



# Northumberland

## County Council

### Tynedale Local Area Planning Committee

12 February 2019

<b>Application No:</b>	18/02761/VARYCO		
<b>Proposal:</b>	Variation of condition 1 (temporary permission) pursuant to planning permission 17/00223/FUL		
<b>Site Address</b>	Land West Of Heathery Hill, Lowgate, Hexham, Northumberland		
<b>Applicant:</b>	Blue Sky Resorts Ltd C/O Agent	<b>Agent:</b>	Mr Clive Cunio 8 St Georges Court, Altrincham Business Park, Dairyhouse Lane, Altrincham WA14 5UA
<b>Ward</b>	Hexham West	<b>Parish</b>	Hexham
<b>Valid Date:</b>	9 August 2018	<b>Expiry Date:</b>	4 October 2018
<b>Case Officer Details:</b>	Name: Mr Daniel Puttick Job Title: Senior Planning Officer Tel No: 01670 622635 Email: <a href="mailto:daniel.puttick@northumberland.gov.uk">daniel.puttick@northumberland.gov.uk</a>		

**Recommendation:** That this application be GRANTED permission



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## 1. Introduction

- 1.1 This application falls to be determined by Members of the Tynedale Local Area Committee as it raises significant planning issues which justify consideration by the elected Members. In addition, an objection has been received from Hexham Town Council, and officers recommendation is to approve the proposals.

## 2. Description of the Proposals

- 2.1 A variation of conditions is sought to extend the temporary period of consent granted under application 17/00223/FUL, which authorised the construction of a temporary site entrance and access track to allow for the construction of an extension to Heathergate Country Park. Planning permission was granted on 15th August 2017 by members of the Tynedale Local Area Committee for the construction of a temporary access track, the purpose of which was to allow construction traffic and caravans to be brought to the site away from residential dwellings and provide a more convenient route for construction traffic.
- 2.2 The caravan park extension is under construction, however the period of consent granted under application 17/00223/FUL expired on 16th August 2018. A recent application for planning permission submitted under application 17/03728/FUL sought permission for the construction of a permanent access track. This application was refused by members of the Tynedale Local Area Committee and subsequently dismissed on appeal.
- 2.3 The caravan park extension has not been completed, and because of this the developer has applied to the local planning authority to extend the period of consent for an additional year. Planning permission is therefore sought to amend the wording of Condition 1 of 17/00223/FUL to read:

*The permission hereby granted for a site entrance and access track shall be for a temporary period of twelve months expiring **16 August 2019** and within two months of that date the site entrance and access track including all associated hard surfacing shall be removed from the application site and a field gate access and agricultural land shall be re-instated within the application site.*

*Reason: In the interests of landscape character in accordance with Policy NE33 of the Tynedale District Local Plan.*

- 2.4 In granting permission for this variation of conditions, permission would be granted for the engineering operations to create an enlarged access to the C284 together with a 124m long and 3.5m wide section of access road from the C284 to the land to the immediate north that benefits from the extant permission for expansion of the caravan park. The access road would be retained in its current form, for a temporary period expiring on 16th August 2019 (just over six months from now), after which the wording of the condition would require the land to be restored to its former condition.

- 2.5 The application site lies within open countryside in the Green Belt to the immediate west of Lowgate. Planning permission under application 17/00223/FUL was granted subject to conditions on 16th August 2017, with temporary consent expiring on 16th August 2018.

### 3. Planning History

**Reference Number:** 15/02361/CLEXIS

**Description:** Certificate of lawfulness of existing use for 39 caravan pitches

**Status:** Permitted

**Reference Number:** 16/00950/VARYCO

**Description:** Variation of conditions 1 (approved plans), 6 (landscaping) and 8 (access provision) pursuant to planning permission 82/E/559 in order to allow revision of caravan layout, landscaping and access arrangements.

**Status:** Permitted

**Reference Number:** 16/03818/DISCON

**Description:** Discharge of condition 15 (amphibian method statement) on approved planning application 16/00950/VARYCO

**Status:** Permitted

**Reference Number:** 16/04092/VARYCO

**Description:** Variation of condition 2 (habitation period) and 3 (caravan colours) pursuant to planning permission 16/00950/VARYCO in order to allow increased habitation period and variation of caravan colours.

