

**Item Number:** 11  
**Application No:** 20/00910/73A  
**Parish:** Weaverthorpe Parish Council  
**Appn. Type:** Non Compliance with Conditions  
**Applicant:** Mr Trevor Morris (Scoradale Ltd)  
**Proposal:** Removal of Condition 03 of planning approval 17/00059/FUL dated 14.03.2017 to allow the removal of local needs occupancy condition  
**Location:** Sunday School Cottage Main Road Weaverthorpe Malton North Yorkshire YO17 8EY

**Registration Date:** 7 October 2020  
**8/13 Wk Expiry Date:** 2 December 2020  
**Overall Expiry Date:** 5 November 2020  
**Case Officer:** Rachael Balmer **Ext:** 43357

#### **CONSULTATIONS:**

**Weaverthorpe Parish Council** Support  
**Representations:** No responses received

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#### **1.0 SITE:**

1.1 The property known as Sunday School Cottage is a former Methodist chapel. It was subject to a change of use application with extension and alterations to the building and the formation of parking and amenity areas in 2017. It was approved under delegated powers. The Local Needs Occupancy Condition was applied as required by the adopted Development Plan. It was constructed in 2018. It is currently tenanted.

#### **2.0 PROPOSAL:**

2.1 A variation of the permission is sought Removal of Condition 03 of planning approval 17/00059/FUL dated 14.03.2017 to allow the removal of local needs occupancy condition LNOC. This would allow the property to be sold without any eligibility criteria.

The agent has advised that:

It went on the market in October 2018 at £185,000 and by November 2018 price was reduced to £180,000.

By March 2019 this had been reduced to £160,000.

With not one viewing.

At March 2019 it was taken off the market- and advertised for rental.

At which point the property was rented in August 2019 to a worker at Velco.

The tenant's lease ends in January 2021 and the applicant would like to market the property again, without the LNOC.

They note the removal of an occupancy condition on another property in the village (East bank Cottage).

The applicant has claimed verbally that the property has remained on the market- and the Case Officer has sought details of this, as the property is not advertised on 'Rightmove' nor is it advertised with Reeds Rains.

Prior to agenda being finalised, the applicant has provided a statement which is appended to the report.

It shows that the applicant was advised by two Estate Agents who both valued the property at £185,000. The first Agent then advised to market the property at £160,000 with the LNOC. The second- did not, and advised they should be marketed for six months incrementally dropping the price. The price reached £160,000 in March 2019, after 6 months on the market. The property then was both marketed for both sale and for rent (the sale period being up to August 2019) - which is potentially 4-6 months depending on timings. With tenants in the property since August 2019.

### **3.0 HISTORY:**

3.1 17/00059/FUL - Change of use, alteration and extension of former Methodist chapel to form a two bed room dwelling to include erection of a single storey extension to the front elevation and formation of a vehicular access with park and amenity areas. - approved.

3.2 No further planning history.

### **4.0 POLICY:**

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 confirms that the determination of any planning application must be made in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises:

The Ryedale Local Plan Strategy (2013)

The Policies Map (2019)

The Local Plan Sites Document (2019)

The Yorkshire and Humber Plan (Regional Spatial Strategy)- York Green Belt Policies (YH9 and Y1)

(The latter three components are not considered as part of the determination of this proposal)

The Ryedale Plan - Local Plan Strategy (5 September 2013)

Policy SP1 General Location of Development and Settlement Hierarchy

Policy SP2 Delivery and Distribution of New Housing

Policy SP21 Occupancy Restrictions

Material Considerations:

National Planning Policy Framework (NPPF) (2019)

National Planning Practice Guidance

### **5.0 CONSULTATIONS:**

5.1 A brief summary of the position of statutory and non-statutory consultees is included on the front sheet of the report and issues raised are addressed in the relevant appraisal sections of the report. All consultation responses are available for Members to view on the public access webpage, and referred to in the report accordingly.

