

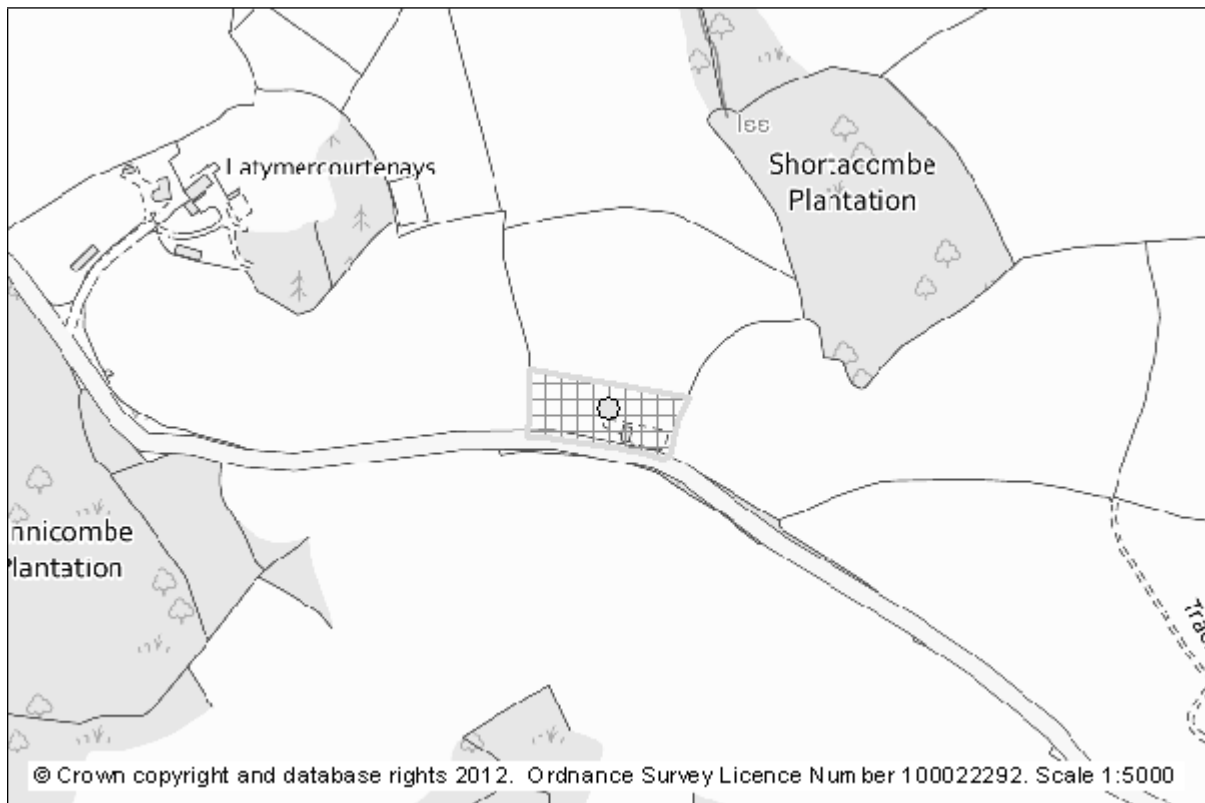
**Grid Ref:** 276612 : 96646

**Applicant:** Ms A Tyrer

**Location:** Land at NGR 276600  
96594 (North of  
Shortacombe Farm)  
Shortacombe Lane  
Yeoford

**Proposal:** Change of use of  
agricultural land to  
allow 1 pitch for the  
siting of 1 static  
caravan, 2 touring  
caravans and  
associated works for  
the use of gypsy and  
traveller family

**Date Valid:** 6th August 2019



## **REPORT OF THE HEAD OF PLANNING AND REGENERATION**

**Application No. 19/01188/FULL**

### **Description of Development:**

The applicant seeks planning permission for the material change of use of agricultural land to residential use for a gypsy and traveller family. The proposal would involve the siting of a static caravan; parking for two touring caravans; the siting of a storage shed and car parking area; landscaping works, including tree planting and the creation of a landscaped bank; and works to create a safe access onto the public highway.

The original submission included the provision and use of a compost toilet and a reed-bed drainage system to deal with grey water but the proposal was amended following concerns received with the proposal now involving the use of a toilet facility within the static caravan with a Vortex Treatment Plant proposed to deal with foul drainage. Confirmation has also been provided from the applicant that there is mains water running adjacent to the site and power will be provided from solar panels.

The site comprises an area of mostly open grassland, including an area surfaced with loose material, on which two touring caravans are currently being kept (these would be moved on site to the position shown on the layout plan and form part of any planning permission issued), along with a wooden storage structure. The site's western, northern, and eastern boundaries adjoin open fields in agricultural use. The southern boundary runs alongside the public highway and is formed by a mature hedgerow. The site is located outside settlement limits.

### **REASON FOR REPORT:**

At the meeting on the 12th August 2020, Members resolved to refuse the application contrary to officer recommendations and therefore wished to defer the application for a further report setting out suggested reasons for refusal and the associated implications.

### **RECOMMENDATION(S)**

#### **Grant permission subject to conditions**

#### **Relationship to Corporate Plan:**

##### Homes

- Work with applicants/organisations to deliver homes retained in perpetuity for local need

##### Environment

- Protecting the natural environment, enhancing biodiversity and addressing carbon pressures

**Financial Implications:** The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour. That being the case, Members must be able to clearly justify each and every reason for refusal in line with the development plan and all other material considerations.

**Legal Implications:** The report identifies the risks in proceeding with an appeal based on the reasons given by the Committee on 3rd August 2020 – both in terms of outcome of an appeal and the risk of a costs decision. The Council will still need to prepare draft planning conditions for any appeal.

**Risk Assessment:** If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council for reasons of unreasonable behaviour.

### **Equality Impact Assessment:**

The proposal is for the delivery of a family Gypsy and Traveller pitch on site. Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". Gypsy and Travellers are one such a group with protected characteristics.

### **REASONS FOR REFUSAL AND IMPLICATIONS:**

At the Planning Committee held on 12th August 2020, Members gave consideration to:

- Number of vehicle movements stated by the Highways Authority
- No objections had been received from any of the consultation agencies
- The right of the applicant to cut back or remove the hedge to allow access to the site
- Actual number of people who would live on the site and if this could be controlled
- Definition of a gypsy and traveller pitch
- Existing hard standing on the site
- Advice given during the pre-application process
- Landscaping and fencing proposals
- Waste and recycling arrangements for the site
- The applicants desire to live on the site had not been imposed by the Local Authority
- If there was adequate drainage on the site
- The views of the objector who stated that the site was not safe and due to high winds would be a risk to life if the caravans were not tethered and the risk of unaccompanied children being swept away during flooding instances. That she felt it was unfair that the family were being dumped on the site by the Local Planning Authority which was not adequate for disabled people
- The views of the applicant who stated she had searched for 10 years for a suitable site for her and her son. That she had listened to the Parish Council and the Case Officer and had made amendments to the application. That the site had good access to schools, dentists and health facilities for her and her son. That the site design would compliment the local area
- The views of the Ward Member who felt that the site could accommodate up to 20 people. That there were flood issues with the site, children couldn't play on the site in the winter and it was an unacceptable landscape. There were bats and ancient woodland in the area and there was no ditch system on site.

