

Public Document Pack

Mid Devon District Council

Environment Policy Development Group

Tuesday, 14 January 2020 at 5.30 pm
Exe Room, Phoenix House, Tiverton

Next ordinary meeting
Tuesday, 10 March 2020 at 5.30 pm

Those attending are advised that this meeting will be recorded

Membership

Cllr B G J Warren
Cllr E J Berry
Cllr W Burke
Cllr D R Coren
Cllr B Holdman
Cllr R F Radford
Cllr R L Stanley
Cllr Ms E J Wainwright
Cllr J Wright

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **Apologies and substitute Members**
To receive any apologies for absence and notices of appointment of substitute Members (if any).
- 2 **Declarations of Interest under the Code of Conduct**
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest, either at this stage of the meeting or as soon as they become aware of that interest.
- 3 **Public Question Time**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.
- 4 **Minutes of the Previous Meeting (Pages 5 - 12)**
Members to consider whether to approve the minutes of the last meeting of the Group held on 26th November 2019 as a correct record.

The Group is reminded that only those members of the Group present at the previous meeting should vote and, in doing so, should be influenced only by seeking to ensure that the minutes are an accurate record.

5 **Chairman's Announcements**

To receive any announcements that the Chairman may wish to make.

6 **Financial Monitoring**

To receive a verbal report from the Group Manager for Finance presenting a financial update in respect of the income and expenditure so far in the year

7 **Environment Educational Enforcement Policy** (*Pages 13 - 104*)

To receive a report from the Group Manager of Street Scene and Open Spaces on the updates to the Environment Education and Enforcement Policy

8 **Performance and Risk** (*Pages 105 - 112*)

To provide Members with an update on performance against the corporate plan and local service targets for 2019-2020 as well as providing an update on the key business risks.

9 **Identification of Items for Future Meetings**

Members are asked to note that the following items are included within a future agenda:

- Budget
- Climate Change Strategy & Action Plan
- Litter & Dog Bin Policy
- Bereavement Services Fees and Charges
- Tree Planting – Areas of appropriate land
- Financial Monitoring
- Contaminated Land Cost Recovery Policy
- Performance and Risk
- Chairman's Annual Report

Note: This item is limited to 10 minutes. There should be no discussion on the items raised.

Stephen Walford
Chief Executive
Monday, 6 January 2020

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Carole Oliphant on:

Tel: 01884 234209

E-Mail: coliphant@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **ENVIRONMENT POLICY DEVELOPMENT GROUP**
held on 26 November 2019 at 5.30 pm

Present

Councillors

B G J Warren (Chairman)
E J Berry, W Burke, D R Coren,
R F Radford, R L Stanley,
Ms E J Wainwright and J Wright

Apologies

Councillor(s)

B Holdman

Also Present

Councillor(s)

R M Deed and R Evans

Also Present

Officer(s):

Stephen Walford (Chief Executive), Andrew Pritchard (Director of Operations), Andrew Busby (Group Manager for Corporate Property and Commercial Assets), Joanne Nacey (Group Manager for Financial Services), Stuart Noyce (Group Manager for Street Scene and Open Spaces), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Tristan Peat (Forward Planning Team Leader), Clare Robathan (Scrutiny Officer) and Carole Oliphant (Member Services Officer)

39 **APOLOGIES AND SUBSTITUTE MEMBERS (00.00.55)**

Apologies were received from Cllr B Holdman.

40 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00.01.32)**

There were no declarations made.

41 **PUBLIC QUESTION TIME (00.01.40)**

There were no members of the public present for this item.

42 **MINUTES OF THE PREVIOUS MEETING (00.01.48)**

The minutes of the previous meeting held on 24th September were **AGREED** as a true record and signed by the Chairman.

43 **CHAIRMAN'S ANNOUNCEMENTS (00.03.01)**

The Chairman announced that this was the last meeting of the Group that the Director of Operations would attend and he thanked the officer for what he had achieved and wished him well for the future.

44 **MOTION 559 (COUNCILLOR R EVANS - 22 OCTOBER 2019) (00.04.39)**

The Group had before it Motion 559 (Councillor R Evans – 22 October 2019) that had been forwarded from the Council to the Policy Development Group for consideration and report:

It is well known that the planting of trees has an extremely positive effect in the fight against reducing carbon within the atmosphere, each trees sequestration process is known to benefit carbon reduction as each individual tree can absorb as much as 48 pounds of carbon dioxide per year and can sequester 1 ton of carbon dioxide by the time it reaches 40 years old. Given the above and the climate crisis declared by this council and its stated ambition to be carbon neutral by 2030 I ask that the following motion be supported by all members.

This council agrees to use any and all land within the ownership of the authority that is not suitable for development, for the planting of native British trees.

This council agrees to undertake an area wide audit with the assistance of members and land owners to identify suitable sites both within MDDC ownership and private ownership to maximise opportunities for such activity, to be completed within no more than twelve months from the date of this motion , if approved.

This council agrees to work alongside community groups and schools whenever possible to encourage community ownership and sense of place and wellbeing within our communities.

This council agrees that any and all opportunities should be sought to obtain trees from organisations such as government agencies and relevant charitable organisations. (Woodland Trust, Plant Life, DEFRA / Forestry Commission seeking any funding that may be available).

Cllr R Evans explained that the motion was put forward as he had a plot of MDDC owned land in his ward which they didn't know what to do with and that the motion supported the environmental aims of the Council.

The Group discussed the Motion and considered:

- Planting of 'suitable trees'
- The fit with the Council's Open Spaces Policy
- Land not suitable for development – what did this mean

The Chief Executive explained that there were some concerns about the statement of 'any and all Council owned land not suitable for development' as this was a fairly unequivocal statement and could be misinterpreted in future as potentially including land not suitable for development, but where the Council clearly wouldn't wish to see the land completely covered in trees - existing Council owned play area's for example.

The Group suggested, and Cllr R Evans agreed that the wording of the Motion should be amended to reflect that only suitable Council owned land would be included and only suitable native trees would be planted.

The Group **RECOMMENDED** to Council that the Motion should be supported and that the wording would be adjusted to reflect the Group's suggestions.

(Proposed by Cllr R L Stanley and seconded by Cllr Ms E J Wainwright)

45 **CORPORATE PLAN (00.17.37)**

The Group had before it and **NOTED** the draft *Corporate Plan. The Chief Executive explained that the current Corporate Plan ran until 2020 and now was the time to start to look at renewing and refreshing the plan for 2020 onwards. He explained that the draft plan included the thoughts and ideas of the Members who had contributed during an away day in September 2019.

He stated that the draft plan would be presented to all 4 PDG's over the coming weeks so that additional thoughts and comments from all Members could be included within the final version. He asked the Group their initial thoughts on the draft plan.

Members discussed the draft plan and considered the following:

- Car park pricing mechanism – how would that be seen to be helping our town centres if the Council was also encouraging outside business parks like J27
- Concern that the plan was a 4 year programme and that there were too many things to achieve in that timescale
- Right to Buy – this is a Government Policy and should not be included
- Promote sustainable farming practices – Some Members felt that this was down to DEFRA and others thought that it should be kept in the plan as an aspiration for farming communities to network and share good practice.
- Emissions from cattle and food production.
- Community Land Trusts.

The Chief Executive explained to Members that the Corporate Plan was designed to balance the different viewpoints of the membership and the competing demands of the Council. It was to show the public what the council would be trying to achieve with competing resources. He explained that the Plan was not a definitive list of practical things that the Council would achieve but what the aspirations of the membership was in the 4 overarching main themes, Environment, Homes, Economy and Community.

He informed the Group that the Plan was stating what the membership aspired to achieve and that the Leadership Team would need to adjust and amend working practices to align operational activities to the aims of the Members. He explained that with each budgetary cycle everything the Council did and every decision Members were asked to make would be aligned to the Corporate Plan. Alongside the top line of the Corporate Plan there would be a list of priority activities published on an annual basis, as currently.

The Leader informed the Group that the draft Plan would be presented to all 4 PDG's and that all Members should respond and contribute their thoughts so that these could be taken into consideration when the final Corporate Plan was presented to the Cabinet.

The Group were requested to contribute their thoughts and add their comments to the draft Corporate Plan by way of notification to the Chief Executive via the Committee Clerk.

Note: *Corporate Plan previously circulated and attached to the minutes.

46 **NET ZERO WORKING GROUP UPDATE (00.47.21)**

The Group had before it and **NOTED** the *Terms of Reference for the Net Zero Working Group and the Chair of the group, Cllr Ms E Wainwright, explained that the project outline was dynamic and that it would be adapted as the Climate Change situation progressed.

She explained that the Working Group had two main themes, the first being establish how the Authority could reduce its own emissions and secondly how the Authority could facilitate net zero carbon initiatives information across the district.

She informed the PDG that the Working Group were looking at getting Net Zero Carbon information onto a shared platform and that a new webpage on the Council's website had been commissioned to signpost public and community groups. She explained that Members should be encouraging residents to engage with the DCC Taskforce call for evidence and that when that evidence was presented the Authority could look at ideas which directly affected Mid Devon. The next stages would be a press release early in the New Year explaining what the Council had already achieved to reduce its carbon footprint and to conduct a mapping exercise to connect all the community groups together.

She explained that the Group would meet again in the New Year.

The Group **AGREED** that Cllr E J Berry be formally adopted onto the Working Group.

(Proposed by the Chairman).

Note: *Terms of Reference previously circulated and attached to the minutes.

47 **GOVERNMENT SCHEME FOR FUNDING OF STREET ELECTRIC VEHICLE CHARGING POINTS (00.56.53)**

The Group had before it and **NOTED** a *report from the Head of Planning, Economy and Regeneration providing Devon County Council's (DCC) Policy for signing up to the Office for Low Emission Vehicles Government Funding for the provision of on street electric vehicle charging points.

The Forward Planning Team Leader explained that the question had been asked by a member of the public and that MDDC could not sign up to the scheme in its own right as it was not responsible for highways and it would need the support of DCC. He explained that DCC had taken the decision not to sign up to the scheme due to financial pressures and issues with evolving technologies.

The Group Manager for Corporate Property and Commercial Assets explained to the Group that the Council's Electric Vehicle Charging Partner, Instavolt, had installed rapid chargers in the leisure centres. He explained that these had worked well as

people had something to do whilst the vehicle was charging but suppliers were reluctant to site them in other locations where there was no alternative activity that users could utilise whilst charging their vehicles. He explained that 2 additional charging points were to be fitted at the Premier Inn in Tiverton. He informed the Group of the electric infrastructure required to install electric vehicle charging points and the reluctance of suppliers to install additional units.

Note: *Report previously circulated and attached to the minutes.

48 **CLIMATE CHANGE FOOTPRINT BASELINE CALCULATION (01.05.32)**

The Group had before it and **NOTED** a *report from the Group Manager for Corporate Property and Commercial Assets updating Members on progress made with establishing a Carbon Footprint for the Council's operational activities.

He outlined the content of the report and explained that there were 5 stages required to define the Council's carbon baseline and that officers were at stage 5, report writing. A draft report had been received from the University of Exeter and that this was currently being verified and would be presented to Cabinet on 19th December 2019.

He explained that MDDC had joined other District Councils to have a consistent approach on the scope of establishing a baseline and that MDDC were the first of this group to have obtained a draft figure.

Note: *Report previously circulated and attached to the minutes.

49 **SINGLE USE PLASTICS (01.07.59)**

The Group had before it and **NOTED** a *report from the Policy and Research Officer updating Members on the Council's progress on the reduction of single use plastic (SUP). She outlined the contents of the report and explained that this was an update on a report presented to the Group in March 2019.

She explained that the Council was looking to get its own house in order and to work with suppliers. She informed the Group that most of the suppliers that the Council worked with either had or intended to introduce a policy on the use of SUP's.

She explained that although there was a limited response from suppliers when they were initially asked to provide details of their policy that the Council were looking at the policies of individual suppliers when their contracts came up for renewal.

Members felt that procurement needed to be looked at more generally and how the Council could encourage positive social and environmental impacts whilst looking to reduce its own environmental impact.

The Director of Operations asked the Group to consider how they wanted to discuss SUP's and what that actually meant as there was no official definition of a single use plastic.

Cllr R Evans, who tabled the original motion, stated that this was a good start but he would like the PDG to look at introducing targeted measurable results. He stated that if procurement was an area that could be looked at then this should be done.

Note: *Report previously circulated and attached to the minutes.

50 **ENVIRONMENT EDUCATIONAL AND ENFORCEMENT TEAM UPDATE (01.21.38)**

The Group had before it and **NOTED** a *report from the Group Manager of Street Scene and Open Spaces updating Members on the performance of the Street Scene Education and Enforcement Team.

He outlined the contents of the report and explained to Members that this was an update on the changes made to the service in April 2017. He explained that officers had a combined 300 hours of discretionary time per annum and the amount of time spent on tasks performed had been agreed by the previous PDG.

He explained that the discretionary time had previously concentrated on litter patrols and recycling and that this was working well. He explained that the rise in abandoned vehicles could be directly linked to the scrap values and as this was lower it caused an increase in this type of offence.

He informed the Group that the Enforcement Policies were due to be presented to the Group at the next meeting and this meant that Members could set increased fine rates for fixed penalty notices including littering from cars following changes to national legislation.

In response to a question about the training provided to district officers for evidence gathering and investigations, the Director of Operations explained that the Enforcement Policies would cover this aspect. He explained that currently the Council would not be able to use covert surveillance methods as they would need to apply for RIPA.

The Group **AGREED** to retain the current discretionary times and tasks.

Note: *Report previously circulated and attached to the minutes.

51 **FINANCIAL MONITORING (01.32.43)**

The Group had before it and **NOTED** a *report from the Deputy Chief Executive (S151) presenting the financial monitoring information for the income and expenditure for the six months to 30 September 2019 and the projected outturn position.

The Group Manager for Finance outlined the content of the report and explained that this was the second formal report for the year and there was a big differential from quarter 1, now showing a surplus of £29k. A number of factors had contributed to this including waste savings and the receipt of a significant planning application.

In response to a question asked about 3 Rivers Developments Ltd she explained that this was a loan which was made without the need for additional borrowing and that the report had highlighted that there was a risk of it not being repaid within the initial

timeframes. The forecast was based on the figures that had been provided by 3 Rivers Developments Ltd.

Note: *Report previously circulated and attached to the minutes.

52 **DRAFT BUDGET (01.42.45)**

The Group had before it and **NOTED** a *report from the Deputy Chief Executive (S151) presenting the draft budget proposals for 2020/2021.

The Group Manager for Finance outlined the content of the report and explained to Members that the report would be presented to Cabinet with the information available at the time and that the settlement from Central Government was for 1 year instead of the 4 expected. She explained that the Council had been very vocal about the absence of the Fair Funding Review there was doubt over whether the Provisional Settlement would be received from Central Government by Christmas. This delay would cause further uncertainty.

She informed the Group that the Council had gone out to public consultation on the budget and had so far received 408 responses. Officers were currently looking at those to help inform the budget setting process.

She explained that the Vehicle Contract set up had come from the Ear Marked Reserve created from the sinking fund initially established to replace the Council's vehicle stock.

Note: *Report previously circulated and attached to the minutes.

53 **PERFORMANCE AND RISK (01.54.38)**

The Group had before it and **NOTED** a *report from the Director of Operations providing Members with an update on performance against the corporate plan and the local service targets for 2019-2020.

The Group Manager for Performance, Governance and Data Security explained that the results were from September and detailed the performance against the current corporate plan.

She stated new targets would be aligned with the new corporate plan when this had been agreed.

Note: *Report previously circulated and attached to the minutes.

54 **IDENTIFICATION OF ITEMS FOR FUTURE MEETINGS (01.57.28)**

No items were identified.

(The meeting ended at 7.29 pm)

CHAIRMAN

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ENVIRONMENT PDG

14th JANUARY 2020

UPDATE ON THE STREET SCENE EDUCATION AND ENFORCEMENT POLICIES

Cabinet Member(s): Cllr Luke Taylor, Cabinet Member for the Environment and Climate Change

Responsible Officer: Vicky Lowman, Environment & Enforcement Manager
Stuart Noyce, Group Manager - Street Scene and Open Spaces

Reason for Report: To provide an update on current policies and to adopt new policies to enable the Street Scene and education enforcement team to educate and enforce new available powers. This report outlines the amendments to existing gives members an opportunity to comment on policies.

RECOMMENDATIONS:

- 1) To increase in fixed penalty notices from £200 to £400.00 for fly tipping and to have the powers to use CCTV footage to assist with fly tipping fixed penalty notices. (Appendix A)
- 2) To adopt the Littering from vehicles regulations 2018 policy (Appendix B)
- 3) To adopt changes to the Compulsory recycling policy to follow government guidelines (Appendix C)
- 4) To seek authority to consult on a Public Space protection order to enable the District Officers to issue fixed penalties and prosecutions under the Anti-social behaviour, Crime and Policing Act 2014. (Appendix D)
- 5) To adopt amended Abandoned Vehicle policy which will enable the District Officers to investigate vehicles within 'open air' (Appendix E)
- 6) To seek authority for the Environment and Enforcement Manager to be the officer appointed under section 149 of the Environmental Protection Act 1990. The officer appointed under section 149 is required to keep the public register which contains the prescribed particulars of or relating to dogs seized under this section. (Appendix F)

Financial Implications:

Increase in fines for any fixed penalty notice issued

Legal Implications:

The updated policies will enable the District Officers to use the following acts.

Environmental Protection Act 1990

Clean Neighbourhood Act 2005

Refuse Disposal (amenity) Act 2014

Anti-social behaviour, crime and policing act 2014

Littering from vehicles regulations 2018

Compulsory recycling section 46(1) of the Environmental Protection Act 1990

Risk Assessment: If legalisation changes and our policies are not updated this may be at risk of being unenforceable, which would result in reputational damage for not taking appropriate action.

Equality Impact Assessment: No equality issues identified for this report.

Relationship to Corporate Plan: The Street Scene Enforcement Service is a frontline service which works throughout the District ensuring cleanliness and attractiveness of our public realm through both education and enforcement.

Impact on Climate Change: By ensuring all residents are recycling and increasing the fixed penalty charges for Environmental offences this is hopefully deter members of the public for committing Environmental crime reducing mileage incurred for investigations and collections.

1.0 Introduction

The Street Scene Enforcement Team has undertaken an internal review of its current policies in line with current government legalisation. Having the ability to issue fixed penalty Notices are a means of punishing offenders for unlawful behaviour and offer a quick, flexible means of dealing with certain offences.

Fly tipping - The Government have introduced new financial penalties to help fight against waste crimes. The majority of householders already dispose of their waste responsibly, however from the 7 January 2019 powers were made available any householder who fails to pass their waste to a licensed carrier, and whose waste is found fly-tipped, could face penalties of up to £400. The District Officers will be required to take photographic evidence of the fly tipping in situ or use CCTV footage to issue enforcement notices to individuals who commit this offence.

Littering from Vehicle - The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 introduced the new fixed penalties for littering from vehicles from powers conferred by inserting section 88A of the Environmental Protection Act 1990 which came into force on 1 April 2018. Adopting these Regulations and introducing these powers to issue a fixed penalty notice to the owner of a vehicle when a District Officer of Mid Devon District Council is able to show that litter was thrown from a vehicle onto public or private land. A Penalty can either be issued on the spot or through the post depending on the circumstances and type of offence. District Officers will observe offences whilst on patrol, on a pure chance basis whilst engaged on other duties, following an approach by members of public willing to stand as witness in any subsequent Court action, or using CCTV footage.

Compulsory recycling policy of the Environmental Protection Act 1990
Compulsory Recycling- Under section 46 of the Environmental Protection Act 1990 Mid Devon District Council may by notice require occupiers of premises to present their household waste for collection in a specified way. Failure, without reasonable excuse, to comply with such a requirement is an offence under section 46(6) of the EPA. Under section 47ZA of that Act, a fixed penalty may be offered as an alternative to prosecution. This section amends the current policy.

Updating the Mid Devon District Council Bye-Laws

Due to new legalisation, in October 2020 the current by-laws for issuing FPN's under Clean Neighbourhoods and Environment Act 2005 for dog offences will expire and will need be replaced by a Public Space Protection Order by October 2020.

Abandoned vehicles

The current policy does not allow abandoned vehicles on private land to be investigated, the amendments to the new policy will allow Mid Devon District Council to investigate any 'abandoned' vehicle within the open air under section 3 of the refuse disposal (amenity) act 1978. Any motor vehicle abandoned on private land may be removed in accordance with the Council's procedure, unless the cost in so doing is deemed to be unreasonably high, the only exception will be if the vehicle is situated on a carriageway.

2.0 Street Scene Enforcement Policy

During the review it was identified that in addition to the amended policies there is also a policy which complies with legalisation that needs reviewing. The following policies are included within the document.

Appendix F – Stray dog policy

Contact for more Information: Vicky Lowman Environment and Enforcement
Manager (01884 244601 vlowman@middevon.gov.uk)

Circulation of the Report: Cllrs, Management Team



Fly Tipping Policy

Date of issue: January 2020

Review date: January 2030

Contents

1. Introduction and legislation
2. The procedure for Fly tipping
3. Duty of care
4. Fixed Penalties
5. Amount of fixed penalty

1.0 Introduction

Fly tipping is the illegal dumping of any waste on to land that has no licence to accept waste, it can vary in scale significantly from a bin bag of rubbish to a large quantity of waste dumped from a truck. Enforcement legislation is embodied within the Environmental Protection Act 1990 sections 33 and 34.

The Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 came into force on the 9 May 2016 which amends the Environmental Protection Act 1990 to allow the issuing of fixed penalties for waste deposit offences.

Mid Devon District Council is a contributor to the web based National Fly Tipping database Fly Capture¹ which has been in operation since April 2004.

All authorised District Officers in the Street Scene and open spaces department are fully trained in enforcement procedures and receive regular update training. All delegated officers will act in accordance with this policy and refer to this policy when making enforcement decisions.

2.0 The Procedure

2.1 In the first instance, the Council's preferred action is to secure compliance through education and information. Enforcement action will require delegated officers to follow set procedures and protocols in order to ensure consistency in the collection of evidence and the enforcement actions applied. These actions represent a zero tolerance to environmental crime, but will not always require prosecution action.

This policy supplements the guidance continued in the Operations Directorate Enforcement Policy. The Street Scene service encompasses numerous powers and duties that enable the control of behaviour of individuals and/or businesses in the interest of public health and the environment.

