal profession is that the best legal advice comes from London based barristers. This is not because London counsel are any more intelligent or better lawyers than provincial counsel: it is because London counsel and their colleagues have regular access to the national courts, particularly the higher courts and the senior judiciary which are mainly in London, and therefore have a better knowledge of current legal views and trends. It is suggested, therefore, that Mr. Stinchcombe's advice should be preferred.

The Mayor therefore wrote to NYC on 29th June. This was approved by Mr. Stinchcombe, and summarises his advice. A copy of his letter is attached.

The Mayor and councillor Andrews subsequently attended the Executive meeting of 4th July. We were required to put our submissions into writing before the meeting, and a written answer was read out by councillor Derek Bastiman. A copy of our written submissions and Cllr. Bastiman's response is attached. The outcome of the Executive meeting was to confirm the officers' recommendation to halt the review. This recommendation has to be approved by full council on July 19th.

At the meeting, Cllr. Bastiman kindly offered to meet MTC representatives. The meeting took place last Thursday 13th July. MTC was to be represented by the Mayor and Deputy Mayor and the three members of the group who were authorised to prepare the letter sent by the Mayor on 16th May and Kevin Hollinrake MP was also invited. Unfortunately, neither Kevin Hollinrake nor cllr. Pritchard could attend, but Kevin Hollinrake's assistant listened in from London. NYC was represented by Cllr. Bastiman, Jill Thompson (manager of the Ryedale area planning office) and Nic Harne (NYC's Director for Community Development).

The meeting was very constructive and Cllr, Bastiman was very sympathetic to MTC's concerns. There was broad agreement between the Malton team and Cllr. Bastiman, Nic Harne and Jill Thompson on a number of matters. There was agreement that the Local Needs Occupation Condition (LNOC) policy should be discontinued; that consideration should be given to replacing it with a Primary Residence condition (although there were differences on the details of how such a policy should apply), and it was accepted that there should be room for small scale development contiguous to but outside the boundaries of existing village development limits.

As regards housing allocations, the MTC team asked that the number of new houses required to be allocated within the former district should be reduced by 25% to take into account the number of new houses which would most likely be built in the villages following the removal of the LNOC policy and the release of land for small scale development contiguous to existing village development limits (para. 71 NPPC).

Time was limited and we did not discuss service villages, or how the service village policy might be replaced by looking at the development needs of groups of villages within school catchment areas.

We discussed development in Malton and Norton, and we agreed that there is a lack of necessary infrastructure; a need for substantial highways improvements, including a four way intersection at Musley Bank (I would have added a four way intersection between the A64 and Broughton Road – but we didn't get to discuss this); that the limits of acceptable new housing prescribed by the 2010 Jacobs report and the target prescribed in the Ryedale Plan would be exceeded by almost 500 new houses once the Beverley Road development has been built, and that, in the circumstances, there was no room for any more major housing allocations in Malton/Norton, particularly as a result of congestion and pollution from HGV's within the Malton Air Quality Management Area..

As already mentioned, the meeting was constructive. Cllr. Bastiman handled the meeting fairly and, as you will see from the above account, he took on board practically all of MTC's concerns. Those of us who represented MTC deeply appreciate this.

However, there was insufficient time to adequately discuss **how** Malton Town Council's concerns might be addressed.

MTC representatives felt that, if progress on the Review is halted, it could be many years (perhaps decades) before a new plan for the whole of North Yorkshire is brought into effect. This concern was not just an opinion of local councillors, but is also stated very clearly in the legal advice which RDC obtained from David Manley KC in November last year referred to above.

Nevertheless, NYC officers were adamant that a new plan could be in force within the next five years, and even if it is not, there would be an emerging plan which will, in the passage of time, gradually supersede the policies in the various plans for all the

legacy districts.

As you will see below, this is highly optimistic. It might be possible to have such a plan in force at an early date if the new council were to simply take the existing plans, update and amend them to take account of present circumstances, and bring them into line with a few core principles and policies which could be set out in a document like the old county structure plan (which was a very slim document). However, it became clear, from what the officers were saying, that this simple approach is not what county intends to pursue. They want to start from "scratch".

