

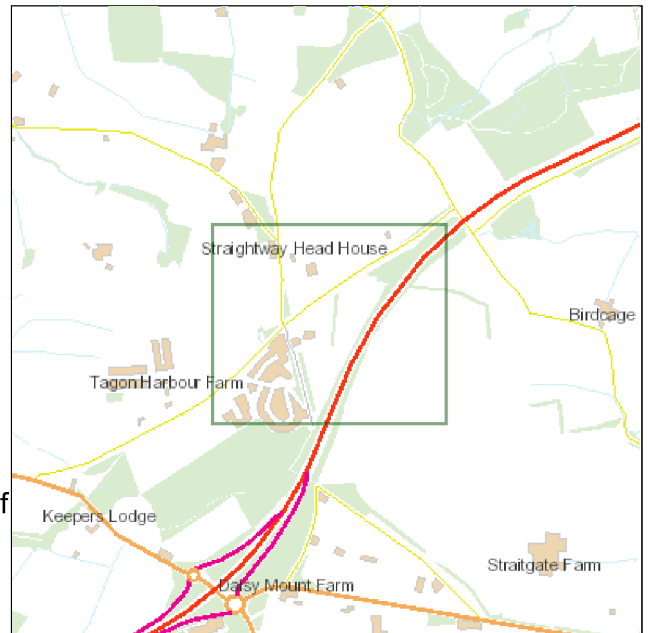
**Ward** Ottery St Mary

**Reference** 20/1246/VAR

**Applicant** Mr Darren Squires

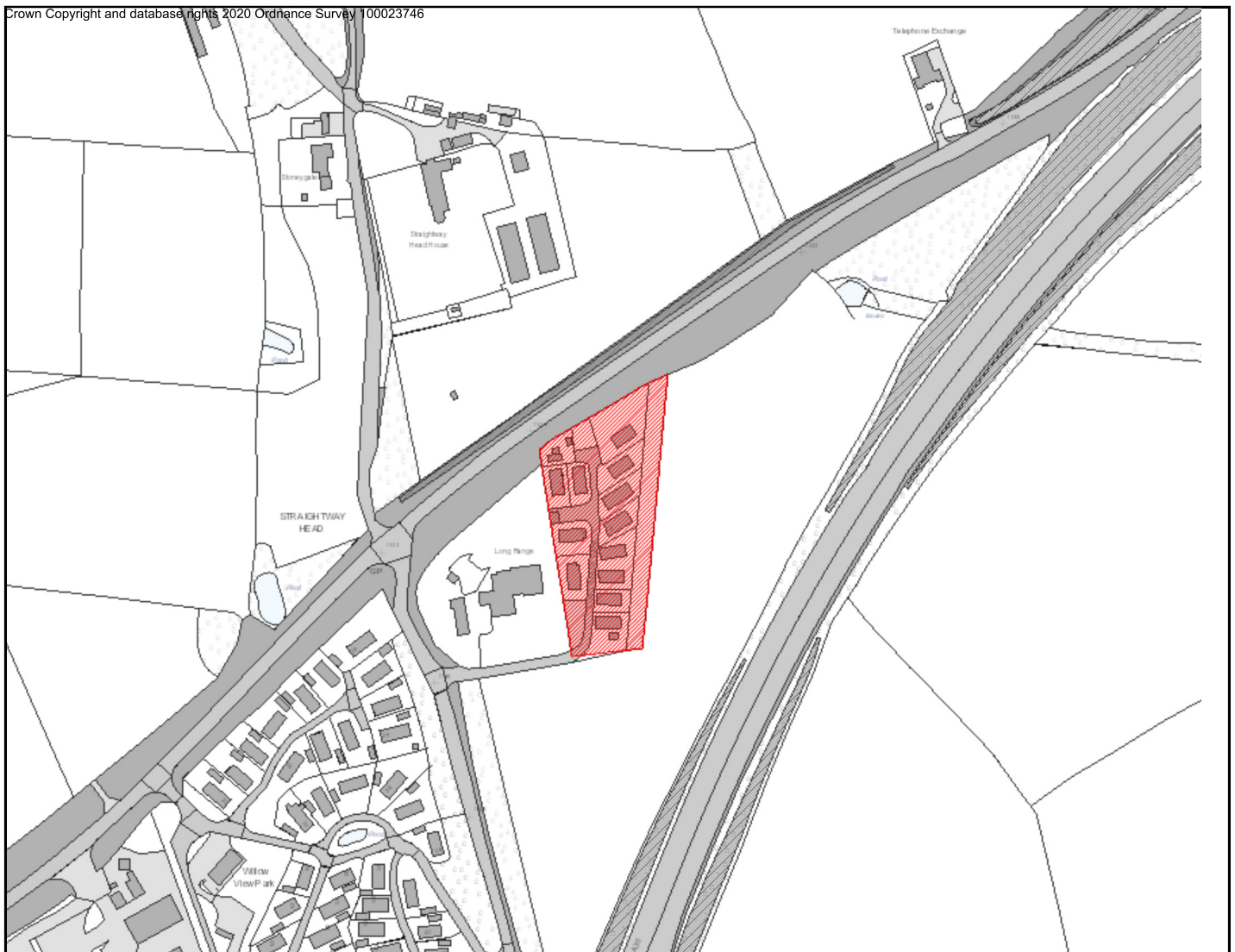
**Location** Land East Of The Long Range Hotel Whimble  
EX5 2QT