- Concerns that the applicant would allow more people to move onto the site and it would not just be for her and her son
- Caravans being squashed by trees during high winds
- Accessibility of the site during snowy conditions

Members of Planning Committee resolved that they were minded to refuse the above application contrary to officer recommendation and therefore wished to defer the application for consideration of an implications report to consider reasons for refusal to include:

- Policy Planning for Traveller Sites - Section 14. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.
- Policy DM7 - A, Space for children's Play
- Policy DM7 - C, unacceptable landscape or ecological impact
- Policy DM7 - E, safe and convenient access to local facilities.
- Policy DM2 - High quality design
- Policy DM2 - Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets
- Policy DM2 - Visually attractive places that are well integrated with surrounding buildings, streets and landscapes
- Policy DM2 - Appropriate drainage including sustainable drainage systems

### **The suggested wording for reasons for refusal**

The Committee was minded to refuse the application on the grounds listed above. It is considered that a number of the matters raised overlap and it is noted that the reference made to Policy DM2 should have in fact been made to Policy DM1 (High Quality Design) which covers the matters raised by Members, as Policy DM2 of the Mid Devon Local Plan Review 2013-2033 relates to Renewable and low carbon energy. Therefore set out below are the reasons for refusal which would appear on the planning decision notice to address the issues raised:

1. In the opinion of the Local Planning Authority, the proposed site of the family traveller pitch given its countryside location and prominent position on the ridge of the hill will result in an unacceptable landscape and ecological impact through the introduction of caravans and other structures and the removal of hedgebank and trees to provide an adequate visibility splay for the access into the site. The location of the site is such that there will be no safe or convenient access to local facilities or services. Therefore any need for the development does not outweigh the harm which would result with the development being contrary to Mid Devon Local Plan Review 2013-2033 Policies DM1 and DM7 and guidance within the National Planning Policy Framework 2019 and Policy Planning for Traveller Sites (2015).
2. In the opinion of the Local Planning Authority, the proposed development will not be of a high quality design, nor well integrated in the landscape or make a positive contribution to the local character of the area, including biodiversity assets and the setting of heritage assets with the scale of the site dominating the nearest settled community. The development is therefore considered to be contrary to Policies DM1 and DM7 of the Mid Devon Local Plan Review 2013-2033 and Policy Planning for Traveller Sites (2015).

3. The Local Planning Authority considers that the proposed development does not provide suitable onsite facilities such as space for children's play or provide appropriate drainage including sustainable drainage systems. Therefore the development is considered to be contrary to Policies DM1 and DM7 of the Mid Devon Local Plan Review 2013-2033.

## **The implications of refusing the application**

### **Reason for refusal 1**

The first reason for refusal relates to the location of the site in the countryside some distance away from local services as would be required by occupiers of the site with the development resulting in a detrimental impact on the landscape and ecology given the prominent position of the site on the ridge of the hill and associated works required to create a safe access through the removal of hedgebank and trees. The site is located over 2 miles away from any settlement recognised within the Local Plan Review as having a number of community services for members of the public and in terms of this site, there are no direct public transport services available in close proximity to the site to access these services. The impact on the amenity of the area is subjective and therefore a case can be made that the proposals would result in a change to the appearance and character of the site with the main mitigation put forward being through further landscaping to screen the development including replacing hedgebanks.

Policy DM7 of the Local Plan Review states in criterion (c) that the site should not cause unacceptable landscape or ecological impact and criterion (e) outlines that a safe and convenient access to local facilities is provided. Policy DM1 of the Local Plan Review also requires development to result in a positive contribution to local character including biodiversity and for development to result in the creation of safe and accessible places that encourage and enable sustainable modes of travel such as walking and cycling (criteria (c) and (d)).

Through the assessment of this proposal, in the event that Members are of the view that any need for such a development does not outweigh the harm created by the proposal in this location, the development could be considered to be contrary to these two policies. Should Members conclude this to be the case and were minded to recommend this reason for refusal, it is considered that Policy S14 (Countryside) of the Local Plan Review should also be referred to as whilst this policy does allow for gypsy and traveller accommodation in the countryside, there is also the requirement that development should preserve and where possible enhance the character, appearance and biodiversity of the countryside.

Further to the above considerations, officers would remind Members that consideration needs to be given to the weight of any harm this development will have on the impact of amenity of the area and whether any harm identified can be mitigated against through specific planning controls which it is considered would be the case such as landscaping which could result in a net biodiversity gain. Following this assessment and in order to then come to a final conclusion on this matter, Members would then need to weigh these considerations against the previous under delivery of gypsy and traveller pitches across the district and the realistic timeframe of delivery of pitches on allocated sites within the Local Plan Review.

## Reason for refusal 2

The ground of this refusal reason relates to Members concerns regarding to the design of the development and visual impact on the character of the area in general including the impact on heritage assets and biodiversity assets through the siting of caravans and associated structures on this site and works required to create a safe access. Therefore Members felt that the proposal would be contrary to Policy DM1 of the Local Plan Review.

Policy DM1 (High quality design) states:

‘Designs of new development must be of high quality, based upon and demonstrating the following principles:

- a) Clear understanding of the characteristics of the site, its wider context and the surrounding area;
- b) Efficient and effective use of the site, having regard to criterion (a);
- c) Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets;
- d) Creation of safe and accessible places that also encourage and enable sustainable modes of travel such as walking and cycling;
- e) Visually attractive places that are well integrated with surrounding buildings, streets and landscapes, and do not have an unacceptably adverse effect on the privacy and amenity of the proposed or neighbouring properties and uses, taking account of:
  - i) Architecture
  - ii) Siting, layout, scale and massing
  - iii) Orientation and fenestration
  - iv) Materials, landscaping and green infrastructure
- f) Appropriate drainage including sustainable drainage systems (SUDS), including arrangements for future maintenance, and connection of foul drainage to a mains sewer where available;
- g) Adequate levels of daylight, sunlight and privacy to private amenity spaces and principal windows;
- h) Suitably sized rooms and overall floorspace which allows for adequate storage and movement within the building together as set out in the Nationally Described Space Standard with external spaces for recycling, refuse and cycle storage; and
- i) On sites of 10 houses or more the provision of 20% of dwellings built to Level 2 of Building Regulations Part M ‘access to and use of dwellings’.

The difficulty in respect to this reason for refusal relates to the nature of the development proposed, as it involves the provision of a Gypsy and Traveller family pitch and the question is raised as to whether a policy relating to high quality design would be applicable as caravans are never going to be of a high design.

In terms of making a positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets, other than reference to the hedgebank along the frontage with the road being that of an ancient hedgebank which would need to be removed in part but mitigated against through the creation of new hedgebank and landscape planting,

statutory consultees such as Natural England have commented that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. The ecologist acting on behalf of the applicant has also outlined that works to the hedgebank could be carried out in line with practices accepted by Natural England which would prevent any protected species being harmed.

