

**Item Number:** 13  
**Application No:** 22/01052/73  
**Parish:** Claxton Parish Council  
**Appn. Type:** Material Amendment  
**Applicant:** Claxton Grange Venture LLP  
**Proposal:** Removal of condition 02 of planning approval 15/00014/MFUL dated 10.09.2015 to allow the removal of local needs occupancy condition to dwellings 03, 08, 11, 12 and 14  
**Location:** Claxton Grange Malton Road Claxton Malton North Yorkshire YO60 7RE  
**Registration Date:** 15 September 2022  
**8/13 Wk Expiry Date:** 10 November 2022  
**Overall Expiry Date:** 26 October 2022  
**Case Officer:** Alan Goforth **Ext:** 43332

#### CONSULTATIONS:

**Claxton Parish Council** Objects to this application, as it does not support young people living in the area

**Representations (1):** Mr Mark Groves (objection)

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#### BACKGROUND:

The application is to be determined by Planning Committee as it is subject to an objection from the Parish Council and a local resident.

#### SITE:

The application site comprises a farmhouse and 13 cottages located within the Parish of Claxton. The site is outside the development limits of the settlement and within the open countryside. The site is 7 miles from York and 11 miles from Malton. The site is on the northern side of the A64 and is served by a separate unclassified road from the A64. This unclassified roadway has two separate access points onto the A64 to the east and west of the application site. The existing complex is served by a shared swimming pool and open spaces. There are dedicated parking areas for the units.

The site was previously operated as a complex of 13no. holiday cottages associated with planning permissions originally approved in 1981 and subsequently amended in 1983 and 1996. The most recent planning permission from 2015 allowing the cottages to be used permanently as dwellings (see planning history) has been implemented.

The dwellings are a mixture of single and two storey cottages of brick and pantile construction. The application relates to the dwellings numbered 03, 08, 11, 12 and 14 (No property is numbered 13) which are summarised as follows:-

- Number 03, also known as Chippendale, is a two storey three bedroom mid terrace cottage with a floor area of 76.8m<sup>2</sup> and private garden and allocated parking. Marketed for sale at £161,600.
- Number 08, also known as Moore, is a single storey two bedroom mid terrace cottage with a floor area of 62.4m<sup>2</sup> and private garden and allocated parking. Marketed for sale at £135,200.
- Number 11, also known as Rowntree, is a two storey four bedroom end of terrace cottage with a

floor area of 136.8m<sup>2</sup> and private garden and allocated parking. Marketed for sale at £239,200.

- Number 12, also known as Trueman, is a single storey two bedroom mid terrace cottage with a floor area of 49.4m<sup>2</sup> and outdoor patio area and allocated parking. Marketed for sale at £114,400.
- Number 14, also known as Hockney, is a single storey two bedroom end of terrace cottage with a floor area of 69.6m<sup>2</sup> and private garden and allocated parking. Marketed for sale at £135,200.

## **HISTORY:**

18/00786/COND- Discharge of Conditions 03, 04, 05, 06, 07, 08, 09, 10 and 11 of approval 15/00014/MFUL dated 10.09.2015. APPROVED 03.09.2018.

15/00014/MFUL- Change of use with alterations of 13no. holiday cottages to form 1no. four bedroom dwelling, 4no. three bedroom dwellings, 7no. two bedroom dwellings and 1no. one bedroom dwellings with parking and amenity areas and communal facilities. APPROVED 10.09.2015.

## **PROPOSAL:**

Planning permission is sought for the removal of condition 02 of planning approval 15/00014/MFUL dated 10.09.2015 to allow the removal of local needs occupancy condition to dwellings 03, 08, 11, 12 and 14.

