

BROADCLYST  
(Rockbeare)

09/0660/MFUL

Target Date: (06.08.2009)

Applicant:

M Smith-Bendall

Location:

Former Nursery North and West of the Grange  
London Road  
Whimble  
Devon

Proposal:

Change of use of land to form gypsy site involving 20 permanent residential pitches and ancillary day rooms and 10 transit pitches together with shower block, formation of new access road, internal driveways, vehicles parking areas, on-site sewage treatment plant and retention of associated engineering works

## **CONSULTATIONS**

### Gypsy/Traveller Liaison Officer

I can confirm that I have been on a site visit to the proposed site and a meeting with the applicant.

From a health and welfare point of view the creation of pitches for the Gypsy and Traveller population across Devon would be welcomed. However I don't feel that I could comment on the number of proposed pitches. I would suggest that government guidance would decide the number of permanent and transit pitches, which is the following:

Transit – a local need of 5 transit pitches as prescribed by the Regional Spatial Strategy.

Permanent – Guidance at central government level suggests that around the 12-15 as a maximum would be most effective for a site to run.

### County Highway Authority

19.05.09

The application area plan, at the highway access, appears to incorporate sight lines that are not under the control of the applicant and therefore the application, as it stands, is in capable of being implemented.

Recommend Refusal

03.07.09

The revised application plan now shows the works proposed to provide the sight lines, together with the removal and alignment of the banks and hedges adjoining the access are now contained within land that is within the control of the applicant.

The geometry of the access proposed, provided that the sight lines are provided in complete accordance with the application drawings, is adequate to serve the proposed development.

It is therefore recommended that conditions are imposed to safeguard the construction of the access in accordance with the application drawings.

## Police Architectural Liaison Officer

05.06.09

Devon and Cornwall Constabulary has no objections to the granting of planning permission for this site but I would like to make the following comments:

- The Department for Communities and Local Government document 'Designing Gypsy and Traveller Sites' (May 2008) recommends a maximum site size of 15 pitches. This is quoted as creating a 'comfortable environment which is easy to manage'. In line with this comment I would recommend that the number of pitches at the site is reduced accordingly.
- Each pitch should be clearly demarcated with a fence no taller than 1.2m. At the rear of the pitch a fence of 1.8m will be required to secure the amenity buildings and maintain privacy. It should be very clear where public space ends and private space begins and a good defensible space for each pitch is essential.
- The combination of children and large numbers of vehicles in a confined space raises issues of safety. Mechanisms such as speed bumps situated throughout the site will ensure vehicle speed is kept low.
- Communal areas which have no apparent purpose should be avoided as they can attract fly tipping and vandalism as well as unauthorised vehicles. The large area between the transit and permanent pitches is such a space and the design of this needs to be carefully considered. The access to the site also needs to be well-designed to prevent unauthorised vehicles settling at the roadside.
- I would recommend that the day room buildings achieve the minimum security standards as required by the Secured by Design certification. This will help to achieve a safe and sustainable community, especially if there is the possibility of a fluid population over time. Although there is no Secured by Design specifically covering Gypsy and Traveller sites, there are elements with regard to the layout, boundary treatment, access and building design which should be incorporated into the site.
- The site boundary should be robust and must provide clear demarcation of the perimeter of the site however high metal fencing will create a fortress mentality and should be avoided unless absolutely necessary. In accordance with The Department for Communities and Local Government document 'Designing Gypsy and Traveller Sites' (May 2008) I would recommend controlled access to the site such as a lockable gate which could be used should the need arise. Access control can 'prevent unauthorised parking and unauthorised caravans being pitched on the site'. However, it is also recognised that the gates can act as a psychological barrier and therefore may not be used.
- The Design and Access statement mentions 24 hour CCTV coverage. An Operational Requirement for the system should be written outlining the location of the cameras and the size of the image recorded. Devon and Cornwall Constabulary would be more than happy to assist further with this aspect.
- The Design and Access statement also states that 'CCTV will provide coverage of the site which will be monitored and recorded by security personnel 24 hours per day', however there is no mention of where this monitoring will take place from and whether there will be an on-site security office. It would be preferable for security to be situated on-site as this will assist with the day to day management and help ensure that unauthorised vehicles are not using the site causing problems for the established community.
- Any site security office should be easily identifiable, situated as close to the entrance as possible, while ensuring good all round visibility.
- The storage and removal of rubbish needs to be clarified.
- Lighting throughout the site should be to the appropriate standard.
- There should only be one access road into the site. This will help prevent the site being abused by unauthorised vehicles.
- If this planning application is successful there should be no prospect of the site being extended. Adding pitches at a later date disturbs the community and could cause conflict.

## Environment Agency

29.05.09

Flood Risk

While the whole of the site is located in "Flood Zone 1: Low probability of flooding from rivers and sea" on our currently published maps we hold a good record of the lower part of the site flooding in 1972. Given the proposed usage is classified as "highly vulnerable" under the terms of PPS25, Table D.2, we recommend that this proposal be either held in abeyance or refused pending the submission of a flood risk assessment (FRA) to determine the extent of any areas at risk of flooding. We will aim to ensure that any areas deemed to be at risk of flooding in an FRA should be kept free of all inappropriate development and raising of ground levels.

If the applicant can provide an FRA which is acceptable to us and we are in a position to remove our objection, then we request conditions and an informative to be applied to any grant of permission.

### Impact on Watercourse

It is not clear how near the watercourse (at the south of the site) is to the proposed pitches. If they are within 7m of the watercourse, the proposed development will only be acceptable if a planning condition is imposed requiring a scheme to be agreed to protect the buffer zone around the watercourse.

### Groundwater

We have no objections on groundwater terms, however, would request that an informative should be included should the proposal get to a stage where approval may be granted.

17.08.09

The Flood Risk Assessment has confirmed that parts of the site bordering the watercourse were liable to flood but that the recent earthworks have resulted in raising of ground levels in areas that should be properly zoned as Flood Zone 3b, 3a and 2. It is important these areas, shown hatched on Drawing no. 4, are returned to their former ground levels and are able to flood freely as conditions in the watercourses dictate. Failure to achieve this will result in an increase in flooding risks off site, principally downstream. Given the recent flooding of residential property in the centre of Rockbeare downstream it is important that this work be carried out at the earliest opportunity.

In line with the above, the proposed development should be revised to show development only in areas zoned as Flood Zone 1 in the FRA. Floor levels should be established at least 600mm above the 1 in 1,000yr water (with an appropriate allowance for climate change). While the FRA specified a floor level (para. 3.4.1) of 35.00 mod. This is for the downstream end of the site only. They have not been satisfactorily specified for the middle and upstream end of the site.

In addition to the above it is important to recognise that the development site covers 2.7 ha. The proposed changes in land use will potentially result in significant changes in surface water runoff. While this is touched upon in the FRA (para 1.3) more is required regarding the management of surface waters to ensure third parties downstream can be reassured that they will not be adversely affected by the proposal.

At present the FRA is unacceptable on the grounds;

- a) That it has not specified floor levels satisfactorily and
- b) That it has not addressed issues relating to management of surface water runoff satisfactorily.

Given all of the above we must now recommend refusal of the proposed development on the grounds that in its present form it encroaches into areas that are liable to flood and will result in an increase in flooding risks for third parties.

01.09.09

An addendum to the Flood Risk Assessment (FRA) was received on the 20<sup>th</sup> August 2009.

This document is acceptable insofar as it promotes a scheme to manage surface water that may work given satisfaction on certain points of details. We can confirm that the approach to the management of surface waters promoted in the Addendum is acceptable to us but we will in due course need to see full details of the scheme for our approval. It appears reasonable in this instance that this aspect could be satisfactorily dealt with by a suitably worded planning condition if the Council wish. Alternatively they may wish to ask for a fully detailed scheme to manage surface waters prior at this stage.

Our concerns outlined in paragraph 3 of our letter dated 14<sup>th</sup> August have still to be resolved.

01.10.09

We have been sent a revised site plan from Michael Harrison and a document from Rockbeare Parish Council to comment on.

Re: Michael Harrison email dated 30<sup>th</sup> September 2009

The submitted site plan, Drawing Number P0905/104A, indicates the relocation of building on plots 15-17 to land within Flood Zone 1. This is good. However, the drawing does not appear to indicate the ground levels will be reduced on the site to the former levels shown on SLR drawing 2779.00001.3 and dated July 2009. Clearly we must be satisfied that the original ground levels will be restored on the site as set out in our letter dated 28<sup>th</sup> May 2009 to the Council. We look forward to hearing from the agent on this aspect.

Re: Parish Council concerns highlighted in email dated 5<sup>th</sup> September 2009

We have advised East Devon District Council in our letter dated 28<sup>th</sup> August 2009 that the details of the surface water management scheme could be dealt with by a suitably worded planning condition and in line with the recommendation made by the consulting engineers, SLR. If the Council are not happy with this approach they can require the applicant to submit a fully detailed scheme that addresses any detailed concerns regarding scheme performance.

Further response 01.10.09

Further to my letter of 1<sup>st</sup> October 2009 and the response to Michael Harrison's email, additional information has been received.

Confirmation has been received that the former ground levels on the site will be restored. Drawing No P905/104A should be revised to clearly show this. We will then be satisfied that this aspect of the scheme will be delivered.

7.10.09

Additional information has now been received.

We can advise that providing;

- a) The development conforms with the revised drawing number P905/104B and
- b) a scheme for the proper management of surface waters is secured by a suitably worded planning condition (and is submitted for our approval in due course);

there are no objections to the proposed development.

It is important to note that areas that have been identified as Flood Zone 2/3 should be restored to their former levels as soon as possible to ensure flooding risks for third parties are not increased.

### Natural England

29.05.09

Natural England believe at this point in time the survey information provided (from Betts Ecology) is insufficient to establish the effect the proposal may have on Great Crested Newts and as such we have no option but to object to this application at this stage. We would like to see the results of the recommended surveys along with a detailed mitigation strategy before a decision is made.