As far as any impact on heritage assets or their setting is concerned, there are no heritage assets on the application site or located immediately adjacent. The nearest listed buildings are located over 200m away with the topography being such that it would not be considered reasonable to conclude that the development would result in a detrimental impact on the setting of heritage assets.

The other concerns raised by Members in respect to this reason for refusal is based on the need for any development to create visually attractive places that are well integrated with surrounding buildings, streets and landscapes and that the scale of the site would dominate the nearest settled community. Again the nature of the proposal is for a traveller pitch involving the introduction of caravans (one static and two touring caravans) on site, but the proposal is for these to be screened from public view through extensive landscaping of the site.

The nearest community could be argued to be the hamlet of Binneford down the valley approximately 500m from the site although the villages of Yeoford and Cheriton Bishop are recognised settlements within the Local Plan Review offering services to the community, both being over two miles away. In respect to residential properties in the hamlet of Binneford, the topography is such that it helps screen direct views from this site to these residential properties. When taking into consideration this location of the site in the countryside, existing vegetation along the boundaries and overall scale and mitigation measures proposed through new landscaping including tree planting, it is considered that it would be unreasonable to conclude that the site would dominate the nearest settled community and would therefore be difficult to defend at any appeal.

One implication of a reason for refusal on the above ground is that in the event of an appeal being made, the Planning Inspector even if minded to dismiss the appeal could award a partial award of costs where they believe a party has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense. There are appeal decisions whereby the Inspector has concluded that sufficient evidence has not been provided in light of adopted development plan policies other than beyond very generalised assertions and therefore did not substantiate the reason for refusal and thus put the applicant to the unnecessary expense of preparing grounds of appeal and then final comments to rebut the reason.

### **Reason for refusal 3**

The final ground of refusal relates to Members concerns regarding to the proposed development not providing suitable onsite facilities such as space for children's play or provide appropriate drainage including sustainable drainage systems. Therefore on this basis the development would be considered to be contrary to Policies DM1 and DM7 of the Mid Devon Local Plan Review 2013-2033.

With respect to on site facilities in the form of children's play space, it is noted that there is ample amenity area proposed for a single family pitch within the site area and the application has been submitted as being for a mother and teenage son. There is no supporting text for Policy DM7 requiring the provision of play equipment on site and the scale of the development

being for one family pitch would not result in a need to provide formal open space on site or play equipment and it is considered that any such request would fail to meet the CIL tests.

On the matter of drainage, again this is a proposal for a single family pitch with the scale and nature being such that the Council's Public Health Team raises no objection to a package treatment plant to deal with foul drainage. The Environment Agency have advised on using standing advice given the small scale nature of the development and location of the site and whilst concerns were raised by members of the public to ground conditions and potential flooding, records for the site show that it is not within flood zones 2 or 3 or a functional flood plain or at risk of surface water flooding (1 in a 1000 years). Photographs provided by objectors of water run off on parts of the site following wet weather would not be sufficient alone to demonstrate conclusively that a site was at risk of flooding to prevent a development, especially in light of no support by consultees who deal with drainage matters.

The implication would therefore be that in the event of an appeal being made, the Planning Inspector even if minded to dismiss the appeal could award a partial award of costs where they believe a party has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense. There are appeal decisions whereby the Inspector has concluded that policies have been applied incorrectly and therefore did not substantiate the reason for refusal and thus put the applicant to the unnecessary expense of preparing grounds of appeal and then final comments to rebut the reason. A similar view could be taken here and for the reasons given above it is strongly advised that such a reason for refusal is not included on any refusal of planning permission for this site.

### **Conclusion:**

Your officers have concerns that all of the reasons for refusal as set out above with the potential exception to the impact on the landscape and proximity to services are unlikely to be upheld at appeal, in particular due to policy support for the Traveller sites in the countryside provided certain criteria are met, the lack of objection from statutory consultees to highway, ecological and drainage matters, the distance away from any heritage assets and controls which could be implemented to safeguard amenity through landscaping and the position of the structures on site.

If Members are minded to refuse this application, it is recommended that Members refuse the application on the ground of reason for refusal 1 as set out earlier within this report but with reference also to Policy S14 (Countryside) of the Mid Devon Local Plan Review 2013-2033 so that the reason of refusal would read as follows:

1. In the opinion of the Local Planning Authority, the proposed site of the family traveller pitch given its countryside location and prominent position on the ridge of the hill will result in an unacceptable landscape and ecological impact through the introduction of caravans and other structures and the removal of hedgebank and trees to provide an adequate visibility splay for the access into the site. The location of the site is such that there will be no safe or convenient access to local facilities or services. Therefore any need for the development does not outweigh the harm which would result with the development being contrary to Mid Devon Local Plan Review 2013-2033 Policies S14, DM1 and DM7 and guidance within the National Planning Policy Framework 2019 and Policy Planning for Traveller Sites (2015).

However notwithstanding the above, approval remains the recommendation of officers for the reasons set out in the earlier Officer report to Planning Committee attached.



In the event that Members are minded to refuse the application, it is recommended that Members, having regard to the provisions of the Mid Devon Local Plan Review and all other material planning considerations in accordance with Section 172, Town and Country Planning Act 1990, ("the Act") should grant authority to the Legal Services Manager to take all such steps and action necessary to secure the removal of the unauthorised storage of caravans on site relating to this application, including the issue of any enforcement notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

**Contact for any more information**

Mr Adrian Devereaux, Area Team Leader  
01884 234267

**Background Papers**

Committee report

**File Reference**

19/01188/FULL

**Circulation of the Report**

Cllr Graeme Barnell  
Members of Planning Committee

Attach previous Committee report

## **APPLICATION NO: 19/01188/FULL**

### **MEMBER CALL-IN**

This planning application has been called in by Councillor Penny for the following reason:

I would wish to call the application in to enable the planning committee to consider the detail of the application and its compliance with National and Local Planning Policy, both adopted and within the emerging Local Plan Review.

Specifically:

- Whether the proposal for a development outside a defined settlement is acceptable in this case.
- Consideration to whether this application would give rise to significant levels of vehicular movement.
- Whether the development will sustain the distinctive quality, character and diversity of Mid Devon's environmental assets
- Consideration to the level of interest within the community.
- Whether it would be considered that adequate local infrastructure is in place.

### **RECOMMENDATION**

Grant planning permission, subject to the conditions detailed below.

### **PROPOSED DEVELOPMENT**

This planning application proposes the material change of use of agricultural land to residential use for a gypsy and traveller family. The proposal would involve the siting of a static caravan; parking for two touring caravans; the siting of a storage shed and car parking area; landscaping works, including tree planting and the creation of a landscaped bank; and works to create a safe access onto the public highway.

The original submission included the provision and use of a compost toilet and a reed-bed drainage system to deal with grey water but the proposal was amended following concerns received from members of the public and questions as to whether this type of drainage system was the most appropriate in this area given the standing advice from the Environment Agency. The proposal now involves the use of a toilet facility within the static caravan with a Vortex Treatment Plant proposed to deal with foul drainage. Confirmation has also been provided from the applicant that there is mains water running adjacent to the site and power will be provided from solar panels.

