

ANGUS COUNCIL

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 20 JUNE 2017

LAND 125M WEST OF NORTH MAINS CROFT, LOGIE, KIRRIEMUIR

REPORT BY THE HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT:

The Committee is asked to consider an application for a Review of the decision taken by the Planning Authority in respect of the refusal of planning permission for change of use of vacant land to allow siting of a chalet and two touring caravans, erection of amenity block and boundary wall, formation of car parking, alteration of ground levels and associated infrastructure, application No 16/00738/FULL, at Land 125m West of North Mains Croft, Logie, Kirriemuir.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) review the case submitted by the Planning Authority (**Appendix 1**); and
- (ii) review the case submitted by the Applicant (**Appendix 2**).

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/CORPORATE PLAN

This Report contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. CURRENT POSITION

The Development Management Review Committee is required to determine if they have sufficient information from the Applicant and the Planning Authority to review the case. Members may also wish to inspect the site before full consideration of the Appeal.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising directly from the recommendations in the Report.

5. CONSULTATION

In accordance with Standing Order 48(4), this Report falls within an approved category that has been confirmed as exempt from the consultation process.

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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List of Appendices:

Appendix 1 – Submission by Planning Authority
Appendix 2 – Submission by Applicant

ANGUS COUNCIL'S SUBMISSION ON GROUNDS OF REFUSAL

APPLICATION NUMBER – 16/00738/FULL

APPLICANT- MR JOHN TOWNSLEY

PROPOSAL & ADDRESS – CHANGE OF USE OF VACANT LAND TO ALLOW SITTING OF A CHALET AND TWO TOURING CARAVANS. ERECTION OF AMENITY BLOCK AND BOUNDARY WALL. FORMATION OF CAR PARKING, ALTERATION OF GROUND LEVELS AND ASSOCIATED INFRASTRUCTURE AT LAND 125M WEST OF NORTH MAINS CROFT LOGIE KINGSMUIR

CONTENTS

AC1	Report of Handling	
AC2	Policy Tests (Angus Local Development Plan 2016)	
	Policy DS1: Development Boundaries & Priorities	
	Policy DS3: Design Quality & Placemaking	
	Policy DS4: Amenity	
	Policy TC6: Gypsies and Travellers and Travelling Showpeople	
	Policy PV7: Woodland, Trees & Hedges	
	Policy PV20: Soils and Geodiversity	
	Consultation Responses	
AC3	Natural & Built Environment – Core Paths 06.10.16	
AC4	Roads – Traffic 07.10.16	
AC5	Housing – 22.11.16	
	Letters of Representations	
AC6	Mr John Grant – 13.10.16	
AC7	Mr & Mrs Bruce Mackie – 01.11.16	

	Application Drawings	
AC8	Refused Site/Location Plan	
AC9	Refused Drawings	
	Further Information Relevant to Assessment	
AC10	Site Photographs	
AC11	Decision Notice	
	Supporting information from Applicant	
AC12	Correspondence – Additional Details from Agent	
AC13	Planning Policy and Design Statement	
AC14	Details of Hardcore	
AC15	Letter from agent in response to reps	

Angus Council

Application Number:	16/00738/FULL
Description of Development:	Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure
Site Address:	Land 125M West Of North Mains Croft Logie Kirriemuir
Grid Ref:	337985 : 752997
Applicant Name:	Mr John Townsley

Report of Handling**Site Description**

The application site measures approximately 1350sqm and is located in the countryside 350m to the southwest of the Kirriemuir Development Boundary. The site has recently been levelled, hardcore laid throughout and is occupied by a chalet and two touring caravans. It is predominantly surrounded by farmland, where the applicant owns the land directly to the north of the site. There is a residential property directly to the east, a farm track which runs to the south and core paths 253 and 254 are adjacent to the southern and western boundaries. North Mains of Logie Farm is located a short distance to the south. The site is served by an existing unmade access track taken from North Mains Road.

Proposal

The application seeks retrospective planning permission to allow the siting of a chalet and two touring caravans, for the erection of a boundary wall and for formation of car parking, alteration to the ground levels and other associated infrastructure at the site. The chalet currently on site has a footprint of approximately 45sqm and a height of 3.35m and two standard sized touring caravans are sited adjacent to this. The existing boundary wall is approximately 1.5m high with feature piers. The wall is finished in off white harl and topped with concrete coping stones. The site is also partially lined by a 1.8m high dark green fence. The ground has been levelled and the entire site has been topped with Type 1 aggregate. Drainage and water supply infrastructure has also been installed for connection to the public drainage network and public water supply. In addition the application also proposed the erection of a 15sqm amenity block which would measure approximately 3.4m in height and would be finished in rough cast and concrete tiles. The amenity block would include two wet rooms and a laundry room.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 14 October 2016.

The nature of the proposal did not require a site notice to be posted.

Planning History

13/00969/PPPL for Planning Permission in Principle for Erection of Dwellinghouse & Garage was determined as "Refused" on 20 December 2013.

As well as the above planning application the site has also been subject to a recent Enforcement Case ref: 16/00165/UNDV, where an Enforcement Notice was served by the Council on 19 August 2016 requiring the removal of caravans, drainage and services and reinstatement of the channels which have been dug; removal of rubble, hard core and the earth bund with restoration of the site to a greenfield condition. The Enforcement Notice was subject of an appeal to the Scottish Government Directorate for Planning and Environmental Appeals (DPEA). The appeal decision was issued on 23 November 2016. The appeal was allowed in that, amongst other things, it modified the terms of the Enforcement Notice to allow the period for removal of the caravans to be extended to 3 August 2017, with the remaining steps specified in the notice to be completed on or before 3 September 2017. The time periods were extended by the Reporter to allow the applicant the opportunity to appeal the planning decision for this application (16/00738/FULL), should it be refused.

Applicant's Case

The following supporting documentation has been provided:

Planning Policy and Design Statement - is an overarching document which provides a summary to the history of the application, the personal circumstances of the applicant, the need and demand of the Gypsy/Travelling community in Angus, the site design and layout, and legislation relating to the Gypsy/Traveller Community and the current proposal. The statement also highlights the limitations in dealing with unauthorised encampments, the positive impact of site provision and considers the proposal against the relevant national and local planning policy, concluding the proposal would be in general compliance with SPP, the Angus Local Plan Review and the Angus Local Development Plan. The agent also suggests a number of material planning considerations such as the Equalities and Human Rights Commission Report (EHRC) 44 (2015), social, economic and environmental justifications, Human Rights, the Equality Act 2010 and the personal circumstances of the applicant. The statement concludes that at present there are two unsuitable Gypsy/Travellers sites in Angus and there has been a lack of progress by the Council to find suitable accommodation. As a consequence an undefined and unaddressed need has been created and the Development Plan policies related to Gypsy/Travelling sites allows a justification to be submitted for private, permanent sites. The agent notes the justification in this case should include the personal circumstances of the applicant and that the development is designed to create a safe, secure and suitable living environment in the absence of any alternative site provision. The agent also notes the proactive approach by the Applicant has provided a home for this Gypsy/Travelling family at no cost to the public purse and is to meet a local need. The work undertaken has transformed the rural brownfield land into a visually pleasing site, which has ease of access by road on foot and cycle with community facilities and public transport nearby and would have a temporary negligible landscape impact. The statement notes it is incumbent on the Council to take into account social, economic and environmental factors, which includes a right to family life and these material planning considerations need to be regarded as exceptional circumstances in this case if the Council disagree with the policy assessment and as such there is a reasoned justification to allow the grant of planning permission.

Correspondence from the agent, dated 24 October - was received in response to various questions posed by the Planning Department and confirmed an invoice had been submitted to indicate the type and volume of materials imported onto the site to form the parking area. The letter confirmed the chalet is the only structure that will be connected to the drainage infrastructure and noted the drainage connection is by means of a pipe attached to the main drain. In response to a question relating to whether the chalet had an axel, the agent noted that the issue of whether the units have or do not have an axel is irrelevant and in this case the caravans and chalet are capable of being de-constructed and transported and are in accordance with the 1960 Act. The letter concludes that the chalet and caravans are not operational development as they fall within the definition of a "caravan" as defined in the "Caravan Sites and Control of Development Act 1960", as supplemented by the "Caravan Sites Act 1968". The units are residential and temporary nature and it is the agent's understanding that the operator of this "caravan site" will be required to obtain a "site license" from the Council.

Correspondence from the agent, dated 15 November - was received as a rebuttal to objections received to the planning application, where the agent noted sections of the Angus Council Local Development Plan (LDP) Housing Policy Framework and the preamble to Policy TC6 'Gypsies and Travellers and Travelling Showpeople'. The preamble notes "The Angus LHS seeks to address the accommodation needs of gypsy/travellers through direct liaison with these groups, provision of additional spaces and where

appropriate access to housing." The agent also notes that one letter of objection included discriminatory references and this was as a result of the lack of positive action to find an adequate supply of land/sites for the Gypsy/Travelling community in the Angus area. The agent also makes reference to the recent appeal site visit to the existing Balmuir Wood site, where a number of vacancies were observed and the Reporter noted the proximity of the site to the busy A90 and the distance from community facilities (2/3 miles). The agent highlights that this remains a site which is not favoured by the Travelling community. The letter goes on to state that there remains an inequality of approach when addressing the Gypsy/Travellers as an ethnic minority group in Angus with a lack of choice of quality sites contrary to the LDP policy approach. The Applicant is searching for a site to call his home and has no intention of expanding the site for the purposes stated in the objection. The Applicant's approach to developing this site is in accordance with the Government Guidance for Gypsy/Travellers sites with space standards in accordance with this Guidance and the Caravan Site License provisions. The development is well designed and laid out with natural screening provided by the existing trees which remain untouched and a living environment has been created without detriment to visual and residential amenity. The letter concludes by highlighting matters which would not be considered valid objection points.

Invoice - An invoice from W. Douglas Contractors Ltd, dated June 2016, to the applicant was submitted in support of the application. The invoice provides a brief indication of the works carried out and the materials (type 1 aggregate) and machinery used to level and lay the existing hardcore on the site.

Full copies of the supporting documentation can be viewed via the Public Access portal.

Consultations

Angus Council Housing Service - has advised the travelling site at Balmuir Wood has 20 pitches (about 13 are currently vacant) and Angus Council has access to this site through the Site Liaison Officer. Angus Council are entitled to nominate travelling people and their families for allocation of pitches at this site, provided vacant pitches are available. Dundee City Council shall accept such nominations provided they are in accordance with Dundee City Council's letting procedures. St Christopher's has 18 pitches; 17 are currently occupied with one being held vacant to assist with decants during the planned upgrades. The draft findings of a need assessment [carried out in association with TAYplan] indicate a projected surplus of accommodation in TAYplan over the next five years. In Angus however there is projected to be a small shortfall, particularly attributed to demand in the North area and to a smaller extent the West. While the draft findings are still being analysed they do not appear to indicate a significant requirement for additional provision in Angus.

Angus Council - Countryside Access - has advised core paths 253 and 254 are adjacent to the southern and western boundaries of the site and in order to protect the privacy of residents and public access over the paths, the extent of private land associated with any accommodation on the site should be clearly defined by boundary features such as walls, fences or hedges.

Angus Council Environmental Health - There was no response from this consultee at the time of report preparation.

Community Council - There was no response from this consultee at the time of report preparation.

Angus Council - Roads - has offered no objection to the proposal.

Scottish Water - There was no response from this consultee at the time of report preparation.

Representations

2 letters of representation were received. The main points of concern were as follows:

- Visual impacts/ removal of trees
- Unsuitable pattern of development, i.e. extension of ribbon development
- Site history of refusal for a dwellinghouse on the site

Comment - The above matters will be discussed during the assessment of the proposal

- **Existence of unauthorised works carried out on the site, possibility of this setting a precedent for future unauthorised works and discrimination against those who have previously applied for planning permission** – planning legislation makes provision for the submission of retrospective planning applications. Issues regarding any possible precedent are discussed in the assessment below but those submitting retrospective applications run the risk that enforcement action may be taken in relation to any unauthorised use or works that are found to be unacceptable.
- **Impact upon house prices** - issues regarding the impact upon surrounding house prices are not a material planning consideration.
- **Lack of notification of the application** - the application was subject to statutory publicity and consultation as prescribed by the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
- **Potential anti-social behaviour** - it is not the purpose of the planning system to regulate antisocial behaviour and I do not consider that the proposal for the siting of a chalet and two touring caravans with associated infrastructure would be of a nature to generate anti-social behaviour.

Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities
 Policy DS3 : Design Quality and Placemaking
 Policy DS4 : Amenity
 Policy TC6 : Gypsies and Travellers and Travelling Showpeople
 Policy PV7 : Woodland, Trees and Hedges
 Policy PV20 : Soils and Geodiversity

TAYplan Strategic Development Plan

The proposal is not of strategic significance and policies of TAYplan are not referred to in this report.

The full text of the relevant development plan policies can be viewed at Appendix 1 to this report.

Assessment

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The site is not located within a Development Boundary and is not allocated or safeguarded for any particular use in the Angus Local Development Plan (ALDP). Policy DS1 in the ALDP states that outwith development boundaries, proposals will be supported where they are of a scale and nature appropriate to the location and where they accord with other relevant policies in the ALDP.

The primary policy test in this instance is Policy TC6 which relates to sites for Gypsies and Travellers and Travelling Showpeople. The first statement in this policy notes that Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites, where such sites would be protected from alternative redevelopment. Proposals for new or extended permanent sites and temporary "short stay" sites for Gypsies and Travellers will only be supported where; the site will contribute to satisfying a local need identified in the Local Housing Strategy and is consistent with Angus Council's strategy for meeting the accommodation needs of these client groups; the development is designed and located to minimise adverse effects on the landscape, established amenity, character and built or natural heritage interests of the surrounding area; the proposed site will provide a good residential amenity for residents and has adequate access to community, education and health services and facilities; and the proposed development would not set a precedent or open up other areas for similar development.

The policy clearly identifies that Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites. There is currently one authorised site in the control of Angus Council, St Christopher's at Tayock, Montrose, which is near capacity. In addition there is an authorised site at

Balmuir Wood which is managed by Dundee City Council, but is within the Angus Council boundary. Balmuir Wood has 20 pitches where about 13 of these are currently vacant. The Balmuir Wood site is around 14 miles from the application site and 5 additional miles from the applicant's town of work. Angus Council has access to the Balmuir Wood site through the Site Liaison Officer and are entitled to nominate travelling people and their families for allocation of pitches at this site, provided vacant pitches are available. Dundee City Council is required to accept such nominations provided they are in accordance with Dundee City Council's letting procedures. On this basis and in accordance with the above policy the applicant would be directed to this existing site as opposed to encouraging a proposal for an existing unauthorised site.

Additionally, Policy TC6 indicates that proposed sites must contribute to a local need identified in the Local Housing Strategy. The current Local Housing Strategy indicates amongst other things that additional research is required to identify housing need of a range of minority groups including gypsies/travellers. In this regard the TAYplan partner authorities (including Angus Council) has commissioned research on the matter and to gather details on existing sites and capacities. The initial findings suggest a projected surplus of accommodation in the TAYplan area over the next five years but a small shortfall in Angus, particularly attributed to demand in the north and to a smaller extent the west. However the Housing Service has advised that the draft findings are still being analysed and do not appear to indicate a significant requirement for additional provision in Angus. In these circumstances, and as there are pitches available at the authorised site at Balmuir Wood, there is no justification to support a proposal for an ad hoc site.

Policy TC6 also requires that proposals do not set a precedent or open up other areas for similar development. In this regard it is noted that the applicant owns the area of ground to the north of the application site. The applicant's agent has advised there is no intention of developing this land but that it may be used for storage and domestic use (garden) ancillary to the main residential use. However this area of ground is not included within the current application site and the alternative uses indicated would require planning permission in their own right. That land has similar characteristics to the current application site and approval of this application could establish a precedent for similar development on that area. Similar concern regarding precedent was raised when a planning application for the erection of a house on the current application site was refused in 2013 (appn: 13/00969/PPPL refers). The proposal does not give rise to significant issues in terms of the remaining criteria of the policy but on the basis of the above assessment the proposal is clearly contrary to Policy TC6.

Policy DS3 deals with design quality and place-making and indicates that proposals should deliver a high design standard taking account of aspects of landscape and townscape that contribute positively to the character and sense of place of the area in which they are located. A third party has raised concerns with regards to the pattern of development where it is acknowledged the proposal would extend the linear form of development in the area. Linear or ribbon development is generally accepted to be a poor form of development in the countryside and would not be supported were the proposal for a mainstream dwelling.

Policy DS4 deals with amenity and indicates that regard will be had to opportunities for maintaining and improving environmental quality. The site is reasonably well screened from neighbouring property and the proposed use would not give rise to significant amenity impacts on those that live in the immediate area. The proposal would utilise an existing access track and the Roads Service has offered no objection. There is no suspected land contamination at the site.

Policy PV7 primarily seeks to protect and retain woodland, trees and hedges to avoid fragmentation of existing provision. There is a shelterbelt of trees to the east and west of the site, and a third party has suggested trees have recently been removed. The applicant's agent has suggested that the applicant has protected and retained all dense mature conifer trees surrounding the site in recognition of their contribution to the landscape setting of the area and privacy and amenity value. The trees are not protected and any that have been removed would not have required consent from the planning authority. In any case the current application does not propose the removal of any trees.

Policy PV20 Soils and Geodiversity notes that development proposals on prime agricultural land will only be supported where they support delivery of the development strategy and policies in this local plan; are small scale and directly related to a rural business or mineral extraction; or constitute renewable energy development and are supported by a commitment to a bond commensurate with site restoration

requirements. In this case the application site comprises Class 2 prime agricultural land and the proposal does not comply with any of the criteria identified in the policy that would allow development of prime quality land. The agent has suggested that the proposed development is of a temporary nature and the land can be returned to its original use through removal of the development and spreading soils. However, the application form has been completed to indicate that temporary permission is not sought and therefore it must be assumed that this is an application for permanent use of the site. The agent has also referenced a planning application ref: 15/00135/FULL for use of land for the siting of seasonal worker caravans at Charleton Farm Montrose. That application was located within a walled garden area and sought permission to provide temporary accommodation for seasonal workers required in association with the activities of the farm at that location. It is not comparable with the proposal subject of the current application.

The proposal does not comply with the Policies TC6 or PV20 and as such is also contrary to Policy DS1. The proposal is contrary to the Angus Local Development Plan.

As noted above a previous proposal for a house on this site was refused in 2013 as it did not comply with policies in the Angus Local Plan Review (2009). That Plan has been replaced by the Angus Local Development Plan but the principle of a house on the site remains contrary to the policies of the new Plan.

In terms of other material considerations, the supporting statement makes reference to the human rights and equalities legislation. However, it is a well-established principle that the lawful operation of the planning system will not result in a breach of that legislation. The applicants desire to provide family accommodation is appreciated but no compelling information has been provided to demonstrate that existing sites cannot meet that desire. Similarly, no information has been provided to demonstrate that the applicant requires accommodation at this specific location. The applicant and other family members that would be accommodated at the site all appear to be employed in association with a business that is operated at Brechin. Whilst it is indicated that there are other family members resident at Maryton, no information has been provided to demonstrate why the applicant and his family need to be located in proximity of the extended family.

The supporting statement also makes reference to other cases, including court cases and appeal cases. Account has been taken of those matters. However, in this case there is no compelling justification for the site selected by the applicant and there is an existing authorised site that has capacity to accommodate the family.

The supporting statement suggests that the site is brownfield. However, its last lawful use was for agriculture and that position was accepted by the Reporter who determined the Enforcement Notice appeal. The terms of the extant Enforcement Notice require the site to be returned to a greenfield condition. The condition of the site, which has largely been created by the actions of the applicant, does not justify approval of the current application.

In conclusion, the proposal is contrary to policies of the Angus Local Development Plan. The personal circumstances of the applicant and his family have been taken into account but are not considered to justify approval of the application, particularly when there is an existing authorised site that has capacity to accommodate the applicant's caravans. There are no material considerations which justify approval of planning permission contrary to the development plan.

Human Rights Implications

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

Equalities Implications

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

Decision

The application is Refused

Reason(s) for Decision:

1. The application is contrary to Policy TC6 of the Angus Local Development Plan (2016) as there are existing authorised sites with capacity to accommodate the applicant and his family, and as the proposal could set a precedent or open up other areas for similar development.
2. The application is contrary to Policy PV20 of the Angus Local Development Plan (2016) as the development is located on prime agricultural land and as it does not meet the criteria for development of prime agricultural land identified in that policy.
3. The proposal is contrary to Policy DS1 of the Angus Local Development Plan (2016) because it is contrary to other policies of the local development plan, namely Policies TC6 and PV20.

Notes:

Case Officer: Stephanie Porter
Date: 30 December 2016

Appendix 1 - Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities
All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available

brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

*Sharing an edge or boundary, neighbouring or adjacent

Policy DS3 : Design Quality and Placemaking

Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- o Distinct in Character and Identity: Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- o Safe and Pleasant: Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- o Well Connected: Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.
- o Adaptable: Where development is designed to support a mix of compatible uses and accommodate changing needs.
- o Resource Efficient: Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Supplementary guidance will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out above. Further details on the type of developments requiring a design statement and the issues that should be addressed will also be set out in supplementary guidance.

