

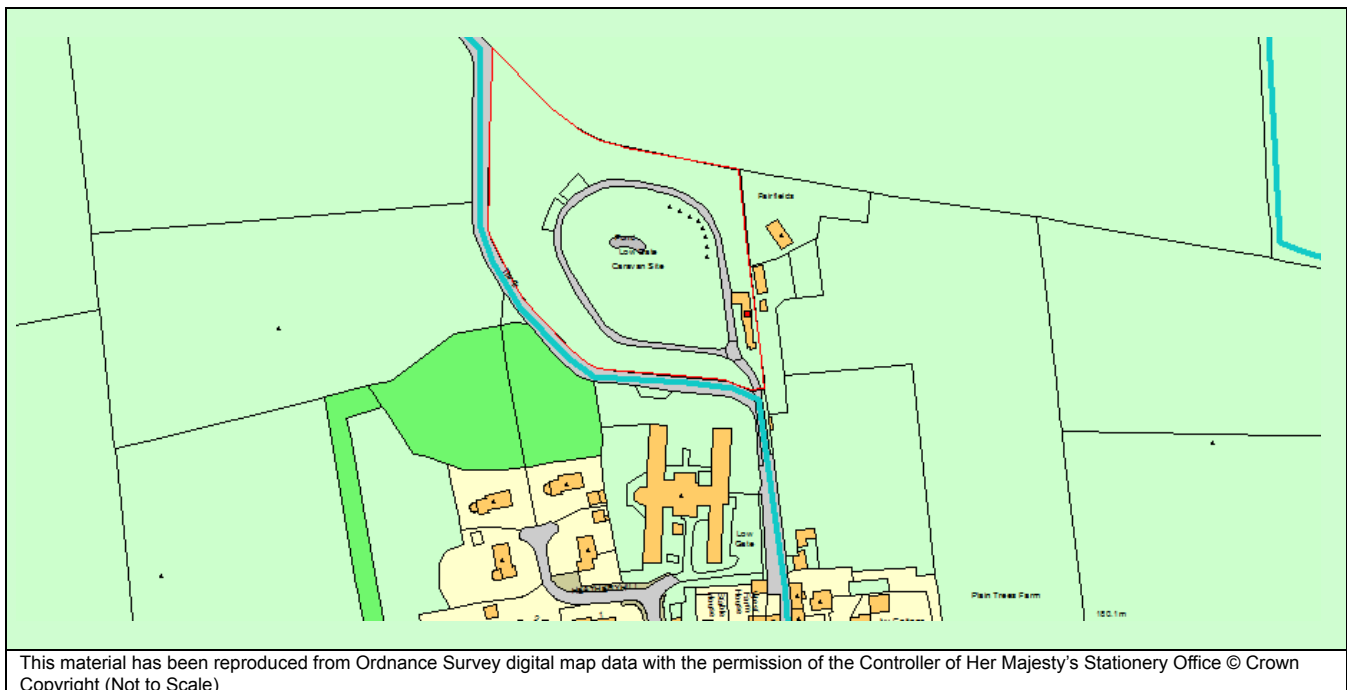


Northumberland County Council

Tynedale Local Area Council Planning Committee 13 August 2019

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| Application No: | 19/01171/VARYCO | | |
| Proposal: | Variation of condition 2 (habitation period) of application T/20050948 to allow 12 month habitation period | | |
| Site Address | Blue Sky Resorts Ltd, Heathergate Country Park, Lowgate, Hexham, Northumberland, NE46 2NN | | |
| Applicant: | Blue Sky Resorts Ltd C/O Agent | Agent: | Mr Clive Cunio 8 St Georges Court, Altrincham Business Park, Dairyhouse Lane, Altrincham, WA14 5UA |
| Ward | Hexham West | Parish | Hexham |
| Valid Date: | 9 April 2019 | Expiry Date: | 16 August 2019 |
| Case Officer Details: | Name: Miss Rachel Campbell Job Title: Planning Officer Tel No: 01670 625548 Email: Rachel.Campbell02@northumberland.gov.uk | | |

Recommendation: That this application be GRANTED permission



1. Introduction

1.1 A relatively significant number of representations have been received in relation to this application. Therefore, under the provisions of the Council's current Scheme of Delegation, the application has been referred to the Senior Planning Manager for consideration to be given as to whether the application should be referred to a Planning Committee for determination. This matter has been duly considered under these provisions and it has been confirmed that the application should be referred to the Committee for determination.

