



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LOCAL PLAN WORKING PARTY
DATE:	7 JULY 2022
REPORT OF THE:	PLANNING SERVICES MANAGER
TITLE OF REPORT:	LOCAL PLAN REVIEW- OCCUPANCY CONDITIONS
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 For the members of the Working Party to consider the application of the Local Needs Occupancy Condition (LNOC) as part of the review of the Ryedale Plan, and to consider the implications of a Primary Residence Condition.

2.0 RECOMMENDATION

- 2.1 It is recommended that the Working Party consider the report and:

- (i) Note the contents of the report with regards to the potential treatment of the Local Needs Occupancy Condition and a Primary Residence Condition as part of the review of the Ryedale Plan.

3.0 REASON FOR RECOMMENDATION

- 3.1 As part of the timeline of the review it is important for Members of the Local Plan Working Party to explore with Officers concerning the approach in principle of occupancy conditions, as part of the considerations around the distribution of development.

4.0 SIGNIFICANT RISKS

- 4.1 There are no risks associated with the recommendation which is to make note of the Officer's recommendations. It not advised that Members make a decision on the implementation of these conditions as result of this report because this would create complexities (both legally and practically) for the consideration of planning applications. It will be a Council resolution to cease applying the LNOC, should Members wish to ultimately pursue this as part of the review. Nevertheless, Officers consider that more significant risks would be experienced to the progression of the Ryedale Plan review,

if the Local Needs Occupancy condition is sustained as part of the review, in the context of the Local Government Reorganisation, as is not an approach used by any North Yorkshire Local Planning Authority outside of the National Parks, and it is not supported by national planning policy. Officers also consider that significant risks would also be experienced concerning plan review progress and adoption, if members decided in lieu of the LNOC to impose a primary residence condition. This is in relation to the extensive time needed to collate the evidence base of imposing a primary residence condition, and because is not an approach used by any North Yorkshire Local Planning Authority outside of the National Parks.

5.0 POLICY CONTEXT AND CONSULTATION

5.1 Key points to remember about Conditions is that they are expected to be kept to a minimum and meet the following 6 tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

5.2 Occupancy conditions are a long-standing tool in the planning system to provide a means of control to ensure that occupancy of a dwelling/ or a site is either:

- a) In accordance with the principles around housing distribution- such as properties coming forward in the open countryside for the purposes of agriculture or the land based economy; and
- b) To prevent occupancy of sites in times of the year which result in adverse amenity considerations (such as touring caravan sites)

More recently, however, occupancy conditions have been effectively used to control the supply of housing coming forward in the lower tiers of the Settlement Hierarchy- though the use of a Local Needs Occupancy Condition (LNOC). Their use in this way has been employed by the North York Moors National Park for a number of decades.

5.3 In 2013 Ryedale District Council adopted its own Local Needs Occupancy Condition in Policy SP21:

a) 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 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.
- 5.4 This is employed through a hierarchy of policies: Policy SP1- General Location of Development and Settlement Hierarchy- identifies Other Villages, and land identified as being within the open countryside' 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 subject to the Local Needs Occupancy Condition (LNOC) which is set out in Policy SP21, and was applied in perpetuity. The background as to why this policy was imposed in the first place is considered within the body of the report.
- 5.5 Members have previously been provided with a compiled details of the distribution of development consultation. The general findings of that consultation support the description of the Policy as a 'Marmite policy' because it has had strong support for its retention, but also raised strong objections to its application, and this can be seen from the responses received in the consultation.
- 5.6 Those larger developers who responded to this question were either supportive or ambivalent to its application, whereas those representing landowners with a presence/interest in Other Villages were not supportive of the condition's retention. Some Parish Councils are very supportive of the condition, such as Wintringham as it is seen as important for local people, and Malton Town Council (in relation to reducing Second Homes), but others are not supportive, such as Weaverthorpe, who consider that policy is not working well in their village, as it is undermining the ability to get a mix of residents. Pickering Town Council wanted to the condition to be reviewed within the context of having more appropriate development to the villages- but retaining the condition in some form.
- 5.7 Members of the public responding in support referenced the ability to give priority to existing residents, stops prices being driving up and gives local people a chance to bid for properties without the prices rising. Members of public responding in objection to the sustained use of it- were concerned with the lack of flexibility with the policy- such as people coming into the Ryedale area for work. It was suggested to not to apply the condition after the application is determined, so it's only considered during the consideration of the planning application. It was considered to be hampering first time buyers; that it is too restrictive, and for some is viewed as discriminatory; and that it has stopped development, and renders building in the villages less attractive- which is seen to be harmful to local builders and builders of smaller schemes.
- 5.8 NYCC Children and Young People's Services are supportive of the condition for securing increased numbers of pupils at rural schools, but the NYCC Adult Social

Care consider that the condition covering adjacent parishes is overly restrictive, limit choice and place artificial limits on our capacity.

