

Application No. 17/00348/MOUT

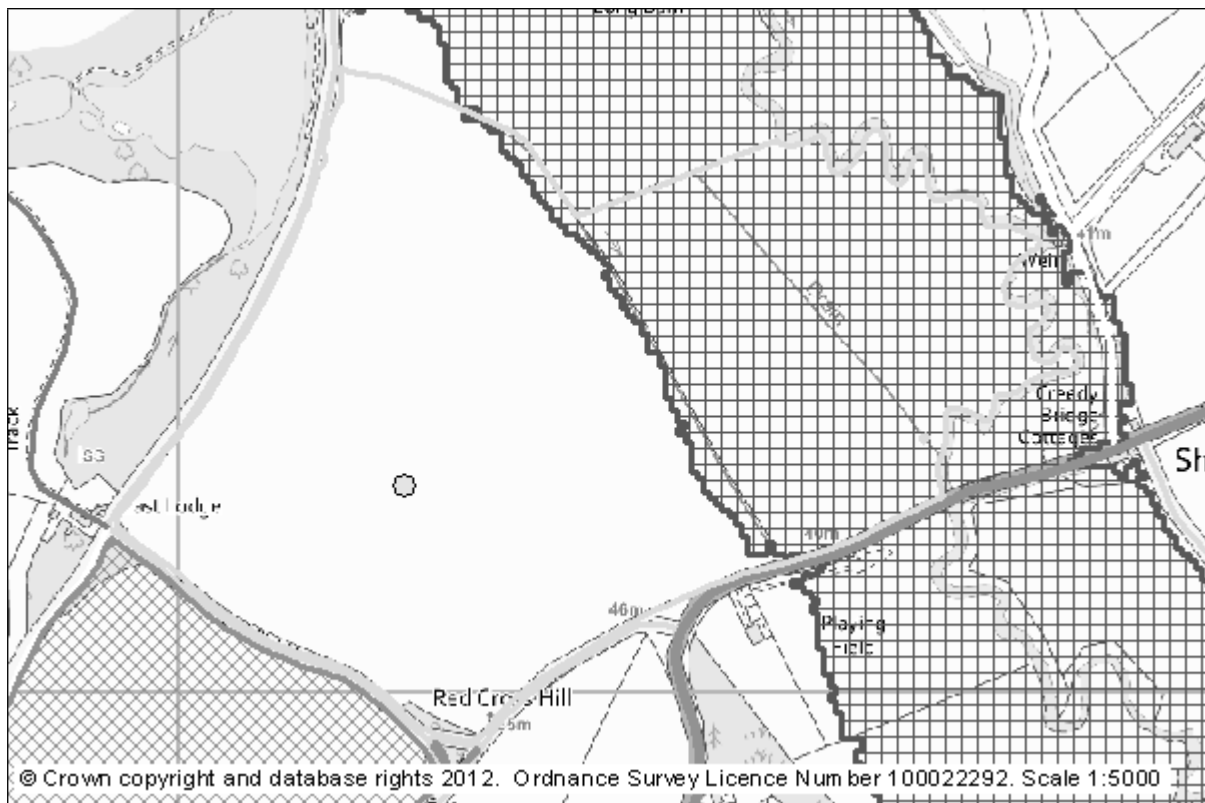
Grid Ref: 100951 : 284007

Applicant: Messrs T Turner, S Turner, R. Turner, B Stamp & O Taylor

Location: Land at NGR 284185 101165 (Creedy Bridge) Crediton Devon

Proposal: Residential development of up to 257 dwellings and upto 5 Gypsy and Traveller pitches; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations

Date Valid: 6th March 2017



REPORT OF THE HEAD OF PLANNING AND REGENERATION

17/00348/MOUT - RESIDENTIAL DEVELOPMENT OF UP TO 257 DWELLINGS AND UPTO 5 GYPSY AND TRAVELLER PITCHES; 8.6 HECTARES OF LAND MADE AVAILABLE TO FACILITATE THE RELOCATION OF CREDITON RUGBY CLUB; UP TO 1.1 HECTARES OF LAND SAFEGUARDED FOR THE DELIVERY OF A PRIMARY SCHOOL; ACCESS ARRANGEMENTS FROM A3072 (EXHIBITION WAY); PEDESTRIAN AND CYCLE ACCESS ON TO POUNDS HILL/STONEWALL CROSS JUNCTION, OLD TIVERTON ROAD AND PEDLERSPOOL LANE; LANDSCAPING AND AREA OF PUBLIC OPEN SPACE; AND OTHER ASSOCIATED INFRASTRUCTURE AND ENGINEERING OPERATIONS - LAND AT NGR 284185 101165 (CREEDY BRIDGE) CREDITON DEVON