1.2

2. Description of the Proposals

2.1 Planning permission was granted under planning application J74/32 in 1974 for the creation of the caravan park, known as Heathergate Country Park, near Lowgate.

2.2 A variation to the original approval was granted permission under variation of condition application T/20050948 which increased the period during which caravans on site can be occupied to 11 months of the year through the variation of Condition 2.

2.3 Under this current variation of condition application, the application seeks to increase the period during which caravans on site can be occupied from 11 months of the year to 12 months of the year. The current application relates to the original caravan site of Heathergate Country Park and does not relate to the 39 caravan pitch extension to Heathergate Country Park. Changes to the habitation period of the extension to the caravan site will be assessed as part of a separate application as discussed below in Paragraph 2.6 of this report.

2.4 This current variation of condition application seeks to vary Condition 2 of the variation of condition application T/20050948 to delete the reference to non-occupation during the month of february. Condition 2 states:

"This permission relates to the provision of holiday accommodation and shall not be used as a main or only residence. For the purposes of this condition, holiday accommodation is accommodation which shall not be used for human habitation during the period of four consecutive weeks from 1st February each year, or such other consecutive time period of four weeks as may be agreed in writing by the Local Planning Authority. In order to facilitate the policing/enforcement of the foregoing, the site operators shall provide written confirmation before 31st March annually that the provisions of this condition have been adhered to.

Reason: To ensure that the property is used for holiday accommodation only and to prevent permanent residential use in a location where such development would be inappropriate, in accordance with national policy guidance relating to the creation of new dwellings in the open countryside".

2.5 The application site lies within the Green Belt and is within the open countryside. The application site is to the west of Hexham and is immediately to the north of the small village of Lowgate.

2.6 The variation of condition application 19/01170/VARYCO is a separate application which is currently pending consideration for the variation of Condition 2 of the variation of condition application 18/01745/VARYCO and relates specifically to the 39 caravan pitch extension to Heathergate Country Park. The variation of condition application 19/01170/VARYCO will be considered separately.

3. Planning History

Reference Number: 19/01854/FUL

Description: Construction of permanent site entrance and access track

Status: Pending Consideration

Reference Number: 19/00702/FUL

Description: Extension and alterations to existing office building

Status: Permitted

Reference Number: 18/04091/ELEGDO

Description: Erection of 3 new wooden poles

Status: No Objection

Reference Number: 18/02761/VARYCO

Description: Variation of condition 1 (temporary permission) pursuant to planning permission 17/00223/FUL

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: 18/01745/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: 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: 16/04322/DISCON

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

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: 16/00950/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: 15/02361/CLEXIS

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

Status: Permitted

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/960154

Description: Proposed construction of extension to existing toilet and shower block to provide community room, storage and residential flat

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

Reference Number: T/75/E/104

Description: Extension to existing toilet facilities.

Status: Permitted

4. Consultee Responses

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| Hexham Town Council | No objection. |
| Highways | No objection. |
| Countryside/ Rights Of Way | No objection subject to the protection of Parish of Hexham Town Public Bridleway No.3 being protected throughout. |

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| Licensing Department | No response received. |
| Public Protection | No comment. |

5. Public Responses

Neighbour Notification

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| Number of Neighbours Notified | 25 |
| Number of Objections | 14 |
| Number of Support | 0 |
| Number of General Comments | 0 |

Notices

Site notice affecting Public Right of Way – Displayed on 7th May 2019
 Press notice in Hexham Courant – Published on 25th April 2019

