

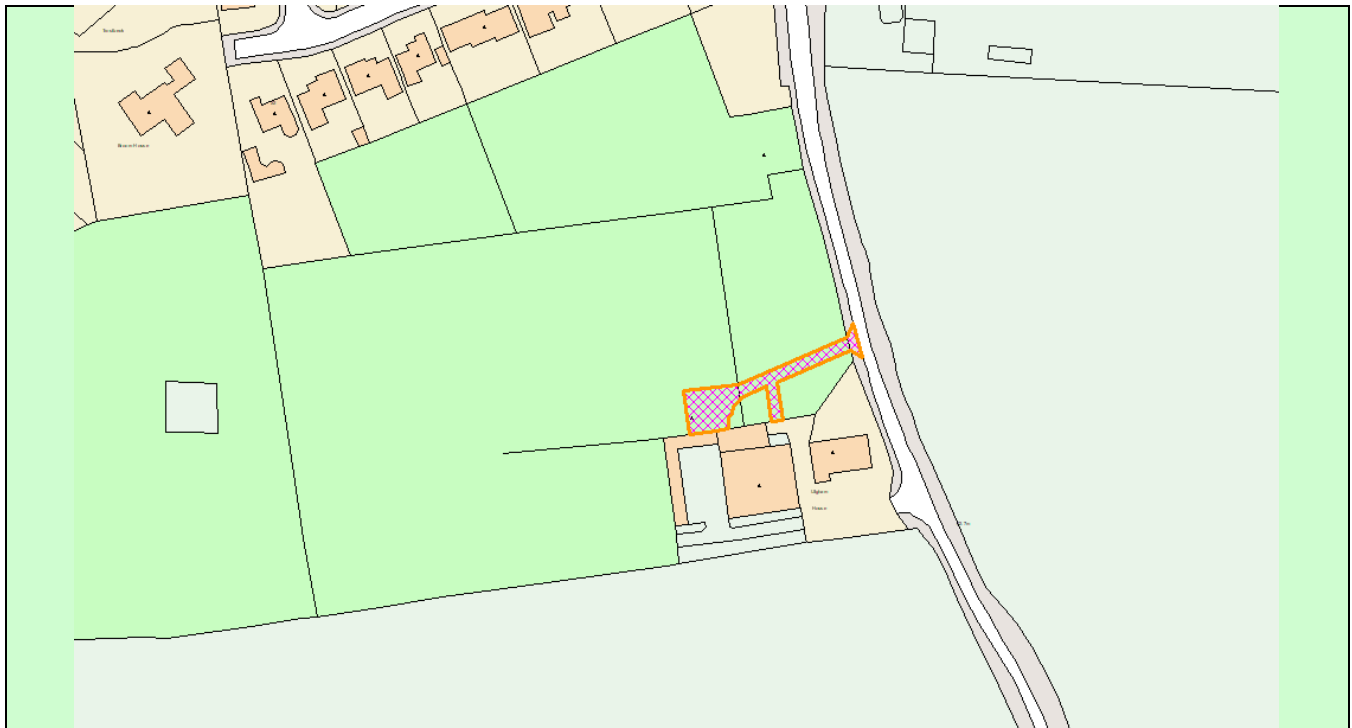


Northumberland County Council

Castle Morpeth Planning Committee 13th May 2024

Application No:	24/00826/VARYCO		
Proposal:	Removal of conditions 3 and 4 (footpath) pursuant to planning permission 23/01205/VARYCO		
Site Address	Land North of Southcroft Stables, The Croft, Ulgham, Northumberland		
Applicant:	Mr Thomas Forster Miler House, West Road, Tantobie, Stanley Co Durham DH9 9RX	Agent:	Miss Joanne Wood 15 Low Avenue, Chilton, Ferryhill, Co Durham DL17 0DZ
Ward	Pegswood	Parish	Ulgham
Valid Date:	12 March 2024	Expiry Date:	14 th May 2024
Case Officer Details:	Name: Mr Ryan Soulsby Job Title: Senior Planning Officer Email: Ryan.Soulsby@northumberland.gov.uk		

Recommendation: That this application be GRANTED permission



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1. Introduction

- 1.1 Following the receipt of an objection from Ulgham Parish Council, the application was referred to the Director of planning and chairs of the Local Area Committee. It was confirmed within their response on 8th April 2024 that the application should be determined by members at Local Area Committee.

2. Description of the Proposals

- 2.1 An amendment is sought to planning application 24/00826/VARYCO on land north of Southcroft Stables, The Croft, Ulgham.
- 2.2 The submitted details propose the removal of conditions 3 and 4 from 23/01205/VARYCO which required the provision of a footpath link between the application site and the existing settlement of Ulgham located to the north.
- 2.3 Both conditions were removed by the Planning Inspectorate under ref no. 23/01214/VARYCO (appeal ref no. APP/P2935/W/23/3324404). The inspector, despite the concerns of the LPA relating to policy conflict, deemed that the loss of the conditioned footpath would not result in an unacceptable impact on highway safety.
- 2.4 The two conditions were also attached to subsequent variation applications, as well as the original full planning application, hence the requirement of this application to remove the condition from a previous variation permission.