Reason for Report:

To consider revisions to the wording of three of the Heads of Terms of the S106 agreement and the associated S106 implications from these proposed revisions. The resolution made by Members of the Planning Committee on the 19th September 2018 was for planning permission to be granted subject to the prior signing of a S106 agreement, with the revisions sought relating to planning obligation numbers 1, 2 and 4 as outlined within the resolution. Delegated authority is also requested to allow minor changes to the wording of planning conditions in order to allow for a phased approach to development across the site.

RECOMMENDATION

- 1. That the revisions to the s106 agreement as set out in paragraph 3.1 be agreed and a S106 agreement be entered into in line with the proposed revisions.**
- 2. To give delegated authority to the Head of Planning, Economy and Regeneration to allow minor changes to wording of planning conditions as reported within the committee report to allow for a phased approach to development across the site.**

Relationship to Corporate Plan:

Financial Implications:

None in connection with the planning considerations of the proposed revisions with the exception of the Council's legal costs of entering these revisions into the S106 agreement.

Legal Implications:

This report addresses consequential legal implications arising from proposed changes to wording for the S106 to be entered into with both Mid Devon District Council and Devon County Council in order to allow outline planning permission to be issued.

Risk Assessment:

The revisions relating to the wording of the four planning obligations within the S106 agreement will address the safeguarding of land to provide community assets for the future use of residents and the delivery and Gypsy and Traveller pitches. The changes sought for planning conditions are in order to allow a phased approach to development but still result in the same outcome from the existing recommended conditions for the delivery of the residential development.

Equality Impact Assessment:

Whilst one of the revisions to the Heads of Terms relates to the delivery of Gypsy and Traveller pitches either on site or off site, it is not considered that the proposed S106 changes will have any impact upon equality matters as the changes are to enable greater flexibility in order to deliver the required pitches. Accordingly the proposed change delivers a better outcome for this community with protected characteristics under the Equalities Act.

Relationship to Corporate Plan:

Homes Aim 2 – Facilitate the housing growth that Mid Devon needs, including affordable housing

Community Aim 1 – Support local communities to retain and develop their local facilities and services.

Impact upon climate change:

No climate change issues are identified arising from this report.

1.0 BACKGROUND

1.1 This outline planning application was considered at Planning Committee on the 19th September 2018. As stated within the minutes of that meeting, Members considered the proposed development in light of a number of planning matters with the eventual resolution being that planning permission be granted subject the prior signing of a S106 agreement to secure:

1. The safeguarding of a 1.1ha site for a Primary School, and agreement for the land to be transferred to Devon County Council prior to the commencement of any development.
2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community, and the following provisions regards delivery and operation:
 - i. A scheme for the detailed setting out of the 5 gypsy and traveller pitches to be submitted and approved by the occupation of 110th dwelling (i.e. 43% completion); and
 - ii. Gypsy and traveller pitches to be laid out by 193rd occupation (i.e. 75% completion).
3. 56 units of affordable housing. The precise tenure and mix of unit sizes to be specified as follows: 40% Discounted housing and 60% Affordable Housing for rent, and with a property size requirement as follows: 1 bed 10%, 2 Bed 50%, 3 Bed 35% & 4 Bed 5%.

- A phasing plan to manage the delivery of the affordable housing units.
 - Cascade arrangements as set out in the Devon Home Choice policy framework
4. The safeguarding of 8.6ha of land for the relocation of the Crediton Rugby Club, and agreement for the land to be transferred to Rugby Club prior to the commencement of any development, or another date to be confirmed by the Rugby Club.
 5. The setting up of a management company for the long-term management and maintenance of all communal areas including any parking courts, landscape, public open space and children's play areas.
 6. Sustainable Travel Measures (to include a public transport contribution, a contribution to undertake improvements to existing PROW network and the provision of travel plan vouchers for future occupiers of the 257 houses) - £955,900.00. To be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
 7. Primary Education - £13,652 per pupil (63 pupil spaces required) to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
 8. Early Years Education - £250 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
 9. Primary Special Needs - £141 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
 10. Healthcare provision - £363 per dwelling to be phased over three tranches – First tranche payable upon occupation of the first dwelling and subsequent payments made 12 months and 24 months thereafter.
 11. Off-site highway works as follows:
 - Access arrangements from A3072 (Exhibition Way);
 - Pedestrian and cycle access on to the Pounds Hill / Stonewall Cross Junction, Old Tiverton Road and Pedlarspool Lane; and provision of passing places along Stonewall Lane.

With conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr R B Evans)

- 1.2 During subsequent negotiations over the wording of the s106 agreement matters have been held up firstly relating to the provision of the five gypsy and traveller site pitches on site, secondly to the safeguarding of part of the site for the relocation of the rugby club and finally from negotiations undertaken with Devon County Council relating to the provision of the primary school. As a result, revisions are requested only to the wording of planning obligations 1, 2 and 4 which relate to these matters.
- 1.3 On the matter of the planning conditions, as outlined within the Committee Report which was accepted by Members, there are a number of pre-commencement conditions. A pre-commencement condition (also known as a 'Grampian' condition) is

a condition imposed on a planning permission which must be complied with before the development permitted by the planning permission begins. Whilst pre-commencement conditions are useful for Local Planning Authorities (LPAs), they prevent works on site starting until they are discharged. Government guidance is that it is important that these conditions are only imposed where justified to prevent unnecessary delays to the delivery of development.

- 1.4 Section 100ZA(5) of the Town and Country Planning Act 1990 provides that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition (except in the case of a condition imposed on the grant of outline planning permission within the meaning of Section 92 of the 1990 Act or in the circumstances set out in the Town and Country Planning (Pre-commencement Conditions) Regulations 2018).
- 1.5 A pre-commencement condition that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached. Therefore the request is to allow delegated authority to the Head of Planning, Economy and Regeneration to allow changes to the wording where considered to be appropriate, to require the submission and approval of the additional information/surveys prior to the development of recognised parcels of land allowing for a phased approach rather than for all details for the entire site to be provided upfront which is the current wording. This would allow development to be brought forward earlier on site but still result in the same outcome as agreed.

2.0 THE CURRENT RESOLUTION RELATING TO MATTERS TO BE SECURED WITHIN THE S106 AGREEMENT AND ISSUES RAISED WITH THE CURRENT WORDING

2.1 The existing situation

As resolved the three relevant planning obligations for consideration are worded as follows:

1. The safeguarding of a 1.1ha site for a Primary School, and agreement for the land to be transferred to Devon County Council prior to the commencement of any development.
2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community, and the following provisions regards delivery and operation:
 - i. A scheme for the detailed setting out of the 5 gypsy and traveller pitches to be submitted and approved by the occupation of 110th dwelling (i.e. 43% completion); and
 - ii. Gypsy and traveller pitches to be laid out by 193rd occupation (i.e. 75% completion).
4. The safeguarding of 8.6ha of land for the relocation of the Crediton Rugby Club, and agreement for the land to be transferred to Rugby Club prior to the commencement of any development, or another date to be confirmed by the Rugby Club.

2.2 The associated issues from the resolution wording

In terms of the first planning obligation, the current wording requires for the land relating to the primary school to be transferred to Devon County Council prior to the commencement of any development. However, further to discussions between the applicant and Devon County Council an amendment has been requested to make it clear that whilst the site would be safeguarded for a primary school, the site would not be transferred to the County Council prior to the commencement of development as was reported previously. Rather it will be transferred if called for during an agreed timeframe which has been set out in Paragraph 3.1. The solicitor at Devon County Council has confirmed that the principles as set out in the revision requested below reflects DCC's understanding with regards to the transfer of the school site.

