
Ref No: NP/23/0456/MOD

Proposed Development: Modification of S106 Agreement

Site Location: Bluestone Resorts, The Grange, Narberth SA67 8DE

Applicant: Bluestone Resorts Ltd

This application is being considered by the Development Management Committee as it seeks to discharge a Section 106 legal agreement, the terms of which were approved previously by the Development Management Committee in relation to planning application NP/02/570. The County Council is also party to the Section 106 agreement.

Summary

The application proposes the discharge of a Section 106 legal agreement relating to a contribution for the enhancement of public access opportunities and development proposed on land at Newton Farm, Canaston Bridge, Narberth, Pembrokeshire. This Section 106 legal agreement is dated 25th June 2004 and is between Pembrokeshire County Council, Pembrokeshire Coast National Park Authority, Bluestone Holdings Limited, Alfred McAlpine Capital Projects Limited and Sir Edward John Francis Dashwood (Baronet).

The Section 106 Agreement contains an obligation on Bluestone Holdings Limited (now Bluestone Resorts Limited) to pay an annual contribution towards public rights of way and public access opportunities within the County of Pembrokeshire. The Developer's contributions are contained in the Schedule of the Section 106 Agreement. The applicant has applied to discharge the Section 106 Legal agreement but the supporting text notes that they applicant is agreeable to making two final payments.

Having considered the information submitted, Officers consider that provided the two final payments are received the legal agreement has served its purpose and can be discharged. In order to ensure the two final payments are made, a modification to the Section 106 legal agreement is supported. This decision is supported by Pembrokeshire County Council who have received a concurrent application which is also recommended by Officers for modification.

The application plans and full details can be found on the PCNPA website at: [PCNPA Planning \(pembrokeshirecoast.wales\)](https://www.pcnpa.org.uk/Planning/pembrokeshirecoast.wales)

Consultee Response

**PCC Planning Obligations Officer
Martletwy Community Council**

Advisory notes
No response received

Public Response

One public response has been received objecting on the basis that the information provided to support the application is inadequate.

Policies considered

Future Wales 2040 (adopted 2021)

Planning Policy Wales Edition 12

Please note that the LDP2 policies can be viewed on the Policies page of Pembrokeshire Coast National Park website –

Local Development Plan 2 - Pembrokeshire Coast National Park

Policy 1 National Park Purposes and Duty (Strategy Policy)

Policy 8 Special Qualities (Strategy Policy)

Policy 55 Infrastructure Requirements

Policy 59 Sustainable Transport (Strategy Policy)

Policy 60 Impacts of Traffic

SPG – Planning Obligations

Officer's Appraisal

Site and Context

The application site relates to Bluestone Resort which is a holiday resort located within a five-hundred-acre site in mid Pembrokeshire. The site lies in a countryside location south of Canaston Bridge, to the immediate west of the A4075 and immediately north of Oakwood Theme Park. It is approximately five miles from the town of Narberth and three miles from the village of Robeston Wathen.

The site includes an indoor waterpark, over 400 holiday lodges, a spa and adventure playgrounds, car parking and other associated facilities.

The site is partly within the Pembrokeshire Coast National Park. As such, part of the site is within the planning jurisdiction of the Pembrokeshire Coast National Park Authority (this Authority) and part of the site is within the planning jurisdiction of Pembrokeshire County Council.

Planning application NP/02/570 (an outline application) was approved by PCNPA on the 29th June 2004. This granted permission for a holiday village, landscaping and creation of lake and servicing in association with proposed leisure facilities on

adjoining land (Bluestone). Pembrokeshire County Council approved planning application 02/0900/PA known as the Waterworld application for the leisure element of the site.

As part of granting the planning permission, two Section 106 legal agreements were required. One of the legal agreements related only to the contribution of Public Access Opportunities and was a joint legal agreement with Pembrokeshire County Council - this is the legal agreement which is the subject of this application.

