

**ITEM: 10**

**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

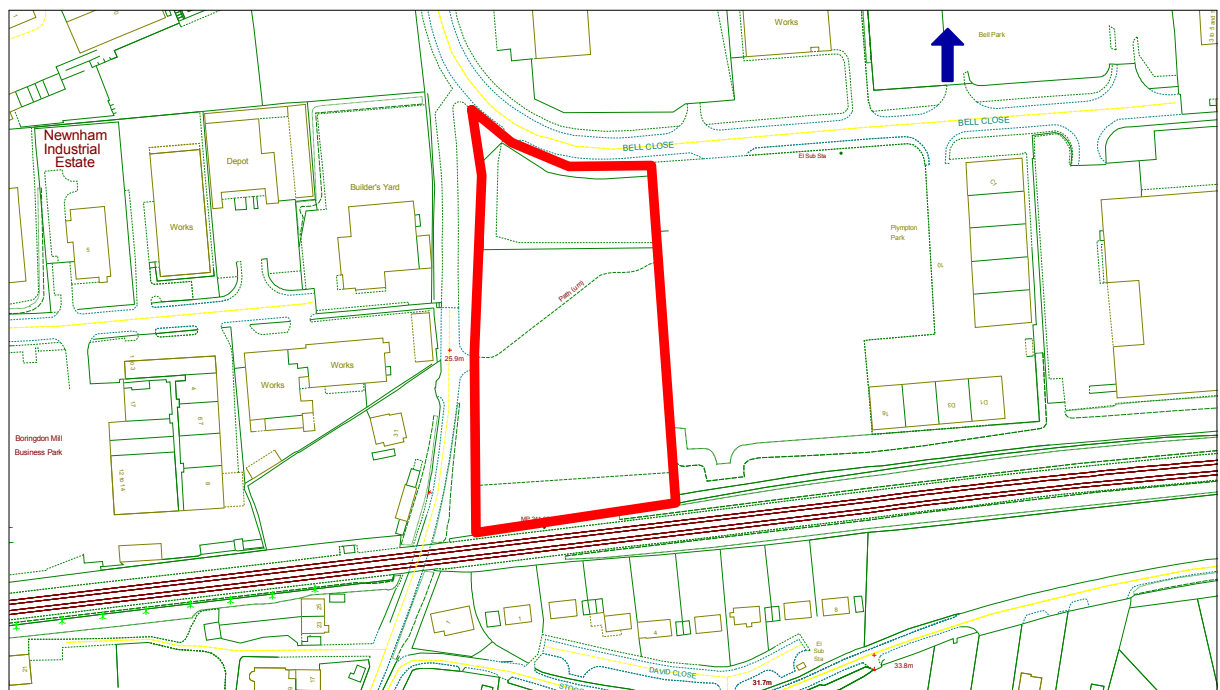
**8/13 Week Date:** **08/04/2010**

**Decision Category:** Member Referral

**Case Officer :** Jon Fox

**Recommendation:** Grant Conditionally

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## OFFICERS REPORT

**This application is being considered by Planning Committee as a result of a Member referral by Councillor Patrick Nicholson. This Ward Councillor is concerned about the loss of employment land, impact on the industrial estate and lack of detail.**

### **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.

The applicant's are aware that when this application was reported to members on 1<sup>st</sup> April, it was recommended by officers that permission be granted for the proposed use of the land for a five year period. However, the cost of acquiring and developing the site, the cost of implementing the landscaping scheme, the cost of connecting to mains drainage and other services would be so great that temporary permission cannot, in the applicant's view, be justified.

Typical accommodation for a single showman's family site is that of a main showman's caravan and an ancillary caravan (used for the children's bedrooms). There may be one other caravan used for residential occupation on each site, although none is needed at the moment. This additional caravan would provide accommodation for a dependent relative (i.e. a mother or father of the showman who may become dependent on the younger generation). Whilst ultimately the site will provide for one extended family (Mr

and Mrs Rowland, their children and in due course their own children) it is intended now that there will be three nuclear families which will comprise the travelling showperson, his/her spouse and children, together with any resident dependent (potentially mother or father). Notwithstanding the above, the submitted plans show each plot comprising a living caravan, touring caravan and one, or two, touring caravans used for storage.