- 5.6 The outcome of the consultation on the use of a Primary Residence Condition was essentially mixed in views. With those responding on behalf of the development industry raising concern about its potential usage and raising concerns about viability, re-sale, mortgage lending, and implications for proposals that are being delivered to enabling-style development. CPRE are supportive of the concept, and there is support from the Parish/Town Councils who responded to this question for its use to discourage second homes. There was support for its implementation amongst the general public, with some seeking it to be applied all new developments. Others who supported its implementation referenced specific settlements, or identified that it should be imposed where second homes are present in high levels. It was noted that they tend to be the smaller properties which could be relatively more affordable. Some members of the public did not support its implementation, although it is not clear whether this is because they do not support the condition's usage or, as in one response, they do not wish to see future development in their settlement. One of the responses identified the importance of holiday lets bringing in an important source of income.

6.0 REPORT

Local Needs Occupancy Condition

Background context

- 6.1 It is important for Members to understand the background context to the application of the Local Needs Occupancy Condition. It came out of two principal outcomes of the Ryedale Local Plan which was adopted in 2002. The first was that when the source of housing land supply was analysed, close to half of the housing land supply was made up of small infill plots across the District within Development Limits, often in gardens and other, smaller plots. These are an unreliable source of housing land supply, which is a concern, given the requirements of the NPPF and the need to evidence housing land supply and delivery. Secondly, because of their small size they bring no affordable housing contributions (either on-site or as a commuted sum). Prior to the application of CIL, they would also not result in no additional infrastructure contribution.
- 6.2 Whilst occupancy conditions are not contrary to National Planning Policy, National Planning Policy does not promote the use of local needs occupancy conditions for market housing. Instead it promotes self-build schemes which are essentially to be used for primary residence (due to second stage documentation which needs to be provided (although it is not in perpetuity- it last for up to 7 years), and for local needs housing to be delivered through affordable housing routes, such as First Homes.
- 6.3 The Local Needs Occupancy Condition (LNOC) is a policy tool to essentially restrict the supply of housing coming forward on small infill sites, particularly in the settlements which had not been identified as having key services and facilities. This was with a corresponding focus of development to the Market Towns and Service Villages through the provision of a range of allocations to both meet the Ryedale Plan's housing requirement and a land supply buffer of 20%. Ryedale's LNOC was also imposed to provide a policy framework where specific local housing needs could

be met. It can apply to both ownership and/or 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.

- 6.4 The local and national policy context has now changed: we are expected to ensure we can evidence a deliverable land supply for the plan period. National Planning Policy requires that housing delivery targets are viewed as 'floors' rather than 'ceilings', so delivery of additional housing on top of the Plan requirement is supported in principle. We have ensured that we have a range of allocations and other policy mechanisms (such as exception sites) to deliver affordable housing. We also have the Community Infrastructure Levy (CIL) in place which allows the collection of monies, although small-scale, infill properties are likely to be self-build properties, and so not CIL liable.

Current Implementation

- 6.5 The application of the LNOC is not to provide a further policy avenue for affordable housing. It was so-worded to provide the opportunity to delivery very specific local housing need, which could still be met though market housing. The Ryedale Plan has other policies to respond to that affordable housing need. The Local Needs Occupancy condition has been applied to properties which range from £150,000 to properties which have been anecdotally valued at close to a million pounds. There may be an indirect affordability dimension. In this regard, anecdotally, Estate Agents have viewed that smaller properties are more desirable when they have the LNOC in place- as it allows those with a local connection to get a purchase over those without that connection, at a price that is more affordable to them. It is noted that in the applications which have successfully lifted the LNOC they have been broadly higher value properties with the occasional exception (such as at Weaverthorpe). It is broadly agreed that higher value properties are more difficult to sell with the LNOC because the buying potential is often outside of the LNOC's geographic restrictions.
- 6.6 Whilst being a check on supply in areas deemed to not be a focus for housing delivery, as mentioned above, the condition was to allow housing in specific circumstances (such as having the identified local connections, or to take up a position of employment based in the parish) to meet identified local needs. It was so that these types of development were not meeting a more general, and potentially externally-driven demand (with the corresponding increases in house prices). If an individual complied then they would be occupying as their residence, which would be most likely to be a primary or principal residence- but not exclusively. For example, an employee of a business in the Parish could meet the LNOC requirements, and have a residence in the parish in the week, but return to family for the weekends. This is a scenario the LNOC condition would not prevent. Nevertheless the application of the LNOC was to give those with a clear local connection a greater chance of being able to own/rent a property in the village, to which they have a longstanding connection.
- 6.7 The LNOC is a fetter on the ability of a property to be sold on the open market, it does depreciate the value of a property, but it has a variable impact on the value of

properties. Whilst we have not had sufficient applications to form any general principles, anecdotally, it is seen by Estate Agents that the smaller properties fare better in the presence of the LONC- as they are better able to be afforded by those who comply with the condition, and so the depreciation could be 20% or lower. Where the LONC could affect values by up to 30% is very high value properties, or properties which have very unique build contexts or any parishes which have very low populations within the parish and surrounding parishes.