29.07.09

I have had a look at the great crested newt survey which confirmed that they are present in the pond on site – which is really good news, since there are a few historic records of this species in Devon and very few current ones. (Data from DBRC shows only 8 records in Devon since 2000, of which 3 were in East Devon but not at this locality.) This is a new record for the species and because of their rarity in the county, legal status and the fact that breeding was confirmed it is quite a significant find.

The report states that a licence will be required and, because of the impact of the development on the pond/newts is assessed as medium/high, significant mitigation will be required in terms of habitat retention and enhancement to the pond and its immediate surroundings and also of the “ecologically connected cluster of ponds in the locality”, assuming these are in the same ownership.

The report states that the detail of the mitigation will be addressed through the licence application however Natural England recommends that you ensure there is adequate scope within the application site for this level of mitigation to be provided alongside the other requirements of the development otherwise you run the risk of issuing an unsound permission.

### Arboricultural Officer

17.07.09

These comments are made following a desk top analysis of the submitted documents.

1. The report does not adequately address the constraints that the trees present to the development of the site. No account has been taken of the above ground constraints that the trees represent.
2. The Site Plan accompanying the report shows all of the Root Protection Areas to be approximately 10% smaller than those calculated in the report.
3. The Site Plan (proposed) locates various buildings, other structures and access roads within the Root Protection Area (RPA) of all the plotted trees. Group G0373 is identified as category R in the report but shown as category A on the plan.
4. There is no information on the file relating to the impact of the proposed new access on hedgerows/banks and/or trees.

The proposed development fails to take proper account of the trees on the site and has the potential to cause direct damage to the roots and canopies of nearly all the significant trees on the site. Accordingly I consider the application to be contrary to the principles of Local Plan Policy D5 and ask that in its present layout be refused.

23.10.09

Ref; Drawing P905/700A

Devon Tree Services Hedgerow assessment

The information contained on the above drawing is inadequate to enable an accurate assessment of the scale of the removal of the hedgerow necessary to implement the new access and accord with Highway requirements.

I have however assessed the hedgerow in accordance with the procedures of the Hedgerow Regulations 1997 and have found the three mid 30m sections to contain the following woody species.

Section 1) 6 Species

Blackthorn, Dog Rose, Sycamore, Oak, Field Maple and Elm (6)

Section 2 ) 8 Species

Blackthorn, Dog Rose, Sycamore, Oak, Field Maple, Privet, Ash and Elm (8)

Section 3 ) 7 Species

Blackthorn, Dog Rose, Sycamore, Oak, Field Maple, Holly and Elm (7)

The average number of woody species per 30m section is therefore 7, accordingly the hedgerow is considered to be important under criteria 7a of the regulations.

The hedgerow should be retained unless overriding issues require its removal.

#### Devon County Archaeology

27.10.09

I refer to the above application and your recent consultation. Assessment of the Historic Environment Record (HER) and the details submitted by the applicant suggest that the scale and situation of this development will have no archaeological impact.

However, it needs to be recognised that the HER does not provide a complete record of Devon's historic environment. We would therefore be grateful if it was made known to the applicant that if any significant archaeological remains (pottery, human or animal skeletal remains etc) were discovered during groundworks they should be reported to this office.

#### Devon County Education

22.07.09

A contribution towards education infrastructure via a Section 106 Agreement would be required for the above proposed development of 20 caravans.

This development is proposed to be sited within the catchment area of Whimble Primary School which currently has capacity for the number of pupils expected to produce 5 primary aged pupils, which will not cause a shortfall of places therefore a contribution will not be required towards primary school places.

The secondary school affected is Clyst Vale Community College (Autumn Term 2008 number on roll 1006, current pupil place net capacity 996). 20 family dwellings could be expected to produce 3 secondary aged pupils which will increase the current shortfall of pupil places by this number. The contribution required would be £50,373.00 which would be used to part fund teaching accommodation. Plus £4,350.00 for ICT equipment. These calculations are based on the DCSF Cost Multiplier Extension rate for Devon.

In addition to the contribution figures quoted above, the County Council would wish to recover legal costs incurred as a result of the preparation and completion of the Agreement. Legal costs are not expected to exceed £250.00 where the agreement relates solely to the education contribution. However, if the agreement involves other issues or if the matter becomes protracted, the legal costs are likely to be in excess of this sum.

27.07.09

Following discussion you suggested that the application actually fell within the Rockbeare VA school catchment/designated area.

I have emailed the Diocesan Officer, Richard Power, to ask his opinion as to whether the 5 primary places that might be generated from the application could be accommodated at the school.

The Number on roll at Summer 2009 was 71 and the net capacity was 70 leaving an existing shortfall of 1 place. As discussed we have considered in the past a modest extension of the school as being possible in response to any further Cranbrook expansion beyond the existing proposed for primary accommodation and any expansion south of the A30 may well result in serious consideration. I trust Mr Power will be able to confirm this or otherwise as soon as possible.

As a VA school DCC make the request for S106 to meet basic need but the Diocese manage the delivery of the places.

Whimple is the nearest non-denominational school and this may be why it was selected for initial assessment.

(There is now a national code of practice for admissions – admission are driven by parental preference within the framework of the schools designated areas and we cannot assume a denominational school would be the parents first choice. The S106 Code of Practice is to determine the nearest school, however). The LA does have a statutory responsibility to ensure there is a place available at the nearest school and secures S106 in order to do this where there is a shortfall of places as a result of the application or an existing shortfall is further increased as a result.

Clyst Vale Community College

The college is planned to be moved to the new Cranbrook community on completion of the secondary accommodation at the town centre campus; 1150 places that are required for the first phases of the new community development and existing places that will be legitimately relocated for the designated area pupils (DCC will be funding the cost of existing designated pupil requirements.) We would not sensibly provide new accommodation at the existing site therefore given the likely timescales of the relocation being 2014/2015? Onwards we would use any S106 secured to provide additional places at the new site for pupils anticipated to be generated from the proposals.

It is true that practically, for small developments, it is necessary to accumulate a number of payments before the accommodation can be delivered, in a cost effective manner. You will appreciate we cannot build a classroom for 1/2/3/4/5 pupils it is necessary to build a classroom for 27/30 pupils being the standard norm.

Sometimes S106 is also used for the provision of a larger hall, extra toilets, extra external games court areas and similar infrastructure needs all essential in supporting extra pupils and meeting the Education Premises Act minimum area/facilities requirements.

Any developer's contribution secured but unable to be expended are returned to developers under the details of the S106 documents, following an agreed period of time.

29.07.09

We do not have an OS reference so cannot check whether Rockbeare – the VA school or Whimple, is the nearest or the site is in the designated area.

Clearly the distances are very probably similar and given there is not spare capacity at Rockbeare but there is at Whimple on balance our view would be that there are primary places available in the vicinity – (an exact location would allow us to check that there is an appropriate route/distance to the nearest primary school and give you a full assessment), so would not request S106 for the primary sector.

For information the Diocesan comments re Rockbeare are that the current accommodation is not appropriately laid out to allow easy extension at the current time – there however is expected to be one that will come forward through the DCSF Primary Capital Programme and our own area reviews for major rebuild funding, at which time any S106 secured in the intervening period would be expended to increase net capacity to meet local need generated from new houses/dwellings. The PCP funding is for replacing old poor condition buildings with major suitability issues and not for providing new additional places. We would still expect S106 to be utilised for new places required to meet new housing/dwelling needs. The next tranche of PCP funding is expected 2011 onwards.

As set out on 27<sup>th</sup> we would request S106 for Clyst Vale Community College to be used to provide additional places at the new campus site.

## **PARISH COUNCIL**

Rockbeare Parish Council 12.06.09

This response to the planning application 09/0660/MFUL has been put together by members of the Rockbeare Parish Plan team who have taken as input –

- The views of Rockbeare Parish Councillors
- The recorded views of 220 parishioners who attended the open meeting in Rockbeare Parish Church on 21 May and those of the 70 parishioners who attended the parish council pre-meeting and meeting on 3 June.
- Discussions that have taken place with James Grier (Vicar), the Headmistress of the Rockbeare Primary School, and representatives of the people who live at Grange Cottages, the 11 dwellings adjacent to the proposed site
- Discussions with parishioners too numerous to mention who have contacted members of the plan group & parish council since the meeting in the church to express their worry, concern and anger at what has already been done without authority to further this proposal and the fact that those driving it have done so without any regard for the significant and legitimate concerns of the settled community.

1. Is this proposal supported by key planning policies to keep or promote certain land uses?

The Local Development Plan published in 2006 designates the land in question as part of the green wedge between Rockbeare and the proposed new community of Cranbrook. Development of this land as a gypsy site would contravene Policy H12 of the East Devon Local Plan resulting in significant adverse impact on the integrity and infrastructure of Rockbeare Village and on the agricultural nature of the surrounding countryside. There is a history of EDDC rejecting applications for this site and in fact the applicant quotes from a letter from EDDC on page 18 of Part 1 of her submission which makes the point that current planning policies “carry a general presumption against new development within the open countryside.”

If EDDC allows a breach now it would be pre-empting the consultation process underway for its own Local Development Framework (LDF) and prejudicing the issues and options with regard to the expansion of Cranbrook. If it agrees to this site in its own designated Green Wedge, then it would, in effect, have opened the door for Option 3 developments in the Green Wedge well before the end of the consultation currently in progress – which would negate the proper deployment of the planning process.

The Design and Access statement refers to the land as Brownfield. This is clearly not the case as was confirmed by East Devon officers at the public meeting in Rockbeare church on 21 May. This is a Greenfield site.

## 2. Does it breach existing plans and policies?

The Gypsy and Traveller Issues and Options report of April 2008 sets out East Devon's requirement as being 9 permanent and 5 transit pitches for the whole of East Devon by 2011. This rises to a total of 21 over the subsequent 15 years. The assessment was based on "Devon-wide Gypsy and Traveller Housing Needs Assessment" commissioned by 11 Devon local authorities including East Devon. It is the only authoritative assessment available. Presumably the recent authorisation of 2 permanent and 4 transit pitches in Hawkchurch, near Axminster reduces that requirement to 7 permanent and 1 transit pitches by 2011.