Policy DS4 : Amenity

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

Policy TC6 : Gypsies and Travellers and Travelling Showpeople

Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites (publicly or privately owned and managed). Existing authorised Gypsies and Travellers and Travelling Showpeople sites will be protected and there will be a presumption against their redevelopment or conversion to other uses unless it can be demonstrated to the satisfaction of Angus Council that there is a surplus of accommodation to meet identified needs.

Proposals for new or extended permanent sites and temporary "short stay" sites for Gypsies and Travellers will only be supported where:

- o the site will contribute to satisfying a local need identified in the Local Housing Strategy and is consistent with Angus Council's strategy for meeting the accommodation needs of these client groups;
- o the development is designed and located to minimise adverse effects on the landscape, established amenity, character and built or natural heritage interests of the surrounding area;
- o the proposed site will provide a good residential amenity for residents and has adequate access to community, education and health services and facilities; and
- o the proposed development would not set a precedent or open up other areas for similar development.

Policy PV7 : Woodland, Trees and Hedges

Ancient semi-natural woodland is an irreplaceable resource and should be protected from removal and potential adverse impacts of development. The council will identify and seek to enhance woodlands of high nature conservation value. Individual trees, especially veteran trees or small groups of trees which contribute to landscape and townscape settings may be protected through the application of Tree Preservation Orders (TPO).

Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity, townscape or landscape value of Angus will be protected and enhanced. Development and planting proposals should:

- o protect and retain woodland, trees and hedges to avoid fragmentation of existing provision;
- o be considered within the context of the Angus Woodland and Forestry Framework where woodland planting and management is planned;
- o ensure new planting enhances biodiversity and landscape value through integration with and contribution to improving connectivity with existing and proposed green infrastructure and use appropriate species;
- o ensure new woodland is established in advance of major developments;
- o undertake a Tree Survey where appropriate; and
- o identify and agree appropriate mitigation, implementation of an approved woodland management plan and re-instatement or alternative planting.

Angus Council will follow the Scottish Government Control of Woodland Removal Policy when considering proposals for the felling of woodland.

Policy PV20 : Soils and Geodiversity

Development proposals on prime agricultural land will only be supported where they:

- o support delivery of the development strategy and policies in this local plan;
- o are small scale and directly related to a rural business or mineral extraction; or
- o constitute renewable energy development and are supported by a commitment to a bond commensurate with site restoration requirements.

Design and layout should minimise land required for development proposals on agricultural land and should not render any farm unit unviable.

Development proposals affecting deep peat or carbon rich soils will not be allowed unless there is an overwhelming social or economic need that cannot be met elsewhere. Where peat and carbon rich soils are present, applicants should assess the likely effects of development proposals on carbon dioxide emissions.

All development proposals will incorporate measures to manage, protect and reinstate valuable soils, groundwater and soil biodiversity during construction.

THE STRATEGY

To optimise the use of existing resource capacities and to ensure the impact of development on the wider environment and landscape is minimised, development proposals in the countryside should also ensure that they have investigated all possibilities of locating adjacent to existing development or groups of buildings.

Policy DS1 Development Boundaries and Priorities

All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

**Sharing an edge or boundary, neighbouring or adjacent*

Policy DS1 SEA Implications

Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
?	++	+	+/?	?	+	?	?	+/?	?

Accessibility

A key element in the creation of sustainable communities is how well new development is integrated with the existing form of development and transport networks. The ALDP Development Strategy supports development within the Towns and Rural Service Centres and allocates land for new development in locations that are well related to the existing form and pattern of development and therefore the existing transport network.

In some areas the transport network will require improvement to roads infrastructure, public transport and path networks to support and enable future development. Where appropriate, site allocation policies and development briefs will specify where infrastructure requirements or improvements are known. The exact nature of improvements will be negotiated at the time of application.

National and regional planning policies seek to promote sustainable transport and active travel, giving priority to walking and cycling for local journeys and to public transport in preference to travel by car. The publication of the Scottish Government policy document "Designing Streets" signals the government's resolve to move away from a standards based approach to street design and to put place and people before the movement of motor vehicles. The ALDP takes account of "Designing Streets" and supports development which is accessible by a choice of transport modes including walking, cycling and public transport.

Development proposals should seek to maintain and improve linkages between residential, employment, recreation and other facilities to help support an integrated sustainable transport network and opportunities for active travel.

Path networks including Core Paths and Rights of Way also form an important recreational resource enabling outdoor access around settlements and to the countryside. Policy PV3 Access and Informal Recreation seeks to protect and enhance public access and paths in this context. They are also important elements of green infrastructure providing linkages to the wider green network. The ALDP seeks to protect and enhance the role of path networks in this respect under Policies PV1 Green Networks and Green Infrastructure and PV2 Open Space Protection and Provision within settlements.

Appendix 2 gives guidance as to when a Transport Assessment may be required. Angus Council agreed to adopt the National Roads Development Circular as the new roads standard document for use on all new development in Angus in August 2014. The new national document was produced as a collaborative project undertaken by Scotland's local authorities through the Society of Chief Officers of Transportation in Scotland (SCOTS) and embraces current Scottish Government Policy documents, in particular "Designing Streets".

Policy DS2 Accessible Development

Development proposals will require to demonstrate, according to scale, type and location, that they:

- are or can be made accessible to existing or proposed public transport networks;
- make provision for suitably located public transport infrastructure such as bus stops, shelters, lay-bys, turning areas which minimise walking distances;
- allow easy access for people with restricted mobility;
- provide and/or enhance safe and pleasant paths for walking and cycling which are suitable for use by all, and link existing and proposed path networks; and
- are located where there is adequate local road network capacity or where capacity can be made available.

Where proposals involve significant travel generation by road, rail, bus, foot and/or cycle, Angus Council will require:

- the submission of a Travel Plan and/or a Transport Assessment.
- appropriate planning obligations in line with Policy DS5 Developer Contributions.

THE STRATEGY

Policy DS3 Design Quality and Placemaking

Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- **Distinct in Character and Identity:** Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- **Safe and Pleasant:** Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- **Well Connected:** Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.
- **Adaptable:** Where development is designed to support a mix of compatible uses and accommodate changing needs.
- **Resource Efficient:** Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Supplementary guidance will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out above. Further details on the type of developments requiring a design statement and the issues that should be addressed will also be set out in supplementary guidance.

Policy DS3 SEA Implications									
Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
+	++	+	0	0	+	+	++	+	++

Amenity

The stewardship of natural resources is key to sustainable development and the ALDP has a role in avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for air quality. There is also a need to safeguard the amenity of future occupiers, or existing properties near to development as well as the wider area. Where it is considered that development has an impact, appropriate mitigation or compensatory measures will be secured through conditions or planning obligations. Specific impacts relating to the water environment, geodiversity and minerals resource are covered by policies elsewhere within the Plan.

THE STRATEGY

Policy DS4 Amenity

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

Policy DS4 SEA Implications

Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
0	+	++	0	0	+	0	0	+	0

Developer Contributions

New development has an important role in funding measures to mitigate any adverse impacts in a way that is consistent with the delivery of wider planning and environmental objectives. Circular 3/2012 sets out that planning obligations can be used to overcome obstacles to the grant of planning permission. This means that development can be permitted and potentially negative impacts on land use, the environment and infrastructure can be reduced, eliminated or compensated for.

Planning obligations will only be sought where they meet the tests set out in Circular 3/2012, including: necessity, planning purpose, being related to the proposed development, scale and kind and reasonableness. It is recognised that developers and landowners would like certainty about the likely scale and nature of developer contributions that will be sought by the Council. The site allocations made in the ALDP identify contributions where they are currently known, but it is important to recognise that additional contributions may be required and in all cases the scale and nature of contributions will be negotiated and agreed as part of the planning application process. In such negotiations, the details of a contribution will be based on the most up to date information at the time in respect of

THE STRATEGY

infrastructure provision and consideration by the Council of any abnormal development costs identified by the developer.

Policy DS5 Developer Contributions

Developer contributions may be sought from all types of development where proposals individually or in combination result in a need for new, extended or improved public services, community facilities and infrastructure.

Contributions may be financial or in-kind, and will be proportionate in scale to the proposed development and the tests set out in national policy and guidance.

Where contributions cannot be secured through a planning condition, a Section 75 agreement or other legal agreement will be required.

Contributions may be sought for the following:

- Open Space, biodiversity enhancement and green infrastructure, including infrastructure relating to the water environment and flood management;
- Education;
- Community Facilities;
- Waste Management Infrastructure; and
- Transport Infrastructure.

The Council will consider the potential cumulative effect of developer contributions on the economic viability of individual proposals.

Supplementary Guidance will be prepared, consistent with requirements of Scottish Government policy on planning obligations currently set out in Circular 3/2012, to provide additional information and guidance on how developer contributions will be identified and secured. This will include the levels of contribution or methodologies for their calculation, including thresholds, exemptions and viability considerations. Whilst the exact nature of contributions will be negotiated at the time of application, potential areas of contribution are highlighted in site allocation policies where known.

Policy DS5 SEA Implications

Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
+	++	0	0	0	0	0	0	+	+

THE POLICY FRAMEWORK – PART 1

THRIVING & CONNECTED

The Angus LHS seeks to address the accommodation needs of gypsy/travellers through direct liaison with these groups, provision of additional spaces and where appropriate access to housing.

While the ALDP does not identify areas of search or allocate specific sites the policy is intended to establish a framework for assessing proposals to establish new, or extend existing sites.

Policy TC6 Gypsies and Travellers and Travelling Showpeople

Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites (publicly or privately owned and managed). Existing authorised Gypsies and Travellers and Travelling Showpeople sites will be protected and there will be a presumption against their redevelopment or conversion to other uses unless it can be demonstrated to the satisfaction of Angus Council that there is a surplus of accommodation to meet identified needs.

Proposals for new or extended permanent sites and temporary “short stay” sites for Gypsies and Travellers will only be supported where:

- the site will contribute to satisfying a local need identified in the Local Housing Strategy and is consistent with Angus Council’s strategy for meeting the accommodation needs of these client groups;
- the development is designed and located to minimise adverse effects on the landscape, established amenity, character and built or natural heritage interests of the surrounding area;
- the proposed site will provide a good residential amenity for residents and has adequate access to community, education and health services and facilities; and
- the proposed development would not set a precedent or open up other areas for similar development.

Policy TC6 SEA Implications

Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
+/?	++	?	?	?	?	0	++	?	+

THE POLICY FRAMEWORK – PART 2

PROTECTED AND VALUED

Policy PV7 Woodland, Trees and Hedges

Ancient semi-natural woodland is an irreplaceable resource and should be protected from removal and potential adverse impacts of development. The council will identify and seek to enhance woodlands of high nature conservation value. Individual trees, especially veteran trees or small groups of trees which contribute to landscape and townscape settings may be protected through the application of Tree Preservation Orders (TPO).

Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity, townscape or landscape value of Angus will be protected and enhanced. Development and planting proposals should:

- protect and retain woodland, trees and hedges to avoid fragmentation of existing provision;
- be considered within the context of the Angus Woodland and Forestry Framework where woodland planting and management is planned;
- ensure new planting enhances biodiversity and landscape value through integration with and contribution to improving connectivity with existing and proposed green infrastructure and use appropriate species;
- ensure new woodland is established in advance of major developments;
- undertake a Tree Survey where appropriate; and
- identify and agree appropriate mitigation, implementation of an approved woodland management plan and re-instatement or alternative planting.

Angus Council will follow the Scottish Government Control of Woodland Removal Policy when considering proposals for the felling of woodland.

Policy PV7 SEA Implications									
Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
++	++	0	0	0	0	0	++	0	++

BUILT ENVIRONMENT

The built and cultural heritage of Angus is rich and varied. Built development, both historic and modern contributes to the character of the towns, villages and countryside of the area. Angus Council aims to protect and enhance the built environment and to improve on the general standard of design thus protecting and complementing buildings, sites and their settings. The cultural heritage and historic environment are no less important, leaving evidence of past lives and activities within the landscape as archaeological features from farming systems to military and industrial complexes. Some of these assets are recorded and protected but others are still not identified or fully explored and should be protected for future generations.

There are varying degrees of protection afforded to specific sites depending on their significance, but many smaller and more domestic examples contribute to the local character and diversity of Angus. This overall character should not only be respected, but enhanced by well-designed new buildings and conversions which will be the built heritage of future generations. The ALDP will safeguard protected sites, buildings and properties from inappropriate development and encourage development which enhances the built and cultural heritage of Angus.

THE POLICY FRAMEWORK – PART 2

PROTECTED AND VALUED

Policy PV20 Soils and Geodiversity

Development proposals on prime agricultural land will only be supported where they:

- support delivery of the development strategy and policies in this local plan;
- are small scale and directly related to a rural business or mineral extraction; or
- constitute renewable energy development and are supported by a commitment to a bond commensurate with site restoration requirements.

Design and layout should minimise land required for development proposals on agricultural land and should not render any farm unit unviable.

Development proposals affecting deep peat or carbon rich soils will not be allowed unless there is an overwhelming social or economic need that cannot be met elsewhere. Where peat and carbon rich soils are present, applicants should assess the likely effects of development proposals on carbon dioxide emissions.

All development proposals will incorporate measures to manage, protect and reinstate valuable soils, groundwater and soil biodiversity during construction.

Policy PV20 SEA Implications

Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
0	0	0	++	++	0	0	0	+	0

Pipeline Consultation Zones

There are a number of pipelines which pass through the plan area. There are potential hazards which may arise from developing in proximity to them. Within specified distances from these pipelines there is a statutory framework for ensuring that the Health and Safety Executive is consulted on the implications which arise from development proposals which are the subject of planning applications. These pipeline consultation zones are identified on the proposals map, and the following policy will be applied to submitted development proposals within them. The Health and Safety Executive has produced a 'Planning Advice Web App' to assist developers in preparing planning applications for development proposals.

Policy PV21 Pipeline Consultation Zones

Decisions on whether to grant planning permission for development proposals within the pipeline consultation zones shown on the proposals map will be taken in light of the views and advice of the Health and Safety Executive.

Policy PV21 SEA Implications

Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
0	+	0	0	0	0	0	0	0	0

From:ClarkPR
Sent:6 Oct 2016 15:35:00 +0100
To:PLNProcessing
Cc:PorterSG
Subject:consultation response - 16/00738/full

I refer to your consultation regarding planning application 16/00738/full - Land 125M West Of North Mains Croft Logie Kirriemuir.

Core paths 253 and 254 are adjacent to the southern and western boundaries of the site. Vehicular access to the site will be over core path 253.

In order to protect the privacy of residents, and protect public access over the paths, the extent of private land associated with any dwellings on the site should be clearly defined by boundary features such as walls, fences or hedges.

Paul Clark

Countryside Access Officer

ANGUS COUNCIL

COMMUNITIES
PLANNING

CONSULTATION SHEET

PLANNING APPLICATION NO

16/00738/FULL

Tick boxes as appropriate

ROADS

No Objection

Interest

(Comments to follow within 14 days)

Date

7	10	16
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PLEASE DO NOT TAKE AWAY THE LAST SET OF PLANS WHERE POSSIBLE COPIES
WILL BE PROVIDED ON REQUEST

ELECTRONIC SUBMISSION DRAWINGS TO BE VIEWED VIA IDOX

From:JohnsonC

Sent:Tue, 22 Nov 2016 12:03:55 +0000

To:PorterSG

Cc:HunterA

Subject:RE: Planning Application ref: 16/00738/FULL - Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans [...] at Land 125m West of North Mains Croft, Logie

Hi Stephanie

The site at Balmuirwood has 20 pitches and currently about 13 vacant. Angus Council has access to the site through the Site Liaison Officer. The minute of agreement states – ‘Angus Council shall be entitled to nominate travelling people and their families for allocation of pitches at the site, provided vacant pitches are available and Dundee City Council shall accept such nominations provided they are in accordance with Dundee City Council's letting procedures.’

St Christopher’s has 18 pitches; 17 are currently occupied with one being held vacant to assist with decants during the planned upgrades.

The draft findings of the needs assessment indicate a projected surplus of accommodation in Tayplan over the next five years. In Angus however there is projected to be a small shortfall, particularly attributed to demand in the North area and to a smaller extent the West. While the draft findings are still being analysed they do not appear to indicate a significant requirement for additional provision in Angus.

Let me know if you require anything else.

Best regards

Catherine Johnson

Housing Strategy Manager, Communities, Angus Council, William Wallace House, Orchardbank Business Park, Forfar, DD8 1WH. Tel. 01307 474768 Mob. 07468 715981

From: PorterSG
Sent: 15 November 2016 13:55
To: JohnsonC
Subject: RE: Planning Application ref: 16/00738/FULL - Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans [...] at Land 125m West of North Mains Croft, Logie

Hi Catherine,

The expiry date of the application is the 1st of December so ideally by Wednesday next week at the latest is that's possible.

Kind Regards

Stephanie

Stephanie Porter | Planning Officer | Communities | Planning & Place | Angus Council | County Buildings | Market Street | Forfar DD8 3LG | (01307 473365)

From: JohnsonC
Sent: 15 November 2016 12:06
To: PorterSG
Subject: RE: Planning Application ref: 16/00738/FULL - Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans [...] at Land 125m West of North Mains Croft, Logie

Hi Stephanie

I'll collate this for you. When do you require it by?

Best regards

Catherine Johnson

Housing Strategy Manager, Communities, Angus Council, William Wallace House, Orchardbank Business Park, Forfar, DD8 1WH. Tel. 01307 474768 Mob. 07468 715981

From: PorterSG
Sent: 14 November 2016 15:11
To: AdamsonJJ
Cc: JohnsonC
Subject: Planning Application ref: 16/00738/FULL - Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans [...] at Land 125m West of North Mains Croft, Logie

Dear Jacky/Catherine

I write with regards to planning application ref: 16/00738/FULL.

In order to inform the assessment of the above proposal I would be grateful if you could you please advise on the following;

1. Could you please confirm the total and current capacity at the Balmuir Wood Caravan Site?
2. Could you please confirm whether Angus Council have an arrangement with Dundee City Council that allows people to reside at the Balmuir Wood caravan site? If this is the case what are the details of this arrangement?
3. Could you please confirm the total and current capacity at the St Christopher's Caravan Site?

Regards

Stephanie Porter

Stephanie Porter | Planning Officer | Communities | Planning & Place | Angus Council | County Buildings | Market Street | Forfar DD8 3LG | (01307 473365)

Comments for Planning Application 16/00738/FULL

Application Summary

Application Number: 16/00738/FULL

Address: Land 125M West Of North Mains Croft Logie Kirriemuir

Proposal: Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure

Case Officer: Stephanie Porter

Customer Details

Name: Mr John Grant

Address: Reddie Farm Westmuir Kirriemuir

Comment Details

Commenter Type: Miscellaneous

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I noticed in August 2016 that a residential caravan is in situ on this site, which, currently has no planning permission.

It is obvious that the caravan is in use and has been for some time.

I can also advise you that the site has been excavated to accommodate the residential caravan and a new boundary wall has been built without permission.

As owner of adjacent land I have received no 'Neighbour Notification' of this development / planning application.

This land was the subject of a previous planning application for construction of a house, which was refused.

I would like to reiterate my comments made at the time of the previous application, as any development such as this would have the appearance of a 'shanty town' and would not enhance the visual appearance of the area. This would merely be an extension of the 'Ribbon Development' along the North Mains Road.

In addition, I would strongly object to any planning application that allowed a potential site for travelling people in the vicinity of my property, bearing in mind the problems that have occurred in other rural areas of Angus relating to unsocial behaviour.

This is obviously a retrospective planning application which could be compared to the travellers

site at Inverbervie.

Hopefully, my comments will be noted and I await your response.

John Grant

RECEIVED

- 2 NOV 2016

PLANNING & PLACE
COUNTY BUILDINGS

14KW

Mr & Mrs Bruce Mackie

Devonian House

Logie

Kirriemuir

DD85PG

1/11/16

Application No. 16/00738/FULL

Address: Land 125m West of North Mains Croft Logie Kirriemuir

Dear Sir/Madam

I am writing in connection with the above planning application. I wish to object strongly to this development. Mr Townsley has not applied for any planning permission from the start of this development and even continued when an enforcement notice was served. He went ahead and removed trees, flatten ground and connected to main sewer and water without any authorisation. If this was anyone else this would not be allowed to continue.

My husband and I have recently built a new house beside this development and had to adhere to all planning and legal requirement from start to finish. We feel we have been discriminated against as we spent a lot of time and money on land and fees to build our home yet it appears to be double standards which not only shows discrimination but sets a precedent for more travellers to do the same.

If this site goes ahead like the one on St Cyrus it will obviously affect the value of our house and houses in the surrounding area.