Relevant Planning History (note DOCs not listed)

NP/21/137/FUL - Removal of a timber structure, installation of holiday lodges, welcome lodge, communal hub structures, buggy park and photo-voltaic shelter and guest car park, with associated infrastructure including internal circulation roads, hard and soft landscaping, drainage infrastructure, retaining walls and earth bunding. This forms the main part of a wider development proposal that is otherwise located within Pembrokeshire County Council - Approved 13 January 2022

NP/15/0247/FUL - Retrospective planning application for outdoor restaurant, highwire/zip course with platforms, boardwalk, cabin building, lighting and timber storage shed. Proposed development to include improved toilet facilities with ramp and sewerage system, including screens – Approved 09 July 2015

NP/14/0380 - Variation of condition no.2 of NP/04/370, 04/371 and 04/372 to allow altered internal road layout, amend lodge locations and lodge types and Caldey Lodge eave and ridge height raised by 1095 mm - Approved 25 September 2014

NP/14/0371 - Two new buildings to house a conference room, staff welfare facilities and children's club - Approved 4 September 2014

NP/09/304 APPEAL Variation of Section 106 Agreement to allow for pamper days, a membership package and Bluestone visitor pass for staying guests - appeal allowed to vary terms of Section 106 to allow day visitors to the resort in accordance with Appendix A Limitation terms - Appeal allowed 2 February 2010

NP/09/304 - Variation of Section 106 Agreement to allow for pamper days, a membership package and Bluestone visitor pass for staying guests Refused 3 September 2009

NP/04/0372 - Sports Club and ancillary buildings and discharge of conditions (02/570) - Approved 5 January 2007

NP/04/0371- Lodges and discharge of conditions (02/570) – Approved 16 May 2007

NP/04/0370 - Village and discharge of conditions (02/570) – Approved 5 January 2007

NP/02/570 - Holiday village, landscaping and creation of lake and servicing in association with proposed leisure facilities on adjoining land (Bluestone) – Approved 29 June 2004

Description of Proposal

This application is seeking to discharge a Section 106 Agreement.

The planning obligations secured by the Section 106 Agreement are set out in the Schedule within the document. These include (language has been summarised):

1. To pay the proper legal costs of the County Council and the Authority incurred in connection with the Agreement.
2. To serve written notice on both the County Council and PCNPA providing details of number of units of accommodation at least three weeks prior to the completion date and before any anniversary of the completion date.
3. To Pay the County Council:
 - On the completion date £25.00 for every unit of accommodation available for let
 - On the first anniversary of the completion date £35.00 for every unit of accommodation available for let
 - On the second anniversary of the completion date £45.00 per unit of accommodation available for let
 - On the third anniversary the sum of £55.00 per unit of accommodation available for let
 - On the fourth anniversary the sum of £65.00 per unit of accommodation available for let
 - On the fifth anniversary of the completion date the sum of £75.00 per unit of accommodation for let
 - Thereafter on every anniversary of the completion date the sum of £75.00 per unit of accommodation available for let such payment to be adjusted up or down in the same proportion as the Price Retail Index shall have risen or fallen from the Fifth Anniversary of the Completion date to the date of payment to the relevant annual contribution.

The Section 106 agreement includes covenants that the County Council and PCNPA will use the contributions for public access wholly in connection with the creation, enhancement and maintenance of public rights of way permissive paths and other public access opportunities within the County of Pembroke. The covenants also include annual meetings in order to agree how and where the money will be spent in each 12-month period.

Key Issues

The key issue is whether or not the planning obligation still serves a useful purpose, or whether its purpose has been met.

Policy and Principle

Section 106A(3) Town and Country Planning Act 1990 provides that a person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the local planning authority by whom the obligation is enforceable for the obligation to be discharged. The relevant period is the period of

five years beginning with the date on which the obligation is entered into. In this case, five years has passed since the date on which the obligation was entered into. Where an application is made to the authority under subsection (3), the authority may determine:

- a) that the planning obligation shall continue to have effect without modification
- b) if the obligation no longer serves a useful purpose, that it shall be discharged; or
- c) if the obligation continues to serve a useful purpose but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

In deciding whether to discharge the obligation, the LPA must consider whether the original planning obligation still serves a useful purpose or whether its purpose has been met. In *R (on the application of Batchelor Enterprises Ltd) v North Dorset District Council* [2003] EWHC 3006 (Admin), the LPA's refusal to modify a s.106 agreement was unlawful because the refusal was not based on planning grounds.