- 6.8 Because of this, the LNOC has been not employed in specific occasions concerning specific conversions of buildings such as listed barns, or churches/chapels. This was because they had specific, additional costs to the conversion and no alternative use was found for the buildings. It was judged that the condition should, on balance, not be implemented because of the viability implications for the conversion. The need to find a sustainable change of use for the designated heritage asset outweighed the departure from the development plan by not applying the condition.
- 6.9 Given its primary role was to restrict supply it has been successful as there has been a significant decrease in housing delivery at these lower tier settlements from 2013-to date with only 108 dwellings permissioned. Of those some have been multiple applications on the same property: eight superseded applications and two different applications on the same site. (Net 98 dwellings). Completions monitoring is on-going and so it is likely that there are more completions to add, and 10 dwellings have also been started/commenced by March 2021.

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	Total
LNO Permissioned	-	4	7	24*	17	14	9	18	6	9	108
Completed dwellings from those permissions	-	3	7	16	9	10	4	7	0	1**	57

*13 holiday lets at Claxton Grange were granted permission to be dwellings with the Local Needs Occupancy Condition

** Monitoring for completions in 21-22 is on-going.

Variations to the Local Needs Occupancy Condition

Treatment of LNOC	Approval	Refusal
Removal of LNOC	3	3
Variation of LNOC*	10	1
Varied to include LNOC	3	0

We have had seven applications to vary the condition to allow a mortgagee in possession clause.

- 6.10 The varying or lifting of the condition once the dwelling is complete would not necessarily represent a departure if the material considerations justified such an approach- as referred to earlier. This is also identified within the Development Plan in Policy SP21, and the varying the condition to allow a mortgagee in possession clause has allowed the condition to be continued.
- 6.11 After the dwelling has been constructed, there can be instances where, in time, the condition is no longer relevant or reasonable to apply- and would therefore fail to meet all the tests required of conditions, as mentioned at the outset of this report. Policy SP21 of the Ryedale Plan accordingly 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”.*
- 6.12 Ryedale District Council has had determined a small number of applications where it has been prepared to lift the LNOC after a non-sale of around one year (at the point of decision) or more subject to the property’s clear marketing and at price which reflects the presence of the condition. There have been a small number of refusals to lift the condition (3), and of those two were upheld at appeal.

Other examples

- 6.13 Local Needs Occupancy Conditions have been used particularly in National Parks for a number of decades. They seek to ensure that housing stock is retained for those with a local connection to the Park area. In 2020 the North York Moors National Park adopted the policy below:

Policy CO13 - Local Connection Criteria for Local Needs Housing

The occupancy of local needs dwellings will be restricted to those:

1. Currently resident in the National Park, having been resident in the Park for at least the previous 3 years; or
2. Currently in employment in the National Park; or
3. Having an essential need to live close to relative(s) who are currently living in the National Park; or

³⁷The Town and Country Planning (General Permitted Development) (England) Order 2015

North York Moors National Park Authority Local Plan July 2020

4. Having an essential requirement for substantial support from relatives who are currently living in the National Park; or

5. Former residents whose case for needing to return to the National Park is accepted by the Authority.

Applications to remove a local connection condition will only be permitted if it is clearly demonstrated that the property has been adequately marketed at a suitable price and for an appropriate period of 12-18 months. In such circumstances the Authority will apply a principal residence condition.

- 7.73 Local connection requirements will be applied as a condition of planning permission for all local needs housing and occupants will need to meet at least one of the criteria set out in Policy CO13. A planning condition will also require the dwelling to be occupied as the principal residence of the household living there.
- 7.74 When considering employment within the National Park, the Authority will accept full time employment and part-time employment of at least 16 hours per week where there is a permanent contract of at least one year in both cases. Households moving into the National Park to take up a job offer would be eligible as would self-employed people who can provide evidence to show that the employment has been ongoing for at least a year.
- 7.75 When considering residence within the National Park, the Authority will accept residence in any part of a parish which is split by the National Park boundary with the following exceptions where the main town or village lies outside the Park boundary. In these cases a qualifying residence must be strictly within the National Park boundary:
- | | | |
|------------------|---------------------|------------------|
| Allerston | Great Busby | Potto |
| Beadlam | Guisborough | Scalby |
| Burniston | Irton | Snainton |
| East Harlsey | Kirkby in Cleveland | Sutton under |
| Ebberston and | Kirkbymoorside | Whitestonecliffe |
| Yedingham | Lockwood | |
| Great Ayton | Nawton | |
| Great and Little | Newby | |
| Broughton | Pickering | |
- 7.76 The local connection criteria focus on existing and future residents of the National Park but there may be circumstances where it would be appropriate for former residents who would not comply with any other criteria to be able to return to the National Park, for example, someone returning after a period of service with the armed forces. The Authority also accepts it is also not possible for policy to anticipate every circumstance where personal circumstances may justify a local connection, or where it may be beneficial to the local community for a particular person to live in that community. These situations would be considered by the Authority on a case-by-case basis and details should be provided with the application. Anyone wishing to purchase an existing property which has a local connection condition attached is advised to obtain written approval from the Authority that they comply with the condition prior to occupation.