North Yorkshire is England's biggest county. It is huge and diverse, stretching from Kirby Lonsdale (near Lancaster and Preston) to the East Coast resorts of Whitby, Scarborough and Filey, with three big towns, each with their own distinctive characters, issues and needs, and the rural and semi-rural areas in between, and two national parks and several AONB's. There is a difference in the alignment of the economies of different parts of the county, the western part being economically aligned with Bradford, whilst the towns within the A64 corridor are aligned with the Leeds economy. Considerable time, effort, research and consultation will be required to prepare, for example, the evidence base around housing markets, economic needs and transport across all of North Yorkshire, which will be very complex and raise many local as well as county-wide issues. So, it is difficult to see how any planning authority could come up with a set of uniform county-wide policies on a "one size fits all basis" very quickly. As mentioned, similar concerns are also set out in the advice Ryedale received from David Manley KC (Paragraph 3).

Further, NYC at present have no time table for taking their new plan forward. The time table for a local plan has to be set out in a public document called "The Local Development Scheme" (LDS). We were told that the LDS for the new authority's plan would come forward "in a few months". The authority has been in place for well over a year now, and one would have thought that there might be a LDS for the new plan by now. The fact that there is not yet an LDS suggests that NYC officers may be finding the task of setting a timetable for a new plan for such a vast and diverse area very challenging.

It is, therefore, probable that it will be a very long time (in terms of many years) before there will be an emerging plan with policies which will supersede the current Ryedale Plan. In the meantime, the Ryedale Plan with all its most unpopular and damaging housing distribution policies will remain in full force and effect.

We were told that there is still a 6.5 year housing supply. This gives no comfort, because what it means is that in 1.5 years time (ie 18 months) there will no longer be a five years supply and the flood gates will open all over Ryedale. However, the officers will be expected to prevent this happening, and so, to keep the Ryedale Plan alive by "bringing forward" sites which are not currently allocated. In order to do this, they will look at the district and invite landowners to submit schemes on unallocated land, which happen to fit in with current policies (ie. they will look for sites in the towns). The last people to find out where these sites are will be local councils - by which time so much money and time will have been spent on bringing an application to fruition (Ryedale officers don't like outline applications), that any planning committee members who oppose it when it comes to committee will be regarded as

"the awkward squad"

This process has already started. In one of the last Ryedale meetings, officers asked members to recommend NYC to allocate three sites for a further 83 new houses in Malton. Two of these sites are council owned, but the other one connects one of the proposed sites (the top deck of Wentworth Street car park) with the nearest road. The officers actually told the last meeting of the Local Plans Review Working Party that they had already been in touch with the owner of this site and invited him to seek its allocation. None of the officers were at all phased by the fact that the number of houses built or to be built on sites allocated already exceed (by almost 500) the number recommended as "acceptable" in a council funded consultants' report and the housing target set in the Ryedale plan itself.

So to conclude, we had a very good meeting with Derek Bastiman, and he was very sympathetic, and the MTC team are truly grateful to him for listening to us. He agreed with most (if not all) of our concerns, but left these concerns unresolved, and without any realistic plan to address them in the foreseeable future.

This matter is to be considered by Wednesday's full meeting of North Yorkshire Council (July 19th), in which the executive's recommendation to halt work on the revision of the Ryedale Plan will be discussed. We (MTC representatives) asked the NYC team to defer this item so that further discussion can take place with officers and Malton and Norton town councils. NYC representatives said "they hear what you say", and so the foreseeable future looks bleak – the retention of an out of date plan strangling the towns and stifling them with pollution, and squeezing the life out of the villages with unreasonable policies which will result in more long term harm than good.

However, it is only fair to give NYC a reasonable opportunity to show how they will address the concerns of MTC.

By the time this agenda goes out, NYC will have made their decision and councillor Burr will report on this.

It is, therefore, recommended that:

- 1. No action is taken in regard to judicial review;**
- 2. MTC should keep this matter under review and there should be a further report as soon as the LDS for the new county wide local plan is received or, if one is not received, in three months' time.**