**Proposal** Variation of condition 2 of planning permission  
12/2444/VAR to remove holiday occupancy  
restriction and allow permanent residential use,  
restricting occupation to persons over the age of  
50



**RECOMMENDATION: Refusal**

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		<b>Committee Date: 4<sup>th</sup> November 2020</b>	
<b>Ottery St Mary (Ottery St Mary)</b>	<b>20/1246/VAR</b>	<b>Target</b>	<b>Date:</b>
		<b>18.08.2020</b>	
<b>Applicant:</b>	<b>Mr Darren Squires</b>		
<b>Location:</b>	<b>Land East Of The Long Range Hotel Whimble</b>		
<b>Proposal:</b>	<b>Variation of condition 2 of planning permission 12/2444/VAR to remove holiday occupancy restriction and allow permanent residential use, restricting occupation to persons over the age of 50</b>		

**RECOMMENDATION: Refusal**

### **EXECUTIVE SUMMARY**

The application is brought before Members at the officer recommendation is contrary to the view of a Ward Member.

The proposal represents a renewed attempt to secure a variation to the holiday occupancy restriction imposed by a condition attached to planning permission ref. 12/2444/VAR in relation to 12 holiday lodges at the Long Range Caravan Park located to the south east of Whimble and to the south of the former A30 Trunk road.

The previous application (ref. 14/1409/VAR) sought a relaxation of the condition to enable unrestricted residential occupation for persons aged 55 or over. This current proposal seeks a variation to allow for the same in respect of persons aged 50 or over.

The current application follows investigations carried out by the Council's Enforcement Officers into the alleged full-time occupancy of the majority of the park homes, in breach of the holiday occupancy condition, that extend back a number of years.

The previous application to vary the occupancy condition was refused by the then Development Management Committee on the basis that the proposed relaxation of the condition would result in essentially unrestricted residential development in an unsustainable location within the open countryside that would be contrary to established local and national policies that seek to prevent the such development. Furthermore, it was resolved that no evidence had been submitted to demonstrate that the caravan park, having only been established for around two years at that stage, was not viable as a tourism facility.

In spite of various arguments put forward by the agent representing the current applicant, who purchased the site in September 2019, it is not thought that the circumstances have materially changed, in terms of the overall policy context, to the extent that any change of stance would now be justified. Furthermore, it is not thought that certain 'exceptional circumstances', that attempts have been made to demonstrate, should be regarded as carrying any significant weight in favour of the relaxation of the occupancy restriction.

It is therefore maintained that, whilst offering short term financial gains for the owner, it is likely that a largely unrestricted residential use would prevent the long-term economic benefits that employment and tourism uses bring from being realised and create a dispersed pattern of development in the open countryside with increased pressure on local services and a greater need to travel by private car without significant compensating economic benefits.

