

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/00185/VOC
FULL APPLICATION DESCRIPTION:	Removal of Condition 5 (holiday home occupancy restriction) of planning permission DM/15/01520/FPA for the siting of 16 executive holiday lodges (resubmission)
NAME OF APPLICANT:	C/o Agent, Mr Ross Sandbach of AMS Planning, Architecture and Development Consultants.
ADDRESS:	Evergreen Park Crimdon TS27 4DW
ELECTORAL DIVISION:	Blackhalls
CASE OFFICER:	Jennifer Jennings Planning Officer Telephone: 03000 261057 jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is situated off the Coast Road in the Crimdon Dene area to the south east of the former District of Easington. It is not within a settlement boundary and would therefore be classed as located in the countryside for planning purposes.
2. Evergreen Park, located directly south of the application site, is owned and managed by the applicant and is an established rural business which operates as a residential caravan park with some 25-30 residential properties on site. The majority of these are inhabited by retirement age residents who live on site permanently.
3. The application site currently benefits from planning permission for the siting of 16 executive holiday lodges, which has been implemented and the site cleared and laid to grass. Hardstandings and service points have been installed for each proposed mobile holiday lodge and an access road leading from the existing Evergreen Park installed which provides access to the site.

The Proposal

4. The application seeks permission to vary condition 5 of the planning permission DM/15/01520/FPA which granted consent for the siting of 16 holiday lodges. This condition states: 'The lodges hereby approved shall be occupied for holiday purposes only, and shall not be occupied as a person's sole, or main place of residence.' The applicant seeks to vary this condition to allow full time residential occupation of each of the units.

5. Justification for the removal of the condition relates to applicant's assertion that there is no longer demand for the units as holiday lets evidenced by a failed period of marketing.
6. The application is being reported to Planning Committee at the request of the local ward member, on the grounds of sustainability.

PLANNING HISTORY

7. Planning history at neighbouring Evergreen Park site:

5/79/610 General improvements and new amenities block Approved 12th November 1979

5/PLAN/2006/0302 Certificate of lawfulness for existing use as residential caravan park Approved 28th November 2006

5/PLAN/2008/0554 Relocation of dwelling Approved 6th February 2009

8. Planning history at application site:

DM/15/01520/FPA Change of use from materials storage area to permit siting of 16 executive holiday lodges. Refused 22nd October 2015 Appeal Allowed 21st July 2016

DM/19/03697/FPA Removal of Condition 5 (holiday home occupancy restriction) of planning permission DM/15/01520/FPA for the erection of 16 executive holiday lodges
Withdrawn

PLANNING POLICY

NATIONAL POLICY

9. The following elements of the NPPF are considered relevant to this proposal.
10. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
11. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
12. *NPPF Part 5 - Delivering a Sufficient Supply of Homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

13. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. *Developments* should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. *Developments* that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 11 – Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
16. *NPPF Part 12 – Achieving well-designed places* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
18. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; health and well-being; land stability; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

LOCAL PLAN POLICY:

County Durham Plan

20. Policy 6 (Development on unallocated sites) development on sites not allocated in the Plan or Neighbourhood Plan but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological etc. value; is appropriate in scale, design etc to character of settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration
21. Policy 10 (Development in the Countryside) will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
22. Policy 11 (Rural housing and Employment Exception Sites) states that new housing which is contrary to Policy 10 will be permitted where it can be demonstrated that it meets criteria a-d.
23. Policy 15 (Addressing housing Need) requires all qualifying new housing proposals to provide a percentage of Affordable housing on sites of 10 or more units. Table 8 of this policy identifies a 10% requirement in low value areas. Off site contributions may be considered where there would be five or fewer affordable homes on the site.
24. Policy 19 (Type and Mix of Housing) supports the opportunity to facilitate custom build schemes.
25. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development to have regard to Parking and Accessibility Supplementary Planning Document.
26. Policy 25 (Developer Contributions) supports development where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations.
27. Policy 26 (Green Infrastructure) states that proposals for new residential development will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the council will require financial contributions secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality.

28. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
29. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as ensuring light pollution is minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
30. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are also expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts
31. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted which would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reason and appropriate compensation.
32. Policy 41 (Biodiversity and Geodiversity) highlights that development will be expected to provide net gains for biodiversity.
33. Policy 42 (Internationally Designated Sites) identifies the need to protect internationally important sites and species. Since the previous application was approved, the Council has developed a coastal avoidance and mitigation strategy. This implements a programme of monitoring and mitigation measures to address potential adverse effects on County Durham's coastal European Protected Sites, which can be caused from increased visitor pressures resulting from new planned residential and tourist development. Although comments were provided by specialist colleagues in relation to the original application, as the site falls within 0.4 and 6km from the boundary of the protected sites, further clarification should be sought in relation to a residential development in this location. This is to ensure that legal obligations are met in relation to the HRA.
34. *Residential Amenity Design Standards SPD* – As part of the County Durham Plan, a Supplementary Planning Document is adopted for residential amenity standards to inform residential development layouts.

NEIGHBOURHOOD PLAN:

35. There is no Neighbourhood Plan in force in this area.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at

<http://www.durham.gov.uk/article/3269/Easington-Local-Plan>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

36. *Highway Authority* – advise that condition 5 of the previous planning permission does not impact on highways operation or safety, therefore from a highway safety perspective there is no opposition to the removal of the condition.

37. *Northumbrian Water* – offers no comments.

INTERNAL CONSULTEE RESPONSES:

38. *Spatial Policy* – comments that the proposal should be determined as an application for new residential dwellings rather than simply a removal of a planning condition, particularly as housing development of the proposed scale should normally be supported by suitable infrastructure provision and an appropriate level of developer contributions to accord with appropriate planning policy.

39. As they confirm that provision of housing in this location is not supported through policies in the County Durham Plan and therefore the removal of the occupancy condition (which would essentially change the purpose of the development from visitor accommodation to permanent residential dwellings) is not endorsed. The planning inspectors appeal decision in March 2016 mentioned that the development would address an identified tourism need and provide some limited economic benefits. However, this was the only benefit resulting from the development which would be lost should the condition removing occupancy be removed.

40. As the lodges have not yet been built out the Spatial Policy Section note that the permission could remain largely unimplemented until such time as demand increased.

41. In terms of contributions, it is confirmed that open space provision is expected to be provided off site for a scheme less than 19 dwellings. The off-site contributions have been calculated on the basis of an occupancy of 35 residents. This has equated to £27,667.50.

42. *Ecology* – advise that since the application was originally approved the Council has developed a coastal avoidance and mitigation strategy to implement a programme of mitigation measures to address potential adverse effects caused by increased visitor pressure on the coastal European Protected Sites. This development is within the 6km Durham Coast Habitats Regulations Assessment (HRA) buffer. If the application is approved the financial contribution for this development is £12,105.76 (16 units x £756.61) and should be secured through a Section 106 Agreement or Unilateral Undertaking.

43. *Environment, Health and Consumer Protection (Contaminated Land)* – confirm there is no requirement for a land contamination condition but recommend an informative be included relating to the steps required should unforeseen contamination be discovered during construction.

44. *Housing Delivery* - there is need for affordable housing in this area, however the use of mobile homes is not a suitable product. Discussions with Registered Providers has confirmed that the properties would not be suitable for their clients. In addition, discussions with estate agents and mortgage brokers indicate that these units would not be suitable for affordable purchase.
45. Given the nature of the site and proposed dwellings, on site provision would not be practical. In such circumstances an off-site contribution would be required to be secured through a section 106 agreement.
46. *Landscape* – consider the proposals would represent an incursion into the open countryside that would be harmful to the rural landscape. Policy 39 provides criteria for the prevention of unacceptable harm to the landscape and expectations for landscape and visual mitigation. A hedgerow along the north of the site would help to form a new boundary between the site and remaining countryside.
47. *School Places Manager* – No response at time of writing but no contributions were deemed required in relation to previously withdrawn application.