- 2.3 The second planning obligation relates to the setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community with the implementation of the pitches following the delivering of a certain stage of the residential development outlined. However, there was dispute as to whether there should be flexibility in the agreement for the 5 pitches for the Gypsy and Traveller community to allow the pitches to be provided off-site if it was found that no registered provider wanted to take this site forward in order to allow an alternative mechanism for these pitches to be delivered. The Site is allocated as a contingency site under the adopted local plan policy AL/CRE/12 of the Council's adopted site allocations development plan document, the Allocations and Infrastructure Development Planning Document ("AIDPD") which was adopted in 2011. However, because of concerns by the Council that it may not have a robust 5 year supply of housing land it was resolved to bring the Site forward for delivery.
- 2.4 Policy AL/CRE12 says the development on the site is subject to amongst other things five pitches for gypsies and travellers. Officers of the Council had maintained that the Council could not agree in the proposed 106 agreement that the 5 pitches for Gypsy and Travellers could be provided off site, however during the Local Plan Review process that is now at an advanced stage with consultation being undertaken on the main modifications, this policy stance has changed with the wording relating to the provision of Gypsy and Travellers pitches within the Local Plan Review amended to allow more flexibility. The policy now outlines that the provision of the pitches should be provided on site unless it is demonstrated that off-site provision will achieve a more favourable outcome for Gypsies and Travellers taking into account matters of pitch numbers, site facilities, accessibility to services, including health and education; early delivery of serviced pitches or plots which are available for occupation and the provision of an effective mechanism for delivery. Therefore the priority will always be to deliver on site in the first instance unless having carried out a detailed assessment, there would be a more favourable outcome achieved by allowing provision off-site. Therefore the suggested wording has been revised to reflect this below.
- 2.5 The fourth planning obligation relates to the safeguarding of 8.6ha of land for the relocation of the Crediton Rugby Club with the wording of the resolution being that the land needs to be transferred to the Rugby Club prior to the commencement of any development, or another date to be confirmed by the Rugby Club. The issue raised from the current wording is that it ultimately prevents any development of the site commencing until such time as the Rugby Club confirm it can. At the current time negotiations between the applicant and the Rugby Club have stalled with a disagreement between the two parties as to what is expected to be provided by the developer on site for the rugby club in terms of adopted policy and policies within the Local Plan Review. In light of the grounds for disagreement, it is considered that the

interpretation of the policy requirements relating to the development of the Creedy Bridge Development are a key consideration. The applicant having received Counsel advice on the matter with the Local Planning Authority also separately instructing counsel as a result to advise on the interpretation of adopted and emerging development plan policies relevant to the determination of the planning application.

- 2.6 The view of the Rugby Club is that the land should be transferred to them for a nominal fee rather than a fixed recreational valuation of the land together with the provision of improved facilities as referred to within the supporting text of emerging Local Plan Review, Policy CRE5 – Pedlerspool where it states that *'This site will provide an alternative location and improved facilities for the Crediton Rugby Club, allowing for housing development on the site of existing sports field to come forward (Policy CRE6).'* Representatives of the Rugby Club have raised concerns that the relocation of this community club would involve a significant undertaking which they can ill afford to fund.
- 2.7 The applicant has received counsel advice which has been provided to the Local Authority. It relates to the relocation of Crediton Rugby Football Club to the Creedy Bridge site (Pedlerspool) and the view that the policy requirement is only to provide a site in which the rugby club could locate to but which does not go as far as the requirement to transfer the land to the rugby club for a nominal fee or provide improved facilities. Given the different interpretation of the wording of the relevant policy and which was the correct approach to take, officers sought separate counsel opinion to review the counsel advice on behalf of the applicant and provide a legal view as to which interpretation of relevant policies is reasonable.
- 2.8 The following policies were outlined to counsel as being relevant to this proposal:

Within the Allocations and Infrastructure Development Plan Document (AIDPD) which was adopted in October 2010 policy AL/CRE/12 - Pedlerspool, Exhibition Road states:

'A site of 21 hectares at Pedlerspool, Exhibition Road is identified as a contingency site for development to be released in accordance with policy AL/DE/1, subject to the following:

- a) 165 dwellings with 35% affordable housing to include at least five pitches for gypsies and travellers;
- b) 21000 square metres of employment floorspace;
- c) A suitable site for the relocation of Crediton rugby club**
- d) Layout, design and landscaping, including planting on the riverside that reflects the local distinctiveness and its sloping nature;
- e) The protection of the setting of the wider area, including the upper slopes to the south and west for Green Infrastructure and landscaping;
- f) Provision of a Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance;
- g) The provision of serviced employment land in step with the housing at a rate of at least 1 hectare per 30 occupied dwellings unless it can be demonstrated to the Council's satisfaction that such an approach would significantly undermine the viability of the scheme as a whole.
- h) This development shall not be commenced until a Link Road between the A377 and Lords Meadow is in operation unless the Council is satisfied that air quality and traffic impacts as a result of the development would not be material.'