It is considered that allowing an independent residential use would directly disregard the advice and guidance contained within the relevant policy and Government guidance and result in the undue loss of existing tourist facilities and accommodation without any clearly identified or overriding justification.

## **CONSULTATIONS**

### **Local Consultations**

#### Parish/Town Council

Ottery St Mary Town Council does not support this application on the basis of the previous planning refusal and considers there has been no change since that application, therefore support it as holiday use.

#### Ottery St Mary - Cllr Peter Faithfull

Can I please request that this case is taken to full planning meeting? While I do not particularly welcome the change of use I do not support the putting people out onto the streets, in particular when we have CV on our hand. I would like this case to be properly discussed at a full planning meeting.

### **Technical Consultations**

#### Devon County Highway Authority

The County Highway Authority made no response upon the same application made on this site in 2014; 14/1409/VAR. Therefore accordingly the County Highway Authority has no objection to make to this application.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

### Other Representations

One representation of support has been received.

### **PLANNING HISTORY**

Reference	Description	Decision	Date
14/1409/VAR	Variation of condition 2 of planning permission 12/2444/VAR to remove holiday occupancy restriction and allow permanent residential use restricting occupation to persons aged of 55 and over.	Refusal	25.09.2014
12/2444/VAR	Variation of conditions 2 and 7 of 10/2338/FUL to allow independent occupation of holiday accommodation and alternative access arrangements	Approval with conditions	13.12.2012
10/2338/FUL	Change of use from agricultural land for the stationing of twelve holiday lodges	Approval with conditions	25.02.2011

### **POLICIES**

#### Adopted East Devon Local Plan 2013-2031 Policies

Strategy 1 (Spatial Strategy for Development in East Devon)

Strategy 5B (Sustainable Transport)

Strategy 7 (Development in the Countryside)

Strategy 43 (Open Space Standards)

Strategy 46 (Landscape Conservation and Enhancement and AONBs)

Strategy 47 (Nature Conservation and Geology)

Strategy 50 (Infrastructure Delivery)

D1 (Design and Local Distinctiveness)

E18 (Loss of Holiday Accommodation)

TC2 (Accessibility of New Development)

Made Ottery St Mary and West Hill Neighbourhood Plan 2017-2031 Policies

NP1 (Development in the Countryside)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

### **Site Location and Description**

The Long Range Caravan Park at Straightway Head is an existing but relatively new facility, comprising 12 holiday lodges, laid out in 2012. The site is located in the open countryside outside of the built-up area boundary of any recognised settlement and is positioned to the east of a residential property known as Long Range (the former Long Range Hotel). The northern boundary of the park is parallel with the adjacent old A30 Trunk road.

The principal vehicular access to the park is shared with that of Long Range, albeit the park itself is served by a separate driveway that extends alongside the southern boundary of the curtilage of Long Range. Its northern boundary with the former A30 takes the form of a grass verge and bank. The site is set away from the main 'new' A30 which is situated to the south of the site and at a lower level.

### **Background**

Planning permission was granted in 2010 (application 10/2338/FUL refers) for the change of use of agricultural land to the east of the former Long Range Hotel for the stationing of twelve holiday lodges. Each lodge measures 12.0 metres in length by 6.0 metres in width with a height of 3.0 metres (all measurements approx.). These fall within the definition of a caravan, as set out in the 1968 Caravans Act (as amended). One of the main reasons cited for granting permission was the economic benefits of the additional tourist accommodation to the local economy.

The twelve lodges proposed were laid out around a T-shaped access road with parking associated with each unit with access from the rear of the (then) hotel. The site was conditioned so that the lodges/mobile homes should only be occupied as holiday accommodation under the supervision and management of the owners or occupiers of the Long Range Hotel.

In 2012 an application (ref. 12/2444/VAR) was made for the variation of two conditions (nos. 2 and 7) of planning permission 10/2338/FUL. Condition no. 2 is relevant to the current application proposal. This condition, aside from restricting the use of the lodges for holiday accommodation purposes only, also tied the management of the site to the owners/occupiers of the Long Range Hotel. The variation to the condition that was sought involved the release of this tie to enable the caravan park to be operated entirely separately from the hotel.