The size of site proposed at The Grange over provides East Devon's short-term requirement by a factor of 3, and is more than is required for the next 15 years. It is also twice as big as the optimum site size (12-13) recommended in their own Gypsy and Traveller Issues and Options report in 2008. Moreover this overprovision is in a single location and will happen this year. The potential impact on that one location, Rockbeare, and its immediate area is frankly glossed over in the submission.

Lastly EDDC is still in the middle of its deliberations about possible gypsy sites following its recent consultation process. We understand that that work, which aimed to take a holistic view across East Devon, has virtually been abandoned with the advent of this apparent "gift horse". This is grossly unfair to Rockbeare.

## 3. Significant effects on the area

We asked how many people would occupy this site at the open meeting on 21st May. The applicant's representative Michael Harrison was not forthcoming on this point – surprising since there is surely plenty of comparative data available on which to base a reasonable estimate? In the absence of this key piece of data in the application which is fundamental to being able to assess its impact, we asked both EDDC planners and a local gypsy who is currently housed in the parish awaiting a suitable pitch. Their view was that a site of 30 pitches would be likely to provide for over 200 gypsies. Rockbeare village and its immediate vicinity has a population of around 200. The impact of this number of new inhabitants on the needs and interests of the settled community (para. 2.37 of EDDC's Gypsy and Traveller Report) is not dealt with in this application – which we would suggest is a serious omission. In addition, as we read it, there is no provision made for work or employment on site. We are concerned therefore about the sustainability of this site.

With regard to the site's immediate neighbours there is disproportionate emphasis on the inhabitants of The Lodge at the expense of the more numerous inhabitants of Grange Cottages, 11 dwellings which are located immediately adjacent to the proposed site. Their lives have already been adversely affected by the noise of heavy earth moving equipment and the potential instability of a site part prepared without the necessary professional advice or authority. Also they are quite reasonably concerned about the possible negative impact of an imminent influx of 200 new people into their particular part of the Rockbeare rural environment.

The impact on Rockbeare School isn't dealt with adequately in the application but it is clear that it won't be able to accommodate the children of 30 families particularly if any of these have special needs. If a reasonable assumption is that the 200 people would be likely to include 60-70 children and that half of these would require primary school education then there is a problem. Rockbeare School can only take 20 more pupils at a stretch. This would clearly require more teaching resources. Beyond that number extra classroom capacity would be required. Alternative schools at Whimble and Clyst Honiton are not within walking distance and may also have problems with numbers.

There is no general store, GP's surgery, pharmacy or library in Rockbeare village. The nearest store is the Londis shop at the filling station on the old A30 1 mile away; the other facilities are between 2-4 miles away, well outside the 600 metres walking distance recommended in East Devon's Issues and Options report. All these facts suggest significant car journeys will be required to reach basic facilities.

The question of access to the site is dealt with in White Young Green's submission on behalf of Mr M J Tatchell all of whose comments we would endorse – this is an important document. There is justifiable concern about the increase in traffic from 120 vehicles on site and it is noted that there is no traffic assessment submitted by the DCC Highway Authority under Observations in their letter to EDDC of 19 May. This refers to the fact that the applicant doesn't appear to enjoy access to sufficient land under the 1975 Right of Way Act in order to meet the Highways Authority's requirements for safe access to the public highway. Thus the Highway Authority concludes that the application is incapable of being implemented. Neil Jillings of Savills who represents the Tatchell's – over whose land the right of way is exercised – appears to think that an accommodation is unlikely (email to James Brown EDDC – dated 08 May 09). In which case it seems reasonable to ask what alternatives in terms of site access are proposed by the applicant.

There is real concern locally that the increase in road traffic implied by this application will increase the danger of driving and particularly walking on the road between Rockbeare Village centre and the old A30. There are no pavements or safe havens for pedestrians at this point in time. The road is a country lane and not designed to service a site with over 120 vehicles as well as Rockbeare Village. In this context, it is vital that the Highway Authority's demands for visibility splays of specific dimensions are not compromised and that pavements are provided between the old A30 and the centre of Rockbeare village (as far as the school at least) in order to ensure the safety of pedestrians, particularly children. In addition it seems reasonable to require the road to be brought up to a standard commensurate with the traffic survey once this has been completed.

#### 4. Drainage and Potential Flood Issues

The site is described as 1.8 hectares and is adjacent to a flood zone area. There is no Flood Risk Assessment with the application. This serious omission is aggravated by the fact that the considerable ground works carried out prior to the application, and without the necessary permission, appear to be unstable and a threat to the stream beneath the slope. The location is less than half a mile upstream from Rockbeare Village centre which is in the flood zone area and has, in fact, suffered serious flooding within the last 12 months. Any actions which might increase flood risk need to be mitigated urgently.

It appears to use that there was no assessment of the impact on the stream particularly the collapsing of riverbanks made insecure by the work, and extra soil erosion and run-off. It is understood that the state of the site will be assessed urgently by EDDC engineers.

#### 5. Contaminated Land

There is a former clay pit on site which, apparently, was used as a dump by the owners of the former nursery. It would seem prudent to run appropriate and thorough checks on this part of the site before any further work is authorised.

#### 6. Serious Land Stability Problems

As we understand it the application assumes that the unauthorised earthworks are of a suitable standard to accommodate the buildings, roads and hard standing planned for the site. However it is unclear whether the site preparation works were subject to proper professional engineering input prior to their execution. Observations around the site, which EDDC engineers have promised to follow up, suggest that it is imperative to establish the present stability of the site,

and what ever the outcome of this application to specify any appropriate mitigating actions which are necessary before further building takes place or the site is reinstated.

## 7. Ecology

This application fails to deal fully with its potential impact on the flora and fauna over the whole site; for instance the access road and its hedge is not dealt with in the document nor is the hedge planned to be affected by the splays. The open question of whether Greater Crested Newts have been disturbed on site could, of course, attract the attention of the criminal courts. We seek confirmation that those species present will receive protection to the letter of UK and European Law.

## 8. Conclusion

This proposal is too much, too soon and concentrates far too much on one location. In fact it disproportionately concentrates all East Devon's requirements for gypsy sites up until 2026 into one parish – Rockbeare – and provides it in 2009, many years too early.

In achieving this end it will cause problems of safe access, increased motor traffic and flood risk. It will overburden Rockbeare Village's facilities that do exist, particularly the school and post office, whilst other specified essential facilities like a general store, GP's surgery and pharmacy are absent. These facilities will be available at Cranbrook some time in the future but who can accurately predict the date of their availability except to say that they will be some years away.

We urge the EDDC Development Control Committee to refuse this application and that an order be made for the re-instatement of the site to its condition prior to work commencing.

If the planning authority are minded to approve this application we would wish to see the following S106 conditions placed on any approval whether granted in its entirety, in part, or in any modified form:

- 1 additional cost incurred by Rockbeare Primary School either incremental teaching costs or costs of any extra classroom capacity, or equipment should be met by the applicant.
- 2 that in the places where one does not exist at present a pavement should be provided from Rockbeare School to the old A30 to enable safe transit for pedestrians, particularly children going to and from school.
- 3 that the natural gas supply promised for the gypsy site should be offered at no cost of installation to the inhabitants of Grange Cottages.
- 4 that the access road should be finished up to the appropriate DCC Highways Authority standards and the road itself should be adopted.
- 5 that stockproof parkland fencing should be provided along the access road, together with a cattle grid at the point where the access road meets the public highway.
- 6 that the manager accountable for the site should live on site.
- 7 that the CCTV system covering the site, its access points and the access road should be managed, supervised and maintained by a reputable, independent company.

In addition we would ask the following:

- 8 that no commercial activity be allowed on the site.
- 9 that any commercial vehicles have their own separate car park adjacent to but off the main site.
- 10 that the plots immediately to Grange Cottages i.e. Plots 8, 19 and 20 are not developed but landscaped as a green area.
- 11 That a full time post is funded for a minimum period of two years (on diminishing hours) to encourage and facilitate integration between new and existing community, enable and assist joint community projects of mutual benefit (e.g. a community shop, play schemes,

improved play areas, allotments, youth schemes) and work with the community as a whole to strengthen neighbourhood bonds.

13.07.09

#### Transit Pitches

We note the definition of these as 'a touring caravan site for Romany Gypsies'. The issue for us is that these 10 pitches will generate an influx of people and vehicles into the rural environment over and above that generated by the 20 residential pitches. This is particularly so at peak periods when, we estimate that up to 50 extra people plus vehicles could be on site.

Do you have formal guidance from East Devon District Council Legal Department as to whether it is legal to designate a site as being exclusively for Romany Gypsies? If it is legally possible and you are minded to approve the application, then we urge you to place fully enforceable conditions on the site to ensure the use and density remains unchanged without a further planning consent.

With regard to the comments of the Devon and Cornwall police we'd like to know which of the police recommendations it may not be possible to comply with.

The proposals for the future of the infill land between the transit and residential sites are welcomed. We would like to see a legally binding document which guarantees that this piece of land will remain free from pitches or, indeed any other form of property.

#### Residential pitches

As above, can we please have advice on the legality of the "Romany only" position? If this is not enforceable then, presumably, it will be all the more difficult to achieve the reduced density which is a key feature of this site.

We understand that the owners wish to preserve the overall value of their business assets. However to give the local people comfort, they need to know that the owners are committed to staying on site and not proposing to sell on in the short term, and that in the long term if the site changes hands all terms are cited as enforceable planning conditions which must be adhered to as long as the site is in operation and there is no reliance simply on the good intentions of the applicant. This is important for credibility with the settled community.

We note the intentions regarding leases and the summary of some of the clauses. In this context we are interested whether it is the intention to provide any parking for commercial vehicles belonging to the owners of residential pitches. Otherwise how will they be able to get offsite to work?