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.

The applicant's agent has submitted a formal site layout plan that shows the vehicle maintenance and storage area towards the front of the site and the three individual living areas situated towards the rear.

### **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**

No objections: The application site is within easy reach of a range of amenities by walking and public transport, and not far from existing residential areas. Also with the application site being located within an Industrial Estate the local road network is designed to accommodate commercial vehicle movements, and would therefore meet the needs of commercial vehicle movements associated with transporting of fairground plant and equipment. The existing vehicle crossing into the site should be reinstated as footway and the new access should be constructed in accordance with highway standards.

#### **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**

There has been no new site provision for Travelling Show People in Plymouth since the Gypsy and Traveller Accommodation Assessments (GTAA) was completed. The last provision was made more than 30 years ago when the Council transferred land to the Show Guild for their families' use. During the

past five years, the Rowland family has sought and followed advice from Council officers about the correct procedures for acquiring and developing a site for their home and business. If planning consent is agreed it will both address their personal ambitions and assist us to meet the assessed need for sites as identified in our GTAA. It would also contribute to our broader strategy to address reported overcrowding within the present Travelling Show people site in the city and on the Rowlands current site.

### **Police Architectural Liaison Officer**

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

### **Housing**

Do not wish to comment on the application as this falls outside the Housing Act 2004. Housing only has powers or an interest in the condition of fixed dwellings.

### **Economic development**

Do not wish to comment on the application.

### **Representations**

24 letters were received. The majority 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. The use will preclude creating employment opportunities. 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). 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.
2. Bell Close Industrial Estate is particularly valuable as an area for companies to grow and develop. Land designated for industrial purposes is a rare commodity in Plymouth. Other residential opportunities exist elsewhere within the city.
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? What assurances is there that access will be from Bell Close?
6. 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.
7. There is a continuous movement of lorries on the estate. Combined with noise, pollution and other features of an industrial estate make it unsuitable for residential use. From a health and safety aspect alone,

- permitting residential dwellings in an industrial area is extremely hazardous.
8. 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.
  9. 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. Where is the evidence of the demand for this site? What studies have been done by the Council into reasonable alternatives?
  10. The sale of the land would forfeit the Council's control and management of the site.
  11. Contrary to the application, there has been no industrial building on the site.
  12. The site is near to a residential area. Noise and pollution affecting residents, i.e. from the maintenance of fairground equipment and vehicle movements.
  13. A precedent would be set for future families to join the site or elsewhere on the industrial estate.
  14. Will the number of caravans and people be limited?
  15. The area has wildlife and diversity value.
  16. There is a mobile phone mast nearby and having regard to the emissions from masts, is the site safe for residential use?
  17. The planning site notices were removed and not replaced.
  18. Sewage and drainage problems. What will happen with sewage and drainage?
  19. There will be increased rubbish and waste.
  20. Any use of electricity generators will be noisy.
  21. Contrary to the application, Colebrook does not have a post office or bank and the shop is not a supermarket.
  22. The occupiers of the site might complain about the noise from existing industrial activity and this could jeopardise business operations in the area.
  23. There will be increased pedestrian traffic between Bell Close and Parkstone Lane.
  24. There is an objection to temporary, and any permanent, use of the site for these purposes as this would result in the loss of the industrial use.

One of the remaining letters 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?

The remaining letter is one of support from the Showmen's Guild of Great Britain, which states that the applicant has been a member of the Guild for many years and that his family has a long tradition of travelling at fun fairs,

and also that the applicant has lived in the Plymouth area all his life and that he needs a place to live and to accommodate his equipment.

Other comments have been made in representations that imply negative stereotyping in relation to travelling showpeople and these comments cannot be considered on this basis, and on the basis that they are not planning matters. Other comments such as the impact on property values are also not planning matters.

