

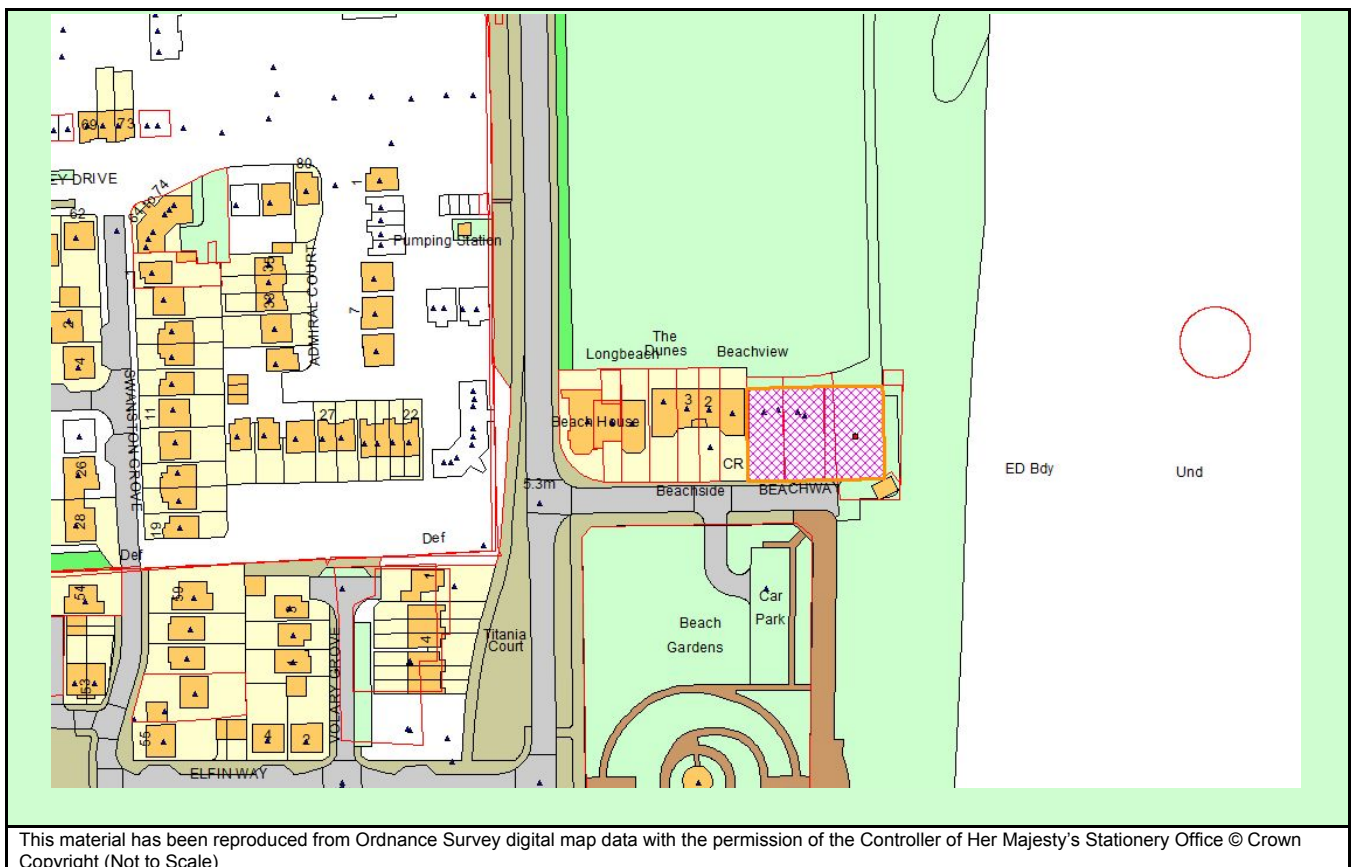
NORTHUMBERLAND

Northumberland County Council

Ashington & Blyth Local Area Council Planning Committee

14 February 2018

Application No:	17/04659/VARYCO		
Proposal:	Variation of condition 1 pursuant to planning permission 16/02735/FUL in order to extend timeframe for seawall works.		
Site Address	Bayview , Beachway, Blyth, NE24 3PG		
Applicant:	Mr Barry Elliott Bayview , Beachway, Blyth, Northumberland NE24 3PG	Agent:	Mr Paul Draper Old Station Masters House, East Cowton, Northallerton, DL7 0DS
Ward	Wensleydale	Parish	Blyth
Valid Date:	27 December 2017	Expiry Date:	21 February 2018
Case Officer Details:	Name: Mr Geoff Horsman Job Title: Senior Planning Officer Tel No: 01670 625553 Email: geoff.horsman@northumberland.gov.uk		



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1. Introduction

1.1 This application has been considered by the Head of Planning Services and the Chair of the Local Area Council as it is the subject of an objection from Blyth Town Council. It was resolved that the application should be decided by the Local Area Council given the sensitive planning history of this site including previous enforcement action.