2.2 Mid Devon District Council may use CCTV to issue and peruse fixed penalty notices for fly tipping to ensure compliance with Regulation of Investigatory Powers Act 2000

2.3 A fixed penalty notice can be issued to someone caught in the act of fly tipping for a less serious offence. Where evidence is obtained for a more serious case of fly tipping and the case meets the tests for prosecution, a file will be prepared for prosecution.

2.4 In cases of fly tipping found on public open spaces or on highways etc. a letter shall be sent to the alleged offender with an explanation of the offence committed and an invitation for them to attend an interview under caution. The purpose of the invitation is to ascertain why the offence was committed and to see if there is a plausible explanation for the committed offence. If the interviewers are not satisfied consideration will be given to either issuing a Fixed Penalty Notice or prosecuting.

¹ Flycapture is a database for recording incidents of fly-tipping in Great Britain.

- Evidence held by the District Council shall be held in prosecution files which will be stored electronically in line with Data Protection Act 2018
- Interviews under caution will be carried out under the Police and Criminal Evidence Act 1984 (PACE).
- Mid District Council can seize a vehicle, trailer or mobile plant suspected of being involved in waste crime²
- Mid District Council has the right to legally enter land, vehicles or premises to investigate
- Mid Devon District can serve a notice on anyone it thinks can provide information on the details of the driver of a vehicle used at the time when the offence was committed, using the DVLA WEEE system.
- All offences that involve a vehicle will be investigated within 7 days of the offence taken place. The council have the ability to check owner details on a vehicle within this time, after 7 days a registered keeper check cannot take place using the WEE system.

2.5 A range of enforcement options are available for each offence. The case officer dealing with a situation will act on his/her own initiative in routine/straightforward cases. In more complex cases he/she will liaise with the Legal Services depending on the circumstances. Any cases recommended for prosecution will be presented to legal services for comment and review prior to proceedings being instigated.

3.0 Duty of care

The fixed penalty notice (FPN) for breaches of the household waste duty of care provides an alternative to prosecution. It allows an individual to discharge liability for the duty of care offence by payment of a financial penalty.

The duty of care requires occupiers of domestic property to take all reasonable measures available to them in the circumstances to ensure that they only transfer household waste produced on that property to an authorised person. This reduces the chance of waste ending up in the hands of those who would fly-tip it.

Mid Devon District Council may issue a FPN when an individual appears to have failed to comply with their duty of care under section 34(2A) of the Environmental Protection Act 1990 in England. For example:

² The Department for Environment, Food and Rural Affairs (DEFRA) states that "material is considered to be waste when the producer or holder discards it, intends to discard it, or is required to discard it."

- Where fly-tipped waste can be traced back to an individual who is found to have failed to take reasonable steps to ensure that they transferred the waste to an authorised person.
- Where an unauthorised carrier is found to be carrying household waste that was directly transferred to them by the occupier of a domestic property.
- Where an individual is found to have transferred their household waste to an unauthorised person at a site that does not have a permit or exemption.

4.0 The fixed penalty policy

4.1 A Fixed Penalty Notice, in the appropriate case, can be issued on the spot or following a PACE interview.

4.2 Mid Devon District Council can request under section 59 of the environmental protection act 1990 for the occupier and or landowner to remove the waste they knowingly caused or permitted to be deposited illegally.

4.3 If the occupier and or landowner does not remove the waste Mid Devon District Council can enter on to the land, clean the waste and charge them of the costs of doing so.

4.4 Mid Devon district Council can also enter land to clear the waste if

4.4.1 There is no occupier

4.4.2 The occupier did not knowingly cause or permit the deposit of the waste

4.4.3 It is in order to prevent pollution.

4.5 A District officer may require an occupier of domestic property to give the occupier's name and address if the officer proposes to give the occupier a fixed penalty notice.

A person commits an offence if the person—

(a) Fails to give a name or address when required to do , or

(b) Gives a false or inaccurate name or address in response

Mid Devon District Council will ensure all enforcement to comply with the principles of the Regulators Code³ when approaching enforcement for the household waste duty of care.

4.6 Getting payment

Mid Devon District Council will request payment is made within 14 days.

4.7 Sending reminder letters

³ section 23 of the Legislative and Regulatory Reform Act 2006

Reminder letters will be sent to those where payment has not been made. The letter must detail the full payment cost, when payment must be made by, what happens if payment is not made.

4.8 Authorising enforcement staff

District Officers must be authorised in writing by the authority to

- issue FPNs
- investigate crimes
- seizing vehicles etc and enter on to private land for the purposes of investigation

4.9 Taking offenders to court

Where a FPN has been issued Mid Devon District Council will wait 14 days after issuing an FPN before legal action is taken. If the FPN is paid no court proceedings will take place

Some cases will not be appropriate for a fixed penalty notice and should proceed directly to prosecution

Convicted parties can be fined an unlimited amount or imprisoned for up to 5 years.

5.0 Amount of fixed penalty

The Council has specified the amount of the fixed penalty at £400, this has been set at the maximum amount to discourage fly tipping.

Claiming costs

The Council may attempt to recover the costs spent on investigations, clean up and enforcement work from the:

- Polluter
- Occupier or landowner

Littering from vehicles

Date of Issue: January 2020

Review Date: January 2030

Contents

Introduction

1. Interpretation
2. Civil fixed penalties and Enforcement
3. Penalty amounts and payment
4. Challenges to the Penalty Notice
5. Recovery of unpaid amounts
6. Authorised Officers
7. Use of receipts
8. Exemptions
9. Representations and Appeals
10. Publicity and Associated Enforcement
11. Further information

Annex A Procedure

Introduction

We are committed to reducing litter on our roadsides and verges and we want to enforce against those who litter from their vehicles. We recognise that it can be particularly difficult for District officers to identify which person in the vehicle committed the offence. The new powers allow the Council hold the keeper of a vehicle responsible for littering offences committed from it.

The Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018 (SI 2018/171) came into force on 1 April 2018 to introduce new fixed civil penalties (FCNs) for littering from vehicles. This allows local authorities outside London to issue civil penalty notices to the keeper of a vehicle from which litter is thrown. We want to use these powers for the reasons stated below

A civil penalty is a civil fine which unlike a criminal penalty does not carry the risk of a criminal prosecution. The 'keeper' of a vehicle is presumed to be the 'registered keeper', but evidence may be provided by showing that the vehicle was 'kept' by another person at the relevant time: the liability to pay the civil penalty rests with the keeper of the vehicle at the time of the offence.

Under section 89(1) of the EPA 1990 Mid Devon District Council as a local authority has a general duty to keep land in its area clear of litter.

1. Interpretation

"The EPA 1990" means the Environmental Protection Act 1990

"Littering Regulations" means The Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018 (SI 2018/171)

"PCN" means Penalty Charge Notice

"MDDC" means Mid Devon District Council

"RUCS regulations 2019) means road user charging schemes (penalty Charges adjudication and Enforcement) (England) regulations 2013

"Electronic address" means any number or address used for the purposes of sending or receiving documents or information by electronic means

2. Civil Fixed penalty notices and Enforcement

2.1 MDDC may give a penalty notice, requiring payment of a fixed civil penalty, to a person who is the keeper of a vehicle provided that MDDC has reason to believe that a littering offence has been committed in respect of the vehicle on land within Mid Devon area

2.2 Mid Devon District Council may cancel a penalty notice at any time by informing the recipient in writing.

2.3 A Penalty can either be issued on the spot or through the post depending on the circumstances and type of offence.

2.4 Penalty notices may be issued when District Officers observe offences whilst on patrol, on a pure chance basis whilst engaged on other duties, or following an approach by members of public willing to stand as witness in any subsequent Court action. MDDC is willing to take enforcement action on the basis of CCTV evidence provided the CCTV evidence is in accordance with RIPA¹

2.5 A penalty notice must not be given—

2.5.1 after the end of the period of 35 days beginning with the day on which the littering offence in question occurred,

2.5.2 If a fixed penalty notice for the criminal offence of Leaving litter (under 88(1) has been given to a person in respect of the same offence (whether or not he is the vehicle's keeper), or

2.5.3 If a prosecution has been brought against a person under section 87 of the EPA 1990 (Offence of littering) in respect of the same offence (whether or not the person is the vehicle's keeper and whether or not the prosecution has concluded or was successful).

2.6 If MDDC issue a civil penalty notice and the recipient provides evidence as to the identity of the litterer, MDDC will consider whether this is a sufficiently compelling reason to cancel the original civil penalty. MDDC will also (separately) decide whether sufficient evidence has been provided to pursue criminal enforcement action (a fixed penalty notice or prosecution) against the alleged litterer.

2.7 Section 8 (exemptions) sets out circumstances in which a person is not liable to pay a fixed penalty.

2.8 There are detailed rules contained in the Litter Regulations as to the contents of a penalty notice. MDDC will produce standard template notices in accordance with these rules

3. Penalty amounts and payment

3.1 The amount of a fixed penalty is the amount specified by MDDC under Section 88(6A) (a) of the EPA 1990 for the fixed penalty for the criminal offence of leaving litter. MDDC has set this sum at £150

The discount for early payment is:

3.2 If a fixed penalty is not paid in full within the fixed penalty payment period, the amount of the fixed penalty increases by 100% with effect from the day after the last day of the fixed penalty payment period.

¹ RIPA (Regulation of Investigatory Powers Act) is a law enacted in the United Kingdom in 2000 to govern the interception and use of electronic communications

4. Challenges to the Penalty Notice

4.1 The Littering Regulations confers a right on the person who is given a penalty notice to challenge it within 14 days of the FPN being issued. A person to whom a penalty is given may make written representations to MDDC in writing on grounds as set out in the Littering regulations. These grounds are Section 9 in this document

4.2 If MDDC accepts that one or more of the grounds in regulation 14 of the Littering Regulation applies, it must cancel the penalty notice and inform the person who made the representations of the cancellation in writing.

4.3 If MDDC does not accept that one or more of the grounds in regulation 14 applies, it must give a notice of rejection to the person who made the representations.

4.4 A person who is given a notice of rejection may appeal against it to an adjudicator and the appeal must be made to an adjudicator within the period of 28 days beginning with the day on which the notice of rejection is given although the adjudicator may allow an appeal out of time.

4.5 If the adjudicator concludes that one or more of the grounds in regulation 14 applies, the adjudicator must allow the appeal.²

5. Recovery of unpaid amounts

5.1 Mid Devon District Council may recover any unpaid amount of the fixed penalty and any related costs awarded by an adjudicator—

5.1.2 as a civil debt, or

5.1.3 as if payable under a county court order, if the county court so orders.

6. Authorised Officer

Mid Devon District Council authorise its District Officers to issue penalty notices.

7. Use of receipts by Mid Devon District Council

Any surplus³ income from these penalties will be ring-fenced to be spent on your statutory functions of keeping relevant land and clear of litter and refuse, and on enforcement against littering, graffiti and so on.

8. Exemptions

8.1 Public service vehicles and licensed taxis

8.2 The kinds of vehicle exempt from fixed penalty are –

² The adjudicator is the Traffic Penalty Tribunal

³ An amount of something left over when requirements have been met; an excess of production or supply

- 8.3 Public service vehicle, within the meaning of section 1 of the Public Passenger Vehicles Act 1981
- 8.4 A hackney carriage licensed under section 37 of the Town Police Clauses Act 1847
- 8.4.1 Or section 6 of the Metropolitan Public Carriage Act 1869.
- 8.4.2 Vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976(e) (licensing of private hire vehicles).

9. Representation and Appeals

Grounds of representation

A person who receives a fixed penalty notice may make written representations on one or more of grounds A to L set out below apply :-

Ground A – the littering offence did not occur.

Ground B – the person was not the keeper of the vehicle at the time of the littering offence because they became the keeper of the vehicle after the littering offence occurred. Such representation must include the name and address of the other person from whom the vehicle was acquired.

Ground C – the person was not the keeper of the vehicle at the time of the littering offence because the person had disposed of the vehicle to another person before the littering offence occurred. Such a representation must include the name and address to whom the vehicle had been disposed of, or a statement that the name and address of that person is not known

Ground D – the person was not the keeper of the vehicle at the time of the littering offence because the vehicle was a stolen vehicle when the littering offence occurred. Such a representation must include the crime reference number, insurance claim number or other evidence of the vehicle's theft.

Ground E – the person was engaged in the hiring of vehicles in the course of a business at the time of the littering offence, and was not the keeper of the vehicle at that time by virtue of the hire agreement. Such representation must include a statement signed by or on behalf of the person to the effect that at the time of the littering offence the vehicle was hired to a named person under a vehicle hire agreement and provide a copy of the vehicle hire agreement.

Ground F – the person was not the keeper of the vehicle at the time of the littering offence for a reason not mentioned in Grounds B to E.

Ground G – Mid Devon District Council are not authorised to give the person a penalty notice.

Ground H – the person is not liable to pay the fixed penalty by virtue of Regulation 12 (public service vehicles and licensed taxis).

Ground I – the liability to pay the fixed penalty has been discharged in the circumstances set out in Regulation 13 (penalty already given to a person in respect of the same offence).

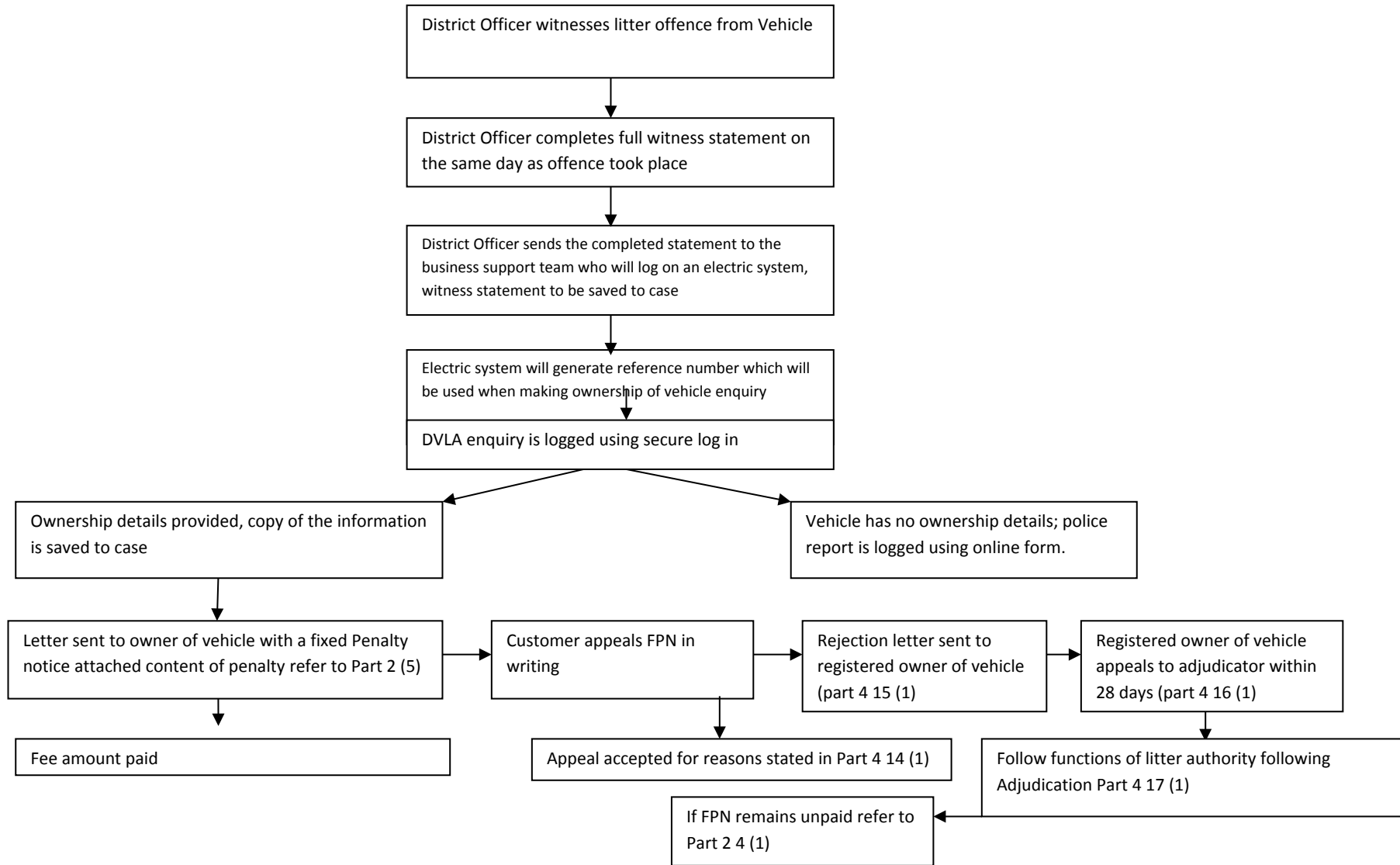
Ground J – the fixed penalty exceeds the amount payable under the Regulations.

Ground K – Mid Devon District Council has failed to observe any requirement imposed on it by the regulations in relation to the imposition or recovery of the fixed penalty.

Ground L – there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled (whether or not any of grounds A to K apply).

10. Publicity and Associated Enforcement

Mid Devon District Council communications will highlight the anti-social aspects of Littering and to announce the new powers. Part of such communications plan will be the publicising of successful enforcement. When communications are published the Council will adhere to the Data Protection Act 2018.



Littering from Vehicle timescales

1 Working day

Add littering offences to the current sheet in the littering folder.

For fly-tipping issues, if not already on Idox, log via MDDC website. Update Idox record.

If witnessed personally, take photographic evidence and complete a written report or e-mail.

If witnessed by a member of the public, take a witness signed statement from them including what was actually witnessed and not just circumstantial evidence (and obtain photos if available).

Within 7 Working days

A local authority may make an enquiry using the Driver & Vehicle Licensing Agency (DVLA's) Web Enabled Enquiry (WEE) system to request a vehicle keeper's details (at time of event) after witnessing or receiving reports regarding an alleged littering or fly-tipping offence from a stationary or moving vehicle.

The enquiry via the WEE system must be made within 7 days of the date of event (ie the date of the alleged incident).

Ensure there is sufficient evidence in existence, prior to accessing the WEE system, to ensure a successful prosecution and retain this evidence for subsequent audit inspections (on Idox for fly-tipping issues).

The member of staff making the WEE system enquiry must see this evidence for themselves.

If CCTV footage showing waste being dumped from a vehicle is being relied upon, this must be unambiguous and seen by the member of staff making the WEE system enquiry.

If a vehicle registration number plate or any documentation is found in amongst fly-tipped waste, **no** enquiries can be made via the WEE system as it is purely circumstantial.

Once vehicle keeper's details are received, send letter enclosing a Fixed Penalty Notice (FPN).

15 Days

If payment is not received after fourteen days, issue a reminder letter.

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Compulsory Recycling Policy

Date of issue: January 2020

Review Date: January 2030

Contents

1. Introduction
2. Compulsory recycling, Section 46 Policy
3. Enforcement Procedure

1.0 Introduction

In November 2015, Mid Devon District Council introduced a Compulsory Recycling Policy in line with the above legislation, aimed at encouraging residents to put their waste out in the correct containers and at the correct times as prescribed by us.

Current recycling procedures are a black recycling box for paper, glass, tins, cans, household metals, textiles, batteries and for the recently introduced mixed plastics. There is a green recycling box for cardboard and cartons. Both of these boxes are collected fortnightly.

In the autumn of 2015, Mid Devon District Council introduced weekly food waste kerbside collection using blue food caddies and an opt-in fortnightly chargeable garden waste collection service using a brown bin.

One of the purposes of introducing compulsory recycling is to increase our recycling performance and to reduce costs for the Council. This will have a positive effect by reducing the amount of waste especially garden waste that goes into landfill, by minimising the impact on the environment and at the same time promoting the waste hierarchy. A noticeable improvement in the cleanliness of the district has been proven in other districts that have also introduced this scheme.

The legislation is aimed at encouraging everybody to use the right containers for the right kind of materials.

2.0 Policy 24 – Education and Enforcement

2.1 Everyone should take responsibility for the waste they produce and Mid Devon District Council aims to educate local residents, businesses and visitors to increase awareness and understanding of their role in responsible waste management. This may be through targeted campaigns, the council website, leaflets, posters, events and working with community groups.

2.2 The council has statutory duties under the amended Environmental Protection Act 1990 (“the Act”) to keep the streets clean and clear of litter and refuse. This legislation also gives us powers to tackle local environmental quality issues and to undertake enforcement.

2.3 The council recognises that residents may take time to be accustomed to the service requirements contained in this policy. Consequently, the council will adopt an approach that will always offer advice, support and guidance as the first and preferred way to establish this policy.

2.4 The council is aware however that resorting to the use of formal powers may be necessary in some circumstances and is committed to seeing such measures applied in an open, reasonable and proportionate way.

2.5 A Notice under Section 46 (1) of the amended Environmental Protection Act 1990 needs to have been served on a property before any enforcement action can be pursued for this type of offence.

2.6 This Notice formally requires the occupier to place the waste for collection in receptacles of a kind and number specified and effectively sets the ground rules for the way household waste should be managed by residents.

2.7 This Notice is in addition to the information within the collection calendars that are sent to every residential address in Mid Devon and also available on the Mid Devon website.

2.8 Serving a Section 46 (1) Notice does not imply that a household is not managing their waste properly and as such, the Notices may be served on as many properties as appropriate, to enable a consistent and fair approach to enforcement across the district.

The following identifies the approach that will be taken in the more serious cases, for example, where the requirement to place the correct substance or article of waste into the correct kind of receptacle is continuously, persistently ignored and where this behaviour continues despite the informal actions detailed at Stages One and Two below.

3.0 Enforcement Procedure

3.1 Stage One

On the first occasion (a Section 46 (1) Notice having already been served), officers who witness incorrect presentation, such as the presentation of excess 'side waste' or contamination with non-recyclable waste, will advise householders with the use of a 'nudge letter' that seeks to remind them of how they must present their waste for collection in the future. A sticker may also be used to help draw the residents' attention to the problem.

3.2 Stage Two

Following Stage One, if the problem persists or there is a reoccurrence, then consideration should be given to moving the case to Stage Two which is a written warning under section 46A of the Act. This warning can only be given if:

(a) a person has failed without reasonable excuse to comply with a requirement under the section 46 Notice and

(b) ("Condition B") the person's failure to comply -

(i) has caused, or is or was likely to cause, a nuisance, or

(ii) has been, or is or was likely to be, detrimental to any amenities of the locality.

The warning remains in force for a year.

