

Application No. 16/01830/FULL

**Planning Committee
6th September 2017**

Application No. 16/01830/FULL

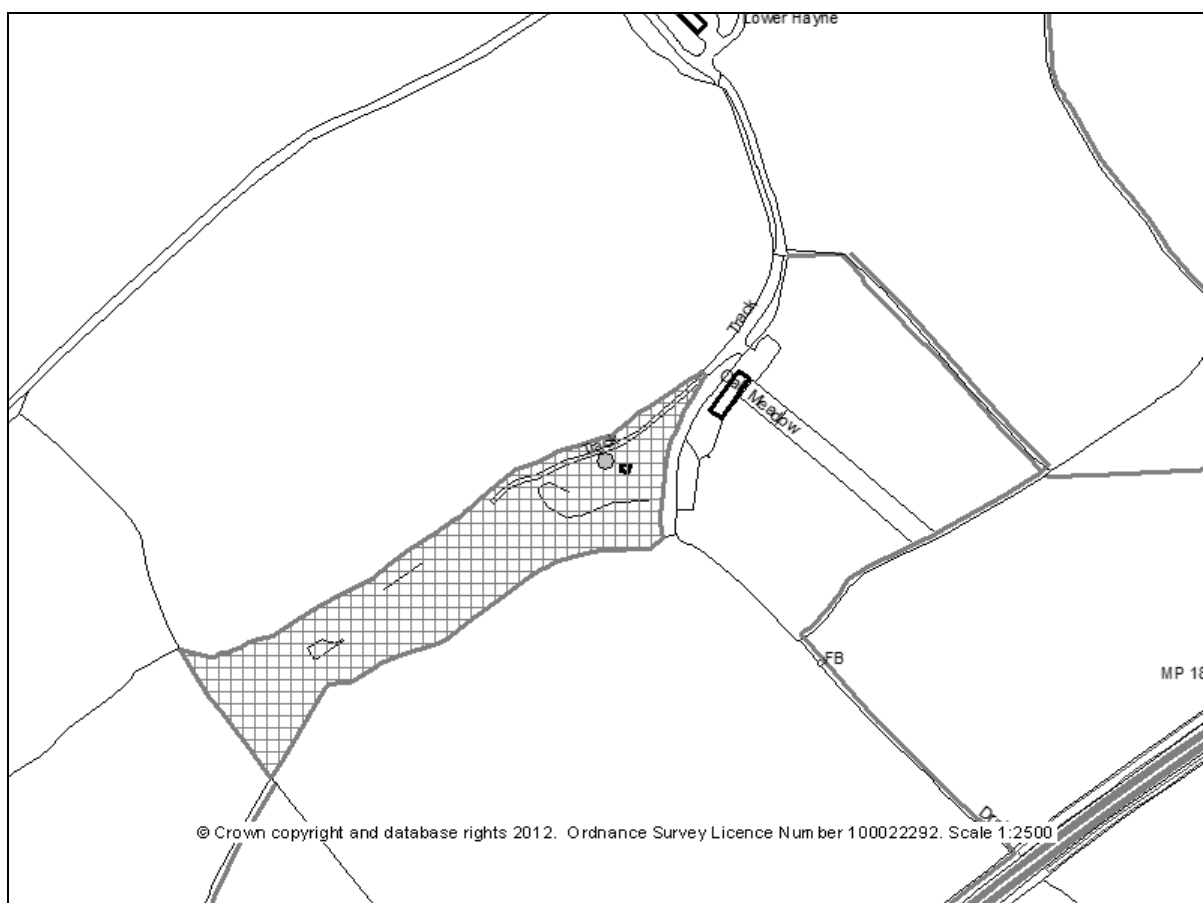
Grid Ref: 296570 : 101388

Applicant: Ms A Perrot

Location: Oak Meadow
Silverton
Exeter
Devon

Proposal: Siting of 1 mobile home, 2 motor homes and a compost w.c.

Date Valid: 1st February 2017



REPORT OF THE HEAD OF PLANNING AND REGENERATION

16/01830/FULL - Provision of 2 additional pitches to provide 1 x additional travelling showperson's pitch and 1 x dependent relatives pitch, erection of a wooden decked entrance to caravan and erection of a compost toilet - Oak Meadow, Silverton, Devon, EX5 4HE

Reason for Report

Councillor Roach has called this application into Planning Committee for the committee to consider the suitability of the site to accommodate additional pitches, impact on the highway and to assess the travelling showperson status of the proposed occupants.