EXTERNAL CONSULTEE RESPONSES:

48. *NHS* – indicate there is sufficient space to accommodate any increase in patient numbers from the development and as such no financial contributions is required in this regard.

PUBLIC RESPONSES:

49. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents. Two letters of support and one of objection from Campaign for Protection of Rural England had been received.
50. One letter of support has been received from the local ward member who comments that all reasonable attempts have been made to sell the lodges but these have been unsuccessful. Removing the occupancy condition would enable the sale of the lodges to the benefit of residents on the adjoining site, through reduction in noise and disturbance from visitors. It is also stated within the letter that the proposals would allow downsizing and free up properties in higher demand areas, whilst supporting and sustaining the local economy. The letter also comments on the regular bus service adjacent to the site.
51. The letter of support states that the proposals would have a positive impact on the community and offer the older population the choice and benefits of smaller housing in a beautiful location. The site is well maintained surrounded by coastal views and nearby amenities. Transport links are good with bus stops nearby. Allowing permanent residential use would free up larger family homes in areas of high demand and would boost the local economy which is positive for the local community.
52. The main concerns raised by the CPRE are summarised as follows:
 - The residential use of the adjoining site results from a Certificate of lawfulness under Section 191 of the Town and Country Planning Act 1990. While of course this means that this development has the benefit of this Certificate which amounts to a planning permission, we represent that it cannot establish any precedent for any other development.

No planning decision provides a precedent for other similar development and this must be particularly relevant in respect of any “permission” that is acquired as a result of something escaping attention and so enforcement action for the relevant period of time.

- Considers the applicant always intended permanent occupancy of the holiday park extension as the applicant states in support of this application that the proposed holiday usage would impact on the permanent residents through noise and disturbance.
- Reference made to a Court of Appeal judgement from 2019 whereby Variation of Condition applications cannot be used to change the description of the development. In this case, the description of the approved development was for 16 holiday lodges, which would be changed to permanent dwellings. The application should not be determined through this VOC route.

The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at: <https://publicaccess.durham.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

APPLICANTS STATEMENT:

53. I make the following case for this application to be granted.

54. The planning was originally granted at Appeal, with a full costs award, for 16 Holiday Lodge units. The relevant condition is limited for holiday use only.

55. Out of the 16 bays which have been installed, 10 of them are now sold under the holiday use restrictions. This leaves only 6 bays / units currently unsold.

56. Due to the covid situation and the repeated requests of the Holiday Lodge Owners, it is necessary for this application for full residential use to be granted. The only issue appears to be the Council Officers making unrealistic demands for S106 contributions, which our professional advisers do not feel are justifiable. These contributions render the matter unviable. Council Officers are demanding that the S106 contributions apply to all 16 units. Our advisers feel that this is unreasonable and may be unlawful; it is certainly a grey area in planning terms.

57. What we are advised is that the S106 could potentially apply to the remaining 6 bays – but, as planning permission has already been granted and we are only applying for a variation of condition – then really, the S106 payments are neither justified nor lawful.

58. The S106 payments would not be due for only 6 units.

59. Furthermore, as the area is crying out for more affordable accommodation, then we would be able to support this with the comparison of the units we supply versus the price for houses in the area.

60. There is no adverse impact to this variation being granted that would ordinarily apply to a new permission as the fall-back position is that we can continue to sell the remaining bays / units in the fullness of time.

61. Thus, on the balance of probabilities, with no adverse impact, the application should be granted.

PLANNING CONSIDERATIONS AND ASSESSMENT

62. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that regard is to be given to the development plan and decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received.
63. The proposal seeks to remove an occupancy condition thereby allowing permanent residential accommodation on a site with permission for 16 holiday units. The proposals should therefore be considered as an application for new residential dwellings.
64. The main issue for consideration is therefore whether the condition is reasonable and necessary having regard to the policy context. In this context, the main planning issues for determining the acceptability of removing this condition relate to: the principle of the development of permanent housing in this location, impact on the character and appearance of the area, residential amenity, locational sustainability and highway safety and access. Other material planning considerations should also be assessed including the requirement for planning obligations.