The rewording of the condition was considered acceptable and as a result condition 2 was amended to read as follows:

'The mobile homes hereby permitted shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. A register (including names and main home addresses) of all occupiers of the holiday units shall be collated and maintained by the owners or manager of the site, and this information shall be available at all reasonable times on request by the Local Planning Authority.

(Reason - To ensure that the cabins/chalets hereby permitted are used for holiday purposes only and are not used as a separate dwelling in this open countryside location where new development is restricted in accordance with national and local planning policy and policies TO3 (Tourism Development in Rural Areas) and TO4 (Touring Parks and Camping Sites) of the Devon Structure Plan and Policies D1 (Design and Local Distinctiveness), S5 (Countryside Protection), and TO4 (Caravan, Chalet and Camping Sites) of the East Devon Local Plan.)'

Subsequently, in 2014, with the park having been sold to a new owner/operator an application was made (ref. 14/1409/VAR) for the further variation of this condition to allow the caravans to be occupied permanently as independent residential units rather than as holiday homes, but with a restriction upon occupation to persons aged 55 years and over.

In support of the application, it was suggested that, as a consequence of the previously agreed 'new' condition, the owners of the caravan park had been unable to sell any of the lodges as prospective purchasers had not been able to secure loans and mortgages with which to buy them..

However, this and other arguments were not accepted and the application was refused for the following reasons:

1. The proposal would result in the creation of new dwellings outside of a designated settlement boundary (as defined by the East Devon Local Plan 1995-2011) in an isolated location in the open countryside divorced from any nearby settlement where, in the absence of any proven agricultural, forestry, or horticultural need there is a policy presumption against such development. Furthermore, it would be located remote from adequate services, employment, and public transport links and would therefore increase the need for travel by private vehicles. No evidence has been submitted to demonstrate that there is any overriding need for the proposed dwellings or other exceptional circumstances that would justify a departure from established policies. As such, the proposal would be contrary to the provisions of Policies S5 (Countryside Protection) and TA1 (Accessibility of New Development) of the adopted East Devon Local Plan 1995-2011, Policy TC2 (Accessibility of New Development) and Strategy 7 (Development in the Countryside) of the Emerging East Devon Local Plan and Government Guidance as contained in the National Planning Policy Framework 2012).

2. Insufficient evidence has been submitted to demonstrate that the tourism use of the site is not viable, or that there is no market for the business as a going concern. It is not considered that the business has had an adequate opportunity to become established or that adequate justification has been put forward to show any overriding social, economic or environmental benefit for the loss of holiday accommodation, and the long term economic benefits that employment and tourism uses bring, and the creation of isolated independent accommodation in the open countryside. As a consequence the proposal is contrary to the principles of Policy TO3 (loss of Holiday Accommodation) and Policy S5 (Countryside Protection) of the adopted East Devon Local Plan 1995-2011, Strategy 7 (Development in the Countryside) of the Emerging East Devon Local Plan and Government Guidance as contained in the National Planning Policy Framework 2012).

### **Proposed Development**

The park has since been sold to the current applicant who is again seeking a similar variation to the occupancy condition attached to planning permission 12/2444/VAR as that sought under application 14/1409/VAR. The only slight change is that the application is now seeking to restrict the occupancy of the units to persons aged 50 years and over (as opposed to 55 years and over).

### **ANALYSIS**

The main issue for consideration in this case is once again the acceptability, or otherwise, of the principle of unrestricted residential development within this countryside location outside of any established settlement.

The following narrative therefore reviews the material considerations that were set out in the report relating to application 14/1409/VAR, with adaptations to reflect the updated context in relation to current local plan and national policies, before expressly setting out and addressing the case made by the agents representing the applicant.

### **Principle**

In broad terms, it remains the case that the application proposal represents additional residential development within the countryside away from any recognised town or village. This is not explicitly permitted by any local plan policies or supported by national planning policy.