RECOMMENDATION(S)

Planning Permission granted subject to conditions as set out in this report.

Relationship to Corporate Plan

Managing the environment

Financial Implications

Should the application be refused and appeal submitted to the Planning Inspectorate there is a risk of an award of costs against the Local Planning Authority if it were found to have behaved unreasonably.

Legal Implications

The refusal of the application, or failing to comply with the planning conditions imposed on any grant of planning permission would result in Enforcement action being undertaken.

Risk Assessment

None identified.

Consultations carried out with

1. Highway Authority
2. Silverton Parish Council
3. Environment Agency
4. Environmental Health

Representations received

13 letters of representation received. The comments received are summarised below.

- Area is prone to flooding;
- Infrastructure in the surrounding area is inadequate to accommodate further traffic;
- The expansion of the site will have a detrimental impact on nearby residential properties;
- Increased chance of collisions due to state of highways in the local area;
- Hayne Lane is too narrow to accommodate additional traffic;
- There is an 8ft width restriction on the lane which will make access into the site with the proposed caravan difficult;
- Additional noise and air pollution associated with generators;
- Site is unsuitable for development;
- The application does not meet policy requirements;
- Impact on the open countryside;
- Lack of mains facilities makes the site unsuitable to care for others;
- Concerns regarding composting toilets for the occupants;
- Increase in refuse and recycling;
- Difficult to access by emergency services;
- Proposed mobile home should not be on a concrete base;
- Proposed occupants already live on site;
- Concern that surface water run off from the site will contaminate nearby watercourses;
- Wildlife on the site should not be disturbed;
- There are limited passing places on Hayne Lane for pedestrians and vehicles to pass;
- Concern about impact on views from permissive bridleway on the Killerton Estate;
- Impact on Killerton estate has not been assessed

1.0 Proposed Development

- 1.1 The application seeks planning permission for the provision of two additional pitches on the site. One additional pitch for a travelling show person (and family) and one pitch for dependent relatives of the permitted occupants of the site.
- 1.2 The site currently has planning permission for one pitch for a travelling show person which was granted in 2013. The approved pitch is occupied. The proposed development, if approved would result in a total of three pitches on the site, two for travelling show people and 1 for the dependent relatives of the existing permitted occupants of the site.
- 1.3 The new travelling show persons pitch is proposed to consist of two motor homes and the pitch for the dependent relatives would consist of a mobile home. The accommodation proposed to be sited on each of the additional pitches is stated to be in accordance with the definition of a caravan.
- 1.4 The application also proposes the erection of a composting toilet and the erection of a timber access deck which would be physically attached to the outside of the proposed mobile home.

2.0 APPLICANT'S SUPPORTING INFORMATION

Planning Statement
Plans and elevations
Soft landscaping plan
Percolation test results
Mobile home specifications
Foul drainage assessment
Grey water tank
Wildlife checklist
Traffic generation Assessment
Confidential information relating to personal circumstances

3.0 PLANNING HISTORY

Change of use of land from agriculture to 1 pitch to accommodate a Traveller family and 1 pitch for mobile horticultural business
Ref. No: 09/00340/FULL | Status: Application Withdrawn
Erection of 1 polytunnel and shed
Ref. No: 09/01501/FULL | Status: Application Permitted
Erection of 1 polytunnel, shed, compost toilet and construction of a track
Ref. No: 09/01503/FULL | Status: Application Permitted
Change of use of agricultural land to allow the construction of 2 yurts for use by one gypsy and traveller family (Revised Scheme) APPEAL DISMISSED 28.06.11
Ref. No: 10/00334/FULL | Status: Application Refused
Change of use of land to one pitch for a travelling show/circus family and the laying of an access track
Ref. No: 13/01115/FULL | Status: Application Permitted
Siting of 1 mobile home, 2 motor homes and a compost w.c.
Ref. No: 16/01830/FULL | Status: Pending Consideration

4.0 CONSULTATIONS

HIGHWAY AUTHORITY -8th May 2017 -

Observations:

Further to the Highway Authority's original comments and in response to the queries into the validity of the traffic figures, The Highway Authority has been in discussion with the Applicant and the planning officer and the applicant has submitted a number of assessments culminating in a submission dated 27th April which the Highway Authority considers would reflect a more realistic the usage by the applicants..