3.3 Stage Three

Continued failure to comply with the collection requirements, as defined in the Notice under Section 46 (1), could result in formal action being taken against the occupants if:

3.3.1 The person has again failed without reasonable excuse to comply with the Section 46 (1) Notice requirement identified in the warning under Section 46A and the person's failure to comply has had, or is or was likely to have, the effect described in Condition B (see above) or

3.3.2 The person has failed without reasonable excuse to comply

with a Section 46 Notice requirement that is similar to the one identified in the warning under 46A and the person's failure to comply has had, or is or was likely to have, the effect described in Condition B (see above).

A Notice of Intent would be served on the occupants of the property from which the incorrectly presented or contaminated receptacle originated or appears to have originated. A Notice of Intent can be issued each time there is an infringement, provided the conditions set out above are met, within a year of giving a written warning. The Notice of Intent informs the occupant that the council intends to require them to pay a Fixed Penalty. The occupant has 28 days within which to make representations as to why they should not have to pay it. If representations are received and considered to be valid, the requirement for the Fixed Penalty will be withdrawn. Otherwise, the case will continue to the next formal stage.

3.4 Stage Four

If no representations are received, or if they are received and they are not considered valid, the named occupants will be issued with a Final Notice requiring payment of a Fixed Penalty within 28 days. If the Fixed Penalty is paid, then no further action is taken in relation to the infringement. An early payment discount may be applied. The occupier has a further 28 days to appeal to a First Tier Tribunal against the issuing of the Fixed Penalty Notice. The tribunal is external to the council and has the power to uphold or withdraw the requirement to pay the Fixed Penalty. The council's delegated officer (ie District Officer) must therefore record their considerations and these should be sound to withstand scrutiny at the First Tier Tribunal. The Fixed Penalty Notice is now a civil penalty (rather than a criminal offence) that would be enforced through the civil courts. If the Fixed Penalty is upheld then the council will pursue unpaid Fixed Penalties in accordance with its procedures for debt recovery.

The Fixed Penalty rate is set at £80.00, reduced to £50.00 if paid within 14 days of issue. The discount period is to encourage settlement at an amount that is sufficient to act as a deterrent to future offences.

Note

There are detailed statutory requirements setting out what the Notices should contain. All Notices served must comply with the statutory requirements to be valid. Standard Notices are produced to ensure compliance. All stages must be completed within 6 months of the first notice being issued.

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Made this day of 20

Pursuant to Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014.

Mid Devon District Council (in this Order called “the Council”), in exercise of its power under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) and of all other enabling powers, after consultation carried out in accordance with the Act, and being satisfied that uncontrolled and irresponsible dog walking in public places has a detrimental effect on the quality of life of the local community and that the conditions set out in Section 59 of the Act are met, hereby makes the following Order.

1. Definitions and Interpretation

1.1 In the following provisions of this Order, the following terms shall have the meanings hereby respectively ascribed to them:-

“Authorised Officer” means a person who is authorised in writing by the Council for the purposes of this Order

“District of Mid Devon” means the land shown edge red on the plan marked “District” and referred to in schedule A

“Person in Charge” means the person who has the dog in his possession, care or company at the time the offence is committed or otherwise, the owner or person who habitually has the dog in his possession

“Police Constable” means any person lawfully designated and authorised by a Chief Officer of Police to exercise the powers and duties of a Police Constable

“Public Spaces” means land within the District of Mid Devon, which is open to the air including covered land which is open on at least one side and to which the public are entitled and permitted to have access, with or without payment, with the exception of Forestry Commission Land

1.2 Except when the context otherwise requires, the singular includes the plural and vice-versa; and the masculine includes the feminine and vice-versa.

1.3 Reference to an Act of Parliament, statutory provision or statutory instrument includes a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it.

2. Scope

This Order applies to all Public Spaces in the District of Mid Devon.

3. Duration

This Order shall come into effect on _____ day of _____ 20__ and shall remain in force for a period of 3 years from this date, unless extended by further orders made under the Council's statutory powers.

4. Title

This Order may be cited as "The Mid Devon (Public Spaces Protection) (Dog Control) Order 20__"; and imposes the following requirements and prohibitions.

5. Dog Fouling

In any Public Spaces

5.1(a) If a dog defecates at any time, the Person in Charge must remove the faeces from the land forthwith; and

(b) A Person in Charge of a dog must have with them an appropriate means to pick up any faeces deposited by that dog, and must produce this if requested to do so by an Authorised Officer or Police Constable.

3.2 For the purposes of Article 5.1(a):

(i) Placing the faeces in a receptacle on the land which is provided for the purpose or for the disposal of waste, shall be sufficient removal from the land; and

(ii) Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a suitable device or means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

6. Dogs on Leads

6.1 In any of the public cemeteries (which are Public Spaces) listed and shown in Schedule B to this Order, any Person in Charge of a dog, at any time, must put and keep the dog on a lead and under proper control.

6.2 In any of the of public parks (which are Public Spaces) listed and shown in Schedule in Schedule C to this Order any Person in Charge of a dog, at any time, must put and keep the dog on a lead and under proper control

6.3 In all other Public Spaces a Person in Charge of a dog, at any time, must put and keep the dog on a lead and keep it under proper control when directed to do so by an Authorised Officer or Police Constable.

6.4 For the purposes of Article 6.2, an Authorised Officer or Police Constable shall only give a direction to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a

nuisance or behaviour by the dog likely to cause alarm, distress or disturbance to any other person or animal or bird on the land.

7. Dogs Excluded (Enclosed Children's Play Areas)

7.1 A Person in Charge of a dog is prohibited from taking that dog onto, or permitting the dog to enter or remain on any enclosed children's play area (which are Public Spaces) described or listed in Schedule D to this Order

8. Limit on number of dogs

8.1 No person in any Public Spaces shall be in charge of more than 4 dogs at any time

9. Offences and Penalties

9.1 Any failure to comply with the requirements or prohibitions imposed in Articles 5, 6 7 or 8 of this Order shall constitute a criminal offence, unless:

1. The person has a reasonable excuse for failing to do so;
2. The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so; or
3. The person is exempt under Article 10 of this Order.

9.2 Any person guilty of an offence under this Order shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale (on the date of this Order, this is set at £1,000).

9.3 A Fixed Penalty Notice may be issued by an Authorised Officer or Police Constable to anyone believed to have committed an offence under this Order. The Fixed Penalty shall be £ .
Payment of the Fixed Penalty of £ within 14 days from the date of the Fixed Penalty Notice will discharge the liability for prosecution.

10. Exemptions

10.1 The requirements and prohibitions imposed by this Order shall not apply to any person who:

1. Is registered as blind, sight or hearing impaired under the National Assistance Act 1948, or any other legislation;
2. Has a disability which affects his mobility, manual dexterity, physical coordination, or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a registered charity and upon which he relies for assistance; or
3. Is using a working dog for purposes of law enforcement, military duties or statutory emergency services (search and rescue).

11. Appeal

Any interested person (defined as an individual who lives in the restricted area or who regularly works in or visits that area) may question the validity of this Order, pursuant to Section 66 of the Act, on application made to the High Court within 6 weeks from the date of the Order.

12. Validity (Severance)

If any provision of this Order is held invalid or unenforceable for any reason by a court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Order shall continue in full force and effect as if the Order had been executed with the invalid, illegal or unenforceable provision eliminated.

THE COMMON SEAL OF Mid Devon District Council

was hereunto affixed

in the presence of:-

Authorised Signatory

This day of in the Year

Schedules

SCHEDULE A – District of Mid Devon Plan

SCHEDULE B – Public Cemeteries - List and Plans

SCHEDULE C-- Parks-List and Plans

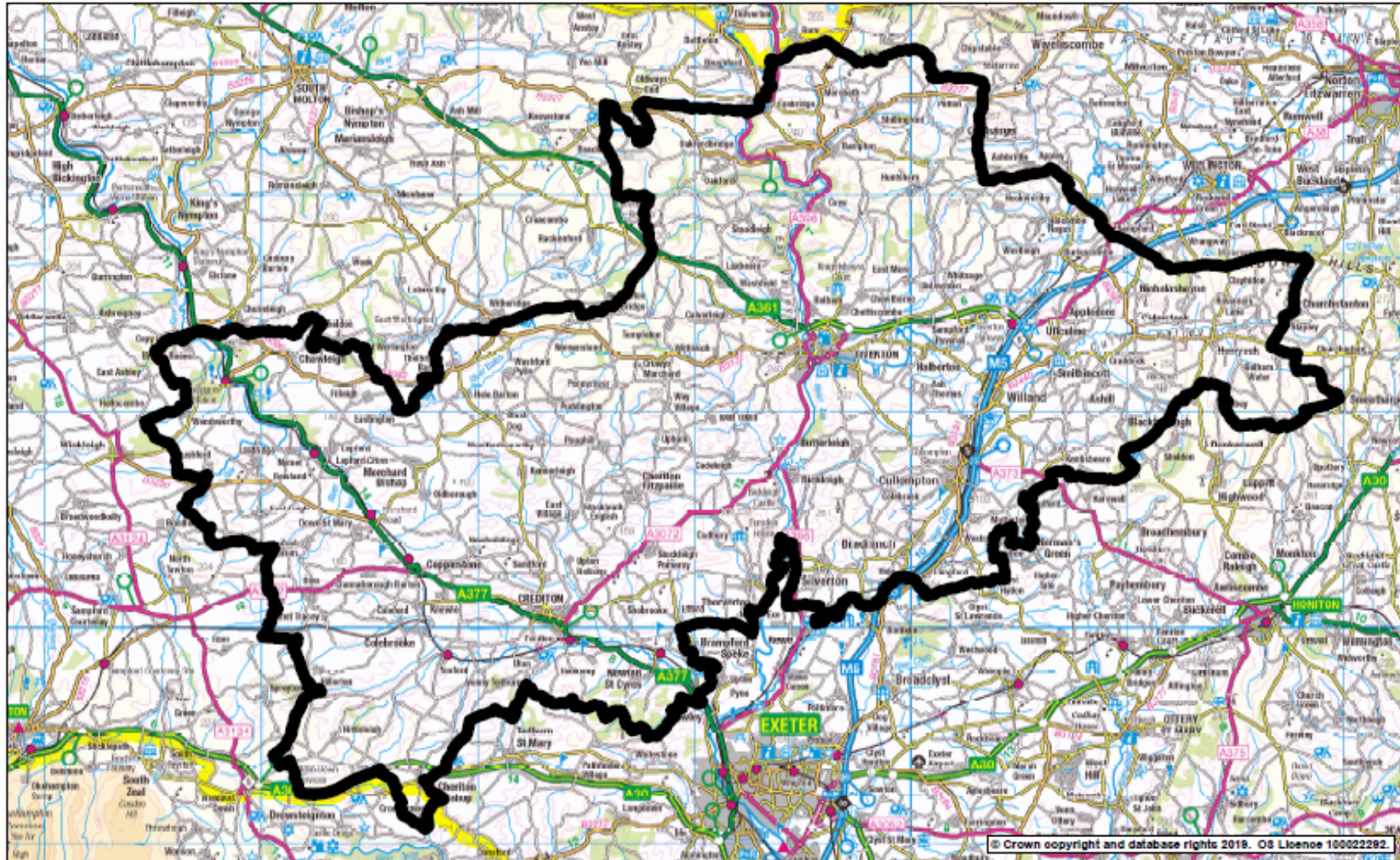
SCHEDULE D - Enclosed Children's Play Areas – List and Plan



**Schedule A
MID DEVON DISTRICT**

STREET SCENE & OPEN SPACES

Scale	1:150,023 @ A3	Date	11 December 2019
Dwg. No.		Produced by	



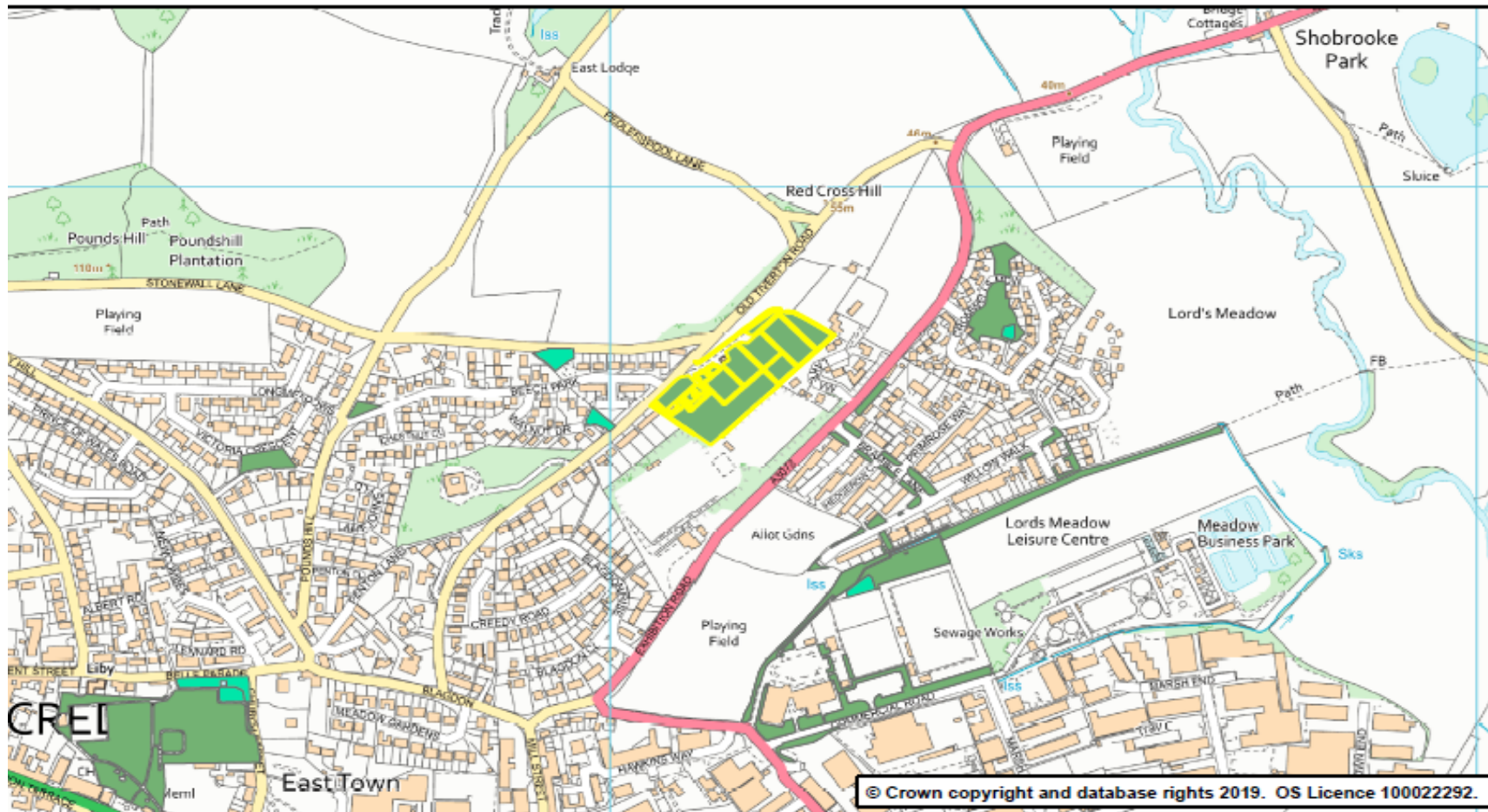
Schedule B



Site Crediton Cemetery	Location .
Scale: 1:6,109 @ A4	Date: 11 December 2019
Drg. No: <Double-click to enter>	Produced by: <Double-click to enter>

Customer Services, Estates Management
Phoenix House
Phoenix Lane, Tiverton EX16 6PP

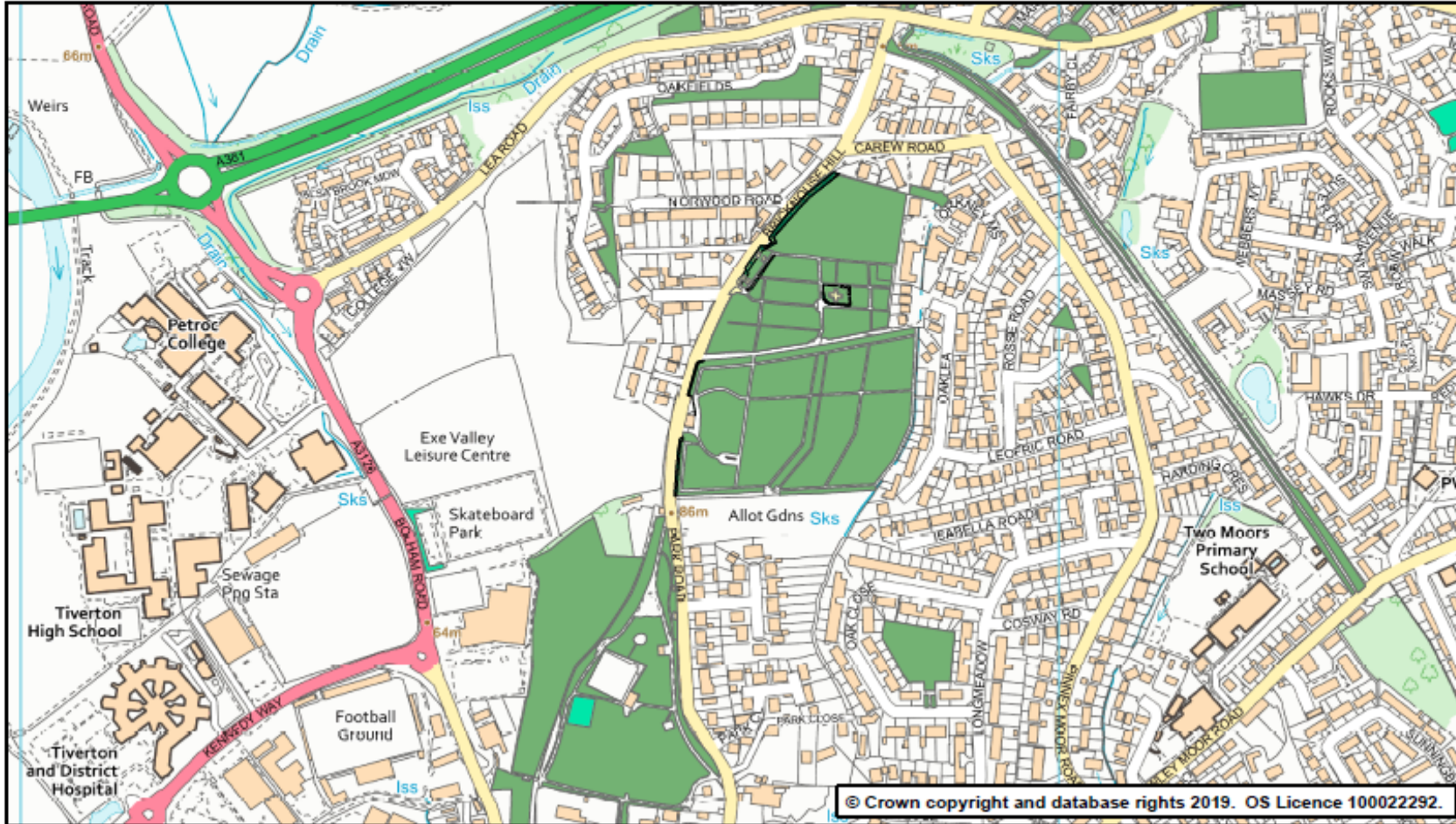
Tel: 01884 255255
Website: www.middevon.gov.uk





Site Tiverton Cemetery	Location .
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Customer Services, Estates Management
Phoenix House
Phoenix Lane, Tiverton EX16 6PP
Tel: 01884 255255
Website: www.middevon.gov.uk



Schedule C

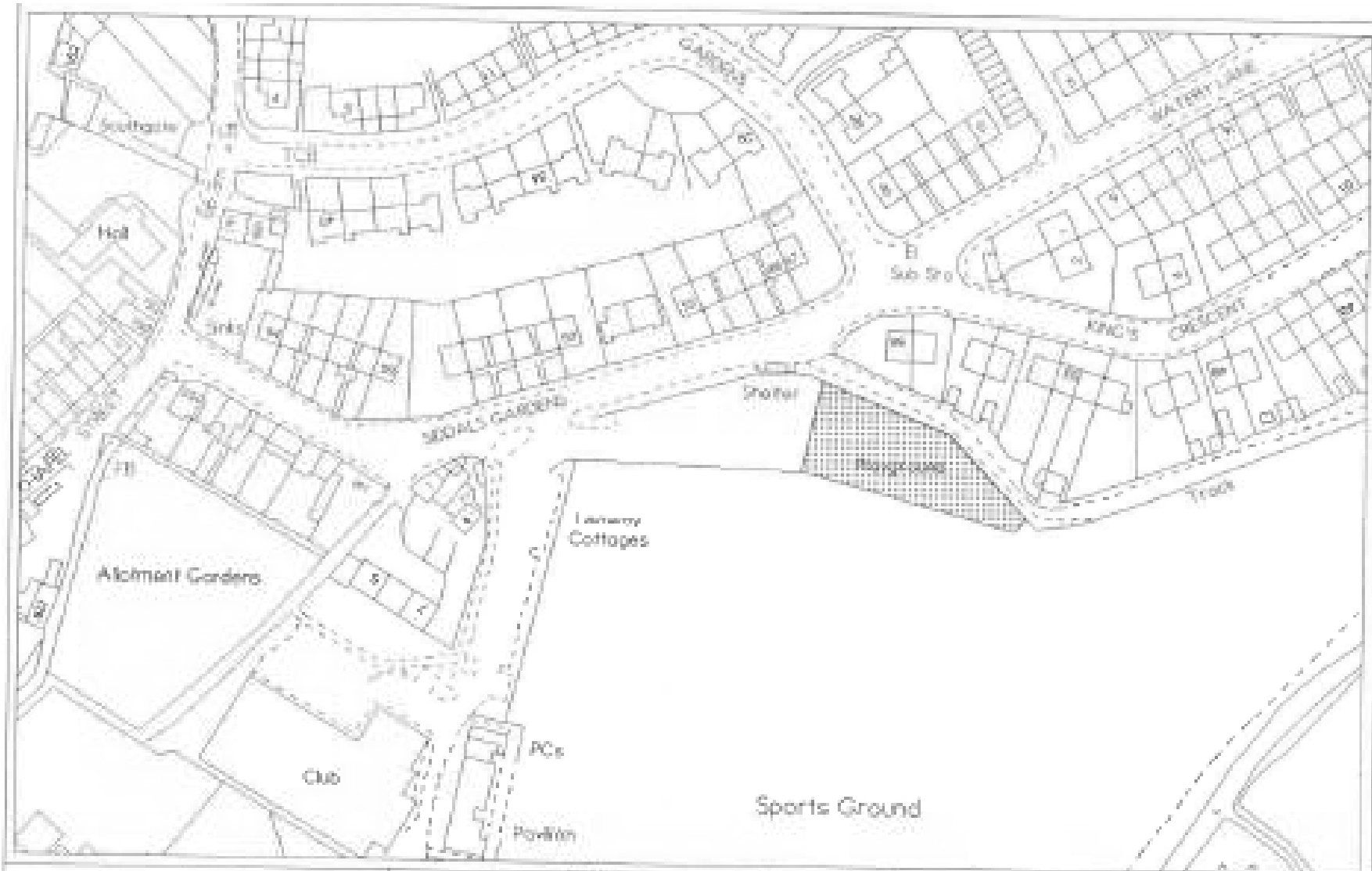
<u>Name of Ground</u>	<u>Location of Ground</u>
Enclosed Play Area (hatched black/white on Plan No.1)	Amory Park, Tiverton
Sports Pitches (hatched black/white on Plan No.1a)	Amory Park, Tiverton
Enclosed Play Area (hatched black/white on Plan No.2)	Ash Drive, Cullompton
Enclosed Play Area (hatched black/white on Plan No.3)	Ashley Rise, Tiverton
Enclosed Play Area (hatched black/white on Plan No.4)	Bockland Close, Cullompton
Enclosed Pay Area (hatched black/white on Plan No.5)	Ellerhayes
Enclosed Play Area (hatched black/white on Plan No.6)	Greenway, Crediton
Enclosed Play Area (hatched black/white on Plan No.7)	Headweir, Cullompton
Enclosed Play Area (hatched black/white on Plan No.8)	Halsbury Road, Tiverton
Enclosed Play Area (hatched black/white on Plan No.9)	Hobbs Way, Bow
Enclosed Play Area (hatched black/white on Plan No.10)	Holcombe Rogus