Summary of Responses:

14 representations of objection have been received in relation to this application.
 The objections raise concerns on the following issues:

- The impact of the proposal upon the small village of Lowgate;
- The impact of the proposal on the landscape and the Green Belt;
- Highway safety and traffic;
- The change of the use of the site (the use of the caravans for permanent residential use instead of holiday accommodation);
- The impact of the proposal upon the amenity of the local residents of Lowgate;
- The proposal would not accord with local planning policies;
- Over recent years a number of planning permissions have been granted at Heathergate Country Park, with conditions which have not been complied with and this could happen with the new application.

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=PPMRJIQSN4V00>

6. Planning Policy

6.1 Development Plan Policy

Tynedale LDF Core Strategy (2007)

Policy GD1 – The General Location of Development
Policy BE1 – Principles for the Built Environment
Policy NE1 – Principles for the Natural Environment
Policy EDT1 – Principles for Economic Development and Tourism
Policy EDT4 – Tourism Development in the Open Countryside

Tynedale District Local Plan (2000, Policies saved 2007)

Policy GD2 – Design Criteria for Development
Policy GD4 – Range of Transport Provision for all Development
Policy GD6 – Car Parking Standards outside the built-up areas
Policy TM2 - Enhancement of Existing Facilities, Attractions and Infrastructure
Policy TM12 – Static Caravans and Chalet Development
Policy TM15 – Occupancy Condition on Self-Catering Tourist Accommodation
Policy TM16 – Removal of Occupancy Conditions
Policy NE7 – New Buildings in the Green Belt
Policy LR19 – Safeguard Existing and Promotion of New Public Rights of Way
Policy NE37 – Landscaping in Developments

6.2 National Planning Policy

National Planning Policy Framework (NPPF) (2019)
National Planning Practice Guidance (NPPG) (2018, as updated)

6.3 Other Documents/Strategies

Northumberland Local Plan – Publication Draft Plan (Regulation 19) and proposed minor modifications, submitted on 29 May 2019

Policy ECN 1 – Planning Strategy for the Economy (Strategic Policy)
Policy ECN 12 – A Strategy for Rural Economic Growth (Strategic Policy)
Policy ECN 15 – Tourism and Visitor Development
Policy ECN 16 – Green Belt and Tourism and Visitor Economy
Policy ENV 3 – Landscape
Policy QOP 1 – Design Principles (Strategic Policy)
Policy QOP 2 – Good Design and Amenity
Policy QOP 4 – Landscaping and Trees
Policy STP 1 – Spatial Strategy (Strategic Policy)
Policy STP 2 – Presumption in Favour of Sustainable Development (Strategic Policy)
Policy STP 3 – Principles of Sustainable Development (Strategic Policy)
Policy STP 7 – Strategic Approach to the Green Belt (Strategic Policy)
Policy STP 8 – Development in the Green Belt (Strategic Policy)
Policy TRA 1 – Promoting Sustainable Connections (Strategic Policy)
Policy TRA 2 – The Effects of Development on the Transport Network
Policy TRA 4 – Parking Provision in New Development
Policy WAT 2 – Water Supply and Sewerage

Policy HNP1 – Sustainable Development in the Neighbourhood Area
Policy HNP2 – High-Quality Sustainable Design in the Neighbourhood Area
Policy HNP23 – Hotel and Tourism Accommodation

7. Appraisal

7.1 7.1 The main issues for consideration are:

- Principle of development
- Landscape and impact on Green Belt;
- Impact upon residential amenity;
- Highway safety; and
- Other matters.

Principle of Development

7.2 The principle of the development, comprising of the creation of the caravan park (Heathergate Country Park), has already been established as acceptable on the site and within the Green Belt, with the granting of planning permission under planning application J74/32. Since then, the variation of condition application T/20050948 has been made to vary Condition 2 which has in effect granted a new permission against which this current application must be assessed, with regard also had to the fact that the granting of this permission would also provide a new permission, albeit subject to the varied conditions to that approved in the preceding permission.