2. Description of the Proposals

2.1 Permission is sought under Section 73 of the Town & Country Planning Act 1990 to vary condition 1 attached to planning permission reference 16/02735/FUL granted by the County Council on the 15 February 2017.

2.2 This planning permission gave approval for the retention of 3 dwellings at Beachway, a small cul-de-sac of dwellings off Links Road in the south of Blyth. The eastern boundary of the application site is bounded by Blyth beach and the North Sea and condition 1 attached to this permission required the construction of a new sea wall and gabion baskets to be completed by the 30 December 2017 in the interests of coastal protection.

2.3 This condition has not been complied with and the applicant is seeking a further 12 months until the 30 December 2018 to construct the sea wall and gabion baskets.

2.4 In this regard further applications (refs: 17/02476/FUL and 17/02838/DISCON) were submitted in July/August 2017 for an extension to one of these 3 properties known as 'Bayview' which is the property closest to the sea wall and for discharge of conditions attached to permission ref: 16/02735/FUL which included conditions regarding the details of sea wall works. Discussions took place with the applicant during the Autumn of last year regarding the sea wall works but agreement has not yet been reached with the County Council regarding the detail of these works. It is anticipated that both these applications will be progressed in tandem with agreeing further details re the sea wall should this current application be approved. Under such circumstances the discharge of condition application would be decided under delegated powers subject to the LLFA and the Council's Structural Engineer being satisfied with any details submitted. The application for an extension to 'Bayview' will be referred to the Ashington & Blyth LAC in due course.

2.5 There is also a Section 106 Agreement related to planning permission ref: 16/02735/FUL that requires completion of the sea wall works by the 30 December 2017.

2.6 The application site lies within the town of Blyth with built development to the north and west. The Blyth links lie to the south and as stated above, Blyth beach and the North Sea lie to the east. The land to the east lies within the Northumberland Shore Site of Special Scientific Interest (SSSI).

3. Planning History

Reference Number: 11/02072/FUL

Description: Erection of 5no. three bedroom, three storey detached townhouses.

Status: Refused

Reference Number: 12/01990/FUL

Description: Resubmission: Demolition of existing dwelling and outbuildings to build 3no. new detached dwellings

Status: Approved

Reference Number: 12/03705/VARYCO

Description: Variation of condition 2 relating to planning permission 12/1990/FUL (Resubmission: Demolition of existing dwelling and outbuildings to build 3no. new detached dwellings)

Status: Approved

Reference Number: 13/02096/DISCON

Description: Discharge of conditions 4, 5, 6, 8, 9 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 25 and 26 relating to planning permission 12/03705/VARYCO

Status: Pending decision

Reference Number: 13/02447/VARYCO

Description: Variation of condition 2 relating to 12/03705/VARYCO (Variation of condition 2 relating to planning permission 12/1990/FUL -Resubmission: Demolition of existing dwelling and outbuildings to build 3no. new detached dwellings)

Status: Refused

Reference Number: 13/02956/DISCON

Description: Discharge of conditions 27 and 28 of 12/03705/VARYCO (Variation of condition 2 relating to planning permission 12/1990/FUL (Resubmission: Demolition of existing dwelling and outbuildings to build 3no. new detached dwellings)

Status: Refused

Reference Number: 16/02735/FUL

Description: Retention of 3No. Self-Contained Dwellings

Status: Approved

Reference Number: 17/02476/FUL

Description: 3 Storey Side/Rear Extension with Basement

Status: Pending consideration

Reference Number: 17/02838/DISCON

Description: Discharge of conditions 4 (ecology), 6 (works to sea wall), 7 (structural calculations of the sea wall and gabion baskets) relating to 16/02735/FUL.

Status: Pending consideration

Appeals

Reference Number: 16/00063/NONDET

Description: Retention of 3No. Self-Contained Dwellings

Status: Appeal withdrawn

4. Consultee Responses

Blyth Town Council	Object to the application on the grounds that enforcement action has not been taken and the sea wall should have been built already.
Lead Local Flood Authority (LLFA)	Whilst not objecting to the principle of a time extension they suggest that condition 1 is varied to require the completion of works by the 30 September 2018 with further dates added into the wording of the condition to ensure the submission of details to the Council for approval in respect of the works by the 31 March 2018 and the commencement of works on site or the entering into of a contract to commence such works by the 30 June 2018.
Coastal Erosion Team	No response received.
Port Of Blyth	No response received.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	12
Number of Objections	0
Number of Support	0
Number of General Comments	0

Notices

General site notice, 24th January 2018

No Press Notice Required.

