

The Ryedale Plan. Local Plan Sites Document Examination

Proposed Visually Important Undeveloped Area: Land to the south of Westgate Lane, Old Malton and north of Peasey Hills, Malton.

RDC's response to additional material submitted by Freeths and Cotswold Archaeology on behalf of Commercial Development Projects and the Fitzwilliam Trust Corporation.

Introduction

The Council's VIUA Background Paper lists the reasons why it considers the land should be designated as a VIUA. In summary these are as follows:

- The site makes a significant contribution to the character or setting of the settlement
- The site provides an attractive setting for buildings within it
- The site is of importance in terms of the historical form and layout of the settlement

In terms of the specific designation criteria, the land identified is considered to meet the following criteria:

- Contribution the space makes to the setting of the settlement viewed either from publicly accessible viewpoints within the settlement or from approach roads or paths
- Contribution the space makes to the setting of a building or groups of buildings either listed or of historical or architectural interest

In summary, the Council considers that the land:

- Is a very important element of the setting of the Grade 1 listed St Mary's Priory Church
- Contributes to the form and character of Old Malton
- Provides a rural setting to the Old Malton Conservation Area

Cotswold Archaeology and Freeths have submitted additional material during the hearing sessions on behalf of the landowner and a developer with an interest in Site 324. Site 324 covers the same area as the proposed VIUA and was submitted for consideration as a development site in the plan making process.

In summary, Cotswold Archaeology has confirmed that it does not consider the site to 'form an important part of the setting of nearby heritage assets' and that once Historic England guidance is applied the site forms at best a 'neutral element of the setting of these designated assets'. Freeths consider the land 'makes at best a neutral contribution to the setting of heritage assets in Old Malton and at worst a negative contribution'. Freeths take the view that the proposed designation is unfounded when taking into account Historic England's guidance on the setting of heritage assets. Cotswold Archaeology expand/explain this point by selectively referencing a commentary on the role of views in the Historic England guidance.

The Council takes the view that both consultants underplay the contribution that the land makes to the setting of the assets and their significance. It considers that the points made illustrate a misunderstanding of the advice provided by Historic England.

Against this, the Council consider that it is necessary to provide a more comprehensive summary of the legislative position, national policy and the Historic England advice as context for the Council's response to the points made by Freeths and Cotswold Archaeology and for the further clarification

of why the proposed VIUA is considered to make an important contribution to the significance of the heritage assets.

Legislative background, National Policy and Historic England advice

The Local Planning Authority has proposed the site as a VIUA as a proactive policy approach in recognition of the contribution it makes to the setting and significance of heritage assets. Notwithstanding this, extracts from the background policy/advice which relate to the consideration of the effect of development proposals on heritage assets have also been included below. This is relevant given that the land is being promoted for development through the plan-making process.

Planning (Listed Building and Conservation Areas) Act 1990

Listed Buildings

Listed Buildings are buildings of special architectural or historic interest which are included on a statutory list.

Section 66 of the Act places a general duty in the exercise of planning functions. “In considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority or as the case may be Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

Although this section of the Act refers to the planning application process, it is appropriate that special regard to the desirability of preserving a listed building or its setting is considered as part of the plan-making process.

Conservation Areas

The statutory definition of a conservation area is ‘an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance’.

Section 72(1) of the Act, places a statutory duty on Local Planning Authorities as follows: “In the exercise with respect to any buildings or other land in a conservation area.....special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.

National Planning Policy Framework (NPPF 2018) and Planning Practice Guidance (PPG)

National policy requires Local Planning Authorities (LPA's) to include a positive strategy for the conservation and enjoyment of the historic environment and to recognise that heritage assets are an irreplaceable resource to be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

Paragraph 190 makes it clear that LPA's should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset).

In considering the impact of a proposed development on the significance of a designated heritage asset, national policy (Paragraph 193) makes it clear that great weight should be given to the assets conservation (and the more important the asset, the greater the weight should be)'. The policy makes it clear that this is irrespective of the degree or scale of harm.

