



# Northumberland County Council

North Northumberland Local Area Council  
19th April 2018

<b>Application No:</b>	18/00213/VARYCO		
<b>Proposal:</b>	Removal of condition 6 (Occupancy) pursuant to planning permission 13/00488/FUL to allow unrestricted residential use		
<b>Site Address</b>	Land North Of North Farm, Warendford, Northumberland,		
<b>Applicant:</b>	Mr Vedhara C/O Agent	<b>Agent:</b>	Mr Jon Tweddell Coble Quay, Amble, Morpeth, Northumberland NE65 0FB
<b>Ward</b>	Bamburgh	<b>Parish</b>	Adderstone With Lucker
<b>Valid Date:</b>	25 January 2018	<b>Expiry Date:</b>	22 March 2018
<b>Case Officer Details:</b>	Name: Mr Jon Sharp Job Title: Planning Officer Tel No: 01670 623628 Email: Jon.Sharp@northumberland.gov.uk		



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## 1. Introduction

1.1 Under the provisions of the Council's current Scheme of Delegation, this application is to be recommended for approval contrary to a valid objection from Adderstone with Lucker Parish Council. The application has been reviewed by the Head of Service and the Planning Chair of the North Northumberland Local Area Council confirming that the application should be referred to Planning Committee for determination.

## 2. Description of the Proposals

2.1 The application seeks permission for the removal of condition 6 pursuant to planning permission 13/00488/FUL, which gave permission for the erection of 6no holiday lets, to allow unrestricted residential use of the approved dwellings. Condition 6 states:

*"The occupation of the building shall be restricted to genuine holidaymakers for individual periods not exceeding 4 weeks in total within any consecutive period of 13 weeks. A register of holidaymakers shall be kept and made available for inspection by an authorised officer of the Council at all reasonable times.*

*Reason: A permanent residential use in this location would conflict with the established planning policy for this rural area and in accordance with local plan policy R9"*

2.2 The applicant has submitted documents stating that they have been unable to secure finance to build out the approved scheme due to the restrictive nature of condition 6. The application seeks to remove the condition in order to fund the construction works.

2.2 The application site is located on the northern edge of Warenford on the former stack yard associated with North Farm, which was converted to residential accommodation approximately 10 years ago. The site is bound to the east by residential development associated with the former farm steading, to the north by open countryside, to the east by highway and to the south by residential development which is also part of the former farm steading.

## 3. Planning History

**Reference Number:** 12/02609/FUL

**Description:** Construction of six residential units for holiday let use

**Status:** Application Returned

**Reference Number:** 13/00488/FUL

**Description:** Construction of six residential units for holiday let use.

**Status:** Permitted

**Reference Number:** 16/03825/DISCON

**Description:** Discharge of Conditions 4(landscaping),5 (land contamination) and 7 (highways) of approved planning application 13/00488/FUL

**Status:** Partial Consent, Partial Refusal

**Reference Number:** N/09/B/0187

**Description:** Construction of 6 residential units for holiday let use.

**Status:** Permitted

**Reference Number:** N/08/B/0487

**Description:** Proposed 7 no new holiday homes.

**Status:** Withdrawn

#### 4. Consultee Responses

Adderstone With Lucker Parish Council	Objects on the following grounds: <ul style="list-style-type: none"><li>• There is no need for the proposed housing.</li><li>• The Parish Council would welcome the re-submission of a more appropriate Planning Application, to provide housing which is more in keeping with the surrounding area, as well as a style more akin to the area.</li><li>• The development should have less than 6 houses and the appropriate services should be provided.</li><li>• Parish Councillors would have preferred it if there had been at least 1 affordable house within the development.</li><li>• Parish Councillors would like to query if the original application is out of date. Therefore, this application will not be valid.</li></ul>
Highways	No objection subject to condition
Environment Agency	No response received.
Northumbrian Water Ltd	No comments to make
Public Protection	Public Health Protection does not object to the proposal providing that the measures detailed in the application documents are implemented as stated.

#### 5. Public Responses

##### Neighbour Notification

Number of Neighbours Notified	5
Number of Objections	4
Number of Support	0
Number of General Comments	0

##### Notices

General site notice, posted 2nd February 2018

No Press Notice Required.

##### Summary of Responses:

4no objections received highlighting amenity issues such as impact on outlook, loss of light, impact upon foul drainage, noise and access. It is considered that the units would be too small for permanent residential use and they lack amenity space. Furthermore it is contended that the original application has expired and therefore the application at hand should not be considered to be valid.