5.2 The Parish Council Support the removal of the condition. Reasons for this are:

- We understand the policy is stop second homes- but we have only one house owned by someone who lives in Sheffield;
- The village needs people to come in from outside the village- helps to bring a mix of people into the village;
- Need to allow younger people from further afield to come into the village- the school will eventually stagnate
- District Council should focus on the delivery of more affordable housing
- Selling properties with the LNOC makes it more difficult which will increase the number of empty properties in the village- with consequential antisocial behaviour.
- Plenty of beds for tourism in the village- so not attractive as a holiday let
- The property is currently occupied by a family from Poland
- Weaverthorpe Parish Council have already raised the subject of the Local Needs Occupancy Condition on several occasions. Most recently we were told it would be reviewed in the next issue of the Local Plan which was scheduled to be out for consultation in late 2019. A document entitled RDC Council Plan has just been issued to us, but we still await the opportunity to input into the subject of the Local Needs Occupancy.

5.2 In terms of other respondents, there has been no responses received.

## **6.0 APPRAISAL:**

6.1 The Parish Council have been issued with the Council Plan- which Members will be aware is a series of objectives that the Council wishes to deliver- these can be around areas of planning policy, but also areas which are not subject of planning control, or are corporate objectives. This planning application is required to be considered within the context of the adopted Development Plan- the Ryedale Plan - Local Plan Strategy.

6.2 This proposal is a very specific requirement, which is to consider whether it is appropriate, and in accordance with the provisions of the Development Plan, to release the property known as Sunday School Cottage from the Local Needs Occupancy Condition. The report explains:

- The reason for the application of the Local Needs Occupancy Condition through Policies SP1, SP2 and SP21; and
- The circumstances around the lifting of such conditions through SP21.

### **The reason for the application of the Local Needs Occupancy Condition through application of Policies SP1, SP2 and SP21**

6.3 Policy SP1- General Location of Development and Settlement Hierarchy- identifies 'other villages', such as Weaverthorpe as being areas of housing restraint, and development is restricted to that which is necessary to support a sustainable, vibrant and healthy rural economy and communities. Accordingly, Policy SP2 sets out the limited scenarios where new residential development will be permitted. This scheme complied with SP2 as it was a previously developed site within the Development Limits of the settlement. It was approved subject to the Local Needs Occupancy Condition which is set out in Policy SP21, and is applied in perpetuity:

Local Needs Occupancy:

To meet local housing need in the non-service villages the occupancy of new market housing will be subject to a local needs occupancy condition where this accords with Policy SP2, and will be limited to people or their dependants/spouse 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.

6.4 It can apply to both ownership and occupancy, allowing an owner to rent to those who need to rent the property (because they are unable to access the housing market) and who comply with the condition. This is still meeting a local need. The Local Planning Authority have also included further clauses which allow in the default of a mortgage the LONC to be lifted- and this has satisfied the lender in question.

6.5 It is important to understand the context of why the condition is imposed in the first place. Its principal objective is to act as a restrictive check on the supply of housing coming forward in the less sustainable locations at the point of considering proposals- with a corresponding focus on delivery of housing at the Market Towns and Service Villages in the adopted development plan. It is not imposed to deliver affordable housing.

6.6 The Parish Council has sought that the District Council deliver more affordable homes; an objective which the District Council is exploring to its full capacity. But the reality is that affordable housing is primarily delivered on larger schemes in the larger settlements. Only one rural exception site has been delivered so far during the Plan Period. This is since the Government removed the ability to deliver on-site affordable housing on schemes of less than 10 units (unless a rural exception site is proposed).

6.7 The presence of the condition however can make pricing more competitive, and give those with the local connection an advantage over those with more funds, but no such local connection. Anecdotally, in relation to larger, higher value properties subject to the LNOC, whilst being reflective of the market value with the LNOC in place; remain beyond the means of many local residents- particularly those seeking to get onto the housing market. Smaller properties are perceived as being more desirable when they have the LONC in place- as it allows those with a local connection the opportunity to purchase them.