Paragraph 194 goes on to make it clear that any harm to, or loss of the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require a clear and convincing justification. (This is detailed in paragraphs 194-196)

Paragraph 197 of the NPPF requires that the effect of development on the significance of non-designated heritage assets should be taken into account when determining an application. It notes that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

The setting of a heritage asset is defined in national policy as follows:

“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

Significance is defined as:

“The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.....”

The national Planning Practice Guidance produced to support the NPPF makes it clear that ‘Heritage assets may be affected by physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset and the contribution to its setting is very important to understanding the potential impact and acceptability of development proposals’.

It goes on to state that an ‘assessment on the impact on setting needs to take into account and be proportionate to the significance of the heritage asset and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it’.

Reflecting advice provided by Historic England, the guidance recognises that the extent and importance of setting is often expressed by reference to visual considerations and notes that ‘although views from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places’.

Historic England – Policies and Guidance

Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment (English Heritage 2008)

The guidance describes a range of heritage values which enable the significance of assets to be established systematically, with the four main ‘heritage values’ being:

- Evidential (the potential of a place to yield evidence about past human activity)
- Historical value (the ways in which past people, events and aspects of life can be connected through a place to the present – illustrative or associative)
- Aesthetic Value (the ways in which people draw sensory and intellectual stimulation from a place)

- Communal (the meanings of a place for the people who relate to it or for whom it figures in their collective experience or memory)

Historic Environment Good Practice Advice in Planning Note 3 (Second Edition, 2017). The setting of Heritage Assets.

The documents provide information on good practice relating to the management of change within the setting of heritage assets. As with the NPPF, the document defines setting as *'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve'*. It:

- Provides advice on understanding setting and how it may contribute to the significance of heritage assets
- Provides advice on how views play a part in setting
- Suggests a staged approach to taking decisions on the level of contribution which setting and related views make to the significance of heritage assets

The advice makes it clear that “consideration of the contribution of setting to the significance of heritage assets and how it can enable that significance to be appreciated will almost always include the consideration of views”. It confirms that views out from heritage assets that neither contribute to significance nor allow appreciation of significance are a matter of amenity rather than setting.

Setting is also described as being a separate term to curtilage, character and context. The advice makes it clear that setting is not a heritage asset nor a heritage designation and that its importance lies in what it contributes to the significance of the heritage asset or the ability to appreciate that significance. It also states that elements of setting may make a positive, negative or neutral contribution to the significance of the heritage asset.

It recognises that the contribution made to the significance of heritage assets by their settings will vary depending on the nature of the heritage asset and its setting. Different heritage assets may have different abilities to accommodate change within their settings without harming the significance of the asset and therefore setting should be assessed on a case by case basis.

A five step process is recommended for assessing the implications of proposed developments on setting:

- Identification of the heritage assets that are likely to be affected.
- Assessment of whether and what contribution the setting makes to the significance of the heritage asset.
- Assessing the effects of proposed development on the significance of the heritage asset.
- Identify ways to maximise enhancement and avoid or minimise harm.
- Conclusions/decision.

The guidance refers to a list of potential attributes of a setting which may help to identify the contribution a setting makes to the significance of the asset.

Land to the south of Westgate Lane

The land in question consists of open fields to the west of Old Malton and fields known as 'the Flatts'. It is situated to the south of Westgate Lane, east of Rainbow Lane and to the north of Green Lane which bounds the northern edge of the Peasey Hills housing development.

The land slopes gently in a south- north direction, which reflects its position at the edge of the Howardian Hills Landscape Character Area.

The land consists of two fields which are defined by low hedges. A section of overhead power lines traverse a section of the field adjacent to Rainbow Lane in a west-east direction.

Rainbow Lane and Westgate Lane which bound the western and northern edges of the land are public rights of way (Bridleway). The routes are well used by dog walkers and equestrians.

