

**Item Number:** 14  
**Application No:** 14/01300/FUL  
**Parish:** Ebberston Parish Council  
**Appn. Type:** Full Application  
**Applicant:** Mr & Mrs Wright  
**Proposal:** Change of use of dwellinghouse (C3) to a mixed use of dwellinghouse, bakery (B1) and retail (A1) (retrospective application) - Tuesdays, Thursdays and Saturdays only.  
**Location:** Wuthering Heights 15 Main Street Ebberston Scarborough North Yorkshire YO13 9NR

**Registration Date:**  
**8/13 Wk Expiry Date:** 28 January 2015  
**Overall Expiry Date:** 8 January 2015  
**Case Officer:** Charlotte Cornforth **Ext:** 325

#### CONSULTATIONS:

**Parish Council** Support  
**Highways North Yorkshire** No objections  
**Environmental Health Officer**

**Neighbour responses:** Mr Tim Farrant, Ms Elaine Mallen, Ms Sue Johnston, Ms Elizabeth Cass, Ms Sandra Evans, Ms Kathy Bushell, Mr Brian Palmer, Ms B Emms, Derek & Ali Beal, G M Bogg, Dr Geoffrey Walker, Mrs Sarah Walker, Mr alan thompson, Mrs susan thompson, Mrs J C Watson, Ms Andrea Jackson, Ms Katie Sleightholme, Mr David Lightfoot, Mr John Tomlinson, Mr Andrew Wyatt, Mr David Palfrey, Mrs Rowan Metcalfe, Gerald & Dorothy Metcalf, Mr Michael Leng, Mr & Mrs B Oldroyd, Mrs Katie Sleightholme, Mr Richard Olivier, Mr William McCall, Mr Anthony Pilling, Charlotte Boig, Yoland & Peter Guthrie, Charles & Lesley Webb, Ms Katie Howlett, Clare Breese, Mr John Hansell, Ms Jean Roberts, , Michael, Ms Helen Leng, Mr James Bland, Mrs Frances Langley, Mr Mick Johnston, Miss Rachel Laidler, Ms Judith Winters, Katherine Dunnett, Ms Mary Kemp, Mr David Ward, Mr Michael Rought-Brooks, Mr James Daghish, Mr David Johnson, Mrs Sandra Latchford, Mrs Ali Beal, , Mrs Denise Johnson, Dr Ian Newman, Ms Carole Shortland, Mrs J Peck, Mr Christopher Sands, Miss Emily Thurgood,

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#### SITE:

Wuthering Heights is a Grade II Listed Building located within the 'saved' Development Limits of the village of Ebberston. The dwelling is located to the north of the village, adjacent to Main Street that runs from north/south through the centre of the village.

#### POLICY:

[The Ryedale Plan - Local Plan Strategy \(2013\)](#)

SP11 Community Facilities and Services  
SP19 Presumption in Favour of Sustainable Development  
SP20 Generic Development Management Issues

National Planning Policy Framework (2012)  
Chapter 3 Supporting a prosperous rural economy  
Chapter 8 Promoting healthy communities

National Planning Practice Guidance (2014)

**HISTORY:**

13/01057/LBC - Listed building consent granted 24.10.2013 - Installation of 1no. conservation rooflight to south elevation roof slope.

**PROPOSAL:**

Change of use of dwelling house (C3) to a mixed use of dwelling house, bakery (B1) and retail (A1) (retrospective application) - Tuesdays, Thursdays and Saturdays only

Members should note that Wuthering Heights is currently operating as a bakery and retail shop and therefore, a retrospective planning application has been submitted. The applicant has stated that they contacted the Local Planning Authority in July 2012 to establish whether they needed planning permission to use part of the dwelling (C3) for a bakery (B1). At the time, Officer's considered that planning permission was not required as the bakery was intended to operate at a small scale. Since then, the use as a bakery (B1) and shop (A1) has intensified and planning permission is required to change the use of the dwelling house (C3) to a mixed use of dwelling house (C3), bakery (B1) and retail (A1).

Members should also note that there are no alterations being carried out to the external or internal fabric of the listed building; therefore a listed building consent application is not required.

**APPRAISAL:**

The main considerations to be taken into account as part of the proposal are:

- i. The principle of a bakery and retail shop in this location
- ii. Highway safety
- iii. Neighbouring amenity
- iv. Other third parties
- v. Conclusions

i. The principle of a bakery and retail shop in this location

Policy SP11 (Community Facilities and Services) of the Ryedale Plan - Local Plan Strategy supports the provision of new facilities within the Development Limits of Service Villages and Other Villages.