7.3 The current application proposes a variation to Condition 2 to increase the period during which caravans on site can be occupied from 11 months of the year to 12 months of the year. There are no changes proposed to the layout of the site. In terms of operational development, there would be no physical change on site, with changes merely to the habitation period of the caravans on site. Overall, therefore, the principle of the development remains acceptable insofar as there are very special circumstances which would justify allowing development which is inappropriate within the Green Belt, as assessed and concluded in previous applications, however consideration must be given as to whether the changes proposed in this current application would result in any additional harm over and above this.

7.4 The site is located in the open countryside and in the Green Belt where development is strictly controlled. Local Plan Policy NE1 states that the countryside will be protected from adverse impact by development and that development in the open countryside will only be permitted where such development is specifically covered by other policies in the Local Plan. Local Plan Policy TM2 encourages the enhancement of existing facilities for tourism particularly within towns and villages within the District. Local Plan Policy TM12 states that new and extensions to existing caravan sites (both static and touring) and chalet/camping sites will not be permitted in the Green Belt and sets out the criteria which must be met in other locations. The application, however, is not for a new facility or for an extension to an existing site, but seeks to enhance an

existing and well-established tourist facility. The extended occupancy period would allow for the caravans to be occupied year round, which would result in economic benefits to the local economy. It is considered that the proposed variation in the condition would accord with Local Plan Policy ED11, which relates to small scale employment sites, and would not conflict with Local Plan Policy TM12 and would meet the broad aims of Core Strategy Policy EDT1.

7.5 The recently updated NPPF emphasises the need for the planning system to support economic growth, and a prosperous rural economy including tourism facilities.

7.6 The LPA have been considering application such as that proposed for some time. Advice set out in the Government's Good Practice Guide on Planning for Tourism, published in May 2006 (since withdrawn in March 2014), states that: 'Local planning authorities may attach conditions to planning permissions for holiday parks to ensure that they are used for holiday purposes only. However, with better caravan standards and the trend towards tourism as a year round activity, authorities should give sympathetic consideration to applications to extend the opening period allowed under existing permissions.' The Good Practice Guide suggested the following condition to control the use of caravans, cabins/chalets and other holiday park accommodation:

- (i) the caravans (or cabins/chalets) are occupied for holiday purposes only;
- (ii) the caravans (or cabins/chalets) shall not be occupied as a person's sole, or main place of residence;
- (iii) the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans/log cabins/chalets on the site, and of their main home addresses, and shall make the information available at all reasonable times to the local planning authority.

Reason: To ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation.

7.7 In assessing this application, the fact that the Local Plan was superseded by Government guidance is relevant and it is considered that a less restrictive condition could still ensure that the caravans would not be used as the primary residence but would allow them to be used as second homes by the owners. The revised condition, whilst preventing the caravans from being used as permanent residential accommodation, would not ensure that there would be a throughput of visitors and would not prevent them from being used as second homes. However, the revised approach would appear to be responding to demand for this type of accommodation and is endorsed by the latest guidance from the Government, including the NPPF.

7.8 Based on the above, therefore, the proposed variation of condition is considered to be justified where the caravans are located on a holiday park. The condition as set out in the now withdrawn Government guidance is considered to be appropriate. It is worth noting that this condition has been applied to many other similar sites within the County in recent years.

Landscape and impact on Green Belt

7.9 The impact of the proposal upon the landscape and upon the Green Belt is one of a number of concerns which have been raised within the objections received in relation to this application. The application does not propose any changes to the layout of the site and in terms of operational development, there would be no physical change on the site. Therefore, the proposed change is solely to the habitation period of the caravans on the site from 11 months of the year to 12 months of the year.

