

**Item Number:** 7  
**Application No:** 19/01302/73AM  
**Parish:** Rillington Parish Council  
**Appn. Type:** Major Non Compliance Conditions  
**Applicant:** Ellis Patents Ltd (Mr Richard Shaw)  
**Proposal:** Variation of Condition 02 of approval 18/00036/MFUL dated 06.06.2018 by submission of amended plans to allow enclosure of the covered area at both ends with additional roller shutter and personnel doors to the North and South elevations and creation of an additional internal site loop road to allow delivery lorries to enter the site and exit the site in a forward gear  
**Location:** Ellis Patents High Street Rillington Malton YO17 8LA  
**Registration Date:** 22 November 2019  
**8/13 Wk Expiry Date:** 21 February 2020  
**Overall Expiry Date:** 1 January 2020  
**Case Officer:** Niamh Bonner **Ext:** 43325

#### **CONSULTATIONS:**

|                                     |                     |
|-------------------------------------|---------------------|
| <b>Highways North Yorkshire</b>     | Recommend Condition |
| <b>Archaeology Section</b>          | Recommend Condition |
| <b>Historic England</b>             | No objection        |
| <b>Environmental Health Officer</b> | No objection        |
| <b>Rillington Parish Council</b>    | No objection        |

**Neighbour responses:** Mr Adrian Dukesell,

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#### **SITE:**

Ellis Patents is a precision engineering business, located in Rillington. The site is accessed off High Street and is situated to the south of the properties on Woodlands Road and falls partially within the village development limits. The site which is approximately 22,760 square metres is bounded by; housing to the north, agricultural land to the east and south and to the west is the private entrance which runs adjacent to the cemetery. A further residential dwelling is located to the south of the site.

The industrial building is comprised of a predominantly steel clad construction and the recently approved extension is currently under construction.

The site falls within an Archaeologically Sensitive Area, with a Scheduled Ancient Monument located to the eastern part of the site.

#### **PROPOSAL:**

This application seeks permission for the variation of Condition 02 of approval 18/00036/MFUL dated 06.06.2018 by the submission of amended plans. This approval has granted permission for a large extension to the eastern part of the factory for storage/warehousing spanning approximately 33.9 metres along the northern elevation and a maximum span of approximately 43.02 metres along the eastern elevation. There is no change to the scale of the proposed building.

This approved scheme also proposed the installation of 408no. photovoltaic panels to the proposed roof slopes of the extension, together with relocation of an existing oil tank, formation of additional car parking spaces and replanting of existing landscape screening.

The Report to Planning Committee, where the 2018 application on 5th June 2018 is appended. The

proposed amendments to the approved scheme include the following:

- The enclosure of the previously open ended link section of the extension along the northern and southern sides with walls and 1no. powder coated insulated roller shutter door in each elevation.
- The installation of personnel doors for emergency use only.
- The creation of an additional internal site loop road to the south of the proposed extension to allow delivery lorries to enter the site and exit the site in a forward gear
- The extension of a stoned access road alongside the eastern section of the building for emergency use/maintenance only, adjoining the additional stoned route previously approved to the north of the extension.
- The retention of the oil tank in its original, current location. The resiting of this internally within the building was considered to be unacceptable by Building Control Officers.

There would be no amendments to the previously approved car parking extension nor the photovoltaic panels. The approved landscaping would be reviewed through the imposition of a new planning condition, which has been agreed to in principle with the Applicant.

## **POLICIES**

Local Plan Strategy -Policy SP1 General Location of Development and Settlement Hierarchy  
Local Plan Strategy - Policy SP6 Delivery and Distributing of Employment Land and Premises  
Local Plan Strategy - Policy SP12 Heritage  
Local Plan Strategy - Policy SP16 Design  
Local Plan Strategy - Policy SP18 Renewable and Low Carbon Energy  
Local Plan Strategy - Policy SP19 Presumption in Favour of Sustainable Development  
Local Plan Strategy - Policy SP20 Generic Development Management Issues

## **HISTORY:**

The following applications are considered most relevant to the current proposal:

07/01132/FUL: Erection of extension to factory. Approved

10/01074/FUL Erection of single-storey office building to infill existing enclosed courtyard area and erection of two-storey office extension to the south of existing offices. Approved

14/00150/FUL: Installation of a 10,000 litre capacity fuel oil tank on agricultural land immediately adjacent to existing commercial site boundary (retrospective application) Approved

14/00581/FUL: Replacement of asbestos wall cladding and roof with profiled metal cladding, installation of roof ridge ventilation, 2 no. vents each to south west and north east roofslopes and 3 no. louvres to south west elevation. Approved

18/00036/MFUL: Erection of an industrial unit (Use Class B2 and B8) and covered area over existing service road to include installation of 408no. photovoltaic panels to the proposed roof slopes together with relocation of existing oil tank, formation of an additional 13no. car parking spaces and replanting of existing landscape screening.