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=P2SRUHQSLRK00>

## **6. Planning Policy**

### 6.1 Development Plan Policy

Berwick upon Tweed Local Plan

F1 Environmental Wealth

F4 Intermediate Areas of Landscape Value

F31 Social and Economic Welfare

M14 Car Parking Standards

### 6.2 National Planning Policy

National Planning Policy Framework (2012)

National Planning Practice Guidance (2014, as updated)

## **7. Appraisal**

7.1 The application has been assessed against national policy and guidance, development plan policies and other material planning considerations, and the advice of statutory consultees. In assessing this application the key considerations are;

- Principle of Development;
- Impact on Amenity;
- Highways;
- Public Protection;
- Equality;
- Human Rights;
- Other Matters.

Matters relating to design, scale and visual impact and ecology were assessed under approved application 13/00488/FUL. Given the scope of the proposal it is not considered necessary to re-appraise these aspects of the development.

### Principle of Development

7.2 The National Planning Policy Framework (NPPF) states that development proposals that accord with the development plan should be approved without delay, unless material considerations indicate otherwise. This forms the basis of the Framework's presumption in favour of sustainable development. Applications for new

housing should be considered in the context of this presumption in favour of sustainable development.

7.3 Section 73 of The Town and Country Planning Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. Paragraph 215 of the NPPF advises that weight should be given to relevant policies in existing plans according to the degree of consistency with the NPPF i.e. the closer a policy in a local plan accords with the NPPF, the greater the weight that may be given to them. The adopted development plan for the area the application site is located in comprises the saved policies of the Berwick Local Plan (1999) (BLP). The Local Plan policies referred to in this report are considered to be in accordance with the NPPF and can therefore be given due weight.

7.4 Policy F1 of the BLP seeks to ensure that "primary importance will be given to sustaining and enhancing the Borough's environmental wealth".

Policy F4 of the Berwick-upon-Tweed Borough Local Plan 1999 (BLP) sets out criteria for development in the Intermediate Areas of Landscape Value. It includes that development is located within or, immediately adjacent to an existing settlement and that it accords with its surroundings with regard to scale, layout, material etc. It also seeks to protect important, long range views within the landscape.

Policy F31 of the same document seeks to ensure that, in applying Framework policies, appropriate 'weight' is given to the degree to which proposals enhance the quality of life of communities or complement the range of their social and economic functions.

7.5 Paragraph 12 of the NPPF states that the NPPF does not change the statutory status of the development plan, as the starting point for decision making. It is considered that the policies within the development plan that are relevant to the determination of this application are in line with the objectives of the NPPF and are in accordance with the provisions of the NPPF. Therefore due weight can still be given to the relevant Local Plan Policies. The general principle of a developer seeking changes to an existing consent is considered to be acceptable, subject to compliance with existing planning policy.

7.6 Paragraph 7 of the NPPF requires that proposals are capable of achieving a sustainable form of development in relation to social, economic and environmental considerations. In this case it is considered that, taking into account the cumulative impacts of potential unrestricted occupancy, the permanent occupation of the approved dwellings would not result in any significant or adverse effects in relation to sustainability.

7.7 The application site gained approval as purpose built holiday accommodation in accordance with Policy R9 of the BLP. In this instance it is considered that the removal of the holiday condition to allow permanent residential use in this particular location would not have any significant conflicts with the development plan or sustainability principles when compared to the use of the site as holiday accommodation. The approved accommodation is of substantial and traditional design, which would be in keeping with the surrounding built form. Both uses would have benefits to the communities they are in and the wider economy, albeit in

different ways. It could be said that occupation by permanent residents would create and support a more settled rural community with continual use of nearby local services and facilities. It should also be noted that the removal of the condition could still mean that the individual units can be occupied and let as holiday accommodation, although there would be greater flexibility for any future owners.

7.8 On balance, having regard to national and local policy, the principle of the proposal is considered to be acceptable.

### Impact on Amenity

7.9 Paragraph 17 of the NPPF sets out its core planning principles, to underpin both plan-making and decision-taking. One of these principles is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

7.10 A number of objections have been received highlighting the impact of the proposed scheme upon various aspects of residential amenity, including outlook, privacy and loss of light. These aspects were evaluated as part of the assessment of the original scheme and as no changes are proposed to the layout of the scheme, it follows that there will be no changes to the impacts on neighbouring amenity. Those changes that may occur will relate to vehicle parking/ movement and the domestic paraphernalia that occurs within the residential curtilage.