Condition 2 states:-

*'The 13 no. dwellings hereby approved shall only be occupied by a person(s) together with his/her spouse and dependants, or a widow/widower of such a person, who:*

- *Have permanently resided in the Parish, or adjoining parish, 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 or 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.*

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

It is proposed that the existing condition is replaced with a condition worded as follows:-

*'Of the 13no. dwellings hereby approved, those 8no. dwellings numbered Nos. 1, 2, 4, 5, 6, 7, 9 and 10 on Drawing Y-SB-BSP-08448-20-300-15-F shall only be occupied by a person(s) together with his/her spouse and dependents, or a widow/widower of such a person, who:*

- *Have permanently resided in the Parish, or adjoining parish, for at least 3 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 or 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 the age or infirmity to move to be near relatives who have been permanently resident within the District for at least the previous three years’.*

The application is accompanied by a Supporting Statement and a marketing report produced by estate agents Churchills copies of which are appended to this report.

The applicant states that *“The marketing strategy has clearly demonstrated that, whilst there was demand for 8no. of the 13no. properties to be purchased and occupied in accordance with the restrictive LNO condition, there was insufficient demand for all 13no properties to be purchased in this respect, despite the marketing exercise extending for over 50% longer than agreed with the LPA. This is representative of a demonstration of circumstances that align with the provisions Criterion (g) of Policy SP21 (Occupancy Restrictions) of the Ryedale Local Plan – Local Plan Strategy and with the properties in question being equally physically capable to be occupied as LNO dwellings, as currently approved, as they are to be occupied as open market dwellings without such restrictions, as proposed”.*

## **POLICIES:**

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 planning authorities are required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The Development Plan for the determination of this particular application comprises the following:

- The Ryedale Plan- Local Plan Strategy (2013)

### The Ryedale Plan - Local Plan Strategy (2013)

Local Plan Strategy - Policy SP1 General Location of Development and Settlement Hierarchy  
Local Plan Strategy - Policy SP2 Delivery and Distribution of New Housing  
Local Plan Strategy - Policy SP19 Presumption in Favour of Sustainable Development  
Local Plan Strategy - Policy SP21 Occupancy Restrictions

### Material Considerations

National Planning Policy Framework (NPPF)  
National Planning Practice Guidance (PPG)

## **REPRESENTATIONS:**

The LPA has received 1 representation from the occupant of Claxton Lodge, Flaxton. The objection states the following:-

- *“The properties were on right move for no longer than a month and I also believe a number of offers from local people have been rejected by the Helmsley Group to secure sufficient time for this application to be submitted and approved.*
- *Ryedale needs these opportunities now more than ever with house prices so I would request that the properties are re-marketed and you have some audit or transparency to assess which offers are been rejected and for what reason”.*

## **APPRAISAL:**

This application is made under Section 73 of the Town and Country Planning Act 1990 to remove condition 2 of planning approval 15/00014/MFUL dated 10.09.2015 insofar as it relates to dwellings 03, 08, 11, 12 and 14. The 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 5no. dwellings listed above from the Local Needs Occupancy Condition (LNOC). If the LNOC is lifted the properties will be sold on the open market without any eligibility criteria. This section of the report shall set out and consider:

- i. The reason for the application of the LNOC through Policies SP1, SP2 and SP21; and
- ii. The circumstances around the lifting of such conditions through Policy SP21.

#### The reason for the application of the LNOC

The application site is outside of development limits and within the open countryside. Policy SP1 (General Location of Development and Settlement Hierarchy) of the Ryedale Plan-Local Plan Strategy (RPLPS) makes it clear open countryside locations are areas of housing restraint where development will be restricted to that which is necessary to support a sustainable, vibrant and healthy rural economy and communities; which can be justified to secure significant improvements to the environment or conservation of significant heritage assets or, to that which is justified through the neighbourhood planning process.

Accordingly, Policy SP2 (Delivery and Distribution of New Housing) of the RPLPS sets out the limited scenarios where new residential development in the open countryside will be permitted which includes the *'Change of use of tourist accommodation (not including caravans, cabins or chalets) where appropriate and restricted to Local Needs Occupancy'*.

In assessing the proposed development the subject of permission ref. 15/00014/MFUL the Officer report states that the applicant *"accepted the requirement for the Local Needs Occupancy condition"* and it was noted by the Case Officer that *"a major employer is located within the adjoining Parish which is also likely to create some degree of housing need. Officers consider that these 13 units are capable of being occupied on this basis and that there is a potential need for such accommodation"*.

