

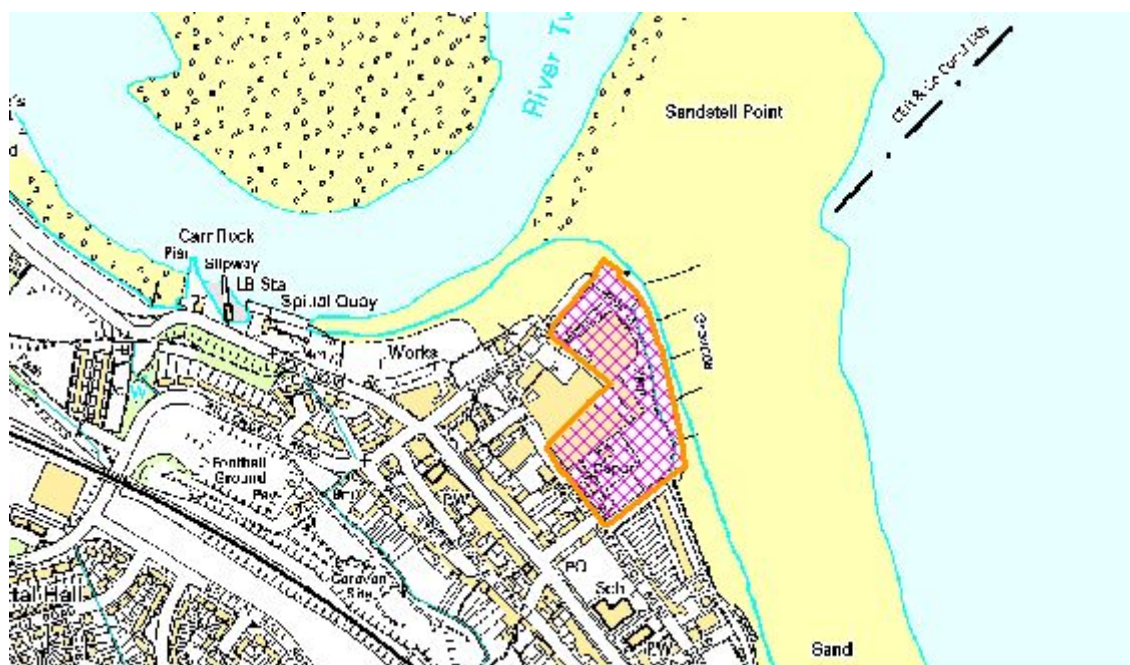


Northumberland County Council

STRATEGIC PLANNING COMMITTEE 1ST OCTOBER 2019

Application No:	19/01845/S106A		
Proposal:	Variation of S106 Agreement application pursuant to planning application 18/00415/VARYCO dated 31 August 2018.		
Site Address	Land At Spittal Point, North Greenwich Road, Spittal, Northumberland		
Applicant/ Agent	Mr Joe Nugent Amber Court, Newcastle Upon Tyne, NE4 7YQ,		
Ward	Berwick East	Parish	Berwick-upon-Tweed
Valid Date	25 January 2019	Expiry Date	22 February 2019
Case Officer Details	Name: Mrs Haley Marron Job Title: Senior Planning Officer Tel No: 01670 625 547 Email: haley.marron@northumberland.gov.uk		

Recommendation: That this application be GRANTED permission



1. Introduction

1.1 Councillor G Hill has 'called in' the application, to be determined by the Committee, given the strategic importance of the site.

2. Description of the Proposals

2.1 The application seeks to vary the S106 Legal Agreement attached to planning application N/09/B/0317 which secured planning permission for the redevelopment of industrial land at Spittal Point for 136 dwellings & 323 square metres commercial use (varied under 18/00415/VARYCO).

2.2 This application seeks replace all proposed ecological mitigation measures secured on the original planning permission with a financial obligation towards the Councils Coastal Mitigation Service (CMS) to the sum of £81,600.

3. Planning History

Reference Number: N/05/B/0064

Description: Demolition of buildings and clearance of site for future developments.

Status: Permitted

Reference Number: N/09/B/0317

Description: Redevelopment of former industrial site to provide 136 dwellings & 323 square metres commercial use, with public open space and public car park incorporating demolition of select stone and brick perimeter and retaining walls.

Status: Permitted subject to S106 Legal Agreement

Reference Number: 18/00417/DISCON

Description: Discharge of Condition 2 (programme of phased implementation) on approved planning application N/09/B/0317

Status: Permitted

Reference Number: 18/00415/VARYCO

Description: Variation of conditions 16 (disposal of surface water), 28 (programme of archaeological work), 29 (construction method statement), 40 (contamination risks), 41 (remediation strategy), 43 (stage 1 road safety audit), 45 (bus stop improvements), 46 (footway/cycle way), 47 (works to North Greenwich Road carriageway), 49 (motorcycle/bicycle parking) and 53 (travel plan) of application N/09/B/0317 to allow incremental approach to development.