19/00733/COND: Discharge of condition 03 (landscaping) and 05 (archaeology) of planning approval 18/00036/MFUL dated 18.06.2018. Approved. Note: Parts B and C of Condition 5 (archaeology) remain active until the works are implemented and appropriately reported on and archived.

## **REPRESENTATIONS**

The following letter of objection has been received from the occupier of no. 4 Woodlands Grove:

*"1. The planning committee statement reads: "The submitted plans show the vehicle tracking into the covered area. A condition has been agreed with the agent that no vehicles excepting maintenance/emergency vehicles could go beyond grid line B on the proposed floor plan. This would effectively limit any vehicles using the covered area as a thoroughfare to the rear of the site, in closer proximity to the neighbouring dwellings."*

*These conditions were imposed/agreed to give weight to the application therefore they should remain in*

*the interest of the residents of the neighbouring dwellings.*

*2. Conditions on earlier planning applications state that there should be no doors along the north elevation of the buildings. As these new buildings are much closer to residential properties then the inclusion of roller shuttered doors would have a much greater impact on the residents of Woodlands Grove. My concerns are that the inclusion of the doors is to allow the covered area to become an internal drive through loading bay. This would have a massive noise impact on any neighbouring properties.*

*I feel that these doors on the northern elevation of the extension would be totally unnecessary if the underground cable were moved around the eastern side of the building there would be no need for Northern Power Grid to have access to the inside of the building. I have no objections to this and the end of the building could be fully clad. This would also remove the necessity for vehicles other than service vehicles to use the access road. This seems to be the most sensible answer and therefore there would be no need to remove any existing conditions.*

*3. The original application states that number 4 Woodlands Grove is c26m from these new buildings. However this figure is much less than that, as a garage and house extension have been added which are not shown on the plan. This means that the impact is much worse than envisaged. Any movement of vehicles in this area would be within c10m of my property (dwelling) which I deem to be far from satisfactory due to noise, fumes and headlights shining into properties.*

*4. Although a landscaping plan has been suggested, the tree planting as it stands is far from satisfactory. The trees screen the buildings to some extent when in full leaf however there is next to no cover during the winter months. My fear is that tree landscaping alone isn't going to be enough. Also the trees next to the oil tank seem to be struggling or have died. I suggest this could be due to pollution from the oil tank.*

*5. The water from the new buildings is discharged into the existing soak away which I suggest is insufficient and surface water has been noted. Is it possible that this is connected in any way to the increased flooding of Rillington beck? The soak away is also in close proximity to the oil tank mentioned earlier making this a possible pollution hazard.*

*6. At the residents meeting I expressed my concerns about increasing the manufacturing area into the existing warehouse which would also increase the noise levels and the toxic fumes from the heating of plastics in the injection moulding process. Mr Shaw insisted that there were no plans or need to move the manufacturing any closer to the neighbouring residential properties. However when the plans were submitted there was an application for change of use to manufacturing in this area attached and passed.*

*Considering the above issues I feel that the conditions should remain to protect the residents of Woodlands Grove from any further loss of enjoyment of their properties and gardens.*

*I feel it would be beneficial for an Environmental Health Officer and Planning Officer to visit the site and also 4 Woodlands Grove to see the impact these huge buildings have on the environment the residential properties and to discuss my issues before any further decisions are made."*

#### **APPRAISAL:**

The principle of the development has been established within the 2018 approval. This proposal relates to the limited amendments described above. Therefore these proposed alterations will be considered in sections below.

It is noted that Members of Planning Committee recommended a condition to ensure the new extension was used for warehousing/storage only and it is recommended that this condition should be repeated.

The Case Officer and the Environmental Health Officer carried out a joint site visit during the consideration of the original 2018 scheme. The Case Officer undertook a further site visit in the

consideration of this revised scheme. During this further visit a meeting with the occupier of no. 4 Woodlands Grove was also undertaken at their property.