Heritage Assets: St Mary's Priory Church (Grade 1 Listed)

The church is a Grade 1 Listed building (and Scheduled Monument) and as such is an important heritage asset. Its historic interest is archaeological, architectural and historic. As a church and Scheduled Monument, each of the four heritage values (evidential, historical, aesthetic and communal value) contribute to its significance. In particular, the size and mass of the building reflect its status and that of its founder – the building was designed and built to be an impressive and dominant feature in the landscape. A church of such scale is atypical of any parish church in Ryedale and it is particularly unusual in a small village setting. These are both factors which contribute to its significance.

The open fields are a dominant component of the wider setting of the church and form part of the surroundings in which the church is experienced. The topography of the land and the nature of the field boundaries within the site and surrounding the land allow uninterrupted, clear and expansive views of the church from the public rights of way which bound the fields, (the exception being that as the land rises to toward the top of Rainbow Lane). This provides the ability to appreciate the scale of the church and its dominance in the landscape. Indeed, from Rainbow Lane, the profile of the church breaks the outline of the Yorkshire Wolds on the skyline and rises above mature trees which are adjacent to the building. Visually, this reinforces the scale of the building. 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.

The professional advice of the Council's Building Conservation Officer has informed the proposed designation and further advice has been provided as part of this response to the further information submitted. (Appendix 1). The Officer concludes that *'it is the large size of the church taken together with its rural setting that contributes to its significance as a structure intended to be dominant and prominent within the surrounding landscape. The large size of the church as a relict example of a Gilbertine Priory can be appreciated when looking east across the proposed VIUA as can the rural setting within which the priory operated. Together these factors are interlinked and both combine to contribute to the significance of the church'*.

It is considered that the loss of the fields to development and associated landscaping would have a significant urbanising effect on this part of the setting of the church. This would erode its rural setting and would obscure views of the building in the landscape that allow its significance to be appreciated from the used public rights of way. In the Council's view, development would not

preserve the setting of the building and would result in harm to the Grade 1 designated heritage asset by undermining these elements which contribute to the significance of the asset. Against the context of Section 66 of the Act and the requirement of national policy for Local Planning Authorities to adopt a positive strategy for the conservation and enjoyment of the historic environment, it is considered that the VIUA designation in this location is sound.

It is noted that both Cotswold Archaeology and Freeths do not challenge that fact that the land forms part of the setting of the heritage asset. Both argue that the land is at best neutral element of the setting of the building and Freeths make the point that at worst, the land makes a negative contribution.

The Council takes the view that these conclusions are not an accurate assessment of the contribution the land makes to the setting of the building and its significance. The fields are an integral element of the rural setting of the church which contributes to its significance as a high status building built to intentionally dominate a rural hinterland and they provide with the ability to appreciate that significance. The fields are a positive element of the setting of the asset.

Elements which make a neutral contribution to the setting of an asset are elements which do not contribute to the significance of the asset or the ability to appreciate it. Clearly this is not the case in this instance and to state otherwise is not a credible position in the Council's opinion.

The Council refutes the point made by Freeths, that the land makes a negative contribution to the setting of the building. Whilst the overhead power lines on the land represent a modern intrusion into the rural setting of the church they do not dominate, compete or obscure views of the church. The lines are not in a field of vision or are peripheral in views across to the Church from Westgate Lane. Sloping topography and the proximity of the lines to Rainbow Lane mean that for much of the length of Rainbow Lane, the church is viewed from under and between the lines. Whilst the power lines themselves may be a negative element in the church's rural setting, the land on which they are situated is not.

Cotswold archaeology make reference to the fact that the Council's assessment, based on visual associations is deficient in the context of the Historic England advice. This is not an accurate reflection of the HE advice which clearly recognises the importance that views play in the way in which heritage assets are experienced. The HE advice points out that other factors (environmental factors and land uses) may also contribute to the experience of an asset. However, it is not does not follow that if other factors do not come into play, that visual considerations alone are deficient. To advocate otherwise represents, in the Council's opinion, a misinterpretation of the guidance and misunderstanding of the role of setting itself.