This indicates that over the existing consented development the proposed development would generate an additional average 2.1 movements per day by vehicles. While this figure is an increase in traffic the quantum of the increase would not be considered as severe over that of the consented development and would still be considered as a reasonable traffic generation for an agricultural field.

Therefore subject to the Planning Authority being able to condition any consent to the personal use of the named applicants and there status of travelling show persons being accepted by the Local Planning Authority, the Highway Authority would withdraw its objection.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF
DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY

1. This permission shall ensure for the benefit of the applicants only

REASON: In granting this permission the Local Planning Authority has had regard to the applicant's special circumstances

In their comments as submitted on 10th April 2017 the Highway Authority had recommended refusal for the following reason:

1. The road giving access to the site is by reason of its inadequate width, poor horizontal alignment, junctions, are considered unsuitable to accommodate the increase in traffic likely to be contrary to paragraph 32 of the National Planning Policy Framework.

SILVERTON PARISH COUNCIL - 15th March 2017

The Parish Council recommends refusal of the above application on the basis that the site already accommodates a number of vehicles and the lane is not suitable for additional traffic. The Parish Council also feels the site is not suitable for additional living accommodation.

ENVIRONMENTAL HEALTH -

9th February 2017

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Environmental Permitting - N/A

Drainage - Due to the numbers of persons moving onto the site I am not happy with the use a composting toilets and I would recommend that a more sufficient drainage system/treatment plant is installed.

Further information is required on the location of the borehole in relation to the siting of the composting toilets and the storage/use of the old compost. This information is required before I can make a recommendation.

Noise & other nuisances - no objection to this proposal.

Housing Standards - Any accommodation that is to be lived in as a main residence needs to comply with the principals of the Housing Health and Safety Rating System, as defined by the Housing Act 2004. Please contact the Private Sector Housing Team for more information.

Licensing This site will need to comply with the requirements of the Caravan Sites and Control of Development Act 1960. NOTE: First Schedule - Cases where a Caravan Site Licence is not required - S10. <http://www.legislation.gov.uk/ukpga/Eliz2/8-9/62/schedule/FIRST>. Food Hygiene Not applicable

Private Water Supplies

Informative note

No record is held for the proposal address. However, if a private supply is to be used by more than one property it would be classed as a Regulation 10 small supply, unless a commercial element is involved when it would be classed as a Regulation 9 supply under The Private Water Supply (England) Regulations 2016. In either circumstance 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.

Please contact Public Health at Mid Devon District Council on completion of proposal.

Health and Safety - no objection to this proposal.

ENVIRONMENT AGENCY -

Operational development less than 1ha within Flood Zone 1. No consultation required.

5.0 MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main material considerations in the assessment of this application are:

- **Policy**
- **Sustainability of the site and its location including highway implications**
- **Need and availability of gypsy and traveller and travelling show person pitches in Mid Devon**
- **Personal circumstances**
- **Additional structures proposed**
- **Other matters including drainage, visual impact**

5.1 Policy

The Development Plan in force consists of the Mid Devon Core Strategy (Local Plan Part 1), Mid Devon Allocations and Infrastructure Development Plan Document adopted in October 2010, and the Local Plan Part 3 (Development Management policies) adopted October 2013. The Development Plan sets out the following policies in respect of Gypsy/Traveller sites and development in the countryside:

The Mid Devon Core Strategy (Local Plan Part 1), in its Policy COR1, sets the distribution of new development to meet sustainability objectives; with Policy COR12 concentrating development principally on the 3 main towns within the District and Policy COR9 seeking to ensure that new development reduces the need to travel by car.

5.1.1 Development outside recognised settlements is further strictly controlled by Policies COR13 to COR 17: Policy COR18 ('Countryside') provides a list of appropriate rural developments which are subject to detailed criteria- based development control policies, and which are set out more fully in policy AL/DE/7.