#### Amendments to the Elevations/Installation of Roller Shutter Doors and Personnel Doors.

Following receipt of the letter of objection from Mr Dukeseil above, the Operations Director of Ellis Patents provided additional supporting information. The following information was provided in relation to the proposed enclosure.

*“The roller shutter door along the northern elevation of the building is for access to the rear of the site only. As we have a substation at the rear of our site and an electricity cable running across our site we need to provide access external companies, such as, Northern Powergrid. We did enquire about relocating the electricity cable, but this was not possible. We also require access for essential maintenance. Under normal operations this door will not be used and will remain closed. The area under the canopy is for storage only. This will not be a thoroughfare to the rear of the site. There will however be fork lift truck movements between the existing unit and the new warehouse. By closing in the ends of the canopy and fitting an insulated roller shutter door, this will significantly reduce any noise transmission to the rear of the site.”*

A specification has been provided for the precise insulated roller shutter door to be installed and a condition will be recommended that this is installed unless otherwise agreed in writing with the Local Planning Authority.

A further condition to ensure the roller shutter door along the northern elevation is not used except for emergency purposes/necessary site maintenance will also be recommended and has been agreed in principle by the Operations Director. It was noted that the scale of this door was deemed necessary to allow for plant/machinery that may be required for third party emergency access. The personnel doors to the north and east will also be conditioned to only be used in emergency situations to limit potential instances of noise/disturbance. A condition discussed within the 2018 Committee Report in relation to limiting the operation of vehicles beyond Grid Line B on the proposed floor plans, except in emergency situations will also be recommended, to further limit potential instances of noise/disturbance.

It is considered that collectively, these conditions will ensure that there is no materially harmful additional impact upon the amenity of neighbouring residents as a result of additional noise/disturbance associated with the proposed extension. It is acknowledged that previously, a roller shutter door within the northern elevation had been considered inappropriate. However, at this time this proposed opening was not justified as functionally required for emergency access. Rather it would have been installed to provide unrestricted access. The current proposal is a different situation and will enclose an area in which loading and unloading of vehicles would be undertaken regardless, providing additional noise mitigation.

The Council’s Environmental Health Officer accompanied the Case Officer on the original site visit and confirmed no objection to the proposal, making the following comments: “Further to the above revised plans, I have no objection. I note the applicants/agents comments that the roller shutter door is for emergency use only and I believe that the addition of this door will provide some additional protection to any potential noise disturbance from fork lift truck movement within the warehouse.”

#### Additional turning route and stone road and impact of vehicles.

The issue raised within the letter of objection concerning potential vehicles in closer proximity to residential properties to the north is noted. An additional plan was subsequently submitted which more clearly demarcate the proposal. This plan illustrates the loop road positioned internally within the site to the south of the proposed extension and also shows the extension to the stone road as separate to the looped turning road. A letter from the planning agent noted the following:

*“To further explain; the loop road is needed to safely allow larger or articulated lorries to enter the site, deliver / pick up materials and exit the site in a forward gear. Currently delivery vehicles have to shunt around the yard which isn’t ideal from a health and safety standpoint. The proposed loop road is*

*screened from the housing to North by the position of the new buildings. The proposed service road will allow maintenance of the existing / proposed buildings and the site in general. It won't be used in the day to day operation of the site."*

Therefore, given the clarification over the siting of the proposed loop road to the south of the buildings and the confirmation of the extension to the stone road being for occasional maintenance only this is considered to be acceptable in order to limit potential impacts upon neighbouring properties. A condition limiting the use of the proposed additional stone road for maintenance only is considered appropriate.

#### Amendments to landscaping and oil tank

A landscaping scheme has been approved under 19/00733/COND. However in light of the comments made by the occupier of no. 4 Woodlands Grove the Applicant has noted the following:

*"We would be happy to adjust the planting scheme at the rear of the site to give more leaf cover during the winter months."* It is considered that a new landscaping scheme could provide an opportunity to further consider the precise species mix to ensure a balance so this does not cause harmful overshadowing, but that could provide enhanced greenery during Winter. This could potentially include provision for trimming of landscaping once it reaches a certain height. The Applicant has confirmed that once agreed, this could then be implemented in the planting season of 2020/2021.