The provisions of Strategy 7 (Development in the Countryside) of the adopted East Devon Local Plan state that 'Development in the Countryside will only be permitted where in accordance with a specific Local Plan policy that explicitly permits such development and where it would not harm the distinctive landscape, amenity and environmental qualities within which it is located.'

There remain no specific policy provisions for residential park home sites. However, this should not be taken to imply that their creation or expansion would be acceptable in locations where additional residential development, in whatever form, would be unacceptable.

Long-established settlement policies should still apply and these policies seek to prevent new residential development within the countryside unless it would provide for accommodation that is demonstrably necessary to house an agricultural or forestry worker, replace existing residential development or facilitate the re-use of a building of importance to the character of the landscape.

The proposal also needs to be considered against the guidance as contained in the National Planning Policy Framework (NPPF). The Framework retains a presumption in favour of sustainable development at its heart. As such, the development must therefore be considered against the social, economic and environmental dimensions of sustainable development as defined within it.

As referenced previously, the site is located approximately 1½ miles southeast of Whimble and 3 miles west of Ottery St Mary. There is also a local garage/shop at the hamlet of Hand and Pen approximately 1 mile to the west (distances by road). It is therefore considered that the park site is divorced from services and it is likely that residents would largely rely on private transport for the majority of their journeys to access everyday services and facilities.

The agent refers again to sustainability credentials that were considered by the (then) Development Management Committee when considering application 11/1943/COU for additional park homes at the nearby Willow View Park residential homes park in 2011. However, as with the 2014 proposal to lift the holiday occupancy restriction, it is once again drawn to Members' attention that the report to the Committee at the time drew attention to comments from residents at Willow View Park there were traders who visited the site (selling meat/fish, vegetables, newspapers, etc.) and that the site has the benefit of both an existing bus service that directly serves the park and a more frequent service with stops at Daisymount and the Devon Smithy within proximity of the park. However, it was also highlighted in response that, whilst the existence of these services is noted, it was also acknowledged that the service that stops at Willow View Park only operates once a day in both directions on Mondays to Saturdays whilst the stops for the more regular service are not within easy or convenient walking distance of the site.

This was considered to be particularly important given the proposed age profile of persons to be occupying the proposed park homes. Furthermore, no details of the transport services were provided and there was no guarantee that the services available on the neighbouring park in separate ownership would automatically be available to those at the Long Range Park site.

This very much remains the case.

Furthermore, it remains the view that these services do not provide a sufficiently attractive or adequate alternative to private car travel which it is considered would remain the most likely means of transport to and from the site. The proposal for residential units on the site would therefore increase the number of private vehicle journeys.



In any event, Willow View Park was originally granted permission many years ago under a different policy regime and, importantly, prior to the presumption in favour of sustainable development introduced by the NPPF in 2012. Although additional units were granted in 2011 (prior to the NPPF), this was primarily on the basis that these would finish off the development within its established boundaries. The decision also acknowledged that the number of units originally granted back in 1982 had never all been sited at the site.

Paragraph 79 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It continues that 'Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; or
- the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the development would involve the subdivision of an existing residential dwelling; or
- the design is of exceptional quality, in that it:
  - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

The proposal is not considered to be in accordance with any of these special circumstances as outlined.

As such, it remains the case that it is not considered that the proposal would be in accordance with local plan or national planning policy. The site is not sustainably located whereby new residential development in the open countryside would be acceptable.

Furthermore, Policy E18 (Loss of Holiday Accommodation) of the Local Plan does not permit proposals which involve the conversion of existing tourist accommodation to other uses unless it has been demonstrated that the site has been actively marketed for sale at a reasonable market price with no interest shown and that the current business is no longer viable.

Whilst the extent to which this policy is relevant in relation to holiday accommodation outside of the main seaside resorts of the District has been negated owing to the High Court decision from December 2019 in relation to a proposal involving the removal of a holiday occupancy restriction from a unit at a site at Otterton, it has nevertheless since been the case that viability arguments have been made in support of similar proposals that have been considered by the Authority. Indeed, such grounds for

support have been offered in this case. These are considered in the next section of the report.