### **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. In respect of this application the use is for a mix of quasi-industrial employment use and residential accommodation for the operators. 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 Employment Land Review 2006 (ELR). For example, the ELR states that the future employment land requirement in 2016 will be 57.63 hectares, whereas the quantity of employment land at the time of the report was 75.28 hectares with permission and 49.83 hectares allocated, which results in a difference of 67.48 hectares.

With regard to the demand for travelling showpeople's sites, the draft Regional Spatial Strategy (RSS) identified the need for three such sites within Devon. However, RSSs have now been revoked by the Coalition Government. As a result the Department for Communities and Local Government have issued advice on provision for travellers and (while travellers are not the same as travelling showpeople) this advice is considered to be a reasonable comparison in terms of the principles local authorities should be applying to the need for showpeoples' accommodation. The Department states that: 'local councils are best placed to assess the needs of travellers. The abolition of Regional Strategies means that local authorities will be responsible for determining the right level of site provision, reflecting local need and historic demand, and for bringing forward land in DPDs. They should

continue to do this in line with current policy. *Gypsy and Traveller Accommodation Assessments* (GTAAs) have been undertaken by all local authorities and if local authorities decide to review the levels of provision these assessments will form a good starting point. However, local authorities are not bound by them. We will review relevant regulations and guidance on this matter in due course.'

In this respect the agent has submitted a statement regarding the need for the three families to find a site in Plymouth. All three families have been unable to find permanent accommodation in the West Country and the site at Lee Mill does not have space for the applicant's family. The existing Showmans' site at Efford is also at capacity. In addition the agent has submitted a survey report undertaken by the Showmen's Guild of Great Britain in 2004, which highlights in the South West an existing need at that time for 35 families with a total need for 57 families.

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 despite the abolition of RSSs 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, particularly as the site has the buffer of Parkstone Lane on its western side.

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.

With regard to noise affecting neighbours, the main difficulty with the site is that it is open and any noise would be unconstrained by buildings. In this respect the maintenance, repair and testing of fairground equipment (including sound systems) could be a particular problem and such activities would need to be carefully restricted. As a precautionary measure it is recommended that testing of fairground equipment (including sound systems) should not be allowed.



Another noise generator would be the loading and unloading of equipment and associated vehicle movements potentially late at night and such movements and operations would also need to be carefully controlled. The use of lighting would also need to be controlled. With regard to the use of electricity generators, these are considered to be potential sources of noise that exceed what could be justified in a residential area and as such a condition is recommended that prevents their use unless a need for them can be demonstrated and that their use will not be harmful to residents.

With regard to concerns that occupiers of the site might complain about the noise from existing industrial activity, and that this could jeopardise business operations in the area, the agent has stated that they are not aware of any high or adverse noise levels emanating from other users of Bell Close and that travelling show people are in any event used to living and working in the same area and would be considered to be one of the least sensitive groups of residents in terms of noise impact. The agent does not believe that adjoining users would have any cause of complaint from the proposed site occupiers. On balance it is considered that the nature of travelling showpeople occupancy is one which lends itself to discreet use of such sites and that any excessive noise generated by other industrial estate users is likely to lead to complaints from existing residents in nearby streets as much as from the occupiers of the site.

The Transport Officer does not wish to raise any objections to planning permission being granted and recommends an informative note be added to any decision notice regarding lowering of the kerb.

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. In this respect the agent has stated that on the north boundary to Bell Close a 2 metre high triple spiked balustrade fence is proposed, similar to that seen elsewhere in Bell Close. Along the other boundaries close boarded fencing will be used along the eastern boundary again together with soft landscaping.

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 important trees. To this end a tree survey has been submitted, which is considered acceptable in terms of tree works and mitigation.