7.11 Whilst acknowledging that amenity space within the application site is limited, paragraph 17 of the NPPF does not define what constitutes a good standard of amenity. Furthermore there are no policies within the development plan setting out standards for amenity space or separation distances. The proposed dwellings are not large (having a footprint of between approximately 52sqm and 127sqm) and separation distances are a minimum of 21 metres between active frontages (and a minimum of 10 metres between two blank gables). It is considered that the amount of amenity space is sufficient in the circumstances, however it is also considered appropriate in the circumstances to recommend the removal of permitted development rights to ensure that amenity space and separation distances are not eroded from that already permitted and to request the submission of finished floor levels to ensure there would be no overbearing issues. On this basis the issues arising as a result of the proposed change from holiday permanent use are considered to be limited and therefore the proposal is in accordance with Policies F1 and F4 of the BLP and the NPPF in this respect.

### Highways

7.12 The NPPF states that transport policies have an important role to play in facilitating sustainable development, whilst also contributing to wider sustainability and health objectives. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

7.13 The Local Highway Authority has responded to consultation raising no objection to the removal of condition 6. Notwithstanding the removal of the condition it is considered prudent to recommend an additional condition relating to the management and maintenance of the street within the development, as it would not

be considered for adoption as highway maintainable at public expense. It is further noted that the permitted scheme included a number of highway related conditions. Whilst condition 7 has been partially discharged through permission ref 16/03825/DISCON, conditions 8 - 11 remain applicable.

7.14 Notwithstanding the above, the proposal is considered to be in accordance with policy M14 of the BLP and the NPPF in this respect.

#### Public Protection

7.15 Consultation was carried out with the Council's Public Health Protection unit to assess whether any adverse issues would arise from the proposed permanent occupancy of the application site. The council's public protection officer has responded to consultation raising no objections to the proposal subject to the works being carried in accordance with the submitted details. A condition has been carried over from the original approval requesting the submission of details of a scheme to deal with any contamination of land or pollution of controlled waters arising from the proposal. The proposal is therefore considered to be acceptable on this basis and in accordance with Policy F4 of the BLP and the NPPF.

#### Equality Duty

7.16 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

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

#### Human Rights Act Implications

7.18 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.

7.19 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.

### Other Matters

7.20 A number of representations were received querying whether the original permission remained extant. The applicant has submitted information to the satisfaction of the case officer, however it is contended that the works claimed to have taken place either were not carried out in relation to the original planning permission, or had not been carried out. Whilst acknowledging this dispute, the Local Planning Authority has to take information submitted with a planning application at face value unless compelling evidence suggests otherwise. It is further noted that the Authority issued a decision on a discharge of conditions application in 2016 (16/03825/DISCON), therefore, for consistency, it must be concluded that the application is extant.

7.21 Queries raised in respect of whether the foul water drainage system is capable of accommodating a further 6no dwellings is a matter for Building Control and is not a material consideration in the assessment of this application.

7.22 In objecting to this proposal the Parish Council raised a number of issues relating to the need for additional housing and their preference for a redesigned scheme to include affordable housing. The application is located outside of the AONB and is therefore not subject to the lower threshold set out in the PPG and the development would be less than 1000sqm gross internal floor area. Therefore an affordable housing provision is not required in this application.

7.23 Whilst noting that the Authority is able to demonstrate a five year housing land supply, this should not be used as an argument to refuse applications for new housing. This application relates specifically to the removal of an occupancy condition from a development that was previously considered appropriate and has therefore been assessed on that basis, not on whether additional housing is required or whether a different scheme would be more appropriate. It is worth reiterating that this is not an application for new housing, rather it is an application to remove a restrictive condition from housing which has already been approved.

## **8. Conclusion**

8.1 It is considered that the proposal represents an appropriate form of development that would not have a significant adverse impact on the appearance of the property, the street scene or the amenity of nearby residents. It is therefore considered that the proposal is in accordance with national and local planning policies and accordingly it would be unreasonable to withhold planning permission.



## 9. Recommendation

That this application be GRANTED permission subject to the following:

### Conditions

01. The development hereby permitted shall not be carried out other than in complete accordance with the following approved plans:

1. Drawing number 001, dated Mar 09;
2. Drawing number 105 revision A, dated Mar 09;
3. Drawing number 105 revision B, dated Mar 09;
4. Drawing number 002, dated Apr 09;
5. Drawing number 107 revision B, dated Mar 09;
6. Drawing number 106 revision C, dated Mar 09;

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

02. The facing materials and finishes to be used in the construction of the development shall be in accordance with details contained in the application. The development shall not be constructed other than with these approved materials.

Reason: In the interests of the satisfactory appearance of the development upon completion and in accordance with the provisions of local plan policy F4.

03. Prior to construction of the development above DPC (or 150mm above ground level) a detailed landscaping scheme, showing both hard and soft landscaping proposals, shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be carried out in accordance with the approved drawings not later than the expiry of the next planting season following commencement of the development above DPC level, or within such other time as may be approved with the Local Planning Authority. The landscaped areas shall be subsequently maintained to ensure establishment of the approved scheme, including watering, weeding and the replacement of any plants, or areas of seeding or turfing comprised in the approved landscaping plans, which fail within a period up to 5 years from the completion of the development.