The dogs on leads areas referred to in Byelaw 1(2) are:-

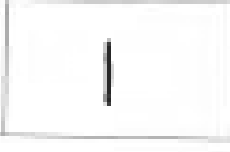
<u>Name of Ground</u>	<u>Location of Ground</u>
Partially Enclosed Park (hatched black/white on Plan No.1b - excluding enclosed Play Area and Sports pitches)	Amory Park, Tiverton
Enclosed Park (hatched black/white on Plan No.14a - excluding enclosed Play Area)	Newcombes Meadow Park, Crediton
Enclosed Park (hatched black/white on Plan No.15e - excluding enclosed Play Area)	Peoples Park, Tiverton
Partially Enclosed Park (hatched black/white on Plan No.31a - excluding enclosed Play Area)	Westex Recreation Ground, Tiverton
Playing Field (hatched black/white on Plan No.33a - excluding enclosed Play Area)	Wilcombe, Tiverton

Schedule D

Enclosed Play Area (hatched black/white on Plan No.11)	Junction Road, Bow	Enclosed Play Area (hatched black/white on Plan No.27)	Tuckers Meadow, Crediton
Enclosed Play Area (hatched black/white on Plan No.12)	Kentisbeare	Enclosed Play Area (hatched black/white on Plan No.28)	Tuffy Park, Culiompton
Enclosed Play Area (hatched black/white on Plan No.13)	Lords Meadow, Crediton	Enclosed Play Area (hatched black/white on Plan No.29)	Walnut Drive, Crediton
Sports Pitches (hatched black/white on Plan No.13a)	Lords Meadow, Crediton	Enclosed Play Area (hatched black/white on Plan No.30)	Wembworthy
Enclosed Play Area (hatched black/white on Plan No.14)	Newcombes Meadow, Crediton	Enclosed Play Area (hatched black/white on Plan No.31)	Westaxe Recreation Ground, Tiverton
Enclosed Play Area (hatched black/white on Plan No.15)	Peoples Park, Tiverton	Enclosed Play Area (hatched black/white on Plan No.32)	Westleigh
Enclosed Play Area (hatched black/white on Plan No.16)	Pippins Field, Uffculme	Enclosed Play Area (hatched black/white on Plan No.33)	Wilcombe, Tiverton
Enclosed Play Area (hatched black/white on Plan No.17)	Ploudall Road, Culiompton	Enclosed Play Area (hatched black/white on Plan No.34)	Yacford
Enclosed Play Area (hatched black/white on Plan No.18)	Off South View Close, Willand		
Enclosed Play Area (hatched black/white on Plan No.19)	Off Priory Road, Tiverton		
Enclosed Play Area (hatched black/white on Plan No.20)	Puddington		
Enclosed Play Area (hatched black/white on Plan No.21)	Queensway, Tiverton		
Enclosed Play Area (hatched black/white on Plan No.22)	Shillingford		
Enclosed Play Area (hatched black/white on Plan No.23)	Spruce Park, Crediton		
Enclosed Play Area (hatched black/white on Plan No.24)	Stoneyford, Culiompton		
Enclosed Play Area (hatched black/white on Plan No.25)	Townlands, Bradninch		
Enclosed Play Area (hatched black/white on Plan No.26)	Trickey Close, Tiverton		



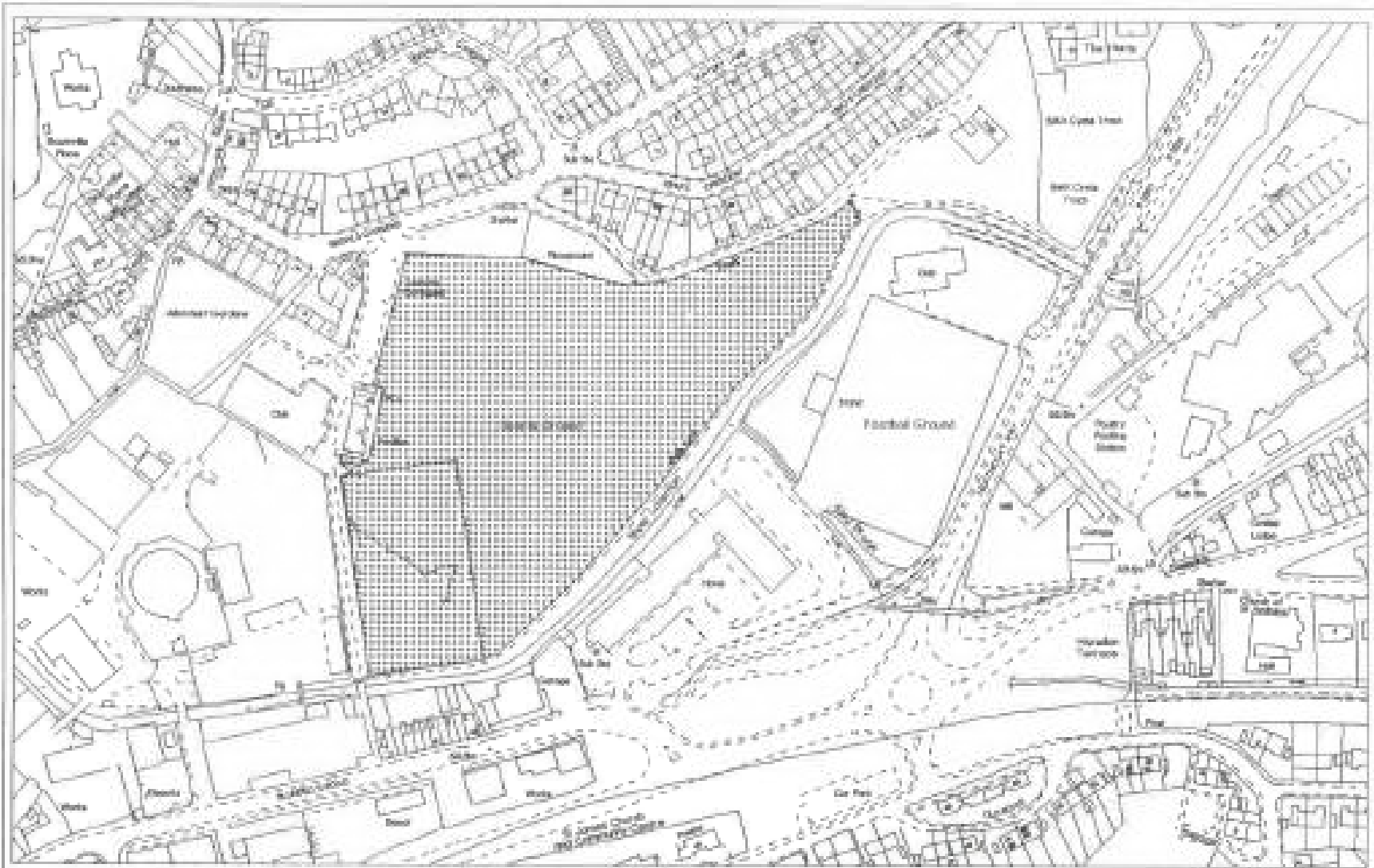
PLAY AREA
**TIVERTON
 AMORY PARK**



NOTE
 1. Drawing not to scale.
 2. For reference purposes only.
 3. No further details can be made.



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 Mid Devon District Council LA07850X 1990.



TIVERTON
AMORY PARK

1a

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PLAY AREA
TIVERTON
ASHLEY RISE

3

NOTE

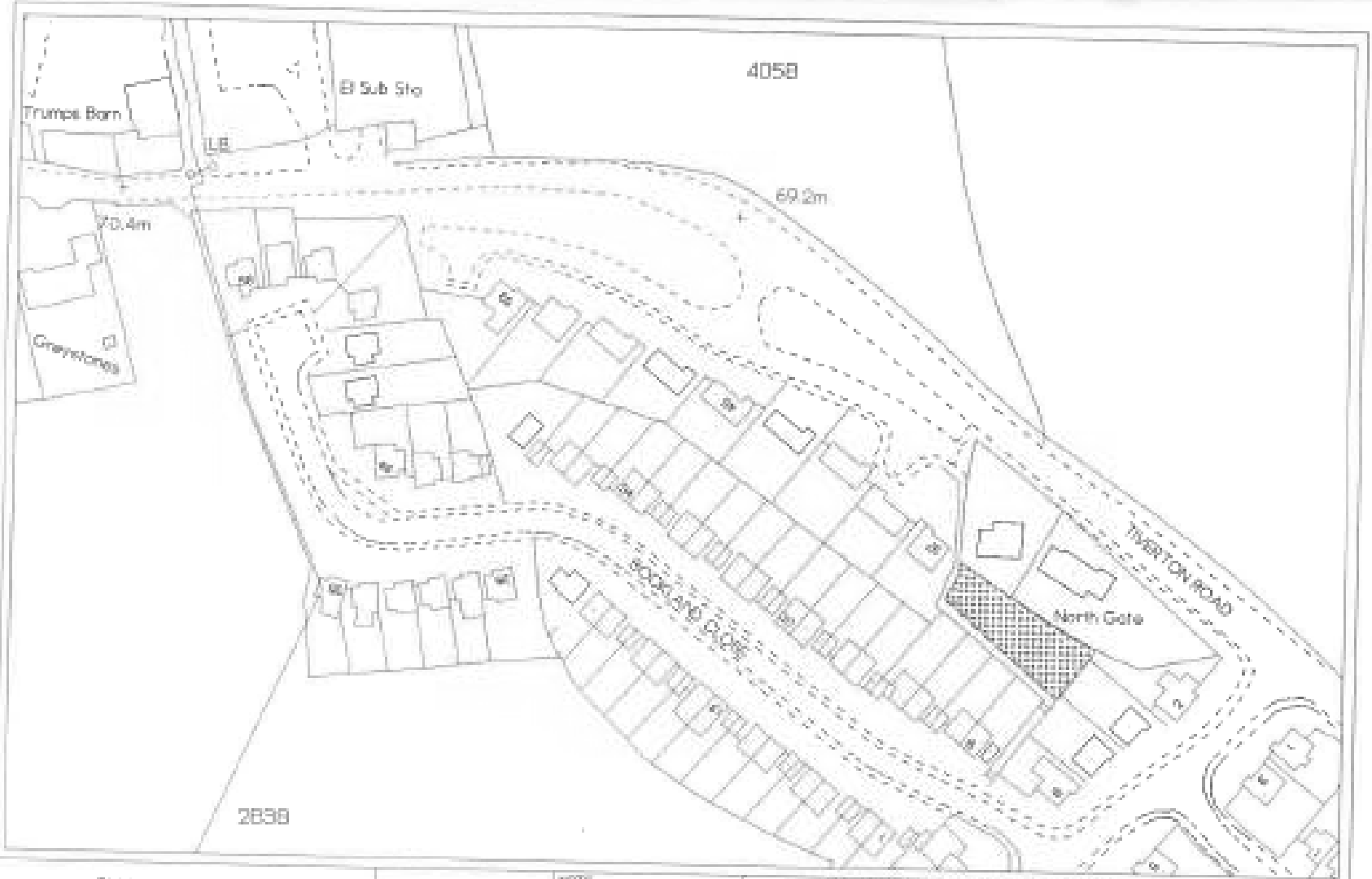
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PLAY AREA
**CULLOMPTON
 BOCKLAND CLOSE**

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PLAY AREA
CRITON
GREENWAY

6

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PLAY AREA
BOW
HOBBS WAY

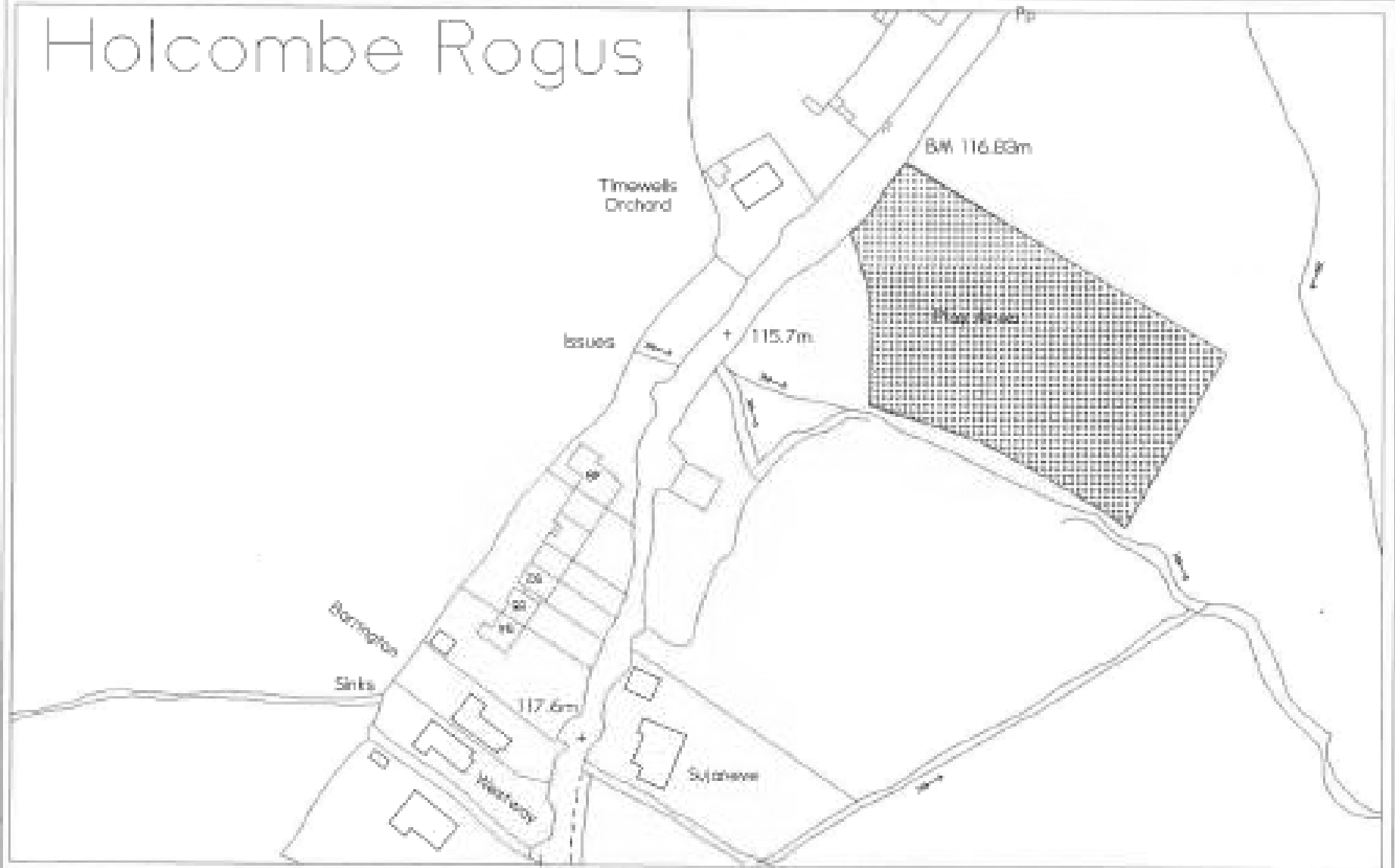
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Devon**
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Holcombe Rogus



PLAY AREA
HOLCOMBE ROGUS

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PLAY AREA
**BOW
 JUNCTION ROAD**

11

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PLAY AREA
KENTISBEARE

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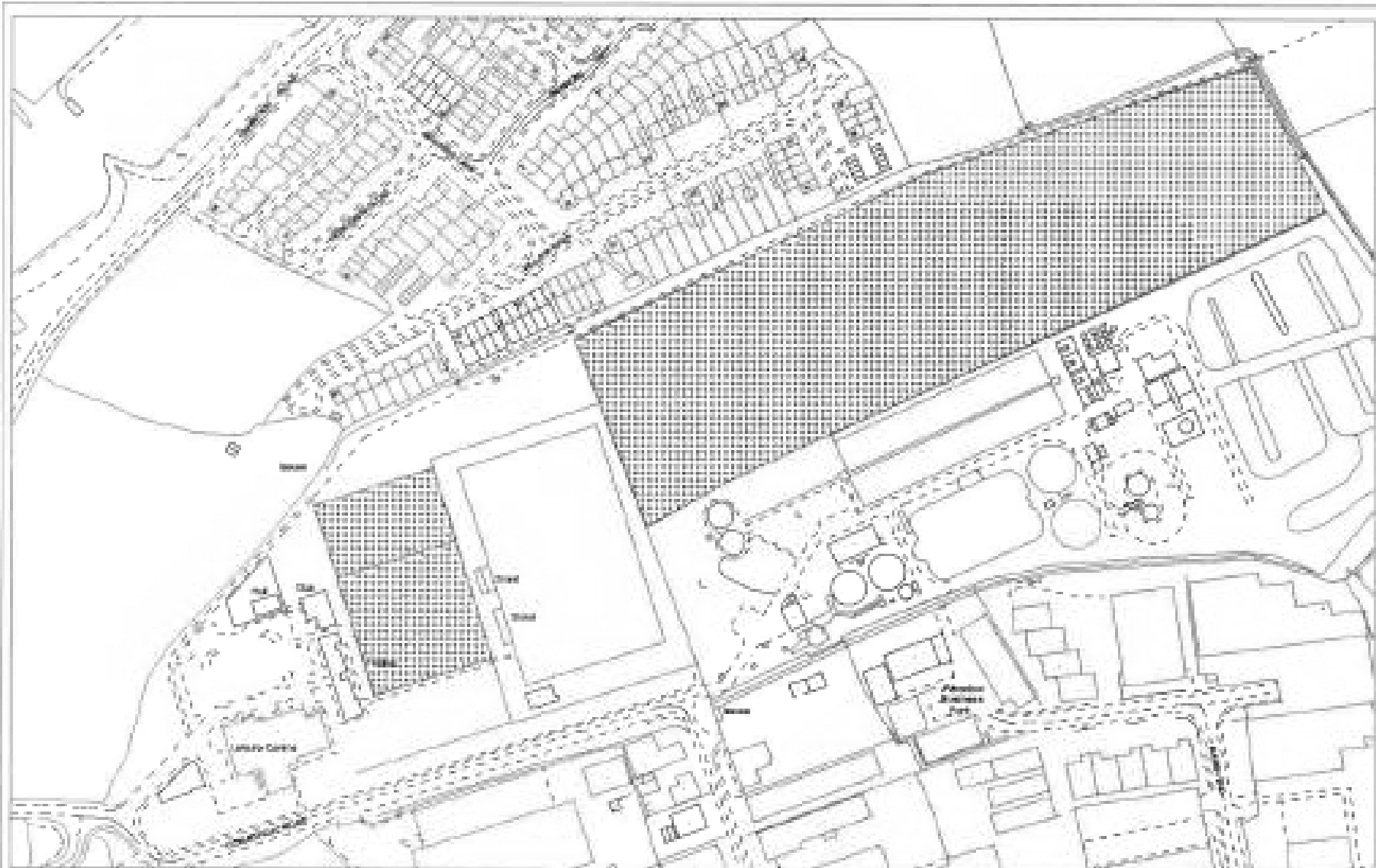
PLAY AREA
CREDITON
LORDS MEADOW