With regard to the wildlife and diversity value of the site, it is considered that the site's location on industrial estate land means that the site could at any time be developed for industrial purposes, subject to receiving planning permission, and on this basis it is unlikely that wildlife would outweigh these considerations. However, the site has been vacant for some time and there is the potential for significant nature conservation interest to have evolved on the site. In light of this, nature conservation surveys have been carried out, which are being considered to adequately demonstrate appropriate mitigation for the impact of the proposals on flora and fauna on the site.

With regard to sewage and drainage, the application states that surface water would be drained to soakaway and that foul would drain to the mains and these details can be secured by condition. With regard to rubbish and waste, it is recommended that a condition be used to secure adequate bin storage.

The proposed layout appears to be acceptable, although details of the number and type of vehicles attending and/or kept on the site should be conditioned and those shown on the plan are not necessarily acceptable. With regard to the height of the storage of vehicles and equipment, landscaping, hardstandings, refuse disposal and the actual number of lorries, vans and trailers at the site, it is recommended that details of these aspects of the development are sought by condition.

### **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 partly meets the requirements of policy CS05 (employment) in terms of providing a quasi-industrial use on the site, but introduces a residential element. 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 and other residents being affected by the proposed use of the site. However, the Council has to consider these arguments against its obligations to provide housing for all and the fact that there is an unmet demand for showpeoples' sites in the Region. In these circumstances, Circular 04/2007 leans very heavily in favour of granting a temporary planning permission. However, it is considered in this case that a) the quasi-industrial nature and occupation of the proposed use and b) the

unique position of the site against Parkstone Lane and the adjoining tree belt (whereby the site is not faced with industrial uses on either side) lends itself sufficiently strongly to granting a permanent permission. It is therefore considered, on balance, that the disadvantages of the site in terms of the loss of a conventional employment land use 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, and is used sensitively in terms of the noise from comings and goings to the site, it is recommended that a permanent planning permission be granted subject to conditions.

### **Recommendation**

In respect of the application dated **11/02/2010** and the submitted drawings, **10011 - 3, 10011 - 4 and planning statement**, it is recommended to: **Grant Conditionally**

### **Conditions**

#### **DEVELOPMENT TO COMMENCE WITHIN 3 YEARS**

(1) The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

#### **Reason:**

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

#### **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;
- any other hardstandings and hard surfaced 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, repair and maintenance of fairground rides, equipment and machinery;
- the maximum height of storage of fairground rides, equipment and machinery;
- refuse storage areas and
- the detailed 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.

#### ENCLOSURE AND SCREENING

(12) Notwithstanding the submitted plan 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.

#### NUMBER AND TYPE OF VEHICLES ATTENDING/STORED AT THE SITE

(13) The site shall not be used in any way associated with the use hereby permitted until details of the total number and type of vehicles attending or stored at the site are 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.

#### NO TESTING OF RIDES, EQUIPMENT, MACHINERY OR SOUND SYSTEMS

(14) There shall not at any time be any testing of rides, equipment and machinery, including sound systems.

#### Reason:

To protect the residential and general amenity of the area from any harmfully polluting noise and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021)2007.

#### NO USE OF ELECTRICITY GENERATING EQUIPMENT

(15) There shall not at any time be any use or operation of electricity generating equipment.

#### Reason:

To protect the residential and general amenity of the area from any harmfully polluting noise and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021)2007.

#### HOURS OF MAINTENANCE AND LOADING/UNLOADING

(16) There shall be no works of repair or maintenance of rides, equipment and machinery and no loading and unloading of any rides, equipment and machinery outside the following times: 0800 to 1800 hours Monday to Friday inclusive and 0900 to 1300 hours on Saturdays; nor at any time on Sundays, Bank or Public Holidays.

#### Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### HOURS OF SITE ACCESS

(17) There shall be no transport of rides, equipment and machinery to or from the site outside the following times: 0800 to 2100 hours Monday to Friday inclusive and 0900 to 1800 hours on Saturdays and 1000 to 1300 hours on Sundays, Bank or Public Holidays, except solely for the parking up of lorries and fairground equipment on a designated part of the approved on-site



access road to be identified and agreed in writing with the Local Planning Authority before the use is commenced. In this condition the transport of rides to and from the site shall not include any loading or unloading of rides, equipment and machinery.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### LANDSCAPING

(18) No development shall take place until full details of soft landscape works and a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include the number, size, species and layout of all planting. Any plants that die or are seriously diseased or damaged within five years shall be replaced in the following planting season with similar plants.