Reason: In the interests of visual amenity and the satisfactory appearance of the development upon completion, and in accordance with the provisions of the National Planning Policy Framework

04. The development hereby permitted shall not be constructed until a scheme to deal with any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement in writing:

a) A desk-top study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two full copies of the desk-top study and a non-technical summary shall be submitted to the Local Planning Authority without delay upon completion.

b) If identified as being required following the completion of the desk-top, a site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/ or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the Local Planning Authority without delay upon completion.

c) Thereafter, a written method statement detailing the remediation requirements for the land contamination and/ or pollution of controlled waters affecting the site shall be submitted and approved by the Local Planning Authority, and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority. No deviation shall be made from this scheme without express written agreement of the Local Planning Authority. If during redevelopment contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing the scheme for dealing with the suspect contamination has been submitted to an approved in writing by the Local Planning Authority.

d) Two full copies of a full closure report shall be submitted to and approved by the Local Planning Authority. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.

Reason: To ensure that any contaminants within the site are dealt with in an appropriate manner to afford protection to the public, the buildings and the environment

05. In accordance with the information approved under application reference 16/03825/DISCON, provision shall be made for a temporary car park and storage area within the site to accommodate operatives and construction vehicles and the storage of materials during the development of the site. Thereafter, and within 1 month of completion of the development, the land shall be restored in accordance with the approved details.

Reason: To avoid obstruction of the adjoining highway.

06. No residential unit shall be brought into use unless the footway and visibility splays at the vehicular access point have been provided, in accordance with

the approved plan to be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the occupation of the development and thereafter the footway and splays shall be retained.

Reason: To achieve an accessible and safe pedestrian route for pedestrians and a safe standard of visibility for drivers emerging from the access onto the public highway.

07. No residential unit shall be occupied unless the parking space(s) serving that unit have been provided, in accordance with the approved details. Thereafter the parking spaces shall be so retained.

Reason: To ensure that there is adequate space within the site for the parking of vehicles clear of the roadway.

08. Notwithstanding the details approved for the scheme, no residential unit shall be brought into use unless the existing vehicular access on the western elevation of the site, rendered redundant by the proposed development, has been permanently stopped up and the highway verge reinstated, in accordance with revised details, including the re-alignment of the new boundary wall for that part of the scheme, which shall first have been submitted to, approved in writing by the Local Planning Authority and implemented in full.

Reason: To minimise the number of accesses to the public highway and prevent encroachment of boundary treatments on highway land.

09. The development hereby permitted shall not be brought into use until provision has been made within the site for the disposal of surface water so as to prevent its discharge onto the highway, in accordance with a scheme of details of which shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be so retained.

Reason: To reduce the risk of flooding and to prevent damage to the highway.

10. No development shall commence above DPC (or 150mm above ground level) until details of proposed arrangements for future management and maintenance of the proposed streets within the site have been submitted to and approved in writing by the Local Planning Authority. Following occupation of the first dwelling on the site, the streets shall be maintained in accordance with the approved management and maintenance details.

Reason: To ensure estate streets serving the development are completed in the interests of residential amenity and highway safety, in accordance with the National Planning Policy Framework

11. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any Order revoking or re-enacting that Order either in whole or in part), the following works shall not be carried out on the site hereby approved without the prior permission of the Local Planning Authority.

(i) The construction of any extension, building, additional enclosure, container or roof extension within the curtilage of the approved dwellings.

Reason: To enable the Local Planning Authority to consider the effects of such development in accordance with Policy F4 of the Berwick Local Plan and the National Planning Policy Framework

12. Notwithstanding the approved plans, no development shall take place until full details of existing and proposed ground and finished floor levels have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in full accordance with the approved details.

Reason: To ensure a satisfactory form of development in accordance with Policy F4 of the Berwick Local Plan and the NPPF.

**Informatives:**

1. Any works within the highway required in connection with this permission are under the control of the Council's Technical Services Division and will require an agreement under section 278 of the Highway Act 1980. These works should be carried out before first occupation of the development. All such works will be undertaken by the Council at the applicant's expense. Contact should be made with Highways Development Management at [highwaysplanning@northumberland.gov.uk](mailto:highwaysplanning@northumberland.gov.uk) to progress this matter.
2. In order to discharge the condition regarding the management and maintenance of streets the applicant is advised that the Local Planning Authority requires submission of the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

**Date of Report:** 09.04.2018

**Background Papers:** Planning application file(s) 18/00213/VARYCO