- 7.77 Local connection conditions represent a long-term strategy to ensure that at least part of the housing stock of the National Park remains available to meet the current and future needs of local communities. Evidence suggests that the condition reduces the value of properties by 15 to 20% so they fall between open market and affordable dwellings in price and contribute to a balanced mix of housing available in the National Park. These dwellings form a valuable part of the existing stock and the Authority will resist applications to have local connection conditions removed, even in Larger Villages where principal residence housing is now supported. Owners of dwellings with a local connection condition will be expected to adopt a realistic approach to valuation when selling or renting, as they would have done on initial occupancy, and allow sufficient marketing time for a suitable new occupant to be found, during which time a temporary change of use to holiday accommodation may be permitted. The replacement of a local connection condition with a principal residence condition will only be allowed where a property has been marketed at a suitable price for a period of 12-18 months. The Authority will also monitor local connection conditions on a regular basis and take action where appropriate if there is a breach of condition. If a person has been occupying a property contrary to the terms of a local connection condition, the time spent in the property will not count as part of their period of residence in the National Park.

- 6.14 Comparing the two conditions, the wording of the National Park's occupancy condition is not as stringent as Ryedale District Council's Policy in some aspects. This is in relation to the geographical connection being the National Park, as opposed to parish and adjoining parish. Also returning from a previous period of residence is left to the Local Planning Authority to judge whether their applicant's case for returning is accepted. This is very much open to interpretation on a case-by-case basis. However, the National Park requires 18 months to two years of marketing before the condition may be lifted, and it then employs a Primary Residence Condition instead.

Impacts from its implementation

- 6.15 The condition as be in place for close to nine years, and has only resulted in (at the time of writing) 57 completions from 108 permissioned units. On that basis the policy has been very effective indeed at reducing the delivery of small infill plots outside of the Market Towns and Service villages.
- 6.16 The condition has been viewed as being a contributory factor in harming property transactions in villages. The condition does not directly affect the existing housing stock in a village- which makes up the vast majority of housing in the locality, but if the condition was imposed on medium scale developments, it would be very likely to either:
- a) Reduce the likelihood of the development being rolled out in the first place; or
 - b) Increase the price of non- LONC dwellings- making them even harder for locals to purchase.

Officer's response to this general harming of property transactions is that as a policy approach it is only imposed on very small scale new market housing – which is being granted permission on the expectation that it does indeed meet a specific need. Speculative planning applications subject to the LNOC do often struggle to find occupants or owners, but that is not a fault of the policy- that is the inherent risk of making speculative planning applications without the need being fully substantiated. It is also a contributory factor as to why of 108 units have been granted permission and to date 57 have been built. Indeed, as we began to implement the condition, the Local Planning Authority would seek to establish, during the course of applications going to be subject to the LNOC, who would occupy the property to be certain that it would be occupied when built.

- 6.17 In the various discussions around the implementation of the condition, one of the biggest criticisms of the LNOC wording is the application of adjacent parishes as a 'blunt tool'. Whilst some parish connections have a greater population, some parish groupings are indeed very low in terms of generating interest and need for a dwelling due to the low levels of population. Also the use of parish and adjacent parishes only has led to some unintended quirks whereby due to the specific configuration of some parish boundaries an individual could be closer to the site than an eligible parish, but not be eligible. But to extend it to a Ryedale District level would, given the levels of housing and population centres in the district, mean that the LNOC would become very "diluted-down". It would also mean that a person in an adjacent parish to scheme, but in a neighbouring authority area would no longer be eligible, but a person living 30 miles away would be. So the LNOC is best defined by parishes in its operation, or it ceases to effectively operate in a rational way.

- 6.18 Once the condition was adopted and properties being built and perspective purchasers being found, there were concerns raised that it would not be supported by lenders- and there was some evidence of this taking place. The longstanding approach of lenders has been to seek a mortgagee in possession clause- which has been added to the planning permission as a variation of the condition of the LNOC (s.73 application) in a handful of occasions. This allows an occupancy condition's operation to be temporally nullified in the event of a default on the mortgage, so that the lender can sell the property unfettered (albeit at a reduced price). But the condition is worded such that it then kicks back in with the subsequent sale, so ensuring that the property in the event of a further sale, is available for purchase to those with a local connection. The District Council has applied such a condition to a select number of properties subject to the LNOC.
- 6.19 One of the more complex areas of implementation of the LNOC is when we have been asked to test the reasonableness of the valuation of a property which was subject to the LNOC and being marketed for sale. This is during the sale and/or when a s.73 application is made to lift the condition. The Council has sought independent valuations by chartered Surveyors, when they have been more difficult to assess - based on having complex development requirements, multiple properties or being higher value properties- regarding the asking price and valuation. Smaller, lower value properties have been assessed by officers, usually in conjunction with assessing the general sales market in the locality of the property in question. The undertaking of specific valuations of properties, can result in an additional cost to the authority.
- 6.20 We have had, by virtue of the LNOC presence, also needed to vet the eligibility of prospective buyers prior to estate agents allowing them to view properties on a scheme of 13 LNOC properties, which resulted in over 100 enquiries being directed to the authority, which needed responding to and often resulted in multiple responses. This results in additional resource pressures placed on the planning service.
- 6.21 It is becoming increasingly hard to secure independent advice because of the potential for conflict of interest in relation to using local estate agents who are familiar with the local needs occupancy condition and the effect it has on property values, in relation to their own property portfolio.