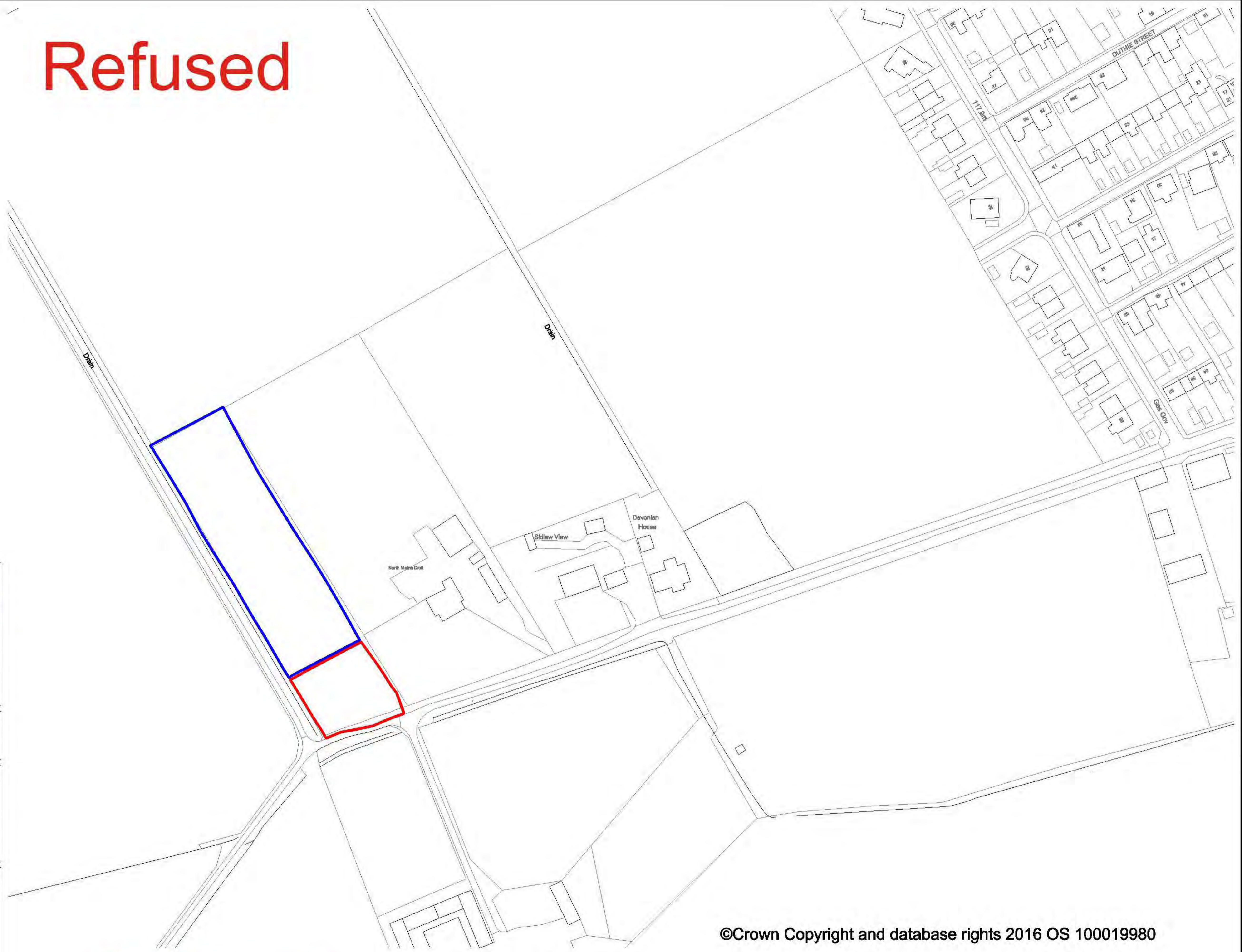
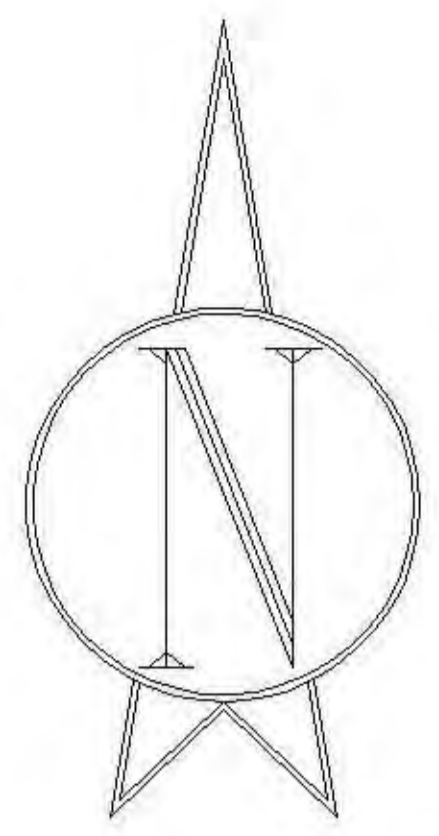
It will open the flood gates to all travellers in the future. Does this mean anyone can buy a plot of agricultural land and class themselves as travellers and proceed to break all planning regulations and continue to build whatever they want.

We already have an eyesore of caravans as we enter Kirriemuir at Maryton. After all a house was refused planning on this very site yet Mr Townsley is allowed to apply for a change in vacant land after he has abused the system.

Hopefully, my concerns and comments will be noted and taken into account. I do not wish to have a travellers caravan site at my location. Look forward to your response.

Dawn Mackie

Refused



31 Gardner Crescent, Leven, Fife, KY8 4FD
tel: 07977 507185
e: scott@prismeng.co.uk
w: www.prismengineering.co.uk

Client:
John Townsley

Project:
Proposed Development
Land West of North Mains Croft
Kirriemuir

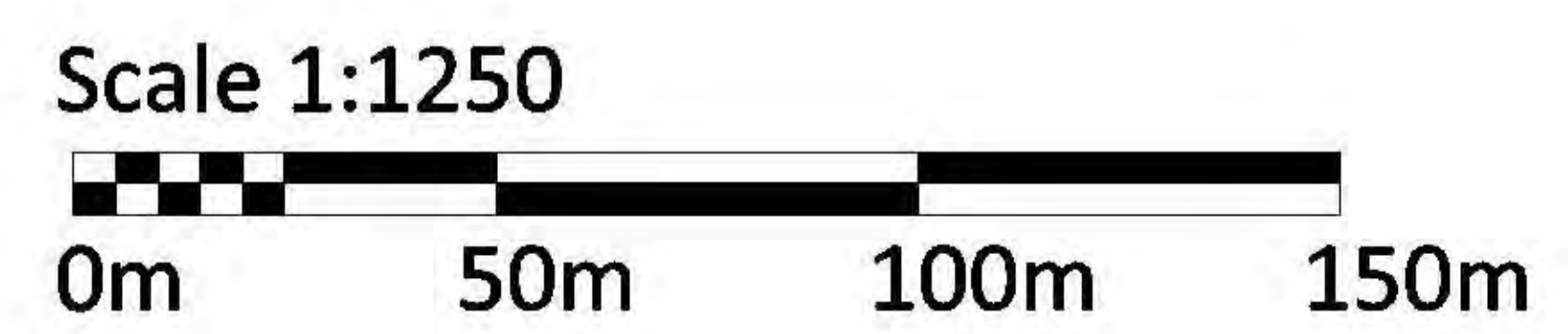
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Location Plan

Date: 08.09.2016 **Scale:** 1:1250 @ A2 **Job No:** 2016-045

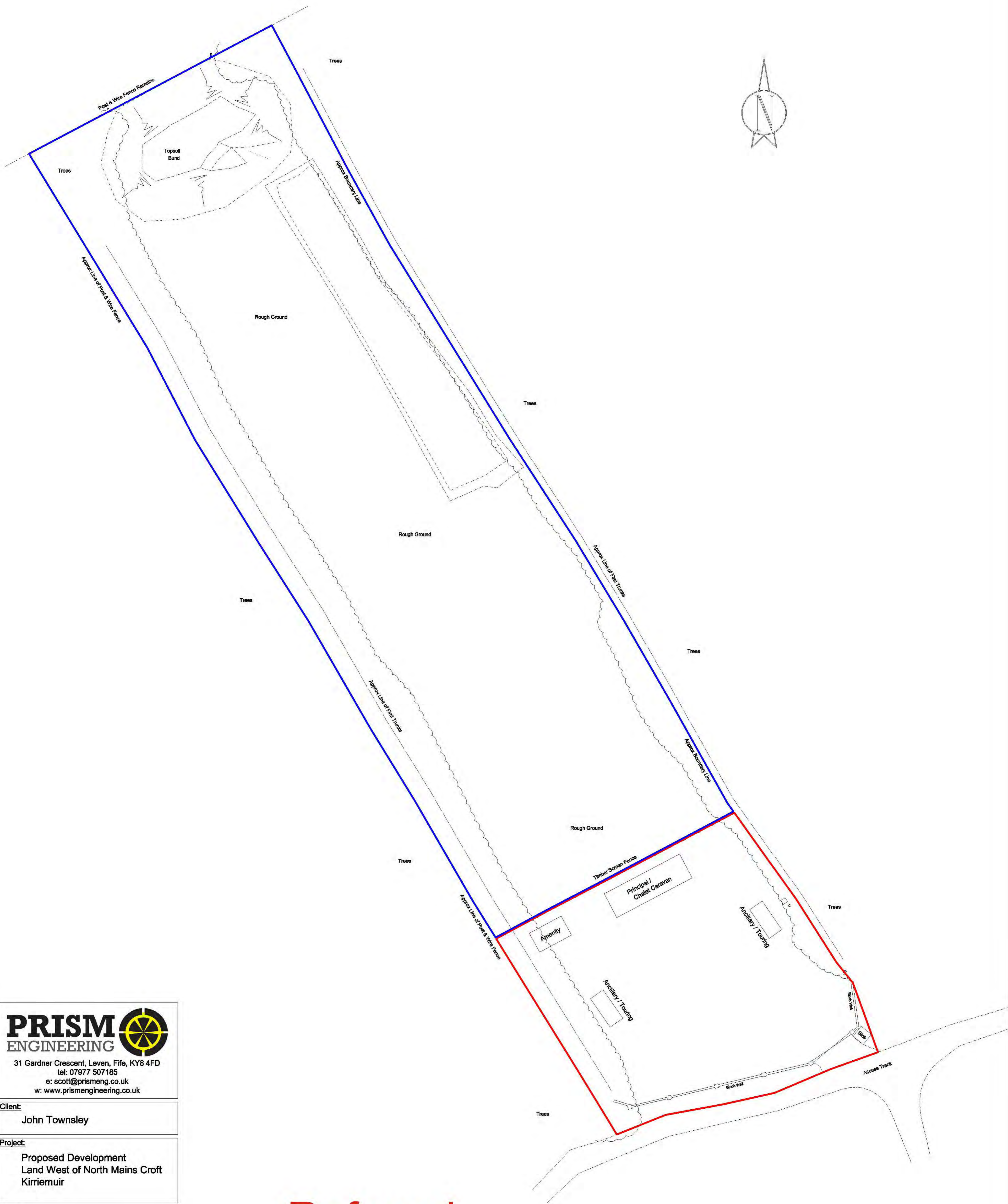
Grid: Local **Datum:** OSBM Newlyn **Dwg No:** 02

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Refused



Refused



Refused

PRISM ENGINEERING



31 Gardner Crescent, Leven, Fife, KY8 4FD
 tel: 07977 507185
 e: scott@prismeng.co.uk
 w: www.prismengineering.co.uk

Client:
 John Townsley

Project:
 Proposed Development
 Land West of North Mains Croft
 Kirriemuir

Drawing:
 Proposed Plot Layout

Date: 07.09.2016	Scale: 1:250 @ A1	Job No: 2016-045
Grid: Local	Datum: OSBM Newlyn	Dwg No: 03



Refused

- General Notes:**
- This drawing must be read in conjunction with all other drawings and specifications produced specifically for this project.
 - Any discrepancies found are to be brought to the attention of the building designer and/or Engineer at the earliest possible moment.
 - All dimensions given on this drawing are in millimetres, unless stated otherwise.
 - All levels are given in metres above the datum.
 - The contractor must check all sizes on site before proceeding with the works.
 - All works are to be completed in strict accordance with the Building Regulations for Scotland as per the approved drawings.
 - Where manufacturers' names are listed, they should be read as 'equal and approved'.
 - The Contractor will allow for all necessary precautions to be undertaken to satisfy HSE requirements, including ensuring all construction risks including the use of hazardous materials are fully assessed, clearly highlighted and adequate safety measures are put in place to ensure the safety of the workforce, client and public at all times.
 - Works shall be carried out in accordance with good building practices.
 - All works to comply with the Building(Scotland) Act 2003, the Building (Scotland) Regulations 2004 and all current amendments.
 - The Contractor shall be responsible for contacting the appointed Building Standards inspector as soon as works commence in order to establish the Local Authority's policy for carrying out inspections and witnessing the testing of drainage inspections. The Contractor is responsible for giving notice, arranging and carrying out the required inspections to the satisfaction of the the Local Authority. Work must not be covered over and concealed before the inspection takes place or the tests are witnessed.
 - If in doubt, stop and ask.
 - The Contractor is to satisfy himself as to the location of all overhead and underground services on site prior to the commencement of works.
 - The Contractor is advised to expose all underground services by hand.
 - The Contractor is responsible for notifying the building designer of any services below or adjacent to the building footprint.
 - In the absence of a levels survey, the Contractor shall refer any discrepancies to the building designer prior to the commencement of works on site.

Rev'n	Date	Description	By

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Project / Client:
Proposed Amenity Block

Drawing Title:
Floor Plan & Elevations

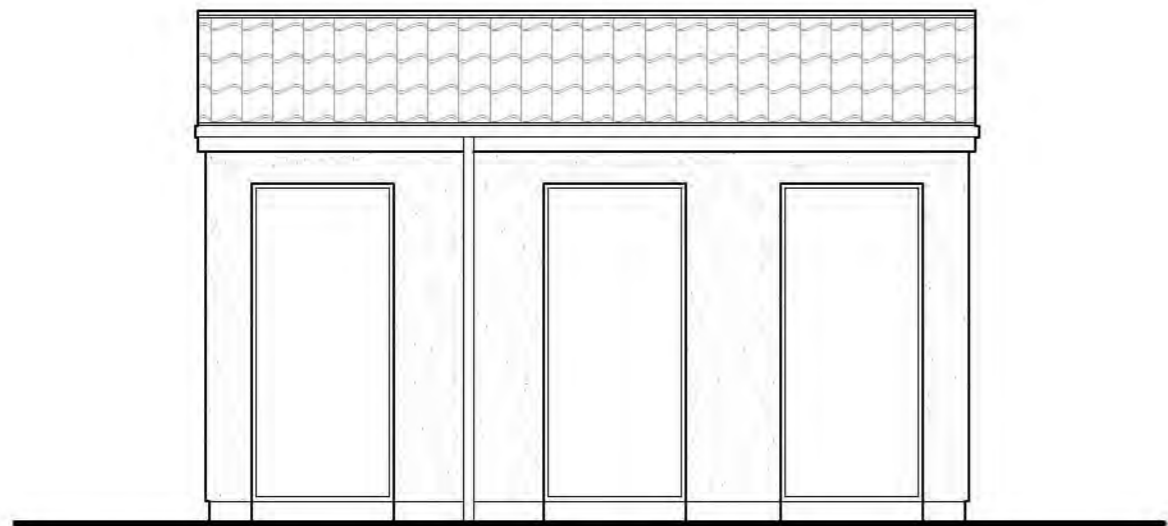


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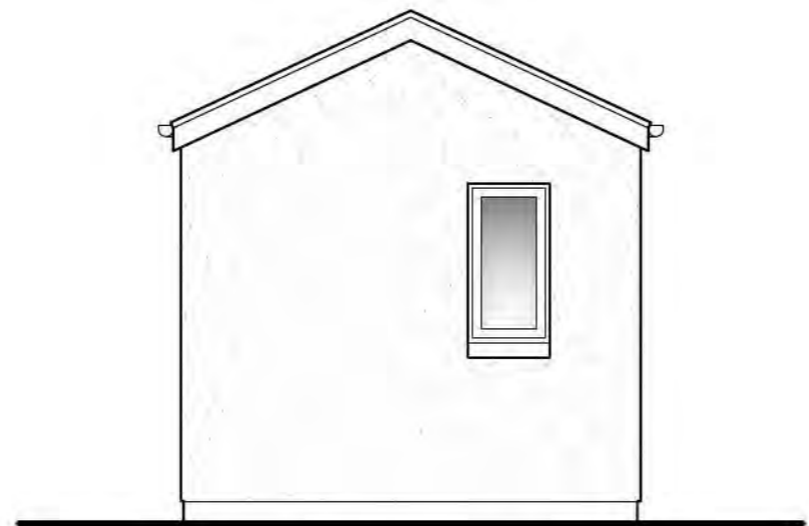
Architectural Services and
Technical Construction Specialists

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E: enquiries@dx2consultancy.com
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Project Reference: 15-093-Generic	Scales: 1:50	Date: 01 May 16
Drawing Number: 16-15/093-046	Sheet size: A2	Drawn: d.v.
	Revision: -	Checked: d.d.g.

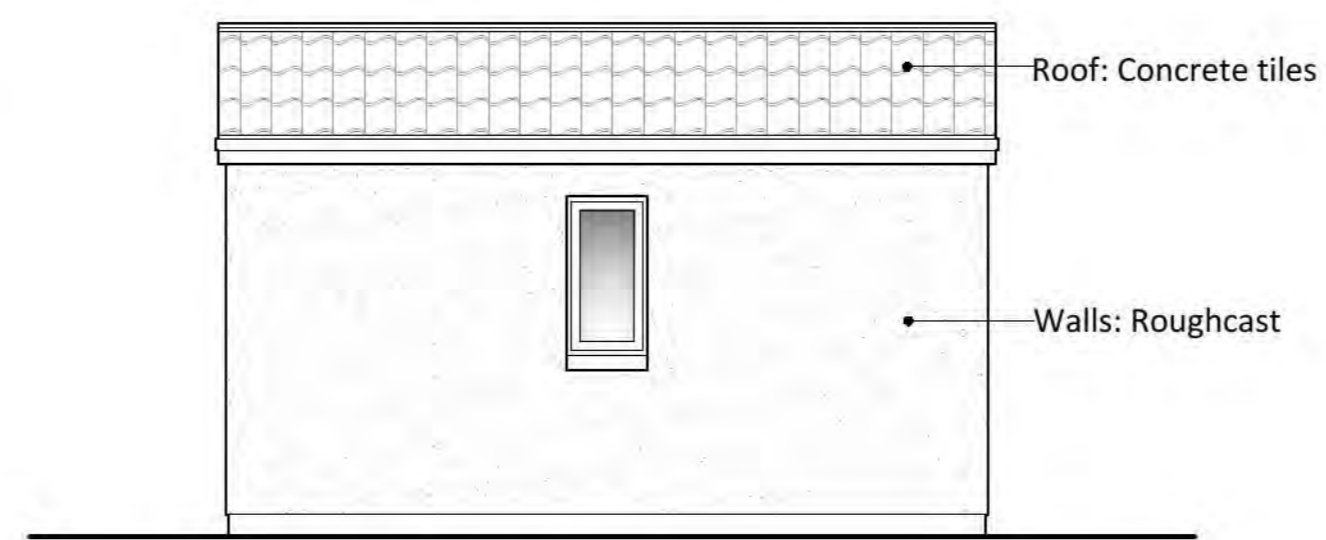


Front Elevation

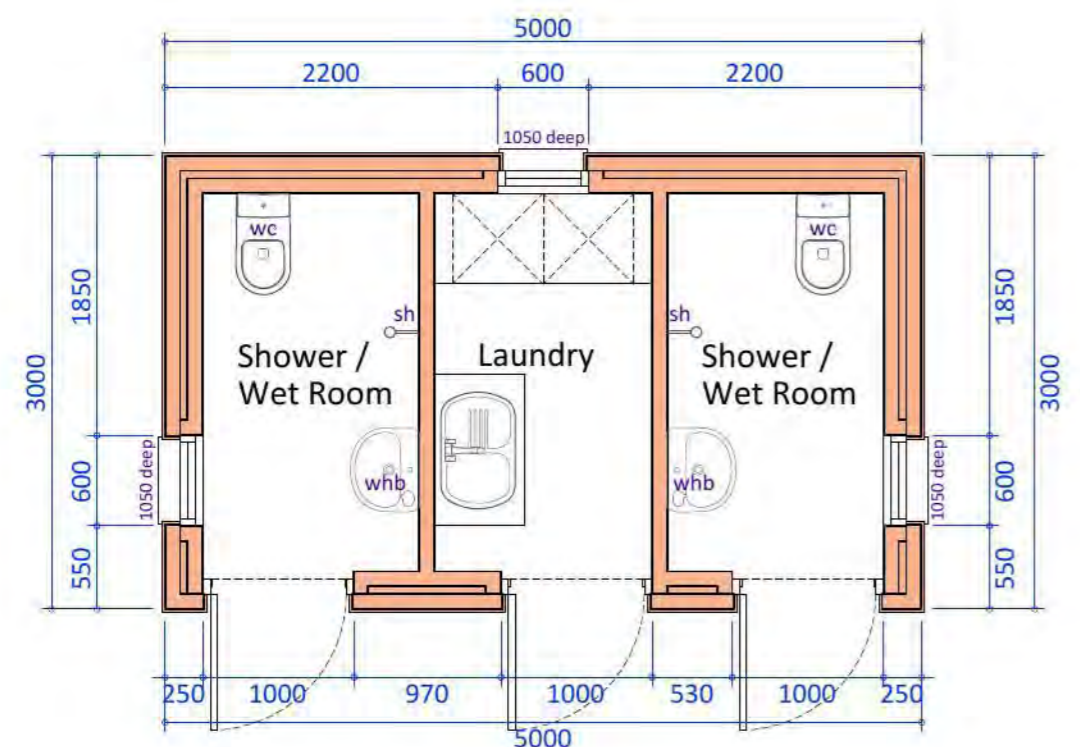


Side Elevation

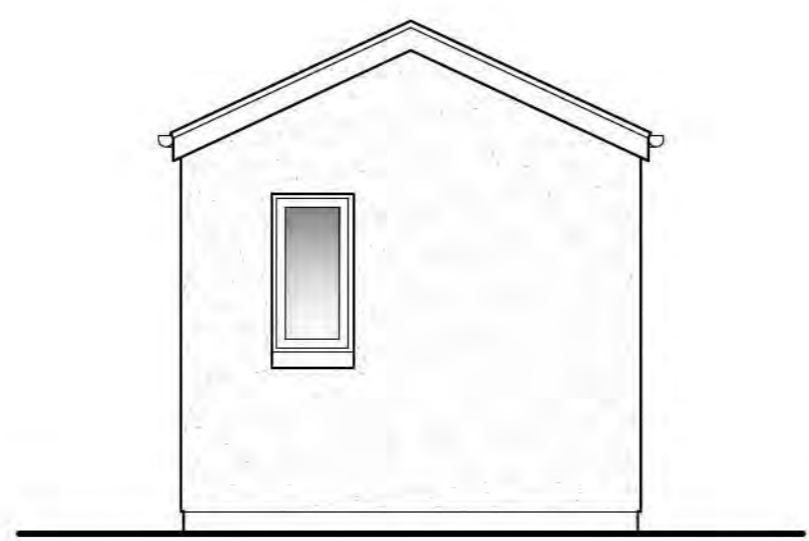
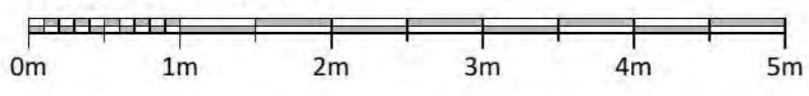
External finishes all to be agreed with the Planning Authority