Status: Permitted

Reference Number: 18/03434/DISCON

Description: Discharge of Conditions 4 (Ground Levels) 6 (- Materials) 9 (Services) 13 (Method Statement) 14 (Refuse Strategy) 16 (Surface Materials) 17 (Bus Stop Improvements) 19 (Widen North Greenwich Road) 20 (Bike Parking) 22 (- Public Car

Parking) 24 (Method Statement) 25 (Public Highway Cleaning) 27 (Construction Accomodation) 36 (Floodlighting) 37 (Contaminated Land) 38 (Verification Report) 41 (Method Statement) 42 (Noise Mitigation) 43 (Sound Attenuation) 44 (Surface Water Drainage) 47 (Programme of Work) 49 (Management Plan) 54 (Management Plan) 55 (Construction Layout) on approved Planning application 18/00415/VARYCO
Status: Pending Consideration

4. Planning Policy

4.1 Development Plan Policy

Berwick-upon-Tweed Local Plan.

Policy F6 Special Protection Areas, Special Areas of Conservation and Ramsar Sites
 Policy F7 National Nature Reserves and Sites of Special Scientific Interest

4.2 National Planning Policy

The National Planning Policy Framework

4.3 Other Documents/Strategies

Northumberland Local Plan – Publication Draft Plan (Regulation 19)

5. Consultee Responses

Berwick Upon Tweed Town Council	No objections
NCC County Ecologist	Fully supports the application
The Northumberland Coast AONB Partnership	The Northumberland Coast AONB Partnership is supportive of the applicants undertaking to contribute to the Coastal Mitigation Service.
Natural England	No comments
NCC Highways	No comments

6. Public Responses

Neighbour Notification

Number of Neighbours Notified	35
Number of Objections	0
Number of Support	0
Number of General Comments	0

Notices

Site Notice posted 25th July 2019

Press Notice published in the Berwick Advertiser 1st August 2019

Summary of Responses:

None received

Full details of the application can be found at

<https://publicaccess.northumberland.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

7. Appraisal

7.1 Chapter 15 of the NPPF seeks to conserve and enhance the natural environment. Paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).

7.2 Berwick upon Tweed Local Plan Policy F6 seeks to conserve Designated and potential Special Protection Areas, designated and candidate Special Areas of Conservation and Ramsar Sites.

7.3 Berwick Local Plan Policy F7 of the seeks to conserve existing and proposed National Nature Reserves and Sites of Special Scientific Interest.

7.4 The emerging Northumberland Local Plan

7.5 The application seeks to vary the S106 Legal Agreement attached to planning application N/09/B/0317 which secured planning permission for the redevelopment of industrial land at Spittal Point for 136 dwellings & 323 square metres commercial use (varied under 18/00415/VARYCO).

7.6 The development site lies immediately adjacent to the Northumberland Shore and Lower Tweed SSSIs, within 750m of the Northumbria Coast Special Protection Area (SPA) and Lindisfarne Ramsar Site, within 1.5km of Lindisfarne SSSI and within 3.5km of Lindisfarne SPA. These designated sites are all notified because of their nationally and internationally important populations of wading birds and waterfowl, all of which are vulnerable to disturbance from increasing levels of recreational disturbance. It is also within 1.3km of the North Northumberland Dunes Special Area of Conservation, where internationally important dune grassland plant communities are being damaged by the spread of a non-native invasive species called pirri-pirri bur. This is spread primarily by the sticky seed heads becoming attached to people's clothing and to dog's fur.

7.7 Mitigation for the approved development was originally secured by a S106 Legal Agreement and included the provision of fencing to sand dunes, a yearly financial

contribution to wardening and a programme of monitoring to protect the designated sites from recreational disturbance.

7.8 This application seeks to replace all mitigation measures proposed in the original S106 Legal Agreement and replace with a financial contribution towards the Council's Coastal Mitigation Service to the sum of (£81,600).

7.9 The Council's Principal Ecologist fully supports the application to vary the ecology aspects of the S.106 Agreement, to comprise a contribution to the Coastal Mitigation Service rather than the works set out in the existing S106 agreement. This is because the financial contribution will provide a far more effective mechanism to address the impact of recreational disturbance on coastal designated sites.

7.10 The measures in the existing agreement were devised prior to the existence of the CMS, and while they have some merit they also have significant limitations. Most fundamentally, the Principal Ecologist advises that a wardening presence is key to being able to address problems, which is why the CMS was established.

7.11 In the absence of such an approach, the measures in the existing S106 agreement comprise some very limited interventions by the Council's Dog Wardens over a period of three years only, plus fencing to try to manage disturbance by managing access points. However, experience strongly suggests that people will re-establish desired access points through the fencing over time and therefore this is also likely to be a temporary measure in reality. In contrast, the CMS will provide the wardening presence that is key to managing these issues, and is secure over the long term.

7.12 Furthermore Natural England has raised no objections to the proposed variation to the S106 legal agreement attached to N/09/B/0317 (varied under 18/00415/VARYCO).

7.13 In the context of the above, Officers fully support the application and the development remains acceptable in ecological terms with the revised mitigation measures. The proposed Section 106 Deed of Variation is acceptable.

Equality Duty

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

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

Human Rights Act Implications

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.

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.

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 . The proposed Section 106 Deed of Variation is acceptable.

9. Recommendation

That this application be GRANTED permission.

Background Papers: Planning application file(s) 19/01845/S106A