There is no further supporting text on criterion C but it is noted that in terms of the existing rugby club site, policy AL/CRE10 - Exhibition Road states:

'A site of 5.35 hectares is allocated as a single site for the relocation of the Queen Elizabeth Community College, subject to the following:

- a) The improvement of adjoining sports facilities to compensate for the loss of playing fields required for the development;
- b) Provision of a Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance;
- c) Provision of a suitable alternative site for the relocation of the Rugby Club.'**

The supporting text states that the rugby club will need to be relocated on a suitable alternative site, including facilities associated with that use.

Within the emerging Local Plan Review, Policy CRE5 - Pedlerspool, Exhibition Road states:

'A site of 21 hectares at Pedlerspool, Crediton, is allocated for residential development subject to the following:

- a) 200 dwellings with 28% affordable housing including at least five pitches for gypsies and travellers;
- b) A serviced site of 1.1 hectares for a new primary school;
- c) A suitable site for the relocation of Crediton Rugby Club;**
- d) A phasing strategy which ensures that sites for the sports pitches, affordable housing and gypsy and traveller pitches are delivered broadly in step with the housing development, and the school is transferred to the local education authority at a timetable agreed with Devon County Council;
- e) Layout, design and landscaping, including planting on the riverside that reflects the local distinctiveness and its sloping nature;
- f) The protection of the setting of Creedy Historic Park and Garden and the wider area, including the upper slopes to south and west for Green Infrastructure and landscaping;
- g) Facilitation of access to local bus routes via sustainable travel modes including possible extension of service;
- h) Provision of suitable access arrangements from the A3072 and appropriate highway improvements along Stonewall Lane and Old Tiverton Road;
- i) Improved access to the town centre for pedestrians and cyclists;
- j) Protection and enhancement of trees subject to Tree Preservation Orders within and adjoining the site; and
- k) An archaeological investigation and mitigation scheme.'

As referred to above, the supporting text refers to this site as providing an alternative location and improved facilities for the Crediton Rugby Club to allow for residential development on the site of the existing rugby club.

- 2.9 Counsel advice has been received which concludes that the counsel advice note received by the applicant is the correct interpretation that AL/CRE/12 simply requires the provision of a "suitable site" for the Rugby Club and that is not defined in the glossary or anywhere else as meaning a completed playable facility and hence reading the plain words in their proper context the provision of land only is required. In addition to this, there is nothing in the policy that requires the land to be provided at nil value with the issue of value being a commercial matter between the developers of the AL/CRE10 and AL/CRE 12 sites and the Rugby Club. Any other approach would result in an outcome where the developer of AL/CRE/12 was being required to subsidise the developer of AL/CRE 10.

2.10 Therefore it follows that any attempt via a Section 106 agreement to compel the transfer of the 8.6 ha to the Rugby Club at nil or notional value must fail the “necessity” test imposed by both Regulation 122 of the Community Infrastructure Levy Regulations and the NPPF because such is not necessary to enable AL/CRE/12 to come forward insofar as it is not a requirement of policy. All that is necessary is that a “site” is provided and that is achieved by the planning proposal which effectively safeguards the land for that use. Policies CRE 5 and CRE 6 do not alter this fact and whilst the supporting text to CRE 5 refers to the provision of facilities, QC advice is that properly read this is simply a narrative commentary on the ambition of policies CRE 5 and CRE 6 which, when read together, envisage the developer of CRE 6 achieving the actual physical relocation of the Rugby Club to the CRE 5 site on an area to be identified for such use or some other site as a prerequisite to the development of CRE 6. In the usual way, the developer of CRE 6 has a burden, flowing from national policy, of providing suitable replacement sports provision.

2.11 As such, the wording is proposed to be revised which will allow the safeguarding of the site for the relocation of the rugby club within a certain timeframe but any further requirement above this would be considered to be contrary to adopted policy and fail necessity test imposed by both Regulation 122 of the Community Infrastructure Levy Regulations and the NPPF.

3.0 THE PROPOSED REVISIONS TO THE WORDING AND ASSOCIATED IMPLICATIONS

3.1 The proposed changes to the planning obligations heads of terms 1, 2 and 4 are as follows:

1. The safeguarding of a 1.1ha site for a Primary School and obligations securing the transfer of said site to Devon County Council if required by the County Council within an agreed time period running from Commencement of Development and expiring 5 years after any Commencement on the western development parcel.