Rear Elevation



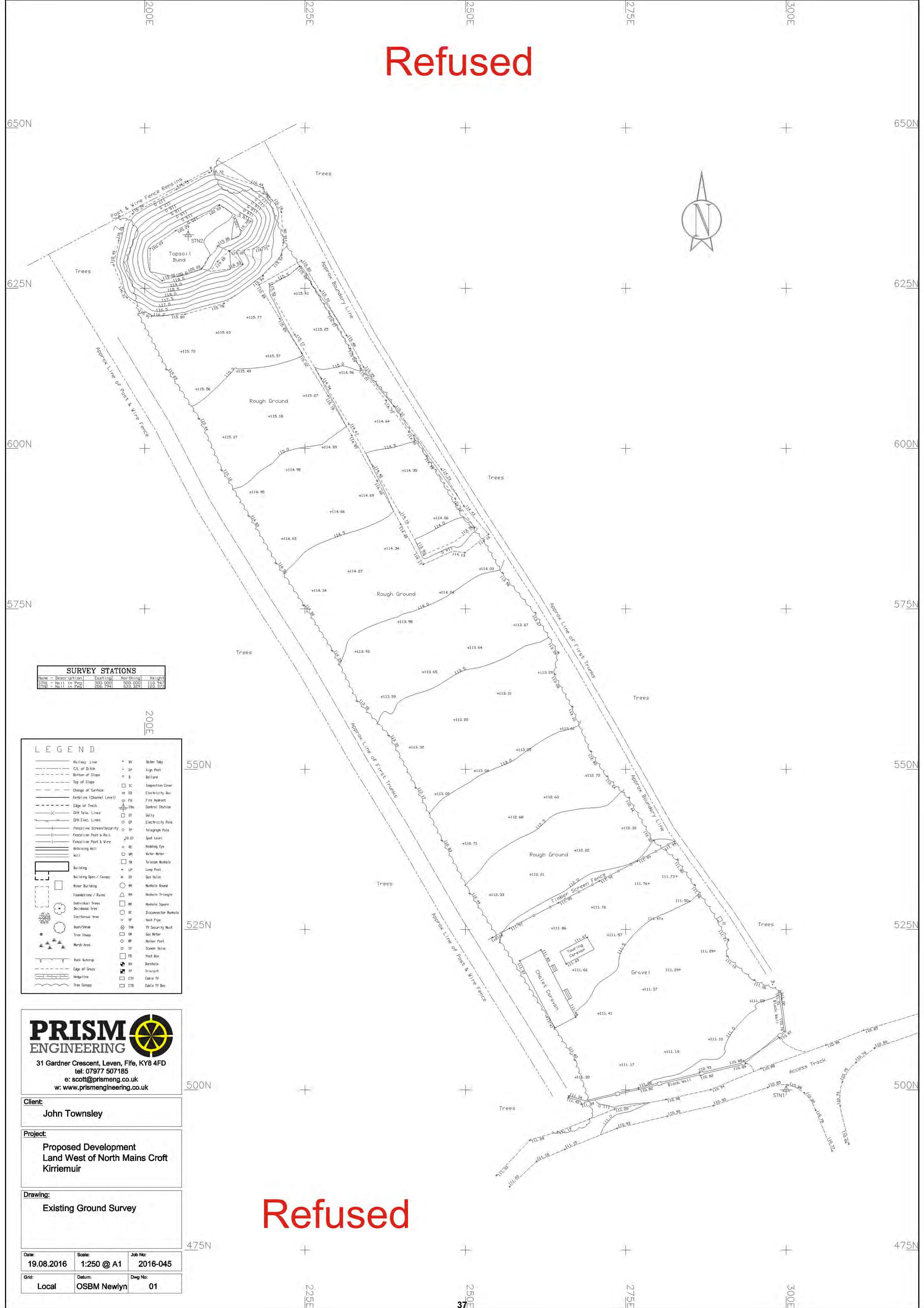
Floor Plan



Side Elevation

Refused

Refused



SURVEY STATIONS

Name	Description	Easting	Northing	Height
STN1	Nail in Peg	200.000	500.000	110.947
STN2	Nail in Peg	205.794	533.359	110.373

LEGEND

—	Railway Line	W	Water Tolly
- - -	DL of Ditch	SP	Sign Post
- - -	Bottom of Slope	I	Island
- - -	Top of Slope	IC	Inspection Cover
- - -	Change of Surface	EB	Electricity Box
- - -	Kerbline (Channel Level)	FB	Fire Hydrant
- - -	Edge of Track	CS	Control Station
- - -	DM Elec. Lines	GT	Gully
- - -	DM Elec. Lines	EP	Electricity Pole
- - -	Fence Line Screen/Security	TP	Telegraph Pole
- - -	Fence Line Post & Rail	SL	Spot Level
- - -	Fence Line Post & Wire	RE	Reading Eye
- - -	Retaining Wall	VM	Water Meter
- - -	Wall	TM	Telecom Manhole
- - -	Building	LP	Lamp Post
- - -	Building Open / Canopy	GV	Gas Valve
- - -	Minor Building	MB	Manhole Round
- - -	Foundations / Ruins	MT	Manhole Triangle
- - -	Individual Trees	MS	Manhole Square
- - -	Deciduous tree	DC	Disconnector Manhole
- - -	Coniferous tree	VP	Vent Pipe
- - -	Bush/Strub	TM	TV Security Mast
- - -	Tree Stump	GM	Gas Meter
- - -	Marsh Area	MP	Marker Post
- - -	Rock Outcrop	SV	Screen Valve
- - -	Edge of Grass	FB	Post Box
- - -	Hedge Line	BH	Borehole
- - -	Tree Canopy	TP	Tripoint
- - -		CTV	Cable TV
- - -		CTB	Cable TV Box

PRISM ENGINEERING

31 Gardner Crescent, Leven, Fife, KY8 4FD
 tel: 07977 507185
 e: scott@prismeng.co.uk
 w: www.prismengineering.co.uk

Client:
John Townsley

Project:
Proposed Development
Land West of North Mains Croft
Kirriemuir

Drawing:
Existing Ground Survey

Date: 19.08.2016	Scale: 1:250 @ A1	Job No: 2016-045
Grid: Local	Datum: OSBM Newlyn	Dwg No: 01

Refused









TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND)
REGULATIONS 2013

PLANNING PERMISSION REFUSAL
REFERENCE : 16/00738/FULL

To **Mr John Townsley**
c/o Alan Seath Planning Consultancy
88 Scott Road
Glenrothes
Scotland
KY6 1AE

With reference to your application dated 6 October 2016 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure at Land 125M West Of North Mains Croft Logie Kirriemuir for Mr John Townsley

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docketed as relative hereto in paper or identified as refused on the Public Access portal.

The reasons for the Council's decision are:-

- 1 The application is contrary to Policy TC6 of the Angus Local Development Plan (2016) as there are existing authorised sites with capacity to accommodate the applicant and his family, as the proposal would not contribute to satisfying a local need in a formulated manner, as the proposal could set a precedent or open up other areas for similar development.
- 2 The application is contrary to Policy PV20 of the Angus Local Development Plan (2016) as the development would not preserve prime agricultural land or be related to a rural business, support delivery of the development strategy or relate to renewable energy development.
- 3 The proposal is contrary to policy DS1 of the Angus Local Development Plan (2016) because it is contrary to other policies of the local development plan, namely Policies TC6 and PV20.

Amendments:

The application has not been subject of variation.

Dated this **6 January 2017**

Kate Cowey - Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG

Planning Decisions – Guidance Note

Please retain – this guidance forms part of your Decision Notice

You have now received your Decision Notice. This guidance note sets out important information regarding appealing or reviewing your decision. There are also new requirements in terms of notifications to the Planning Authority and display notices on-site for certain types of application. You will also find details on how to vary or renew your permission.

Please read the notes carefully to ensure effective compliance with the new regulations.

DURATION

This permission will lapse 3 years from the date of this decision, unless there is a specific condition relating to the duration of the permission or development has commenced by that date.

PLANNING DECISIONS

Decision Types and Appeal/Review Routes

The 'decision type' as specified in your decision letter determines the appeal or review route. The route to do this is dependent on the how the application was determined. Please check your decision letter and choose the appropriate appeal/review route in accordance with the table below. Details of how to do this are included in the guidance.

Determination Type	What does this mean?	Appeal/Review Route
Development Standards Committee/Full Council	National developments, major developments and local developments determined at a meeting of the Development Standards Committee or Full Council whereby relevant parties and the applicant were given the opportunity to present their cases before a decision was reached.	DPEA (appeal to Scottish Ministers) – See details on attached Form 1
Delegated Decision	Local developments determined by the Service Manager through delegated powers under the statutory scheme of delegation. These applications may have been subject to less than five representations, minor breaches of policy or may be refusals.	Local Review Body – See details on attached Form 2
Other Decision	All decisions other than planning permission or approval of matters specified in condition. These include decisions relating to Listed Building Consent, Advertisement Consent, Conservation Area Consent and Hazardous Substances Consent.	DPEA (appeal to Scottish Ministers) – See details on attached Form 1

Notification of initiation of development (NID)

Once planning permission has been granted and the applicant has decided the date they will commence that development they must inform the Planning Authority of that date. The notice must be submitted before development commences – failure to do so would be a breach of planning control. The relevant form is included with this guidance note.

Notification of completion of development (NCD)

Once a development for which planning permission has been given has been completed the applicant must, as soon as practicable, submit a notice of completion to the planning authority. Where development is carried out in phases there is a requirement for a notice to be submitted at the conclusion of each phase. The relevant form is included with this guidance note.

Display of Notice while development is carried out

For national, major or 'bad neighbour' developments (such as public houses, hot food shops or scrap yards), the developer must, for the duration of the development, display a sign or signs containing prescribed information.

The notice must be in the prescribed form and:-

- displayed in a prominent place at or in the vicinity of the site of the development;
- readily visible to the public; and
- printed on durable material.

A display notice is included with this guidance note.

Should you have any queries in relation to any of the above, please contact:

Angus Council
Communities
Planning
County Buildings
Market Street
Forfar
Angus
DD8 3LG

Telephone 01307 473212 / 473207 / 473335

E-mail: planning@angus.gov.uk

Website: www.angus.gov.uk



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 1

*Notification to be sent to applicant on refusal of planning permission
or on the grant of permission subject to conditions decided by Angus Council*

1. If the applicant is aggrieved by the decision of the planning authority-
 - a) to refuse permission for the proposed development;
 - b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
 - c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may appeal to the Scottish Ministers to review the case under section 47 of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of appeal should be addressed to Directorate for Planning & Environmental Appeals, 4 The Courtyard, Callendar Business Park, Falkirk, FK1 1XR. Alternatively you can submit your appeal directly to DPEA using the national e-planning web site <https://eplanning.scotland.gov.uk>.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)

The Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2013 – Schedule to Form 2

*Notification to be sent to applicant on refusal of planning permission
or on the grant of permission subject to conditions decided through
Angus Council's Scheme of Delegation*

1. If the applicant is aggrieved by the decision of the planning authority-
 - a) to refuse permission for the proposed development;
 - b) to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
 - c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The notice of review should be addressed to Committee Officer, Angus Council, Resources, Legal & Democratic Services, Angus House, Orchardbank Business Park, Forfar, DD8 1AN.

A Notice of Review Form and guidance can be found on the national e-planning website <https://eplanning.scotland.gov.uk>. Alternatively you can return your Notice of Review directly to the local planning authority online on the same web site.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

COMMUNITIES Your experience with Planning

Please indicate whether you agree or disagree with the following statements about your most recent experience of the Council's handling of the planning application in which you had an interest.

Q.1 I was given the advice and help I needed to submit my application/representation:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q.2 The Council kept me informed about the progress of the application that I had an interest in:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q.3 The Council dealt promptly with my queries:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q.4 The Council dealt helpfully with my queries:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q.5 I understand the reasons for the decision made on the application that I had an interest in:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q.6 I feel that I was treated fairly and that my view point was listened to:-

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree	It does not apply
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OVERALL SATISFACTION: Overall satisfaction with the service:

Q.7 Setting aside whether your application was successful or not, and taking everything into account, how satisfied or dissatisfied are you with the service provided by the council in processing your application?

Very satisfied	Fairly satisfied	Neither Satisfied nor Dissatisfied	Fairly Dissatisfied	Very Dissatisfied
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

OUTCOME: Outcome of the application:

Q.8 Was the application that you had an interest in:-

Granted Permission/Consent	<input type="checkbox"/>	Refused Permission/Consent	<input type="checkbox"/>	Withdrawn	<input type="checkbox"/>
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Q.9 Were you the:- Applicant Agent Third Party objector who made a representation

Please complete the form and return in the pre-paid envelope provided.
Thank you for taking the time to complete this form.

Date: 24 October 2016

Ms. S Porter,
 Planning Officer,
 Planning and Place,
 Angus Council,
 County Buildings,
 Market Street,
 Forfar,
 DD8 3LG

Our ref: AS/044
 Your Ref: 16/00738/FULL

Dear Ms. Porter

Subject: Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure.

With reference to your email and our discussions on Friday 7 October I write to provide information in reply to the four points that you listed as follows:

- 1. What type of materials have been imported for the hardcore parking area and how much of this was imported?**
- 2. Is it just the chalet which would be connected to the drainage infrastructure and services?**
- 3. Does the chalet have an axel?**
- 4. Provide additional details in relation to the drainage infrastructure already installed/proposed?**

1. I enclose details of the type and volumes of materials imported onto the site.

2. The chalet is the only structure that will be connected to the drainage infrastructure.

3. The issue of whether the units have or do not have an axel is irrelevant. Reference has to be made to the Caravan Sites and Control of Development Act 1960 [1960's Act]. The definition of a caravan refers to:

"any structure designed or adapted for human habitation which is capable of being moved from one place to another, whether by being towed or by being transported on a motor vehicle or trailer, and any other motor vehicle so designed or adapted".

This is subject to certain exceptions i.e. units of not more than two sections, constructed or designed to be assembled on site by means of bolts, clamps or other devices and not exceeding 60 feet in length, 20 feet in width and 10 feet in height,

Alan Seath Planning Consultancy, 88 Scott Road. Glenrothes, Fife KY6 1AE

email: a_seath@sky.com

Telephone: 01592 304188 or Mobile: 07731690473

are included.

So it follows that any structure falling outside these portability and dimensional criteria, or having a sufficient degree of permanence such as through adaptations to physically attach it to the ground, will involve operational development.

In this case the caravans and chalet are capable of being de-constructed and transported. They have arrived from the supplier in this form all in accordance with the 1960's Act.

In conclusion, the chalet and caravans are not operational development as they fall within the definition of a "caravan" as defined in the "Caravan Sites and Control of Development Act 1960", as supplemented by the "Caravan Sites Act 1968". The units are residential and temporary nature.

My understanding is that the operator of this "caravan site" will be required to obtain a "site license" from the Council.

4. The drainage connection is by means of a pipe attached to the main drain.

I trust this is to your satisfaction. If you require more information please contact me.

Yours sincerely,

A Seath

Alan Seath DipTP MRTPI

Alan Seath Planning Consultancy, 88 Scott Road. Glenrothes, Fife KY6 1AE

email: a_seath@sky.com

Telephone: 01592 304188 or Mobile: 07731690473

Planning Policy & Design Statement

Applicant: Mr. John Townsley

Proposal: Change of use of vacant land to form a chalet/caravan pitch (principal chalet and two touring caravans), formation of hardstanding, erection of wall and fences and amenity block (in part retrospect)

at land 125M West of North Mains Croft,
Logie, Kirriemuir Angus

Date: 12 September 2016

Contents

1. Background	2
2. Gypsy/Traveller Community: Background	6
3. Planning Policy Background	8
4. Material Planning Considerations	28
5. Conclusions.....	34

1. Background

Introduction

This Statement is submitted in support of the planning application for a change of use of vacant land for use as one individual private permanent Gypsy Traveller pitches (one principal chalet and two touring caravans), erection of boundary wall and 1.8 metre high fencing, formation of hardstanding and car parking (in retrospective) on land to the west of North Mains Croft, Kirriemuir (the Site).

This Statement provides an assessment of the relevant background information, planning policies and other material considerations concluding that there is accordance with the Development Plan with material considerations adding significant weight to allow a grant of planning permission.

Planning Background

There are no previous planning applications associated with the Site. Following occupation of the land Angus Council served a Temporary Stop Notice and a Planning Contravention Notice (PCN) both dated 8 July 2016. A reply to the PCN was sent to the Council on the 26 July.

An Enforcement Notice, dated 19 August 2016, was served on the Mr Townsley (the Applicant). An Appeal has been lodged with the Division of Planning and Environmental Appeals against the Enforcement notice.

The Personal Circumstances of the Applicant

The Applicant has acquired the site and developed it, building a home for himself and his family in the absence of any suitable alternative. A living environment is being created as a private, permanent household for the family.

The Applicant is representing the interests of all of his family as occupiers of the site who are seeking to establish this site as their home. This planning application carries the full and unanimous support of all residents. The details of the residents are as follows:

Table 1: Site Occupation

Name	Age	Origins	Special Needs
Mr. John Townsley	46	Angus	None
Mr John Townsley Jnr.	20	Angus	None
Ms. Linda Isabella Townsley	28	Angus	None
Ms. Sharleen Townsley	24	Angus	None

The Applicant and his family has lived on the Site for approximately 3 months and have lived in the Angus area most of their lives. The Site offers an opportunity for four adults to settle in the Region from which they all originate, creating a home and a safe and secure base from which they can travel in accordance with their

culture. The Site also allows the Applicant and his children to settle close to his parents/grandparents who stay in Maryton.

In the past the Applicant and his family has occupied various sites in the Angus area. This includes the Thrums Caravan Park, Maryton (10 years), and periodically on a camp site off the A90 (near McDonalds takeaway/restaurant). When sites in Angus were unavailable the applicant had to travel outwith the Region including Alyth, Perth and Kinross (next to the golf course), Kinneff, Aberdeenshire and Piper Drive, Glenrothes, Fife.

The current situation in Angus is that there is a shortage of accommodation for Gypsy/Traveller. Unauthorised sites do not present a sustainable option. Mr Townsley chose the land at North Croft Mains in desperation following his experiences on the road and in other sites.

It is against this backdrop that the Applicant has bought the Site and developed it as his home. This convenient location allowed this Gypsy/Travelling family to retain their rights to privacy and enjoyment of their home. The Site meets the needs of this Gypsy Traveller family in the Angus area. The need and demand for accommodation in Angus is referred to in more detail below.

