

**ITEM: 07**

**Application Number:** 10/00174/FUL

**Applicant:** Mr and Mrs S Rowland

**Description of Application:** Use of land as base for travelling showpeople (3 families)

**Type of Application:** Full Application

**Site Address:** LAND AT BELL CLOSE (EAST OF PARKSTONE LANE) NEWNHAM INDUSTRIAL ESTATE PLYMPTON PLYMOUTH

**Ward:** Plympton St Mary

**Valid Date of Application:** 11/02/2010

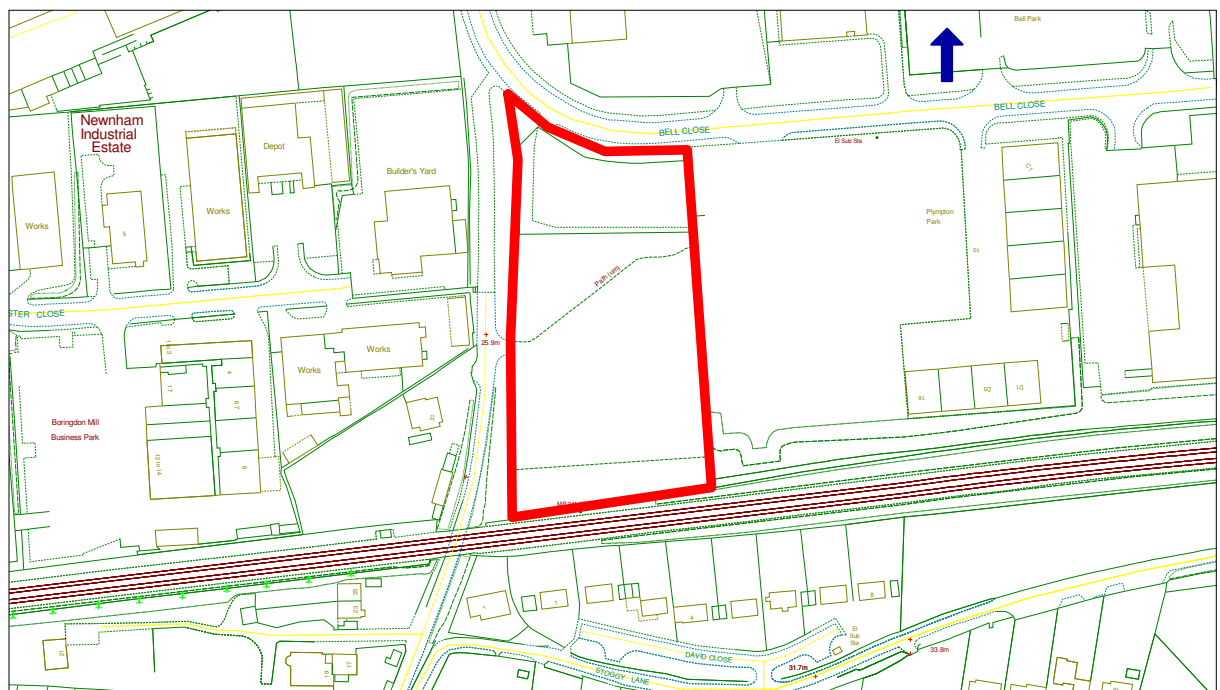
**8/13 Week Date:** **08/04/2010**

**Decision Category:** Member Referral

**Case Officer :** Jon Fox

**Recommendation:** Grant Conditionally

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## **OFFICERS REPORT**

### **Site Description**

The site consists of a roughly rectangular shaped piece of vacant industrial land just under a hectare in size situated on the southern side of Bell Close, which is an industrial estate access road serving a number of employment sites in the north eastern part of Plympton. The site is bounded on the western side by a hedgebank and narrow band of trees. Beyond this Parkstone Lane runs south from Bell Close to join up with Glen Road. Parkstone Lane is blocked off to vehicular traffic approximately half way along its length, next to the site, and vehicles using this part of the lane are able to turn in a small turning head that abuts the site boundary. This part of the Lane provides access to 31 Parkstone Lane, situated on the western side of the road, which is a care home run by the Durnford Society. The site is bounded to the south by the main intercity railway line, beyond which lie the residential properties in David Close and Stoggy Lane. The eastern side of the site is a continuation of the industrial estate. The land itself is mainly overgrown with vegetation although it does include a number of trees in the south and south western part of the site.