We also note the intention of the management company to approve the sale and resale of pitches, and, where approval cannot be given, to buy back pitches according to an agreed pricing formula. In order for this to work the management company must be financially robust (for instance it must have the ability to raise funds at short notice) and be capable of being in business long term. We would appreciate the opportunity to understand the financial structure that the management company intends to adopt. Unless the company has a robust financial base it cannot guarantee to deliver the buyback it promises and the quality of the site in the future would be compromised.

We are also pleased that the operation or running of a business "within site" will not be permitted. Can this also be extended to "adjacent to the site?"

#### Scale of the Proposal

The information given about restricting the numbers of people per pitch is helpful and it is unfortunate that the applicant's representative couldn't go into this sort of detail when he was

asked the direct question about likely numbers on the site at the public meeting in Rockbeare Church at the end of May. In the absence of this information we made some reasonable assumptions which would relate to a typical gypsy/traveller site. We still don't have a definitive figure for the likely number of inhabitants on this particular site.

It is now clear that the applicant is setting out her stall to make this a very untypical site given that the planned density is to be only 25% of that on a normal site. Given the information in her representative's letter we can assume a range: minimum would be a single parent plus one child, maximum would be, say, two parents plus three children. Multiplying by 20 pitches, gives a minimum of 40 and a maximum 100. The average is 70 which would be a reasonable assumption. This is still a big site for Devon and still disproportionate to the size of the adjacent settled community. And we haven't added any numbers for the transit pitches which could add 50 at peak times.

We don't propose to dwell on the applicant's views of our estimate of numbers on site which are expressed very forcibly in her letter. We think that the figure of 200 for the likely number of people on this site was a reasonable estimate given the lack of information in the original application and represents the sort of potential the site would achieve if the lease arrangements and other controls outlined in the letter of 29th June are not implemented in full.

#### Site Access

This is the subject of a separate letter sent to you from Tim Holden of WYG on 2 July. Mr Holden represents Martin Tatchell who owns the land over which the access road right of way is exercised. Our main comment at this stage is that there is still doubt as to whether the right of way is sufficient to provide the required standard of access. In addition you will have noted the presence of a gas main which crosses the right of way at least twice.

05.09.09

In response to the latest letter from Definitive Design Consultants Ltd dated 24<sup>th</sup> August 2009 and placed on your website 36<sup>th</sup> August 2009. Our comments relate to DDC Ltd's paragraphs as follows;

#### First Paragraph

We are concerned about the timing of this letter and its contents which has arrived well over three months after the application was notified to the public. This seems like an attempt to move the goalposts and invites you to ignore important issues and agree a flawed application. We will return to these concerns later.

Another concern is the obvious inconsistency of argument between this letter and previous communications, particularly the one dated 1<sup>st</sup> July from DCC Ltd on behalf of the applicant which stressed the low density and 'Romany only' nature of The Grange application based on the sale of long leases for the 20 proposed permanent pitches. Presumably the Grange site wouldn't be able to cater for a number of the families the applicant identifies because they either wish to live in extended families at higher density or they are not Romany or both.

#### Second Paragraph and Third Paragraph

The quality of the supporting evidence to this letter needs careful consideration. Of the five unauthorised sites listed, three are described as "little information" and Daisy Mount, which is next to Rockbeare parish and Fairmile are roadside sites used temporarily during summer travelling. The assertion that there is a "total lack of authorised provision within East Devon" is contradicted by the evidence presented which lists 13 authorised sites of which six have temporary authority.

#### Fourth Paragraph and Fifth Paragraph

We should know how many of the sites presented are in the 'undetermined planning application or appeal pending categories'. The letter states that no direct contact has been made with these people in order not to undermine the due process for considering their applications. Clearly we would be concerned if these applications were being delayed pending the outcome of the Grange application as might be inferred from this letter.

In fact it isn't clear whether much direct contact has been made with any of these sites in order to support the applicants belief that there is a requirement for up to 53 pitches (13 from unauthorised and 38-40 from authorised).

In addition it is not clear whether any of these people have been consulted about whether they want to live on a large, low density, Romany only site at the Grange Hotel, Rockbeare.

We would strongly contend that much better researched information is required before EDDC could change its target for sites from the published figures which it is currently using based on the Plymouth University study. It follows that we don't accept that an adequate case has been presented to say that there is a "gross under provision" in East Devon. However we do agree absolutely with the assertion in this paragraph "that each application must be considered on its merits". That, of course, includes the Grange Hotel application.

#### Sixth Paragraph

EDDC presumably knows whether it has concrete proposals. Can we please have chapter and verse on precisely which law requires 'the immediate provision of pitches'?

#### Seventh Paragraph

Because of the history of this site to date; the unauthorised earthmoving, the large number of serious issues outstanding, and the inconsistency and changes of approach highlighted in this letter, the people of Rockbeare parish have no confidence at all in the Applicant, Definitive Design Consultants or the owners of the Grange Hotel to run a "model" scheme. In fact those of us who have observed this application closely as it has developed feel that their approach so far would suggest that the opposite would be likely to happen.

We need also more transparency about the finances of this scheme. Is this purely a commercial proposition involving private investment and attracting a profit stream to the site owner and the applicant once developed? Or is there an injection of public money in here somewhere from one of the many organisations supporting gypsies funded by central Government? Can we have a straight answer please?

#### Eighth Paragraph

The phrase "any perceived minimal negative impact that this development is alleged to have..." is a serious distortion of the facts so far presented by this application.

Unauthorised unstable earthworks which will be liable to flood at the lowest level on site and potentially exacerbate floods in Rockbeare are the subject of detailed comment and required remedy by the Environment Agency. The protection of the newt colony present on site is required by law. The problems of providing safe access to the site and the fact that the proposal is twice the size recommended by published Government Guidelines are just a few of the serious issues which are outstanding and in no way constitute a minimal impact.

Finally the pointed omission of the settled community from the list of beneficiaries is very revealing and, sadly, is par for the course.

#### Ninth Paragraph

“Small matters should not stand in the way of big improvements” has long been the battle cry of Big Business and Big Government. What this says is that the legitimate concerns of the settled community, which have to be given proper weight under Government Guidelines, and which have been carefully researched and presented over the past 3 months shouldn't be allowed to get in the way of developers. The phrase is arrogant and insensitive to the worried parishioners of Rockbeare. We don't agree with this letter or the application it relates to and would ask you to continue your support for a balanced approach to determining this application based on the published facts.

## The Flood Risk Assessment

The Applicants have submitted proposals for the flood risk assessment.

The submission makes suggestions but itself notes:

“the local subsoil..... is not renowned for its infiltration properties” and proposed “a separate attenuation pond or wetland area” to provide storage.

The report makes some important assumptions about the pond but then recommends a more extensive survey to prove available capacity. We are not aware of the Applicant submitting proposals to accord with their own report. It also indicates that if the measures noted are implemented they will only mitigate the increased flood risk not eliminate it.

However the submission (dated 11.08.09) underestimates the likely impact of the development by the order of forty percent. This arises through the use of low impermeability factors in the computer model submitted. For example the text indicates a factor of 1.0 has been attributed to building roofs whereas the factor used in the model is 0.9. The factors used for the pitches and the transit area are well below what is likely in practice and takes no account of the presence of caravans and vehicles and the progressive compaction of the areas when used. Using more realistic factors increases the average impermeability factor for the whole development site from 0.51 to over 0.7, which is 7 times the factor for the site in its current approved use and ignoring the recent works on site. This will not only increase the maximum outfall rates and the design storage volumes required from the development significantly but ultimately increase the downstream flood risk for Rockbeare.

We also observe that the Applicant has not undertaken any assessment of the additional flood risk arising from the construction of the extensive access road.

We submit that this adds to the case to refuse the application as also advised by the Environment Agency.

We would add that some residents in Rockbeare have only recently been able to move back into their homes following the flooding they experienced in October 2008. Understandably they do not want to see any development that will increase the risk of repeat flooding of their homes.

25.09.09

The Parish Council have been looking at the Environment Agency's note dated 28<sup>th</sup> August 2009 which is on the website and responds to the Addendum to the Flood Risk Assessment (FRA) supplied by the Applicant.

To be clear the Environment Agency says that the revised FRA “promotes a scheme to manage surface water that may work given satisfaction on certain points of detail”. We would draw the Environment Agency's attention to a short report produced by a Rockbeare parishioner who is a qualified engineer with considerable experience in dealing with these issues. This suggests that the FRA underestimates the impact of the proposed development by 40%. As the report says, “This will not only increase the maximum outfall rates and the design storage volumes required from the development significantly but also increase the downstream flood risk to Rockbeare.” It also fails to take account of run-off from the extensive new access road.

We would be grateful for confirmation from John Wardle that he has seen our report and would to know whether he agrees with its conclusion that the proposal underestimates the likely run-off impact by 40%. Presumably the Environment Agency will be particularly concerned about downstream impact on Rockbeare since we understand that they are taking over responsibility for the Rockbeare Stream in October 2009.

We further note that the Environment Agency will need to see full details of the scheme for approval and, given the track record of this site, we would ask that a detailed plan is presented for consideration as part of the application to be considered.

The final paragraph of the Environment Agency's letter of 28<sup>th</sup> August 2009 refers back to unresolved issues set out in paragraph three of their previous letter. This required the proposal to be revised to show development only in areas zoned as Flood Zone 1 in the FRA. This involves re-specification for a number of pitches at the middle and upstream part of the site to take them out of flood risk. Presumably this is still an outstanding issue.

We also need assurance that as required by paragraph two of the 14 August 2009 Environment Agency letter the "areas shown hatched on Drawing 4, are returned to their former ground levels and area able to flood freely as conditions in the watercourse dictate, failure to do this will result in an increased flood risk downstream." Downstream is, of course, Rockbeare Village and the Environment Agency asks that this be done at the earliest opportunity.

In summary in the whole area of flood risk there are still unresolved issues and actions outstanding which need to be addressed systematically prior to decisions being taken.