The Principle of the Development

65. The statutory development plan for this area is the County Durham Plan (CDP) which was adopted on 21st October 2020. The relevant policies for consideration are detailed below.
66. Policy 6 for development on unallocated sites sets out criteria for development of sites which are not allocated in the Plan but are well-related to a settlement. In this case the site is located in the open countryside and is both visually and physically detached from any recognised settlement. The site is therefore not well related to an existing built up area and as such the proposal should not be determined against this policy but instead Policy 10 of the CDP relating to development in the countryside.
67. Policy 10 states that development proposals located in the countryside will not be permitted, unless they meet one of a number of specific exceptions set out in the policy, or unless the proposed development would be allowed by another policy in the Plan. The specific exceptions within policy 10 include development necessary to support economic development, infrastructure development and development of existing buildings.
68. None of the exceptions listed in policy 10 would apply in this case. In particular, although the proposals seek to remove a condition changing the lodges / chalets from holiday accommodation to full time residential accommodation, and could thus be construed as developing existing buildings, there are a number of clear distinctions that should be highlighted. At the outset, the lodges are temporary structures and not permanent buildings. As such, planning permission was granted for the use of the land to site non-permanent holiday lodges on this land. The exception within Policy 10 for the development of existing buildings is therefore not applicable to the circumstances in this case, which was in essence a change in use of the land to the siting of caravans. Furthermore, the main thrust of this policy 10 exception is to retain permanent buildings that make a positive contribution to the character and appearance of the countryside by allowing a viable alternative use for them. The use of holiday lodges for full time residential occupation would not meet the aims this policy, given that they are not permanent buildings and do not make a positive contribution to the character and appearance of the countryside. On this basis, there is no exception within policy 10 that would provide support for the removal of the condition to allow the units to be used as full-time residential properties.

69. In terms of other policies in the plan that may allow development in this rural location, the most relevant is Policy 11 relating to rural housing and employment exception sites, which states that new housing which is contrary to Policy 10 will be permitted where it can be demonstrated that it meets a number of criteria, including; being well related to a settlement, and meeting an identified need of affordable or specialist housing. The development proposal is not consistent with these criteria and as such would not be supported in the context of this policy.
70. Having assessed the principle of the development to remove the planning condition to allow permanent residential occupation of the units against the policy context of the County Durham Plan, it is evident that no policy support exists.

Residential Amenity

71. County Durham Plan policy 29 states that development should provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties. In addition, the Council has also adopted the Residential Amenity Standards supplementary planning document providing guidelines on amenity distance standards.
72. The layout and density of development on the site is clearly suited for holiday occupancy. The close layout of the plots, their orientation and limited outdoor privacy space are deemed appropriate for temporary stays by touring visitors and are an accepted standard for this purpose. However, such an arrangement would not be deemed suitable or acceptable for permanent residential occupation. From assessing the layout on site, the distance between plots measures at no more than six metres, with the distance between plots across the access road on site measuring 13.5 metres. These fall far short of distance requirements detailed within the adopted Amenity Standards which require 10 metres between habitable windows and blank walls and 18 metres between habitable windows of single storey dwellings. The layout as approved does not achieve this. As such there are concerns that the proposed removal of the condition would not allow for an appropriate high standard of amenity required for future occupiers and as such fails to accord with SPD and policy 29 of the CDP.
73. In terms of impact on existing residents in the adjacent caravan site, the existing general layout has been previously agreed. The expected impacts of removal of the occupancy condition on existing permanent residents is likely to have some benefits through new occupants having similar day to day patterns and activities as these residents along with familiarity with the occupiers rather than a more transient population. However, it should be noted at the time of the appeal that allowed this development to progress as a holiday park, the impact of holiday accommodation on existing permanent residents was not raised as an issue.
74. Notwithstanding these points, it is clear that the original conception of development at this site was as a holiday park, which has different amenity considerations from what is expected of permanent residential dwellings. The substandard distancing conditions on site for full time residential use are considered unacceptable in this circumstance and conflict with policy 29 of the County Durham Plan, the Residential Amenity Standards document and NPPF policy in this regard.