5.1.2 Policy AL/DE/7 of the Mid Devon Allocations and Infrastructure Development Plan Document sets out the situations in which applications for private gypsy and traveller pitches will be permitted. It states that pitches will be permitted provided that the need cannot reasonably be met on another site within Mid Devon which has consent or is allocated for gypsy and traveller pitches, that the site is within 30 minutes travel by means of public transport, walking and/or cycling of a hospital and secondary school and that occupation is limited to those meeting the definition of Gypsies and Travellers in the relevant national policy - currently Planning Policy for Traveller Sites (PPTS).

5.1.3 Policy DM2 of Local Plan Part 3 (Development Management Policies) refers to development proposals involving the construction of new buildings seeking to achieve energy and water efficiency and overall sustainable design.

5.1.4 Relevant Government Guidance in this instance is the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites (PPTS). The NPPF states that it should be read in conjunction with the PPTS and the PPTS states that its aim is to 'ensure the fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interest of the settled community'. There is a further government document 'Designing Gypsy and Traveller sites; good practice guidance' which has been considered in relation to this site.

5.1.5 The PPTS states that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. It goes on to say 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 and this planning policy for traveller sites.

5.1.6 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 they should determine applications for sites from any travellers and not just those with local connections

5.1.7 It also requires that when considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children
- d) not 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

These matters are therefore considered below.

5.2 Sustainability of the site and its location including highway implications

5.2.1 In terms of the location of the site, policy COR18 specifically states that sites for occupation by persons falling within the definition of a 'gypsy or traveller' are acceptable in principle in the open countryside.

5.2.2 Since that time, the Authority has adopted its Allocations and Infrastructure Development Plan Document (DPD), including policy AL/DE/7 as described in the policy section of this report. The Inspector's report into the soundness of this document found that the policy acts appropriately with the other allocations in the DPD to manage the location and impact of the required pitches and that the requirement that sites must be within 30 minutes non-car travel time from a hospital and secondary school is reasonable in the context of the District and consistent with sustainability principles.

5.2.3 The nearest hospital (with an accident and emergency department) is in Exeter and the nearest secondary school is understood to be in Broadclyst. As buses to Exeter leave Silverton fairly frequently and school transport is provided to secondary school it is considered that the application can meet the requirements of policy AL/DE/7. There is a Primary School in Silverton which is a couple of miles from the site. An Inspector has previously concluded that occupiers of the site could access the Primary School without the use of a private vehicle.

The sustainability of the site must also be considered alongside the other material considerations to be taken into account assessing the current application.

The Highways Authority were consulted on the application and originally recommended

refusal of the application following concerns about the additional traffic on Lower Hayne Lane that is considered to have a substandard nature due to width and alignment and potential conflict between vehicles and pedestrians as well as visibility concerns at the junction of Lower Hayne Lane and the C417. However, following the receipt of a revised report relating to the calculation of proposed trip generation from the site they have recommended that the application be approved. The Highway Authority have concluded that the additional 2.1 trips per day that would be generated from the additional pitches on the site is acceptable and would not have a severe impact on highway safety. The second planning Inspector who reviewed the site likened the traffic generation from the site to that of a continued agricultural use of the site. The Highway Authority have stated that the additional 2.1 movements per day from the site would not result in traffic generation that would be significantly different to a continued agricultural use of the site. In order to limit the number of traffic movements from the site a condition is suggested that would limit the number of road-going vehicles that are operated from the site, following an approach that was taken on a travellers site elsewhere in the country.

Although the substandard nature of Lower Hayne Lane and the junction with the C417 is acknowledged by the Highway Authority and the Local Planning Authority, taking into account the limited additional movements from the site, the Highway Authority have not objected to the proposed development. The Highway Authority have concluded that the proposed development would have an acceptable impact on the highway and is therefore in accordance with policy DM2 Local Plan Part 3 (Development management Policies).