#### Whimble Parish Council 10.06.09

Recommends refusal for the following reasons:-

1. Access – The vehicular access is not acceptable, it is far too small for the requirements of mobile home and caravan transporters and needs to be vastly improved.
2. EDDC need – This application is providing twice the number of pitches that EDDC has been asked to provide.
3. Number of pitches on the site – It is too large for a gypsy community – it is preferable to supply more sites with fewer pitches.
4. Screening – More screening would be necessary between the site and the hotel, Hazelgrove and the Grange Cottages, particularly with the expected movement of a large number of vehicles.

If the District Council is minded to approve this application Whimble Parish Council would prefer the site to be reserved for the use of Romany Gypsies, Showmen and Irish Tinkers but not for the use of (New Age) Travellers.

08.07.09

Although access is slightly improved there is concern that the turning area is inadequate for use by trailers carrying mobile homes. The view of oncoming vehicles is inadequate due to the narrow bend ahead in the lane. The access lane between the old A30 and the proposed visual splay is too narrow. Moving a hedge will disturb the wildlife and it will not re-establish successfully.

#### **WARD MEMBER(S)**

The initial comments of the Ward Member(s) are -

Cllr Button 1.06.09

“Having given some thought to information gathered to date and representations made directly to me and at the public meeting that we both attended, my initial feeling is that this application should be refused on the following grounds:-

1. The application is for an excessive number of static and transit pitches given the recommendations of the University of Plymouth report on provision of such sites in East Devon.
2. The proposed access road would be an unwelcome intrusion into what is essentially an agricultural, rural landscape.
3. There is uncertainty about the ability to deliver an access with sufficient visibility splay to satisfy the requirements of the Highway Authority.
4. Provision of the access at the location suggested would require the removal of a large section of mature and possibly ancient hedgerow.
5. There is, as I understand it, some concern that at least one protected species is to be found on the site and no mitigation measures are suggested to ensure protection.
6. Local opinion is that recent earthworks, permission for which is included within the application, may have destabilised the land, altered local watercourses and are potentially responsible for increased flood risk. These fears need to be properly assessed.”

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

22.09.09

I'm away for a while and will miss the Development Management meeting on 20th October. I don't know whether it is intended to discuss this matter at that meeting but I felt that I should spell out my own views in order that they can be put on record.

On the basis of all the information provided to date, including the various amendments to the original application, I feel that the application should be REFUSED. I believe that there are a number of grounds for refusal namely:-

- (i) the application for 20 pitches and ten transit pitches is much too large. The Plymouth University study looking into the provision of such sites in the EDDC area recommended a number of small sites located around the District. This seems a sensible approach. Provision of 20 permanent pitches in one location risks potential conflict with existing residents and mitigates against healthy integration by placing far too great a stress upon the local infrastructure.
- (ii) The site is located in a rural setting, remote from local services and, as such, is unsustainable in that it would increase the use of the private car to access services. Whilst some have suggested that those services will be available locally if and when Cranbrook is built, we are constantly told that we must judge each application on its current merits. Clearly, Cranbrook does not exist and these local services are, therefore, not available.
- (iii) The application envisages a new access across farm fields onto the road linking the old A30 to Rockbeare. In my view, it would be difficult to achieve the required visibility splay onto that road. Added to that, I think that it would be detrimental to the character of the area to have a road built across farm fields to link the development to the access. Were the application to be considered for approval, access via the existing access to the Grange from the old A30 would be far preferable and less damaging to the environment.
- (iv) there is real concern about the situation relating to run-off of surface water from the site. Rockbeare has a known and proven issue with flooding. In my opinion, the application as currently submitted would not alleviate the threat of flooding and has the potential to exacerbate it.

“There are three principle issues to consider:

1. The application is in part a request for retrospective permission for works already done. This includes the importation of materials without licence, the destruction standing woodland without licence and the destruction and consequent loss of habitat to wildlife. Surveys undertaken at EDDC request relate only to the ground ‘as found’ and not to the condition of the site prior to work undertaken as noted above. The removal of wildlife habitat includes the destruction of a colony or colonies of Great Crested Newt which is illegal. I am aware that the police are involved in related investigations. Many of the submissions received to date (10<sup>th</sup> June) relate to the condition of the site prior to slope engineering works and they must be taken into consideration. Further, no engineering or environmental study was undertaken before works commenced. As a result the destruction wrought and noted about has coincided with a contaminated run-off from the workings. This run-off and associated increase in direct drainage during rainfall has already and will continue to put homes in the village of Rockbeare at risk from flooding. Slippage of earthworks into the brook would be catastrophic. I believe it incumbent that independent surveys be carried out and placed in the public domain before the application is considered in committee or elsewhere.
2. Access to the site cannot be arranged as indicated by the applicant. The land and hedgerow adjacent to the indicated exit and the ‘roadway’ to/from the site, is not owned by the applicant and therefore visibility splays will not be available to highway standards. The existing access from the old A30, if used, will blight the lives of those living in the Lodge and cause constant eyesore and noise to the inhabitants of Grange Cottages.
3. The design plan indicates that those living on permanent sites are to be segregated from the temporary sites to the northwest. The arrangement of laundry/washing facilities and the undeveloped area within the split site suggests that the plans placed before the council are incomplete. The concerns raised by objectors relating to the size of the site and the expected population have been properly made. It is quite clear that the optimum size of site, agreed by the Gypsy Council and other related bodies, is no more than 5 or 6 pitches in any one area. Local services (the description and locality of which are misleading) are not able to deal with such an influx of families into one area. The provisional requirements for the whole area do not exceed 21 pitches by the year 2026 – for all ethnic groups of travelling people (gypsy, new traveller etc.). Recent studies have shown that developments of larger sites have led to a breakdown in social cohesion and inter-group relationships. The long term management of the site has not been thought through and the provision of services, especially foul drainage and outfall, have not been properly addressed.

I therefore opposed the application as it has been presented and stand in support of the local inhabitants of Rockbeare and their clearly voiced material objections to the site proposed.”

In the event that this application comes to Committee I would reserve my position until I am in full possession of all the relevant facts and arguments for and against.

## **REPRESENTATIONS**

### **Objections**

85 letters have been received raising the following points:

- Oversupply of pitches

- Impact on village – noise, litter, light pollution & security
- Removal of hedgerow to form access
- Removal of trees
- Increase in traffic – poor access roads
- Insufficient capacity at local school
- Unauthorised engineering works on site
- Impact on ecology
- Impact on landscape
- Flooding as a result of earthworks
- Land stability
- Reliant on provision of facilities as part of Cranbrook which may take several years to happen.
- Commercial vehicles on site
- Site management
- Devalue Property
- Land ownership/access rights

### Support

One letter of support as instructed by the applicant has been received.

## **PLANNING POLICIES**

### Government Guidance

Planning Policy Statement 1 Delivering Sustainable Development

Planning Policy Statement 3 Housing

Planning Policy Statement 7 Sustainable Development in Rural Areas

Planning Policy Statement 9 Biodiversity and Geological Conservation

Planning Policy Statement 25 Development and Flood Risk

Planning Policy Guidance Note 14 Development on Unstable Land

Draft South West Regional Spatial Strategy

ODPM Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites

Designing Gypsy and Traveller Sites: Good Practice Guide (May 2008) - The Department for Communities and Local Government

**Count of Gypsy and Traveller Caravans on 19 January 2009:**

<http://www.communities.gov.uk/documents/statistics/xls/1228795.xls>

Gypsy and Traveller Site Management Good Practice Guide (July 2009) – The Department for Communities and Local Government

Progress Report on Gypsy and Traveller Policy (July 2009) - The Department for Communities and Local Government

UK Biodiversity Action Plan

Secured by Design

Devon Country Structure Plan (2001-2016)

Policy ST1 – Sustainable Development

Policy ST3 – Self Sufficiency of Devon's Communities  
Policy ST4 – Infrastructure Provision  
Policy ST16 – Local Centres and Rural Areas.  
Policy CO1 – Landscape Character and Local Distinctiveness  
Policy CO6 – Quality of New Development  
Policy CO9 – Biodiversity and Earth Science Diversity  
Policy CO10 – Protection of Nature Conservation Sites and Species  
Policy CO13 – Protecting Water Resource and Flood Defence  
Policy TR2 – Co-ordinating Land Use/ Travel Planning  
Policy TR4 – Parking Strategy, Standards and Proposals  
Policy TR10 – Strategic Road Network and Roadside Service Areas

#### East Devon Local Plan (1995-2011)

Policy S5 – Countryside Protection  
Policy S6 – Development in Green Wedges  
Policy S7 – Infrastructure Related to New Development  
Policy D1 – Design and Local Distinctiveness  
Policy D4 – Landscape Requirements  
Policy D5 – Trees on Development Sites  
Policy EN6 – Wildlife Habitats and Features  
Policy RE3 – Open Space Provision in New Housing Developments  
Policy TA1 - Accessibility of New Development  
Policy TA4 – Footpaths, Bridleways and Cycleways  
Policy TA7 – Adequacy of Road Network and Site Access  
Policy TA9 – Parking Provision in New Development

#### Supplementary Planning Guidance

East Devon Gypsy and Traveller Issues and Options Report April 2008  
East Devon Recreation Area Strategy

### **SITE LOCATION AND DESCRIPTION**

The 4.1 hectare site is located in the open countryside, a greenfield site some 620 metres to the northeast of the village of Rockbeare. The existing access is a long straight driveway off London Road (the former A30) which leads to the Grange Hotel. The site is currently laid out as two level terraces although the earth moving works for this operation have halted pending consideration of this application. On the southern boundary of the site is a stream and pond.

### **PROPOSED DEVELOPMENT**

This application is for a change of use of agricultural land to form a Romany Gypsy site. The gypsy site would provide 20 permanent residential pitches with ancillary day rooms and a further 10 transit pitches with associated shower block. The proposal will also involve the creation of a new access road, internal driveways to provide access to individual plots and on-site sewerage treatment plant. In addition the application seeks approval for levelling works which have already been carried out on site to produce level terraces upon which the caravans and day rooms will be sited.