13

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CREDITON
LORDS MEADOW

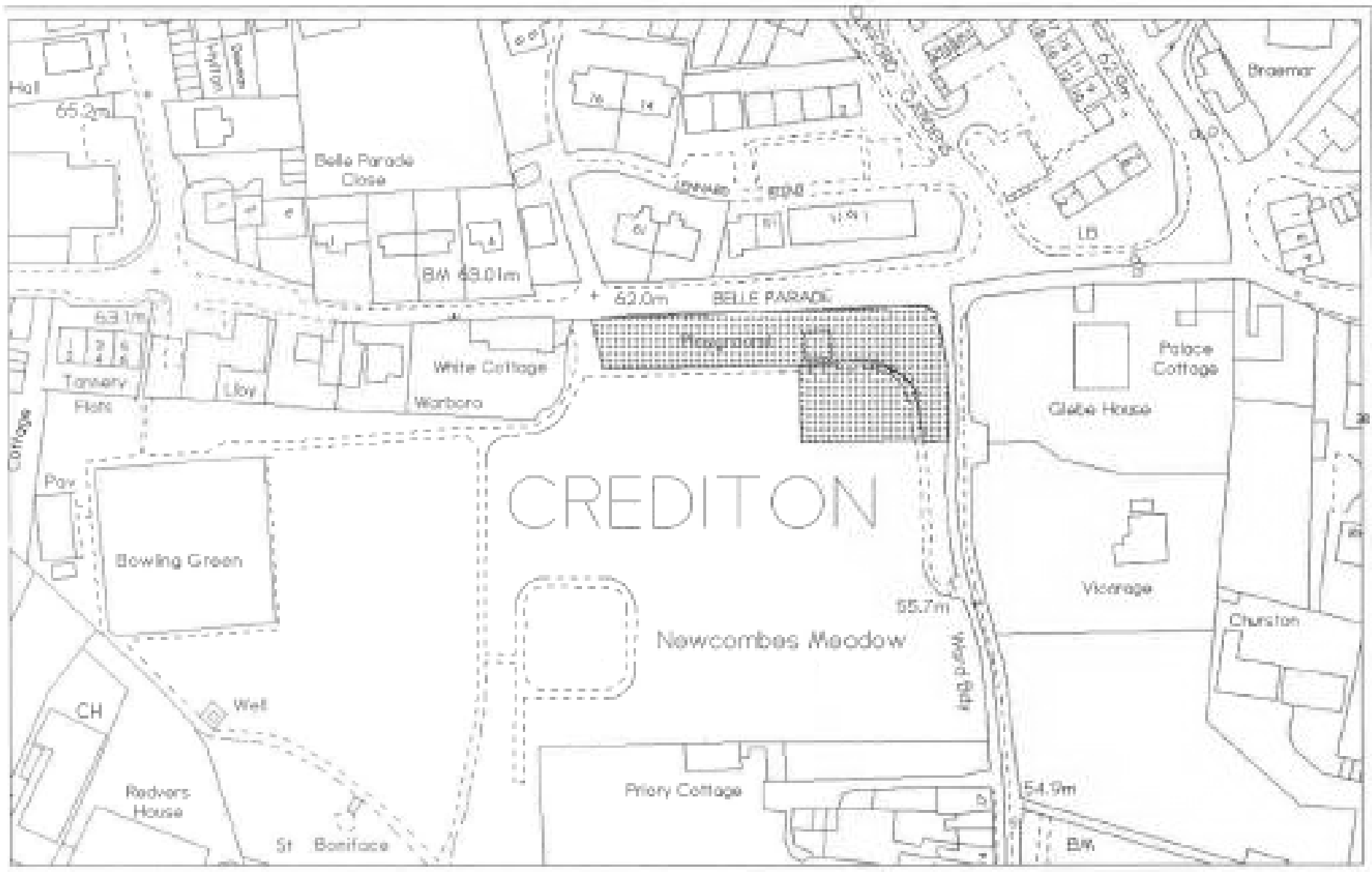
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PLAY AREA
CREDITON
 NEWCOMBES MEADOW

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PLAY AREA
TIVERTON
PEOPLES PARK

15

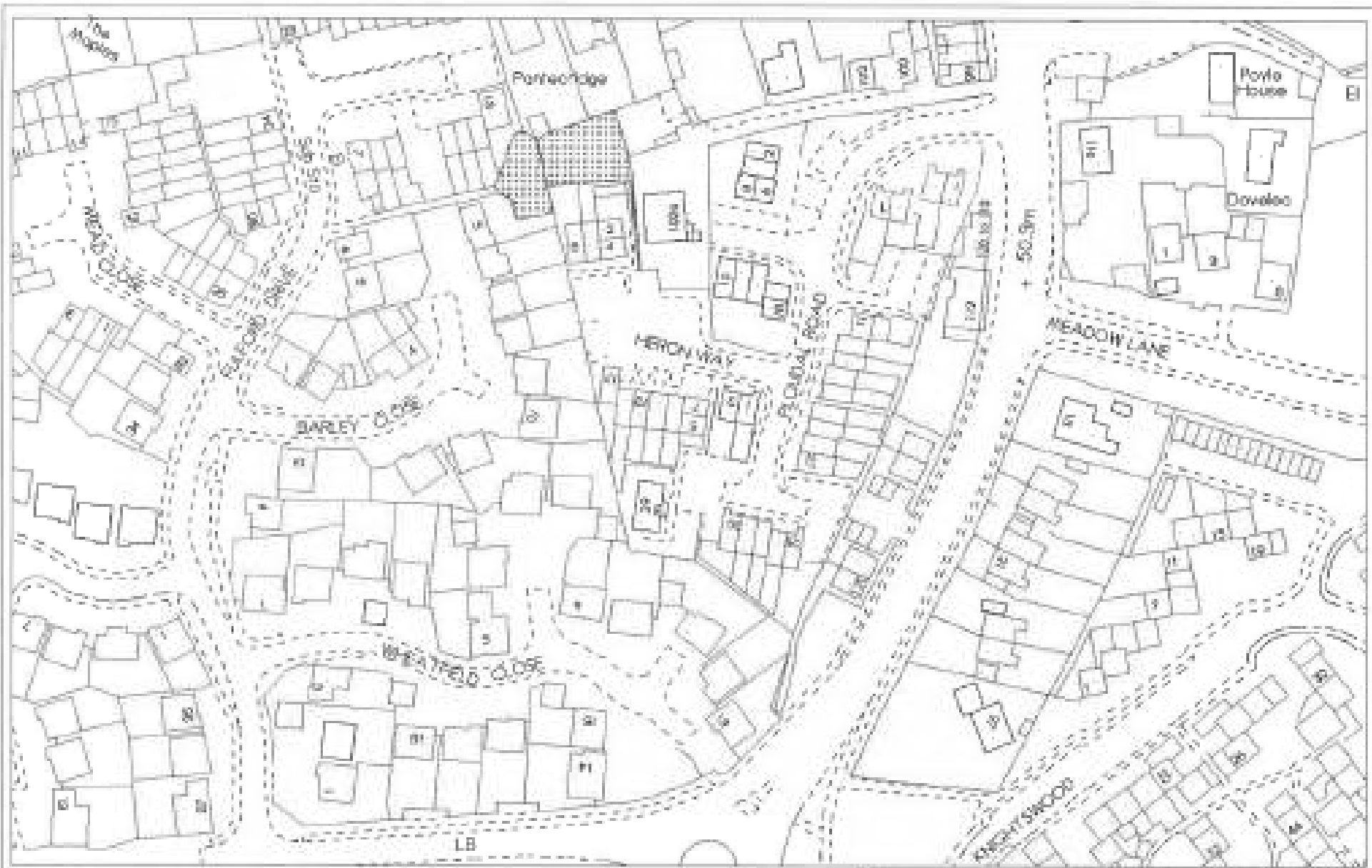
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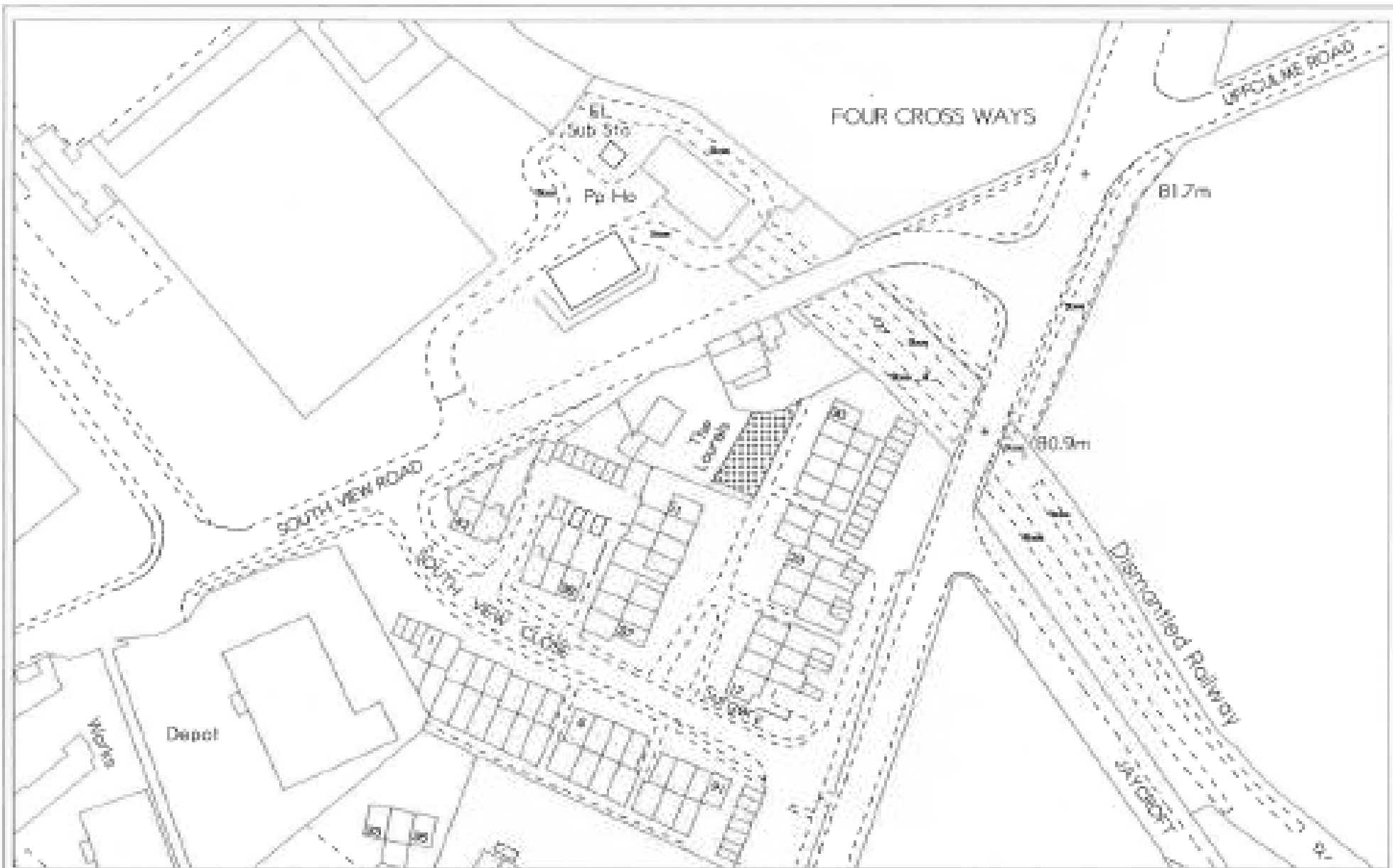
PLAY AREA
 CULLOMPTON
 PLOUVAL ROAD

17

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PLAY AREA
WILLAND
SOUTH VIEW

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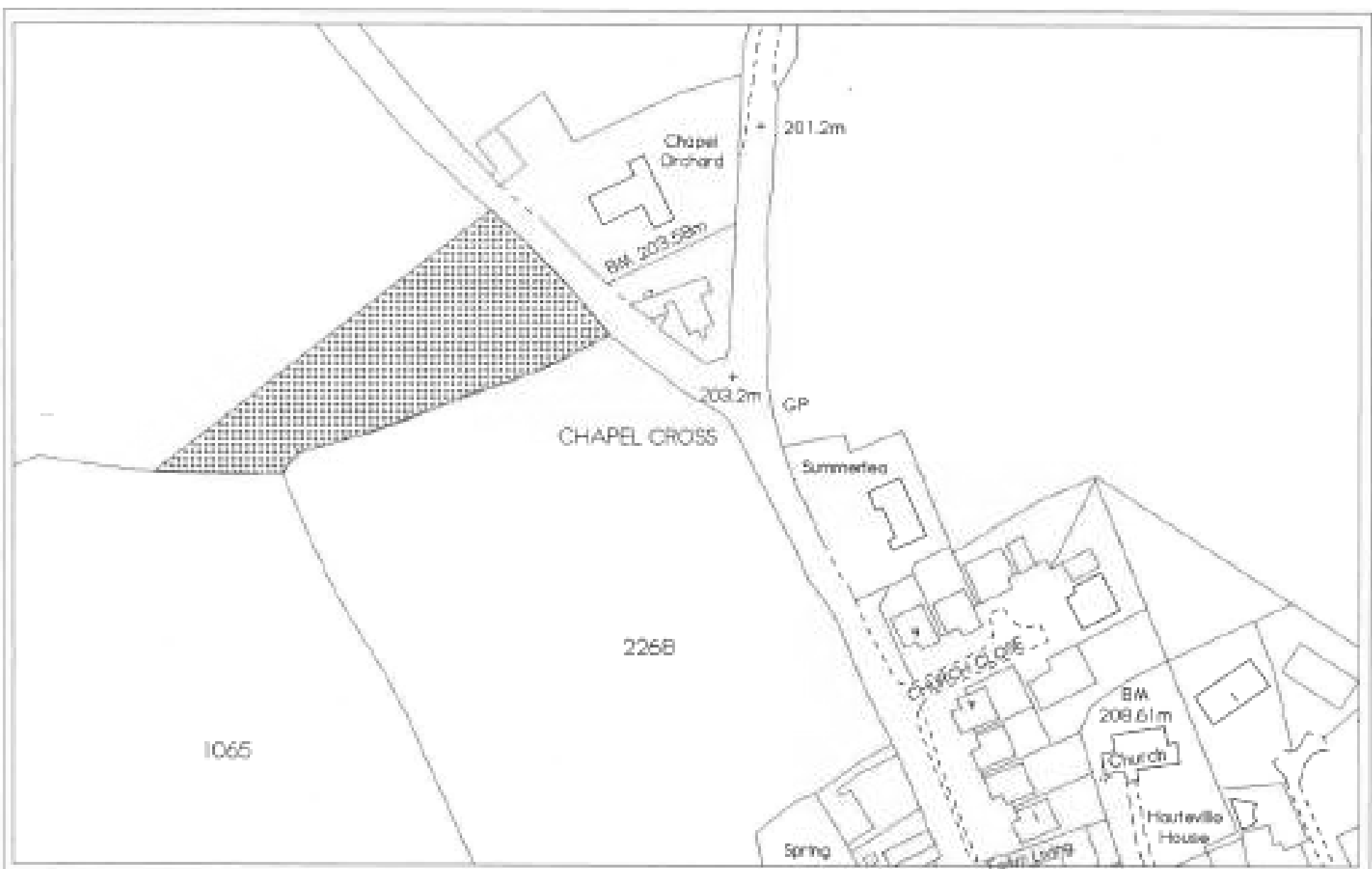
PLAY AREA
**TIVERTON
 LOWMAN PRIORY**

19

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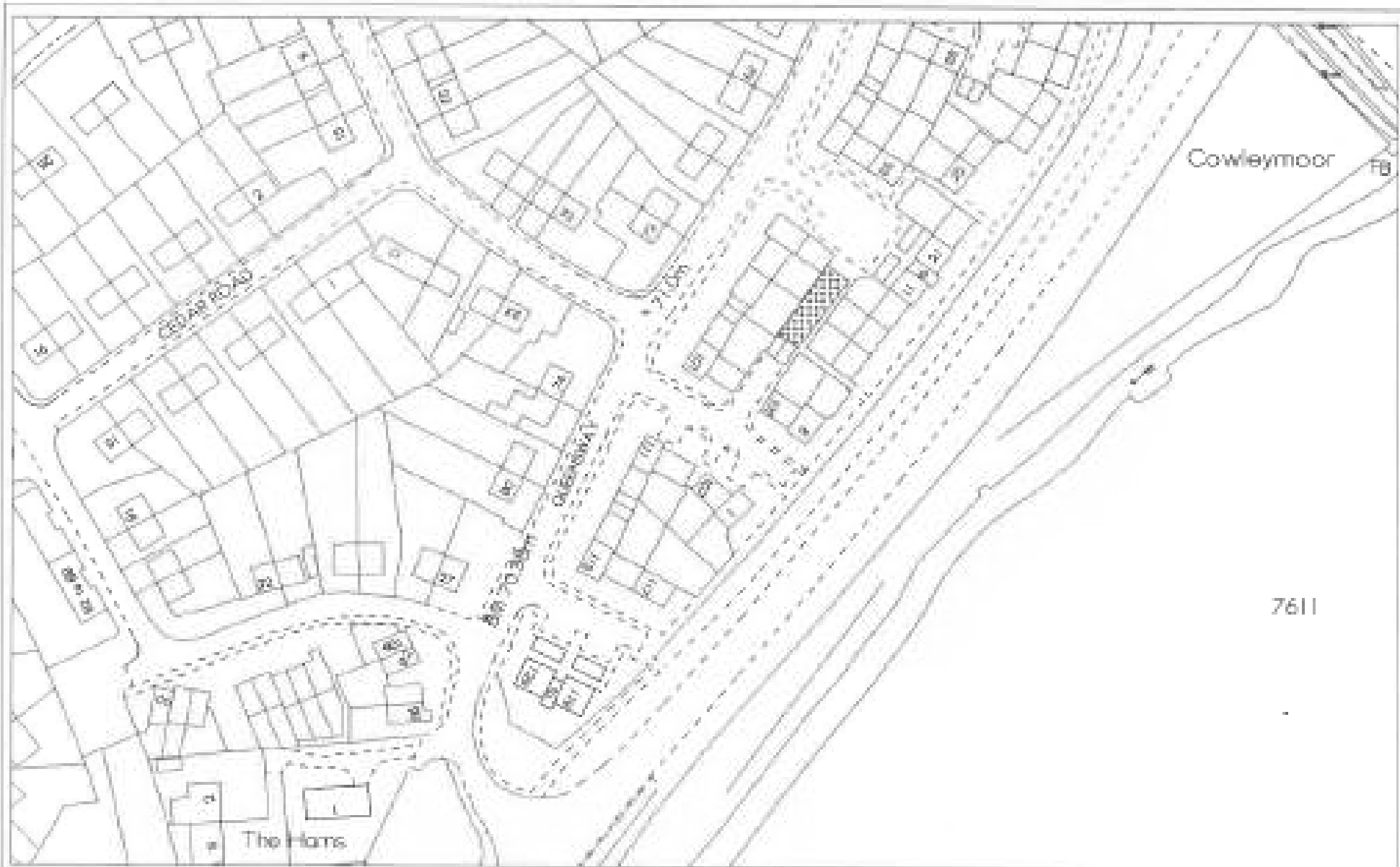
PLAY AREA
PUDDINGTON

20

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Cowleymoore FB

7611

The Plains

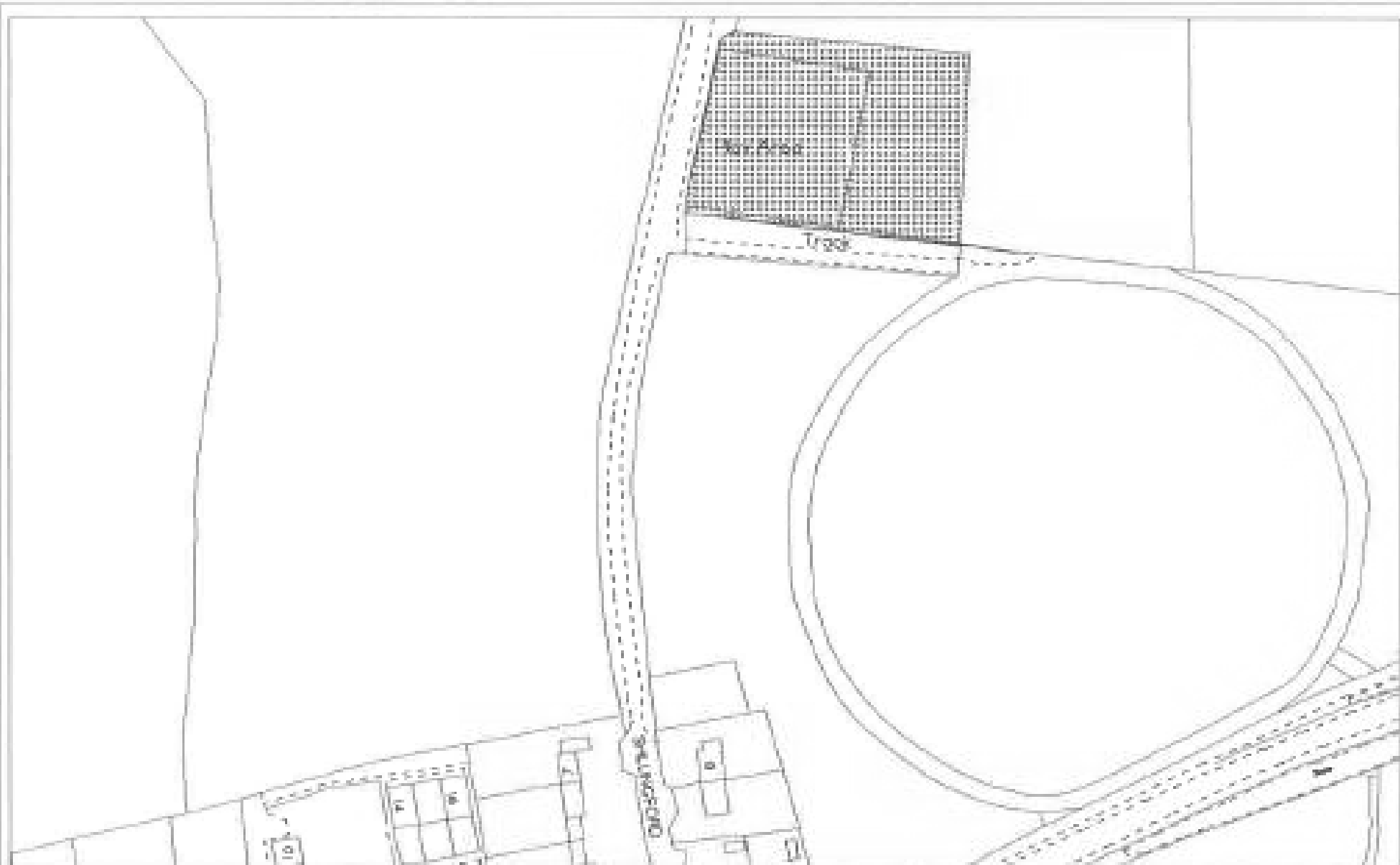
PLAY AREA
TIVERTON
QUEENSWAY

21

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PLAY AREA

SHILLINGFORD

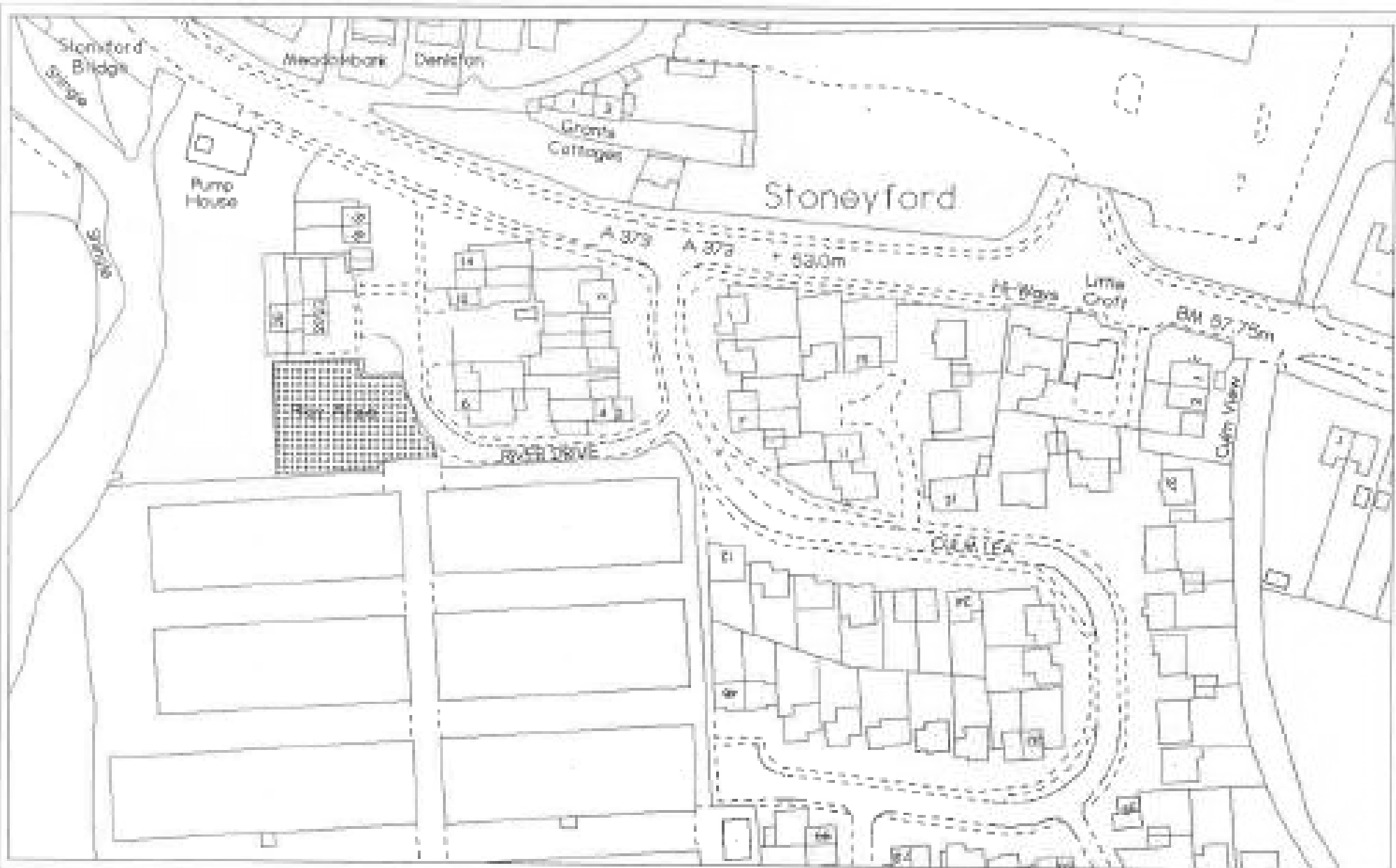
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**CULLOMPTON
 STONEYFORD**