The Case Officer is aware that the Council has commenced a review of the Ryedale Plan-Local Plan Strategy and has consulted on options for the future of the LNOC. However, the consultation exercise has no bearing on the current status of the policies contained within the Ryedale Plan-Local Plan Strategy and as stated in Section 38(6) of the Planning and Compulsory Purchase Act 2004 planning authorities are required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise.

Policy SP21(a) of the RPLPS, in relation to local needs occupancy, states: *"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"*.

The adjacent parishes to Claxton are Harton, Buttercrambe with Bossall, Sand Hutton, Stockton on the Forest.

The application of the LNOC is intended to fulfil two functions in relation to the spatial approach of residential development: firstly, to provide housing to meet identified, locally derived needs and not meeting externally-driven demand. Secondly, it acts to restrict the supply of housing in the less sustainable settlements, so residential development is focused on the Market Towns and Service Villages. It is not imposed to deliver affordable housing.

However, after the dwelling has been constructed, there can be instances where, in time, the condition is no longer relevant or reasonable to apply.

#### Circumstances around the lifting of Occupancy Conditions

Policy SP21(g)(i) of the RPLPS relates to the lifting of occupancy restrictions and states:

*‘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’.*

Policy SP21(g)(i) sets out the situation where in time, there may come a point where the LNOC 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. The policy does, however, require a rigorous approach to assessing applications to lift occupancy conditions.

The policy does not prescribe any specific requirements of any marketing exercise for properties subject to the LNOC in terms of the length of the marketing period or the percentage reduction below open market value but it is generally accepted as being in the range of 15-20%.

The marketing of the properties commenced on 14 December 2020 in accordance with the agreed marketing strategy and ran until 3 March 2022. The marketing period extended to almost 15 months which is 6 months beyond the 9 month marketing period agreed with the LPA during the pre-application process.

Each of the 13 properties were marketed at a price which reflected the LNOC (20% reduction on open market valuations) and at a price which was agreed with the LPA following independent valuations.

The properties have been marketed in the estate agent’s three local offices in York city centre; Bishopthorpe Road and Acomb; on their website; and also on major online property portals. The estate agent also utilised their social media accounts to market the properties. All the sales particulars make it clear that each property is subject to the local occupancy clause.

The estate agent’s schedule of enquiries details the interest in all 13 properties and those who have had viewings, made offers and those which have been completed. A total of 8 of the 13 properties have been sold to purchasers meeting the LNOC criteria.

The estate agent’s marketing records show that a sale was agreed at the asking price for each of the five properties but in each case the offer was later withdrawn.

The applicant has explained that *“As per the Marketing Report, the properties initially attracted a large amount of interest but with this mostly from parties that did not meet the local needs occupancy condition. Interested parties were provided with the planning officers contact details so that the occupancy condition could be discussed – this being at the request of the LPA during the pre-application process. The lower pricing due to the local needs occupancy condition attracted a number of young buyers who met the criteria but who subsequently decided that the properties were not for them, principally due to their isolated location”.*

The LPA also kept a log of contact from interested parties during the marketing period. The log

indicates a good level of interest although the majority from potential buyers who did not comply with the LNOC eligibility criteria. This corresponds with the records kept by the estate agent.

The marketing exercise illustrates that there has been demand for a number of the dwellings to be occupied by those meeting the LNOC criteria and that latent local need has been met. However, there has been insufficient demand for all 13 LNOC properties despite the extended marketing period.

It is noted that Claxton Grange is not a common-place scenario for selling properties subject to the LNOC. The site is in a relatively isolated location in relation to York, or indeed any settlement, which may not appeal to younger people in the locality despite their size and price. The complex of properties is compact with the dwellings arranged very much 'cheek by jowl'. Nevertheless, the dwellings have been deemed capable of permanent residential occupation.

Whilst there is clear interest in the properties to be occupied on a permanent basis the evidence suggests that the local demand has been met and there are difficulties in disposing of the remainder to parties complying with the LNOC. The large number of LNOC properties in a relatively constrained geographical area has potentially oversaturated the market.