3. Planning History

Reference Number: 21/04319/REM

Description: Reserved matters application for access, layout, scale, appearance and landscaping for 4no dwellings on approved application 19/00072/VARYCO.

Status: Approval

Reference Number: 21/04875/FUL

Description: New vehicular access to serve four permitted dwellings

Status: Approval

Reference Number: 23/01205/VARYCO

Description: Variation of condition 2 (Approved plans) on approved application 21/04875/FUL in order to substitute access plan.

Status: Approval

Reference Number: 23/01214/VARYCO

Description: Removal of condition 3(Footpath 1 (HDM)) and 4(Footpath 2 (HDM)) on approved application 21/04875/FUL.

Status: Refused

Reference Number: CM/96/D/557

Description: Removal of agricultural occupancy Condition 9 attached to Planning Permission Ref. 90/D/399 and Condition 5 of Planning Permission Ref. 90/D/652

Status: Approval

Appeals

Reference Number: 23/00044/REFUSE

Description: Removal of condition 3(Footpath 1 (HDM)) and 4(Footpath 2 (HDM)) on approved application 21/04875/FUL.

Status: Allowed

4. Consultee Responses

Ulgham Parish Council	<p>The Parish Council wish to object to the removal of conditions 3 and 4 (footpath) pursuant to planning permission 23/01205/VARYCO. The conditions currently in place, we believe mitigate the Highways Report which stated 'Fundamental concern (Refuse/Withdraw): Concerns so significant that no reasonable action is likely to address the concern.</p> <p>Acknowledging that previous appeals which had similarly-worded conditions were approved (APP/P2935/W/20/3255596, APP/P2935/W/23/3324404), it is believed that circumstances have changes since the latest inspection and would appreciate consideration of the following:</p> <p>It has previously been stated that 'pedestrians or other users could briefly pass onto the grass verges on either side of the lane if required', however open ditches have now been dug on the east side of the road to alleviate flooding problems, making it impossible for pedestrian safety or indeed passing cars to use that side of the road, therefore reducing this as a safe option.</p> <p>The verges are uneven, often waterlogged and not an option for cyclist and those using prams, or residents who need access suitable for mobility aids. Putting this in context, the age demographics of our village are 70% over 50 years of age with a third of our population over 70 years old. With the park located nearby, the lack of a footpath provision would result in the mode of travel by foot being unacceptable, particularly for children, and it is considered the quality of walking experience will be lost unless sufficient infrastructure is provided.</p> <p>'The construction is as described 'only four dwellings' which is a small number of units that would not generate significant pedestrian movement along the lane by occupants of the site walking to Ulgham'. Consideration for safety, is not purely for the residents of the new dwellings walking to Ulgham. Visitors to the dwellings are likely to walk along the lane increasing what is already a well used lane by local residents - cyclists, dog walkers, those exercising/walking/running. The lane has no lighting which also impacts safety during darkness. In lightly used streets a minimum unobstructed width for pedestrians should be provided and should generally be 2m.</p> <p>'Moreover, and stated in the first appeal decision there is minimal traffic on this lane and pedestrians can therefore safely walk along it without fear of collision'. We dispute the inspectors observations, as this appears to be only a snapshot in time. This depends on the time of day or season of the year. Commuters regularly use the lane, a route between two primary roads namely the A197 to the south and B1337 to the</p>
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	<p>north. In spring or early autumn there is a large volume of agricultural vehicles, Ulgham Lane is the only access to agricultural land south of the village. The lane has recently been used as a diversion following a recent traffic accident on the B1337, causing considerable disruption. As building work progresses, there will undoubtedly be an increase in large construction vehicles, a footpath will mitigate concerns for safety during development.</p> <p>In summary the parish council are objecting to the removal of conditions 3 and 4 (footpath) on the basis of safety, referring to STP 5 Northumberland Plan where development proposals are safe and priorities pedestrian and cycle movement. In accordance with policy TRA 1 of the Northumberland Local Plan and the National Planning Policy Framework and in the interest of highway safety, we believe inclusion of the footpath conditions mitigates highways concerns and should remain for public safety.</p>
Highways	Abstain from providing a recommendation in recognition of previous appeal decisions.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	3
Number of Objections	0
Number of Support	0
Number of General Comments	0

Notices

No Site Notice Required.

No Press Notice Required.