Potential future considerations

- 6.22 The Local Needs Occupancy condition has been an effective policy tool to restrict the supply of housing in the Other Villages and Open Countryside tier of the settlement hierarchy- this is clear from the relatively low levels of housing delivery.
- 6.23 However, the wording of the conditions are very stringent, and they do not result in houses which are viewable as affordable. Whilst they may meet the local circumstances of some individuals, there are a range of properties resulting from this condition which it will be difficult to find eligible occupants who can afford to live in them into the future.
- 6.24 The implementation of the condition does not deliver affordable homes. Any occupancy condition fetters the ability to sell a property because it places restrictions on who and how a property can be occupied. Occupancy conditions therefore depreciate the value of a property- they can make it easier for those with a local connection (where relevant) to buy a property, but a local needs occupancy condition

does not depress the value of a property to a level which would make it affordable on the basis of being on the same value as an affordable home delivered through policy SP3 or Exception site or other affordable housing delivery mechanism.

- 6.25 Other non-national park Local Planning Authorities in North Yorkshire do not impose occupancy conditions of this nature in their areas. Ryedale District Council is the only LPA outside of the National Parks in Yorkshire to employ a similar condition.
- 6.26 There is now a need to consider the implications of this type of occupancy condition across the new local plan geography of North Yorkshire.
- 6.27 Officers consider that despite its success as a restrictive policy tool, the LNOC is potentially no longer relevant to be applied going forward due to the need to provide a greater range of housing delivery choices, coupled with the additional complexities of its implementation for a small number of properties. Given the matter of the forthcoming LGR, it is therefore considered by Officers to potentially not be the right time to continue to progress the sustained application Local Needs Occupancy Condition. This will be a matter of Key Decisions Paper concerning the Review of the Ryedale Plan.

Application of a Principal/Primary Residence Condition

Background context

- 6.28 Second homes are, in planning terms, different to commercial holiday lets. These are true dwelling houses (with a lawful C3 use class) which can be used for permanent residential accommodation. It is then the choice of the owner of the property as to whether they rent it out/ live in at weekends/ or use it for regular holidays- often by wider family and friends – subject to complying with any restrictive covenants the property may be subject to. It is also possible that it is a second home which they use for the part of the week for work, with the main family home elsewhere. Ryedale has, using Council tax records, As of May 2021, **748** second homes in the district, which is **2.81%** of the housing stock. This is a reduction on some historical figures we had from 2004 (when it was 3.13% of the stock), which may have resulted since Ryedale District council nil-exempts second homes. Because monitoring of second homes has become more difficult in relation to Council Tax, because exemptions are no longer possible, authorities are using census data, and that is going to be updated shortly. The data is currently not broken down by parish. Below is the national dataset which has a slightly higher figure at 3% for Ryedale, but it could have been rounded:

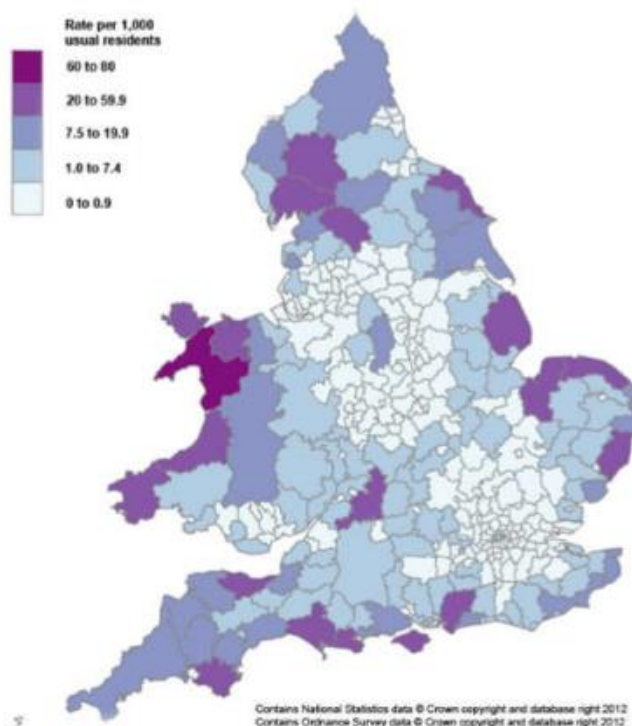
<https://www.ons.gov.uk/visualisations/dvc1589/secondhomes/datadownload.xlsx>

We are currently unable to identify whether there are hot spots for second homes by Parish in Ryedale.

- 6.29 Second homes are not commercial holiday lets, which are granted planning permission to be used as a holiday let, not as a residence, and rented out to generate income. But such lets may be privately used by family and friends up to 140 days per calendar year- and no single let can exceed 31 days. This aligns with the position of the Valuation Office about when a holiday let needs to be let to meet business rates. It forms the basis of our condition on self-catered tourist accommodation in the Ryedale Plan Local Plan Strategy (Policy SP8 and SP21).