The Applicant is a well known businessman in the motor trade operating a successful company in Brechin. This is a family run enterprise with his two daughters and his son part of the workforce. The workplace will remain separate from his home with no work being undertaken from the Site.

Personal circumstances as a material consideration in the determination of the planning application are explained in more detail in Section 4 of this Statement.

Meeting the Need & Demand in Angus

At present there appears to be no Council document that provides a clear and comprehensive guidance as to how needs and demands of the Gypsy/Travelling community is to be addressed in the Angus area.

The Angus Council Local Housing Strategy 2012 – 2017 (the Strategy) does make some reference to the needs of Gypsy/Travellers. On page 24 it is stated that the Council will:

“ensure there is housing provision to meet the housing need of black and ethnic communities, including other minority groups such as gypsy travellers.”

With regard to need and existing provision the Strategy (page 29) states:

“Work to identify housing need of broader minority groups will also be required in the mid to long term. This includes Gypsy Travellers whose needs are sometimes complex and may require more carefully thought-out solutions than other social groups. We recognise for instance that the existing official traveller sites may not be adequate in size or location, so research will be undertaken to tease out how the situation could be improved.

The council continues to promote equality and diversity.”

Angus Council recognise the rights of the Gypsies/Travellers to practise a nomadic lifestyle, travelling and staying on short term sites and seeks to balance this with the needs of the settled community of Angus. The

Council states that it is seeking to promote a positive environment for good community relations and to prevent incidents of harassment.

A recent report entitled Draft Policy and Procedure for Unauthorised Encampments of Gypsy/Travellers (the Report) was considered by Angus Council and is soon to be adopted as Policy. However, the **purpose** of this document is:

“This document aims to give clear direction of the policy of Angus Council regarding unauthorised encampments of Gypsies/Travellers in Angus and the procedures to be followed by staff when responding to reports of these encampments. Highlighted will be the need for a clear policy and for procedural guidelines, the parties involved in this process and will clarify the different situations against which the policy and procedures will be applied.”

The Report recognises that Angus has always been a popular destination for Gypsies/Travellers, with certain unauthorised areas being regularly populated by encampments. It has been identified that the Council requires a clear and defined procedure which it can follow, along with its partners, to provide what it considers to be a consistent and fair course of action in dealing with unauthorised encampments. However, the efforts associated with unauthorised encampments are not mirrored by the identification of suitable accommodation. In addition, the procedures set out in the Report have not been followed as they relate to this site (see Enforcement Appeal Statement).

There are short stay sites available to Gypsy/Travellers within the Angus area. These are at St Christopher’s Caravan Site in Tayock by Montrose managed by Angus Council; and Balmuir Wood, outwith the Angus administrative area managed by Dundee City Council. Tealing is another site available, located in Angus and operated by Dundee City Council. However, both Tealing and Balmuir do not have wardens and remain unpopular with the Gypsy/Travelling community. A conference held in August this year, to discuss Gypsy/Traveller issues, noted the complaints about Balmuir in particular in addition it is understood that Tealing is facing closure. Both these sites remain largely unoccupied whereas the properly managed and attractive St Christopher’s site remains fully occupied with little prospect of accommodation in the future.

There remains an unmet demand in the Angus Council administrative area with no clear strategy for site provision to meet need. With the public sector experiencing financial difficulties a more innovative and proactive approach is required – a private/public partnership between the Gypsy/Travelling community and the Local Authority.

This Statement sets out a reasoned justification to prove that the retrospective development is in accordance with national and Development Plan policy with other material considerations including the personal circumstances of the Applicant adding weight to the case for the grant of planning permission.

The Site

The Site, which extends to 1350 sq. metres, lies on the south western edge of Kirriemuir. It is bounded by land owned by the Applicant to the north; residential properties to the east; agricultural land to the west; and a farm/equestrian use and agricultural land to the south.

Access to the site is gained via North Croft Mains then a private road which currently serves three residential properties and the farm. This is of a suitable width and alignment for all vehicle types including refuse and emergency vehicles.

The town's facilities are located close by with safe and convenient access available by foot, cycle and car. Public transport runs through Kirriemuir.

The photographs accompanying the planning application illustrate the site and surrounding area and the access. The location is illustrated in **Appendix 1**.

The Site Design and Layout

Gypsy and Traveller sites are designed to provide land for households (family members), which are suitable for caravans/chalets, together with space for parking and other amenities. Sites of various sizes, layouts and pitch numbers operate successfully throughout Scotland today. These sites work best when they take account of the needs and demographics of the families' proposing to reside on them. The Site at Kirriemuir is no exception.

The Site was formerly in market garden use. Polytunnels once occupied the Site. The Applicant inherited an unkempt area of ground which was not in any productive use. It is submitted that the abandonment of the former market garden use on site resulted in a vacant parcel of land which, for the purposes of this planning case can be defined as rural brownfield land. The work associated with the development adds substance to this claim.

The reclamation of the Site required the Applicant to strip off all the overgrowth, and the understorey of vegetation which produced large volumes of green waste liberally interspersed with a variety of debris. The Applicant separated the waste and disposed of it to landfill. The land was 'riddled', to separate out some of the sticks, stones and other sundry material to make a safe environment with the intention to grass and plant a mixed native species on top of the bund and ancillary land. This land has already been "greened".

Following this work a topographical survey was commissioned to map the site. The survey plan submitted with the planning application illustrates the current levels and development layout on the Site.

Thereafter, a properly managed build began. Drains were installed, as was a water supply, with hardstanding (Type 1) creating parking, maneuvering and access. Service connection to electricity is to be made at a later date.

All this work allowed the siting of a principal chalet, two touring caravans with associated car parking, turning and storage with an amenity block (toilets and laundry room) to be built all forming a suitable living environment. A block built feature wall with dry dash render finish (see photos) was erected on the south side of the Site with fencing along the north and east side of the pitch completing this retrospective development.

The Applicant will occupy the principal chalet. One touring caravans will be occupied by the daughter with the second one occupied by the other male members of the family. These living arrangements accord with the Gypsy/Traveller way of life.

The pitch size easily accords with the Scottish Government recommended space standards for such developments. The Site has been reclaimed by the Applicant and turned into an attractive site for the Townsley family. With ease of access from North Mains Croft and then via the private access track, a safe and secure home is being provided for this Gypsy/Traveller family. The remainder of the land in the Applicants ownership is to remain unoccupied.

2. Gypsy/Traveller Community: Background

Legislation

Article 25.1 of the Universal Declaration of Human Rights recognises the right to adequate housing as integral to the right to an adequate standard of living. Housing rights are enshrined in international treaties signed and ratified by the UK and therefore applicable in Scotland, including the International Covenant on Economic, Social and Cultural Rights (ratified in 1976).

From October 2010, the Equalities Act brought together different equality laws. The Equality Act covers discrimination for nine 'protected characteristics' - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is an equality issue to be addressed in this case which is analysed in more detail throughout this Statement.

Gypsy/Travellers are one of the most marginalised and vulnerable groups in society. Longstanding difficulties in the provision of private and public sites have resulted in not only the number of unauthorised encampments increasing throughout Scotland, but the marginalisation of these communities and a breakdown in relations between settled and Travelling communities.

Under the Homelessness (Scotland) Act 2003, a person is homeless if he/she has accommodation but it consists of a moveable structure, vehicle or vessel designed or adapted for human habitation; and there is no place where he/she is entitled or permitted both to place it and to reside in it. Although some Gypsy/ Travellers live in houses out-with the travelling season, for many their only accommodation all year round is a caravan. They are therefore deemed homeless if they have nowhere official to site and thereafter reside in their caravan.

Prior to the development of the Site the family stayed in various locations (see above) predominantly in the Angus area. With the need to find a permanent site and the lack of suitable sites the Townsley family were in effect homeless. In their desperation they have set up home on the Application Site.

Limitations in dealing with unauthorised encampments

In terms of Section 3 of the Trespass (Scotland) Act 1865 lodging in any premises or occupying or encampment on any land, being private property without the consent and permission from the owner or land owner of such premises is an offence. In 2001, the then Lord Advocate issued guidance to prosecutors that there should be a presumption against the prosecution of Gypsy/Travellers for unauthorised encampments in terms of Section 1 of the Trespass (Scotland) Act 1865. However, the presumption may be overridden by other public interest considerations in favour of prosecution. Examples of this are that a suitable alternative stopping place has been identified; and/or the Gypsy/Travellers have refused to relocate within a reasonable time frame; and/or the encampment is causing a road safety or public health hazard.

Currently there is no indication from the Lord Advocate that the position of presumption of non-prosecution will change. As a result, local settled communities can get frustrated over what is perceived as a lack of action by the police when dealing with unauthorised encampments.

The regular use of unauthorised stopping places is the source of issues between the settled and Travelling communities. If unauthorised sites continue to be an issue in the Angus area, as has been proven through past actions (publication of Policy and Procedure), it is reasonable to expect that issues surrounding unauthorised encampments in the Angus area will continue and will need to be managed on a regular basis with consequent resource implications for the Council.

This Planning Application seeks to address the unauthorised nature of the Site through the grant of planning permission.

The Positive Impact of Site Provision

Management and control of site provision has been proven to improve standards and conditions for all stakeholders. Well-managed, authorised Gypsy/Traveller sites will not only help meet the accommodation needs of the Travelling community but will help reduce tensions between the settled and Gypsy/Travellers.

There are positive benefits created by the provision of authorised sites. The Site owned by the Applicant is no exception. This includes the ability to maintain the family's links with community facilities, health services and sources of business. The Site presents an opportunity to create positive links with the settled community in Kirriemuir, to share cultures and to acknowledge diversity. Approval of this site is one step toward resolving the Council's accommodation needs for Gypsy/Travellers at no cost to the public purse.

3. Planning Policy

Introduction

There is and continues to be changing economic, social and environmental circumstances with regard to the provision of Gypsy/Traveller sites in Scotland. This has the effect of influencing the decisions that need to be made by the Gypsy/Travelling community in relation to private sites. In the absence of positive action by Local Authorities to provide for this ethnic minority group, Gypsy/Travellers are purchasing land and looking to develop private sites to establish a home dictated by personal circumstances and a lack of suitable site.

The status of the Site to the south west of Kirriemuir, as it relates to planning policy, is that it lies within The West Angus Housing Market Area in countryside situated outwith the settlement boundary of Kirriemuir. The terms of national policy and Development Plan policy provide justification for this special needs housing.

Scottish Planning Policy July 2014 (SPP)

Scottish Planning Policy June 2014 (SPP) encourages rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality.

On the issue of sustainable development the Government guidance states:

“The SPP sets out how this should be delivered on the ground. By locating the right development in the right place, planning can provide opportunities for people to make sustainable choices and improve their quality of life. Well-planned places promote well being, a sense of identity and pride, and greater opportunities for social interaction. Planning therefore has an important role in promoting strong, resilient and inclusive communities.” (Paragraph 15 SPP)

The policy principles state:

“This SPP introduces a presumption in favour of development that contributes to sustainable development.” (Page 9 SPP).

SPP also provides that:

“The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.” (Paragraph 28 SPP).

In addition, the aim of the SPP is to ensure that development and changes in land use occur in suitable as well as sustainable locations. The planning system must also provide protection from inappropriate development. SPP's primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

National guidance recognises that planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone. It is recognised that proposed development and other issues are not always mutually exclusive objectives. The aim in this case is to resolve conflicts between the objectives set out above and to manage change for this family.

The Scottish Planning Policy (SPP) 2014 makes reference to Specialist Housing Provision and Other Specific Needs and specifically to Gypsy Travellers. SPP states:

“HONDA’s [Housing Needs and Demands Assessment’s] will also evidence need for sites for Gypsy/Travellers and Travelling Showpeople. Development plans and local housing strategies should address any need identified, taking into account their mobile lifestyles. In city regions, the strategic development plan should have a role in addressing cross-boundary considerations. If there is a need, local development plans should identify suitable sites for these communities. They should also consider whether policies are required for small privately owned sites for Gypsy/Travellers, and for handling applications for permanent sites for Travelling Showpeople (where account should be taken of the need for storage and maintenance of equipment as well as accommodation). These communities should be appropriately involved in identifying sites for their use.” (SPP paragraph 133)

Assessment: The application site provides a suitable and sustainable solution to the housing needs of the Townsley family. The assessment of Development Plan policy will prove that the site meets a social need for this Gypsy/Travelling family at a suitable location by providing special needs housing on the Site. The development will create a suitable living environment on this former rural brownfield site without detriment to natural heritage and/or countryside resources avoiding landscape impact; and at no cost to the public purse. It accords with the “triple bottom line” of sustainability (social, environmental and economic factors) all in accordance with SPP.

Angus Council Development Plan Policy

Introduction

The Angus Council Development Plan is in a transition period with the policy approach as contained in the Angus Local Plan Review 2009 (LPR) being transferred to the emerging policies in the Local Development Plan (LDP). At the time of writing this report the adopted Plan was the LPR. The Scottish Ministers had written to the Council advising that they will not hold up the adoption process for the LDP. The Full Council of Angus is required to approve the LDP. Following discussion with Council officers it was agreed that for the purposes of this Statement both sets of relevant policies should be assessed against the proposed development, for the avoidance of doubt.

The following policies are considered applicable in the assessment of this retrospective proposal.

The Angus Council Local Plan Review 2009 (LPR)

This document recognises that one of the key elements to building sustainable communities is providing a mix and range of housing developments to meet the needs and aspirations of all sectors of the community.

This includes the needs of Gypsy/Travellers. To reflect this requirement there is a specific policy dedicated to this ethnic minority group.

The Vision of the Council for everyone is:

*“Angus will be a place where first class quality of life **for all** can be enjoyed in vibrant towns and pleasant villages set in attractive and productive countryside.”*

Part of the Development Strategy provides to:

- Maintain and protect the diversity and quality of the rural area and encourage local development which supports the population and services of local communities;
- Support the protection and enhancement of the countryside; and
- Maintain the quality of valued landscapes; the natural, built and historic environment; and biodiversity.

The Development Priorities for Kirriemuir provide a further commitment to housing for everyone stating a need:

*“To consolidate the role of Kirriemuir the Local Plan identifies sites to **provide for local housing** and employment needs. Proposals that sustain and enhance Kirriemuir as a local service centre, complement its tourist role as a “Gateway to the Glens” and maintain its character and heritage will also be supported.”*

The relevant Policies of the LPR are now listed with an assessment against the proposed development provided for each.

Gypsy/Traveller Sites

Reference is made to the study commissioned jointly between Communities Scotland, Angus Council, Dundee City Council and Perth and Kinross Council – An Assessment of the Housing Needs and Aspirations of Gypsies/Travellers in Tayside (2003). The report found that some sites which were originally temporary have become permanent, and some private sites are no longer available to Gypsies and Travellers and so there is a need to provide more transit spaces.

The Angus Local Housing Strategy seeks to address the accommodation needs of Gypsies and Travellers through direct liaison with these groups, the provision of additional spaces where necessary and access to housing. There do exist local authority sites at Tayock, Montrose, and Balmuir, Tealing (see Section 1 above). The privately run site at Maryton, Kirriemuir where the Applicants used to stay has been closed.

Policy SC13 (Sites for Gypsies/Travellers) provides that Angus Council will support existing sites and consider the development of new sites for Gypsies/Travellers where they satisfy an identified local demand and meet the following criteria:

1. are compatible with surrounding land uses;
2. provide a good residential environment for the people living there, including the provision of public utilities for each pitch or in amenity blocks as appropriate; and
3. are well located for access to the local road network.

The Local Plan complements the aims set out in the Dundee and Angus Structure Plan for the sustainable management of the Council's environmental resources by giving priority to:

- protecting and enhancing wildlife habitats identified as being of international, national or local importance;
- protecting and enhancing the biodiversity of Angus;
- conserving and enhancing important landscapes and landscape features and ensuring that new development is sympathetic to landscape character;
- protecting and enhancing the quality of the built and historic environment and ensuring that development proposals respect local characteristics;
- promoting the sustainable use of water resources and ensuring that new development does not exacerbate any flood risk;
- promoting the integrated management of the coastal area and minimising unnecessary coastal development;
- guiding proposals for renewable energy;
- safeguarding good quality agricultural land from inappropriate and irreversible development;
- providing a framework for the selection of sites for mineral extraction, landfill and land raise developments to minimise environmental damage to landscape, heritage and environmental assets.

Assessment: The proposed use on site (residential) is compatible with the surrounding development i.e. three residential properties and it does so without any detrimental effect on the biodiversity of Angus. The retention of the existing tree belts assists in the preservation of biodiversity and reducing any perceived landscape impact. As is demonstrated elsewhere in this Statement tree belts are a characteristic of the Broad Lowland Valley Landscape Character Zone. The character of this area is preserved. There are no effects on the built heritage and flooding is not an issue in this case. The issue of safeguarding countryside resources is addressed later in this Statement with the conclusion that there is a negligible impact due to the scale nature, location and temporary use of the development.

There is a misconception that use of land for Gypsy/Travellers sites by their definition can be incompatible in land use terms. This preconceived ideology is clarified in case law.

The appeal decision issued by the Directorate of Planning and Environmental Appeals (reference: PPA-340-2093) for the Formation Of Permanent Gypsy/Traveller Site And Associated Works in Part Retrospective at Mawcarse, Kinross provides guidance on the likely impact of Gypsy/Traveller developments on residential amenity. The Reporter at Paragraphs 11 and 12 of the decision, when referring to criteria of Policy RD5B of the Perth and Kinross Local Development Plan states:

“The third criterion requires that the use of the site must be environmentally compatible with, and not negatively affect or be affected by neighbouring land uses. The appellants own and use the adjoining stables, so there is no incompatibility with that use.

The nearest other residential properties are in Mawcarse, a small settlement of some 25 or so houses spread out along the B919 road. All these houses are of modern construction. The nearest is about 130 metres away from the site and I have concluded above that the caravans would not have a significant visual impact on the existing houses in Mawcarse. If the houses with planning permission are built, they will be significantly closer. However, I do not consider that the two caravans would

have a significant visual impact on them; and any such impact can be reduced over time by additional screen planting. Some reference has been made to the possible lifestyle and activities of the occupants of the caravans. I do not consider that to be relevant to my consideration of this development, which is for the provision of residential accommodation, in the context of the needs of Gypsies/Travellers. Overall, there is no evidence before me to suggest that this development would have an adverse impact on the amenity of existing residents of the area. I therefore conclude that the third criterion is met.”

The Perthshire case serves to determine that the lifestyle and activities have been determined as irrelevant as a material planning consideration. In this case there are residential properties in close proximity to the site as illustrated on the location plan. With the relatively small scale of the Site development (1 pitch); the erection of a feature wall; and landscape screening already existing (mature trees); then it is concluded that any impact on the amenity of residents (existing and proposed) and on the environment would be negligible.

Taking into consideration all the aforementioned and the comments under Local Development Plan Policy TC6 below, it is concluded that the proposed development is compliant with Policy SC13.

Development Boundaries

Policy S1: Development Boundaries provides that:

- (a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.
- (b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.
- (c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Assessment: Criterion (b) and (c) are applicable to the proposed development which is of a scale and nature appropriate for this countryside location. The Site meets an overriding need for the Gypsy/Travelling community and in particular this family. It is a response to the demand for suitable sites. The response by the Applicant has resulted in a development which (as is demonstrated throughout this Statement) is in accordance with other relevant policies of the Development Plan (LPR and emerging policy in the Local Development Plan), and most importantly the Policy related to the Gypsy/Travelling community (SC13).

The assessment of the relevant policies below allow a conclusion to be reached that the proposed development is in accordance with Policy S1.

Accessible Development

A key element in the creation of sustainable communities is how well new development is integrated with the existing form of development and transport networks.

The LPR requires that the design and layout of new development should, ensure that accessibility for

walking, cycling and public transport; including access for people with mobility difficulties has been properly addressed. Opportunities to enhance path networks for walking and cycling and the provision of public transport links should be maximised.

Policy S2: Accessible Development provides that:

Development proposals will require to demonstrate, according to scale, type and location, that they:

- Are or can be made accessible to the existing or proposed public transport networks and make provision for suitably located public transport infrastructure such as bus stops, shelters, lay-bys, turning areas which minimise walking distances and allow easy access for the mobility impaired.
- Provide and/or enhance paths for walking and cycling which are safe, provide pleasant routes, are suitable for use by the mobility impaired, and link existing and proposed path networks.
- Are located where there is adequate local road network capacity or where capacity can be made available.

Assessment: The Site has ease of access by road, on foot and/or on cycle via the private access track and North Mains Croft to Kirriemuir and elsewhere. The town of Kirriemuir has a good public transport service (bus).

The proposed development accords with the terms of Policy S2 of the LPR.

Design Quality

The LPR requires new development to add to or improve the local environment and should consider the potential to use innovative, sustainable and energy efficient solutions. A well-designed development is of benefit to the wider community and also provides opportunities to:

- create a sense of place which recognises local distinctiveness and fits in to the local area;
- create high quality development which adds to or improves the local environment and is flexible and adaptable to changing lifestyles;
- create developments which benefit local biodiversity; and
- create energy efficient developments that make good use of land and finite resources.

