

LS/CS/01/n1910

Head of Planning  
Development Management  
Ryedale District Council  
Ryedale House  
Malton,  
YO17 7HH

FAO Mrs. Rachael Balmer

14<sup>th</sup> September 2022

Dear Sir/ Madam

**s.73 APPLICATION TO VARY CONDITION 2 OF PLANNING PERMISSION 15/00014/MFUL  
CLAXTON GRANGE, MALTON ROAD, CLAXTON, YO60 7RE**

nineteen47 is instructed by Claxton Grange Venture LLP [the "Applicant"] to prepare and submit an application ["the Application"] to Ryedale District Council ["the LPA"] under s.73 of the Town and Country Planning Act to vary Condition 2 of planning permission 15/00014/MFUL ["the 2015 Permission"] so as to remove the Local Needs Occupancy ["LNO"] restriction for 5 no. of the 13no. properties it relates to ["the Proposed Development"] within the complex known as Claxton Grange, off Malton Road (the A64) in Claxton, YO60 7RE ["the Site" or the "Application Site"]. A copy of the decision notice for the 2015 Permission is included in Appendix 1.

In support of this Application, the following information is submitted alongside this supporting letter:

- Application Forms and Certificates;
- Site Location Plan (n1216 001 Rev A)
- Drawing (Y-SB-BSP-08448-20-300-15-F)
- Marketing Report by Churchills Estate Agent.

The application fee of £234 plus the Planning Portal's administration fee has been paid via the Planning Portal.

### Background

The Site comprises a farmhouse and 13no. residential dwellinghouses located within the Claxton Grange complex, situated approximately 10km to the north-east of York. The Site is situated on the northern side of the A64, outside the development limits of Claxton.

Access to the Site is achieved via an unclassified road accessed off the A64. The unclassified road has two separate access points onto the A64 via the east and west of the Site. Bus stops are located either

side of the A64 in the vicinity of the Site at the junction with Whinny Lane and with these providing a good level of service to Malton and Scarborough to the east and York and Leeds to the west.

The site has a varied planning history and has formerly operated as a complex of 13no. holiday cottages associated with planning permissions originally approved in 1981 and subsequently amended through permissions granted in 1983 and 1996.

More recently, planning permission was granted in 2015 (15/00014/MFUL) [“the 2015 Permission”] for the change of use of the 13no. holiday cottages to form 1no. four-bedroom, 4no. three-bedroom, 7no. two-bedroom and 1no. one-bedroom dwellings with parking and amenity areas and communal facilities. The LPA has confirmed in a letter from its planning officer, Alan Hunter, dated 6<sup>th</sup> September 2018 that the 2015 Permission has been lawfully implemented on site.

The 2015 Permission sought to restrict the occupancy of the 13no. dwellings to those persons that satisfied the requirements of a LNO condition (Condition 2) in order to meet the requirements of Policies SP2 and SP21 of the Ryedale Local Plan – Local Plan Strategy (adopted 2013). The farmhouse within the Site is not the subject of the restrictive LNO condition.

A pre-application enquiry was submitted in April 2019 to obtain the LPA’s advice on removing the LNO condition from the 2015 Permission and any associated implications this could result in. A formal pre-application response was received on 21<sup>st</sup> June 2019 (ref: 19/00484/PREAPP), with the LPA advising that it would be necessary for a comprehensive marketing exercise to be carried out for a reasonable period of time in order to gauge if there was any local interest in the properties in their lawful use as dwellings subject to a LNO condition, before a s.73 application to vary Condition 2 of the 2015 Permission could be supported.

A proposed marketing strategy, prepared by Churchills Estate Agent of York, was subsequently submitted to the LPA on 9<sup>th</sup> March 2020, seeking agreement to the general scope of a marketing exercise and agreement to the prices that the individual properties should be marketed at as part of that strategy (to include a 20% reduction to account for the LNO restriction) – a copy of this information being included in Appendix 2. In response, the LPA obtained independent valuations for the properties from Savills and, after further discussions, the scope of a marketing strategy, including the prices the individual properties should be marketed at, were agreed with the LPA in December 2020 – a copy of these communications being included in Appendix 3.

The marketing of the properties commenced on 14<sup>th</sup> December 2020 in accordance with the approved marketing appraisal and ran until 3<sup>rd</sup> March 2022.

### Assessment of the Proposed Development

As is evident from the Site’s planning history and the LPA’s pre-application advice, the main issue associated with the variation of the LNO condition (Condition 2 of the 2015 Permission) is the need to demonstrate that there is no demand for LNO housing in this particular location and, subject to this, with the condition in question then varied such that it relates only to specific numbered properties within the complex which would continue to be subject to the LNO restriction.

In this respect, Policy SP21 (g) of the Ryedale Local Plan – Local Plan Strategy states that the lifting of occupancy conditions will be considered on a case-by-case basis. The policy provides that the capability and suitability of the units being occupied as permanent residential units, together with any

changes in circumstances which mean the occupancy restriction is no longer applicable, will be considered as part of any such application to remove the condition.

The Site has been marketed dating as far back as September 2011, though, following pre-application discussions with the LPA in 2019 and 2020, a detailed and focused marketing strategy was subsequently agreed, which commenced in December 2020 and ended on 3<sup>rd</sup> March 2022.

Following the completion of the marketing exercise, a Marketing Report was prepared by Churchills Estate Agent. A copy of this Marketing Report accompanies the Application and its findings are summarised below.

The Marketing Report found that, whilst a healthy number of initial queries were received in respect of the properties during the first few weeks of the marketing exercise, there was only limited demand from potential purchasers that satisfied the requirements of the restrictive LNO condition.

As a direct result of the marketing strategy – which extended significantly beyond the 9no. months the LPA was agreeable to - a total of 8no. of the 13no. properties the subject of the 2015 Permission have been sold to purchasers meeting the LNO requirements secured by Condition 2 of the 2015 Permission – Nos. 1, 2, 4, 5, 6, 7, 9 and 10. However, 5no. of the 13no. properties remain unsold following the completion of the marketing strategy - Nos. 3, 8, 11, 12 & 14.

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.

### Proposed Variation to Condition 2 of the 2015 Permission

It is therefore proposed that the wording of Condition 2 of the 2015 Permission is varied to the following:

As referenced above, the Applicant seeks to vary the LNO condition such that for 5 no. properties.

In order to undertake the aforementioned revision, it is necessary to vary Condition 2. The revised Condition 2 should, therefore, read 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.

## Summary

This Application seeks to amend the 2015 Permission in order to vary the LNO restriction imposed by Condition 2, such that it does not apply to the 5no. properties, numbered 3, 8, 11, 12 and 14, as detailed by drawing no. Y-SB-BSP-08448-20-300-15-F.

An agreed marketing strategy has demonstrated that there is no demand for these 5no. properties to be purchased and occupied as LNO dwellings 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.

The proposed variation to Condition 2 of the 2015 Permission is therefore in accordance with the relevant policies of the Development Plan and it is respectfully requested that permission be granted accordingly.

We look forward to discussing the Application with you in due course but, in the first instance, would be grateful for confirmation of its validation. If you have an queries or otherwise require clarification on any matter, please do not hesitate to get in touch.

Yours faithfully

**Carl Stott**

Director

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Enc. Appendix 1: Decision Notice (15/000/MFUL)  
Appendix 2: Marketing Strategy (March 2020)  
Appendix 3: LPA Agreement to Marketing Strategy/Values