- 6.30 There is also the ability to use a dwelling as holiday let under specific circumstances. Outside of London, there is no specific limit on the number of days a property can be let out on a short-term basis- for tourist accommodation – it is up to the planning authority to make a judgement on the facts of the case as to whether a letting amounts to a material change of use, for which planning permission must be sought. Some concern the rental of an annexe, single room, and it is sometimes the case that entire properties are rented out- for example during special entertainment or sporting events, properties are sometimes rented for a week or weekend, bringing in significant investment for the owner. It is this flexibility which has led to the rise in Airbnb and other temporary holiday letting to range in their application. They are expected to be temporary in their nature and this can make it challenging to prosecute activities which may be beyond the scope of ancillary holiday use as part of the lawful C3 planning use. For more information on how Parliament has been considering this, please read:

<https://researchbriefings.files.parliament.uk/documents/CDP-2022-0001/CDP-2022-0001.pdf>



- 6.31 Since 2016, a further form of occupancy condition has come forward: the Principal or Primary Residence Condition (PRC). This restricts the use of the dwelling to it being the occupant's primary or main place of residence. This has been implemented in areas of very high tourist interest, employed in specific circumstances to reduce the impacts of second homes on communities through various Neighbourhood Plans (which form part of the Development Plan) in Cornwall and now Devon. In Northumberland's recently adopted Local Plan, and other parts of the country are considering its use. The North York Moors National Park Local Plan (in lieu of their LNOC).

Primary/Principal Residence Occupancy Condition -implementation Case Studies

- 6.32 In Cornwall, the approach of principal residency for new market housing has been developed in Neighbourhood Plans. St. Ives Neighbourhood Development Plan (2016) was the first and won the legal challenge. Of the 58 Neighbourhood Plans which are Made (adopted) by Cornwall Council, in April 2021 8 have applied a Principal Residence policy. The implementation of a primary residence condition is also being explored in Devon through the Neighbourhood Planning Process (Salcombe in South Hams- a Coastal authority in Devon).

St. Ives Neighbourhood Development Plan Policy H2 Principal Residence Requirement

Due to the impact upon the local housing market of the continued uncontrolled growth of dwellings used for holiday accommodation (as second or holiday homes) new open market housing, excluding replacement dwellings, will only be supported where there is a restriction to ensure its occupancy as a Principal Residence.

Sufficient guarantee must be provided of such occupancy restriction through the imposition of a planning condition or legal agreement. New unrestricted second homes will not be supported at any time.

Principal Residences are defined as those occupied as the residents' sole or main residence, where the residents spend the majority of their time when not working away from home.

The condition or obligation on new open market homes will require that they are occupied only as the primary (principal) residence of those persons entitled to occupy them. Occupiers of homes with a Principal Residence condition will be required to keep proof that they are meeting the obligation or condition, and be obliged to provide this proof if/when Cornwall Council requests this information. Proof of Principal Residence is via verifiable evidence which could include, for example (but not limited to) residents being registered on the local electoral register and being registered for and attending local services (such as healthcare, schools etc).

- 6.33 Cornwall's Local Plan (adopted 2016) 2010-2030 does not employ the policy (but if it's in a Neighbourhood Plan it will be applied) and the site allocations document (2019) works alongside Neighbourhood Plans, and sets out housing sites and allocations for 10 towns. Officers have read through the wording of the Local Plan, Sites Allocations Document and the Neighbourhood Plan documents, and it is understood that allocations in parishes where the primary residence condition is adopted will all be subject to this condition.
- 6.34 Cornwall Council have produced guidance on their website for Neighbourhood Planning Purposes which sets out how it could be potentially considered. Officers have attached those documents for Members to read.

<https://www.cornwall.gov.uk/media/nt5c5jcl/principal-residence-policies.pdf>

https://www.cornwall.gov.uk/media/k2vaas1v/cornwall_secondhomes_2021.pdf

- 6.35 Northumberland Council are one the first Local Planning Authorities to use it in a Local Plan- in their Northumberland Local Plan which was very recently adopted in March 2022:

Northumberland Plan Policy HOU 10 Second and holiday homes

1. Within Parishes identified in the most up-to-date Census as having 20% or more household spaces with no usual (i.e. permanent) residents, new market dwellings will only be supported where first and future occupation is restricted in perpetuity to ensure that each new dwelling is occupied only as a 'principal residence'. This restriction will be secured through a planning condition or Section 106 agreement.

- 6.36 It is also important to be aware that all policies of the Local Plan need to be read as a whole, but for the purposes of this report the policy is identified. This is a policy which is very much in its infancy, and is being employed in very specific areas of the Northumberland UA, but it is also a policy which will have been in development for some time.
- 6.37 The implementation that the promotion of the primary residence condition is through condition or s.106 agreement. In the short term the application of a condition is more straightforward, and is undertaken as part of the consideration and determination of the application- it may well be more suited to specific property schemes of small numbers of dwellings- if applications were made to lift the condition- this would be through a s.73 application to lift/vary a condition. For larger, estate schemes it is more common to apply both a condition and/or employ a S.106 agreement, drawn up alongside other provisions of the legal agreement such as affordable housing and public open space. Ryedale also employs CIL but it is our understanding that CIL receipts would be retained on primary residency market housing (which is the type of housing a principal residence condition is directed to). It has done so for properties subject to the Local Needs Occupancy Condition, which was in place at the time our CIL Charging Schedule was examined. Properties which are self-build would be exempt from CIL.
- 6.38 All successful adoptions of this type of policy have rested on the ability to:
- Demonstrate a clear sustainable communities argument for the application of the policy- as it is not about affordable housing or meeting local needs;
 - Having a complied evidence of the scale of the use of second homes across specific geographies and over time.
- 6.39 Cornwall's Local Plan does not mention Principal Residence. Instead, it is expressed through the various Local Neighbourhood Plans which have identified within their localities where there are considered to be a key sustainability concern regarding the number of second homes/holiday lets.
- 6.40 The principle argument made in Cornwall and Northumberland around the implementation of the principal residence condition was to enhance the sustainability and viability of a communities which were evidenced to be prone to a significant proportion (in excess of 20% of the household spaces) as second/holiday homes, to ensure that services and facilities were being used, and this was key for St. Ives- where a significant proportion of properties are holiday lets or second homes- and the need for schools,