**Status:** Permitted

**Reference Number:** 16/04322/DISCON

**Description:** Discharge of conditions 5 (landscaping) and 9 (drainage) of approved planning application 16/00950/VARYCO

**Status:** Permitted

**Reference Number:** 17/03217/DISCON

**Description:** Discharge of conditions 5 (Hedgerow Replacement) and 6 (Crushed Stone Colour) relating to planning permission 17/00223/FUL

**Status:** Permitted

**Reference Number:** 18/01745/VARYCO

**Description:** Variation of condition 1 (approved plans) pursuant to planning permission 16/04092/VARYCO in order to amend the location of 6 location plans.

**Status:** Permitted

**Reference Number:** 18/02755/DISCON

**Description:** Discharge of conditions 8 (External lighting) 11 (Bird Boxes) on approved planning application 18/01745/VARYCO (amended description 20/08/2017)

**Status:** Permitted

**Reference Number:** 18/04091/ELEGDO

**Description:** Erection of 3 new wooden poles

**Status:** Pending Consideration

**Reference Number:** T/20050948

**Description:** Vary condition No. 2 of Planning Permission Reference: J74/32 to extend the opening times to 11 months (1st March to 31st January)

**Status:** Permitted

**Reference Number:** T/93/E/818

**Description:** Renewal - Siting of residential caravan.

**Status:** Permitted

**Reference Number:** T/93/E/209

**Description:** Unopposed Revocation of Planning permission under section 99 of the Town and Country Planning Act 1990.

**Status:** Permitted

**Reference Number:** T/92/E/70

**Description:** Erection of dwelling house for warden, and refurbishment of existing shower and toilet building.

**Status:** Refused

**Reference Number:** T/91/E/679

**Description:** Construction of dwelling house for Warden.

**Status:** Refused

## **Appeals**

**Reference Number:** 18/00008/REFUSE

**Description:** Proposed construction of permanent site entrance and access track

**Status:** Dismissed on the grounds that the track was inappropriate development within the Green Belt by virtue of its failure to preserve openness and conflict with the purpose of including land within the Green Belt.

#### 4. Consultee Responses

Hexham Town Council	Hexham Town Council, objection to the application and indicate that the restrictions imposed by the original planning permission may not be being complied with. Comments in relation to the conclusions of the Planning Inspector that the temporary permission was an inappropriate development in the Green Belt are made.
Highways	No objections subject to conditions.
County Ecologist	No objections subject to conditions.

#### 5. Public Responses

##### Neighbour Notification

Number of Neighbours Notified	7
Number of Objections	13
Number of Support	0
Number of General Comments	0

##### Notices

General site notice, displayed on site on 5th September 2018  
No Press Notice Required.

##### Summary of Responses:

13 letters of objection have been received in relation to this application. The following is a summary of the concerns raised:

- the site is well advanced and as such the temporary consent until 16th August 2019 may not be necessary
- internal roads have been installed and as such the temporary access is not necessary
- the temporary access road as constructed does not correspond with the approved plans
- previous applications have been dismissed on appeal for the construction of a permanent access track, which was considered to be inappropriate development within the Green Belt
- the temporary track and its use gives rise to disturbance for local residents from noise, dust and disruption
- the developer has undertaken works without planning permission on the caravan park extension and has applied retrospectively

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

## **6. Planning Policy**

### **6.1 Development Plan Policy**

*Tynedale Local Development Framework Core Strategy (2007)*

GD1 General location of development  
GD5 Minimising flood risk  
BE1 Principles for the built environment  
NE1 Principles for the natural environment

*Tynedale District Local Plan (2000, Policies Saved 2007)*

GD2 General design criteria, including extensions and alterations  
NE7 New buildings in the Green Belt  
NE33 Protection of trees, woodlands and hedgerows  
NE37 Landscaping in developments  
CS19 Location of development either causing or adjacent to pollution sources  
CS22 Location of noise generating uses

### **6.2 National Planning Policy**

National Planning Policy Framework (NPPF) (2018)  
National Planning Practice Guidance (2018, as updated)

### **6.3 Emerging Planning Policy**

*Northumberland Local Plan - Publication Draft Plan (Regulation 19) (January 2019)*

Policy STP8 Development in the Green Belt

## **7. Appraisal**

7.1 The principle of constructing a temporary access track has already been established as acceptable with the granting of planning permission under application 17/00223/FUL. This application was permitted subject to a condition limiting the life of the access track to a period of one year, expiring on 16th August 2018. During this time construction work has been undertaken on the caravan park extension, however this is not yet complete. As a result, the applicants are applying to extend the life of the temporary permission up until 16th August 2019 to enable the works to be completed. This application is made pursuant to Section 196(a) of the Town and Country Planning Act 1990 (as amended), and the main considerations remain similar to those considered under the previous application. For clarity, these are:

- Principle of development in the Green Belt
- Landscape and visual impact
- Ecology impact

- Highway and pedestrian safety
- Residential amenity impact
- Flood risk/drainage

### *Principle of the Development*

- 7.2 Policy NE7 of the Tynedale District Local Plan states that within the Green Belt planning permission will only be granted for certain specified categories of new buildings. As established previously, the proposed development does not fall into such categories as it is not proposed to erect any buildings as part of the proposed development. The works proposed are engineering operations to provide a new access and associated access road.
- 7.3 Paragraph 146 of the NPPF states that engineering operations in the Green Belt are not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. It is acknowledged that planning permission was refused and dismissed on appeal under application 17/03728/FUL for the construction of a permanent site entrance and track, which was considered to constitute inappropriate development within the Green Belt on the basis that as a permanent feature it would be harmful to the openness of the Green Belt and purposes of including land within it.
- 7.4 The proposed development has been assessed having regard to the conclusions of the Inspector in the recent appeal decision, which forms a material consideration in the determination of planning applications. For reasons not dissimilar to those given for dismissing the appeal, the installation of hard surfaces and removal of hedgerows would be considered to be harmful to the openness of the Green Belt, and would result in an urbanising impact on the character of the landscape in this respect. On this basis, it is considered that the proposed works would fail to preserve the openness of the Green Belt, and as such the development is considered to be inappropriate within the Green Belt.
- 7.5 The NPPF makes clear at Paragraph 143 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In this instance, the temporary nature of the permission being sought is such that there are conditions proposed to secure the reinstatement of the land to its former condition. When this has been undertaken, the impact on openness of the Green Belt would be removed and as such the harm arising from the proposal would be negated. Any harm imposed would be short lived as the permission would expire in 6 months time, a matter which is considered to provide for the very special circumstances necessary to justify development that is otherwise inappropriate within the Green Belt. The effect overall would therefore be limited and temporary, and in the long run the application site would remain open land, albeit that existing areas of soft landscape would be replaced by hard surfacing during this time.
- 7.6 In summary of the above, and in light of the conclusions reached by the Planning Inspectorate in determining the appeal relating to the permanent access track, the principle of providing a temporary access track would be

inappropriate within the Green Belt. Very special circumstances necessary to justify inappropriate development within the Green Belt are considered to be present in this case, and are derived from the temporary nature of the track. Subject to accordance with conditions, one of which allows for the extension of the time period for the development and also seeks reinstatement of the land to its former condition following that period, the proposals are considered to be acceptable in planning terms and in relation to the Green Belt in accordance with the NPPF, Local Plan Policy NE7 and emerging Local Plan policy.

#### *Landscape and visual impact*

- 7.7 Policy NE33 of the Tynedale District Local Plan states that development will only be permitted where it does not have an adverse effect on the character, amenity, nature conservation and landscape value of existing trees, woodlands and hedgerows whilst Policy NE37 seeks a high quality of landscaping in development proposals.
- 7.8 Policy NE1 of the Tynedale Core Strategy identifies principles for the natural environment. These include the objectives of protecting and enhancing the quality of the landscape and biodiversity and managing the relationship between development and the natural environment to minimise the risk of environmental damage, avoid urbanisation in the countryside and maintain good air and water quality. Policy NE37 seeks to secure a high standard of landscaping in new developments.
- 7.9 In terms of the Northumberland Landscape Character Assessment (NLCA) the site lies within Landscape Character Type 31 - Glacial Trough Valley Sides and within Landscape Character Area 31d - Langley to Stocksfield. These lie within Natural England National Character Area 11 - Tyne Gap. The NLCA identifies the strong enclosure pattern of LCT 31 which includes hedgerows as a key characteristic. The development guidelines for LCT 31 also refer to essential roads being integrated into the valley landscape through careful siting, ground modelling and planting.
- 7.10 As identified in previous applications, formalised accesses to classified roads and access tracks are found in countryside areas in connection with land uses. Amended plans have previously been submitted which have reduced the width of the access track from 6 metres to 3.5 metres, with the exception of a short wider section, which has been maintained to allow for vehicles to pass one another. The result is that the proposed access is similar to those in rural locations such as this, however for reasons set out above in this instance the development would have an impact on the character of the countryside and openness of the Green Belt. Some of this is caused by the removal of hedgerow from the site, increasing views into the field and as such resulting in a more prominent feature in the landscape.
- 7.11 Whilst part of the existing hedgerow adjacent to the C284 road would be affected, only 11 metres of hedgerow would be removed for this temporary period and a condition would ensure that a replacement section of hedgerow was provided in the same location following expiry of the temporary period during which the access would be in use. Substantial mitigation measures are



also proposed to compensate for temporary loss of the hedgerow including the provision of 60 metres of new hedgerow together with hedgerow trees to another of the boundaries of the field through which the temporary access track would pass.