The site comprises an area of mostly open grassland, including an area surfaced with loose material, on which two touring caravans are currently being kept (these would be moved on site to the position shown on the layout plan and form part of any planning permission issued), along with a wooden storage structure. The site's western, northern, and eastern boundaries adjoin open fields in agricultural use. The southern boundary runs alongside the public highway and is formed by a mature hedgerow. The site is located outside settlement limits.

## **APPLICANT'S SUPPORTING INFORMATION**

Application form, plans, supporting information.

## **RELEVANT PLANNING HISTORY**

01/01704/FULL - PERMIT date 8th November 2001  
Retention of field shelter and hay store

99/02850/FULL - REFUSE date 1st October 1999  
Erection of stabling/tackroom

## **OTHER HISTORY**

18/01964/PREAPP - CLO date 30th January 2019  
Proposed traveller pitch

## **DEVELOPMENT PLAN POLICIES**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework is noted as one such material consideration.

### **Mid Devon Core Strategy (Local Plan Part 1)**

COR1 - Sustainable Communities  
COR2 - Local Distinctiveness  
COR3 – Meeting housing needs  
COR9 - Access  
COR11 - Flooding  
COR 18 – Countryside

### **Allocations and Infrastructure Development Plan Document (Local Plan Part 2)**

AL/DE/7 – Gypsy and Traveller Pitches

### **Mid Devon Development Management Policies (Local Plan Part 3)**

DM1 - Presumption in favour of sustainable development  
DM2 - High quality design  
DM7 - Pollution  
DM8 – Parking  
DM30 – Other protected sites

### **Mid Devon Local Plan Review 2013-2033 Pre adoption draft**

S3 - Meeting housing needs  
S8 - Infrastructure  
S9 - Environment  
S14 - Countryside  
DM1 - High quality design  
DM4 - Pollution

DM5 - Parking  
DM7 – Traveller sites  
DM28 - Other protected sites

The National Planning Policy Framework (“the NPPF”)

## **CONSULTATIONS**

### Cheriton Bishop Parish Council – 17<sup>th</sup> June 2020

The revised information does not alter the Council's previously submitted objections which are: poor highway access, removal of ancient hedge, unsuitable site that does not meet government criteria and is in an isolated situation, MDDC had already identified sufficient sites to meet targets, there are no services on site and there are no transport links or services within reasonable distance.

### Cheriton Bishop Parish Council – 16<sup>th</sup> October 2019

*Cheriton Bishop Parish Council met last night and resolved to object to this application. They noted that further information was expected from consultees. The reasons for objection were as follows: highways access; removal of ancient hedge; unsuitable site that does not meet government criteria and is in an isolated situation; MDDC already had identified sufficient sites to meet targets; there are no services on site; and there are no transport links or services within reasonable distance.*

### Crediton Hamlets Parish Council – 7<sup>th</sup> July 2020

The revised drawings and additional information do not alter Crediton Hamlets Parish Council's stance. It continues to object to this application for the reasons already given, which are: Highways issues, environmental health issues, impact on the community, no evidence of need, unsuitable site in relation to access to infrastructure and local transport and concerns that the site, if allowed, would expand. In relation to highways it was also noted that the access road had a steep dip which would not allow the passage of caravans.

### Crediton Hamlets Parish Council – 8<sup>th</sup> October 2019

*Crediton Hamlets Parish Council met on the 7th October and resolved to object to this application. 67 people attended the Council meeting and 11 people spoke to object to the application. The Planning Officer was present to respond to questions. The material considerations identified by the Council were highways issues, environmental health issues, impact on the community, no evidence of need, unsuitable site in relation to access to infrastructure and local transport and concerns that the site, if allowed, would expand. In relation to highways it was also noted that the access road had a steep dip which would not allow the passage of caravans.*

### Hittisleigh Parish Council – 20<sup>th</sup> September 2019

*It is an inappropriate development in open countryside on a greenfield site with inadequate access particularly when provision of 5 traveller and gypsy sites is being made at nearby Crediton (which we understand is awaiting approval) which fits the PPTS criteria exactly.*

*Environmental concern over the proposed reed bed system - the gradient of the field and the amount of surface water in the autumn and winter months, in this location, could result in grey water entering the water course. We also understand that the nature of the soil is inappropriate for a reed bed system and where clay soil is predominant, industry standard advice is for a Klargest type digester.*

*Words and phrases from the national guidance are able to be interpreted both to support and oppose this application. This increases the importance of local awareness of the visual and environmental impacts.*

Gypsy and Traveller Liaison Officer - 3<sup>rd</sup> September 2019

*I am happy to make the following observations in line with National and County Policy, and also observations following a site visit to the above location with the applicant on Monday 2nd September.*

*Devon has only three local authority Gypsy sites: Sowton, Exeter; this site is a long-term residential site managed by Elim Housing, which holds a waiting list. Broadclyst, East Devon again, managed by Elim Housing is leased by the County Council and offering new pitches are governed by the terms set by the landowner. Haldon, Teignbridge offers the only pitches for those identifying as New Travellers and is managed by Teign Housing. This site again is oversubscribed and has a waiting list. The applicant and her son have been known to our service as a New Traveller family working and residing in Devon for at least 11 years.*

*Whilst accommodation for the settled community is increasing in the South West there is still little provision for Gypsy and Traveller families. There are no agreed/emergency or transit sites in Devon and most of the traditional stopping places have been blocked off or developed for other purposes. Due to this, it is becoming more essential for Gypsy and Traveller families to have an authorised stable base from which they may access services such as Health and Education that the rest of us may take for granted. It also provides the security to travel for economic purpose, knowing that there is an authorised base on return.*

*The Applicant would wish to reside her with her son. This enables both to access health provision, him to continue his schooling at the same school, and, for the applicant to maintain her employment both at this location and elsewhere when economic need arises.*

*They would wish for the planning to be a permanent to enable occupation to continue.*

*The family would use the tourers as individual sleeping and study vans, whilst the static would provide for communal activities as a family. The applicant would wish to place these vehicles further along the site at the top so that more shelter is permitted and walkers who regularly stop to view from the small passing space the entrance allows are not hindered in doing so.*

*The nature of the applicant's work is gardening related therefore there would be limited changes to the agricultural aspect of the land there. Small private sites continue to be the best option for local planning and housing authorities in relation to accommodation for Gypsies and Travellers. Meeting this need in Devon is important if the number of unauthorised encampments and unauthorised developments are to reduce across the county, at the same time it allows local planning authorities to fulfil their responsibility to meet the accommodation need alongside other communities in Devon.*

*The County Council has a range of responsibilities in these matters and, on education, health and welfare grounds this application is supported, recognising the lack of pitches available on authorised sites within Devon.*

Natural England – 17<sup>th</sup> September 2019

*Natural England has no comments to make on this application.*

*Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.*

*Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.*

*The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.*

Public Health – 23<sup>rd</sup> July 2020

Whilst a working and well managed reed bed would provide adequate drainage a treatment plant would be the preferred option as it's less prone to failure. I would support this option.

Public Health – 23<sup>rd</sup> August 2019

Contaminated Land: No objection to this proposal. (21.8.19).