### **CONSIDERATIONS AND ASSESSMENT**

#### Site History

For many years the site was used as a nursery for agricultural/horticultural purposes. Since November 2008 various works have been carried out on the site. Initially a clearing of the site and removal of trees to the southeast corner and later some significant earth moving works had been undertaken to create two level terraces on the site. The earthworks were deemed to be an

engineering operation requiring planning permission and the applicant was invited to submit a planning application for the works. The current application for consideration was submitted as a result.

## **STRATEGIC VIEW**

### **Legislative & Policy Background**

The shortage of site provision for gypsies and travellers is recognised nationally. In 2004 The Housing Act introduced a new obligation requiring local housing authorities to include gypsies and travellers in accommodation assessments and take a strategic approach to show how the accommodation needs of travellers and gypsies would be met as part of the overall housing strategy. In 2006 the Government Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites set out how the planning system through the Regional Spatial Strategy and Local Development Frameworks could be used to identify the need in each local authority area and how and where that need would be met to address the shortage of gypsy site provision. Work on the South West Regional Spatial Strategy (RSS) identified a need for 9 permanent pitches and 5 transit pitches of gypsy and traveller accommodation in East Devon area for the period 2006-2011. As part of the Local Development Framework the Council's policy team produced the East Devon Gypsy and Traveller Issues and Options Report in April 2008. This report projected the RSS figures for need of new permanent pitches to 21 pitches, up to 2026. These figures take into account gypsies of various nationalities, travellers including 'New' travellers and travelling showpeople.

It is accepted that there is a need for gypsy site provision in East Devon and that this need must be addressed. Most gypsy and traveller sites in East Devon are unauthorised or benefit only from temporary permissions. To date the Local Development Framework has not identified any specific sites for gypsy provision.

Other legislation which must be taken into consideration in determining applications for gypsy and traveller sites includes Planning Policy Statement 1 which seeks sustainable communities which promote social cohesion and inclusion, Planning Policy Statement 3 on Housing to provide a mix of housing including gypsy and traveller provision which is suitably located with access to facilities and public transport and Planning Policy Statement 7 which seeks to protect the quality and character of the wider countryside.

In terms of the Devon Structure Plan and Adopted East Devon Local Plan there are no policies directly relating to the provision of gypsy and traveller sites. Policy H12 of the East Devon Local Plan expired on 19<sup>th</sup> July 2009 and was not extended by the Secretary of State as it was felt that the policy was sufficiently covered by Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites.

### **Applicant's Supporting Information**

The Design and Access Statement gives the design brief for the site as focussing on the specific requirements of the Romany Gypsy community and has been produced to fulfil their unique requirements.

The pitches would be offered for private leasehold sale and rental. Each pitch has an area for a mobile home, parking for a touring caravan and towing vehicle as well as a permanent structure described as a 'day room'. The day room includes a kitchen, separate washing area, a bathroom and living space. The transit sites will have areas for touring caravans to park and an onsite shower block.

It is proposed the site will address not only the shortfall in pitches at present as identified in the Issues and Options report but also for the projected increase in shortfall through to 2026. In their supporting statement the applicant states "This application must be seen, therefore, in the context of the requirements of Devon as a whole and not just that of East Devon."

In addition to the Design and Access statement and supplementary information on gypsy need the applicants have submitted the following documents:

<b>Title of Report</b>	<b>Author</b>	<b>Date of Report</b>
Tree Report	Greentrees	6 <sup>th</sup> May 2009
Extended Phase 1 Habitat Survey Report	Betts Ecology	April 2009
Great Crested Newt Survey Report	Betts Ecology	June 2009
Great Crested Newt Mitigation Strategy	Lindsay Carrington Ecological Services Ltd	September 2009
Flood Risk Assessment	SLR	July 2009
Addendum to Flood Risk Assessment	SLR	20 <sup>th</sup> August 2009
Assessment of Hedgerow under Criteria 7 and 8 Hedgerow Regulations 1997	Devon Tree Services	24 <sup>th</sup> September 2009

In principle the provision of a gypsy site in the East Devon area is to be welcomed to help address the shortfall. What must be considered is whether all other material considerations have been sufficiently satisfied to allow a granting of a planning permission for the proposal.

## **IMPACT ON COMMUNITY**

### **Need & Provision**

The Gypsy Liaison Officer and Police Architectural Liaison Officer both refer to the Government guidance 'Designing Gypsy and Traveller Sites Good Practice Guide' which recommends 15 pitches as the maximum number of permanent pitches on a site as this is conducive to providing a comfortable environment which is easy to manage. Paragraph 4.8 of this document states that sites should ideally consist of up to 15 pitches in capacity unless there is clear evidence to suggest that a larger site is preferred by the local Gypsy or Traveller community. Evidence submitted by the applicant as to the need for gypsy sites in East Devon is the data that was collated by the Local Planning Authority in support of the Gypsy and Traveller Issues and Options document. The applicant has not supplied any information to indicate how the proposal meets the current need or if it will accommodate the families identified in their submitted evidence. There has been no supporting evidence from the local gypsy or traveller community to suggest that a larger site is required or why the proposal should exceed government guidelines by over a third.

Paragraph 2.14 of East Devon Gypsy and Traveller Issues and Options Report:  
Provision of all new pitches at a single location may not be the most suitable option because pitches are required to meet the needs of a variety of Gypsy and travellers and concentration in a single area may lead to conflict and disharmony.

The number of pitches proposed would have significant implications for the community of Rockbeare. Rockbeare is a small village with a population of 846. The 20 permanent pitches represent a sizeable increase for a settlement of this size and could pose difficulties for a successful integration. Rockbeare benefits from a village hall, post office and shop which will have to cater for the additional numbers. Although facilities and services can be expected to come forward with the nearby new community of Cranbrook, the proximity to Rockbeare is such that the village will have to cope with a large increase in its resident population. The amenity of occupiers of the 11 properties at the Grange Cottages has also been considered. Whilst a change of use from agricultural land to most other uses is bound to have some form of impact in the open countryside the site is located to the southwest of existing properties. The nearest

property is some 30 metres from the site boundary. The existing tree line on the eastern boundary of the site is to be retained along with additional planting proposed. It is felt that there will not be sufficient harm to the occupiers of Grange Cottages to warrant a reason for refusal.

Circular 01/06 also highlights the importance of sustainability in terms of social impact in addition to transport modes and distances from services. The Circular advises that consideration of sites should include: 'the promotion of peaceful and integrated co-existence between the site and the local community'. The Designing Gypsy and Traveller Sites: Good Practice Guide states that where possible sites should be developed near to housing for the settled community as part of mainstream residential developments and sites should not be identified for Gypsy and Traveller use in locations that are inappropriate for ordinary residential dwelling, unless exceptional circumstances apply.

In terms of integration and social cohesion the site is close to the village of Rockbeare however it is still separated from the village across a couple of fields. Rockbeare and slightly further afield Whimble between them have a range of services and facilities. Whilst the site is located in close proximity to the village of Rockbeare in terms of vehicular access it is still some 800 metres via the new access for pedestrians to walk to the village, with no footpath provision for much of the way. This may have an impact on how occupiers of the site may be able to integrate with the local community. Ideally occupiers of the site should have easy access, without encouraging the use of private vehicles, to facilities and public transport in order to create a more sustainable community.

A balance needs to be struck between the need for gypsy site provision in the district and acceptable locations in terms of distance from any local settlement. It may be that exceptional circumstances apply in this case whereby the site is considered to be an acceptable distance from the village however this combined with the size and number of proposed pitches would not be most conducive to integration with the settled community. Paragraph 54 of Circular 01/06 points out that sites in rural or semi-rural settings may be appropriate but sites should respect the scale of, and not dominate the nearest settled community.

Whilst there is no policy against an over provision of gypsy pitches it is felt that this number of plots and a community of this size in relation to the village of Rockbeare would be an over provision to the detriment of the local resident population and would not promote social cohesion and inclusion that is required by Planning Policy Statement 1.

The applicant was advised that the number of pitches was of concern and a preference would have been for a site with less pitches to meet government guidance, provide a better living environment for occupiers of the site and also to reduce the impact on the local community and facilities; however the applicant did not wish to reduce the numbers on site.

#### Public Open Space Contribution

In addressing the impact of new development on existing communities Policy RE3 of the Adopted East Devon Local Plan requires a contribution to be made toward the provision of public space facilities on applications for new residential development. This contribution applies where new development would create additional demand within a settlement and the Local Authority can reasonably justify the contribution to address a shortfall in facilities. In such instances the Local Planning Authority is also expected to demonstrate where plans are in place for any such shortfall to be rectified. The Recreational Area Strategy for Rockbeare states that there is currently no need for new facilities in the village. The scheme proposes the creation of 20 permanent pitches which would have a consequent demand for such recreation facilities, however the application site is some distance from the nearest settlement. It must be taken into consideration whether occupants of the site would place a demand on play provision in Rockbeare and travel to the facilities or whether the distance involved would prevent the additional demand.

The East Devon Recreation Area Strategy aims to ensure that any formal open space provision is made within 600 metres of the development in question. This distance is considered to be reasonable in terms of the distance people can be expected to travel in order to utilise formal play facilities. As for informal provision there is an area proposed on site as informal open space. It is felt that in this instance given the unsustainable location and distance from the nearest village that there would not be demand arising from the proposal sufficient to reasonably request public open space contributions.

### Education Contributions

When asked to comment upon the ability of the existing primary and secondary schools in the area to cater for any children that might be generated by the proposed development, the County Council indicated that it considered that as the site fell within the catchment area of Whimple Primary School and that that School currently has capacity for the 5 primary school aged pupils that could be expected from the development, a contribution towards primary school places would not be required.

Given that the site lies close to Rockbeare, the County Council was asked to assess the capability of the Voluntary Aided School in the village to accommodate any increase in pupils. The school at Rockbeare does not have any spare capacity and is not appropriately laid out to allow it to be extended at the present time. However, as there are spaces available at Whimple Primary School the County Council re-affirmed that no Section 106 contributions would be sought for the primary sector.