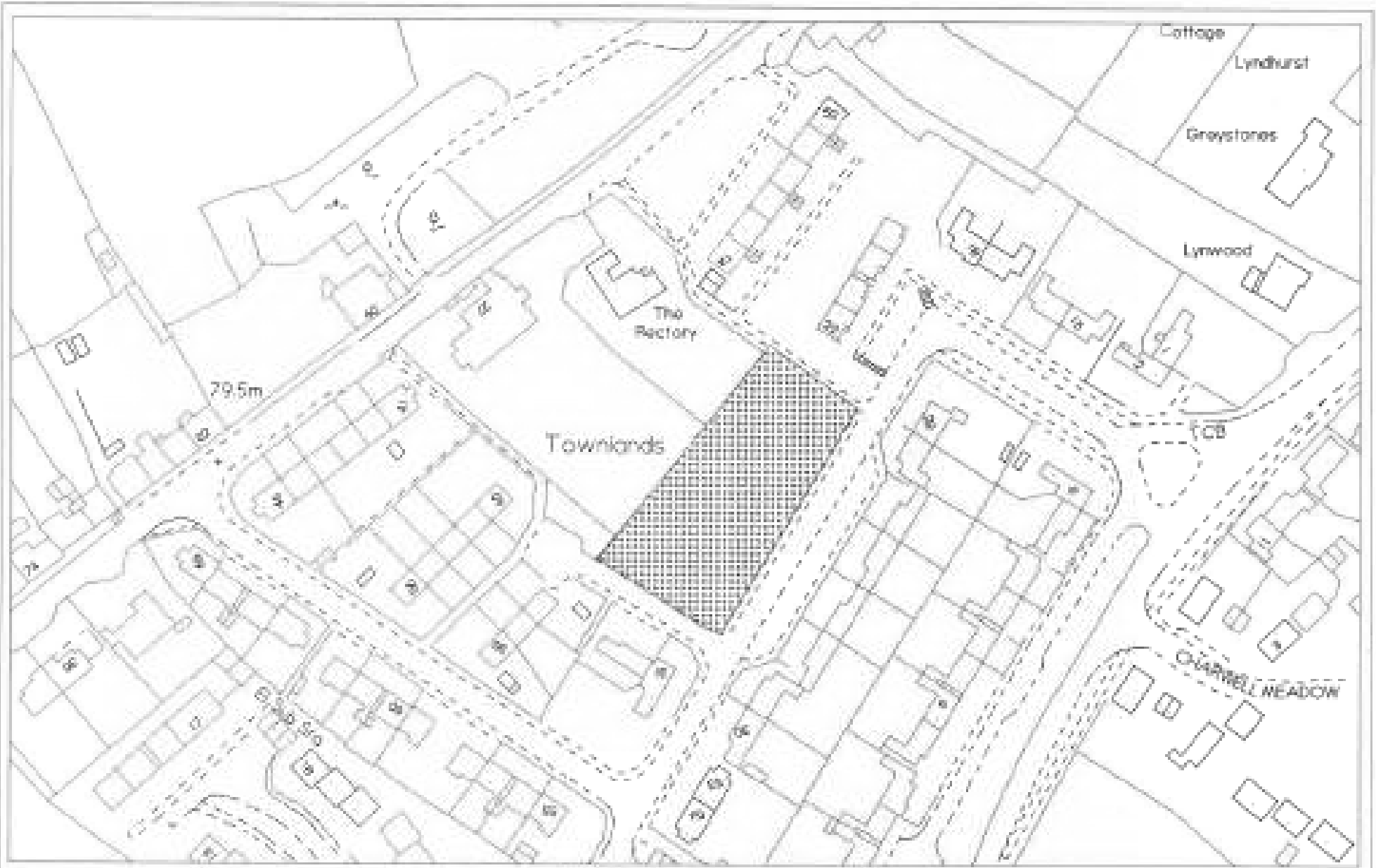
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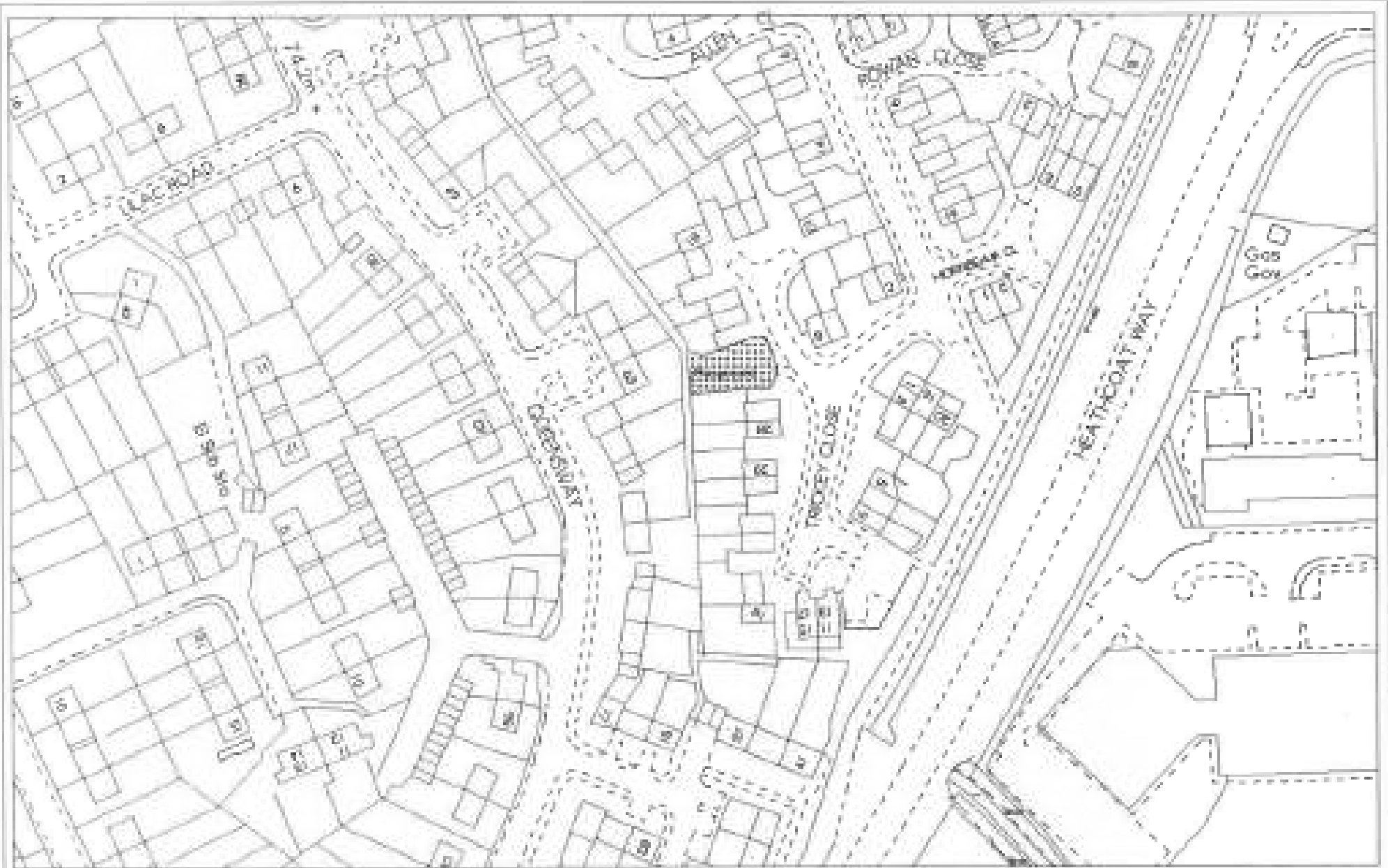
PLAY AREA
BRADNINCH
TOWNLANDS

25

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PLAY AREA
TIVERTON
TRICKEY CLOSE

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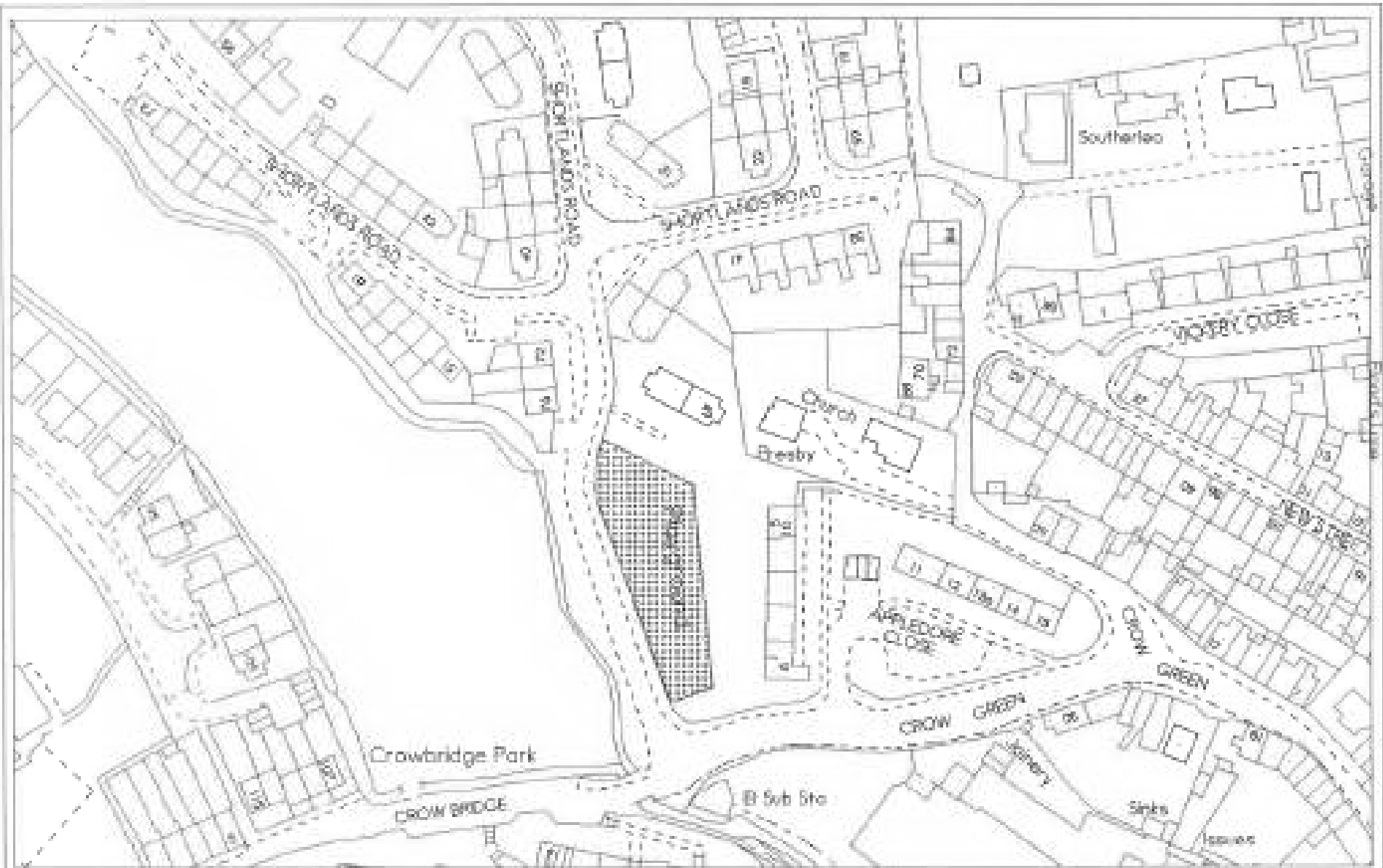
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CREDITON
TUCKERS MEADOW

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CULLOMPTON
TUFTY PARK

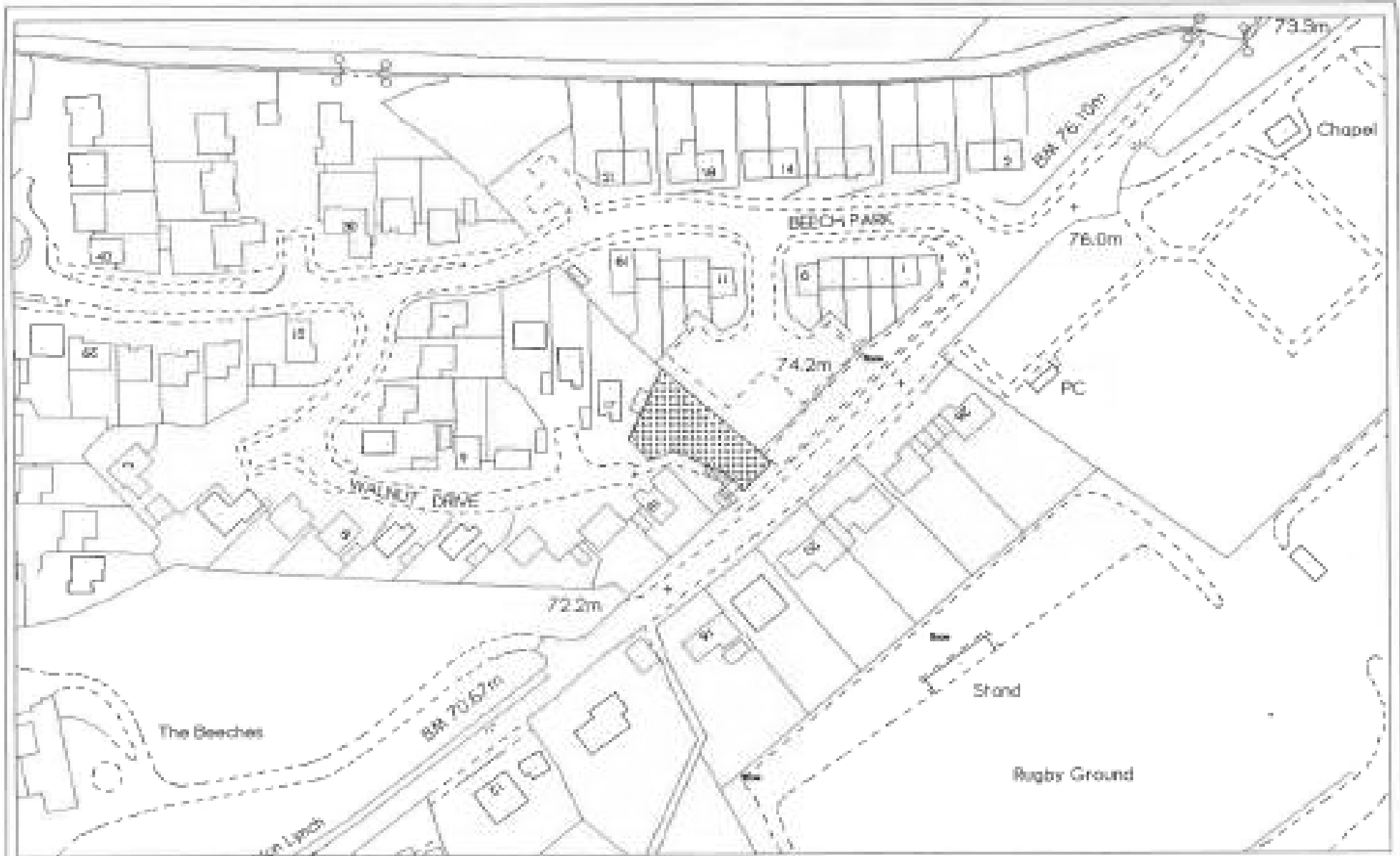
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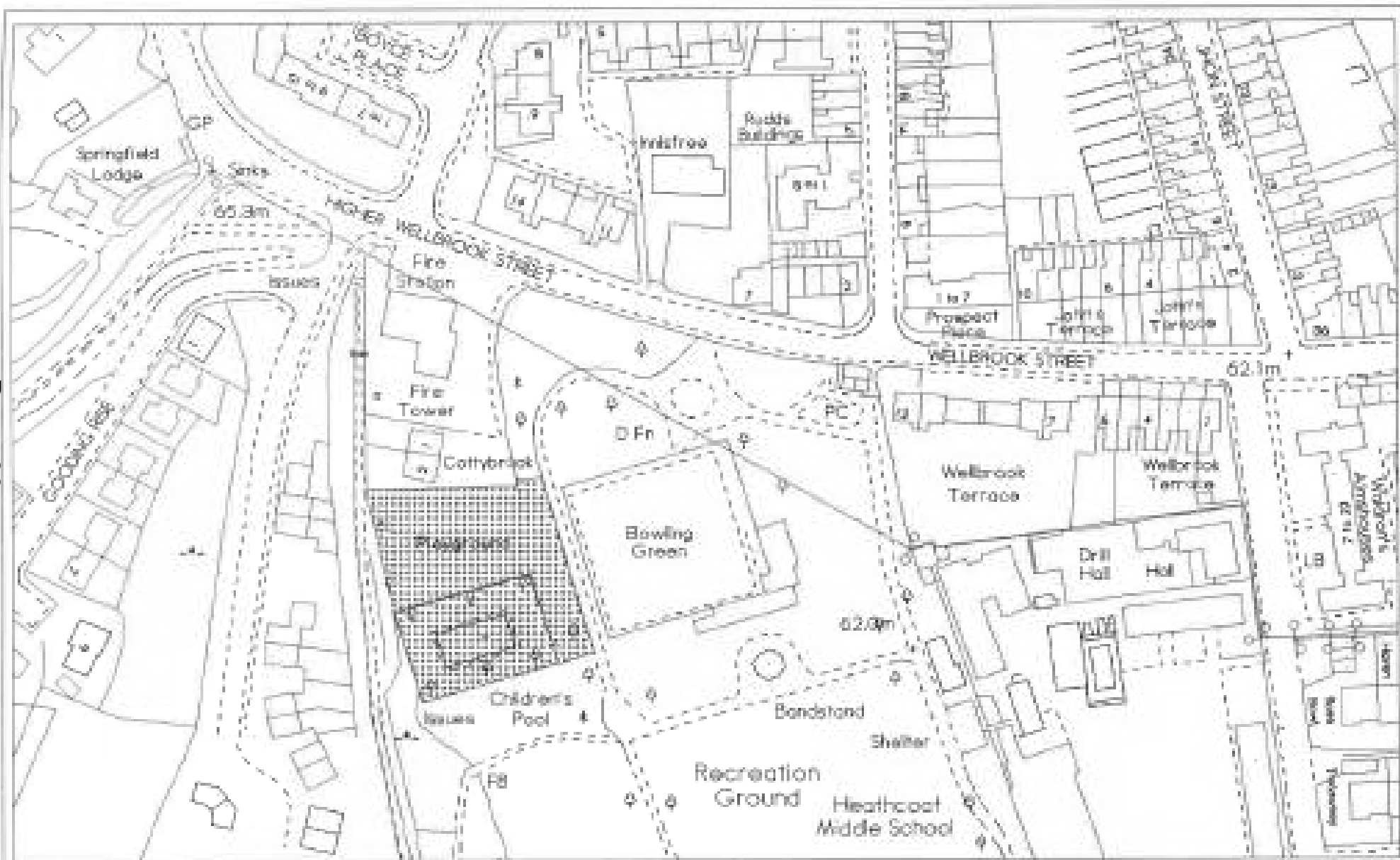
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CREDITON
WALNUT DRIVE