Locational Sustainability and Highway Safety and Access

75. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated.

76. Paragraph 105 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.
77. As already stated, the application site is in open countryside beyond any defined settlement. The adjacent caravan park, originally occupied as holiday accommodation, now provides permanent residential units, regularised through a Certificate of Lawful Development granted in 2006. It should be noted that the granting of a lawful development certificate is not an assessment of the planning merits or acceptability of the scheme but rather confirmation that the identified use has been established for sufficient duration to be considered exempt from enforcement action and lawful as a consequence. On this basis, the residential use of the neighbouring site does not set any precedent as to the acceptability of residential development in this location.
78. The application site, together with the adjacent neighbouring site, sit as an isolated form of development at this side of the Coast Road at this part of Crimdon and appear at odds with, and disconnected from, the established pattern of development. An existing cluster of permanent dwellings is located 650 metres to the north of the site, and they appear to have historically evolved around a junction on the Coast Road. At one time a public house also existed here, but this building has remained empty for some years and is now largely derelict. A car garage with some car sales and repairs exists at this junction also. The remainder of this developed area is given over to a large expanse of holiday park land with provision for over 1000 caravans, extending east and southwards from this small area of development. This holiday parkland is contained along the eastern side of the main north-south Coast Road, taking advantage of its coastal location. Apart from services within the holiday park that cater only for visitors staying at the site, there are no services or facilities within the vicinity. It is therefore clear from this that existing permanent residents, including occupiers at the Evergreen site, already have poor access to shops, services, education and employment opportunities. Adding an extra 16 permanent dwellings would further exacerbate this situation.
79. The nearest settlements offering such services are located in Blackhall Rocks, 1.8 kilometres to the north. This village benefits from a couple of small local shops. To access schools and doctor surgeries, however, requires a further 1.2 kilometre journey north into Blackhall Colliery where a greater range of services exists. The nearest main shopping area in Hartlepool is approximately 3.5 kilometres to the south with some smaller local shops over 2 kilometres away. Access to the nearest school is just over 2 km to the south east whilst the nearest doctor's surgery appears to be almost 4 km to the south.
80. In terms of access to these services using alternative means of travel, it is noted that the Coast Road benefits from street lighting along its length to the nearest settlements. Whilst a footpath also exists along this length, it appears to alternate to different sides of the road, meaning that pedestrians would be required to cross the road on several occasions. The footpath is also noted as being relatively narrow, located directly adjacent to the carriageway and given that the Coast Road is a derestricted main route, traffic will travel at speed, likely resulting in safety concerns for any prospective pedestrians or cyclists using this route. It is not considered that the route provides a particularly appealing means of travel to nearest settlements, and given their distance from the application site, it is unlikely that future occupiers would access these sites by means of walking, although cycling may be slightly more feasible.

81. It is noted that two bus services run past the site along the Coast Road, running hourly and connecting Hartlepool to Sunderland and Durham. This would provide an alternative sustainable mode of travel to the private car and whilst this aspect weighs in favour of the proposal, it does not outweigh the significant concerns regarding permanent residential housing in this location, given how poorly it relates to the existing pattern of development and the lack of access to services. It is considered that the degree of separation and disconnection from the settled area would potentially result in a greater likelihood of prospective residents being overly reliant upon trips by private vehicle to access day to day services.
82. Assessing the different levels and patterns of activity associated with full time residential by comparison to visitor occupation is difficult to quantify exactly. In terms of the expected level of activity associated with visitors staying at the holiday park, given the lack of services, there would remain a need to travel a reasonable distance to get provisions. However, visitors would not be at the site year round. Indeed, it might be expected that occupation of the site by visitors would not exceed 8 months in any given year. In such circumstances there would be an overall reduction in the amount of journeys taken from the site for access to basic services. In addition, the location of the holiday site within walking distance to the coast would provide opportunity for any visitors to easily access leisure activities without requirement to travel by car on some days during their stay. By comparison, full time residential use would entail these general activities 12 months a year, along with other day to day travel to places for education, work etc. It is considered that residential use would increase the overall requirement for travel from the site.
83. The proposed removal of the condition would result in full time residents living at what is considered an unsustainable location due to it being poorly served by key services. With year round occupation, this would likely result in a net increase in day to day travelling from the site for basic requirements and increased trips by private vehicle.
84. Highways assessed the proposals and raise no objections given that sufficient parking is available on site and safe access can be gained onto the highway. No issues have been raised with regards the impact of the removal of the condition in terms of highway safety in this regard.
85. In consideration of these various issues, the removal of the condition to allow permanent residential use of the site can meet with policy requirements to a degree in terms of alternative means of access to services, however, there remain safety concerns for pedestrians and cyclists that would make these routes less attractive and convenient, meaning a higher reliance on private vehicles, contrary to policy aims to promote sustainable modes of transport.
86. Overall, the proposed removal of the condition is considered to display conflict with the sustainable transport aims set out in Policy 21 of the CDP. However in highway's terms, sufficient parking and vehicle access to the site can be achieved in accordance with other requirements of policy 21.