Policy 55, Infrastructure Requirements of the adopted LDP2 for the National Park states that planning permission will be granted for proposals that have made suitable arrangements for the improvement or provision of infrastructure, services and community facilities made necessary by the development. It notes that arrangements for provision or improvement to the required standard will be secured by planning conditions attached to a planning permission, or in some cases planning obligations. The policy specifies that where it can be proven that a proposal is unable to deliver in terms of the policy requirements of the Plan, priority will be given to the delivery of affordable housing in any further negotiations, provided that it can be demonstrated that the proposal would not unduly overburden existing community infrastructure provision.

More guidance on Planning Obligations is set out in the Authority's adopted Planning Guidance Supplementary Planning Guidance (Planning Obligations SPG) document. This document states that the Local Planning Authority will secure Planning Obligations in order to ensure that local services and infrastructure have adequate capacity to meet the additional demands arising from new development.

The applicant notes in their submission that to date Bluestone has provided contributions of £279,812.73 for public access improvements in Pembrokeshire. This figure is correct for the anniversary of the agreement in 2022 but the payment for 2023 takes this to £318,703.87 and includes the payment of £38,891.73 (the first payment envisaged under the modified agreement).

Pembrokeshire County Council S.106 Monitoring Officer has confirmed that contributions have been made amounting to £318,703.87 and spent on a range of public rights of way improvements across Pembrokeshire. Projects funded have primarily been in Canaston Woods including a multi-user route and Public Rights of Way improvements. Both the Rights of Way teams at Pembrokeshire County Council and PCNPA have confirmed in discussions with Bluestone Resorts as part of a Statement of Common Ground that extensive improvements to the rights of way networks both in the immediate area of Bluestone Resorts and the wider County have been delivered as a result of the obligations. These obligations alongside two

final payments are considered to meet the National Park LDP Policy 55 policy requirement that proposals make suitable arrangements for the improvement or provision of infrastructure necessitated by the development.

The Authority is satisfied that subject to two further payments of £38,000 to be made in August 2024 and August 2025, the obligation no longer serves a planning purpose and can be discharged and as such the obligation should be modified accordingly. It should be noted that a separate financial obligation was introduced via a separate Section 106 Legal Agreement alongside Phase 4 (NP/21/137/FUL) which included a one-off payment of £87,516 which supported an extension to the multi-user path between the A4075 and the A40.