### **Proposal Description**

Use of land as base for travelling showpeople (3 families). The applicant's planning statement states that the site would be shared by three travelling showpeople's families, i.e. for mixed land use comprising the siting and occupation of showpeople's caravans for residential occupation together with the storage and maintenance of the individual showpeople's fairground equipment. The site will be owned by the applicants with space let out to two other showmen's families.

It is understood that the residential use would comprise three caravans and three associated touring caravans being based at the site. The applicants are members of the Showmen's Guild of Great Britain, which requires members to follow a strict code of practice regulating the use of their sites. On the business side the applicants employ a warden to help safeguard the site and two permanent employees and three/four casual employees to help maintain and operate the fairground equipment.

### **Relevant Planning History**

05/00183/FUL - Erection of warehouse for use in connection with adjacent factory, with car parking and lorry turning area and additional vehicular access. This application was permitted.

00/01264/FUL - Single-storey side extension to provide offices and inspection area (to replace cold store units) and provision of two canopies. This application was permitted.

### **Consultation Responses**

#### **Highway Authority**

Transport's views awaited.

### **Public Protection Service**

Object to the application on the grounds that the use is a sensitive one, as it includes residential use, and there is no land quality assessment to demonstrate that the risk of contaminated land or that the risk of pollution to controlled waters is acceptable. PPS also raise object on the grounds that the occupiers of the caravans will not be sufficiently protected from noise.

### **Community Services**

Comments awaited.

### **Police Architectural Liaison Officer**

The Devon and Cornwall Constabulary are not opposed to the granting of planning permission for this application.

### **Housing**

Comments awaited.

### **Asset Management**

Comments awaited.

### **Representations**

Five letters were received. Four of these raise objections on the following grounds:-

1. The land is designated for industrial use and would be better used for the creation of new premises and jobs.
2. The use will preclude creating employment opportunities.
3. The proposed use will lead to gypsies and travellers occupying the site.
4. It is believed that the applicants have sites at Lee Mill and Efford. Why do they need more?
5. There is no detail in the application of the layout of the site. Will access be from Parkstone Lane or Bell Close?
6. The Development would undermine the City's Strategic Objective 6 (LDF Core Strategy) through the erosion of the availability of employment land in what the Strategy identifies as a key business area (Core Strategy para 6.17) (Structure Plan ST20).
7. The Development would be contrary to Policy CS05, as informed by the Employment Land Review, through the loss of a viable employment site necessary to meet the area's long term economic development needs.
8. To allow residential use within an industrial area would be contrary to Strategic Objective 15, requiring the potential health impacts of development to be considered early in the planning process.
9. The Development would fail to meet the requirement in Policy CS34 to protect the residential amenity of those proposing to live at the site and fail to protect those residents from the effects of noise, in particular, which are acceptable in the context of an industrial estate but which would be inappropriate in a residential context.
10. Any grant of planning permission would be premature given the

advanced stage reached in the emerging RSS and work by DCC and Plymouth City Council to provide for Showpeople through the development plan framework, as advised in Circular 04/2007.

The fifth letter states that the site should be maintained in a tidy condition and queries: whether there will be assurances that it will be for three families only (there is a query also as to how big a family is); what assurances there are that it will not expand to “all and sundry”; who will ensure that rules are adhered to; and who will inspect the site regularly.

