

**Item Number:** 7  
**Application No:** 17/00980/73  
**Parish:** Terrington Parish Council  
**Appn. Type:** Material Amendment  
**Applicant:** Mr Matthew Clarke  
**Proposal:** Variation of Condition 12 (Local Needs Occupancy) of approval 16/01227/OUT dated 15.03.2017 to add an additional bullet point to state: The obligations contained in this condition shall not be binding or enforceable against any mortgagee or any receiver appointed by such a mortgagee or any person deriving title through such as mortgagee or receiver provided always that a successor in title of such a person shall be bound by the obligations contained in this condition.  
**Location:** Land to Rear Of The Forge North Back Lane Terrington North Yorkshire

**Registration Date:** 21 August 2017                      **8/13 Week Expiry Date:** 16 October 2017  
**Case Officer:** Gary Housden                      **Ext:** 307

**CONSULTATIONS:**

<b>Paul Jackson AONB Manager</b>	Comments made
<b>Parish Council</b>	Agrees with the application, however raises concerns.
<b>Legal Services</b>	No response received

**Neighbour responses:** No response received

**Overall Expiry Date:** 25 February 2018

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**INTRODUCTION:**

Members will recall that this application as originally submitted was presented to the Planning Committee meeting on 21st November 2017 for consideration. The application was deferred at that meeting.

At the November 2017 meeting the application as proposed was recommended for refusal by officers because it was considered that insufficient information had been submitted to justify the amendments to the Local Needs Occupancy condition (LNOc) as then proposed. In view of the passage of time since the matter was last considered by Committee and also the recent change in committee membership a full copy of the earlier report is appended for ease of information.

Since the matter was reported in November 2017 officers have met with the applicant to discuss the outstanding concerns and to better understanding the applicants reasons for wishing to amend the LNOc in the manner proposed.

Following the meeting officers also then sought legal advice to discuss the approach being promoted by the applicant and to make further suggests on how the matter might move forward.

The applicant having received the views of officers has formally sought to amend the LNOc by seeking to add a further bullet point to the provisos required by Policy SP21 of the Ryedale Plan Local Plan Strategy. The full list of criteria set out in Policy SP21 of the plan is detailed in Para 6.6 of the earlier committee report.

The further point proposed by the applicant states:

*"The obligations contained in this condition shall not be binding or enforceable against any mortgagee or any receiver appointed by such a mortgagee or any person deriving title through such as mortgagee or receiver provided always that a successor in title of such a person shall be bound by the obligations contained in this condition."*

**ASSESSMENT:**

The applicant currently resides in a smaller property in Terrington and wishes to purchase a larger dwelling to meet the growing needs of the family. The applicant meets the requirements of the existing terms of the LNOc. However in this instance the condition relates to an outline planning permission for a dwelling which does not yet exist. Indeed reserved matters approval has yet to be applied for and granted by the Local Planning Authority.

What is clear is that the applicant who wishes to self-build his own dwelling on the plot will need to borrow in order to be able to build a larger dwelling. However the bullet points attached to the policy as written do not contain any reference to a mortgagee in possession clause. Without this proviso the applicant has currently been unable to identify a bank or building society that is prepared to lend to him for his specific project to proceed.

Following discussions and amendment to the application as now proposed the applicant's lender has confirmed that the additional bullet point would be acceptable to them. It is also of note that in the unlikely event that a repossession were to occur the additional bullet point would still require any future occupiers to be persons who satisfied the Local Occupancy criteria.

The additional correspondence received (which is partly redacted) is also attached for member's information.

As amended the variation of condition as now proposed is considered to satisfactorily address officer concerns that were previously reported to Members in November 2017. The revision as proposed gives sufficient confidence to the applicant's lender and will enable the property to be occupied by persons who already meet the LNO criteria as set out in the adopted development plan. The amended proposal is therefore considered to satisfy the policy approach to the distribution of housing set out in Policies SP1, SP2 and SP21 of the adopted Ryedale Plan Local Plan Strategy.

**RECOMMENDATION:**

**Approve subject to the amended description of development set out above**

- 1 Application for approval of reserved matters shall be made to the Local Planning Authority not later than .

The development hereby permitted shall be begun on or before whichever is the later of the following dates:

The expiration of two years from the final approval of the reserved matters or (in the case of approval on different dates) the final approval of the last such matters approved.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 No development shall take place without the prior written approval of the Local Planning Authority of all details of the following matters:

- (i) The layout, scale and appearance of every building, including a schedule of external materials to be used

- (ii) The access to the site
- (iii) The landscaping of the site

Reason: To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

- 3 Before the development hereby permitted is commenced, or such longer period as may be agreed in writing with the Local Planning Authority, details and samples of the materials to be used on the exterior of the building the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory external appearance and to satisfy the requirements of Policy SP12, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

- 4 No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing. Once created, these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy and to provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interests of safety and the general amenity of the development.

- 5 There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority in consultation with the Highway Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site, and be kept available and in full working order and used until such time as the Local Planning Authority in consultation with the Highway Authority agrees in writing to their withdrawal.

Reason: In accordance with Policy SP20 of the Ryedale Plan - Local Plan strategy and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

- 6 Unless approved otherwise in writing by the Local Planning Authority, there shall be no establishment on a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction of the site, until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

(i) On-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway

(ii) On-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

Reason: In accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy and to provide for appropriate on-site vehicle parking and the storage facilities, in the interests of highway safety and the general amenity of the area.

7 The details submitted for approval of reserved matters shall follow the principles and parameters set out in the Design and Access statement and Site Plan and Schematic Street Elevations shown on Drawing AR10 - Sheet No. 1 dated 20 January 2017, which also provides for the retention of the existing building on site which abuts the boundary with North Back Lane.

8 Development shall not begin until an investigation and risk assessment of land contamination has been completed by competent persons and a report of the findings submitted to and approved in writing by the Local Planning Authority. This shall include an appropriate survey of the nature and extent of any contamination affecting the site, and an assessment of the potential risks to human health, controlled waters, property and ecological systems.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors.

9 Where land affected by contamination is found which poses risks identified as unacceptable, no development or remediation shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the local planning authority. The scheme must include proposed remediation objectives and remediation criteria, an appraisal of remedial options and proposal of the preferred option(s), all works to be undertaken, and a description and programme of the works to be undertaken including the verification plan.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors.

10 Unless otherwise agreed in writing by the local planning authority, none of the dwellings shall be occupied (or the site shall not be brought into use) until the approved scheme of remediation has been completed, and a verification report demonstrating the effectiveness of the remediation carried out has been submitted to and approved in writing by the local planning authority. The verification report shall include a description of the works undertaken and a photographic record where appropriate, the results of any additional monitoring or sampling, evidence that any imported soil is from a suitable source, and copies of relevant waste documentation for any contaminated material removed from the site.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors.

11 In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported immediately to the local planning authority. An appropriate investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be prepared by competent persons and submitted to the local planning authority for approval. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors.

12 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 an adjoining parish (including those outside the District), 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 of over three years but have moved away in the past three years, or service men and women returning to the parish after leaving military service; or
- Are taking up full-time 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 obligations contained in this condition shall not be binding or enforceable against any mortgagee or any receiver appointed by such a mortgagee or any person deriving title through such as mortgagee or receiver provided always that a successor in title of such a person shall be bound by the obligations contained in this condition.

Reason: To satisfy the requirements of Policies SP2 and SP21 of the Ryedale Plan - Local Plan Strategy.

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

Drawing No. 1227/01/AR10/02 - Location and site plan; and

Drawing No. 1227/01/AR10/01 dated 20.01.17 - Site plan and Schematic Street Elevations

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