5.3 Need and availability of gypsy and traveller and travelling show person pitches in Mid Devon

5.3.1 Although the site has been considered to be acceptable in terms of sustainability, the LPA have considered the need for and current levels of supply of pitches in the district. The latest Gypsy and Traveller Accommodation Assessment (GTAA) was carried out in 2014 and demonstrates the need across the district until 2034. This assessment forms the evidence base for the Local Plan Review which was submitted to the Government in March 2017 and which is currently awaiting public examination. The 2014 GTAA indicates that in Mid Devon there is an additional need of 35 pitches between 2014 and 2034, please refer to the table below:

Twenty year Gypsy and traveller pitch needs summary 2014 - 2034							
	Base numbers 2014	Additional need 2014-2019	Additional need 2019-2024	Additional need 2024-2029	Additional need 2029 - 2034	Additional need 2014-2034	Numbers as at 2034
Mid Devon	53	15	6	7	7	35	88

Twenty year travelling show person pitch needs summary 2014 - 2034							
Mid Devon		5		6		11	

5.3.2 The LPA have made provision for previously identified need for gypsy, traveller and travelling showperson pitches within allocated sites in the AIDPD, however the latest GTAA indicates that further provision is required as identified in the table above. The AIDPD aimed

to meet the strategic requirement for Gypsy and Traveller pitches through allocation of specific sites, including through the Tiverton Eastern Urban Extension and the north west extension of Cullompton. Parts of the Tiverton EUE have progressed to outline application stage, however progress has been slower than expected or desired and there is currently no certainty regarding the timeframe for the provision of the gypsy and traveller pitches that are required as part of this development. Likewise, recently two outline planning permissions have been received with regards to the north west Cullompton development area. These applications are at a very early stage in the planning process and there is no indication of the timeframe within which the policy allocated gypsy and traveller pitches may be provided.

5.3.3 Policy AL/DE/7 states Gypsy and Traveller sites in the open countryside should only be permitted where allocated sites will not be available to the prospective occupiers in a reasonable timescale. These same allocated sites were referred to during the earlier planning and enforcement appeals relating to the site. The need within the district was not specifically referred to when the 2013 application for a pitch for a travelling show person was considered as the site is considered to be sustainable. However, since that time the latest GTAA has been produced which has indicated that there is now a greater need for gypsy, traveller and travelling show person sites in Mid Devon. Although this application would only provide one additional travelling show person site, it would assist in a small way to the provision of additional pitches in Mid Devon.

5.3.4 Although the site is considered to be sustainable and capable of accommodating the 2 additional pitches proposed it should be noted that since the 2013 permission was granted for a travelling show person pitch on the site none of the allocated sites within the AIDPD have been developed and therefore no additional pitches have been provided. Neither has Mid Devon District Council met the policy aspiration of providing a public site for Gypsy and Traveller pitches (AL/DE/8). The LPA are unaware of any alternative sites within the district that may be available to the applicant's now or in the near future. The ongoing uncertainty regarding the timescale of the provision of the currently allocated sites is compounded by the 2014 GTAA which identifies additional need within the district.

5.4 Personal circumstances

5.4.1 The Appeal Inspector for appeal 11/00107/NUCU accepted that the site is acceptable as a traveller site, however, they concluded that the applicant had not demonstrated that she was a traveller. In 2013 the applicant applied for a pitch on the land as a travelling show person and permission was granted. Since this time the definition of gypsies, travellers and travelling show people has been amended. The definition of a travelling show person for the purposes of planning policy means:

Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers as defined above.

5.4.2 The applicant has not indicated that her way of life has changed significantly since the grant of planning permission in 2013. The applicant still claims to be a travelling show person.

The permission granted in 2013 under reference 13/01115/Full permitted the applicant to live on the site with her dependents.

5.4.3 One of the pitches proposed in the current application is proposed to provide accommodation for the elderly and dependent parents of the applicant who for health

reasons are no longer able to live completely independently and are going to require additional care (Sue Perrot and Peter Perrot). Mr and Mrs Perrot do not fit within the definition of gypsies, travellers or travelling show people. They are considered to be dependents of the applicant. If there were sufficient accommodation on the site to provide for Mr and Mrs Perrot, as dependent relatives, it is considered that they could live on the site in accordance with the previous grant of planning permission. The applicant wishes to provide the care required by her parents and as her existing accommodation on the site is not adequate to provide suitable living space for her dependents an additional pitch, to contain a mobile home, has been proposed. The mobile home is stated to fall within the definition of a caravan. The mobile home would be accessed via timber steps that would be attached to the outside of the caravan. It is proposed to construct a new compost toilet on the site to serve this additional pitch.