Impact on character and appearance of surrounding area

87. Policy 29 of the County Durham Plan requires that development should achieve well designed buildings and places and contribute positively to an area's character, identity, heritage significance and landscape features. In addition, landscape proposals should respond creatively to topography and existing features of landscape interest as well as take opportunities to create attractive views of and from the site.

88. As noted the application site benefits from a planning approval for 16 holiday lodges and is largely laid out to accommodate this. As such the proposed variation of condition to remove the occupancy condition would not alter the design, lay-out and scale of development at the site. It is expected however that the removal of the condition would result in differing uses of the outdoor curtilage areas by permanent residents over what would be expected of tourist visitors attending the site. For example, permanent residents would introduce a range of outdoor paraphernalia such as garden furniture and sheds that would introduce visual clutter. That being said, it is noted that whilst the application site sits at a higher level to the existing residential caravan site, it is well screened from public views, with no public access or rights of way to the north and west of the site as well as an existing embankment with mature established planting along the Coast Road significantly limiting views into the site from the east and south.
89. Whilst there is greater potential for the site to become more suburban in character through permanent occupation of the holiday lodges, the degree to which this would alter the character of the wider area beyond the impacts of what is currently approved on site is not considered excessive. There may be some opportunities to provide planting along the north boundary to provide some level of screening protecting the amenities of the wider countryside. Overall, however the extent of conflict that removal of the condition would have with policy 29 of the County Durham Plan is considered limited.

Applicant's case to remove the condition

90. The case put forward by the applicant states that there has been limited demand for the purchase of the holiday lodges, despite rigorous advertising of the site over a number of months, commencing in March 2019. Evidence was provided demonstrating details of the advertisements put in place. On this basis the applicant is now seeking to change the use of the site to allow permanent occupation as a sole residence in the hope of attracting more interest so that all of the plots will be purchased.
91. Following site visits it was noted that the site was laid out in preparation for installation of holiday lodges, with tarmac drives and hardstandings in place along with service points. Also on site at the time were six holiday lodges, one of which appeared to be inhabited. More recent information submitted as part of a viability statement, indicates that 10 of the lodges have now been sold, and from assessing the sales particulars associated with the sites, these appear to have been sold on the basis of being holiday homes. With this in mind, the case put forward by the applicant to remove the condition appears hold limited weigh given market demand has increased to the point where the 10 of the units have been sold for their intended purpose as holiday lets. Whilst six lodges remain unsold the majority of the site is now occupied as holiday lets, and with the permission implemented, there now appears reasonable likelihood that the remaining lodges could also be sold for their intended purpose. Therefore, it seems the circumstances advanced in support of the removal of the condition no longer apply and are not deemed sufficient justification in planning terms to remove the condition and allow alternative residential use.
92. The applicant has submitted an appeal decision in support of the application which relates to a site in Suffolk where the Inspector allowed a change of use from holiday lodges to residential accommodation. However, it is noted that this example displays clear differences from the current proposals. For example, the Suffolk appeal site is noted as being in a more developed area, located in close proximity to a large business park site to its south and as such, does not lend itself as an obvious tourist attraction site. By comparison, the location of the application site on the west side of the Crimdon Coast Road forms part of a wider area that reflects a strong rural character, although the current Evergreen Park site does break this and appears somewhat anomalous on the landscape.