2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community or (if approved by the Council pursuant to the approved scheme) provision of a site with equivalent capacity off-site (or the expansion of an existing Gypsy and Traveller Site) and the following provisions regards delivery and operation:

Prior to Occupation of more than 75% of Dwellings:

- (i) Provision of 5 serviced pitches on-site prior to Occupation of more than 75% of Dwellings; OR
- (ii) If approved by the Council in writing (having regard to criteria under DM7) provision of 5 serviced pitches off-site (new site or extension to existing) OR provision of land off-site and contribution of £500K for Council to deliver.

Prior to Occupation of more than 43% of Dwellings:

- (i) Submission and approval of scheme confirming which of the above options is proposed

Cascade:

If after the offer of the pitches/site (whether on or off site) to RP's for more than 12 months (and then Council) for nominal consideration and Owner is unable to find party willing to contract to take the G&T site then Owner may opt instead to discharge obligation through the provision of 5 extra Affordable Housing Units (either on the G&T site pursuant to new full application for said land or elsewhere within the Development). Mix of said units to be 60/40 rented/intermediate as per existing Affordable Housing units.

4. The safeguarding of 8.6ha of land shown edged [] on Plan x appended hereto for the relocation of the Crediton Rugby Club and provisions requiring:

- said site to be transferred to the Council or its nominee (i.e. the Rugby Club) if called for within a period expiring at the date 15 years from the grant of the planning permission; and
- the provision of a suitable temporary and permanent access road to the boundary of said site.

3.2 The associated issues

The first head of term relates to the safeguarding of a site for a new primary school with the wording outlined being in accordance with the requirements of Devon County Council, setting out a timeframe for delivery of the project which is in line with the negotiations undertaken with the Education Services Department at DCC.

3.3 The second head of term relates to the provision of 5 pitches for the Gypsy and Traveller community. In terms of the policy within the Local Plan, as outlined within the Allocations and Infrastructure Development Plan Document (AIDPD), AL/CRE/12 - Pedlerspool, Exhibition Road states:

'A site of 21 hectares at Pedlerspool, Exhibition Road is identified as a contingency site for development to be released in accordance with policy AL/DE/1, subject to the following:

a 165 dwellings with 35% affordable housing to include **at least five pitches for gypsies and travellers;**

Part of the resolution of the previous Planning Committee was as follows:

2. The setting out of a 0.3ha site for provision of up to 5 pitches for the Gypsy and Traveller Community, and the following provisions regards delivery and operation:

- i. A scheme for the detailed setting out of the 5 gypsy and traveller pitches to be submitted and approved by the occupation of 110th dwelling (i.e. 43% completion); and
- ii. Gypsy and traveller pitches to be laid out by 193rd occupation (i.e. 75% completion).

3.4 The proposed change to the wording within the Heads of Terms is to allow for the Gypsy and Traveller provision off site as long as it has been fully demonstrated that this will deliver a more favourable outcome, providing either a site with a financial contribution to enable the pitches to be provided by a registered provider or for the applicant to provide a site with fully laid out pitches. This approach is put forward by the applicant to comply with Policy DM7 within the Local Plan Review. The amended wording for Policy DM7 as outlined within the main modifications is as follows:

1) Planning applications for Pitches and Plots

Planning applications for gypsy and traveller pitches, or plots for travelling showpeople, will be permitted where:

- a) Suitable onsite facilities will be provided including space for children's play;
- b) The proposal will have suitable environmental quality for residents including non-isolating boundary treatments;
- c) The site will not cause unacceptable landscape or ecological impact and is not located in an area at high risk of flooding;
- d) Occupation will be limited to those who meet the Government's published definition of gypsies and travellers, including travelling showpeople or their dependents;
- and
- e) Safe and convenient access to local facilities is provided

Sites with associated employment or storage elements will be permitted where there is specific justification and the location, scale, and nature of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement.

2. Provision on allocated sites

Gypsy and Traveller pitches on allocated sites (sought by Policies TIV1, CU1, CU7 or CRE5) should be provided on site unless it is demonstrated that off-site provision will achieve a more favourable outcome for Gypsies and Travellers taking into account:

- i) Pitch numbers;
- ii) Site facilities;
- iii) Accessibility to services, including health and education;
- iv) Early delivery of serviced pitches or plots which are available for occupation;
- and
- v) The provision of an effective mechanism for delivery.