The original scheme had sought permission for the movement of the oil tank away from the adjoining properties along Woodlands Grove. However the Case Officer was advised that the Building Regulations prevented this relocation and therefore the oil tank is to be retained in its existing position. The Applicant has noted *"We could also provide more sympathetic screening of the oil tank, if required. The oil tank complies with the "Above Ground Oil Storage Tanks Pollution Prevention Guidelines (PPG2)". It is double banded to prevent leakage, and is sufficient distance from any water course. We have also had the soil around the area independently tested and can confirm that there is no oil pollution. I suggest that the height of the trees in this area is possibly due to the choice of tree species and the shade cast by the oil tank. We would be happy to replant the area with different, more mature trees, if required."*

Therefore a condition in relation to the appearance of the oil tank and a new landscaping scheme is recommended. It is considered that this will ensure the site is appropriately landscaped and the works to the oil tank will secure visual improvements for occupiers of adjoining properties.

#### Other issues

In the representation other points were raised by Mr Dukeseil of 4 Woodlands Grove including the soakaway. The Case Officer has contacted Yorkshire Building Control who have advised soakaway capacity would be within their remit and is currently awaiting communication from the relevant Building Control Officer involved at the site to advise them of the concerns raised.

No. 4 Woodlands Grove is the closest residential dwelling to the proposed extension. It is acknowledged that this property has had a domestic extension to the rear elevation providing additional habitable living space in the form of a dining room at ground floor level which is a 'habitable' room. However the extension directly abutting the rear boundary was approved as a garage/utility and store. These are not habitable living spaces and this appeared to remain the use of this extension during a site visit to the neighbouring property. It has been re-measured and it is considered that the extended factory building remains located at approximately 26 metres from the dining room extension at the nearest point. The nearest part of the proposed access road would be located approximately 21 metres from the nearest habitable room and approximately 14 metres from the nearest part of private amenity space associated with this dwelling.

However, it is considered that the conditions highlighted above in relation to use of the access route, the insulated roller shutter doors and the limitations upon the use of the new doors will ensure an appropriate level of residential amenity is retained for the occupiers of the neighbouring dwellings.

As noted, the application site is within an area of archaeological interest. An appropriate archaeological condition was recommended in relation to the original 2018 scheme and this was discharged through the submission of a Written Scheme of Investigation which was approved by Peter Rowe of NYCC Archaeology within the 2019 discharge of conditions application 19/00733/COND. Parts B and C of the original condition no. 5 remain active during the construction of the development, to ensure that this is being constructed in accordance with the Written Scheme and the final analysis, publication, dissemination of results and archiving are appropriately undertaken.

The North Yorkshire Archaeologist was consulted in respect of this application and noted the following: The original consent (18/00036/MFUL) carries a planning condition (no. 5) requiring the design, execution and completion of a scheme of archaeological works. The scope of these archaeological works was agreed in a recent discharge of condition application (19/00733/COND). I presume that the existing conditions/scheme of archaeological works will remain active as part of the current variation.

The condition will be appropriately reworded to reflect the approved Written Scheme of Investigation and reapplied.

In their second consultation response, the Historic England Ancient Monuments Inspector confirmed he had previously provided advice on this development proposal on 26th March 2018 and 16th December 2019, noting: *“At that time it was our advice and recommendation that we had 'concerns on heritage grounds' owing to the lack of clarity with regard to the necessary archaeological mitigation. The revised information (email Niamh Bonner, Ryedale DC to Historic England, 28th January 2020) from the applicant provides further detail of the proposed works, and includes confirmation from the Principal Archaeologist, NYCC that he is content with the proposed works provided that the archaeological works previously agreed would remain active.*

*Historic England is content with the revised information and agrees with the Principal Archaeologist at NYCC that the suggested and previously agreed archaeological works are conditioned by your authority. On the matter of the further information concerning the make-up of the two additional sections of road, this information should be presented to the Principal Archaeologist so that he can be assured that the suggested mitigation is appropriate.”*

Further discussion has been undertaken with the NYCC Principal Archaeologist who has confirmed again that the original Written Scheme of Investigation is acceptable but that they would like further details on the precise construction of the two additional sections of road now proposed.

A condition will remain recommended to ensure that no other lighting will be installed at the site without prior approval of the Local Planning Authority.

The Parish Council have responded to note no objections were received. With the exception of the consultation response which has been received from the occupier of no. 4 Woodlands Grove, no further representations have been received from any third parties.

The Council's Environmental Specialist accompanied the Case Officer on the original site visit and confirmed no objection to the proposal.

North Yorkshire Highways confirmed no objection to the proposed development. An updated condition was recommended in relation to retaining parking spaces/turning areas access.