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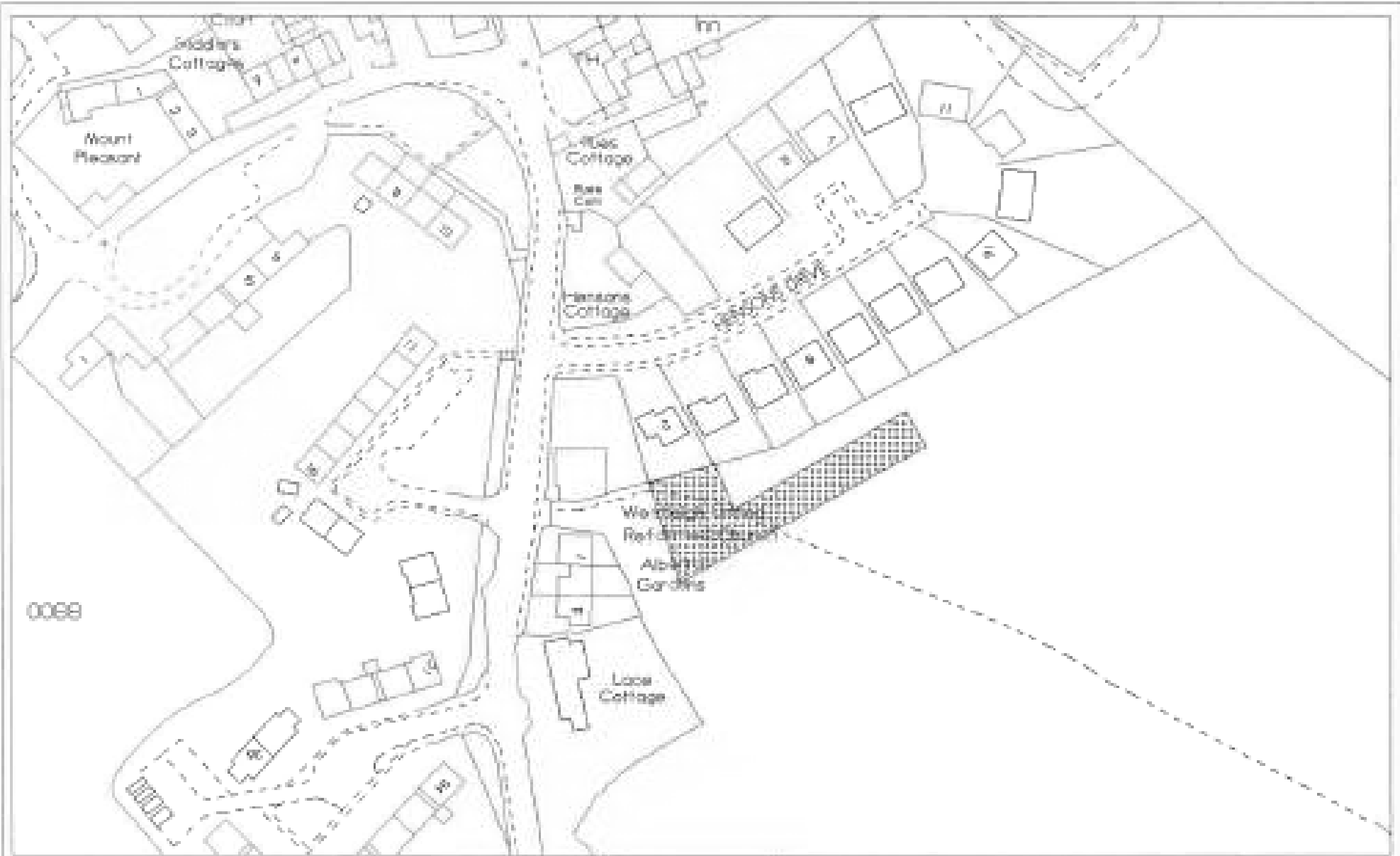
PLAY AREA
TIVERTON
WESTEXE REC

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0069

PLAY AREA

WESTLEIGH

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**TIVERTON
 WILCOMBE**

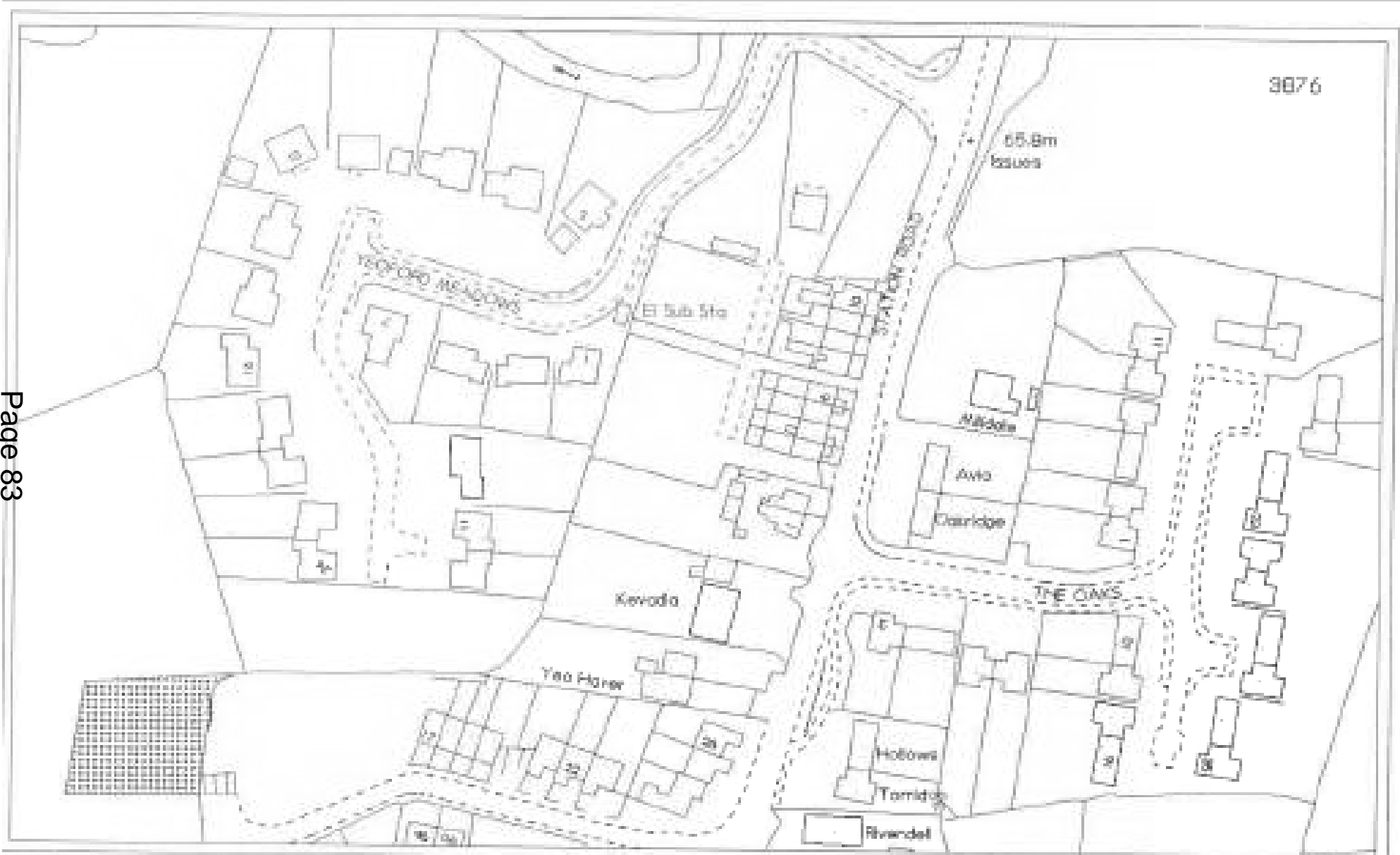
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PLAY AREA

YEOFORD

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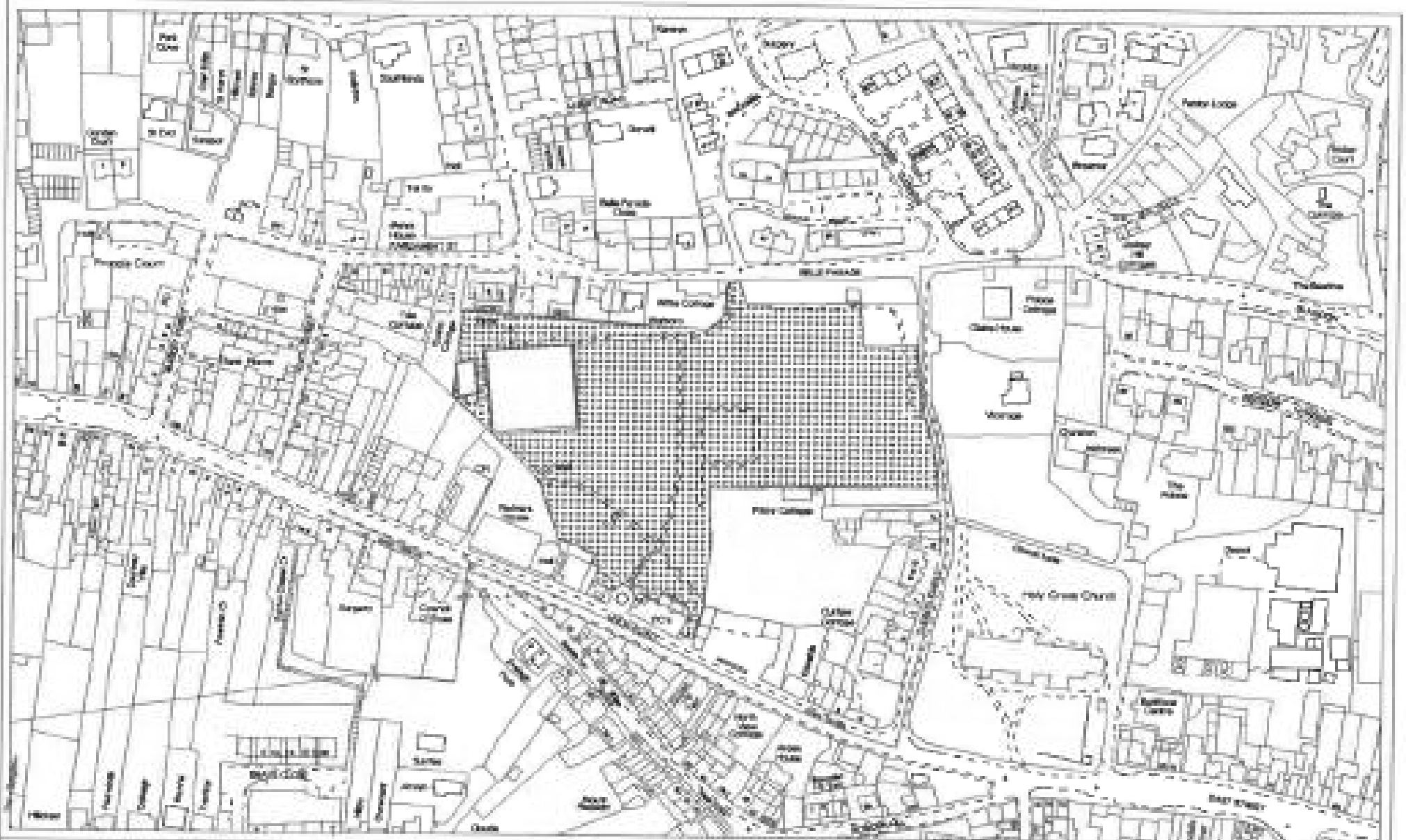
TIVERTON
AMORY PARK

16

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CREDITON
NEWCOMBES MEADOW

14a

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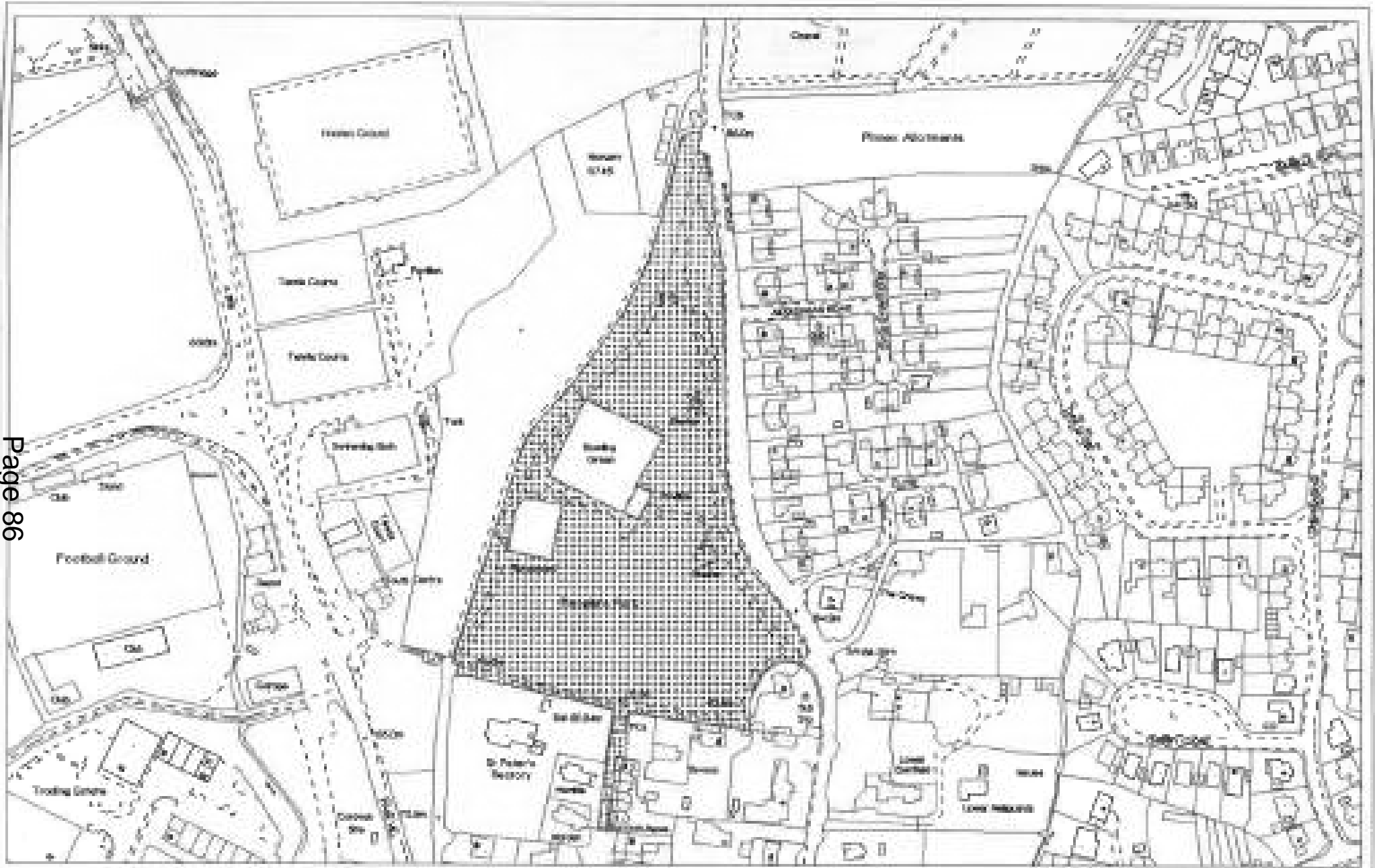
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TIVERTON
PEOPLES PARK

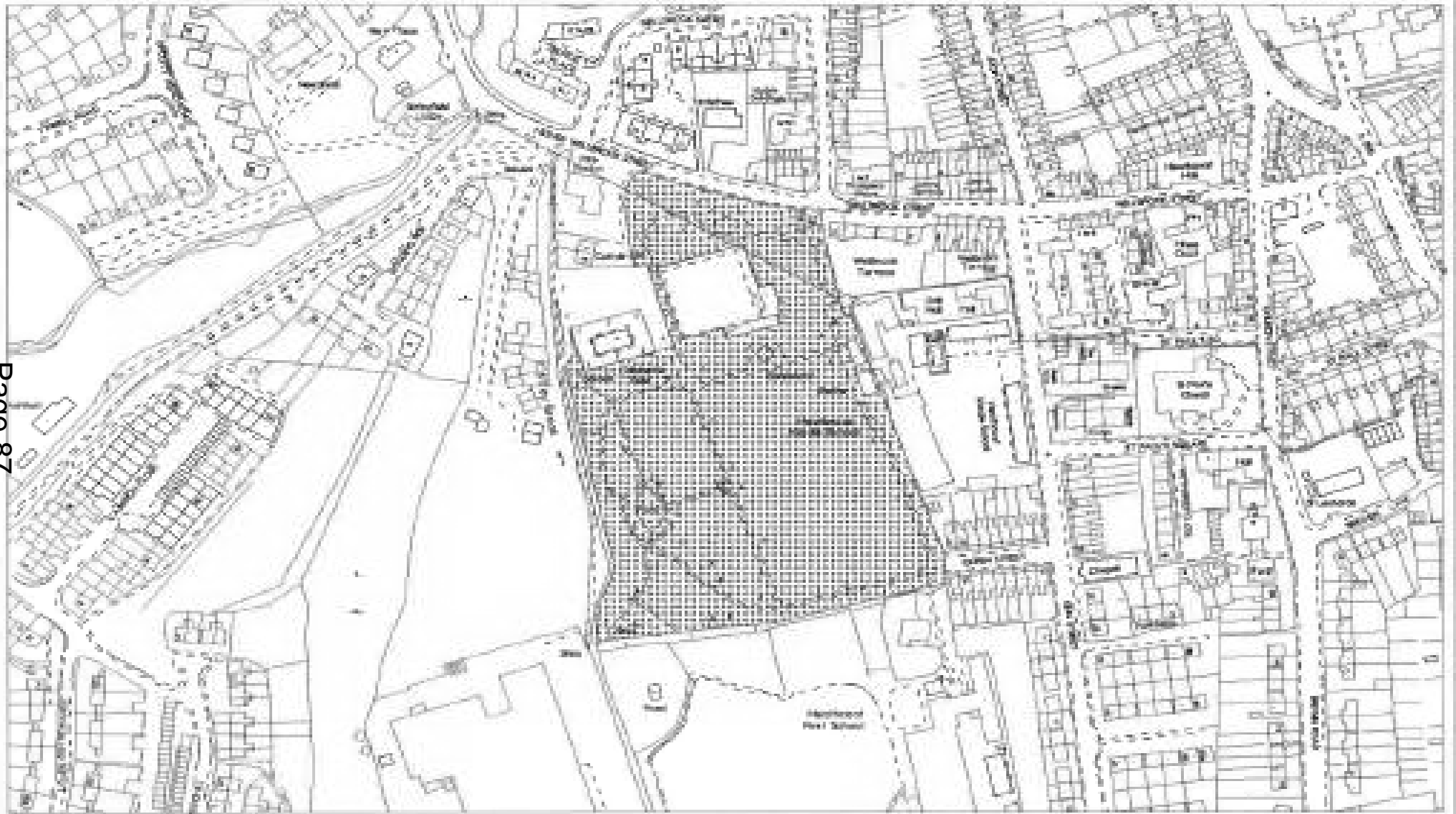
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TIVERTON
WESTEXE REC

31a

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Abandoned Vehicle Policy

Date of Issue: January 2020

Review date: January 2030

Contents

1. Introduction
2. The Process
3. Notice periods
4. Contact details
5. Costings
6. Relevant legislation
7. Further information

Annex A Operational Policy – Schedule of steps

Annex B Prescribed sums and charges for removal

1. Introduction

- 1.1 Local Authorities have a duty under Section 3 of Refuse Disposal (Amenity) Act 1978, to remove a vehicle, which is abandoned on a road (including private roads) or land in the open air, subject to certain conditions.
- 1.2 The Council is not required to remove an abandoned vehicle situated on open air land if the cost of removing it to the nearest highway is unreasonably¹ high.
- 1.3 Relevant legislation:
 - Refuse Disposal (Amenity) Act 1978
 - The Removal and Disposal of Vehicles Regulations 1986
 - The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008
 - Criminal Justice Act 1982

2. Process

- 2.1 Mid Devon District Council will inspect each vehicle that has been reported as abandoned within the time scale specified in the procedure to confirm that it should be considered as abandoned.
- 2.2 The following circumstances will be taken into account when assessing whether a vehicle has been abandoned for the purpose of the Council's statutory duty:
 - 2.2.1 If the vehicle is taxed and in an abandoned state or untaxed.
 - 2.2.2 If it has been stationary for a significant² amount of time.
 - 2.2.3 If it is damaged, burnt out, run down, un-roadworthy.
 - 2.2.4 If it is missing one or more vehicle registration plate.
 - 2.2.5 If it is on any land in the open air or any land forming part of a Highway/Road

3. Removal, Storage and Disposal.

- 3.1 If a vehicle is abandoned³ then the vehicle will be dealt with according to the standard procedure set out in Annex A.

¹ clearly inappropriate, excessive

² An amount of time which is large enough to be important or affect a situation to a noticeable degree, vehicle has been in situ for 2 months or more.

³ Definition of abandoned. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.

- 3.2 If a vehicle is on land open to air the Council will make enquiries to determine the status of the land. If the land is occupied⁴, the Council will serve a 15 day notice on the occupier of the land stating its intent to remove the vehicle. If the occupier objects, the Council cannot remove the vehicle from the land. If the occupier does not object, the Council must remove the vehicle after the 15 day notice period.
- 3.3 If the Council is satisfied that the land is not occupied, the Council may remove an abandoned vehicle in accordance with steps set out below, as appropriate.
- 3.3.1 If a vehicle is taxed and displays a valid registration plate but is in an abandoned state the Council will contact DVLA to establish the registered keeper of the vehicle. The Council will then serve a 7 day notice on the registered keeper to remove the vehicle from the land.
- 3.3.2 If a vehicle is not taxed, or it does not have a valid registration plate or visible VIN number, the Council may remove the vehicle without any notice to the registered keeper / owner.
- 3.3.3 If the Council is not able to establish the registered keeper or owner, or if the recipient of a 7 day notice fails to comply, the Council will dispose of the vehicle.
- 3.4 If an abandoned vehicle is in such a condition that it ought to be destroyed, the Council can dispose of the vehicle after its removal without any notice to the owner.
- 3.5 The Council will dispose of a vehicle as it sees fit, i.e. by sale, auction destruction. Any recovered vehicle that may be of significant value should be brought to the attention of the Group Manager of the service for a decision on disposal/sale.
- 3.6 Where the Council has been notified of an abandoned vehicle by a third party that party will be notified of the outcome to any case.
- 3.7 Mid Devon District Council will recover any cost of removal, storage or disposal from the registered keeper for abandoning their vehicle. The Council is not permitted to recover any costs from an occupier of land upon which a vehicle has been abandoned. Initial removal: £150, Storage: £20 per day from the date of removal.