- 7.12 Given that the proposals relate to a temporary access track, it is considered that overall the landscape impact would be limited albeit harmful during the life of the permission. Furthermore, mitigation would provide for greater hedgerow planting which would improve the appearance of the site in the longer term. Overall it is therefore considered that the landscape and visual impact of the proposals would be acceptable in accordance with the aims of Policy NE1 of the Tynedale Core Strategy, Policy NE33 of the Tynedale Local Plan and the aims of the NPPF.

#### *Ecology impact*

- 7.13 As set out above, Policy NE33 of the Tynedale District Local Plan states that development will only be permitted where it does not have an adverse effect on the nature conservation value of existing trees, woodlands and hedgerows and Policy NE1 of the Tynedale Core Strategy identifies principles for the natural environment. These include the objective of protecting and enhancing biodiversity.
- 7.14 An appraisal of the hedgerow affected by the proposed development has previously been submitted by the applicant. This concludes that the section of hedgerow earmarked for removal does not qualify as an important hedgerow under the Hedgerow Regulations as it does not support any rare or notable species of flora or fauna. The Council's archaeologist has also confirmed, from an examination of historic Ordnance Survey maps, that the hedgerow does not qualify as an 'important' hedgerow in historic conservation terms.
- 7.15 Notwithstanding the above, the section of hedgerow to be removed does have some ecological value, but the Council's ecologist has raised no objection to the original application or removal of an 11 metre section of the hedgerow subject to its replacement following expiry of the temporary consent and the mitigation works referred to above.
- 7.16 Upon consultation with the Council's Ecologists, there remain no objections to the development on the basis that appropriate mitigation would be secured by condition, much like the approach taken in the original grant of planning permission. Overall, therefore, the proposals are considered to be acceptable in terms of ecology and would accord with the aims of Policy NE1 of the Tynedale Core Strategy, Policy NE27 of the Tynedale Local Plan and the aims of the NPPF.

#### *Highway and pedestrian safety*

- 7.17 Tynedale District Local Plan Policy GD4 states that proposals should provide safe access to the public highway, they should not raise highway capacity problems, access should be provided to public transport and provision made for cyclists and pedestrians.

- 7.18 The Highway Authority have previously raised no objection to the proposals and consider the revised access width, access radii and visibility splays to be acceptable. An amended plan was received during the course of the previous application showing a passing place and the Highway Authority considered this plan to be acceptable. The same configuration is proposed as part of this application, which have attracted no objections from the Highway Authority for reasons set out previously. In addition to the Highway Authority raising no objections, it also remains the conclusion that the proposals would be beneficial in highway and pedestrian safety terms as they would allow for the removal construction traffic, related to expansion of the caravan park, from the narrow existing access into the caravan park which runs in very close proximity to residential properties, a nursing home and caravans and is also a public right of way/bridleway.
- 7.19 Notwithstanding the objections raised in relation to the availability of the existing access track, there remains preference for construction traffic to be directed away from the bridleway and narrow highway during the development of the caravan park expansion. There are not understood to be any records of incidents attributable to the temporary access track, and on this basis it is considered that its existence and use demonstrates that there are no highway safety issues related with the proposal. Overall the proposals are considered acceptable with regard to highway and pedestrian safety.

*Residential amenity impact*

- 7.20 There are dwellings to the east of the application site within the hamlet of Lowgate. Tynedale District Local Plan Policies CS19 and CS22 seek to safeguard sensitive land uses such as residential properties from noise pollution.
- 7.21 Whilst there is likely to be some increased disturbance to nearby dwellings from the proposed access and access road it is not considered that this would be significant as the nearest dwelling garden boundary would be at least 90 metres away from the access track and the nearest dwelling at least 135 metres distant.
- 7.22 If this temporary access were not provided for then the greater concentration of large vehicle movements associated with the laying out of the extended caravan park and the transportation of static caravans to it would need to make use of the existing site access within Lowgate itself which lies in much closer proximity to residential properties than the temporary construction access proposed under this application. As with the conclusions reached in the previous application, and taking account of concerns raised in relation to this application, it remains the case that the residential amenity impacts would be much greater if the existing access was to be utilised for such operations.
- 7.23 Overall the proposals are considered acceptable on residential amenity and noise grounds.