medical services, basic grocery shopping and other day-to-day services becomes increasingly diminished, the diminishment of community cohesion and pride. The frustration of people, particularly young people, unable to afford to live in the area they grew up in and now want to work, is leading to tensions in some towns and villages not just towards second homes, but also commercial holiday lets, which is being viewed by some sectors of the local community as also depriving them of housing opportunities.

Implications

6.41 It is early days for the Primary Residence Condition to see what impact it will really have. This is because Northumberland Council has only just adopted its Policy in the Local Plan, and even in the Neighbourhood Plans, there will be a time lag where existing permissions are implemented. An outline planning application approved with subsequent reserved matters could take 5 years from the original approval to be commenced.

6.42 It is clear from our experience of employing the LNOC, that occupancy conditions can fetter delivery of houses- and raise issues for the financing/lending on property, if they are applied more broadly, they can also potentially impact on the rates of wider housing delivery in certain areas.

6.43 Because the Neighbourhood Plans apply to all market housing- including allocations in the Local Plan, in Cornwall there are reports which indicate that there has been impacts on market housing delivery- and that has had a knock on effect on affordable housing delivery.

<https://www.insidehousing.co.uk/insight/insight/the-st-ives-second-homes-experiment-one-year-on-50354> (link works outside of the network) this article gives a range of perspectives on the impacts of the condition.

Looking at Cornwall Council's own Authority Monitoring Report housing delivery, would indicate that housing delivery is still strong across the area up to 2021. But it is whether upcoming consents are undermined by the condition- and current delivery is made up of sites which were in the planning process potentially prior to the PRC being employed.

<https://www.cornwall.gov.uk/planning-and-building-control/planning-policy/adopted-plans/cornwall-monitoring-report/#report>

6.44 Such a condition can only be imposed on new property- it does not address existing second homes or indeed the future sale of existing houses not subject to the condition. Some of which may then become second homes, and increased competition may increase their prices as a reaction- but this is only speculation. It is noted that since 2016 in Cornwall the median house price income ratio has risen from 9.13 to 10.99 in the years since the primary residence condition came in, but it is certainly not possible to directly correlate this rise to the primary residence condition- because house prices have broadly rising in most areas, and were rising prior to its implementation.

6.45 It is likely that in the Northumberland Local Plan area, the impacts on wider housing delivery will be more muted by the PRC. The reason for this is that as a Local Planning Authority area Northumberland can be viewed as having a marked spatial profile: from its southern area which has the greatest areas of population, and commercial activity, compared to its more northern and western areas. It is noted by Officers that the majority of housing allocations are not in the coastal areas, or areas close to or within the National Park which are noted as being the primary focus for second homes: The

indicative distribution of the housing requirements placing of the 17,700 new homes with about 75% of those in the central and southern areas of Northumberland (with the rest to the west and north). This central and southern areas for the most part does not include the coastal areas, nor the areas close to the edge of the National Park Boundary- areas identified where the incidence of second homes is highest, and even then- census data will be employed to establish whether the parish of the development has 20% or more with no usual residency. What this means is that by employing this approach Northumberland is likely to have the majority of its housing delivery unaffected by a primary residence condition, and it will effect only specific parishes and settlements.

The bigger picture

- 6.46 The development of the Primary Residence Condition stems from a desire to promote sustainable communities, which is understandable when second home occupancy is very high in some areas, and they are being used in a very infrequent manner. There are, however, underlying long-term and complex economic realities which need far wider consideration within many rural areas, which is around the affordability of housing and the economic/job profile of these predominantly rural areas. Tourism, particularly in Cornwall and northern Northumberland, alongside agriculture are the mainstays of the economy. They are also relatively low-level wage earnings. A recent article reports this in June 2022: <https://www.bbc.co.uk/news/business-57403083>
- 6.47 Those employed in agriculture stand a better chance if they can access a property with an agricultural occupancy condition. But a person, or even a couple, employed in the tourist/hospitality industry, for example, still stands little chance of being able to compete to buy properties with a primary residence condition. Cornwall's median average house price to income ratio in 2021 is 10.99, and 9.97 in the South West region. In Ryedale it is 9.47 North Yorkshire is 8.75 and Yorkshire and the Humber is 6.42. Most mortgages are now 4-4.5 x salary.
- 6.48 But also for those young people who have obtained qualifications and experience in a range of professions may not be able to return to where they grew up. Due to both a lack of favourable employment prospects and/or a lack of affordable housing opportunities and so they do not return. This is in itself compounding the lack of younger people and their future families within these rural localities, and skewing the demographic make-up of places.
- 6.49 So whilst the formation of second homes is being seen as a community sustainability issue, it is important to remember that a primary residence condition does not address the underlying cause of unaffordability, or employment opportunity. Neither does it make a property affordable for the vast majority of individuals or families who are in housing need, nor make them only available to people from a particular locality. Instead they continue to attract, in particular, those who were looking to buy a residence in the area: mobile established professionals with or without family and the incoming retired- who have the capital or earning power to buy a property and live in it. This too ultimately may not result in a balanced demographic- with resulting stress particularly on health care services.
- 6.50 Crucially, what the primary residence condition cannot achieve is make more properties affordable: They are still properties sold on the open market and when sold, those working and living in the area may find that they are still outbid by incoming buyers. The condition does not make that degree of distinction regarding local needs. It is therefore