That aside, the Crimdon site has much more obvious tourism merits, being close to the coast and the rural surroundings, isolated from a working environment. The inspector making the appeal decision of March 2016 (APP/X1355/W/15/3140987) associated with the current application site, stated that the development would address an identified tourism need and provide some limited economic benefits within the area. It is noted that this was the only 'benefit' of the development identified by the Inspector, which would consequently be lost if the development were released to permanent residential use, not a defining characteristic of the area.

93. To reiterate this point, national and local policies only allow genuine tourism proposals in such isolated, rural locations, and schemes for residential dwellings are assessed against separate housing policies. The reasoning for this is that holidaymakers would support local shops, restaurants, bars and tourist attractions in the area. If the lodges were used as permanent residential accommodation, residents would be unlikely to spend in the local economy at the same level and in the same way as holidaymakers and less contribution to the local economy would therefore be expected. On the other hand, permanent households would put pressure upon local services, placing demands on local schools and social and health services that would not normally arise from visitors. Moreover, in remote locations the cost of providing these services is greater. The aim of these differing policy approaches is therefore to ensure suitable development in suitable locations, with appropriate financial contributions where applicable.
94. To this end, the inclusion of the planning condition to prevent full time occupancy of the lodges was therefore both reasonable and necessary at the time of the original approval. The intention to remove this condition would have clear impacts not least due to policy conflicts raised previously and as such the reasons for including the condition remain relevant.

Section 106 Obligations

95. As already highlighted this application to remove the occupancy condition and allow full time residential occupation of the units as sole residents, would effectively grant planning permission for new residential development. Such development, particularly at this scale must be supported with suitable infrastructure provision and provide an appropriate level of developer contributions. Indeed, policy 25 states that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and/or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local or strategic needs. The following details clarify the extent of contributions that would be required.
96. Policy 26 of the County Durham Plan states that proposals for new residential development will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space needs Assessment (OSNA), Where it is determined that on site provision is not appropriate, the council will require financial contributions secured through planning obligations towards the provision of new open space. Spatial Policy assessed the details of the proposal and calculated off site contributions on a reduced basis given the size of the dwellings as £27,667.50.
97. Policy 15 of the County Durham Plan requires all qualifying new housing proposals should contribute towards meeting the needs of the county's existing and future residents by providing a percentage of affordable housing. Affordable provision at 10% is considered to be at a level which would normally enable schemes to be developed viably in this part of the County.

This would equate to 2 affordable units out of the total of 16. However, it is acknowledged that given the nature of the site and proposed dwellings, any on site provision would be unlikely to be attractive to registered providers and as such an off-site contribution would be required to be secured through a section 106 agreement.

98. Policy 42 of the County Durham Plan seeks to mitigate against recreational pressure upon internationally designated sites, particularly along coastal areas. Ecology officers comment that due to the site's location within the 6 km Durham Coast HRA buffer, a screening assessment has been undertaken to determine whether development within the buffer zone would have a significant effect on the integrity of the Durham Coast SAC and Northumbria Coast SPA. This screening assessment confirms that mitigation would usually be required for all developments including new dwellings or holiday accommodation by means of a financial contribution towards Coastal Access Management Measures. However, in the current circumstances, the permission for 16 holiday lodges was granted prior to the introduction of these HRA mitigation measures and as such, it would not be deemed reasonable to retrospectively require these contributions. The proposal to remove the condition to allow full time residential occupation on site is not considered to create significant additional harmful effects to the internationally designated sites over and above what might be expected from occupants of the lodges as holiday accommodation. In ecology terms, therefore, the removal of the condition, does not create a significant material change to warrant these payments towards coastal access management.
99. In relation to the contributions for open space and affordable housing, the applicant was advised of these, but in his response, provided a viability statement which outlined why these payments would make the scheme unviable. Officers closely assessed the information provided but it was deemed unsatisfactory and not sufficient to warrant exemption from payment of the contributions. To reiterate policy 25 in relation to developer contributions, this specifies that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. As detailed, the development is already deemed to conflict with development plan policies and is therefore unacceptable, however, non-payment of the contributions necessary as mitigation for its impacts with limited evidence as part of the viability statement to back up non-payment brings the application further in conflict with policy requirements.