*Flooding and drainage*

- 7.24 Tynedale Local Development Framework Core Strategy Policy GD5 seeks to ensure that development proposals do not increase the risk of flooding.
- 7.25 The application site lies within Flood Zone 1 and is therefore considered to be at low risk of flooding. The Council as Lead Local Flood Authority has previously raised no objections to the proposals subject to appropriate details in respect of surface water drainage. They had suggested an informative in this regard but it was proposed and agreed that such details be secured by means of a condition. This condition requires the hard surfaces to be of permeable construction unless alternative means of surface water drainage have been provided to and agreed by the local planning authority. Reimposing such a condition would ensure that the effect of flooding is not of significance.
- 7.26 Overall the proposals are considered acceptable on flooding and drainage grounds subject to the above condition.

#### Other Matters

##### *Equality Duty*

- 7.27 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*

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

##### *Human Rights Act Implications*

- 7.29 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.
- 7.30 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.

- 7.31 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 Overall the principle of development is considered to be acceptable as whilst the proposals are considered to be inappropriate development in the Green Belt, there are very special circumstances which exist and the development would preserve openness of the Green Belt in the long run by virtue of the requirement set out in Condition 1 as part of this recommendation for the agricultural land to be reinstated. The proposals are likewise considered to be acceptable in terms of landscape and visual impact, ecology impact, highway and pedestrian safety, residential amenity impact and flood risk/drainage subject to conditions.

## **9. Recommendation**

That this application be GRANTED permission subject to the following:

### Conditions/Reason

01. The permission hereby granted for a site entrance and access track shall be for a temporary period expiring on the 16 August 2019 and within two months of that date the site entrance and access track including all associated hard surfacing shall be removed from the application site and a field gate access and agricultural land shall be reinstated within the application site.

Reason: In the interests of landscape character in accordance with Policy NE33 of the Tynedale District Local Plan.

02. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans pursuant to application 17/00223/FUL. The approved plans for this development are:-

2040-CAU-XX-XX-DR-C-1502 Rev P3 Site Layout Plan;  
2040-CAU-XX-XX-DR-C-1500 Rev P3 General Arrangement.

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

03. No development shall take place unless in accordance with the avoidance, mitigation and enhancement measures detailed within the ecological report (Heathergate Country Park, Lowgate Proposed Access and Access Track,

Hedgerow Appraisal, Etive Ecology Ltd., 12.6.17) including, but not restricted to, adherence to timing restrictions; no removal of existing hedge in excess of the 11m specified; planting of 60m of new hedge, including at least 6No. hedge standard trees, as specified; the existing hedge, new hedge, field and southern field margin to be managed as specified.

Reason: To maintain the favourable conservation status of protected species in accordance with Policy NE33 of the Tynedale District Local Plan.

04. No hedge removal shall be undertaken between 1 March and 31 August unless a suitably qualified ecologist has first confirmed that no bird's nests that are being built or are in use, eggs or dependent young will be damaged or destroyed.

Reason: To protect nesting birds, all species of which are protected by law in accordance with Policy NE1 of the Tynedale LDF Core Strategy.

05. A detailed hedge restoration plan for the 11m of hedge proposed for removal, including the planting of locally native trees and hedge plants of local provenance, shall be submitted to and agreed in writing with the LPA within two months of the date of this permission with the planting to be fully implemented during the first full planting season and prior to the 16th October 2019.

Reason: To maintain and protect the landscape value of the area and to enhance the biodiversity value of the site in accordance with Policy NE33 of the Tynedale District Local Plan.

06. The crushed stone to be used for surfacing of the access track hereby permitted shall be in full accordance with colour details submitted to and approved in writing by the local planning authority.

Reason: To maintain and protect the landscape value of the area and to enhance the biodiversity value of the site in accordance with Policy NE33 of the Tynedale District Local Plan.

07. All hard surfaces laid in respect of the development hereby permitted shall be of a permeable construction unless alternative means of surface water drainage have been submitted to and approved in writing by the local planning authority.

Reason: In the interests of minimising flood risk in accordance with Policy GD5 of the Tynedale LDF Core Strategy.

**Background Papers:** Planning application file(s) 18/02761/VARYCO, 17/00223/FUL