Summary of Responses:

None

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=P1DB8VQSLD900>

6. Planning Policy

6.1 Development Plan Policy

Blyth Valley Core Strategy 2007

SS1 – Regeneration and renaissance of Blyth Valley 2021

SS2 – The sequential approach and phasing
SS3 – Sustainability criteria
ENV1 – Natural environment and resources
ENV2 – Historic and built environment

Blyth Valley Development Control Policies DPD 2007

DC1 – General development
DC5 – Housing development on windfall sites
DC11 – Planning for sustainable travel
DC14 – Sites of national importance for nature conservation
DC16 – Biodiversity
DC19 – Drainage and flood risk
DC27 – Design of new developments

6.2 National Planning Policy

National Planning Policy Framework (NPPF)
National Planning Practice Guidance

7. Appraisal

7.1 Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant development plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues raised relate to:

- Principle of development
- Drainage, flooding and coastal erosion
- Ecology

Principle of development

7.2 In terms of the principle of development, it should be noted that should members decide to approve this application, this would result in the granting of a new planning permission for the previously approved development in its entirety (i.e. retention of 3 no. self-contained dwellings) albeit subject to a differently worded condition 1.

7.3 The Council have previously granted full planning permission (ref:16/02735/FUL) for the retention of the 3 no. dwellings within the site, the approved plans in respect of that permission include drawings providing some detail on the proposed improvement works to the existing seawall in question and a condition was attached to that permission regarding the undertaking of such works in accordance with these drawings.

7.4 In terms of retention of the 3 dwellings within the application site, there have been no significant changes in circumstances regarding the surrounding locality since the approval of planning application reference 16/02735/FUL in February 2017. There has been a change in respect of local planning policy in that the Council's emerging Core Strategy, which was withdrawn in the

Summer of 2017, would have been given some weight in deciding the previously approved application in addition to the Development Plan Policies and national guidance highlighted above. However, it is not considered that this policy change would give rise to a different officer opinion being arrived at regarding the principle of 3 dwellings on the site as the site occupies a sustainable location within Blyth. Furthermore, there are not considered to have been any significant changes in circumstances regarding matters such as design, neighbour amenity, highways matters and public protection matters (e.g. contamination, noise, coal mining legacy issues) and therefore the development remains acceptable in these respects.

- 7.5 Bearing in mind the above, the development is considered acceptable in principle.

Drainage, flooding and coastal erosion

- 7.6 Blyth Valley Core Strategy (BVCS) Policy SS3 concerning sustainability states that development will only be supported where there would be no physical and environmental constraints on the development of the land as a result of flood risk and/or land stability which could not be resolved without a detrimental impact on the environment. Blyth Valley Development Control Policies DPD (BVDPD) Policy DC19 seeks to ensure that the sequential approach is followed when considering planning applications with development located away from areas at highest risk of flooding unless suitable sites are not available within areas at lower risk of flooding. The use of sustainable drainage is also promoted.
- 7.7 As stated above, the principle of development on this site has been previously accepted and therefore the proposals are considered acceptable in terms of the sequential approach. What therefore needs to be considered is the timing of improvement works to the sea wall. The Lead Local Flood Authority (LLFA) raise no objection to the applicant being provided with more time to complete the sea wall works and have suggested an extension of time in this regard until the 30 September with additional text being added into condition 1 in respect of the approval of further details and the commencement of construction to ensure that the revised 30 September deadline is met.
- 7.8 Although Condition 2 of planning permission reference 16/02735/FUL requires that the sea wall improvement works are carried out in accordance with details of such works that were supplied as part of that application on drawing nos. 102 Rev.P3 and 103 Rev.P1, Conditions 6 and 7 of the permission also require the submission of further details regarding an area of the sea wall to be raised at its southern end and structural calculations.
- 7.9 As stated above applications to discharge Conditions 6 and 7 as well as an application for an extension to the dwelling known as 'Bayview' were submitted to the Council in July/August last year. During the Autumn of 2017 the applicant and his engineer met with Council Officers (Senior Planning Officer, Flood Risk & Drainage Officer, Structural Engineer) to discuss the detail of works to the sea wall in respect of both the development permitted under planning permission 16/02735/FUL and the application for an extension

to 'Bayview'. Following this meeting, further documentation is currently awaited from the applicant's engineer.

- 7.10 Although such dialogue has taken place with the Council the applicant has not been able to meet the currently specified 30 December 2017 deadline for completion of the sea wall works as the further documentation referred to above is awaited from the applicant's engineer. Furthermore, it would not be expedient to undertake works to the sea wall between November and March due to the potential for disturbance to protected wintering bird species which use the adjacent Northumberland Shore SSSI. This is acknowledged in Condition 3 of planning permission 16/02735/FUL which states that all works to the coastal wall causing such disturbance shall be carried out outside of the months of November to March inclusive.
- 7.11 Whilst the applicant could have sought discharge of conditions 6 and 7 sooner after planning permission 16/02735/FUL was approved on the 15 February 2017, he is now working with the Council to resolve outstanding matters. Due to the potential for disturbance to protected bird species the next available window during which the required sea wall works could reasonably be undertaken is April-October 2018. As such, the suggestion of the LLFA that the works be completed by the 30 September with deadlines of the 31 March and the 30 June for submission of further detail and commencement of works on site is considered reasonable in respect of drainage, flooding and coastal erosion matters.