Cotswold Archaeology take the view that within the context of the HE advice, that 'views that neither contribute to significance nor allow appreciation of significance are a matter of amenity rather than of setting'. The Council does not disagree with this comment but would point out that this is a selective reference to the HE advice (paragraph 16) which actually reads as "Similarly, setting is different from general amenity. Views out from (our emphasis) heritage assets that neither contribute to significance nor allow appreciate of significance are a matter of amenity rather than of setting.'

The Council does not share the view that 'there is very little sense or appreciation of the Church's former dominance in the landscape'. The church remains a dominant feature in the landscape . Views from the public rights of way are continuous and panoramic. They are more than incidental views and they are associative views in the sense that they are views across an area from within

which, the church was built to be seen and to dominate. The fields are remnant medieval strip fields, which have afforded views of the church for a very long time.

Heritage Asset: Old Malton Conservation Area

The Old Malton Conservation Area was designated in 1979 as ‘an area of special architectural or historic interest, the character of which it is desirable to preserve or enhance’.

There is no appraisal covering the Conservation Area. However, there are a number of elements which are considered to contribute to the historic character and appearance of the area. These include:

- Prominent buildings and building groups, including St Mary’s Priory Church
- Position of buildings – aligning and fronting Town Street and Westgate in long narrow plots
- Related to the above, a strong and legible historic village form and hierarchy of spaces – with outbuildings to the rear of properties
- Groups of farmsteads within the village
- Traditional vernacular buildings with a predominance of two storey farmhouses and cottages
- Open space and trees aligning the River Derwent
- Predominance of limestone and pantile as traditional materials

Much of the village falls within the Conservation Area and as such, is a designated heritage asset.

The fields are a key component of the rural setting of the asset. Views across the fields from the nearby public rights of way allow the asset to be appreciated. The rural setting of the village helps to define its historic linear shape and form in the landscape and views of the Conservation Area from its rural setting provide an appreciation of its historic development. From the proposed VIUA, these views are dominated by the church, trees, vegetation and with some views of outbuildings. The strong sense of informality along the edge of the village/ conservation area marks the point at which the rear of traditional burgage plots meet surrounding agricultural uses. This informality reflects the hierarchy and pattern of land use which progress through the length of burgage plots and is very much part of the historic character of the Conservation Area and is significant. The views allow this character to be appreciated and provide an understanding of the historic development and form of the village.

The loss of the fields to development would block views of the conservation area from the well-used public rights of way and the resultant change in the character of the setting of the conservation area would detract from the historic and aesthetic values which are integral to its character. Whilst the retention of the ‘the Flatts’ would prevent the physical coalesce of the village with Malton itself, the legibility of Old Malton in the landscape as a traditional rural village in a rural setting would be undermined. There would be little to visually distinguish Old Malton from Malton and the setting of the conservation area would be irreparably harmed. This would not, in the Council’s view, preserve or enhance the character or appearance of the Old Malton Conservation Area.

Cotswold Archaeology take the view that the views provide little sense or appreciation of the Conservation Area or a measurable contribution to the character or setting of the Conservation Area on the basis of its ‘total loss of any intelligible historic form’.

The Council consider that this statement fundamentally misunderstands historic form and of the elements which contribute to this. The relationship between buildings, space and trees all contribute

to the historic form and character of the conservation area. Indeed, the very fact that the dwellings and buildings which create its linear built form are not visible from its setting reflects the traditional land use pattern, progression and 'hierarchy' of spaces which are integral to the historic character and significance of the area

Summary

For the reasons outlined, the Council is of the view that the land forms part of the setting of designated heritage assets and contribute to the historic interest and significance of these assets. The loss of the fields would result in harm to the significance of the assets. The proposed designation of the land reflects the purpose of the designation and meets the criteria used to identify these sites.