Policy S3: Design Quality provides that:

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- site location and how the development fits with the local landscape character and pattern of development;
- proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;

- use of materials, textures and colours that are sensitive to the surrounding area; and
- the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

Assessment: The space standards associated with the development of sites for Gypsy/Travellers has been described in this Statement. The Site accords with the requirements. The low level and spacious development fits in well with the local landscape character (see assessment of policies related to Landscape below) and its use (residential) is compatible with the neighbourhood within which it is located. There are views out of the site and limited views into the site except at distance from the south and those passing the Site.

Taking all the above into consideration there is accordance with Policy S3.

Environmental Protection

Policy S4: Environmental Protection provides that:

Where development proposals raise issues under environmental protection regimes, developers will require to demonstrate that any environmental protection matter relating to the site or the development has been fully evaluated. This will be considered alongside planning matters to ensure the proposal would not unacceptably affect the amenity of the neighbourhood.

Policy S6: Development Principles provides that:

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Throughout this Statement the proposed development on the Site is assessed against the design principles (Schedule 1) which are contained in this Statement at **Appendix 2**.

Angus Council is also committed to the principles of sustainability. In relation to the proposed development it is stated in the LPR that **priority** will be given to:

Providing a mix and range of housing developments to meet the needs and aspirations of all sectors of the community; and

Ensuring development makes a contribution towards protection of the environment, resource management, reducing pollution, and developing energy efficiency.

The LPR recognises that housing is a significant land use and as such can have a major impact on the character of an area. In promoting a sustainable approach to development in Angus, the LPR seeks to provide opportunities for more people to gain access to housing which meets their needs and to encourage the creation of a variety of high quality housing developments whether it is a single house in the countryside or urban development on a larger scale.

The LPR makes reference to the outdated SPP3 which states:

“SPP3: Planning for Housing (2003) states that planning authorities should continue to play a role through development plans, by identifying suitable locations for Gypsies/Traveller’s sites where need is

demonstrated, and setting out policies for dealing with applications for small privately owned sites.”

The LPR recognises that one of the key elements to building sustainable communities is providing a mix and range of housing developments to meet the needs and aspirations of all sectors of the community. This includes the needs of Gypsy/Travellers and to reflect this requirement there is a specific policy dedicated to this ethnic minority group.

Assessment: There is a need to provide housing for the Gypsy/Travelling community as part of creating sustainable communities. The proposed development is in accordance with the principles set out in Appendix 2 by reason of the scale, design, layout and finish of the Site with a negligible impact on the landscape with no impact on important countryside resources. The Site is accessible with links to community facilities and has the ability to be drained and have connection to utility services. A suitable living environment is created with no detriment to amenity (residential and visual). Assessment of the proposed development against other specific environmental planning polices provide further justification.

Environment and Resources

Protecting and enhancing the environmental assets and built and historic heritage of Angus is central to the Council’s approach to the sustainable development and the use of the areas finite and non-renewable resources.

Assessment: The Site does not affect any Natura 2000, Ramsar Sites, National Nature Reserves, Sites of Special Scientific Interest, Regional or Local designations nor does it affect wider Natural, Built Heritage and/or Biodiversity resources. The development does not contravene Policies ER1, ER2, ER3 and ER4 of the LPR.

Landscape

In seeking to conserve the landscape character of the area the Council consider it important to assess the impact of development proposals on all parts of the landscape. To assist in assessing impacts “Tayside Landscape Character Assessment (1999)”, which was commissioned by Scottish Natural Heritage, establishes Landscape Character Zones (LCZ) and key character features within the LPR area. This provides a better understanding of landscape features to enable a better conservation, restoration, management and enhancement strategy. The Site lies within the Broad Valley Lowland Landscape Character Zone.

Policy ER5: Conservation of Landscape Character provides that development proposals should take account of the guidance provided by the Tayside Landscape Character Assessment and where appropriate will be considered against the following criteria:

- (a) sites selected should be capable of absorbing the proposed development to ensure that it fits into the landscape;
- (b) where required, landscape mitigation measures should be in character with, or enhance, the existing landscape setting;
- (c) new buildings/structures should respect the pattern, scale, siting, form, design, colour and density of existing development; and
- (d) priority should be given to locating new development in towns, villages or building groups in preference to

isolated development.

Assessment: The Broad Valley Lowland LCZ is characterised by the decline of hedgerows and incremental loss of tree lines is diluting the strong character of these pattern/space-defining elements. The distinctive arable landscape, the steep western slopes of the Lomond Hills and remaining hedgerow trees make an important contribution to landscape character.

Kirriemuir lies in the Strathmore district and it is this area that the distinctive character of the landscape is most evident. From a distance, the area appears as a very broad, flat-bottomed valley enclosed by the Highland Foothills to the north and the rising sweep of the Sidlaws' north-facing dip slope to the south. Where estate planting survives the Strathmore landscape is rich and textured and particularly colourful during spring and autumn.

Where the trees have been lost, it is an open and expansive landscape of rectangular fields punctuated with a scatter of large farmsteads. The landscape of the Strathmore contrasts strongly with neighbouring areas of upland, particularly where the woodland structure has survived.

The principal types of change that have affected this landscape type in the recent past or which are likely to affect it in the future are:

- agriculture, reflecting the dominance of this land use in this LCZ;
- transport; and
- development concentrated in the existing settlements with development outside these settlements comparatively limited and confined to farmsteads and a scatter of agricultural dwellings.

Guidelines for new development include:

- Encouraging new development to reinforce the existing settlement pattern, focused on market towns and smaller villages.
- New residential development should respond to the morphology of existing settlements (e.g. nucleated market settlements, grid-iron 19th century new villages). Explore the need and scope for a small number of new villages, echoing those established in the 19th century.
- Encouraging developers to use local building materials and to adopt local vernacular in respect of density, massing, design, colour and location. There are local variations which reflect subtle changes in the character of the local geology and there is a need to avoid standard designs and layouts.

Assessment: The proposed development avoids any detrimental impact on the landscape through the retention of the tree belts along the northern, eastern and western boundaries. These mature conifers mitigate any perceived impact which the development may have had and allow an integration into the landscape. In addition, the low level structures (caravans, chalet and proposed amenity block) are sympathetic to the LPZ forming a small cluster of development. The Site is seen at distance from the south (open farmland) and passers-by using the private road. The use of materials in the wall and fences are in keeping with this cluster of development nearby.

The Site also responds to the morphology of the existing built form as a natural extension to the row

of residential properties. The open farmland beyond the tree belt to the west contrasts with the enclosed nature of the Site, which is a defensible barrier to further development.

It is submitted that there is compliance with Policy ER5 of the LPR.

Trees on Development Sites

The importance of trees and treelines on development sites should not be underestimated. The LPR recognises that they can make a substantial contribution towards the overall amenity and integration of new development into the environment and the layout of development proposals should, wherever possible, accommodate trees and treelines worthy of retention.

Policy ER7: Trees on Development Sites provides that planning applications for development proposals affecting sites where existing trees and hedges occur and are considered by Angus Council to be of particular importance will normally be required to:

- (a) provide a full tree survey in order to identify the condition of those trees on site;
- (b) where possible retain, protect and incorporate existing trees, hedges, and treelines within the design and layout;
- (c) include appropriate new woodland and or tree planting within the development proposals to create diversity and additional screening, including preserving existing treelines, planting hedgerow trees or gapping up/ enhancing existing treelines.

Assessment: The Applicant has protected and retained all the dense mature conifer tree lines along the Site boundaries in recognition of;

- **their contribution they make to the landscape setting of the area generally; and**
- **their value to privacy and amenity in the context of the proposed development.**

There is compliance with Policy ER7 of the LPR.

The Water Environment

The LPR seeks to ensure that development activity does not lead to a deterioration of the quality and status of the water resource in Angus. The following Policies are applicable in this case.

Policy ER23: Private Drainage Systems Development provides that proposals requiring the private provision of wastewater treatment plant, biodiscs, septic tanks or similar arrangements will only be acceptable where:

- (a) the site is located outwith the public sewerage network;
- (b) the proposed development is in accord with the development strategy and other relevant policies of the Local Plan;
- (c) there is no detrimental effect to a potable water supply, or supply for animals or an environmentally sensitive water course or loch, including ground and surface waters; and
- (d) the requirements of SEPA and/or The Building Standards (Scotland) Regulations 1990, as amended, are

met in relation to installation, e.g. proximity to other buildings.

Policy ER24: Surface Water Disposal provides that Sustainable Urban Drainage Systems (SUDS) are preferred in dealing with surface water drainage from all new development. In considering development proposals Angus Council will consult and liaise closely with SEPA, Scottish Water and developers in order to ensure that appropriate methods of surface water runoff collection, treatment, decontamination and disposal are implemented to minimise the risk of flooding and the pollution of water courses, lochs and ground water. Proposals that adopt ecological solutions to surface water management which promote local biodiversity by the formation of ponds and/or wetlands for example, and create or improve habitats will also be encouraged.

Assessment: The Site has a connection to the public drainage network and public water supply. The temporary nature of the surfacing and soils beneath provide excellent permeability and a natural SUDS scheme. The proposed development accords with Policies ER23 and ER24.

Agricultural Land

Current national policy seeks to protect prime quality agricultural land from inappropriate and irreversible development. It is estimated that Angus has around 9.6% of this national resource, predominantly located in the lowland area along Strathmore and the coastal strip between Carnoustie and Arbroath. As the Local Plan strategy seeks to accommodate development in and around the main towns, it accepts that it is inevitable that some prime quality land will be required for development.

Policy ER30: Agricultural Land provides that proposals for development that would result in the permanent loss of prime quality agricultural land and/or have a detrimental effect on the viability of farming units will only normally be permitted where the land is allocated by this Local Plan or considered essential for implementation of the Local Plan strategy.

Assessment: The proposed development is a change of use of land whereby structures (chalet, caravans), boundary treatment and surfacing are of a temporary nature. The land can be returned to its original use through removal of the development and spreading soils on the land.

The planning application considered by Angus Council (reference 15/00135/FULL) provides justification. The report considered by the Development Standards Committee (dated 15 August 2015) states:

“As noted the caravans are temporary in nature and do not have any impact on the fabric or setting of the listed structure. There would be no permanent loss of prime agricultural land because this is a temporary proposal which would assist the operational efficiency of the farm unit.”

The previous use of the Site was unrelated to an agricultural unit and therefore its use does not affect viability of any business in the rural economy.

The proposed development by reason of its scale and temporary nature complies with the terms of Policy ER30. It was and is in private ownership and unrelated to any farm unit. The abandonment of the previous use (market garden) left the site in an unkempt state.

Angus Council Local Development Plan (LDP)

The emerging policies of the Angus Council are contained within the LDP. The Policy Matrix contained in this document guides developers and applicants to the policies which are relevant to their development proposal. The guidance has been used in this case.

Development Strategy

Rural Angus is not a single homogenous area, varying significantly in character, land use, population levels and availability of and access to a range of services and facilities. The LDP aims to maintain this diversity by supporting new development in appropriate locations and by encouraging people to live and work in rural communities.

The Local Housing Strategy seeks to address the accommodation needs of Gypsy/Travellers through direct liaison with these groups, provision of additional spaces and where appropriate access to housing.

The LDP Policy Framework, Part 1, Thriving & Connected contains the most relevant policy related to Gypsy/Travellers.

It is confirmed that the Council's LHS seeks to address the accommodation needs of Gypsy/Travellers through direct liaison with these groups, provision of additional spaces and where appropriate access to housing.

While the ALDP does not identify areas of search or allocate specific sites the policy is intended to establish a framework for assessing proposals to establish new, or extend existing sites.

Policy TC6 Gypsies and Travellers and Travelling Showpeople provides that Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites (publicly or **privately owned** and managed). Existing authorised Gypsies and Travellers and Travelling Showpeople sites will be protected and there will be a presumption against their redevelopment or conversion to other uses unless it can be demonstrated to the satisfaction of Angus Council that there is a surplus of accommodation to meet identified needs. Proposals for new or extended permanent sites and temporary "short stay" sites for Gypsies and Travellers will only be supported where:

- the site will contribute to satisfying a local need identified in the Local Housing Strategy and is consistent with Angus Council's strategy for meeting the accommodation needs of these client groups;
- the development is designed and located to minimise adverse effects on the landscape, established amenity, character and built or natural heritage interests of the surrounding area;
- the proposed site will provide a good residential amenity for residents and has adequate access to community, education and health services and facilities; and
- the proposed development would not set a precedent or open up other areas for similar development.

Assessment:

The needs of the Gypsy/Travelling community have been clearly set out in this Statement. There is a lack of suitable accommodation and there are no known plans to find sites for this ethnic minority in

a Region of Scotland which is popular with the Travelling community. The grant of planning permission will serve to meet need in accordance with the LHS.

Gypsy/Traveller appeal cases create significant material considerations in the determination of similar planning applications. The appeal decision (Reference: PPA-300-2022) on land at Doohill, Easter Coxton, Elgin IV30 8QS (dated 8 May 2013) made reference to relevant planning policy and their relevance in the context of demand and need. When assessing the development the Reporter had to determine whether the proposal represents an acceptable form of development in the countryside.

The Reporters conclusions on conformity with the Development Plan stated (at paragraphs 15 and 16):

“I find overall that, as the proposal fails to comply with development plan policy on development in the countryside, it is not in accord with the development plan. That said, I have found there to be no unacceptably adverse impact on the character and amenity of the countryside, or on the residential amenity of nearby residents.

Before moving on to consider other material considerations, there remains one further provision of the development plan which, for the sake of completeness, ought to be mentioned here. Policy H12: Travelling Persons Sites of the local plan, states that “The council acknowledges the needs of travelling people are taken into account, and will identify sites. These sites will be considered in the context of the applicable policies in the Plan.

Despite the local plan having been adopted in 2008, the council concedes that it has, some 5 years later, failed to identify such sites. Nor has it set out how private proposals for such sites are to be assessed, although it advises that work is now underway in framing such guidance. I shall consider the implications of this matter below.”

The Reporter, in his decision letter, had made specific reference to the demand and need in the Morayshire administrative area and the Council’s lack of success in finding sites. The Reporter at paragraph 23 states:

“I cannot escape the conclusion that the appellants have been seriously disadvantaged by the council’s failure either to identify suitable sites, which it is required to do by local plan policy, or to establish a substantive policy framework for the assessment of proposals such as this one. Drawing all of these considerations together, I find there to be a very persuasive case for concluding that the appellants’ need for the proposed development outweighs the conflict with development plan policy and the quite limited harm to the countryside which I have identified.”

The appeal decision is of particular relevance in the determination of this planning application. The proposed development for the Townsley family is considered to be in accordance with the Development Plan as set out in this Statement. With the Council failing to meet the needs of the Gypsy/Travelling community in its administrative area, this adds weight to the grant of planning permission based on the case at Doohill.

The proposed development has no adverse impacts on the landscape (see assessment of LPR Policy above) or the built and natural environment. Due to natural screening (existing tree belts) the site has a negligible impact.

This private site is designed in accordance with the space standards associated with pitch development for Gypsy/Travellers. It is laid out to provide all the amenities necessary for this family as a household and is tidy, pleasant and well managed. It is close to community facilities.

Additional land is in the Applicants ownership but he has no intention of developing this land. He proposes to use this land for storage and domestic use (garden) ancillary to the main residential use.

The proposed development is in accordance with Policy TC6 with other material considerations (case law) adding weight to strengthen the case for approval of planning permission.

Creating High Quality Places

To optimise the use of existing resource capacities and to ensure the impact of development on the wider environment and landscape is minimised, development proposals in the countryside should also ensure that they have investigated all possibilities of locating adjacent to existing development or groups of buildings.

Policy DS1 Development Boundaries and Priorities All proposals will be expected to support delivery of the Development Strategy. The focus of development will be sites allocated or otherwise identified for development within the LDP, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the LDP. Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the LDP. In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP. Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development. Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.
*Sharing an edge or boundary, neighbouring or adjacent.

Assessment: As with Policy S1 of the LPR the proposed development is of a scale and nature appropriate for this countryside location. It makes use of vacant rural brownfield land and in doing so meets a proven need for the Gypsy/Travelling community. It is in accordance with other relevant policies of the Development Plan (LPR and emerging policy in the LDP), particularly those related to the Gypsy/travelling community and protection of the rural environment.

There is accordance with Policy DS1 of the LDP.

Accessibility

The LDP places an emphasis on Accessibility which is seen as a key element in the creation of sustainable

communities and how well new development is integrated with the existing form of development and transport networks.

Policy DS2 Accessible Development provides that development proposals will require to demonstrate, according to scale, type and location, that they:

- are or can be made accessible to existing or proposed public transport networks;
- make provision for suitably located public transport infrastructure such as bus stops, shelters, lay-bys, turning areas which minimise walking distances;
- allow easy access for people with restricted mobility;
- provide and/or enhance safe and pleasant paths for walking and cycling which are suitable for use by all, and link existing and proposed path networks; and
- are located where there is adequate local road network capacity or where capacity can be made available.

Assessment: The Site has ease of access by road, on foot and/or on cycle via the private access track and North Mains Croft to Kirriemuir and elsewhere on an adequate road network. The town of Kirriemuir has a good public transport service (bus). As with Policy S2 of the LPR there is accordance with the Policy DS2 of the LDP.

Design Quality & Placemaking

The creation of successful, well-designed sustainable places is an objective of the Angus Community Plan and Single Outcome Agreement (2013-2016), and is key to delivering the Council's vision that *"Angus is a place where a first class quality of life can be enjoyed **by all.**"*

Good design delivers benefits for everyone in Angus. For its residents it can reduce energy costs, improve health and wellbeing, improve safety, engender civic pride and promote social inclusion. The creation of well-designed places where people want to live and visit can also attract economic development and can help developers by increasing the value of their investment.

Policy DS3 Design Quality and Placemaking Development provides that proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- **Distinct in Character and Identity:** Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- **Safe and Pleasant:** Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- **Well Connected:** Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.

- **Adaptable:** Where development is designed to support a mix of compatible uses and accommodate changing needs.
- **Resource Efficient:** Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Planning applications for certain types of development will be required to submit a Design Statement. Further details will be set out in Supplementary Guidance.

Assessment: The Gypsy/Travelling community find sites which provide their family with a safe and pleasant environment which is not too close to the settled community but well connected to facilities. The Scottish Government recommends the space standards and layout. Due to the temporary nature of the developments this makes them very adaptable and they are resource efficient with energy efficiency built into the temporary structures (chalet and caravans). Their distinct character and identity is created by who they are an ethnic minority group proud off their traditions and culture.

The Site accords with the terms of Policy DS3 by reason of the creation of a safe, pleasant, well connected and adaptable residential environment, one which is distinct yet compatible with the environment within which it is located.

Amenity

The stewardship of natural resources is key to sustainable development and the LDP has a role in avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for air quality. There is also a need to safeguard the amenity of future occupiers, or existing properties near to development as well as the wider area.

Policy DS4 Amenity provides that all proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties. Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection/storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured. Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration. Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

Assessment: There are no air quality issues and with no work to be undertaken on Site noise, vibration, odours, fumes or dust will not be an issue. There is no lighting proposed on the Site so there will be no associated pollution. Traffic levels will be very low, associated with a residential use and therefore impacts will be negligible.

The previous use of the site (market garden) has no known contamination. Soils removed from the Site are being stored for recycling purposes.

In relation to residential amenity attention is drawn to case law above (page 11). The Site is very well screened and distanced from nearby properties. There will be no impact on the amenity of nearby residents.

The proposed development accords with Policy DS4 of the LDP.

Landscape

Safeguarding and enhancing landscape character is an important planning objective. As well as the protection of designated sites, policy and guidance will seek to retain and enhance the distinctive landscape character of Angus. The LDP recognises that development and landscape change should be a positive process – enhancing degraded landscapes; delivering quality design within a local landscape setting and the wider landscape; and identifying and protecting areas where sensitive landscapes have little or no capacity to accommodate development.

The landscape setting of the towns and villages is an important consideration in the location of development sites and is reflected in the identification and application of development boundaries. The integration of new development on the edge of towns and villages into the landscape and creation of new green infrastructure should reflect principles and policies established within the plan.

Policy PV6 Development in the Landscape provides that Angus Council will seek to protect and enhance the quality of the landscape in Angus, its diversity (including coastal, agricultural lowlands, the foothills and mountains), its distinctive local characteristics, and its important views and landmarks. Capacity to accept new development will be considered within the context of the Tayside Landscape Character Assessment, relevant landscape capacity studies, SNH's wild land maps, any formal designations and special landscape areas to be identified within Angus. Development which has an adverse effect on landscape will only be permitted where:

- the site selected is capable of accommodating the proposed development;
- the siting and design integrate with the landscape context and minimise adverse impacts on the local landscape;
- potential cumulative effects with any other relevant proposal are considered to be acceptable; and

- mitigation measures and/or reinstatement are proposed where appropriate. Landscape impact of specific types of development is addressed in more detail in other policies in this plan.

Assessment: An assessment of any potential landscape impact has been undertaken under the terms of Policy ER5 of the LPR (page 15). Based on the findings of this assessment it can be concluded that the proposed development is also in accordance with Policy PV6 of the LDP.

