



## Appeal Decision

Site visit made on 8 January 2018

**by David Cross BA (Hons), PGDip, MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 31<sup>st</sup> January 2018**

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**Appeal Ref: APP/Y2736/W/17/3185761**

**Land Adj to Dhekelia, Moor Lane, Broughton, Malton YO17 6QJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr & Mrs M Blakeley against the decision of Ryedale District Council.
  - The application Ref 17/0679/73, dated 3 June 2017, was refused by notice dated 20 July 2017.
  - The application sought planning permission for erection of detached two-bedroom dwelling with garden shed and formation of vehicular access (revised details to refusal 16/00973/FUL dated 13.09.2016) without complying with a condition attached to planning permission Ref 16/01870/FUL, dated 15 February 2017.
  - The condition in dispute is No 10 which states that: The dwelling hereby approved shall only be occupied by a person(s) who 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 reason given for the condition is: To satisfy the requirements of Policies SP2 and SP21 of the Ryedale Plan – Local Plan Strategy.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the disputed condition is necessary and reasonable having regard to the provisions of the development plan and the location of new housing development, and with particular regard to the personal circumstances of the appellants.

## Reasons

3. The appeal site consists of an area of land adjacent to the existing dwelling of Dhekelia. At the time of my site visit, the proposed dwelling was substantially complete but did not appear to be occupied. Planning permission for the dwelling was granted subject to a number of conditions, including the disputed condition which the Council states is required to meet the requirements of policies of the Ryedale Plan – Local Plan Strategy 2013 (RPLPS).
4. The RPLPS distributes development in accordance with a settlement hierarchy identified in Policy SP1. This identifies Principal Towns, Market Towns and Service Villages as being the focuses for growth. Broughton is not within one of these settlement types and is therefore classed as being in the 'Other Villages' category. Development of housing in Other Villages is allowed in certain circumstances as specified in Policy SP2 of the RPLPS, including infill development subject to a requirement for 'Local Needs Occupancy'. Policy SP21 specifies the requirements of the Local Needs Occupancy Condition.
5. The RPLPS was adopted in 2013 and therefore post-dates the publication of the National Planning Policy Framework (the Framework). The settlement hierarchy complies with the core planning principles of the Framework in focussing significant development in sustainable locations.
6. The appellants have questioned the interpretation of the second bullet point of Policy SP21(a), which requires occupants to "have a long standing connection to the local community". The appellants contend that the definition of 'community' should relate to the whole of Ryedale District, and on that basis they would meet the aims of the Policy as they have lived and worked in the District for approximately 10 years. However, I note that the Policy refers to the '*local* community' which in my view has a more limited geographical meaning than the whole District i.e. it relates to the local community within and near to Broughton.
7. Furthermore, the fact that the fourth bullet point of Policy SP21(a) explicitly refers to the 'District' adds weight to my reading of the Policy, as I consider that the same wording would have been used for the second bullet point if it was to apply to the whole District. Therefore, whilst the appellants may have a long standing connection to the District, no substantive evidence has been presented to me that they have such a connection to the local community within which the appeal site is located.
8. The appellants state that they purchased the site in good faith, on the understanding that they complied with the occupancy condition. However, the Council has subsequently confirmed that they did not comply with the condition, and I concur with the Council on this matter for the reasons stated above. Based on the evidence before me, I have no doubt that the appellants purchased the site based on a genuine misinterpretation of the occupancy condition, but such a misinterpretation does not justify the removal of the condition.
9. I am also mindful of the financial costs to the appellants of renting a property in order to comply with the condition, as well as the disruption to the appellants and potential tenants of the new dwelling. However, such personal circumstances are not of sufficient weight to outweigh the conflict with planning policy and the Council's housing strategy.

10. I acknowledge that the condition is restrictive in relation to this site and does not apply to existing housing in the village. However, the condition complies with the policies of the Council in directing new housing development to the Principal Towns, Market Towns and Service Villages except in specified circumstances. It is therefore reasonable that the condition applies to new housing development in 'Other Villages' such as Broughton so that it meets local housing needs rather than the general housing market.
11. I have also had regard to the comments raised locally in support of the proposal, including that the site was previously unsightly and that the bungalow is of an attractive design. However, such benefits could have been achieved through the development of the site with the condition in place. Furthermore, no substantive evidence has been provided to me to demonstrate that the condition was preventing the development of the site.
12. Policy SP21(g) states that the lifting of occupancy restrictions will be carefully considered on a case by case basis. However, the specific circumstances of this case are not of such an exceptional nature to outweigh the conflict with the policies of the RPLPS. I therefore conclude that the condition is necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. It therefore meets the tests contained in paragraph 206 of the Framework. I have carefully considered the personal circumstances of the appellants and sympathise with their predicament, but I do not consider that such circumstances are sufficient to outweigh the reasons for the disputed condition or to justify its removal.
13. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

*David Cross*

INSPECTOR