### **Analysis**

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

The application turns on policies CS05 (development of existing sites), CS15 (overall housing provision), (CS18 (Plymouth's Green Space) and CS34 (Planning Application Considerations) of the Core Strategy of Plymouth's Local Development Framework 2007. Strategic Objective 10 of the Core Strategy seeks to ensure that everyone has access to a decent and safe home within a quality living environment. Government Circular 04/2007 (Planning for Travelling Showpeople) is an important material consideration in the determination of this application. The Circular states that *showpeople require secure, permanent bases for the storage of their equipment and more particularly for residential purposes. Such bases are most occupied during the winter, when many showpeople will return there with their caravans, vehicles and fairground equipment..... However, increasingly showpeople's quarters are occupied by some members of the family permanently. Older family members may stay on site for most of the year and there are plainly advantages in children living there all year to benefit from uninterrupted education.* The Circular also states that *the requirement for sites to be suitable both for accommodation and business uses is very important to the travelling showpeople's way of life as they find the principle of site-splitting unacceptable.* The Circular also recognizes that *the nature of travelling showpeople's business often means that equipment repairs and maintenance are necessary which can have a visual impact and can create noise in the immediate surrounding areas.* One of the intentions of the Circular is to *increase the number of travelling showpeople's sites in suitable locations with planning permission in order to address current under-provision over the next 3 – 5 years, and to maintain an appropriate level of site provision through RSSs and LDFs.*

Guidance in the Circular to travelling showpeople is that, where there are no existing or allocated sites, the following should be considered:

- *identify your area of search. Is the reason for your looking for a particular location due to family circumstances, work or other requirements?*
- *are there suitable previously developed (i.e. brownfield) sites available?*
- *Consider:*
  - *means of access*
  - *closeness to the main road network*
  - *ground conditions and levels of land*
  - *accessibility of schools and other facilities*
  - *existence of landscaping*
  - *capability of being further screened*
  - *respect for neighbouring uses*

Critically, the Circular also refers to cases where a local planning authority is preparing its site allocations DPD and that local planning authorities are expected to give substantial weight to any unmet for showmen's sites, and where there is such a need local planning authorities should consider granting a temporary planning permission.

In this case there are policy arguments for and against granting permission for the proposed use of the land. It is considered that the site's location in an established industrial location, its good access to the road network and continuing popularity as an industrial location causes disquiet at its loss. It is also one of the easier sites to develop and this estate has the potential to attract higher quality businesses. In this respect policy CS05, which requires an assessment to be made of sites proposed for alternative uses, states that consideration should be given to whether the proposal would result in the loss of a viable employment site necessary to meet the area's current or longer term economic development needs, taking into account the overall level of provision indicated by Policy CS04. However, it should also be borne in mind that the site is unused and has been for some time and that there is not a shortage of employment land in Plymouth (according to the ELR).

With regard to the demand for travelling showpeople's sites, the draft Regional Spatial Strategy (RSS) identifies the need for three such sites within Devon. Contrary to the letters of representation, the existing showpeople's site at Efford is not occupied by the applicants. Circular 04/2007 aims to address the current under provision of sites and this is a weighty consideration in this case. In this context, the site was previously considered by the Council as a potential gypsy/traveller site but was rejected because the land is allocated as factory expansion land and within an established industrial area. It was considered that there is poor access to services such as schools, health facilities etc. Adjacent factories are also potentially unsuitable neighbouring uses (noise disturbance etc). However, there is a significant difference between the needs of travelling showpeople and that of gypsies/travellers: showpeople require sites that are suitable for both accommodation and business where vehicles and fairground equipment can be stored, repaired and occasionally tested. In this respect the site has clear advantages in that it is served by a wide industrial estate access road and there is space for a large vehicle to turn within the site whilst allowing space for the storage of equipment and the occupiers' caravans. Given the mixed

use nature of this type of occupancy it is considered that an industrial estate setting would not be at odds with the proposals.

With regard to objections raised by PPS, it is considered also that the location of the site adjacent to Parkstone Lane, and the adjoining belt of trees, would be less susceptible to being affected by noise from nearby industrial activity than a site boxed in on all sides by industrial uses. The site would be affected by noise from the rail line, but in this sense the situation would be little different to the houses in David Close and Stoggy Lane.

In terms of access to facilities, the site is within approximately 510 metres of the bus stops in Glen Road that run to the city and approximately 506 metres from the Tesco store in Westfield. Its location close to the fringe of the city is less than desirable with regard to access to schools and health services, but is probably closer to such facilities than the large residential estate located at Compass Drive, to the east along Newnham Road.