The comments of the Parish Council are noted, however, the application does not seek to alter the occupancy condition with regards the age of people who might wish to live in the properties. Likewise the comment from the member of the public is noted, however, no evidence has been provided to substantiate the allegations made. The evidence available to the LPA does not indicate that offers at or near to the asking price from eligible buyers were rejected.

The Case Officer is aware that there have been circumstances where the LPA has agreed to the variation of the wording of the standard LNOC condition to include a 'mortgagee in possession' clause to overcome specific lenders concerns. That is a scenario which is very much driven by the lender.

Whilst Officers would not dispute that in certain circumstances the 'mortgagee in possession' clause is beneficial to the buyer and the lender this is not applicable in this case in the absence of such a request from a buyer or lender and is a matter beyond the scope of what the Local Planning Authority is being asked to consider in the current application. Officers can only consider the application on its own merits, based on the facts and evidence provided.

The LPA is satisfied with the approach to marketing of the property and the documentary evidence submitted in support of the applicant demonstrates a robust marketing exercise has been conducted. The properties have been marketed at a price which reflects the presence of the LNOC for a reasonable period of time in order to test the market and local demand.

The applicant has provided sufficient justification and up to date and compelling evidence to warrant the lifting of the a occupancy condition from the dwellings numbered 03, 08, 11, 12 and 14 in compliance with the requirements of Policy SP21(g) of the adopted Ryedale Plan- Local Plan Strategy 2013. It is considered that in this instance the local need has been met and that it is not reasonable, given the pricing and marketing that had been undertaken, to continue to impose the condition in relation to the five remaining properties.

### Conclusion

Policy SP21(g) allows consideration to be given to lifting of occupancy conditions on a case by case basis.

It is evident that the dwellings are capable of permanent residential occupancy. The Local Planning Authority does not want to prevent the ability of the dwellings to be occupied.

In this case it is considered that based on the information provided the properties have been advertised at a price which fairly reflects the presence of the LNOC and marketed for a sufficient period of time to robustly test the market. It is therefore considered that there is sufficient evidence and justification to

demonstrate that the local occupancy condition associated with these five properties should be removed as there is no locally-derived need.

In light of the above the application is recommended for approval.

**RECOMMENDATION:                      Approval**

- 1            Of the 13no. dwellings hereby approved, those 8no. dwellings numbered Nos. 1, 2, 4, 5, 6, 7, 9 and 10 on Drawing Y-SB-BSP-08448-20-300-15-F shall only be occupied by a person(s) together with his/her spouse and dependents, or a widow/widower of such a person, who:
- Have permanently resided in the Parish, or adjoining parish, for at least 3 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 or 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 the age or infirmity to move to be near relatives who have been permanently resident within the District for at least the previous three years.

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

- 2            Unless otherwise agreed in writing with the Local Planning Authority, the development hereby approved shall be carried out in accordance with the details approved under the discharge of planning conditions reference 18/00786/COND.

Reason: For the avoidance of doubt and to comply with Policies SP16 & SP20 of the Ryedale Plan Local Plan Strategy.

- 3            Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted development) Order 1995 (or any Order revoking, re-enacting or amending that Order), development of the following classes shall not be undertaken other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:

Class A: Enlargement, improvement or alteration of a dwellinghouse

Class B: Roof alteration to enlarge a dwellinghouse

Class C: Any other alteration to the roof of a dwellinghouse

Class D: Erection or construction of a domestic external porch

Class E: Provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of a dwellinghouse or the maintenance, improvement or other alteration of such a building or enclosure.

Reason: To ensure that the appearance of the area is not prejudiced by the introduction of unacceptable materials and/or structure(s) and to satisfy Policy SP20 of the Ryedale Plan - Local Plan Strategy.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site location plan;

Drawing No. M02/985/01;

Drawing No. M02/985/02;

Drawing No. M02/985/03;

Drawing No. M02/985/04;

Drawing No. M02/985/06; and

Conveyancing Plans Drawing no. Y-SB-BSP-08448-20-300-15-F, dated 03.03.2022

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

## **INFORMATIVE**

Clean roof water may be discharged to ground provided that all roof water downpipes are sealed against pollutants entering the system from surface run-off, effluent or other forms of discharge. The method of discharge must not create new pathways or pollutants to groundwater.