Other issues

100. Contaminated land section raised no issues with regards the development and require only an informative relating to unforeseen contamination.
101. With reference to the CPRE objection querying whether the development can be considered under a Section 73 variation of condition route, given that the proposal would change the description and character of the development, it is confirmed that in planning terms there is no use class difference between residential use and holiday use, hence the requirement to condition the extent of occupation. Permanent occupation at the site through removal of a condition brings the development into a different policy context that needs to be considered, but it does not prevent its determination under a variation of condition application.

CONCLUSION

102. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
103. When assessed against relevant policies of the County Durham Plan the development would conflict with policy 10 of the CDP in that it would result in unacceptable development within the open countryside that would not meet any of the criteria listed in this policy. The full-time occupancy of the lodges as inhabitant's sole residence would result in the housing within an unsustainable location where residents would be unduly reliant upon trips by private vehicles access everyday shops, services, education and employment opportunities and the scheme fails to provide adequate standard of amenity for occupiers. Whilst the applicant has sought to advance a case that there is no longer demand for holiday accommodation of this type as evidence by a failed marketing programme, the sale of 10 of the lodges seems contrary to this argument and fails to provide sufficient justification.
104. In light of the above it is not considered that material planning considerations are such that they would outweigh the conflict with policy as identified and in any in event the applicants failure to agree to the required developer contributions display further conflict with policies 15, 26 and 42 of the CDP.
105. Consequently, the requirements of condition 5 to prevent full time residency at the site remain reasonable and necessary in accordance with appropriate national and local planning policies.
106. The proposal has generated limited public interest with two letters of support having been received from both the current and former ward member. In addition, one letter of objection has also been received. The reasons for support and objection to the application have been taken into due consideration in presenting the recommendation to the planning committee and are detailed within this report.

RECOMMENDATION

107. That the application be **REFUSED**, and that Condition 5 remains unaltered, for the following reasons:
108. The removal of the occupancy condition in order to allow full time residential occupation of the lodges previously approved would result in permanent residential housing in what is an unsustainable location, poorly related to the existing pattern of development, to the extent that future occupiers would be heavily reliant upon trips by private vehicles to access shops, services, education and employment opportunities contrary to the requirements of Policies 6 and 10 of the County Durham Plan and paragraph 105 of the NPPF.
109. In addition, the removal of the occupancy condition would result in an unacceptable level of residential amenity provision for future occupiers which would normally be required for full time dwellings, particularly in relation to inadequate distancing standards between dwellings, contrary to the aims of policies 29 of the County Durham Plan, The Council's Residential Amenities Standards SPD (2020) and paragraphs 124 and 127 of the NPPF.

110. The development fails to provide affordable housing through provision of the required off-site contribution contrary to Policies 15 and 25 of the County Durham Plan and Part 5 of the NPPF.

111. The development also fails to make provision for adequate open space by means of off-site contributions in conflict with Policy 25 and 26 of the County Durham Plan and Part 8 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority in arriving at its decision to recommend refusal of this application have, without prejudice to a fair and objective assessment of the proposal, considered the proposal in relation to relevant planning policies, material considerations and representations received, however, in balance of all considerations, the issues of concern could not result in a positive outcome being achieved.

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan
- Residential Amenity Standards 2020
- Statutory, internal and public consultation response



Planning Services

Removal of Condition 5 (holiday home occupancy restriction) of planning permission DM/15/01520/FPA for the erection of 16 executive holiday lodges

Evergreen Park
Crimdon
TS27 4DW

Ref: DM/21/00185/VOC

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Comments

Date 25 November 2021

Scale Not to Scale