5.4.4 Personal information pertaining to the health and care requirements of the applicant's parents has been provided in support of the application. Mr and Mrs Perrot are unable to continue with their lifestyle as continual cruisers on a canal boat. These dependent relatives were not living on the site when the case officer last visited the premises.

5.4.5 The second pitch proposed on the site is for a second travelling show person family consisting of the applicant's sister and partner and their son (Nina Perrot and Nick Van der Kolt). This family group are already living on the site. The proposed pitch would consist of two motor homes that would be sited on pad stones. Parking is to the north and close to the entrance of the site. The occupants of this pitch would have use of the existing compost toilet.

5.4.6 Information has been submitted with the application to explain the employment history of Nina Perrot and Nick Van der Kolt. This confidential information includes letters from a number of people and companies who have employed the couple over the years. Their work has been varied and has included a significant number of employments within the festival and show circuits. There is a greater level of information regarding the working history and pattern of Nick Van der Kolt due to family circumstances with regards to caring for their son. It is understood that the couple's son is enrolled at a local Secondary school and is able to attend regularly.

5.4.7 As well as requiring a site upon which to live when not travelling for work, Nina Perrot and Nick Van der Kolt wish to remain living on the site in order to share the care responsibilities of Mr and Mrs Perrot with the applicant.

5.4.8 The LPA consider that Nick Van der Kolt complies with the definition of a travelling show person within the DCLG 'Planning Policy for Traveller Sites', as amended in 2015. The Local Planning Authority consider that Nina Perrot has been a dependent of her partner in recent years due to the requirement to provide childcare but acknowledge that she has continued to travel for work with her partner.

5.4.9 Planning policy for travellers sites (para 11) states that Traveller sites should be 'sustainable economically, socially and environmentally' and therefore ensure that Local Planning Authority policies 'promote peaceful and integrated co-existence between the site and settled community...ensure that children can attend school on a regular basis...provide a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment...reflect the way in which traditional lifestyles can contribute to sustainability.'

5.4.10 It is understood that the children that currently live on the site regularly attend either primary or secondary school in the local area and in this regard the families established an integrated co-existence with the settled community. There has been a number of objections

to the current proposals to expand the number of pitches on this site to a total of 3. The majority of these objections refer to concerns regarding the impact on local highway from additional traffic movements as well as impact on visual amenity of the area. The PPTS states that 'Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.' Although two additional pitches are being sought, it is considered that the provision of a total of 3 family pitches would not have a dominating impact upon the settled community in the area or place undue pressure on local infrastructure. The objections do not suggest that the development on the proposed site to accommodate 3 family pitches would be out of scale with the surrounding settled community and due to the distance from nearby properties is not considered that the 3 pitches would have an adverse impact on the amenity of occupiers of nearby properties.

5.4.11 Personal mitigating information has been submitted relating to the need for two additional family pitches on this site and this has been taken into account when considering the proposed development. It has been concluded that the personal circumstances information relating to family members does add weight to the planning merits of the application.

5.4.12 Should the development be refused and Nina Perrot and Nick Van der Kolt are required to vacate the current site and re establish a base for the family elsewhere, there would be an adverse impact on their child's education as they have become settled within the community, there is also currently no other sites within Mid Devon to accommodate the family. As there are broader family circumstances to be taken into account when assessing this application it is considered reasonable and justified for the Local Planning Authority to impose a personal condition restricting the occupation of the additional pitches on the site to the proposed occupants as stated in the supporting planning statement.

5.4.13 The personal permission would restrict the occupation of the two additional pitches to:

- Mrs Sue Perrot and Mr Peter Perrot;
- Miss Nina Perrot, Mr Nick Van der Kolt and their dependents.

5.5 Additional structures proposed

5.5.1 The application includes the erection of a composting toilet on the site to serve one of the two additional pitches. There is already one composting toilet on the site. The composting toilet proposed is a small structure that would have a limited impact on the overall appearance of the site. It would be 2.7m high, 1.9m long and 1.7m wide. The general appearance of the compost toilet is similar to that of the existing, the toilet is accommodated within the modest sized timber structure. It is not considered that the structure will be highly visible or intrusive in the landscape.