4. Prosecution

- 4.1 In appropriate cases the Council may prosecute the offender of an abandoned vehicle. The offence of abandoning a vehicle on conviction is a summary offence. If found guilty an individual or business may be liable to pay a fine not exceeding level 4 on the standard scale (currently £2,500, but subject to changes in legislation), or imprisonment for a term not exceeding three months, or both.⁵

5. Enforcement

Where possible, Mid Devon District Council will seek to recover any costs of removing/storing vehicles from the Registered Keeper(s). If the above is not possible, costs will be charged against the Street Scene and open Spaces budget.

⁴ Definition of occupied. Possession; control; tenure; use. In its usual sense "occupation" is where a person exercises physical control over land.

⁵ Refer to the Operations Directorate Enforcement Policy

- 5.1 In accordance with The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008 the Council may serve a fixed penalty notice on a registered keeper / owner of an abandoned vehicle, requiring payment of £150.00 within 14 days from the date of the notice.
- 5.2 If the registered keeper / owner fails to pay the fixed penalty notice before the notice period expires, the Council may prosecute the offender.

6. Financial Implications

- 6.1 The cost to Mid Devon District Council of dealing with abandoned vehicles is currently offset by the nominal scrap value of the vehicle. The contractor used by Mid Devon waives their fee for works undertaken removing vehicles as they retain the scrap value. Any changes to this arrangement would require a review of this policy as Mid Devon District Council does not budget to meet this statutory function.

7. Data Security & Additional Information

- 7.1 Abandoned vehicle reports are logged on the Driver Vehicle Licensing Authority (DVLA) Waste and Electronic Equipment electronic database. After 2 years worksheets will be deleted in line with the DVLA data retention guidelines.
- 7.2 DVLA check printouts are stored in a locked cabinet and destroyed after a period of time as specified by the DVLA. In addition, all enquiries are recorded in a separate log to act as an audit trail, are also kept in a locked cabinet.
- 7.3 If an enquiry is made by the Council on an incorrect Vehicle Registration Mark, details of the enquiry must be deleted from all internal systems but an audit trail must be kept for 2 years; this is recorded in the log.
- 7.4 Before performing a DVLA check, the Council authorised business support employee must have read the guidance issued by the DVLA and understand the evidence that must be in place before making a request.
- 7.5 It is the responsibility of the police to move or remove vehicles that are on the highway and in a position to endanger other road users, i.e. obstruction.
- 7.6 Vehicles that have been involved in a road traffic collision are the responsibility of the registered keepers / owner's insurance company.
- 7.7 A SORN is a Statutory off Road Notification which must be declared to the DVLA when a vehicle is not going to be used for a period of time. The vehicle must be kept away from the highway and on private land which the registered keeper owns or has permission from the owner to use for storage. For example, a driveway to a house, in a garage or on an allocated parking space.

Abandoned vehicle procedure

- 1 Working day
 - 1) Vehicle reported as abandoned by customer
 - 2) IDOX record created validations checks carried out.
 - 3) Check Tax status on vehicle using <https://www.gov.uk/check-vehicle-tax>
 - 3.1 If the vehicle has valid tax, close case and inform customer.
 - 3.2 No valid tax allocate to District Officer.

- 2 Working days
 - 4) Allocated District Officer attends site
 - 4.1 District Officer must take photos of the vehicle
 - 4.2 Documents the vehicle is abandoned
 - 4.3 Check tax status again
 - 4.4 Record the time, date, location, make, model and registration number.
 - 5) District Officer sends photos and details of exact location of the abandoned vehicle back to admin staff. Admin staff check that the details reported by the customer and the District Officer match.

- 7 Working days
 - 6) Authorised admin staff make DVLA enquiry Ensure the DVLA guidance is read before making any enquiry.
 - 6.1 The make and model details of the vehicle match the ones on the abandoned vehicle.
 - 6.2 The date of event entered is the date in which the District Officer attends site and carries out checks to the vehicle.
 - 6.3 The enquiry must be made within 7 days of the date the vehicle was first sighted by the District Officer, not the date reported by the customer.
 - 6.4 The correct registration number is entered before submitting the request.
 - 6.5 The Vehicle registration number is submitted in the correct field.
 - 7) If a registered keeper is identified refer the case back to the District Officer and request the 7 day notice to be applied. Request they take photos of the notice attached to the vehicle.
 - 8) If no registered keeper is identified refer the case back to the District Officer and request the 24 hour notice to be applied. Request they take photos of the notice attached to the vehicle.

- 8 Working days
 - 9) Once the notice has been attached to the vehicle and the photos have been taken, send the 7 day notice letter to the registered keeper; get another member of the team

to check the letter and ensure the dates correspond and car details are correct before sending to the keeper.

10) If no registered keeper is identified after 24 hours the District Officer attends the location again to ensure the vehicle is still on site, if so a request is made to the scrap metal hauliers to request removal. The location, make, model and registration details must be given.

11) After the 7th day if no response from the registered keeper the District Officer attends the location again to ensure the vehicle is still on site, once the second site visit has been carried out a second DVLA enquiry must be made to ensure the details of the registered keeper are the same as the enquiry previously made. If these are the same, a request is made to the scrap metal hauliers to request removal. The location, make, model and registration details must be given.

12) If the registered keeper contacts Mid Devon District Council and advises the vehicle is not abandoned, the case is closed. NO further DVLA checks are carried out. Report untaxed vehicle to the DVLA, advise the customer the vehicle needs to be taxed or SORN on private land.

13) Update the IDOX case ensuring all details are recorded. Ensure letters are saved including the certificate of destruction which is provided by the scrap metal hauliers.

14) Close the IDOX case and refer to legal services for cost recovery.

14 Working days

15 Working days

**ANNEX B
TO ADANDONED VEHICLE POLICY
DATED January 2020**

	<i>Vehicle position and condition</i>	<i>Vehicle equal to or less than 3.5 tonnes MAM</i>	<i>Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes</i>	<i>Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 MAM</i>	<i>Vehicle exceeding 18 tonnes MAM</i>
1	Vehicle on road, upright and not substantially damaged or any two wheeled vehicle whatever its condition or position on or off the road	£150	£200	£350	£350
2	Vehicle, excluding a two wheeled vehicle, on road but either not upright or substantially damaged or both	£250	£650	Unladen – £2000	Unladen – £3000
				Laden - £3000	Laden - £4500
3	Vehicle, excluding a two wheeled vehicle, off road, upright and not substantially damaged	£200	£400	Unladen – £1000	Unladen – £1500
				Laden - £1500	Laden - £2000
4	Vehicle, excluding a two	£300	£850	Unladen –	Unladen –

	wheeled vehicle, off road but either not upright or substantially damaged or both			£3000 Laden - £4500	£4500 Laden - £6000
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The prescribed sum in respect of removal, for the purposes of sections 101A(3), 101A(4) and 102(2)(a) of the 1984 Act and sections 4(5), 4(6) and 5(1)(a) of the 1978 Act, in respect of vehicles set out in column 1 of Table 1 shall be the sum specified in relation to those vehicles in columns 2 to 5 of that Table, the particular sum to be determined by reference to the MAM of the vehicle as described in row 1 of that Table and, for vehicles exceeding 7.5 tonnes MAM and not falling within row 2, whether the vehicle is laden or unladen.

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Stray Dog Policy

Date of Issue: January 2020

Review date: January 2030

Contents

1. Introduction
2. The principle
3. The Legislation and Process
4. Penalties and payments
5. Contact details

1.0 Introduction

Environmental Protection Act (1990) (EPA) to appoint an officer “for the purpose of discharging the functions for dealing with stray dogs found in the area of the authority”

2.0 The principle

2.1 Mid Devon District Council is responsible for the seizure and transport of stray dogs:

- 2.1.1 Patrolling the Borough and enforcement of dog fouling legislation;
- 2.1.2 Encouraging responsible dog ownership through presentations and talks;
- 2.1.3 Seizure and transport confined stray dogs.

2.2 Members of the public who find a stray dog are required by the Environmental Protection Act to either return to its owner, or report it to the local authority. The finder will be contacted within an hour. The Council does supply a collection service during normal working hours and will endeavour to collect the dog by the end of the day.

3.0 The Legislation and process

The current legislation requires a dog in a public place to be fitted with a collar and tag bearing the name and address of the owner (see also microchipping policy). Where a stray dog has a form of identification or the owner of the dog is known, the District Officer will make every effort to return the dog to its rightful owner. However if the owner cannot be contacted a ‘notice of seizure’ (s.149 (3) & (4) EPA) will be issued. The notice specifies that the dog has been seized, retained at kennels and that it is liable to be disposed of if it is not claimed within seven clear days from the date of the notice.

The owner of a stray dog is ‘not entitled’ to the return of the animal until they have paid all the expenses incurred and a further prescribed sum (s149 (5) EPA). Should the dog not be claimed or the owner declines to pay the sums outstanding, the ownership of the dog is legally transferred to the Council after seven clear days. The Council is then entitled to sell or re-home the dog (except for the purposes of vivisection) or to have it humanely destroyed.

3.1 Seizure of a dog

The Environmental Protection Act specifies that in each case, a dog seized as a stray is required to be detained and a notice of seizure served upon the owner (where known). In addition, the policy of the Council is that, on the first occasion that a dog is seized, the District Officer will make all reasonable efforts to identify the owner and return it to them before taking it to the kennels. The District Officer carries a scanning device to identify dogs fitted with a microchip. If the address of the owner is identified, the District Officer will either visit or telephone, if contact is made, the dog will be returned.

3.2 Returning a dog

A dog will only be returned to an address if there is someone able to receive the dog – it will not be left at an unoccupied property, for example where the owner is out.

The Council currently insists on cash, credit card or card supported cheques for the full amount (statutory fee, handling fee, kennelling fees, plus any veterinary costs incurred) **before a stray dog is released to a claimant.** Once all fees are paid the District Officer will arrange to deliver the dog back to the owner. The owner will be required to be at home to receive the dog and sign for its receipt.

3.3 Kennelling Fees

Kennelling fees of £15.00 per day (subject to annual review), plus £30 are charged.

3.4 Out of Hours

Stray dogs will be collected out of hours until 6pm if the dog is detained e.g. in a garden or with the finder. Patrols for stray dogs will not be carried out between the hours of 5pm and 11am except in special circumstances. After 6pm details of the finder will be taken by the Councils Emergency Out of hours service and arrangements will be made with the registered kennels to make arrangements for the dogs to be collected in a designated collection point, the dog will remain in the care of the kennels overnight and the District officers will make arrangements the following day to reunite the dog with the registered owner.

3.5 Recovery

Stray dogs will be returned to the owner during office hours to enable payment to be made alternatively the owner can collect the dog from Phoenix house Phoenix lane Tiverton Devon EX16 6PP.

Detained dogs will not be released by Mid Devon District Council until all costs incurred are paid in full. During office hours payment can be made in person at one of our community offices via debit/credit card or cash. Alternatively payment can be made on line at <https://www.middevon.gov.uk/do-it-online/miscellaneous/pay-for-it-online/>

3.6 Unclaimed Strays

3.6.1 Stray dogs are held for a minimum period of seven clear days following seizure, or following service of a notice of seizure, whichever is the latest. After this period, ownership of the dog reverts to the Council.

3.6.2 Section 149(6) of the Environmental Protection Act entitles the Council to deal with unclaimed stray dogs in one of three ways:

- By selling it or giving it to a person who will, in his opinion, care properly for the dog;
- By selling it or giving it to an establishment for the reception of stray dogs; or
- By destroying it in a manner to cause as little pain as possible:

Provided that no dog shall be sold or given for the purposes of vivisection.

3.6.3 Once transferred to the Council or re-homed to a new owner, the former owner of a stray dog has no legal claim for the return of the animal.

3.6.4 The details of the person to whom ownership is transferred by this Council is required to be recorded on a public register. Under normal circumstances, the majority of unclaimed strays are re-homed and therefore it is this information which is recorded in the public register, rather than any subsequent new owner. The register is available for public inspection.

4.0 Penalties and Payments

The Council currently insists on cash, or card payments for the full amount (statutory fee, handling fee, kennelling fees, plus any veterinary costs incurred) **before a stray dog is released to a claimant.**

Statutory fee	£30.00
Administration fee	£15.00
Kennelling fee	£15.00

Plus related administration and kennelling fees.

5.0 Contact details

Lost or found dogs – telephone Customer First, 01884 255255 (*24 hours a day*)

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ENVIRONMENT PDG

14 JANUARY 2020:

PERFORMANCE AND RISK REPORT

Cabinet Member Cllr Luke Taylor
Responsible Officer Director of Operations, Andrew Pritchard

Reason for Report: To provide Members with an update on performance against the corporate plan and local service targets for 2019-20 as well as providing an update on the key business risks.

RECOMMENDATION(S): That the PDG reviews the Performance Indicators and Risks that are outlined in this report and feeds back any areas of concern to the Cabinet.

Relationship to Corporate Plan: Corporate Plan priorities and targets are effectively maintained through the use of appropriate performance indicators and regular monitoring.

Financial Implications: None identified

Legal Implications: None identified

Risk Assessment: If performance is not monitored we may fail to meet our corporate and local service plan targets or to take appropriate corrective action where necessary. If key business risks are not identified and monitored they cannot be mitigated effectively.

Equality Impact Assessment: No equality issues identified for this report.

Impact on Climate Change: This PDG has been tasked with considering the Council's own policy response(s) to the Climate Change Declaration made at Full Council on 26 June 2019.

1.0 Introduction

- 1.1 Appendix 1 provides Members with details of performance against the Corporate Plan and local service targets for the 2019-20 financial year. The PDG is invited to suggest measures they would like to see included in the future for consideration.
- 1.2 Appendix 2 shows the section of the Corporate Risk Register which relates to the Environment Portfolio. See 3.0 below.
- 1.3 Appendix 3 shows the profile of all risks for the Environment at present.
- 1.4 All appendices are produced from the corporate Service Performance And Risk management system (SPAR).

2.0 Performance

- 2.1 Regarding the Corporate Plan Aim: **Increase recycling and reduce the amount of waste: % of household waste reused, recycled and composted;** all the waste KPIs on Appendix 1 are better than target apart from the recycling rate which is marginally below for the year to date although 54% was achieved for October.. These are yet to be verified by DCC as is usual.
- 2.2 Regarding the Corporate Plan Aim: **Reduce our carbon footprint:** The Exeter University benchmarking of MDDC's Carbon Footprint as at 2018/19, along with the other Devon districts, was received at the end of December.
- 2.3 The Carbon Emissions Baseline figure has been calculated and was reported to Cabinet at its meeting on 19 December, a recommendation has been made for the Environmental PDG working group to prioritise actions as the next stage.
- 2.4 **Other:** Waste services are also performing well financially with increased income from trade waste and recycling and the shared saving scheme for waste with DCC showing a surplus.
- 2.5 When benchmarking information is available it is included.

3.0 Risk

- 3.1 Risk reports to committees include strategic risks with a current score of 10 or more in accordance. (See Appendix 2)
- 3.2 Operational risk assessments are job specific and flow through to safe systems of work. These risks go to the Health and Safety Committee biannually with escalation to committees where serious concerns are raised.
- 3.3 The Corporate risk register is regularly reviewed by Group Managers' Team (GMT) and Leadership Team (LT) and updated as required.

4.0 Conclusion and Recommendation

- 4.1 That the PDG reviews the performance indicators and risks for 2019-20 that are outlined in this report and feeds back any areas of concern to the Cabinet.

Contact for more Information: Catherine Yandle, Group Manager for Performance, Governance and Data Security ext. 4975

Circulation of the Report: Leadership Team and Cabinet Member

Corporate Plan PI Report Environment

Monthly report for 2019-2020
 Arranged by Aims
 Filtered by Aim: Priorities Environment
 For MDDC - Services

Key to Performance Status:

Performance Indicators:	No Data	Well below target	Below target	On target	Above target	Well above target
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* indicates that an entity is linked to the Aim by its parent Service

Corporate Plan PI Report Environment																
Priorities: Environment																
Aims: Increase recycling and reduce the amount of waste																
Performance Indicators																
Title	Prev Year (Period)	Annual Target	Apr Act	May Act	Jun Act	Jul Act	Aug Act	Sep Act	Oct Act	Nov Act	Dec Act	Jan Act	Feb Act	Mar Act	Group Manager	Officer Notes
<u>Residual household waste per household (measured in Kilograms) (figures have to be verified by DCC)</u>	241.11 (8/12)	365.00	36.52	66.32	93.65	123.35	150.40	177.00	208.78	238.38					Stuart Noyce	(April - November) A decrease of 1.13% compared to November 2018 (LD)
<u>% of Household Waste Reused, Recycled and Composted (figures have to be verified by DCC)</u>	54.13% (8/12)	54.00%	48.76%	52.78%	53.97%	54.09%	54.26%	54.68%	54.41%	54.04%					Stuart Noyce	(November) Very slightly lower than November 2018. Residual waste has reduced by 97 tonnes; dry recycling has reduced by 33 tonnes. Organic waste has decreased by 18 tonnes. (LD)
<u>Net annual cost of waste service per household</u>		£45.00	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	Stuart Noyce	
<u>Number of Households on Chargeable Garden Waste</u>	9,837 (8/12)	10,000	9,921	10,102	10,109	10,195	10,266	10,241	10,155	10,072					Stuart Noyce	(November) There is a small decrease in the number of customers compared to last month; this reflects the trend shown for the same period in the previous year; however there are 235 more customers compared to November 2018. (LD)
<u>% of missed collections reported (refuse and organic)</u>	0.04% (8/12)	0.03%	0.01%	0.01%	0.01%	0.01%	0.02%	0.02%	0.02%	0.02%					Stuart Noyce	(November) Remaining within target (LD)

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Corporate Plan PI Report Environment																
Priorities: Environment																
Aims: Increase recycling and reduce the amount of waste																
Performance Indicators																
Title	Prev Year (Period)	Annual Target	Apr Act	May Act	Jun Act	Jul Act	Aug Act	Sep Act	Oct Act	Nov Act	Dec Act	Jan Act	Feb Act	Mar Act	Group Manager	Officer Notes
waste)																
% of Missed Collections logged (recycling)	0.02% (8/12)	0.03%	0.02%	0.02%	0.02%	0.02%	0.03%	0.03%	0.02%	0.02%					Stuart Noyce	(November) Remaining within target (LD)

Aims: Protect the natural environment																
Performance Indicators																
Title	Prev Year (Period)	Annual Target	Apr Act	May Act	Jun Act	Jul Act	Aug Act	Sep Act	Oct Act	Nov Act	Dec Act	Jan Act	Feb Act	Mar Act	Group Manager	Officer Notes
Number of Fixed Penalty Notices (FPNs) Issued (Environment)	12 (8/12)		2	4	6	8	10	10	10	10					Stuart Noyce	(December) District Officer cover for the past three months has reduced from 3.8 FTE's to 2.8 FTE's. This post is due to be filled in January. (LD)

Environment PDG Risk Management Report - Appendix 2

Report for 2019-2020
For Environment - Cllr Luke Taylor Portfolio
Filtered by Flag: Include: * Corporate Risk Register
For MDDC - Services
Filtered by Performance Status: Exclude Risk Status: Low
Not Including Risk Child Projects records, Including Mitigating Action records

Key to Performance Status:

Mitigating Action:

Milestone Missed	Behind schedule	In progress	Completed and evaluated	No Data available
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Risks: No Data (0+) High (15+) Medium (6+) Low (1+)

Environment PDG Risk Management Report - Appendix 2

Risk: Climate Change Declaration The implications to the Council's strategic, budget and medium term financial plans are not yet fully explored and understood. This introduces an increased level of uncertainty.

Service: Governance

Mitigating Action records

Mitigation Status	Mitigating Action	Info	Responsible Person	Date Identified	Last Review Date	Current Effectiveness of Actions
No Data available	Consideration by the Environment PDG	This PDG has been tasked with considering the Council's own policy response (s) to the Climate Change Declaration made at Full Council on 26 June 2019.	Catherine Yandle	19/07/2019	06/12/2019	No Score(0)
In progress	Establishing baseline and definitions	A Devon wide definition of "Carbon footprint" needs to be established so the County can work to a common formula.	Catherine Yandle	19/07/2019	06/12/2019	Satisfactory (2)

Environment PDG Risk Management Report - Appendix 2						
Mitigating Action records						
Mitigation Status	Mitigating Action	Info	Responsible Person	Date Identified	Last Review Date	Current Effectiveness of Actions
		MDDC's own Carbon footprint will be calculated to establish a baseline for future measurement.				
Current Status: High (25)		Current Risk Severity: 5 - Very High		Current Risk Likelihood: 5 - Very High		
Service Manager: Catherine Yandle						

Risk: ST-Reduction in Garden Waste Customers Loss of income; reduction in recycling rate						
Service: Street Scene Services						
Mitigating Action records						
Mitigation Status	Mitigating Action	Info	Responsible Person	Date Identified	Last Review Date	Current Effectiveness of Actions
Completed and evaluated	Reminder to renew correspondence	To maintain the existing customer base	Lorraine Durrant	06/06/2019	05/07/2019	Fully effective(1)
Completed and evaluated	Social media campaigns & publicity	To ensure that information about the garden waste service reaches as many residents as possible	Lorraine Durrant	06/06/2019	05/07/2019	Fully effective(1)
Current Status: Medium (12)		Current Risk Severity: 4 - High		Current Risk Likelihood: 3 - Medium		
Service Manager: Stuart Noyce						

Risk Matrix Environment Appendix 3

Report

Filtered by Service: Grounds Maintenance, Street Scene Services
Current settings

Risk Likelihood	5 - Very High	No Risks	No Risks	No Risks	No Risks	No Risks
	4 - High	No Risks	No Risks	No Risks	No Risks	No Risks
	3 - Medium	No Risks	No Risks	2 Risks	2 Risks	No Risks
	2 - Low	No Risks	3 Risks	4 Risks	11 Risks	10 Risks
	1 - Very Low	1 Risk	5 Risks	4 Risks	2 Risks	2 Risks
		1 - Very Low	2 - Low	3 - Medium	4 - High	5 - Very High
		Risk Severity				

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