As far as secondary education is concerned, the County Council initially indicated that the secondary school affected by the development would be Clyst Vale Community College, which had 1006 pupils on the autumn 2008 roll, against a pupil place net capacity of 966. It calculated that the 20 units within the scheme could be expected to produce 3 secondary school aged pupils, increasing the current shortfall. Based upon its formulaic approach to calculating contributions the County Council indicated that it would require a contribution of £50,373.00 to part fund teaching accommodation, plus £4,350.00 for ICT equipment. It also indicated that it would wish to recover legal costs incurred in the preparation and completion of a Section 106 Agreement, which are not expected to exceed £250.

Having indicated that it sought this contribution towards secondary education, the County Council were asked to clarify what, if any, extensions or improvements were planned to the Community College, whether they had been costed, and if a programme for the works had been agreed, so that a judgement could be made upon whether or not the required contributions could be fairly and reasonably related in scale and kind to the proposed development.

In reply the County Council has advised that the Clyst Vale Community College is planned to be moved to the new Cranbrook community, on completion of the secondary accommodation at the town centre campus. A total of 1150 places have been identified as being required for the first phases of the new community development and existing places that would legitimately be relocated for designated area pupils. The County Council will be funding the cost of relocating designated pupils requirements, and would not sensibly provide new accommodation at the existing College. In this respect any contributions from this development would be 'pooled' towards the provision of the new Community College within Cranbrook and the cost of providing facilities for new pupils, rather than those to be relocated.

Circular 05/2005 *Planning Obligations* states at paragraph B9 that "*developers may reasonably be expected to pay for or contribute to the cost of all, or part of, additional infrastructure provision which would not have been necessary but for their development*". However, at paragraph B35 it indicates that "*standard charges and formulae should not be applied in blanket form regardless of actual impacts*".

Whilst it is considered that the County Council's request for a contribution towards secondary education is both reasonable and sustainable in principle in this case, given the fact that it can identify a specific reason for requesting the contribution and the project on which it would be spent, there is a question over the amount of money that is being sought for the expected generation of just 3 pupils from this development. The County Council has used a formulaic approach towards calculating the financial contribution that it would require from this development, and even though it has underpinned the request with an indication of how and when the money would be spent, it is considered that it should also have provided justification for the £54,723.00 that has been requested.

The applicant's agent has been advised of the County Council's request and in a letter dated 30<sup>th</sup> September has agreed to the principle of making a contribution. The amount of the education contribution has also been passed on, with a request for the applicant's comment upon the figure and a request for the applicant to indicate what sum she would be prepared to offer. At the time of writing the report further comment is still awaited from the applicant.

### **LANDSCAPE AND ACCESS**

In terms of the impact on the character of the area the main issues are considered to be based around the visual impact arising from the unauthorised works and those that would still arise, the potential impact on a range of trees on site, the boundary hedgerows and the new access including its visibility and associated highway safety.

#### **Unauthorised Works**

The unauthorised works which have taken place have resulted in a steeply graded bank cutting across the main site and effectively separates the proposed development from the surrounding land uses most particularly the existing hotel. The Design and Access Statement includes a basic visual assessment of the wider visual impact of the site. It is acknowledged that the current land form is unnatural and currently badly scarred. However there are only limited vantage points from where the site area can be seen. While the works that have been carried out are significant, provided the banks are stabilised and greened in some way for instance some re-grading of the slopes and sowing wildflower and grass seed it is felt that this visual impact can be mitigated. While the localised harm is noted therefore, it is not considered that this is an overriding issue. Concern was raised over ground stability across the site. Planning can only consider matters in the public interest and in terms of ground stability this would be where any land slippage may affect public safety. The site is a private site therefore this would be outside the control of planning. However where land has been raised to the southwest corner of the site and increased the potential for flooding further downstream a flood event as a result could impact members of the public in the village of Rockbeare therefore this matter will be addressed either through planning condition if approved or through enforcement action to restore ground levels to those considered to be acceptable by the Environment Agency.

#### **Proposed end use**

The visual impact would clearly change in the event of approval as the terrace that has been formed would be utilised by a range of vehicles including caravans and the permanent day rooms. While the materials of the chalets are likely to be darker and therefore less intrusive for the character of the area, caravans by their nature tend to be white or cream and therefore more intrusive. However the degree of intrusion which is limited by natural screening and for which additional planting and screening has been offered by the application is again considered to be limited. Concern has been raised over the section of the site to the north of the permanent pitches and south of the transit pitches. This area is outside the red line of the application site and therefore the proposal would not be able to expand into this area without further permission. It is also noted that there is a clay pit in this area. However the clay pit is outside the application site and no development works are proposed in this area.

An assessment of the likely impact of the proposed development was carried out early on in the consideration of the application, at the time that a considerable amount of earth moving and land sculpting was being undertaken at and around the proposed site. This assessment involved identifying the various vantage points around the site from which the application site could or would be seen, in the wider landscape.

The site is not and would not be visible from the former A30 (London Road). Although the proposed access route into the site, off the minor County Road (C92) into Rockbeare, would be intrusive in views along that road, the actual site itself and the structures to be placed upon it would not, because of the lower nature of the application site itself.

The site would not be publicly visible from views within the built-up area of Rockbeare, and although largely screened by hedgerows along the minor County road as it leaves the village in a south-easterly direction, the development is likely to be seen, albeit fleetingly, across fields through an existing gated entrance onto the road, just before the entrance into The Old Rectory. To the east the site would not be prominently visible in views from the lower end of Gribble Lane, and not seen at all as it rises northwards, back to London Road.

Further afield to the west, it was found that the site could and would be seen in the longer views from Parsons Lane where it leads down into the village. In views from the higher part of the lane, where it curves south and then eastwards from London Road, the site could be seen above the rooflines of houses in the village, but against a backdrop of rising land and vegetation.

Given the manner in which the application site is screened from public vantage points by both the topography of the land around it and vegetation in the form of trees and hedgerows along the roads surrounding it, it is considered that a fundamental objection to the proposal in terms of the likely visual impact of the caravans and day units could not be substantiated with any firm evidence of harmful intrusion into the wider landscape.

#### Impact on Existing Trees and Hedgerows

As already noted the site is within the open countryside and has a range of important trees both along the river on the edge of the site and within the hedgerow bordering the access road that would cut across the adjoining field between the site and the highway. The mounding of soil within close proximity of the trees and the further potential use of machinery to move this away is causing significant concern about the health and well being of trees. Nonetheless the proposed works on the actual site and the siting of the proposed units have been amended to take account of most of the concerns previously raised by the Council's Arboricultural Officer. There is still particular concern about a mature oak within the hedge bank close to the access road. This is an important tree that is of high amenity value and should be retained. No details have been submitted with the application to demonstrate how the access would be constructed and surfaced in close proximity to and under the canopy of this tree. The tree is not in the ownership of the applicant but is considered as a material consideration nonetheless.

#### Hedgerow and access

A new access is proposed to the northwest of the site with a new road formed which would run along the field boundary east towards the site. It is proposed to form the southern boundary of the new road with a 1.2 metre high post and rail fence. The access roads within the site are to be concrete as stated on plan P905/104B. The applicants claim that by forming the new road and access they would be improving the amenity of occupiers of existing dwellings near the existing access drive to the Grange Hotel by way of diverting traffic away from this drive.

In order to facilitate the new access point it is proposed to remove a length of hedgerow adjacent the country lane linking Rockbeare with the old A30. This lane has no speed restrictions and therefore the National speed limit applies. In order to ensure visibility and highway safety (the Local Highway Authority are currently not objecting to the scheme subject to conditions) it necessitates the removal and relocation of a significant length of hedgerow (94m). An

assessment of the hedgerow was submitted by the applicant which concludes that the hedgerow is not important under criteria 7 of the Hedgerow Regulations. The Council's Arboricultural Officer does not support this view and has carried out his own assessment under criteria 7 of the Hedgerow Regulations and identified sufficient numbers of species such that, in his view considers the hedgerow to be important. However criterion 7 is not the only criteria by which to determine whether a hedgerow is important under the Regulations. The Historic Environment Service at Devon County Council has recently been consulted. They raise no objection to the proposal. They did however indicate that the lane can be found on historic records and may have once formed the entrance into Rockbeare Court therefore they state the hedgerow could form an important boundary to the entrance. They do not object to the proposal provided the area of hedgerow nearest to the former A30 is retained.

Finally hedgerows can provide an important habitat for species. The ecology report submitted with the application did not include any works to the hedgerow or any effect this may have on local wildlife. A revised plan submitted on 23<sup>rd</sup> October indicates that 13 metres of hedgerow would be removed to form the access point whilst a further 81 metres would be re-sited to form the visibility splay. No details of how the re-siting may be carried out without harming the health or vitality of the hedge have been submitted. A further response from Natural England is also awaited.

Regardless of the ecological or historic value of the hedgerow the removal of 13 metres and re-siting of a further 81 metres of hedgerow would have serious implications for the visual amenity of the lane and access to the site. The character of Devon's rural lanes is such that hedgerows grow on top of banks at the immediate edge of either side of the lane giving a form of enclosure to the road. The removal or even re-siting of the hedgerow back from the lane is considered to cause significant harm by way of opening up the lane and provision of a 25 metre wide access would give a suburban appearance to the entrance out of character with the surrounding area.

Therefore the loss of and re-siting of this hedgerow may not only cause significant harm to the character of the area, resulting in a more open lane of suburban appearance but could also result in the loss of an important ecological and historical resource.

The preference would be to use the existing access track which currently serves the hotel. This may require the provision of passing bays however the use of an existing access would remove the visual impact of the formation of a new access and indeed new road cutting across agricultural land. The agent was asked to consider this revision to the scheme but it is understood that the land owner is unwilling to allow the existing access to be used. As there is an alternative access that could serve the site it is not considered that there is sufficient justification for these works. The loss of the hedgerow not only harms the character of the area but also open up views of the access road which crosses the adjoining fields but also the site itself. In this instance such harm is considered contrary to guidance and policy.

Furthermore insufficient detail has been submitted to determine whether the proposal accords with the British Standard 5837 (2005) and that significant trees and hedgerows will be protected and not harmed as a result of the development.