With regard to screening, the site would benefit from further screening on the eastern side of the site, adjacent to existing employment land and potentially along the Bell Close frontage. The purpose of screening would be to help shield occupiers of the site from noise from nearby premises and to reduce the visual impact of the development in the street scene. With regard to existing trees on site, the proposed access road and any works associated with the use of the site must not be allowed to harm the roots of the trees.

### **Equalities & Diversities issues**

Finding suitable sites for travelling showpeople is essential to provide equality for all. Everyone is entitled to a decent home; decent homes are a key element of any thriving, sustainable community. This is true for the settled and showpeople communities alike. Travelling showpeople are defined in Circular 04/2007 as being: *Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently, but excludes Gypsies and Travellers as defined in ODPM Circular 1/2006.*

### **Section 106 Obligations**

None.

### **Conclusions**

The proposed use of the site is contrary to policy CS05, which seeks, in the interests of the city's economic development, to retain viable employment sites and there are concerns in terms of policies CS15 and CS34 with regard to the amenities of occupiers of the site being affected by noise from the industrial estate. However, the Council has to consider these arguments against its obligations to provide housing for all and, particularly, the fact that there is an unmet demand for showpeoples' sites in the county, as identified in the draft RSS. In these circumstances, Circular 04/2007 leans very heavily in favour of granting a temporary planning permission. It is therefore

considered, on balance, that the disadvantages of the site in terms of loss of employment land and impact on amenity is outweighed by the need to provide such sites for the showpeople community. Provided that the site is laid out appropriately in terms of access, parking, space for residential use and storage of fairground equipment it is considered that a temporary permission should be granted for five years.

### **Recommendation**

In respect of the application dated **11/02/2010** and the submitted drawings, **10011-1 and planning statement**, it is recommended to: **Grant Conditionally**

### **Conditions**

#### **TEMPORARY USE: REINSTATEMENT**

(1) The use hereby permitted shall be discontinued and the land restored to its former condition on or before 30 April 2015 in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority before any works commence on site.

#### **Reason:**

In the opinion of the Local Planning Authority, the temporary use to which this permission relates will by the said date have fulfilled its required purpose. This condition is imposed to comply with Policies CS05, CS15 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007 and Government Circular 04/2007 (Planning for Travelling Showpeople).

#### **NUMBER OF RESIDENTIAL AND TOURING CARAVANS**

(2) The site shall be used for the siting of a maximum of three residential caravans and three ancillary touring caravans.

#### **Reason:**

The site is located where residential use would not normally be permitted, but is considered acceptable in this case having regard to the status of the occupiers as travelling showpeople and the size and location of the site, in accordance with Strategic Objective 10 and policies CS15 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007 and Government Circular 04/2007 (Planning for Travelling Showpeople).

#### **MAXIMUM OCCUPATION BY THREE SHOWPEOPLE'S FAMILIES**

(3) The site shall be occupied at any one time by no more than three families of travelling showpeople and all families occupying the site shall be members of the Showmen's Guild of Great Britain.

#### **Reason:**

In granting this permission the Local Planning Authority has had regard to the applicant's special circumstances but for which the application would have been refused, in accordance with Strategic Objective 10 and policies CS15 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007 and Government Circular 04/2007 (Planning for Travelling Showpeople).

## LAYOUT OF THE SITE

(4) The site shall not be used in any way associated with the use hereby permitted until details of the layout of the site, including:

- the siting and levels of, and any works to construct bases or foundations for, the residential caravans and touring caravans;
- the layout and construction of all access, turning and parking areas;
- the details and siting of any associated building, plant or machinery including any necessary for the provision of gas, water and electricity;
- the layout and construction of residential amenity areas, including those to provide landscaping and play areas for children;
- the layout and construction of defined areas for the storage, maintenance and testing of fairground rides, equipment and machinery; and
- the means of foul and surface water drainage;

have been submitted to and approved in writing by the Local Planning Authority. The permitted use of the land shall accord with the approved details.