Summary of Responses:

None received

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=SA6Q08QSH1B00>

6. Planning Policy

6.1 Development Plan Policy

Northumberland Local Plan 2016 - 2036 (Adopted March 2022) (NLP)

Policy STP 1 - Spatial strategy (strategic policy)

Policy STP 2 - Presumption in favour of sustainable development (strategic policy)

Policy STP 3 - Sustainable development (strategic policy)
Policy STP 4 - Climate change mitigation and adaption (strategic policy)
Policy STP 5 - Health and wellbeing (strategic policy)
Policy STP 7 - Strategic approach to the Green Belt (strategic policy)
Policy STP 8 - Development in the Green Belt (strategic policy)
Policy QOP 1 - Design principles (strategic policy)
Policy QOP 2 - Good design and amenity
Policy TRA 1 – Promoting sustainable connections (strategic policy)
Policy TRA 2 – The effects of development on the transport network

6.2 National Planning Policy

National Planning Policy Framework (2023) (NPPF)
National Planning Practice Guidance (2024) (NPPG)

7. Appraisal

7.1 As the principle of development upon this site has already been established through the granting of the previous planning permission, the main considerations within this application assessment relate to:

- Highway safety and sustainable transport

Highway safety and sustainable transport

- 7.2 Policy TRA 1 of the NLP states that developments should *"Promote a spatial distribution which creates accessible development, reduces the need to travel by car, and maximises the use of sustainable modes of transport"* as well as *"Promote sustainable transport choices, including supporting, providing and connecting to networks for walking, cycling and public transport"*. Developments should also *"Address the needs of people with disabilities and reduced mobility in relation to all modes of transport"*.
- 7.3 Policy TRA 2 is also relevant within this assessment recognising that developments should *"Minimise conflict between different modes of transport"* and *"Facilitate the safe use of the network, including suitable crossing points, footways and dedicated provision for cyclists and equestrian users where necessary"*. The NPPF also mirrors the provisions of these policies within part 9 recognising the need to promote sustainable transport. Paragraph 108, part c) outlines that *"opportunities to promote walking, cycling and public transport use are identified and pursued"* in relation to application proposals.
- 7.4 Consultation was undertaken with the local authority's highways development management team as part of the application assessment. Highway's DM reiterated their previous concerns that a lack of footpath at the application site would not promote sustainable transport and would therefore conflict with policies contained within the Local Plan and NPPF. Nevertheless, were the LPA to refuse this application it is unlikely that PINS stance would change, recognising the previous appeal decision, without substantial evidence or a large increase in traffic or pedestrian trips at the site. As such, HDM abstained from providing a recommendation upon the application.

7.5 The concerns of the Parish Council are recognised and shared by the LPA. Nevertheless, attaching weight to the previous appeal decision, the LPA consider it to be unreasonable to refuse this application and that removal of these conditions has previously been established at appeal, albeit from the full planning application rather than later variation applications. Paragraph 12 of the appeal decision states *“In conclusion, taking all of these considerations together, the absence of a footpath would not result in an unacceptable impact on highway safety. The conditions are therefore not required to ensure that the development accords with Policies TRA 1 and TRA 2 of the Northumberland Local Plan 2022, where they seek to promote sustainable connections, provide effective and safe access and egress, minimise conflict between different modes of transport and facilitate the safe use of the transport network. Furthermore, there would be no conflict with the aims of the Framework set out in paragraphs 110 and 111*. This means that the conditions also do not meet the tests of necessity and reasonableness set out in paragraph 56 of the Framework”* (*paragraphs 114 and 115 following the updated NPPF in December 2023)

7.6 The LPA can therefore in this instance accept the removal of conditions 3 and 4.

Equality Duty

7.7 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

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

Human Rights Act Implications

7.9 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.

7.10 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.

- 7.11 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 local planning authority consider the variation to conflict with the provisions of the Local Plan and National Planning Policy Framework however, the previous appeal decision is a material planning consideration in the assessment of the file. Without substantial evidence or considerable increases in vehicle movements adjacent to the site, it is likely the variation would be allowed at appeal if the applicant pursued this route. There has been no considerable amendments to planning policy since the previous appeal decision.

- 8.2 The application is therefore recommended for approval.

9. Recommendation

That this application be GRANTED permission subject to the following:

Conditions/Reason

01. The development hereby permitted shall be begun before the expiration of three years from the date of permission ref no. 21/04875/FUL

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

02. The development hereby permitted shall be carried out in complete accordance with the approved plans. The approved plans for this development are:-

- 1) Location plan drawing no. 001_01 rev. P1 (received 16th December 2021) (approved under 23/01205/VARYCO)
- 2) Proposed site plan drawing no. 200_01 rev. P9 (received 3rd April 2023) (approved under 23/01205/VARYCO)

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

Date of Report: 8th April 2024

Background Papers: Planning application file(s) 24/00826/VARYCO