6.8 Smaller properties can also be attractive to those who seek to downsize their accommodation, whilst staying in the village or parish association in which they currently reside. This can then free up larger homes for families to move into. This would be contrary to the concern that was raised by the Parish Council that the LNOC would prevent new families moving into the village.

6.9 It is also important to understand the extent of the issue under consideration. Properties that are subject to the LNOC make up a very small proportion of housing in a settlement. For example, in Weavertorpe there were 133 households in the census in 2011. There have been four approved applications with the LNOC since the adoption of the Ryedale Plan in 2013. They are simply not capable, therefore, of changing the overall housing market in a village. The condition only affects the property to which it relates.

6.10 The Council is not aware of a situation where any property subject to the LNOC has become a target for antisocial behaviour across the District. It must be remembered that this is not a material planning consideration and such actions are not within planning control.

6.11 The approach of the condition is to therefore also to allow new housing in circumstances to meet identified local needs, and not meeting externally-driven demand (with the corresponding increases in house prices). That is the spatial approach of the adopted Ryedale Plan Local Plan Strategy. However, after the dwelling has been constructed, there can be instances where, in time, the condition is no longer relevant or reasonable to continue to apply.

6.12 It is noted that within the information provided by the applicant, and the Parish Council, the property has been rented by a family originally from outside of the District. However, because of one of

the family members works at Velco, which is a major employer within Weaverthorpe, they satisfy one of the requirements of the Local Needs Occupancy Condition. This is all that is required. The occupiers have a local connection to an established business, and it has provided them with a home locally between August 2019 and January 2021. Therefore, the condition has been (to date) operating entirely as was intended. It is not clear however why the tenancy agreement is due to end in January 2021.

### **Circumstances around the lifting of Occupancy Conditions in accordance with Policy SP21**

6.13 Policy SP21 also sets out the situation where in time, there may come a point where the Local Needs Occupancy Condition (or other condition) cannot reasonably continue to be applied. This is particularly relevant when properties are built, and the Local Planning Authority does not want to prevent the ability of a dwelling to be occupied. It states that:

*"The lifting of occupancy restrictions will be carefully considered on a case by case basis. The capability and suitability of the unit being occupied as a permanent residential unit together with any changes in circumstances which mean the occupancy restriction is no longer applicable, will be carefully considered".*

6.14 The other property referenced by the agent, Eastbank Cottage, is such an example of this. It was advertised for over 10 months continually, at a price which reflected the depreciation in value of the LNOC at the point the application was considered. It was considered in that instance that there was no local need present, and that it was not reasonable, given the pricing and marketing that had been undertaken, to continue to impose the condition.

6.15 In relation to this application, based on the submission provided by the agent it is not clear whether the property however was priced to take account of the LNOC in place:

*"Reeds Rains valued the property at £185,00. Scoradale Ltd instructed Reeds Rains to sell the property. Tony Hunter, branch manager of Reeds Rains, Haxby did comment that local occupancy clause would limit interest in the property and reduce the chances of the sale, hence this application".*

6.16 Officers are aware that, based on valuations undertaken elsewhere, a 15-20% reduction in price is a consequence of the Local Need Occupancy Condition. It is not expressly clear from the originally submitted statement whether the property was valued at £185,000 with a depreciation, or that was its open market value without factoring in any depreciation. Indeed, through the applicant's submission, it is clear that they were presented with a valuation which took the LNOC into account, but did not apply it until much later.

6.17 By way of comparison, the property at East Bank Cottage is three bedrooms, and an overall significantly larger property with a connected, private garden and parking and was marketed at £215,000 for 10 months with a 20% LNOC depreciation factored in. It therefore different in both its attributes as a property, and its marketing profile.