Air Quality: No objection to this proposal. (14.8.19).

Environmental Permitting: No objection to this proposal. (14.8.19).

Drainage: No objection to this proposal. (21.8.19).

Noise & other nuisances: No objection to this proposal. (21.8.19).

Housing Standards: No comment. (14.8.19).

Licensing: This may require a licence please contact the licensing team via email for further information [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk) (22/08/19).

Food Hygiene: Not applicable. (14.8.19).

Private Water Supplies: If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal.

IF MAINS WATER IS TO BE USED, WOULD HAVE NO COMMENT. (14.08.19).

Health and Safety: I have no objection to this proposal enforced by HSE. (14.8.19).

Local Highway Authority – 20<sup>th</sup> January 2020

The plan overcomes the Highway Authority concern, and subject to the access construction e.g. Hard surface in abound material and drainage would not have any further observations. It will be a matter for LPA to consider sustainability in light of NPPF.

#### Local Highway Authority - 30<sup>th</sup> September 2019

The Highway Authority has recommended standing advice applies to this application, and subsequent to a request from the Planning Officer the Highway Authority has visited the site and have the following observations to make:

The site is located in open countryside outside of any walking distance to local facilities and will necessitate the use of private vehicles to access day to day facilities of convenience shopping and education. The applicant has indicated her son would walk to the bus, this is however on the substandard road without footway or lighting and with limited passing.

The site is located on a road with limited passing opportunities and can be considered to be lightly trafficked having witnessed a single vehicle in 45 minutes. While the road is a derestricted Speed limit I have observed speeds of 20 mph. However local residents have observed that speed have been in excess of 45 mph. The Highway Authority would request that the applicant obtain a 24 hour speed survey so that appropriate splays can be applied to any consent. With current observed speeds by the Highway Authority a splay of 2.4 m by 25m in either direction would be required but should the speeds be as identified locally at 45 mph then splays of 2.4m by 120m with no obstruction greater than 600 mm above road surface would be required. Both splays would necessitate the removal of hedge row to satisfy the splays. The Highway Authority would apply the 85% speed to any design for the splays.

The Highway Authority considers that the traffic movements from the residential development when the applicants are not travelling would be in the region of 7 vehicle movements per day as indicated by TRIC's data, this is a marginal increase from that of agricultural use however the type of traffic will be residential and not agricultural and the visibility splays are essential for a safe and suitable access to be achieved to comply with NPPF. The touring caravan use will be negligible over the course of the year, and it is not inconsistent with an Agricultural use of Tractor/ farm vehicle and trailers.

The access will need improvement with the access being constructed with a hard bound material for the first 6.0m and drained to prevent water entering the public highway. Improved radii will be require to cater for the swept path of caravans and the Highway Authority would seek a minimum of 4.5m. Any gates should be set back 4.5m and hung to open inwards. Therefore the Highway Authority would reserve judgement on the application until suitable speed survey has been provided and the implications of the required splays can be considered. The site in purely highway terms is in an unsustainable location fostering the need to travel by private vehicle, but it is a matter for the Local Planning Authority to weigh this with policies for travellers and other criteria.

#### Recommendation:

The Head of Planning, Transportation and Environment, on behalf of Devon County Council, as Local Highway Authority, may wish to recommend conditions on any grant of planning permission.

1. Adequate information has not been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access, visibility splays, contrary to paragraph 32 of the National Planning Policy Framework

Local Highway Authority – 2<sup>nd</sup> September 2019 - Standing advice applies please see Devon County Council document

<https://www.devon.gov.uk/planning/apply-for-planning-permission/get-help-with-an-application/guidance-for-applicants>

Environment Agency – 3<sup>rd</sup> March 2020

As I mentioned on the phone, I was not previously familiar with the use of a reed bed as part of the foul drainage arrangement, however, when checking in with a colleague, we both realised that, in fact we would not be able to provide site-specific comments because the application is not major. Therefore, our standing advice applies.

What will be also useful is what I have attached, which is our LPA Guidance for non-major non-mains drainage development. I draw your attention to the flow charts towards the end of the document which is of particular use.

If, by using this, it is still not clear whether the proposed arrangement is suitable, that may indicate that the applicant needs to submit further details. If further confirmation is required, it may be worth them discussing the arrangement with the National Permitting Service (within the EA) via [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

## REPRESENTATIONS

51 representations have been received from the general public, 48 of which raise objections to the proposal, with 2 in support and 1 which is neutral.

The objectors raise the following concerns:

- The proposal is contrary to Local Plan, emerging Local Plan, and NPPF policies.
- The site is located outside settlement limits and is remote from established settlements.
- The proposal is not sustainable as it is not located near to services, including any hospital that has capacity, and there is a lack of access to public transport. The nearest bus stop provides a very limited service. The site is not located within 30mins of a hospital.
- The highway is very narrow, poorly drained and lacks a pedestrian footway and lighting, and is therefore unsafe and cannot accommodate additional traffic.
- The proposed access would not have adequate visibility onto the public highway.
- The drainage arrangements are not sufficient to cope with the number of people that the site would have the capacity to accommodate and the sloped nature of the site is such that, particularly during freezing conditions, the reed bed system is likely to fail and waste water will run off to neighbouring land and water courses.
- It is unclear how grey water from the touring caravans would be managed.
- The proposal would result in harm to wildlife.
- The proposal should be assessed in relation to the number of people that may live at the site rather than the number of caravans.
- The site occupies a prominent position in the landscape and the proposal would result in harm to the character of the area, and be contrary to the recommendations of the Mid Devon Landscape Character Assessment.
- The proposal is unlikely to promote peaceful co-existence of neighbouring communities.
- The proposal would result in the loss of part of a hedgerow.
- The status of the applicant, as a gypsy or traveller, has not been adequately demonstrated.
- The applicant already has access to accommodation in the local area.
- The site is in an isolated location remote from sewerage and other drainage arrangements.
- The proposal would not be well served by local services.



- Potential for noise nuisance as a result of music and use of a generator.
- There is no need for two travelling caravans, in addition to the static caravan, given that the applicant's son is 14 years old.
- The proposal does not seem to include access to running water or electricity.
- Permission has previously been refused for a stable and tack-room, based on the poor access arrangements, isolated location, and visual impact. These reasons for refusal apply all the more to the proposed development.
- The proposal could increase the probability of flooding.

In terms of material planning considerations, the letters of support state that:

- The site is well screened and further landscaping is proposed.
- The site is a considerable distance from neighbouring properties.
- The applicant is a member of the travelling community, and travels to festivals and other events for work throughout the year.
- The applicant would integrate well with the local community and there would be minimal disruption as a result of the proposal.
- The site is within walking/cycling distance of public transport and school transport.
- There is a need for the proposal given the absence of designated alternatives.

## **MATERIAL CONSIDERATIONS AND OBSERVATIONS**

**The main issues in the determination of this application are:**

### 1) Principle of Development:

The Parish Councils and members of the public have objected to the proposal, stating that it is for residential development in the countryside and that the need for the proposal has not been demonstrated. Concerns are also raised about the sustainability of the location in terms of its access to services, and the traveller status of the applicant is also questioned. The application, and representations received from supporters, state that there is a need for the proposal given the absence of alternative gypsy and traveller provision in the area, and refer to the applicant's status as a gypsy/traveller.