Protection and Management of the Water Environment

The LDP contains three policies associated with the water environment. These are listed below and all three assessed.

Policy PV14 Water Quality provides to protect and enhance the quality of the water environment. Development proposals will be assessed within the context of:

- the Scotland River Basin Management Plan and associated Area Management Plans;
- relevant guidance on controlling the impact of development and associated works;
- relevant guidance on engineering works affecting water courses; and
- potential mitigation measures.

Development proposals which do not maintain or enhance the water environment will not be supported. Mitigation measures must be agreed with SEPA and Angus Council. Development proposals must not pollute surface or underground water including water supply catchment areas due to discharge, leachates or disturbance of contaminated land.

Policy PV15 Drainage Infrastructure Development proposals within Development Boundaries will be required to connect to the public sewer where available. Where there is limited capacity at the treatment works Scottish Water will provide additional wastewater capacity to accommodate development if the Developer can meet the 5 Criteria*. Scottish Water will instigate a growth project upon receipt of the 5 Criteria and will work with the developer, SEPA and Angus Council to identify solutions for the development to proceed.

Outwith areas served by public sewers or where there is no viable connection for economic or technical reasons private provision of wastewater treatment must meet the requirements of SEPA and/or The Building Standards (Scotland) Regulations. All new development (except single dwelling and developments that discharge directly to coastal waters) will be required to provide Sustainable Drainage Systems (SUDs) to accommodate surface water drainage and long term maintenance must be agreed with the local authority.

SUDs schemes can contribute to local green networks, biodiversity and provision of amenity open space and should form an integral part of the design process. Drainage Impact Assessment (DIA) will be required for new development where appropriate to identify potential network issues and minimise any reduction in existing levels of service.

Policy PV18 Waste Management in New Development Proposals for new retail, residential, commercial, business and industrial development should seek to minimise the production of demolition and construction waste and incorporate recycled waste into the development. Where appropriate, Angus Council will require the submission of a Site Waste Management Plan to demonstrate how the generation of waste will be minimised during the construction and operational phases of the development. Development proposals that are likely to generate waste when operational will be expected to include appropriate facilities for the

segregation, storage and collection of waste. This will include provision for the separate collection and storage of recyclates within the curtilage of individual houses.

Assessment: This Statement describes how the Site was developed (page 5). This was done to preserve waste (soils) and dispose of material to landfill. Soils were recovered from the Site during development and have been stored for future use (bund).

Domestic waste (wheelie bins) is stored in a designated point (see layout plan and photographs) and is to be collected by the Council.

There is compliance with Policy PV18.

Policy PV20 Soils and Geodiversity Development proposals on prime agricultural land will only be supported where they:

- support delivery of the development strategy and policies in this local plan;
- are small scale and directly related to a rural business or mineral extraction; or
- constitute renewable energy development and are supported by a commitment to a bond commensurate with site restoration requirements.

Design and layout should minimise land required for development proposals on agricultural land and should not render any farm unit unviable. Development proposals affecting deep peat or carbon rich soils will not be allowed unless there is an overwhelming social or economic need that cannot be met elsewhere. All development proposals will incorporate measures to manage, protect and reinstate valuable soils, groundwater and soil biodiversity during construction.

Assessment: The assessment of the issue of prime agricultural land has been undertaken under the terms of Policy ER30 of the LPR. The related Policy of the LDP adds in criteria, which requires consideration.

The proposed development assists in delivering the Strategy of the LDP and its Policies by providing much needed accommodation for the Gypsy/Travelling community in accordance with Policy TC6. It is considered that the proposed development, which will not result in the permanent loss of prime agricultural land, as described under the assessment of Policy ER30 (page 18). Accordingly the proposed development is in accordance with Policy PV20.

Overall Assessment of Development Plan Policy

The above paragraphs are hereby adopted in regard to the assessment of the Planning Application against the Development Plan policies.

The Council's central Development Plan Policies on Gypsies/Travellers are set out in SC13 (Sites for Gypsies/Travellers) as contained in the LPR; and TC6 (Gypsies and Travellers and Travelling Showpeople) in the LDP.

It is considered that the Planning Application is in accordance these policies for the following reasons:

The Council will, in terms of both policies, approve Gypsy/Traveller sites where a newly arising need can

be proven and subject to other criteria.

The Council accepts that Gypsy/Travellers are an ethnic minority group where there is a need to advance equal opportunity under the Equalities Act. In translating this into planning considerations the Council have accepted that a social and economic need can be demonstrated for the Development.

Assessing the Development against the Policies criteria the following comments are submitted: -

- a) The Development does not appreciably detract from the landscape character or appearance or loss of resources in the rural area.
- b) The Development does not unacceptably detract from the amenity of the rural environment and that currently enjoyed by residents in the area.
- c) The Development is sympathetically located in a secure, safe and pleasant environment and provided with (or can be provided with) essential utility services.
- d) The location of the Development does allow access to community facilities and the main road network.
- e) The Development is properly managed.

It is clear that the site provision allocated by the Council is inadequate and suitable sites are not being delivered. The approach that the Council should take to the assessment of this Planning Application against the Development Plan should be a reasonable one taking into consideration these facts.

4. Material Planning Considerations

Equalities and Human Rights Commission Report (EHRC) 44 (2015) Assessing local authorities' progress in meeting the accommodation needs of Gypsy and Traveller communities in Scotland - Final Report

The aim of this study published in January 2015 is to provide data about the extent to which local authorities in Scotland are meeting the accommodation needs of Scottish Gypsy/Travellers.

There are two main objectives:

- To ascertain the quantity of current Gypsy/Traveller site provision, including any recent changes in provision and any imminent plans to develop sites in the future.
- To investigate the timescales of delivery to meet any accommodation shortfalls.

The report states that despite the positive steps taken in Scotland, and although some inroads were being made into resolving the shortages of accommodation for Scottish Gypsy/Travellers, subsequent reviews identified slow progress and little change in the life chances of Scottish Gypsy/Travellers.

Drawing on other evidence from related research and consultations, the Commission for Racial Equality (CRE) identified the primary issues relating to the accommodation needs of Scottish Gypsy Travellers as:

- The lack of a network of accessible and acceptable local authority sites.
- The poor physical condition and location of local authority sites.
- The difference in treatment experienced by Scottish Gypsies/Travellers when being housed compared with those living on local authority sites.
- The absence of a network of adequate and appropriate temporary transit sites for Scottish Gypsies and Travellers.
- The inappropriate use of powers to evict Scottish Gypsies Travellers from roadside encampments when no other appropriate provision is available.
- The widely reported harassment of Scottish Gypsies Travellers in public and private sector housing.

Assessment: as referred to throughout this Statement Angus Council has failed in its duty to provide sufficient and suitable accommodation for Gypsy/Travellers. Existing public sector sites are either at capacity or unmanaged and unpopular with the Gypsy/Travelling community. Evidence suggests that the needs and demands of the Gypsies and Travellers continue and are not being met. The inclusion of specific policies in the LPR (SC13) and LDP (TC6) allows increased provision for private sites provided criterion are met.

In this case these parameters are met. It is hoped that a trend can be created with support given to the Applicant, through the grant of planning permission, in recognition of a need for

accommodation in the context of their personal circumstances.

Social, Economic and Environmental Justification

The following summary of relevant legislative provisions and case law add weight to the social and economic considerations (personal circumstances) surrounding this planning application. The information sets out a case to demonstrate (further) that the proposals are a sustainable form of development in accordance with the terms of SPP and Development Plan policy.

The Importance of Personal Circumstances

The personal circumstances of the Townsley family have been described in Section 1 of this Statement. Their importance and weight to be afforded to them, in the planning decision making process, are now set out.

The personal circumstances of any Applicants and occupants of a site are usually not of relevance in the determination of a planning application. However, given the inequalities faced by Gypsy/Travellers, there are cases where personal circumstances of an Applicant should be given weight in the determination of a planning application. This approach is commonplace in England and Wales. Considerations may include the education of children, ill health, old age or other social and economic factors including inequality in housing provision.

These personal circumstances are only relevant if the Council find there is potential conflict with the Development Plan. Consequently the assessment of the needs of the occupants of the application site (as stated in Section 1) may need to be taken into consideration dependent upon the attitude of the Planning Authority and their interpretation of Development Plan policies.

Case law is clear that there are occasions where exceptions should be made. Personal circumstances of an occupier and personal hardship, as described in this Supporting Statement, are not to be ignored.

It is inhuman to exclude the human factor from the administration of planning control. The human factor is always present, indirectly as the background to the consideration of the character of land use. It can, however, and sometimes should be given direct effect as an exceptional or special circumstance. It is submitted that the determination of the planning application is one such case when viewed against the lack of alternative sites for this extended family and the personal circumstances that forced them into their current position.

It is submitted that these factors are prevalent and they need to be considered not as a general rule but as exceptions to a general rule and compliance with Development Plan policies. The Angus Development Plan makes provision for the submission of a socio economic case under the terms of Policies SC13 and TC6. The personal circumstances (the social considerations) are part of the argument that is required to be used in this case (and has been used in case law) to outweigh any policy considerations if required.

It is recognised that, in such circumstances, a specific case has to be made and that the Planning Authority must give reasons for accepting personal considerations as a material consideration. This will only be necessary where it is prudent to emphasise that, notwithstanding the policy position of the Council, exceptions cannot be wholly excluded from consideration in the determination of the planning application.

The Great Portland Estates plc. v Westminster City Council is a House of Lords case and is therefore binding in Scotland and is relevant to this case. It is submitted that if found to be necessary the Council should refer to this case (a copy can be provided).

Human Rights

In 1998, the **European Convention of Human Rights** (ECHR) was incorporated into UK law by the Human Rights Act 1998. The parts of the Act that are of particular relevance for the Gypsy/Traveller community as they relate to the planning issues in this case are:

- The Convention Article 6: right to a fair hearing-which is clearly relevant to the determination of the Appeal.
- The Convention Article 8: respect for private and family life - which is clearly relevant to decision that may involve the loss of accommodation, eviction proceedings or site clearance.
- The Convention Article 14: prohibition of discrimination - re-enforcing the strong position of domestic law prohibiting Discrimination.
- The Convention Article 11: freedom of assembly and association- which can be relevant in respect of the concerning the assembly of groups of people on land.
- First Protocol, Article 1: protection of property.

Article 8 regards the right to private and family life and provides that:

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

The implications of **Article 8** are that Public Authorities are required to consider carefully the proportionality of their actions when making decisions, which interfere with **Article 8** rights. In practice, for the Gypsy/Traveller, this is a matter of balancing the considerations such as a pressing social need; the protection of a designated area and/or resource; and overcoming technical difficulties. In doing so they are providing for their family.

Article 14 is concerned with the prohibition of discrimination:

The enjoyment of the rights and freedoms set out in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. The requirements of **Article 14** ensure protection from discrimination.

The relevant and leading case law relevant to Gypsy/Travellers is that of Chapman v UK, which is concerned with planning enforcement against ethnic Gypsy/Travellers in Hertfordshire, England. There was no question of the statutory Gypsy status of the Applicant. The ECHR held the following view:

“73 The Court considers that the applicant's occupation of her caravan is an integral part of her ethnic identity as a Gypsy, reflecting the long tradition of that minority of following a travelling lifestyle. This is the case even though, under the pressure of development and diverse policies or from their own volition, many Gypsies no longer live a wholly nomadic existence and increasingly settle for long periods in one place in order to facilitate, for example, the education of their children. Measures, which affect the applicant's stationing of her caravans, have therefore a wider impact than on the right to respect for home. They also affect her ability to maintain her identity as a Gypsy and to lead her private and family life in accordance with that tradition.

74 The Court finds therefore that the applicant's right to respect for her private life, family life and home are an issue in the present case.”

At paragraph 96 the Court found that:

“the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in arriving at the decisions in particular cases. To this extent there is a positive obligation imposed on the Contracting States [in this case the Council] by virtue of Article 8 to facilitate the Gypsy way of life.”

There is a positive obligation on the UK to facilitate the Gypsy way of life. It is clear that **Article 8** is a key consideration for the decision makers in this case (the Site) as it relates to the needs of the Gypsy/Travelling community.

Applying this to the determination of the planning application for the Site it is submitted that the Council must make an assessment of the facts of the case in the light of the requirements of **Article 8** and strike the appropriate balance.

This is also of particular relevance if the Council is minded to refuse planning permission and act on an enforcement notice in circumstances where this Gypsy/Travelling family has no other alternative site to call their home as is the circumstance faced by the Applicant.

First Protocol to Article 1

The **First Protocol to Article 1** of the ECHR states that every person is entitled to the peaceful enjoyment of their property. No person should be deprived of their property except in the public interest and in accordance with law.

The effect of any refusal of planning permission and enforcement would be to deprive the Townsley family of the peaceful enjoyment of their property. Such deprivation must be proportionate to and be compatible with ECHR. Given there appears to be no alternative accommodation in the area for the family and given the Applicant's recent experiences on unauthorised sites his rights under the **First Protocol to Article 1** must be given serious consideration.

Equalities

The Equality Act 2010 expanded the racial equality duty in section 71 of the Race Relations Act 1976 to include other protected characteristics. As already stated above (Section 1) these include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation (referred to in the act as protected characteristics).

Section 149 introduced the Public Sector Equality Duty (PSED). This requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with a protected characteristic and people without. This Duty includes Local Authorities and the Directorate for Planning and Environmental Appeals (DPEA).

The duty is set out to require:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to
 - (a) tackle prejudice, and
 - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Applying relevance to Gypsy/Traveller planning cases, it is first important to note that Scottish Gypsy/Travellers have been held to be an ethnic minority for the purposes of the PSED. The case law *MacLennan v Gypsy/Traveller Education and Information Project* is relevant. A copy can be provided if required.

In summary, the decision maker has to have due regard to the need to advance equality of opportunity for this ethnic minority group. The obvious point here is that when compared to the settled population the Gypsy/Travelling community is at a severe disadvantage through a lack of accommodation. There is a shortage of **suitable sites** to meet the specific needs of the Applicant and his family. So it follows that there is an inequality with regard to access to accommodation for the Applicant. Given the personal circumstances (as described in this Supporting Statement) the Applicant was faced with a desperate situation, a need for a site for his family a place that they can call their home. The Council has failed when applying its PSED.

Summary

Based on the above evidence the Personal Circumstances of the Townsley family should to be taken into consideration when determining the planning application. The site houses an established family unit in a place that they can call their home. It is safe and secure with ease of access to local facilities on foot, cycle and by car. The facilities on site afford an excellent living environment where people live in relative comfort relative to their culture.

The proposed development represents an excellent use of the land. In the absence of any other suitable site for the family to move to and in view of the difficulties experienced by the Applicant and his family in the past (see Section 1 above) this site represents a place they can call home.

It is submitted that the aforementioned social and economic arguments must carry significant weight. They are of paramount importance, particularly in relation to Human Rights and Equality issues, in the consideration and the determination of this planning application.

5. Conclusions

At present, in the Angus area (based on available evidence) there is a network of sites two proving unsuitable for Gypsy/Travellers, with one Council operated site at St Christopher's, Montrose at capacity with little prospect for accommodation in the near future. The Angus area appears to be characterised by unauthorised sites with Policy and Procedure regarded as the answer to the issue of Gypsy/Traveller issues.

Due to the lack of progress by the Council to finding suitable accommodation the Gypsy/Travelling community, who by the Councils own admission find Angus a popular area, has been handed a disadvantage in this administrative area of Scotland. Angus Council appears to be similar to a number of Local Authorities with a lack of suitable site provision for Gypsy/Travellers. The terms of the EHRC report provide evidence of the plight of Gypsy/Travellers elsewhere in Scotland.

As a consequence an undefined and unaddressed need has been created. The Development Plan policies (TC6 and SC13) related to Gypsy/Travelling sites allow a justification to be submitted for private, permanent sites. This Statement is the justification. To be included is the Personal Circumstances of the Applicant as described above as part of the needs case. The land that has been purchased and developed by the Applicant is designed and laid out creating a safe, secure and suitable living environment for this family who originate from Angus.

This has been done in the absence of any alternative site provision in the Angus administrative area This proactive approach by the Applicant has provided a home for this Gypsy/Travelling family at no cost to the public purse. A private site has been developed to meet a local need. The work undertaken has transformed this once unkempt area of rural brownfield land, on the periphery of Kirriemuir, into a visually pleasing site, which has ease of access by road on foot and cycle with community facilities and public transport nearby.

Due to its scale and layout a development, which is temporary by its nature, is part of a small cluster of development having a negligible landscape impact. Existing mature landscape tree belts assist in mitigating any perceived impacts. The site is well managed, tidy with no proven impact on the amenity of residents or the rural environment (including loss of agricultural land). It represents a sustainable solution responding to the needs of the Townsley family.

It is submitted that the proposal is in accordance with the relevant policies of the Development Plan and national planning policy (SPP).

As stated in Section 4 Human Rights; the provisions of the Equalities legislation and guidance; and the weight to be afforded to the Personal Circumstances of the extended family on the site may need to be factored into the decision making process if the Council consider that there is not accordance with the Development Plan. Given that all these factors are relevant they need to be considered not as a general rule but as exceptions to a general rule and Development Plan policies. It is incumbent on the Council to take into account social, economic and environmental factors, which includes a right to family life. These material planning considerations need to be regarded as exceptional circumstances in this case if the Council disagree with the policy assessment contained herein.

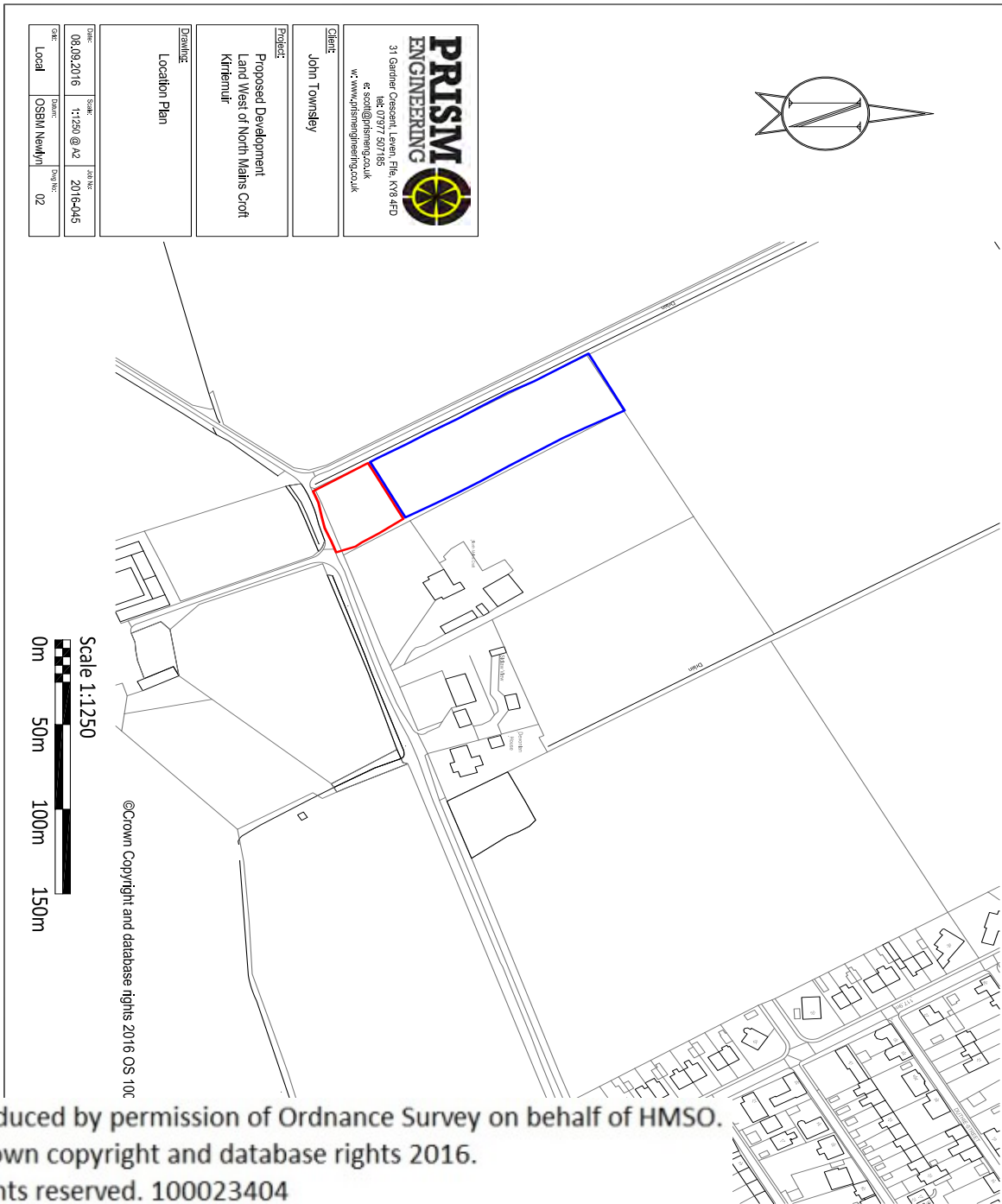
This Statement provides a reasoned justification to allow the decision makers (who has to have due regard to the need to advance Equality of Opportunity for Gypsy/Travellers) reasons to grant planning permission. This is based on the case that the development is in accordance with planning policy; and the weight, which

can be given to other material considerations, with the social and economic factors taking primacy providing a sustainable solution to the housing of this Gypsy/Travelling family.