7.10 Noting the concerns raised by local residents in relation to this matter, it is considered that the changes proposed would be acceptable in terms of landscape impact as the variation of Condition 2 would have no greater effect on the wider landscape and the Green Belt, than as approved in previous permissions. Whilst it is acknowledged that there will be activity on site including lighting on during the month of February this is not considered to be significant in terms of the wider impact of the site. The proposal would therefore remain acceptable in this respect in accordance with Policies BE1 and NE1 of the Tynedale LDF Core Strategy, Policies GD2 and NE7 of the Tynedale District Local Plan, Policy ENV3 of the Northumberland Local Plan (Publication Draft Plan) and the principles of the NPPF.

Impact upon Residential Amenity

7.11 There are 6 detached dwellings to the south of the application site; 1 to 6 Heathery Hill. This small group of detached dwellings are separated from the site by an area of woodland which forms part of the gardens to a couple of these dwellings. Further to the east and south and adjacent to the Parish of Hexham Town Public Bridleway No.3 is Lowgate Nursing Home and other dwellings within the small village of Lowgate. The Parish of Hexham Town Public Bridleway No.3 connects the application site to the public highway to the east.

7.12 Whilst there is likely to be some increased disturbance to these dwellings from the use of the caravan park for 12 months rather than 11 months of the year, it is not considered that this would be significant given the distance of the caravans from nearby dwellings and given that the extended caravan park is accessed via the existing caravan park rather than via a section of the bridleway which runs adjacent to the gardens of the dwellings to the south. Furthermore, the Council's Public Protection team has been consulted on this application and has no comment to make, hence raises no concerns with the proposed changes. The concerns raised within the objections received for this application regarding the impact of the proposal on the amenity of local residents have been taken into consideration when assessing this application. However, it is concluded that overall, the proposed change to the habitation period of the extended caravan park is considered to remain acceptable in relation to residential amenity and noise in accordance with Policy GD2 of the Tynedale District Local Plan, Policy QOP 2 of the Northumberland Local Plan (Publication Draft Plan) and the principles of the NPPF.

Highway Safety

7.13 The Council's Highway Development Management team has been consulted on this application to assess the impact of the proposal upon highway safety. This matter has been raised within a number of the objections received from local

residents. Highway Development Management have no objection to the proposed changes and consider that the proposed changes to the habitation period of the caravan site would not have an adverse impact on the safety of users of the highway or on the highway network. The proposal therefore remains compliant with Policies GD4 and GD6 of the Tynedale District Local Plan and the principles of the NPPF.

Other Matters

7.14 Matters relating to flooding, drainage and ecology are all considered to remain unchanged given the nature of the development proposed. Concerns have been raised by local residents, regarding the conditions imposed upon the previous permissions, that these conditions have not been complied with and suggesting that the local planning authority should resist further changes to the site. Each application must be assessed on its own merits, and the changes proposed in this application have been considered with regard to the granting of permission under previous applications.

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 The principle of the development, comprising of the creation of the caravan park (Heathergate Country Park), has already been established as acceptable on the site and within the Green Belt, with the granting of planning permission under planning application J74/32.

8.2 The further changes now proposed to Condition 2 are considered to be acceptable in relation to the impact upon the landscape, the impact upon residential amenity and highway safety. It is also considered that the wording of Condition 2 would restrict the occupancy of the caravans to holiday use only and would prohibit their use as main residences.

9. Recommendation

That this application be GRANTED permission subject to the following:

Conditions/Reason

01. This permission relates to the provision of year round holiday accommodation. The caravan pitches subject to this permission shall be occupied for holiday purposes only and no unit shall be occupied as a person(s) sole or main place of residence. In this regard the site operator shall maintain an up-to-date register of all occupiers and the dates on which they have occupied a unit during the calendar year to which that register relates and this register shall be available for inspection by an authorised officer of the Council at all reasonable times.

Reason: The development is such that it could not be approved for permanent development having regard to Policy TM15 of the Tynedale District Local Plan and the NPPF.

Date of Report: 21.06.2019

Background Papers: Planning application file(s) 19/01171/VARYCO