The main national policy in relation to gypsy and traveller accommodation is contained within the Planning Policy for Traveller Sites (PPTS). The PPTS states that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework. It requires that Local Planning Authorities should consider the following issues, amongst other relevant matters, when considering planning applications for traveller sites:

- the existing level of local provision and need for sites;
- the availability (or lack) of alternative accommodation for the applicants;
- other personal circumstances of the applicant;
- that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- that Councils should determine applications for sites from any travellers and not just those with local connections.

With respect to the relevant policies within the Local Plan and the emerging Local Plan Review, at the time of writing this report, the current status is that on 26<sup>th</sup> June 2020, Mid Devon District Council published the Inspector's Report on the Mid Devon Local Plan Review. The Inspector has concluded that the Local Plan is 'sound' subject to a number of main modifications being made. The Mid Devon Local Plan Review, taking account of the Inspector's conclusions, will be recommended for adoption at a meeting of full Council on the 29<sup>th</sup> July 2020.

Consistent with National Planning Policy Framework paragraph 48, the publication of the Inspector's Reports increases substantially the weight that can be attributed to the Local Plan in decision making. The examination process has now concluded. The Inspector has concluded that the Local Plan is sound (subject to the main modifications which have been recommended) and, as such, there are no longer unresolved objections to the Local Plan Review. As such, substantial weight may now be attached to the policies of the Local Plan when making planning decisions.

The adopted development plan, in technical terms, remains the starting point for planning decision making. The Local Plan Review is however a material consideration to which substantial weight may now be attached. Given the state of advancement of the Local Plan Review in the process toward adoption, it is considered that, generally, in the context of a planning decision, where there is a conflict between the outcome which arises from the application of policies of the adopted development plan and those of the Local Plan Review, the Local Plan Review will generally outweigh the adopted plan and will prevail. Where there is consistency, then the policies of the Local Plan Review add substantial weight in favour of the outcome which accords with the application of policies of the adopted development plans and those of the Local Plan Review.

Therefore in terms of adopted policies at the time of writing this report, development outside settlement limits is strictly controlled by Policy COR18 of the Local Plan, which provides a list of exceptions, which are subject to detailed criteria-based development control policies. These include gypsy accommodation. Within the Local Plan Review, Policy S14 contains similar wording allowing for gypsy and traveller accommodation within the countryside subject to meeting other criteria such as preserving and where possible enhance the character, appearance and biodiversity of the countryside.

Policy AL/DE/7 of the Local Plan indicates that planning permission will be granted for new gypsy and traveller sites in the countryside provided three criteria are met. It states that pitches will be permitted provided that: a) the need cannot reasonably be met on another site within Mid Devon which has consent or is allocated for gypsy and traveller pitches; b) that the site is within 30 minutes travel by means of public transport, walking and/or cycling of a hospital and secondary school; and c) that occupation is limited to those meeting the definition of Gypsies and Travellers in the relevant national policy.

*a) The need for and provision of gypsy/traveller sites*

The PPTS states that Councils, through their local plans, should be able to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites for gypsies and travellers set against local targets and broad locations for future growth.

The Devon Partnership Gypsy and Traveller Accommodation Assessment 2015 (GTAA) indicates that for Mid-Devon there was a need for 15 additional pitches in the period 2014-2019 and a

further 6 pitches in the period 2019-2024. At a recent appeal (APP/Y1138/W/322285), which was concluded in November 2019, the Inspector stated that:

*“With the degree of doubt present over the delivery of sites put forward for the windfall allowance and within the urban extensions, I find that the table of pitch-supply presented at the hearing does not reasonably demonstrate that the Council can show a five year supply at the moment bearing in mind the shortfall of sites carried over from the previous period. I conclude that there is an unmet need for gypsy and traveller sites in the district at the moment. This finding is a significant factor in favour of the appellant’s case...”*

*In terms of the availability of alternative sites, neither the Council or the appellant are able to identify any alternative site available at the moment that the appellant could turn to for residential accommodation. This appears to reflect a lack of available private sites in the district over some time as the previous Inspectors reached similar conclusion in 2012 and 2014. Moreover, the Council accepts that there is no public site for gypsies and travellers in Mid Devon. There is therefore little other scope available to the appellant to meet his accommodation needs. This is a factor to which I attach significant weight.”*

At the time of writing this report, as there has not been any significant change in circumstances since this appeal in November, it is concluded that the Council is still unable to show a five year supply of gypsy and traveller sites, meaning that there continues to be an unmet need for such sites. There continues to be a lack of availability of alternative sites, either public or private, for the applicant to meet their accommodation needs in a manner that is conducive to their travelling lifestyle. As such, the proposal is considered to be in accordance with part a) of Policy AL/DE/7.

#### *b) Proximity to Public Transport and Services*

Policy AL/DE/7 requires sites to be within 30 minutes travel, by means of public transport, walking and/or cycling, of a hospital and secondary school. It is noted that the emerging policy, DM7, instead requires that proposals have *“safe and convenient access to local facilities...”*

The County’s Gypsy and Traveller Liaison Officer has made comments about the application, stating that, given the absence of adequate sites in the area:

*“... it is becoming more essential for Gypsy and Traveller families to have an authorised stable base from which they may access services such as Health and Education, that the rest of us may take for granted. It also provides the security to travel for economic purpose, knowing that there is an authorised base on return.*

*The Applicant would wish to reside her with her son. This enables both to access health provision, him to continue his schooling at the same school, and, for the applicant to maintain her employment both at this location and elsewhere when economic need arises.”*

The applicant’s son is able to reach school within half an hour, using a school bus service that is within walking distance of the site. In relation to medical care, the site is located around 5.5 miles from Crediton Hospital, which is approximately 15 minutes away by car, but would take around 35 minutes to reach using a bicycle. The journey times would be considerably longer on foot or using public transport, access to the latter being distant from the site and the local bus service is understood to be infrequent. It is noted that Crediton Hospital does not include an accident and emergency facility.

Given the lack of alternative sites available, more weight is attributed to meeting an unmet need and that given the status of the Local Plan Review, more weight can be attributed to Policy DM7 where the criteria of a 30 minute distance from certain services is removed and replaced with 'safe and convenient access to local facilities is provided'. Therefore it could then be argued that the Village of Yeoford is 2.6miles by road from the application site which equates to 7 minute car drive or 14 minute bike ride and the village of Cheriton Bishop is 2.8miles from the site, which equates to an 8 minute car ride or 17 minute bike ride. At these villages, there would be access to a number of facilities such as primary schools, public houses, doctor's surgery shop, railway station etc.

*c) Provenance of the Applicant*

The County's Gypsy and Traveller Liaison Officer has confirmed that the applicant and her son are a Traveller family working and residing in Devon, and who have been known to the County for 11 years. If Members are concerned on this issue, it would be possible to request a statutory declaration from the applicants and third parties to give more assurance of the eligibility of the applicant to propose accommodation for a Traveller pitch in accordance with adopted policy.