In light of the above considerations, subject to the recommended conditions, this proposal is considered to continue to satisfy the relevant policy criteria outlined within Policies SP1, SP6, SP12, SP16, SP18, SP19 and SP20 of the Ryedale Plan – Local Plan Strategy and the National Planning Policy Framework and Officers recommend approval of the proposed amendment.

**RECOMMENDATION:****Approval**

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

Site Location Plan (Drawing no. PD224-01)  
As Proposed Ground Floor Plan (Drawing no. PD224-03-D)  
As Proposed Elevations (Drawing no. PD224-04-D)  
As Proposed Site Block Plan (Drawing no. PD224-06-F)

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

- 2 Prior to the commencement of the warehousing/storage use within the extension hereby approved a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in full with BS5837:2012 Trees in relation to design, demolition & construction - Recommendations, in the course of the development, together with a scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted as part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density.

All planting, seeding and/or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the extension.

Any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To protect visual amenity and the character of the area and to ensure a satisfactory environment having regard to Policy SP20 of the Ryedale Plan, Local Plan Strategy, coupled with the requirements of paragraphs 17 and 109 of the National Planning Policy Framework 2012

- 3 Unless otherwise agreed in writing with the Local Planning Authority, the construction materials to be used on the exterior of the industrial extension (including the roller shutter doors) hereby approved shall accord in all respects with the appearance of the construction materials of the original building.

Reason: In the interests of good design and in compliance with Policy SP16 and SP20 of the Ryedale Plan- Local Plan Strategy and the NPPF

- 4 Unless otherwise approved in writing with the Local Planning Authority, the proposed works shall be undertaken in accordance with the approved Written Scheme of Investigation (MAP Archaeological Practice V2 05.07.2019)

B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In accordance with Policy SP12 Heritage of the Ryedale Plan, Local Plan Strategy and Section 16 of the NPPF as the site is of archaeological significance.

5 Prior to the construction of the extended stone road or new tarmac loop road, details of the proposed construction of these elements shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In accordance with Policy SP12 Heritage of the Ryedale Plan, Local Plan Strategy and Section 16 of the NPPF as the site is of archaeological significance.

6 Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas shown on Drawing Number PD-224-06-F for parking spaces, turning areas and access shall be kept available for their intended purposes at all times.

Reason: In accordance with Policy SP20 of the Ryedale Plan- Local Plan Strategy and to ensure these areas are kept available for their intended use in the interests of highway safety and the general amenity of the development.

7 The extension to the industrial building hereby approved shall be used only for warehousing/storage.

Reason: In accordance with Policy SP20 of the Ryedale Plan- Local Plan Strategy and to ensure the amenity of neighbouring residential properties is protected.

8 Unless otherwise approved in writing by the Local Planning Authority, no lighting shall be installed on the extension hereby approved.

Reason: In the interests of residential amenity and the character of the open countryside in accordance with SP16 of the Ryedale Plan, Local Plan Strategy.

9 Prior to the commencement of the warehousing/storage use within the extension hereby approved, details of the proposed visual improvements to the oil tank shall be submitted and approved in writing by the Local Planning Authority. These improvements shall be completed in the 8 week period following approval of details unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity and in accordance with SP16 of the Ryedale Plan, Local Plan Strategy.

10 Unless otherwise agreed in writing the roller shutter door hereby approved along the northern elevation of the extension shall be constructed in accordance with the 'Insulated Roller Shutter Door' specification submitted to the Local Planning Authority on the 31st January 2020.

The approved roller shutter door along the northern elevation shall only be opened for emergency access and shall not be used to facilitate the daily operations of the business, remaining in a closed position.

Reason: In accordance with Policy SP20 of the Ryedale Plan- Local Plan Strategy and to ensure the amenity of neighbouring residential properties is protected.

11 The personnel doors along the northern and eastern elevations of the building shall only be used in emergency situations and shall not be used to facilitate the daily operations of the business, remaining in a closed position.

Reason: In accordance with Policy SP20 of the Ryedale Plan- Local Plan Strategy and to ensure the amenity of neighbouring residential properties is protected.

12 Unless otherwise agreed in writing with the Local Planning Authority, no vehicles excepting emergency/maintenance vehicles shall operate to the north of Grid Line B, as illustrated on the As Proposed Ground Floor Plan (Drawing no. PD224-03-D)

Reason: In accordance with Policy SP20 of the Ryedale Plan- Local Plan Strategy and to ensure the amenity of neighbouring residential properties is protected.