## **ECOLOGY**

The site is greenfield with three buildings in the northeast corner of the site and a pond along the southern boundary where there is also a stream that flows into Rockbeare. Therefore there is great potential for the presence of protected species. An initial survey was carried out in April 2009.

The initial assessment identified the presence of great crested newts at the pond, bats in the buildings to the northeast of the site and badger activity and a badger sett on the hedgerow forming the western boundary of the site. It was also noted that the on site hedgerows provide habitat for a variety of nesting birds and dormice.

All of the ecological surveys submitted have been based on a plan P905/102 (which has now been superseded by P905/104B) and based on the buildings in the northeast corner of the site remaining and all hedgerows to be retained. However the site is not limited to that indicated on plan P905/104B and extends further west where the new access is to be created as indicated on plan P905/100A. This is significant in that the access point will require the removal of some of the hedgerow as well as a proposed re-location of the hedge and creation of a new road adjacent to the hedge which could impact on ecology in the area. Further the Design and Access Statement states that the buildings to the northeast corner of the site are proposed to be demolished at some stage in the future due to their being unsightly and in poor repair. Again the loss of these buildings where it has been identified that there are bats and a bat roost could have an impact on these protected species that has not been considered in the reports submitted.

It was noted that engineering works had taken place on the edges of the stream such that whilst the stream may be outside the development footprint a further survey may be required to look at issues surrounding these works. Similarly the Environment Agency commented on 28<sup>th</sup> May that land alongside watercourses is particularly valuable for wildlife and that the proposal would only be acceptable if a buffer zone around the watercourse was provided to ensure that this area is protected but that this could be conditioned if minded to approve.

Adjacent to the location of the badger sett is the proposed access road into the site with the area to be used for the mobile home for plot 1. The ecological report states that construction work should avoid disturbance to ground near the sett. No further information has been submitted in relation to construction of the road and how potential impact on the badger sett may be mitigated.

Following the initial ecological assessment a further survey and mitigation strategy was requested by Natural England to look at the impact on great crested newts on the site. It confirmed the need for a licence for any works to carry out mitigation measures around the pond. The second survey also identified that the site is a breeding site. The impact of the development on the great crested newt population is evaluated to be "medium to high" due to the proposed exchange of the terrestrial habitat immediately surrounding the pond for less suitable habitat (gardens, roads and buildings), as well as post development interference (e.g. residential development, pets and public pressures). The mitigation strategy includes the provision of a new pond to the north of the current pond in order to provide a link to the network of approximately 10 ponds in the area which provide suitable habitats for newts. The strategy also considers the translocation of newts and provision of receptor sites as well as landscape works such as hedgerow planting to improve habitats on the site. Natural England has been consulted on the great crested newt mitigation strategy as well as the issue of the hedgerow works to create the access and at the time of writing a response is still awaited.

## **FLOODING**

Initially the Environment Agency raised objection to the proposal due the fact that some of the pitches including the day rooms were located within flood zone 2 and a suitable flood risk assessment had not been received. Also the unauthorised earthworks that had been carried out raised the ground level near to the edge of the stream which could further detrimentally impact on flood risk further downstream by reducing the area of available flood plain. Following various discussions with the Environment Agency and submission of revised plans some of the plots to the southwest corner of the site have been relocated so that they are outside flood zone 2. The Environment Agency now raise no objection to the scheme provided the levels in the southwest corner of the site are lowered in accordance with drawing number P905/104B and a scheme for the proper management of surface waters is carried out which could be dealt with by a suitably worded condition.

## **ENFORCEMENT**

Significant unauthorised earth works were carried out on the site to create large terraces. What must and can only be considered in terms of enforcement action is the harm to the public interest that is caused as a result of the unauthorised works and works requested to address the harm identified. It is not reasonable to require ground levels to be returned to their former level simply because of what may have existed previously.

### **Visual impact**

With regard to the terracing there are limited views into the site and it is considered that once the ground has settled and grassed over that there would be limited harm caused to visual impact in the area. The Council's Landscape Architect has advised that ideally the slopes should be 1 in 3 for optimum conditions for stability and to allow additional planting to grow. Any steeper and maintenance becomes an issue. The slopes are currently very steep and it may be advisable to round the edges of the slopes. The whole area should be seeded using a wildflower and grass seed mix to allow the area to green over. A period of 5-6 days of clear weather is necessary to ensure the seed does not get washed away. If required planting of hedges at the top of the slopes using native species such as hazel, holly and hawthorn can be planted along the slopes which will also help stability of the slopes.

The Environment Agency advise that ground levels in the southwest corner of the site within flood zone 2/3 should be returned to their former levels as soon as possible due to the increased flood risk posed by the raised levels. They request that these works are carried out in accordance with drawing P905/104B. Concerns over how this will be carried out has been raised by the Arboricultural Officer to ensure that any machinery used to carry out the works does not further harm any significant trees or hedgerows in the area.

## **CONCLUSIONS**

It is accepted that there is a need for gypsy site provision within the East Devon District therefore the proposition of a site is to be welcomed. However there is also a raft of government advice and guidance which sets out how and where these sites should be delivered. The sites should be seen as part and parcel of housing provision in an area. Communities should be fully integrated and inclusive providing for the needs of everyone. Ideally gypsy sites should be located adjacent to or near to existing settlements in order for residents of the site to be able to take full advantage of the facilities and services available without encouraging greater private vehicle use.

The proposed site is some distance from the nearest settlement of Rockbeare and further than would be preferable for pedestrian access to the village to ensure social cohesion. The site is in the open countryside. However views into the site are limited and there would only be limited visual impact of the site itself which could be further mitigated through additional planting and screening. Therefore in terms of location the proposed site could be considered to be acceptable in landscape terms if it is felt that exceptional circumstances apply. However there are other factors which limit the success of this proposal. The scale of the proposed site significantly exceeds that recommended by government guidance in terms of number of pitches. Whilst in some circumstances this may be acceptable it is felt in this instance that a community of this size in relation to the village of Rockbeare would be an overprovision to the detriment of the local resident population and would not promote social cohesion and inclusion.

The applicant has agreed in principle to the provision of a contribution towards education as a result of the additional demand raised by occupiers of the site and it is felt it would be unreasonable to request public open space contributions.

In principle in terms of location within the landscape the proposal may be acceptable. However there are details contained within the proposal which are far from satisfactory. In order to form the new access the proposed re-positioning and removal of significant amounts of hedgerow to

the northwest of the site would not only cause significant harm to the character of the rural area but could also lead to loss of a hedgerow of ecological value for which there is no over-riding justification. In addition details are still limited as to how existing trees and hedgerows on and off site will be protected and not harmed as a result of the development.

A final response with regard to the potential impact on protected species and any proposed mitigation measures is still awaited from Natural England.

In terms of flooding the Environment Agency are satisfied with the proposal provided it accords with the submitted flood risk assessment and land levels in the southwest corner are reduced to their former level as detailed in drawing P905/104B.

The proposal is therefore recommended for refusal due to the scale of proposal in relation to the village, the lack of evidence as to how the proposal meets the needs of the local gypsy community, the visual impact of the works to the hedgerow to form the access and a lack of information to ensure that trees and hedgerows and any protected species will not be harmed as a result of the development.

## **RECOMMENDATION**

REFUSE for the following reason(s)

1. The number of pitches proposed exceeds the maximum size of site as recommended in government guidance without sufficient evidence of the requirement for a site of this size. In addition, the large scale of the proposed site is considered to be excessive in relation to the size of the nearest settlement of Rockbeare. The scale of the proposed site combined with the distance to the nearest village and the difficulties of accessing the village by foot is unlikely to promote social cohesion and inclusion to the detriment of occupiers of the site and local resident population. The proposal is therefore contrary to Planning Policy Statement 1 (Delivering Sustainable Development), Planning Policy Statement 3 (Housing), ODPM Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites and the DCLG Designing Gypsy and Traveller Sites: Good Practice Guide (May 2008) and the East Devon Gypsy and Traveller Issues and Options Report, April 2008.
2. Notwithstanding reason 1 above, insufficient evidence has been provided as part of the application to demonstrate that the proposal would make adequate provision for the needs of the existing gypsy community including all sections of the gypsy community within the administrative district of East Devon through the provision and/or relocation of pitches to serve those families currently needing to remain within the District, in accordance with the provisions of Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites and the East Devon Gypsy and Traveller Issues and Options Report, April 2008.
3. The proposed development by reason of a lack of information fails to adequately address ecological concerns that the development will have a detrimental impact on trees on site, including a tree of high amenity importance adjacent to the access driveway, significant hedgerows (as defined by the Hedgerows Regulations) and protected species. The application is therefore considered contrary to advice contained in British Standard 5837 (2005), Planning Policy Statement 9 (Biodiversity and Geological Conservation), Policies C01 (Landscape Character and Local Distinctiveness) and C09 (Biodiversity and Earth Science Diversity) of the Devon County Structure Plan 2001 – 2016 and Policies D4 (Landscape Requirements), D5 (Trees on Development Sites) and EN6 (Wildlife Habitats and Features) of the Adopted East Devon Local Plan 1995-2011.

4. The proposal involves the formation of a new access onto County Road C92 which in turn would necessitate the removal of a significant section of hedgerow along the frontage of that road. The combination of the opening up of the frontage and the construction of the new access road across the existing field would introduce an alien and intrusive feature into the natural landscape of the area, to the detriment of the character and appearance of the area and contrary to the provisions of Policies S5 (Countryside Protection) and D1 (Design and Local Distinctiveness) of the East Devon Local Plan 1995–2011.

### **FURTHER RECOMMENDATION**

That the Head of Legal, Licensing and Democratic Services be given delegated powers to take enforcement action to secure any necessary re-grading and landscaping moves necessary to ensure the stability of the site is secured, the proper functioning of flood zone is protected and the landscape visual impact of the earth homes is appropriately instigated.

Compliance period - To be delegated to the Head of Legal, Licensing and Democratic Services in consultation with Natural England in order to ensure that the timing of the works does not significantly harm protected species on the site.

### **List of Background Papers**

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