In light of the above, the proposal is considered to be in accordance with the requirements of Policy AL/DE/7 and is therefore acceptable in principle, subject to the use of conditions to limit occupation at the site to those gypsy/traveller descent and to the overall number of caravans on site, with only one to be a static caravan.

As referred to earlier within this report, Policy AL/DE/7 would be replaced by Policy DM7 (Traveller Sites) following the adoption of the Local Plan Review and the policy states:

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; and*
- 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.'*

Therefore in light of the above some of the more stringent requirements have been removed from Policy AL/DE/7 and it is considered that there would be ample space on site for children to play, extensive landscaping would be provided which in turn could help in increasing biodiversity and the area is not located in an area at high risk of flooding, being outside of flood zones 2 and 3. Other matters such as occupation and access to local facilities have been discussed earlier within this report. Subject to limiting any harmful impacts on local amenity or the local authority, storage

elements can be supported and it is noted that this type of proposal can be viewed as an affordable housing requirement.

## 2) Visual Impact

Policy DM2 of the Local Plan states that the design of new development must be of high quality and demonstrate a number of principles, including efficient and effective use of the site, an understanding of the local context, and appropriate siting, layout, scale, and other design characteristics to ensure visually attractive and well integrated development. Policy DM1 of the Local Plan Review contains similar wording.

The PPTS requires that planning authorities should give consideration to whether proposed gypsy and traveller sites would be *“well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness”* and avoid *“enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.”*

Objectors have raised concerns about the proposal's visual impact, whereas supporters have stated that the proposal would be sufficiently screened by the existing hedgerow and proposed planting.

Currently on site there is an existing field shelter which the applicant has outlined as being required for agricultural purposes. The applicant is also currently storing two tourers and it is these two tourers which are shown on the proposed site layout, moving them further over and lower down within the field. In terms of new structures, a static caravan is proposed and storage shed with the former proposal for a compost toilet removed. Surrounding the area to the north of the caravan and two tourers, extensive landscaping is proposed to provide a screen from long range views across the valley.

It is considered that planning conditions relating to landscaping, boundary treatment, refuse storage and removal of Part 2 Permitted Development rights would be possible help to mitigate against any harm. Notwithstanding this, it is acknowledged that the proposal would result in some visual harm at the site, even if landscaping can acceptably address the effects in terms of the wider landscape. After all, the proposal introduces the siting of caravans on open grassland and therefore any harm would be contrary to DM2 of the Local Plan or DM1 of the Local Plan Review, but with the proposed mitigation, the harm is considered to be outweighed by other material considerations such as the need for the proposal, which is to be afforded considerable weight and can allow for this exception.

Subject to the use of the aforementioned conditions, the proposal is considered to be acceptable having regard to Policy DM2 of the Local Plan and the guidance contained in the PPTS.

## 3) Amenity

Policy DM2 of the Local Plan and DM1 of the Local Plan Review states that development proposals should not result in unacceptable impacts on the privacy and amenities of those occupying existing or proposed dwellings.

Objectors have raised concerns about potential noise and other disturbance as a result of the proposal.

The Council's Public Health team have raised no objections to the proposal in terms of noise, contamination, or air quality impacts. The proposal is not located in close proximity to any neighbouring occupiers and given the nature of the proposed use, along with its siting, scale, and design, it is considered that it would not result in unacceptable harm to the amenities of neighbours, in terms of disturbance, their outlook, privacy, or access to light. In this respect, the proposal is in accordance with Policy DM2 of the Local Plan.

A condition is recommended to secure details of the proposal's refuse and recycling storage arrangements.

#### 4) Access Arrangements

Policy DM2 of the Local Plan and DM1 of the Local Plan Review states that new development should be safe and accessible. Policy DM8 of the Local Plan and Policy DM5 of the Local Plan Review states that sufficient vehicle parking and bicycle storage must be provided.

Objectors have raised concerns about the safety of the site access and the ability of the public highway to accommodate the proposal in this location.

Following a traffic speed survey along this lane and amendments to the submitted scheme, the Highway Authority has removed its objection to the proposal, being satisfied that adequate visibility splays can be achieved onto the public highway from the site's access/egress point. The proposal would involve the partial removal of an existing hedgerow, running along the site's southern boundary, but this would be replaced further into the site, and following the line of the required splays. The proposal would give rise to a very small number of vehicle movements and there is adequate space within the site, on an existing area of permeable hardstanding, for the parking and manoeuvring of vehicles. Conditions are recommended to secure the required visibility splays and replacement hedge planting; to ensure the provision of the proposed parking and manoeuvring area; and to achieve an acceptable area of drained surface at the site access.

Subject to the use of these conditions, in terms of its access and parking arrangements, the proposal is considered to be in accordance with Policies DM2 and DM8 of the Local Plan and Policies DM1 and DM5 of the Local Plan Review.

#### 5) Drainage Arrangements

Policy DM7 of the Local Plan states that development will be permitted where the effects of pollution would not have unacceptable impacts in relation to health, the natural environment, and general amenity. Policy DM4 of the Local Plan Review contains similar wording.

The initial proposals were for a compost toilet and a reed-bed system to deal with grey water. Objectors raised concerns about the proposed grey water, surface water, and foul drainage arrangements and their ability to properly serve the development. There were also concerns about potential run-off and pollution in relation to neighbouring land and watercourses.

As a result the proposals have been amended removing the reed-bed drainage system and the compost toilet, with a new low powered Vortex treatment plant proposed which has been outlined as being suitable for use off grid and a conventional drainage field. The Public Health Officer has noted that this is preferable to the original reed-bed drainage system. The applicant has outlined that it would be installed according to manufacturer's specification and UK

Government Building Regs 2010 H document with maintenance undertaken by a British Water Approved engineer and in accordance with The British Water Code of Practice.

The application site is not in a Water Source Protection zone or a Flood Zone with there being no residential properties adjacent to the application site with it being a sloping field. Subject to the use of a condition to secure these arrangements, the proposal is considered to be acceptable and in accordance with Policy DM2 of the Local Plan and DM1 of the Local Plan Review.

#### 6) Nature Conservation

Policy COR18 of the Core Strategy states that the biodiversity of the countryside will be enhanced and Policy S14 of the Local Plan Review contains similar wording.

Objectors have raised concerns about the proposal's potential impact on wildlife. The submitted ecological assessment concludes that the proposal would not result in unacceptable harm to protected species or biodiversity in general subject to the use of mitigation and enhancement measures. Should planning permission be granted, it is recommended that a condition be imposed to secure the recommended measures, including the installation and subsequent retention of dormice nest boxes, and the replacement of the hedgerow which would be removed as part of the access visibility works. A scheme of external lighting should also be employed to prevent spill-lighting beyond the site boundaries to the greatest extent possible. An informative is also recommended to draw the applicant's attention to their legal obligations in relation to protected species.

Subject to the use of the aforementioned condition to secure these arrangements, it is considered that there would not be unacceptable harm in relation to biodiversity, and the proposal is in accordance with Policy COR18 of the Local Plan and Policy S14 of the Local Plan Review.