6.18 Within 1 month of the application property going on the market the price was reduced by £5,000, and further reduced by March 2019 to £160,000 in the space of less than six months (a reduction of £25,000 in total). It was then advertised on the market for sale, and also placed for rental. At a 15% reduction from the original £185,000 valuation, the property would be priced at c.£157,000. The property was initially valued by another Estate Agent at £160,000.

6.19 Officers consider that these rather swift price reductions reflect the fact that the property was indeed not marketed initially at a price which took into account the depreciation in value that comes with the LNOC. This resulted in no interest in the property.

6.20 The applicant has claimed verbally that it was marketed for much longer and stated so in their appended statement - but no physical evidence such as details from the Estate Agent have been provided to date. At the most, the property was only marketed for sale for between four and six months at this lower price (depending on when these changes occurred). From the price being dropped in March 2019 to £160,000 there was then a lag time, of potentially as little as 4 months, when the applicant asserts that the property was for sale at the lower price, but the property was then rented by an individual

(and family) who met the LNOC in the August and it was taken off the market.

6.21 The Case Officer has looked at current properties for sale on national property website 'Rightmove' and there is a property currently for sale in Weaverthorpe. It is a semi-detached, two bedroomed dwelling with garden and parking. It is advertised as being in need of updating and improvement and is on the market without occupancy restriction for £129,950 added 20 October 2020 with Cundalls.

6.22 Given anecdotal evidence that property transactions in villages, and rural areas are increasing, as a response to Covid, a figure of £160,000 for a detached property of two bedrooms, recently converted could indeed be a reasonable price- but one that remains to be tested in the market place for reasonable period of time, as required by policy in the adopted development plan.

6.23 Returning to what the policy requires:

"The lifting of occupancy restrictions will be carefully considered on a case by case basis. The capability and suitability of the unit being occupied as a permanent residential unit together with any changes in circumstances which mean the occupancy restriction is no longer applicable, will be carefully considered".

It is considered that based on the valuation information provided, without any further details, the property has not been marketed for a sufficient period of time to test the market. Nor within that time period, has it been advertised at a sustained price which reflects the presence of the LNOC. It is therefore considered that at this point in time, there is insufficient justification demonstrated to lift the occupancy condition associated with this property.

6.24 The property should be in due course marketed accordingly for a period of c.10 months at its last advertised sale price of £160,000 or less. If that still does not generate a sale, then Officers would then be a position to have robust evidence that the property has been appropriately marketed, without interest, and that then no local need would be demonstrated to be present.

### **Conclusion**

6.25 It is considered that based on the valuation information provided, the property has not been marketed for a sufficient period of time to robustly test the market. Nor within that time period, has it been advertised at a sustained price which reflects the presence of the Local Needs Occupancy Condition (LNOC). It is therefore considered that at this point in time, there is insufficient justification demonstrated to lift the occupancy condition associated with this property. It remains therefore applicable to continue the application of the condition. In relation to Policy SP21g the testing of whether it remains applicable to retain the condition has not be robustly undertaken. There are no material considerations raised by the proposal which would be of sufficient weight to justify a departure from the adopted Development Plan.

### **RECOMMENDATION: Refusal**

1 The property subject of this s.73 application has not been marketed a price which robustly reflects the implications of the Local Needs Occupancy Condition (LNOC). Furthermore, the duration of that marketing has not been for a sufficient, nor recent period of time. The lack of interest in the site is considered to be reflective of both these circumstances and it has not been demonstrated that there is no local need to justify the lifting of the condition. Lifting the LNOC would result in a dwelling being sold on the open market, and no longer capable of specifically meeting an identified local need. As such the proposal results in a development which is a departure from Policies SP1, SP2 and SP21 (parts a and g) of the adopted Ryedale Plan Local Plan Strategy, which is focused on the restraint of market housing in the Other Villages to that which meets an identified local need. There are no material considerations identified which are of sufficient weight to justify a departure from the adopted Development Plan. It is considered within the context of Policy SP21 (g) that it remains applicable for the LNOC to remain in place at this time.