perhaps one of reasons why Northumberland and Cornwall are the first areas to employ the condition- they have acute affordable housing issues in areas which have traditional lower wage economies in agriculture and tourism/hospitality, but crucially they are also have very clear areas which have a significant number of second homes.

- 6.51 Existing dwellings cannot be prevented from becoming second homes as there is no planning change of use, and until the Use Classes Order is changed by secondary legislation this will continue to remain the case. There is every possibility that irrespective of these policy interventions- new second homes will continue to be created.
- 6.52 Some view the development of purpose-built holiday let accommodation as being a solution to be used by visitors, to then free up smaller properties in the villages. But it is their very attractiveness of the settlements themselves and the character of the smaller cottages, often close to harbours and beaches, or key open access areas, which are the driving attractant for people to acquire these smaller properties for holiday letting and for them to be then rented out by tourists. Which means that without additional policy intervention, such as identifying areas which would not be supported in their change of use to commercial holiday lets this would not change their desirability. If commercially let and/or used year round, they contribute to the local economy in a range of ways because of the fact that they are not-all-inclusive holiday packages. So their loss would have the capacity to adversely affect the hospitality economy in the locality.
- 6.53 The primary residence condition could have inadvertent consequences if it is used in a blanket fashion- it does depress property values and could act as a stymie on the delivery of our housing requirement in the plan- which could affect wider housing delivery- and undermine the review as a whole. Indeed is currently not employed as a sweeping strategic policy anywhere: it is used in a targeted fashion. Thus helping to ensure that it is only employed where necessary. The use of primary residence condition has been employed in a new local plan for the new political geography of Northumberland UA Council, but even so, it is done on the basis that:
 - a) The condition is only applied in certain areas; and
 - b) It is unlikely to be applied to the significant majority of the housing delivery expected in the plan area.

Conclusions

- 6.54 Officers consider that if Members are minded to pursue a PRC into the future the follow aspects need to be considered:
 - a) The implementation of a PRC will not stop the formation of new second homes within the existing build stock;
 - b) It does not address underlying issues of housing affordability and employment opportunity;
 - c) Is challenging to develop the evidence base for the approach and application of such a policy over the Ryedale area in a targeted fashion alongside other statutory plan-making work;
 - d) The decision to employ a principle residence condition also needs to consider the resulting spatial implications for wider housing delivery in the District and impacts on land supply;
 - e) With the formation of a new Council next spring it is premature to instigate the application of a primary residence condition through the partial review of the Ryedale

Plan- it is a matter which is best explored through the development of the new development plan framework for the new authority- and that may be through exploration of a similar policy to Northumberland or through the neighbourhood plan process (as with Cornwall). It is considered that decision needs to be grounded in a full spatial analysis of the nature of second homes across the North Yorkshire Council area, with an understanding of wider housing delivery implications, with decisions to be made by the new authority within the next 5 years. Officers therefore consider that this would not be the right time for Ryedale District Council to promote this principle, and to go out on a limb with it at this time.

- 6.55 The decision to explore in more detail the principal residency condition approach would also impact on plan review timescales. It is also potentially a matter which undermines the policy making environment in this transitional period to one new authority area- and potentially could see the review of the Ryedale Plan not progressed as a worst-case scenario.

7.0 IMPLICATIONS

- 7.1 The following implications have been identified:

a) Financial

A budget has been allocated to the review of the Plan, but the imposition of the PRC may result in additional resources to develop the evidence base to justify its implementation

b) Legal

The legislation does not prevent partial reviews of plans from being undertaken, and this report is for Members consideration and does not make decisions on matters of policy

c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental and Climate Change, Crime & Disorder)

No direct implications for all aspects as no policy changes are recommended at this time.

8.0 NEXT STEPS

- 8.1 The consideration of sustaining the LONC or the implementation of a PRC will be considered by Members for decision in a Key Decisions paper which will be taken to members of the LPWP in the Autumn, and from this onto Policy and Resources Committee.

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Background Papers:**Distribution of Development Consultation document**

https://www.ryedale.gov.uk/content/uploads/2021/11/Distribution-of-Development-consultation-Nov-consultation-FINAL_.pdf

Summary of responses is Appendix 1.