Reason:

To ensure that satisfactory landscape works are carried out in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### DETAILS OF FLOODLIGHTING

(19) Details of any floodlighting and any other external lighting shall be submitted to and approved in writing by the Local Planning Authority before the permitted use of the land is implemented. Development shall be carried out in accordance with the approved details.

Reason:

To ensure that the details of the development are acceptable to the Local Planning Authority and that they are in keeping with the standards of the vicinity in accordance with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### REINSTATEMENT OF FOOTWAY

(20) The development shall not be brought into use until the existing footway crossing (now redundant) has been removed and the footway reinstated.

Reason:

In the interests of public safety, convenience and amenity in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### TREE WORKS

(21) All tree works shall be carried out in accordance with the relevant recommendations of BS 3998:1989 (Recommendations for Tree Work) and shall be carried out prior to commencement of the construction phase and

subject to a detailed specification to be agreed with the Council's Tree Officer prior to commencement of works.

Reason:

To ensure the continuity of amenity value afforded by the tree(s) in question in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### TREE PROTECTION DURING CONSTRUCTION

(22) The existing trees and/or hedgerows shown to be retained on the approved plans shall be properly protected with appropriate fencing during construction works. The erection of fencing for the protection of any retained tree or hedgerow shall be undertaken in accordance with Section 9 of BS 5837:2005 (Trees in relation to construction - recommendations) and shall be carried out in accordance with the Planning Integration Report (PIR), Tree Protection Plan (TPP) and Arboricultural Site Method Statement (AMS1), Arboricultural Method Statement (AMS2) and Fencing Arboricultural Method Statement (AMS3) by A.M.Lane dated 07/08/10 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 levels within those areas shall not be altered, nor shall an excavation be made, without the written consent of the local planning authority.

Reason:

To ensure that any trees or hedgerows to be retained are protected during construction work in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### EXISTING TREE/HEDGEROWS TO BE RETAINED

(23) In this condition "retained tree or hedgerow" means an existing tree or hedgerow which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the first occupation of the site for residential purposes.

(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.

#### DETAILS OF REPLACEMENT TREES

(24) Details of the size, species and location of the replacement tree(s) shall be agreed in writing with the LPA before commencing the work permitted, and the agreed replacement tree(s) shall be planted within 3 months from the date the permitted work is carried out or, if this period does not fall within a planting season, by 31 January next.

Reason:

In the interests of visual amenity and to conserve the contribution of trees to the character of the area in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### NATURE CONSERVATION

(25) Unless otherwise previously agreed in writing with the Local Planning Authority, the development shall be carried out in accordance with the Interim Ecological Impact Assessment (dated August 2010) for the site.

Reason:

In the interests of the retention, protection and enhancement of wildlife and features of biological interest, in accordance with Core Strategy policies CS01, CS19, CS34 and Government advice contained in PPS9.

#### REVISED FENCE POSITION TO PROTECT ORCHIDS

(26) Notwithstanding the submitted plans and unless otherwise previously agreed in writing with the Local Planning Authority, the position of the proposed boundary fence fronting onto Bell Close shall be set back a minimum of 1.5 metres from the position shown on the submitted plans in accordance with details to be agreed in writing by the Local Planning Authority.

Reason:

In order to protect wild orchids growing on land at the front of the site, in accordance with policy CS19 of the Core Strategy of Plymouth's Local Development Framework 2007.

## INFORMATIVE - KERB LOWERING

(1) Before the access hereby permitted is first brought into use, it will be necessary to secure dropped kerbs with the consent of the Local Highway Authority. The developer should contact the Highway Operations Team of Plymouth City Council for advice on this matter before any work is commenced.

### **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

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