In any event, while offering short term financial gains it is likely that an unrestricted residential use would prevent the long term economic benefits that employment and tourism uses bring and result in the creation of a dispersed pattern of development in the open countryside with increased pressure on local services and an increased need to travel by private car without significant compensatory economic benefits.

In dealing with an appeal for a very similar set of circumstances at Blosson Hill Park , Louis Way, Dunkeswell, (appeal decision from the 17<sup>th</sup> June 2019) where holiday accommodation units had been purchased and used as open market dwellings and a planning application was submitted to retain the use, the Inspector concluded the following that can be equally applied to the current application:

9. A general purpose market housing scheme on the site would draw no support from the development plan, and neither, for that matter, would the use of the units as permanent places of residence, as sought by the appeal before me.

10. The argument put forward as to why the condition should no longer apply to the specified units has a number of facets. First, in simple terms, the point is made that the site is in an accessible location with numerous facilities nearby and that use of the specified units as permanent residences would not be harmful. I do not accept that. The site might well be relatively accessible with a range of facilities nearby but the reason why the development plan policies focus on local needs housing is that it is not accepted as an area where general housing growth will be supported. This is due to its countryside location and the limited nature of the facilities which results in a reliance on private vehicles. Conversely, the support for tourist accommodation in the countryside or in an area with at least a degree of facilities is largely based around the obvious economic benefits visitors bring to the area.

11. Those economic benefits played a significant role in the original grant of planning permission for the proposal. Those benefits would not manifest themselves in the same way if the specified units were to be used as permanent places of residence.

13. I acknowledge that the proposal would not result in the creation of 'isolated' homes in the countryside and nor would the removal of the condition result in harm to the distinctive landscape, amenity or environmental qualities of the surrounding area given that the units already exist. However, I consider that the use of the units for unrestricted residential use would be materially different from a holiday use and would conflict with the Development Plan and in particular, policies Local Plan Policies 7, 33, 35 and DNP Policy HP1.

There are a series of supporting arguments that have been put forward by the applicant's agent, many of which seek to directly respond to a number of the above points. These are summarised and addressed in the following section of the report.

**The previous site owner started to sell lodges to people in about 2015/16 and had sold 11 of the 12 lodges by the time he sold the park to the applicant in September 2019. Warranties were given by the previous owner that all conditions on the planning permissions were being complied with and that he was unaware of any breaches. The applicant was mis-sold the lodges and has therefore inherited a problem not of his making.**

While this cannot in itself be regarded as carrying any significant weight in the overall balance of considerations, it is thought that it requires addressing since it forms a significant part of the overall case in favour of the proposed lifting of the holiday occupancy restriction to enable unrestricted residential occupation of the units to continue.

In this regard, however, it is thought that there is an inconsistency in this argument when considered against other points that are made within the agent's statement as well as a lack of credibility to them.

First, reference is made within the opening paragraphs of the statement to the fact that when the park was sold to the applicant in September 2019 it was 'marketed as a holiday park'. It therefore seems inconceivable that the possibility that there might be restrictions upon the use and occupation of the accommodation would not have been apparent to the applicant/their solicitors at the time of purchasing the site.

Furthermore, allegations that the lodges were being occupied on a full-time residency basis had been made to the Authority quite some considerable time prior to the applicant's purchase and these were the subject of an ongoing investigation which ultimately led the applicant to submit the current application. It is therefore considered that it is stretching credibility that he could/would have not been made aware, through the normal conveyancing process linked to the purchase, of the planning background history of the site set out above or the occupancy restriction, notwithstanding the stated assertion that "there was no evidence on the Council's planning portal that enforcement action had already been threatened and it was not revealed on the local search."

The agent's statement also highlights the applicant's local connections to the area, having lived at Willow View Park during part of his childhood, and his local knowledge. It is claimed that in spite of this he was unaware of the manner in which Long Range Park was being operated or that there were any breaches of planning control.

Again, it is felt that the credibility of this argument must be called into question.