Ebberston is defined as an 'other village' within the Ryedale Plan - Local Plan Strategy and the property of Wuthering Heights is located within the Development Limits.

A core principle of the National Planning Policy Framework states:

*(Planning should) take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.*

The residential dwelling seeks to operate as a bakery and shop on Tuesdays, Thursday and Saturdays from 8am until approximately 1-2pm. A condition will be attached to the Decision Notice to restrict

the hours of use from 8am until 3pm on Tuesdays, Thursdays and Saturdays. The living room will be used to sell the produce and the kitchen will be used to bake the produce. The floor area of the living that is used to sell the produce is 8 square metres and the floor area of the kitchen is 12 square metres. Access to the living room is through the front door to the property that fronts onto Main Street. There is a small lobby area before entering the living room to the right.

The produce and goods that are sold include:

Varieties of breads including- herbs, hot sweet pepper, brie and cranberry

- Brownies
- Flapjack
- Tea
- Chocolate
- Coffee
- Porridge
- Fudge
- Honey
- Shampoo
- Shower gel
- Bath mats
- Key rings
- Peppers
- Greetings cards
- Bags
- Hats

The produce and goods listed above are typical produce and goods that are sold in a bakery and a village shop. If planning permission is granted, a condition will be attached to the Decision Notice to limit the produce and goods to be sold in the living room only. The floor area of the living that is used to sell the produce is 8 square metres. A table and a chest are used to display the baked goods and the window cill and small shelf is used to display the other goods.

The application has generated a wide range of public interest and 57 letters of support have been received. The letters have been received from the following people living in the following places:

- |                    |    |
|--------------------|----|
| ➤ Ebberston        | 40 |
| ➤ Allerston        | 4  |
| ➤ Yedingham        | 2  |
| ➤ Sawdon           | 1  |
| ➤ Snainton         | 1  |
| ➤ West Ayton       | 1  |
| ➤ Thornton Le Dale | 1  |
| ➤ Troutsdale       | 1  |
| ➤ Scarborough      | 1  |
| ➤ Burniston        | 1  |
| ➤ Somerset         | 2  |
| ➤ Lancashire       | 1  |
| ➤ Pickering        | 1  |

Furthermore, a total of 3 petitions have also been received.

Petition 1 - 74 signatures - 5 residents from Ebberston

Petition 2 - 57 signatures - 37 residents from Ebberston

Petition 3 - 32 signatures - 5 residents from Ebberston

## ii. Highway safety

The Local Highway Authority has been consulted as part of the planning application process and has raised no objection to the proposal. This is in terms of the proposals impact upon highway safety.

## iii. Neighbouring amenity

A letter of objection has also been received from the occupier of 17 Main Street, the property that is located to the rear/west of the 15 Main Street. They have raised the following considerations: The full letter of objection may be viewed on the Council's website. A summary of the objection includes the following main points:

- Safety and visibility for motorists and pedestrians is compromised as the bakery location is on what is considered to be the narrowest section of the village street
- The majority of the bakery customers arrive by car
- The majority of the bakery customers do not live in Ebberston
- There is no 'off street parking' in the vicinity
- Verge and infrastructure damage opposite the site
- Damage to adjacent private property caused by turning vehicles
- Alternative better village shop location facilities available in the village

Policy SP20 (Generic Development Management Issues) of the Ryedale Plan - Local Plan Strategy states:

*New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence*

*Access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. Information will be required in terms of the positioning and treatment of accesses and circulation routes, including how these relate to surrounding footpaths and roads*

*Access into and within buildings will be expected to be of a standard that allows all to access the building unimpeded*

It is considered that there is sufficient separation distance between the kitchen of the bakery and the front door of the bakery / retail shop that is accessed by the public off the Main Street to the property of 17 Main Street. It is therefore considered to not have a material adverse impact upon their amenity. This is in terms of generating noise and odour. The goods are baked in a domestic oven and there is no mechanical ventilation within the kitchen. However, it is considered that the bakery does generate some additional traffic and issues have been raised relating to highway safety in terms of delivery vehicles and other vehicles blocking the driveway to the property of 17 Main Street.