5.5.2 In order to access the mobile home that would be occupied by Mr and Mrs Perrot, it is proposed to provide external timber steps on three of the elevations of the mobile home. The specification details submitted as supporting information with the application suggests that a small timber walkway would be provided at one end of the mobile home. The Local Planning Authority consider that this aspect of the mobile home would not fall within the definition of caravan and as such has been considered as a separate structure that would be fixed to the outside of the mobile home. The timber steps and walkway are considered to be acceptable as they would not be highly visible as an addition to the mobile home.

5.5.3 These additional structures are considered to be acceptable for the reasons described above and in accordance with policy DM2 Local Plan Part 3 (Development Management Policies).

5.6 Other matters including drainage, visual impact

5.6.1 Foul and grey water drainage - The application states that foul and grey water will be managed on site. Foul sewage will be managed by the 2 compost toilets. The grey water will be dealt with separately from the two additional pitches. The grey water from the motor homes is proposed to be fed through a peat filter and into a tank. The water in the tank is then able to be used on site to water plants etc. the system has been designed to accommodate the grey water produced by the family each day. Percolation tests have been carried out on the site and indicated that the soil has adequate drainage capacity. The grey water from the mobile home is proposed to be connected to a reed bed system, through which wetland plants take up phosphorous and nitrogen and transfers oxygen to roots that breaks down pollutants and organic matter. The plants are set in a gravel mulch layer that filtrates food particles and fine sediments. The clean water is channelled either into a pond or into soakaways.

5.6.2 Surface water drainage - due to a lack of hard or impermeable surfaces the surface water from the site is from roofs of the caravans and ancillary structures only. Surface water from the motorhomes will be directed onto the permeable surface on which the caravans are to be sited and surface water from the mobile home will be collected in water butts and any overflow will be directed to soakaway into the permeable surface on which the mobile home will be sited.

5.6.3 Environmental Health have raised concerns about the provision of two composting toilets on the site and proximity to the bore hole. Further information has been sought from the Agent regarding this matter and updated information will be provided to the Committee.

5.6.4 The Environment Agency have provided standing advice on this application which states that in flood zone 1 a change of use to a highly vulnerable use (this includes caravans for habitable use) does not require any consultation with the EA. Consequently it is considered that subject to conditions requiring that suitable surface water and foul drainage is in place prior to occupation, there are no grounds to refuse the application with regards to drainage.

5.7 Visual impact - Concern has been raised that the provision of two additional pitches on this site would have an adverse impact on the visual amenity of the surrounding rural area and on the setting of the Grade II* listed park and garden of the Killerton estate. The site sits fairly low in the landscape and the boundaries of the site are a mixture of trees and hedging. Since permission was granted in 2013 for the existing travelling showpersons pitch a number of additional trees have been planted on the site. There are no views into the site from Hayne Lane. A limited view into the site is possible through the entrance if continuing down Hayne Lane to connect to the public footpath that passes close to the site and continues in an easterly direction toward the river and Killerton beyond. There are no clear views into the site from this public footpath, in fact there is an intervening land use between the public footpath and the application site that is clearly visible and which mostly prevents any view into the application site beyond.

There is a permissive bridlepath and footpath on the western edge of the Killerton estate from which it is possible to look toward properties Lower Hayne, Hayne House and the equestrian/agricultural use adjacent to the application site, as well as toward the application site itself. However, although this popular footpath/bridleway is slightly elevated above the application site, due to the density of vegetation on the boundaries of the application site the residential and horticultural activity on the site is not visible from this vantage point during spring or summer. Although the proposed development would increase the residential activity on the site and this represents an incremental change to the character of the site,

plus it is unlikely that the soft landscaped screening would provide such a complete visual screen of the site in the winter months, it is not considered that the proposed development on the site would have a significant detrimental impact on the visual amenity of the area or on the setting of the listed Killerton Estate. With regards to visual impact, the development is considered to be in accordance with policies DM2 and DM27 Local Plan Part 3 (Development Management Policies).

6. Planning balance and Summary

6.1 Local Planning Authorities, as public bodies, are subject to duties imposed by the Human Rights Act 1998 and are therefore required to act compatibly with the rights conveyed by the European Convention on Human Rights (ECHR), which was enacted by the Human Rights Act 1998.

In particular, Article 8 of the Convention provides that:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

6.2 These rights would be engaged should the application be refused. Article 8 relates to the right to respect for private and family life and as conferred in legal judgements, implies a balancing exercise at Article 8(2) to be weighed against the wider public interest.