**On purchasing the park, the applicant found that the lodge owners had been misled by the previous owner when buying their lodges. They were informed that they could occupy the accommodation all year round and were not provided with written contracts until after they had paid deposits, often involving the use of substantial savings. The circumstances of the lodge owners and their requirement for housing is a material consideration which needs to be weighed in the balance when determining this application.**

Whilst this represents a particularly unfortunate situation for the residents concerned, it is not considered that this can be given significant weight in balancing the planning merits of the proposal.

This was established by the Inspector in dealing with a relatively recent appeal case (relating to very similar circumstances to those at Long Range Park) at Blossom Hill Park at Dunkeswell (18.0048/VAR) where in response to this matter the inspector stated the following:

“I note that the units are the sole residences of the affected owners. Whilst I am not unsympathetic to the situation that they may face in the event that the appeal is dismissed, the planning system is primarily concerned with the public rather than private interests. As such, I can only attribute limited weight to this consideration.”

Any concerns at having been 'mis-sold' the accommodation, particularly ahead of any contracts being agreed, would be a legal matter for the affected residents. They cannot be given significant weight in the assessment of the proposal in this case having regard to its merits on planning grounds.

#### **The site is not in an unsustainable location.**

Aside from the proximity of the site to Willow View Park and the route of a bus service, reference is also made to its accessibility to the roadside service area that has been granted planning permission at Daisymount and the range of services that it would provide for residents of Long Range Park.

Attention has also been drawn to a farm shop that was approved, as part of a development of 49 units of holiday accommodation together with fishing lakes, woodland walks and nature trails, in October 2018 (under planning permission 17/2035/MFUL) on land to the west of Moor View Industrial Estate, to the west of Willow View Park.

It is argued that these will provide additional facilities within easy walking distance of Long Range Park, thereby improving the sustainability of its location.

However, this overlooks the fact that the services and facilities offered by these developments have yet to be provided. Moreover, there can be no certainty upon which to draw that they will be coming forward in the near future, if at all.

In any event, even if they were provided the site would still remain located outside of the boundary of any town or village to where the strategy of the Local Plan directs housing growth as a means of sustainably supporting existing service and facility provision. It is not the case that an otherwise rural development outside of settlements can become regarded as being sustainably located in wider strategic settlement policy terms as a result of the development of services and facilities.

#### **There would be no, or at worst marginal, impact upon the generation of traffic movements or educational or medical services.**

This argument overlooks the compensatory economic benefits to the area that weigh into the case in favour of the provision of tourist accommodation.

It has been held previously in appeal decisions that a permanent residential use would result in greater impacts upon local infrastructure, including medical services, than tourist accommodation, without the compensating benefits to the local economy that are brought by the latter.

**The applicant and a number of other lodge owners have attempted to market their lodges without success. Furthermore, the holiday lodge development near to Willow View Park will make them even less marketable for holiday purposes. There is no market for holiday lodges.**

The information provided by the applicant's agent references efforts made by the applicant to market the one lodge that is in his ownership as well as those made by 'a number of lodge owners'. However, the information provided to back this up is unfortunately short of detail in relation to matters such as the number of owners that have made attempts to sell and the marketing strategy employed.

In terms of comparison with the depth of information that has been sought by the Council in connection with proposals elsewhere involving the removal of occupancy restrictions on holiday accommodation throughout the District, even since the High Court judgment in relation to Local Policy E18, the evidence that has been provided to seek to demonstrate that the park is no longer viable for tourist accommodation purposes is thought to fall considerably short. As such, it is felt that it cannot be given any significant weight in balancing the case against the fundamental policy objection to the creation of 12 essentially unrestricted dwellings within the countryside that would result from approval of the proposal.

**Residential parks are suitable for older people and provide a safe environment. There is demand for good quality park homes that are suitable and adaptable for an aging population to meet the requirement set out in the NPPF.**

This argument could, in broad terms, be applied equally to the housing needs, in terms of size, type and tenure, for other groups within the community that are set out in the NPPF, such as those who require affordable housing, families with children, students, people with disabilities, service families, people who rent their homes and self-builders.

