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## Appeal Decision

Site visit made on 15 August 2014

by **Ian McHugh Dip TP MRTPI**

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

Decision date: 8 September 2014

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### Appeal Ref: APP/Y2736/A/14/2219259

### Land Adjacent to No. 103 Main Street, Ebberston, Scarborough, YO13 9ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Peter Schofield against the decision of Ryedale District Council.
  - The application Ref 13/01051/FUL, dated 1 September 2013, was approved on 21 November 2013 and planning permission was granted subject to conditions.
  - The development permitted is the erection of a four bedroom detached dwelling with detached double garage and alteration to widen existing vehicular access.
  - The condition in dispute is No 06 which states that: The dwelling hereby approved shall be occupied by a person(s) who: have permanently resided in the Parish, or adjoining Parish, for at least three years and are now in need of new accommodation, which cannot be met from the existing housing stock; or do not live in the Parish but have a long-standing connection to the local community, including a previous period of residence over three years but have moved away in the past three years; or service men or women returning to the Parish after leaving military service; or are taking up permanent employment in an already established business which has been located within the Parish, or adjoining Parish, for at least the previous three years; or have an essential need arising from age or infirmity to move to be near relatives who have been permanently resident within the District for at least the previous three years.
  - The reason given for the condition is: to meet the requirements of Policies SP2 and SP21 of the Ryedale Plan – Local Plan Strategy.
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### Decision

1. The appeal is allowed and the planning permission Ref 13/01051/FUL for the erection of a four bedroom detached dwelling with detached double garage and alteration to widen existing vehicular access on land adjoining no. 103 Main Street, Ebberstone, Scarborough, YO13 9ND, granted on 21 November 2013 by Ryedale District Council is varied by deleting condition 06 and substituting it with the following condition:

Condition 06: The dwelling hereby approved shall only be occupied by a person(s) together with his/her spouse and dependents, or a widow/widower of such a person, who: have permanently resided in the Parish, or adjoining Parish, for at least three years and are now in need of new accommodation, which cannot be met from the existing housing stock; or do not live in the Parish but have a long standing connection to the local community, including a previous period of residence over three years but have moved away in the past three years; or service men or women returning to the Parish after leaving military service; or are taking up permanent employment in an already

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established business which has been located within the Parish, or adjoining Parish, for at least the previous three years; or have an essential need arising from age or infirmity to move to be near relatives who have been permanently resident within the District for at least the previous three years.

**Main Issue**

2. The main issue is whether the disputed condition is reasonable and necessary having regard to the provisions of the development plan and the location of new housing development in the District.

**Reasons**

3. The appeal site is the side garden area of number 103 High Street. It is situated within the built up area of the village, which comprises mainly residential properties. I noted on my site visit that there are few local services or community facilities in the village. In that regard, I agree with the Council that the village is not a sustainable location for new residential development.
4. It is a statutory requirement that applications for planning permission must be determined in accordance with the development plan, unless material considerations dictate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990). The Council states that the disputed condition accords with the provisions of the Ryedale Plan – Local Plan Strategy (LPS), which was adopted in 2013.
5. The LPS contains policies to locate new housing development in sustainable locations. These are defined in the LPS as being 4 market towns and 10 'service villages'. Eberstone does not fall within these categories and therefore the Council only supports new housing development in the village under limited circumstances i.e. infill development within a continually built up frontage; and when required to meet Local Needs Occupancy, as defined in Policy SP21 of the LPS. The wording of the disputed condition follows the wording of Policy SP21, which the Council states was the subject of "extensive consultation and examination" by the Inspector prior to the adoption of the LPS. The Council asserts that the policy was found to be sound and compliant with national planning policy.
6. Planning permission has been granted for the dwelling on the site. The Council considers that the proposal is in accordance with the provisions of the development plan and the appellant meets the requirements of Policy SP21. Having regard to the evidence before me, I have no reason to disagree with this conclusion.
7. The appellant argues that the disputed condition is "unfair and unjust" and will impact on his ability to fund the construction of the dwelling. He states that lenders will be concerned about the effect of the condition on the value of the property, due to the fact that it could only be sold in the future to a limited market. I accept that the value of the property will be affected by the condition, however, in my opinion this is not a material planning consideration. I am therefore unable to attribute any weight to it in my decision.

8. It is also argued by the appellant that the condition does not allow for dependents to live in the property in the longer term. He also questions as to whether the condition can be adequately monitored and enforced. In addition, he considers that the Council's requirement is "too late" as many local people have been gone from the village for more than three years and they are therefore precluded from returning.
9. Whilst, the disputed condition is restrictive, and relates to the dwelling in perpetuity, I am guided by the fact that the principle and precise wording of the policy/condition has been the subject of recent detailed examination by the Inspector during the LPS process. The location of new housing and the residential strategy for the District is a key component of the LPS, and the need to restrict new development in locations such as Ebberstone accords with the sustainable principles of both the development plan and the National Planning Policy Framework (the Framework). In that regard, the removal of the condition would undermine the strategic objectives of the Council and, in my opinion, would create a precedent for other proposals in similar locations in the District.
10. However, as originally drafted, the condition would prevent the appellant's dependents from continuing to live in the property, if the appellant himself no longer lives there. I accept that this is unduly onerous and therefore, I shall vary the wording of the condition accordingly, in line with the Council's suggestion. I have also varied it to allow occupation by the person(s) widow/widower. In my view, this would be comparable with the standard wording of other restrictive occupancy conditions e.g. agricultural workers dwellings. Overall, I consider the condition to be necessary, reasonable, precise, and capable of being enforced. In that regard, it meets the tests contained in paragraph 206 of the Framework.

### **Conclusion**

11. For the reasons given above, I conclude that the appeal should succeed. Consequently, I shall vary the planning permission in the manner I have indicated above.

*Ian McHugh*

INSPECTOR