### Reason:

In the interests of visual and residential amenity and to avoid the parking and storing of vehicles and/or equipment on the highway, in accordance with policies CS15, CS28 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

## EXISTING TREE/HEDGEROWS TO BE RETAINED

(5) A tree survey shall be submitted to and approved in writing by the Local Planning Authority before the first use or occupation of the site and the tree survey shall specify the size, species and location of any individual trees proposed to be removed, topped or lopped. In this condition "retained tree or hedgerow" means an existing tree or hedgerow which is to be retained in accordance with the approved tree survey and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the first use or occupation of the site:

(a) No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor shall any tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with BS 3998:1989(Recommendations for Tree Work).

(b) If any retained tree or hedgerow is removed, uprooted or destroyed or dies, or is lopped or topped in breach of (a) above in a manner which, in the opinion of the Local Planning Authority, leaves it in such a poor condition that it is unlikely to recover and/or attain its previous amenity value, another tree or hedgerow shall be planted at the same place and that tree or hedgerow shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

(c) The erection of fencing for the protection of any retained tree or hedgerow shall be undertaken in accordance with the approved plans and particulars (or in accordance with Section 9 of BS 5837:2005 (Guide for Trees in relation to construction) before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all



equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground areas within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason:

To ensure that trees or hedgerows retained in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 are protected during construction work and thereafter are properly maintained, if necessary by replacement.

#### NO VEHICULAR ACCESS FROM PARKSTONE LANE

(6) There shall be no vehicular access to and from the site other than from the approved access from Bell Close shown on the submitted plans.

Reason:

In order to avoid congestion and on-street parking occurring in Parkstone Lane and associated noise and disturbance affecting nearby residents, in accordance with policies CS28 and CS34 of the Core Strategy of Plymouth's Local Development Framework 2007.

#### LAND QUALITY

(7) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 8 to 10 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 11 has been complied with in relation to that contamination.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework April 2007.

#### SITE CHARACTERISATION

(8) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework April 2007.

#### SUBMISSION OF REMEDIATION SCHEME

(9) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework April 2007.

#### IMPLEMENTATION OF APPROVED REMEDIATION SCHEME

(10) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that

demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework April 2007.

#### REPORTING OF UNEXPECTED CONTAMINATION

(11) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 8, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 10.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Core Strategy of Plymouth's Local Development Framework April 2007.

#### JUNCTION DETAILS

(12) Development shall not begin until details of the junction between the proposed service road and the highway have been approved in writing by the Local Planning Authority; and the development shall not be occupied until that junction has been constructed in accordance with the approved details.

Reason:

To ensure that an appropriate and safe access is provided in the interests of public safety, convenience and amenity, in accordance with policy CS28 of the Core Strategy of Plymouth's Local Development Framework April 2007.

#### ENCLOSURE AND SCREENING

(13) Development shall not begin until there has been submitted to and approved in writing by the Local Planning Authority details of means of enclosure and screening the site. The works shall conform to the approved details and shall be completed before the site is first used or occupied.

Reason:

To ensure that the details of the development are in keeping with the standards of the vicinity and in order to protect occupiers of the site from noise and disturbance, in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

**Statement of Reasons for Approval and Relevant Policies**

Having regard to the main planning considerations, which in this case are considered to be: the impact on employment land provision, the amenities of the occupiers of the site, highway safety, the impact on the character and appearance of the area, and the impact on neighbouring properties, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents and Supplementary Planning Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy, (b) non-superseded site allocations, annex relating to definition of shopping centre boundaries and frontages and annex relating to greenscape schedule of the City of Plymouth Local Plan First Deposit (1995-2011) 2001, and (c) relevant Government Policy Statements and Government Circulars, as follows:

PPG24 - Planning and Noise  
PPS3 - Housing  
PPS23 - Planning & Pollution Control  
RPG10  
CS28 - Local Transport Consideration  
CS34 - Planning Application Consideration  
CS22 - Pollution  
CS18 - Plymouth's Green Space  
CS22 - Pollution  
CS05 - Development of Existing Sites  
CS04 - Future Employment Provision  
CS15 - Housing Provision  
CS16 - Housing Sites  
SO6 - Delivering the Economic Strategy Targets  
SO10 - Delivering Adequate Housing Supply Targets  
Circular 04/2007 – Planning For Travelling Showpeople