Such sites must also meet the requirements of part 1 of Policy DM7 above.

Amendments to the supporting text in paragraph 4.29 are as follows:

"4.29 There is a need for 35 new pitches for gypsies and travellers for the period 2014-34, and 11 plots for travelling showpeople for the period 2014-34. The majority of this need is proposed to be met on the largest allocated developments at Tiverton Eastern Urban Extension, North West Cullompton, and Pedlerspool in Crediton. Pitches must be provided onsite unless the more favourable outcome described by Policy DM7 is demonstrated. Any proposals for more favourable off-site provision must identify and provide serviced sites in accordance with Policy DM7. A clear mechanism to ensure that pitches or plots are delivered in such a way as to achieve a more favourable outcome for the travelling community must be identified.

This will usually be through a s106 agreement requiring the developer to identify and obtain planning permission (which will not be unreasonably withheld by the Council) for the required number and standard of pitches. The pitches will be provided by the development itself or where the land is transferred for a nominal value, by an agreed third party Registered Provider or other agreed private provider, for the sole purpose of occupation and ancillary business by Gypsies and Travellers. The off-site provision of pitches must be provided and made available for occupation before the occupation of a specified proportion of the provision of on-site open market dwellings as part of the larger housing proposal at TIV1, CU1, CU7 or CRE5. Where gypsy and traveller pitches are provided on-site on housing allocations, these are to be counted against the affordable housing targets for that site."

- 3.5 As can be seen from the wording of the policies and resolution of Planning Committee, there is the need to provide the pitches, not just a site. The amended

wording for Policy DM7 within the Local Plan Review offers the flexibility to provide the Gypsy and Traveller pitches off site subject to the proposal resulting in a more favourable outcome. Therefore the applicant would need to either first deliver the G & T provision on site or in order to provide a more favourable outcome, deliver the pitches on an alternative site which could comply with the criteria outlined in DM7 or provide the site and a financial contribution in order that the pitches could be delivered. The revised wording would allow for this and the applicant has confirmed to the Council that they agree to provide laid out/serviced pitches (whether they end up on or off-site) as requested by the Council's policy team which includes the agreed cascade whereby in the event a registered provider or the Council are unwilling to take the pitches some additional affordable housing units could be provided on the G&T site in lieu.

- 3.6 In respect to the fourth Head of Term relating to the safeguarding of a site for Crediton Rugby Football Club, the counsel advice received makes it clear that the policies relating to the Pedlerspool site only goes as far as making the site available for the relocation of the rugby club and no more, with the rugby club to use the capital received from developing the existing rugby club site for residential development to facilitate the move to a new site.
- 3.7 In order to safeguard the site for the rugby club relocation, a timeframe of 15 years has been agreed to in order to allow for the rugby club to work on an application to obtain outline planning permission for residential development on their site which would allow the finances to purchase the site at Pedlerspool for a fixed recreation land value and to submit an application for a new clubhouse and playing facilities. Therefore the revisions to the wording for this Head of Term is considered to be acceptable as this inclusion takes into account the legal advice received over the interpretation of policy.

4.0 CONCLUSIONS

- 4.1 There is no objection to the proposed changes from a planning perspective which are intended to result in the same outcome of safeguarding areas of the site for the delivery of a primary school, relocation of Crediton Rugby Football Club and the delivery of 5 gypsy and traveller pitches within the district, in line with emerging policy within the Local Plan Review. The request for delegated authority to the Head of Planning, Economy and Regeneration to allow minor changes to wording of planning conditions as reported within the committee report to allow for a phased approach to development across the site is also considered to be in line with government guidance.

Contact for any more information

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Background Papers

Committee Report and minutes relating to
planning application Planning Application
17/00348/MOUT

File Reference

17/00348/MOUT - Residential development of up to 257 dwellings and up to 5 Gypsy and Traveller pitches; 8.6 hectares of land made available to facilitate the relocation of Crediton Rugby Club; up to 1.1 hectares of land safeguarded for the delivery of a primary school; access arrangements from A3072 (Exhibition Way); pedestrian and cycle access on to Pounds Hill/Stonewall Cross junction, Old Tiverton Road and Pedlerspool Lane; landscaping and area of public open space; and other associated infrastructure and engineering operations

Circulation of the Report

Members of Planning Committee