Members should note that a further letter (dated 28th January) has been received from the occupier of 17 Main Street who objected to the proposal. Both letters can be viewed on the Council's website. He has continuing concerns regarding the trespassing of visitors to the bakery on his land. This is through visitors using the side door of 15 Main Street and delivery and visitor vehicles blocking his driveway. A condition has been suggested with regard to the proposal stating the following:

*The deliveries and users of the bakery and retail shop shall only use the front door that fronts onto Main Street as shown on the submitted floor plan.*

*Reason: To protect the amenity of neighbouring occupiers, ensure highway safety and to satisfy the requirements of Policy SP20 (Generic Development Management Issues) of the Ryedale Plan – Local Plan Strategy.*

#### iv. Other third parties

Ebberston Parish Council wishes to support the proposal but have raised the following concerns. The full letter of from the Parish Council is attached to this report. A summary of their concerns include the following main points:

If in the future the bakery business may be changed to an alternative business, there is a possibility that the new business may not be acceptable in the village. They recommend that a personal planning permission is given so only the applicant that currently occupy the premises can use the dwelling as a bakery and shop.

Parking and vehicular movements near the premises. However, these can be dealt with through 'the best endeavours' by the applications or enforcement action if necessary. With regard to personal planning permissions, the National Planning Practice Guidance (2014) states:

*Unless the permission otherwise provides, planning permission runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where granting planning permission for development that would not normally be permitted on the site could be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.*

*A condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building, but might, for example, result from enforcement action which would otherwise cause individual hardship.*

Officers consider therefore that a personal planning permission is not appropriate with regard to this proposal.

#### v. Conclusions

Members will be aware that the use of the premises as a bakery and shop has occurred in the recent past. In addition, the full impact of the proposed use at the level applied has only occurred for a relatively short period of time.

Officers are of the view that the full impacts of the use in the locality are difficult to fully access. In the circumstances, a temporary planning permission give a further 'trial' period is considered to be an alternative approach.

With regard to granting planning permission for a temporary period only the National Planning Practice Guidance (2014) states:

*Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.*

On balance, it is considered that the change of use of dwelling house (C3) to a mixed use of dwelling house (C3) , bakery (B1) and retail (A1) on Tuesdays, Thursdays and Saturdays is partially acceptable and subject to the recommended conditions meets the relevant policy criteria of the Ryedale Plan - Local Plan Strategy and the National Planning Policy Framework. However, to ensure that the amenity of neighbouring properties is protected in compliance with Policy SP20 (Generic

Development Management Issues) of the Ryedale Plan - Local Plan Strategy, planning permission is recommended for a temporary period that will allow the dwelling to operate as a dwelling, bakery and retail shop for 18 months and subject to the following conditions

**RECOMMENDATION:                      Approval**

1            The use hereby permitted shall be discontinued and the dwelling reinstated to its former condition at or before 10th August 2016 unless an extension of the period shall first have been approved in writing by the Local Planning Authority.

Reason: To protect the amenity of neighbouring occupiers and to satisfy the requirements of Policy SP20 (Generic Development Management Issues) of the Ryedale Plan - Local Plan Strategy.

2            The use hereby permitted shall only operate between the hours of 8am and 3pm hours on Tuesdays, Thursdays and Saturdays only.

Reason: To protect the amenity of neighbouring occupiers and to satisfy the requirements of Policy SP20 (Generic Development Management Issues) of the Ryedale Plan - Local Plan Strategy.

3            The areas hatched green and labelled 'Baking Area' on the floor plan hereby approved shall only be used for the bakery and retail shop. The goods shall only be sold from the living room (lounge) hatched green on the floor plan.

Reason: To ensure that the property is primarily used for as a residential dwelling and to ensure that the retail use does not escalate beyond that contemplated by the Local Planning Authority in granting this permission.

4            The deliveries and users of the bakery and retail shop shall only use the front door that fronts onto Main Street as shown on the submitted floor plan.

Reason: To protect the amenity of neighbouring occupiers, ensure highway safety and to satisfy the requirements of Policy SP20 (Generic Development Management Issues) of the Ryedale Plan - Local Plan Strategy.

5            The development hereby permitted shall be carried out in accordance with the following approved plan(s):

Floor Plan - 15 Main Street, Ebberston.

Reason: For the avoidance of doubt and in the interests of proper planning.

**Background Papers:**

- Adopted Ryedale Local Plan 2002
- Local Plan Strategy 2013
- National Planning Policy Framework
- Responses from consultees and interested parties