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 site shall not be occupied by persons other than:
Miss Adele Perrot and her dependents
Mr Peter Perrot and Mrs Sue Perrot
Miss Nina Perrot, Mr Nick Van der Kolt and their dependents.
4. This permission shall only authorise the use of the application site for the stationing thereon of 3 x motor home, 1 x towable caravan (touring type), 1 x mobile home which comply with the definition of "caravan" in Section 29(1) of the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (and as amended by the Caravan Sites and Social Landlords Act 1968 (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 shall be stationed on the site at any time.
5. If the site is no longer required for the permitted use by Miss Adele Perrot or her dependents, Mr Peter Perrot, Mrs Sue Perrot, Miss Nina Perrot or her dependents or Mr Nick Van der Kolt, then any caravans or vehicles associated with the pitches shall

be removed from the site within 6 months along with ancillary buildings or structure, and the site restored to a condition in accordance with a timetable to be agreed in writing by the Local Planning Authority.

6. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Class A of Part 2 of Schedule 2, relating to fences, walls, gates and other means of enclosure, shall be undertaken within the application site without the Local Planning Authority first granting planning permission.

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. The Local Planning Authority is not satisfied that the application site could adequately accommodate travelling show people and their chosen type of business on an unrestricted basis in terms of the potential impact on the local highway network or potential impact on the landscape character or visual amenity of the area. However as the existing and proposed residents occupation of the site is considered to be acceptable, the imposition of a personal consent is considered to be appropriate and to comply with national planning policy for travellers sites, Policy AL/DE/7 of the Allocations and Infrastructure Development Plan Document and Policy DM2 Local Plan Part 3 (Development Management Policies).
4. For the avoidance of doubt and to concur with the nature of the proposal having regard to the submitted details and to enable the Local Planning Authority to retain control over any possible future development of the site in accordance with Policy COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy AL/DE/7 of the Allocations and Infrastructure Development Plan Document (Local Plan Part 2).
5. To ensure the site is restored to its pre-development state, given its location in the countryside in accordance with Policy DM2 Local Plan Part 3 (Development Management Policies).
6. To safeguard the visual amenities of the area in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The applicant and her family currently lawfully occupy the site. The applicant's sister and family are also currently living on the site. The applicant's parents do not currently live on the site. The applicant's parents if living on the site would become the dependents of the application, the care of which would be shared between the applicant and her sister. The applicant's sister and partner have been found to meet the definition of travelling show people as set out in the 2015 amended PPTS. The site is considered to be an acceptable location for a travelling show persons site and there is permanent permission for a single travelling showpersons pitch on the site (restricted to occupancy by the applicant and her dependents). It is considered that the proposed development would have a limited impact on the visual amenity of the area or on the setting of the listed park and garden of the

Killerton estate. The applicant and her family have become integrated with the local community and all the children present on the site regularly attend school. Additionally the Council has not sufficiently progressed with the provision of a public gypsy and traveller site nor with the provision of gypsy and traveller sites through the delivery of development of allocated sites. As a result the Council has no alternative site within the district upon which the applicant's sister could be accommodated now or within a reasonable timescale. On balance it is considered that the needs for the provision of two additional pitches on this site outweigh any harm associated with the impact on the highway and any limited harm to the visual amenity of the area. Therefore it is recommended that planning permission is approved. As the needs of the application refer to the requirement to provide accommodation for dependent relatives of the applicant and the second travelling showperson pitch is also related to the provision of accommodation to provide care and assistance to these dependent relatives, it is considered appropriate to impose a personal permission on the site that ensures that the two additional pitches are occupied by the family members stated within the application supporting documents. Taking into account all material considerations the application meets with the requirements of Policies COR1, COR9, COR12 and COR18 of Mid Devon Core Strategy (Local Plan Part 1), Policy AL/DE/7 of the Allocations and Infrastructure Development Plan Document and Policies DM2 and DM27 of Local Plan Part 3 (Development Management Policies).

Author and Contact for any more information

Miss Lucy Hodgson Tel 01884 234905

Background Papers

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Circulation of the Report

Cllrs Richard Chesterton
Members of the Planning Committee