#### 7) Other Considerations

Objectors have questioned the necessity of having two touring caravans at the site. According to the submitted information and representations received from supporters of the proposal, the applicant does travel for work to festivals and other events, and a touring caravan is considered necessary for the applicant's travelling lifestyle. Officers consider this to be a reasonable requirement given the traveller status of the applicant. With regard to there being two touring caravans, the applicant has outlined that it is entirely normal for teenagers to have their own touring caravan to sleep in on Traveller sites and that it should be noted that there will not be running water facilities within the touring caravans.

Objectors also raised concerns about the proposal's connection to utilities, such as running water and electricity. As referred to earlier within the report, the applicant has stated that there is mains water running adjacent to the site which can be connected to and power will be provided from small portable solar panels, providing power.

Objectors have also referred to the previous refusal of an application for a stable and tack-room at the site. That decision was made over twenty years ago and there have been various changes in the planning policy context since that time. In any case, planning applications must be determined on their own merits. In this case, it is considered that the proposal would result in some visual harm in relation to the site area, but with various mitigation measures to be secured

using planning conditions, the harm to the character of the area is considered to be limited and, in any case, outweighed by other material considerations.

## 8) Conclusion

The proposal is considered to be acceptable, having regard to the Development Plan and all other material considerations, subject to the use of the conditions outlined below.

## REASON FOR DECISION

**The change of use of agricultural land to allow 1 pitch for the siting of 1 static caravan, 2 touring caravans and associated works for the use of gypsy and traveller family, is considered to be acceptable in this instance, being supportable in policy terms. It is not considered that the proposed development would result in significant harm to the character and appearance of the rural area subject to the imposition of planning conditions or detrimentally impact amenity to any neighbouring property. The proposed development is not likely to result in any significant adverse highway impacts. On this basis the proposal is supported in accordance with policies COR2 and COR18 of the Mid Devon Core Strategy (LP1), DM2 and DM8 of the Local Plan part 3 (Development Management Policies) and AL/DE/7 of the Mid Devon Local Plan, Local Plan Review 2013 – 2033 Policies S9, S14, DM1, DM5, DM7 and the National Planning Policy Framework.**

## CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. The development hereby permitted allows for the provision of 1 pitch only involving the siting of 1 static caravan, 2 touring caravans and associated works for the use of a gypsy and traveller family. Occupiers of this site will need to comply with the definition of a gypsy or traveller, being persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
4. No more than 3 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time. Any caravans positioned on the site shall be capable of being lawfully moved on the public highway, without division into separate parts.
5. On the family traveller pitch becoming redundant for such purposes, within a period of 3 months, all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use shall be removed and the land restored to its condition before the development took place.



6. Prior to the first use of the static caravan hereby approved, notwithstanding the information submitted, a scheme of hard and soft landscaping, including specimens to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The proposed planting scheme shall follow the recommendations of the submitted ecology appraisal (Andrew McCarthy Ecology, dated January 2020).

All planting, seeding and turfing comprised within the approved scheme, including the proposed new bank depicted on the approved plans, shall be carried out in the first planting season following the commencement of development and any trees or plants, including existing specimens to be retained, which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping shall be provided within four weeks of the development being brought into use, and shall be retained for the life of the development.

7. The development hereby approved shall not be brought into use until the surface water drainage arrangements, including the package treatment plant shown on the approved plans, have been provided in full. The approved measures shall thereafter be retained for the life of the development.
8. Prior to the first use of the static caravan hereby approved, the on-site parking and manoeuvring area shall be provided in full and thereafter retained for the life of the development.
9. The development shall be undertaken in full accordance with the recommendations contained in the submitted ecological appraisal (Andrew McCarthy Ecology, dated January 2020).
10. Prior to the first occupation of the static caravan hereby approved, dormouse nest boxes shall be installed in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be retained for the life of the development.
11. All external lighting at the site shall be installed in full accordance with a scheme which shall previously have been submitted to and approved in writing by the Local Planning Authority. External lighting at the site shall be kept to a minimum and shall be designed to prevent overspill lighting beyond the site's boundaries, particularly in relation to the hedgerow running alongside the site's southern boundary.
12. All new fencing at the site shall be installed in accordance with a scheme which shall previously have been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be retained as such.
13. Notwithstanding the provisions of Schedule 1, Part 2, Classes A and B, of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended) no new means of enclosure or access points shall be created at the site.
14. The access construction shall be a hard surface in a bound material and drainage shall be provided to prevent surface water discharge on to the highway. Visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility

splays provide inter visibility between any points on the X and Y axes at a height of 0.60 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 55 metres in both directions. For the avoidance of doubt, to the right on exiting access the splay should be measured to the nearside carriageway edge and to the left it should be measured to Centre line of the carriageway.

15. Notwithstanding the details as submitted with the application, detail plans shall be submitted to and approved in writing by the Local Planning Authority to identify refuse and recycling storage facilities on site. No caravan shall be first occupied until final details of the refuse and recycling storage have been approved and provided on site in accordance with the approved details. Once provided, the bin stores shall be permanently retained for such purposes.

## REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. For the avoidance of doubt and to outline the special circumstances for this development within a countryside location in line with Policy COR18 of the Local Plan and Policy S14 of the Local Plan Review.
4. In order to protect the character, appearance and general amenity of the area of countryside in accordance with Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy S14 of Local Plan Review 2013 – 2033.
5. In order to protect the character, appearance and general amenity of the area of countryside in accordance with Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy S14 of Local Plan Review 2013 – 2033.
6. To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with policy DM2 of Local Plan Part 3: Development Management Policies and Policy DM1 of the Local Plan Review 2013 – 2033.
7. In the interests of sustainable drainage and to prevent water pollution and in accordance with Policy DM2 of the Mid Devon Local Plan and Policy DM1 of the Local Plan Review 2013 – 2033.
8. In the interests of highway safety and amenity and in accordance with Policies DM2 and DM8 of the Mid Devon Local Plan and Policies DM1 and DM5 of the Local Plan Review 2013 – 2033.
9. In the interests of nature conservation and in accordance with the guidance contained in the National Planning Policy Framework.
10. In the interests of nature conservation and in accordance with the guidance contained in

the National Planning Policy Framework.

11. In the interests of nature conservation and to prevent unacceptable levels of light pollution, in accordance with Policy DM7 of the Mid Devon Local Plan and Policy DM4 of the Local Plan Review 2013 – 2033.
12. In order to protect the character, appearance and general amenity of the area of countryside in accordance with Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy S14 of Local Plan Review 2013 – 2033.
13. To safeguard the visual amenities of the area in accordance with policy DM2 of the Local Plan part 3 (Development Management Policies) and Policy DM1 of the Local Plan Review 2013 – 2033.
14. In the interest of highway safety and in order to provide adequate visibility from and of emerging vehicles.
15. To ensure adequate facilities are provided for bin and recycling storage and to protect the character and appearance of the area in accordance with policy DM2 of the Local Plan part 3 (Development Management Policies) and policy DM1 of the Mid Devon Local Plan Review 2013-2033.

## **INFORMATIVE**

### **1. Protected Species**

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

