

## Ref: 19/01646/PPP - Planning at Land South East of Tarf House, West Linton

Appeal to request removal or variation of Condition 3 which requires that *“the occupation of the proposed dwellinghouse is limited to a person employed in the saddle and leather goods businesses”*.

Condition 3 is the single obstacle preventing construction of the house and workshop from starting as the applicants cannot obtain mortgage lending. No mortgage lender is willing to lend as they must ensure that, should the need arise to repossess the property, they can re-sell to recover the funds loaned.

Funding is also not available via the Scottish Government’s Self-Build Fund as Applicants must evidence that they can access mortgage lending on completion to repay the loan.

The Scottish Government’s [Planning Circular 4/1998: the use of conditions in planning permissions](#) states that planning conditions should only be imposed where they are:

- Necessary
- relevant to planning
- relevant to the development to be permitted
- enforceable
- precise
- reasonable in all other respects.

It is our position that Condition 3 fails the “reasonableness” test for being unduly restrictive. Planning Circular 4/1998 warns against conditions that effectively nullify the benefit of the permission granted and which are unworkable in practice. Furthermore, it advises that conditions must avoid onerous requirements, for example conditions that place a severe limitation on the freedom of an owner to dispose of their property, or which would make it difficult to finance construction of the permitted building by borrowing on mortgage.

Multiple lenders have stated they cannot provide lending due to the Condition; one advising it is *“unworkable... the property is un-mortgageable with that restriction”*.

Planning permission was granted based on a comprehensive business case providing a sustainable economic justification for a house and workshop at West Tarf. Erlend Milne has been working for five years to relocate his saddlery and leather-work business to the Borders where he lives. The new house and workshop have the relevant Planning Permission and Building Warrant necessary to commence construction.

Erlend Milne has secured a substantial contract to manufacture leather components for a multi-national company and a pressing economic need for a permanent workshop to house specialist machinery and enable further employment. It is a necessity to have permanent premises constructed through removal of this barrier to borrowing on mortgage.

### Remedies sought

1. Removal of Condition 3 as it fails the “reasonable” test.  
This also safeguards security for the Applicant’s new family home as whilst a lender may be willing to accept a varied condition now, there is no guarantee that lending rules will not be tightened in future years – which would potentially prevent re-mortgaging.  
*or, as a worst case scenario,*
2. Vary condition to satisfy mortgage requirements (proposed wording provided).  
A “mortgagee in possession” clause would allow mortgage lending to be obtained as provides protection for the lender. Should the property be re-possessed by the lender, the Condition will not apply, and the lender can offer the property for sale without restriction.