Ecology impact

- 7.12 BVCS Policy SS3 further states that development will only be supported if there would be no unacceptable adverse impact on the natural environment or biodiversity whilst BVDPD Policies DC14 and DC16 seek to safeguard and enhance those sites of national importance such as the Northumberland Shore SSSI and biodiversity generally.
- 7.13 As stated above, there is a condition attached to planning permission 16/02735/FUL which restricts work on the sea wall to the period between April and October to minimise disturbance to wintering birds. As such it is not considered acceptable to agree an extension of time until the 30 December 2018 for the sea wall works to be undertaken as requested by the applicant because the potential for significant disturbance would arise if these works were undertaken November-December 2018.
- 7.14 However, subject to the revised timescales for carrying out these works as suggested by the LLFA, the proposals overall are considered acceptable on ecology grounds.

Other matters

Equality Duty

- 7.15 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and

considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

- 7.16 These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

- 7.17 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 7.18 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 7.19 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

- 8.1 There have been no significant changes in circumstances since the previous grant of planning permission in February 2017 for the three dwellings and the development is therefore considered acceptable in principle and in respect of detailed matters such as design, neighbour amenity, highways and public protection issues.
- 8.2 In respect of an extension of time for works to the sea wall to be undertaken, it is not considered that an extension of time until the 30 December 2018 would

be acceptable due to potential ecology impacts. However, the LLFA consider that an extension of time until the 30 September 2018 for these works to be completed is reasonable bearing in mind that the application is in discussions with ourselves to resolve matters but that more time has been required due to the constraints of the wintering bird season and the need to ensure that such works also accord with proposals for extension of the property within the application site known as 'Bayview' which is the subject of a separate current application.

9. Recommendation

That this application be GRANTED permission subject to the following:

Conditions/Reason

01. The new sea walls and gabion baskets shall be fully constructed by the 30 September 2018. In this regard, the further details in respect of such works to be submitted to discharge conditions 6 and 7 of this permission, shall be provided to the local planning authority by the 31 March 2018 and construction works shall have commenced or a contract in respect of such construction works shall have been entered into by the 30 June 2018.

Reason: In the interests of coastal protection.

02. Except where modified by the conditions attached to this planning permission, the development shall be carried out in accordance with the details shown on drawings 102 Rev P3 and 103 Rev P1 approved on the 15 February 2017 under planning permission reference 16/02735/FUL.

Reason: To ensure the development is carried out in accordance with the approved plans

03. All works to the coastal wall causing disturbance to the birds that constitute the interest features of the Northumberland Shore SSSI shall be carried out outside of the months of November to March inclusive.

Reason: In the interests of full protection to birds.

04. Within 12 weeks of the date of this permission 4 bat boxes shall be erected within the application site in accordance with details submitted to and approved in writing by the Local Planning Authority. Thereafter those bat boxes shall remain in place at all times.

Reason: For the safety of a protected species.

05. The vehicular access to the beach via the access ramp to the south of Plot 3 shall not be impeded in any way before, during and after the construction of the new sea wall and all associated works.

Reason: In the interests of pedestrian safety.

06. Prior to the commencement of any works to the sea wall, full details of the area to be raised, including infill material, as illustrated by orange hatching on drawing 102 Rev P3 are to be submitted to and approved in writing by the Local Planning Authority. The raised area shall be constructed in accordance with the approved details thereafter.

Reason: In the interests of public safety and visual amenity.

07. Prior to the commencement of any works to the sea wall, all structural calculations of the new sea wall and new gabion baskets wall shall be submitted to and approved in writing by the Local Planning Authority. All works thereafter shall be undertaken in accordance with the approved calculations.

Reason: In the interests of coastal wall safety.

08. The existing boundary wall shall be maintained in-situ for the duration of the construction works.

Reason: To ensure that the development will not impact upon the features of special interest for which the Northumberland Shore SSSI is notified.

09. No construction works or deliveries to the site in connection with the development hereby approved shall be carried out other than between the hours of 8.00am to 6.00pm Monday to Friday, 8.00 am to 1.0pm on Saturdays and not at all on Sundays or Bank Holidays.

Reason: In the interests of the amenity of nearby residential properties.

Date of Report: 30.01.2018

Background Papers: Planning application file(s) 17/04659/VARYCO