These needs do not override housing supply policies that relate to the spatial development of an area in terms of the location to which housing provision is directed and there is no reason why the needs of 'older' people should be accommodated in a non-policy compliant manner such as is proposed in this case. It could otherwise be equally contended that the needs of any or all of these other societal groups could be similarly met. However, the effect would be to fundamentally undermine the planning system.

Even in the event that it were necessary to apply the presumption in favour of sustainable development owing to the absence of a demonstrable five year supply of deliverable housing sites within the District in line with the requirements of the NPPF,

it is felt that the non-sustainable location of the site would still weigh against its acceptability for the provision of unrestricted housing.

### **ENFORCEMENT ACTION**

To remedy the breach of planning control should planning permission be refused, enforcement action would need to be taken to secure the cessation of the unauthorised occupation of the units to which the application relates as permanent residential dwellings, it being expedient to do so in the interests of upholding established countryside protection policies preventing unjustified 'new' residential development in the countryside.

The issues highlighted by the commenting ward member are duly acknowledged. However, in line with the resolution taken in respect of the occupation of a number of the units at Blossom Hill Park in breach of the holiday occupancy restriction, it is recommended that any enforcement notice that is served on the owner(s) and occupiers of the lodges requiring the cessation of their unauthorised use and occupation as permanent residential dwellings allow a 12 month period for compliance. Indeed, allowing for the necessary preparation of the notice and other incidental procedures, the period - as measured from now - would in effect be longer than this.

Furthermore, in the event that the situation relating to the Covid-19 pandemic were to remain or escalate, it would be at the Council's discretion to vary this period depending upon prevailing circumstances.

In taking enforcement action to remedy the breach of planning control the Human Rights Act 1998 and the European Convention on Human Rights will need to be considered with special attention being given to Article 8 of the latter which provides a right to respect for one's "private and family life, his home and his correspondence", subject to certain restrictions that are "in accordance with law" and "necessary in a democratic society".

In light of the harm identified, it is considered that the investigative actions undertaken to date and any subsequent and future enforcement action which may be undertaken are necessary and proportionate. In particular, such action would not conflict with the occupants' human rights and the period for compliance of at least 12 months is sufficient to allow alternative accommodation to be found.

### **RECOMMENDATIONS**

REFUSE for the following reasons:

1. The proposal would result in the creation of new dwellings on a site that occupies an isolated location in the open countryside outside of the built-up area boundary of any defined settlement or strategic allocation in the East Devon Local Plan 2013-2031 and Villages Plan 2018 where, in the absence of any proven agricultural, forestry, horticultural or other rural business need, there is a policy presumption against such development. Furthermore, it would be unsustainably located remote from adequate services, employment and public transport links

and would, in the absence of any justification as to how it would promote the objectives of sustainable development locally or otherwise meet other policy objectives, significantly and demonstrably outweigh any limited benefits that might arise. Insufficient evidence has been submitted to demonstrate that there is any overriding need for the proposed dwellings or that other exceptional circumstances apply that would justify a departure from established policies. As such, the proposal would be contrary to the provisions of Strategy 7 (Development in the Countryside) and Policy TC2 (Accessibility of New Development) of the East Devon Local Plan 2013-2031 and Government guidance as set out in the National Planning Policy Framework (2019).

2. In the opinion of the Local Planning Authority, insufficient evidence has been submitted to demonstrate that the tourism use of the site is not viable or that there is no market for the business as a going concern. It is not considered that adequate justification has been put forward to show any overriding social, economic or environmental benefit that would result from the loss of holiday accommodation, and the long-term economic benefits that employment and tourism uses bring, and the creation of independent residential accommodation in the open countryside that would arise as a consequence of the proposal. As such, the proposal is contrary to the provisions of Strategy 7 (Development in the Countryside) of the East Devon Local Plan 2013-2031 and Government guidance as set out in the National Planning Policy Framework (2019).

#### NOTE FOR APPLICANT

##### Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

##### Plans relating to this application:

No plans; application is for variation of condition only. There is no requirement to provide plans.

##### List of Background Papers

Application file, consultations and policy documents referred to in the report.