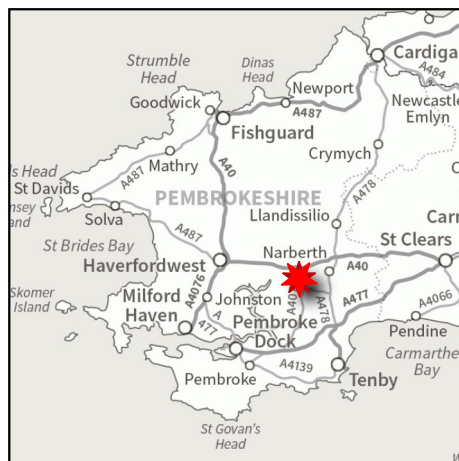
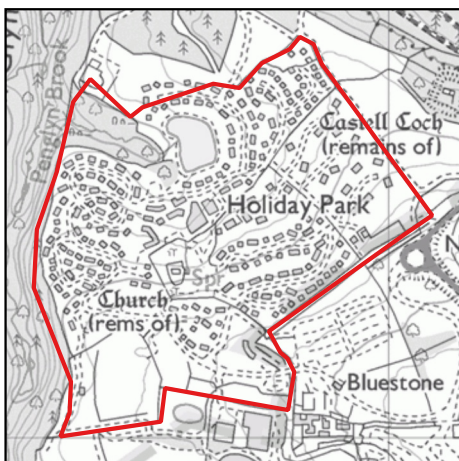
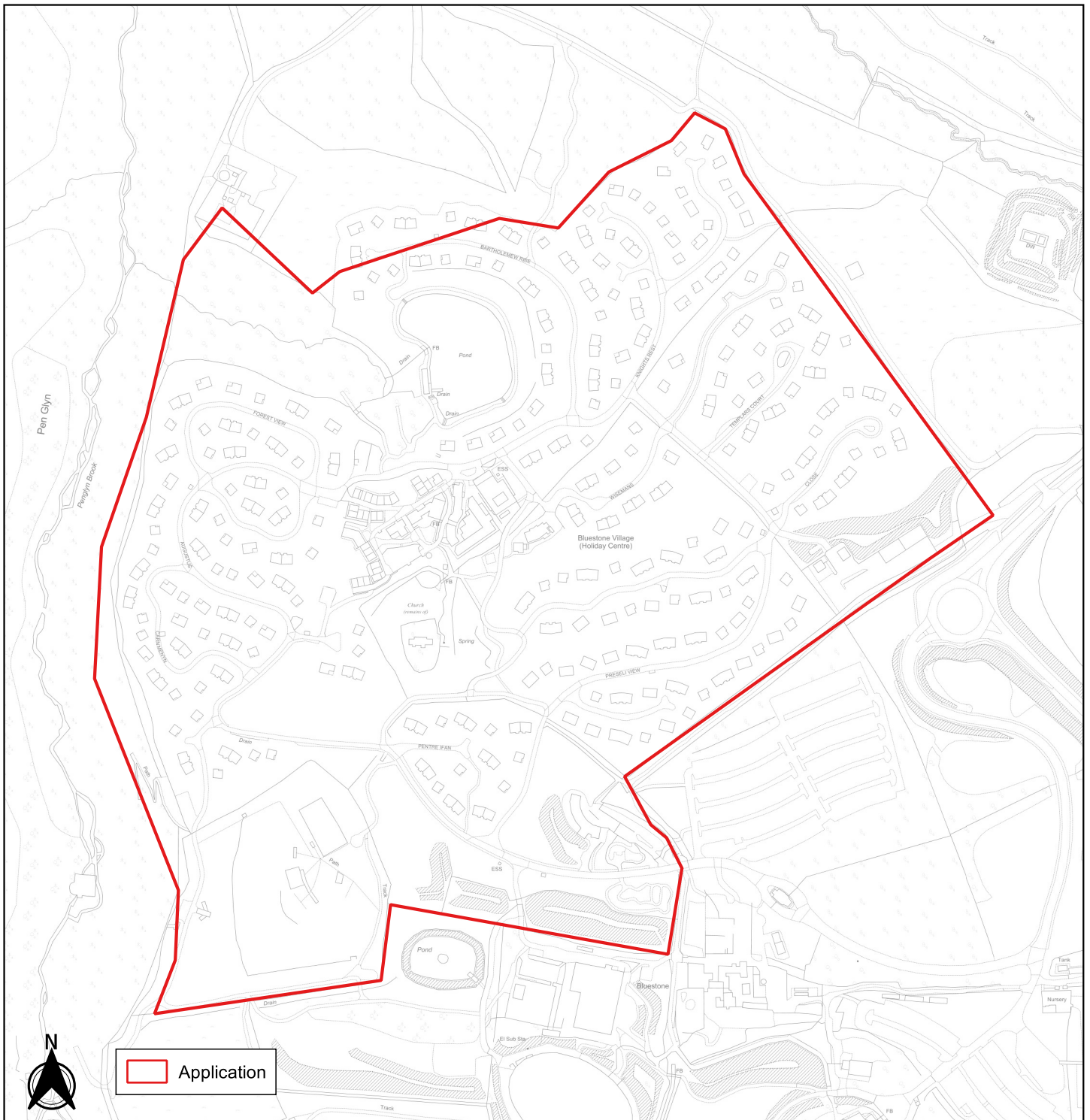
Conclusion

The Bluestone legal agreement has delivered financial contributions of over £300k to support rights of way improvements both in the immediate vicinity of Bluestone and across Pembrokeshire as a whole since it was signed.

No timeframe for the cessation of contributions was set out within the legal agreement, but Officers of both Pembrokeshire County Council and Pembrokeshire Coast National Park Authority consider that the contributions subject to the two final payments outstanding will meet the policy requirements of ensuring that sufficient infrastructure improvements as necessitated by the development have been delivered. As such the legal agreement can be modified to require two final payments referred to and then cease.

Recommendation

Agree that the obligation be modified to agree two final payments of £38,000 to be paid in August 2024 and August 2025.



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