By taking a positive decision on this planning application and granting conditional planning permission Angus Council can start making a difference to the lives a Gypsy/Traveller family, in line with the Scottish Government intentions.

It is submitted that planning permission should be granted for this development subject to appropriate and reasonable planning conditions.

Appendix I Location Plan



Not to scale

Appendix 2: Design Principles

Schedule 1: Development Principles

Amenity

- (a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.
- (b) Proposals should not result in unacceptable visual impact.
- (c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31). Roads/Parking/Access.
- (d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.
- (e) Access to housing in rural areas should not go through a farm court.
- (f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17: Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.
- (g) Development should not result in the loss of public access rights. (Policy SC36) Landscaping / Open Space / Biodiversity.
- (h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5).
- (i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc.) and link to the existing green space network of the local area.
- (j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- (k) The planting of native hedgerows and tree species is encouraged.
- (l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33 Drainage and Flood Risk.
- (m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22).
- (n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be

necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.

(o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28).

(p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23). Waste Management

(q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38).

(r) Development should minimise waste by design and during construction.

Supporting Information

(s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following:

Air Quality Assessment;

Archaeological Assessment;

Contaminated Land Assessment;

Design Statement;

Drainage Impact Assessment;

Environmental Statement;

Flood Risk Assessment;

Landscape Assessment and/or Landscaping Scheme;

Noise Impact Assessment;

Retail Impact Assessment;

Transport Assessment.

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 Registered office as above

VAT No. 905 2246 50

Company Reg. SC315227

John Townsley
 3 Beatties Brae
 Brechin
 ANGUS
 DD9 6DP

Invoice No. 1956
Invoice/Tax Date 30/06/2016
Order No.
Account No. JT001

Quantity	Details	Unit Price	Net Amount	VAT Rate	VAT
0.00		0.00	0.00		0.00
0.00	Levelling off field stone carted in by tipper lorries and	0.00	0.00		0.00
0.00	supplying type 1 material and leveling from 28/6/16	0.00	0.00		0.00
1.00	Lorries hired in	4,317.00	4,317.00	20.00	863.40
128.94	TYPE 1	12.99	1,674.93	20.00	334.99
54.00	Doosan	37.50	2,025.00	20.00	405.00
8.50	120 vibrating roller	30.00	255.00	20.00	51.00
1.00	Transport of Machines	220.00	220.00	20.00	44.00

Total Net Amount	8,491.93
Carriage Net	0.00
Total VAT Amount	1,698.39
Invoice Total	10,190.32

For BACS payments:
RBOS. 14 Allan Street, Blairgowrie PH10 6AD
Account No: 00147378
Sort Code: 83-17-16

90
 All materials shall remain the property of the business, until paid for in full
 Payment is required within 30 days, otherwise a 5% will be added

Date: 15 November 2016

Ms. S Porter,
 Planning Officer,
 Planning and Place,
 Angus Council,
 County Buildings,
 Market Street,
 Forfar,
 DD8 3LG

Our ref: AS/044
 Your Ref: 16/00738/FULL

Dear Ms. Porter

Subject: Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure.

This letter is to be treated as a rebuttal to the three objections received to the above planning application.

The Angus Council Local Development Plan (LDP) Housing Policy Framework states (at page 18):

“Angus Council aims to ensure that at all times an effective supply of housing land is available that is capable of providing choice in the type, size, tenure and affordability of housing in accessible and sustainable locations across Angus.

The ALDP seeks to promote and sustain successful communities and create quality residential environments by helping to deliver new housing and by managing changes to existing housing across Angus.”

The LDP on page 27 makes specific reference to Gypsy/Travellers accommodation and states:

“The Angus LHS seeks to address the accommodation needs of gypsy/travellers through direct liaison with these groups, provision of additional spaces and where appropriate access to housing.”

The discrimination referred to in one of the letters of objection lies in the lack of accommodation for the Gypsy/Travelling community. This has come about through the lack of positive action to find an adequate supply of land/sites for the Gypsy/Travelling community in the Angus area. The LDP housing policies make adequate provision for the settled community through the land supply for the Plan period.

During the recent appeal site visit the Reporter decided to visit the only Gypsy/Travellers site in Angus (managed by Dundee City Council). It was evident that there was number of vacancies on this site with one pitch occupied out of a total of 20 outwith the travelling season. The Reporter noted the proximity of the site to the busy A90 and the distance from community facilities (2/3 miles). This remains a site which is not favoured by the Travelling community.

There remains an inequality of approach when addressing the Gypsy/Travellers as an ethnic minority group in Angus with

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Telephone: 01592 304188 or Mobile: 07731690473

a lack of choice of quality sites contrary to the LDP policy approach.

There is also a suggestion that the planning application site can become the next "St Cyrus". The Applicant is searching for a site to call his home, setting up a household to allow his family to settle and exercise their rights to live by the Travellers lifestyle after years of living on unauthorised encampments. He has no intention of expanding the site for the purposes stated in the objection. The objectors should have an informed opinion before writing and this they can obtain through reading the detailed planning statement accompanying the planning application. They can also visit the Applicant and find out for themselves that they are a family trying to create a home where there are no other suitable alternatives.

The Applicant's approach to developing this site is in accordance with the Government Guidance for Gypsy/Travellers sites with space standards in accordance with this Guidance and the Caravan Site License provisions. The development is well designed and laid out with natural screening provided by the existing trees which remain untouched. A living environment has been created without detriment to visual and residential amenity. The Applicant has turned an unkempt area of land into a home. It is anything but an eyesore.

In the Council's Notes for Guidance "How to Comment on a Planning Application" it is stated that matters which do not form valid planning objections according to legislation, Government guidance or case law include:-

1. issues covered by other legislation e.g. Licensing, Building Standards, Health & Safety etc.
2. private property rights e.g. boundary or access disputes;
3. the developer's motives, record or reputation;
4. perceived impact on property values;
5. competition between businesses;
6. the impact on a private view over someone else's land;
7. inconvenience caused by construction works;
8. moral issues, e.g. an amusement arcade might attract children.

When providing advice about lodging objections Martin Goodall's Planning Law Blog states:

"but your Council will not publish or take account of any material which they think is libelous, racist or offensive. There is no point in putting things in your letter which are not relevant to planning, because by law the Council can only take into account the planning issues and must not allow themselves to be influenced by other considerations unless they really are relevant to planning."

In this case the Council has published such correspondence, the letter of objection submitted by Mr John Phillip. **I request that this letter is removed from the Council's web site without delay.**

I am seeking advice on the content of this letter.

Yours sincerely,

A Seath

Alan Seath DipTP MRTPI

Alan Seath Planning Consultancy, 88 Scott Road. Glenrothes, Fife KY6 1AE

email: a_seath@sky.com

Telephone: 01592 304188 or Mobile: 07731690473

DEVELOPMENT MANAGEMENT REVIEW COMMITTEE

APPLICATION FOR REVIEW

**CHANGE OF USE OF VACANT LAND TO ALLOW SITING OF A
CHALET AND TWO TOURING CARAVANS, ERECTION OF AMENITY
BLOCK AND BOUNDARY WALL, FORMATION OF CAR PARK,
ALTERATION TO GROUND LEVELS AND ASSOCIATED
INFRASTRUCTURE**

APPLICATION NO 16/00738/FULL

APPLICANT'S SUBMISSION

- ITEM 1** Notice of Review
- ITEM 2** Appeal Statement (including Appendices as detailed)

ITEM 1



County Buildings Market Street Forfar DD8 3LG Tel: 01307 461 460 Fax: 01307 461 895 Email: plnprocessing@angus.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100041641-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number: You must enter a Building Name or Number, or both: *

First Name: * Building Name:

Last Name: * Building Number:

Telephone Number: * Address 1 (Street): *

Extension Number: Address 2:

Mobile Number: Town/City: *

Fax Number: Country: *

Postcode: *

Email Address: *

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="John"/>	Building Number:	<input type="text" value="88"/>
Last Name: *	<input type="text" value="Townasley"/>	Address 1 (Street): *	<input type="text" value="Scott Road"/>
Company/Organisation	<input type="text" value="Appellant"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Glenrothes"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="KY6 1AE"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

Site Address Details

Planning Authority:

Full postal address of the site (including postcode where available):

Address 1:	<input type="text"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="752990"/>	Easting	<input type="text" value="337980"/>
----------	-------------------------------------	---------	-------------------------------------

Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: *
(Max 500 characters)

Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure at Land 125M West Of North Mains Croft Logie Kirriemuir

Type of Application

What type of application did you submit to the planning authority? *

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? *

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: * (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

See supporting statement

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? *

Yes No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: * (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: * (Max 500 characters)

See Appendix 1 in the supporting statement

Application Details

Please provide details of the application and decision.

What is the application reference number? *

16/00738/FULL

What date was the application submitted to the planning authority? *

06/10/2016

What date was the decision issued by the planning authority? *

06/01/2017

Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. *

Yes No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure *

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

The Members of the LRB will be able to see the negligible impact on the rural environment. A site visit to Balmuir Travellers site will also serve to demonstrate the lack of appropriate accommodation for Gypsy/Travellers.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? *

Yes No

Is it possible for the site to be accessed safely and without barriers to entry? *

Yes No

Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. *

Yes No

Have you provided the date and reference number of the application which is the subject of this review? *

Yes No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? *

Yes No N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? *

Yes No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review *

Yes No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr ALAN SEATH

Declaration Date: 12/03/2017

ITEM 2

Local Review

Statement of Case

Change of Use of Vacant Land to Allow Siting of Chalet & Two Touring Caravans. Erection of Amenity Block and Boundary Wall, Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure

At: Land 125M West Of North Mains Croft Logie, Kirriemuir

Appellant: Mr John Townsley

Date: 12 March 2017

Contents

1. Planning Appeal Statement.....	1
2. Planning Background.....	2
3. The Gypsy/Travelling Community.....	5
4. Planning Policy.....	10
5. Material Planning Considerations.....	14
6. Relevant Case Law.....	22
7. Rebuttal to Objections.....	25
8. Addressing the Reasons for Refusal.....	26
9. Conclusions.....	33
10. Appendix 1: List of Documents.....	35

1. The Local Review

Introduction

A planning application for the proposed development (in retrospect) was submitted by Mr John Townsley [the Appellant] and registered by Angus Council, as Planning Authority on the 6 October 2016 under application reference number 16/00738/FULL. The application form, plans and other related supporting information is submitted as **Document AS1**.

The Planning Application is a Local Development under the terms of The Town & Country Planning [Hierarchy of Developments] [Scotland] Regulations 2009. Due to the number of representations and the terms of the Councils Scheme of Delegation the Application was determined using delegated powers. The planning officer refused the proposed development. **Documents 2A and 2B** comprise the Report of handling dated 30 December 2016 and the Decision Notice dated 6 January 2017 respectively.

This Local Review [the Appeal] is submitted by Seath Planning Consultancy Ltd on behalf of the Mr John Townsley. This is in response to the delegated decision to refuse planning permission for Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure on the Appeal Site for the following reasons:

1. *The application is contrary to Policy TC6 of the Angus Local Development Plan (2016) as there are existing authorised sites with capacity to accommodate the applicant and his family, as the proposal would not contribute to satisfying a local need in a formulated manner, as the proposal could set a precedent or open up other areas for similar development.*
- 2 *The application is contrary to Policy PV20 of the Angus Local Development Plan (2016) as the development would not preserve prime agricultural land or be related to a rural business, support delivery of the development strategy or relate to renewable energy development.*
- 3 *The proposal is contrary to policy DS1 of the Angus Local Development Plan (2016) because it is contrary to other policies of the local development plan, namely Policies TC6 and PV20.*

This document comprises the Grounds of the Appeal [“the Statement”] providing an assessment of the proposals in the context of the site and surrounding area, taking into consideration the rural land uses, the local community and associated infrastructure. The statement sets out the reasons why it is considered that this development is consistent with National Policy, the Development Plan, with particular reference to the relevant Local Plan Policies; and why other material considerations reinforce the case for planning permission to be granted.

A full list of Documents, which the Appellant intends to reply upon in support of the Appeal, is included in this statement as **Appendix 1**.

2. Planning Background

Site & Surrounding Area

The Site, which extends to 1350 sq. metres, lies on the south western edge of Kirriemuir. It is bounded by land owned by the Appellant to the north; residential properties to the east; agricultural land to the west; and a farm/equestrian use and agricultural land to the south.

Access to the Site is gained via North Croft Mains a private road which currently serves three residential properties and the farm. This is of a suitable width and alignment for all vehicle types including refuse and emergency vehicles.

Documents AS3A and AS3B comprises a separate location plan and photographs (illustrating the site and surrounding area) respectively.

Gypsy/Traveller Site Design and Layout

To address the challenge of housing shortage for Gypsy/Travellers the UK Government recognise the importance of ensuring that there is sufficient land to meet need and demand. There is a requirement to ensure that all sites:

- Are sustainable, safe and easy to manage and maintain.
- Are of a decent standard, equitable to that which would be expected for social housing in the settled community.
- Support harmonious relations between Gypsies and Travellers and the settled community.

It is recognised that it will not be possible to meet all aspects of the guidance in every respect, on every site relative to design and layout. As a consequence local authorities will need to take decisions on design on a case by case basis, taking into account local circumstances such as the size, geographical location and other characteristics of the site and the particular needs of the prospective residents and their families. This relates to need and demand and personal circumstances, all of which are relevant material planning considerations.

The Communities and Local Government Report (Gypsy Travellers Accommodation Needs and Assessment), listed as **Document AS4**, advises that in cases of small private sites it should be recognised that those sites are designed to meet the individual and personal preferences of the owner and family members. They may contain elements which are not appropriate or popular for wider application in respect of social provision elsewhere. Therefore it would not be appropriate to use the Government's good practice guidance (Designing Gypsy and Traveller Sites Good Practice Guide) in isolation to decide whether a planning application for a private site development should or should not be given planning permission.

In general guidance on site provision this is related to demographics wherein sites accommodate family units, in this case the Townsley family. They live on a pitch forming a household which normally contains:

- (i) a principal caravan/chalet;
- (ii) one or two ancillary caravans which are used for living accommodation for grown up children; or touring in line with their culture and traditions;

(iii) an amenity block (toilet and washing facilities);

(iv) parking and turning area(s).

Gypsy/Travellers are normally associated with operating small businesses with storage areas/buildings located on site away from the pitches however, this does not happen on the Appeal Site.

Walls and fencing are an integral part of any Gypsy/Traveller site defining pitch boundaries and separating out uses within the site. Attractive entrances are also common created as a welcoming entrance feature.

The Appeal Site is no different. A single pitch has been formed to accommodate members of the Townsley family (see Table 1 below). A principal chalet and two ancillary caravans are located on the pitch with a small amenity block proposed if planning permission is granted. The accommodation is serviced with water and electricity. Parking and a turning area have been formed with hardcore/gravel. The fences and walls erected are all well built, well maintained and serve the purposes outlined above. The Appeal Site is well maintained and well managed.

Proposed Development

Sites of various sizes, layouts and pitch numbers operate successfully throughout Scotland today. These sites work best when they take account of the needs and demographics of the families' proposing to reside on them. The Site at Kirriemuir is no exception.

The Appeal Site was formerly in market garden use. Polytunnels once occupied the Site. The Appellant inherited an unkempt area of ground which was not in any productive use. It is submitted that the abandonment of the former market garden use on site resulted in a vacant parcel of land which, for the purposes of this planning case can be defined as rural brownfield land. The work associated with the development adds substance to this claim.

The reclamation of the Appeal Site required the Appellant to strip off all the overgrowth, and the understorey of vegetation which produced large volumes of green waste liberally interspersed with a variety of debris. The Appellant separated the waste and disposed of it to landfill. Sticks, large stones and other sundry material were separated out to make a safe environment and useable left over material with the intention to grass and plant a mixed native species on top of the bund and ancillary land.

Following this work a topographical survey was commissioned to map the site. The survey plan submitted as **Document AS1e** illustrates the current levels and development layout on the Appeal Site.

Thereafter, a properly managed build began. Drains were installed, as was a water supply, with hardstanding (Type 1) creating parking, maneuvering and access. Service connection to electricity has been made.

All this work allowed the siting of a principal chalet, two touring caravans with associated car parking, turning and storage with an amenity block (toilets and laundry room) to be built all forming a suitable living environment. A block built feature wall with dry dash render finish was erected on the south side of the Appeal Site with fencing along the north west and east side of the pitch completing this retrospective development.

The Appellant occupies the principal chalet. One touring caravans is occupied by the daughters with the second one occupied by the other male member of the family. These living arrangements accord with the

Gypsy/Traveller way of life. The pitch size easily accords with the Scottish Government recommended space standards for such developments.

The Appeal Site has been reclaimed by the Appellant and turned into an attractive site for the Townsley family. With ease of access from North Mains Croft and then via the private access track, a safe and secure home is being provided for this Gypsy/Traveller family. The remainder of the land in the Appellants ownership is unoccupied.

Planning History

Three planning applications were submitted for this area of land as follows:

Application Ref No 13/00969/PPPL Planning Permission in Principle for Erection of Dwellinghouse & Garage Land 125M West Of North Mains Croft Logie Kirriemuir Refused

Application Ref No: 09/01216/PPPL Planning Permission in Principle for Erection of Dwellinghouse (Re-application) Land 125m West Of North Mains Croft Logie Kirriemuir Withdrawn.

Application Ref. No: 09/00786/OUT Outline Erection of Dwellinghouse Land 125m West Of North Mains Croft Logie Kirriemuir Withdrawn.

The refusal of planning permission was based on private housing. The proposal on the Appeal Site is a form of special needs housing by definition a temporary form of development and therefore normal policy provisions does not apply. This is assessed in more detail later in this Statement.

An Enforcement Notice was served on the Appellant on the 19 August 2016 and subsequently appealed. A decision from Scottish Ministers upheld the appeal

3. The Gypsy/Travelling Community

Legislation

Article 25.1 of the Universal Declaration of Human Rights recognises the right to adequate housing as integral to the right to an adequate standard of living. Housing rights are enshrined in international treaties signed and ratified by the UK and therefore applicable in Scotland, including the International Covenant on Economic, Social and Cultural Rights (ratified in 1976).

From October 2010, the Equalities Act brought together different equality laws. The Equality Act covers discrimination for nine 'protected characteristics' - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is an Equality issue to be addressed in this case which is analysed in more detail throughout this Statement. The Council are failing in its duty to provide adequate housing and adequate accommodation for Gypsy/Travellers.

Gypsy/Travellers are one of the most marginalised and vulnerable groups in society. Longstanding difficulties in the provision of private and public sites have resulted in not only the number of unauthorised encampments increasing throughout Scotland, but the marginalisation of these communities and a breakdown in relations between settled and Travelling community.

Under the Homelessness (Scotland) Act 2003, a person is homeless if he/she has accommodation but it consists of a moveable structure, vehicle or vessel designed or adapted for human habitation; and there is no place where he/she is entitled or permitted both to place it and to reside in it. Although some Gypsy/Travellers live in houses out-with the travelling season, for many their only accommodation all year round is a caravan. They are therefore deemed homeless if they have nowhere official to site and thereafter reside in their caravan.

Prior to the development of the Appeal Site the family stayed in various locations, as described below, predominantly in the Angus area. **With the need to find a permanent site and the lack of suitable sites the Townsley family were in effect homeless.** In their desperation they have set up home on the Appeal Site.

Limitations in Dealing with Unauthorised Encampments

In terms of Section 3 of the Trespass (Scotland) Act 1865 lodging in any premises or occupying or encampment on any land, being private property without the consent and permission from the owner or land owner of such premises is an offence. In 2001, the then Lord Advocate issued guidance to prosecutors that there should be a presumption against the prosecution of Gypsy/Travellers for unauthorised encampments in terms of Section 1 of the Trespass (Scotland) Act 1865. However, the presumption may be overridden by other public interest considerations in favour of prosecution. Examples of this are that a suitable alternative stopping place has been identified; and/or the Gypsy/Travellers have refused to relocate within a reasonable time frame; and/or the encampment is causing a road safety or public health hazard.

Currently there is no indication from the Lord Advocate that the position of presumption of non-prosecution will change. As a result, local settled communities can get frustrated over what is perceived as a lack of action by the police when dealing with unauthorised encampments.

The regular use of unauthorised stopping places a source of issues between the settled and Travelling communities. If unauthorised sites continue to be an issue in the Angus area, as has been proven through past actions (publication of Policy and Procedure – see below), it is reasonable to expect that issues surrounding unauthorised encampments in the Angus area will continue and will need to be managed on a regular basis with consequent resource implications for the Council.

The actions of the Appellant seek to address the unauthorised nature of the Site through the grant of planning permission.

The Positive Impact of Site Provision

Management and control of site provision has been proven to improve standards and conditions for all stakeholders. Well-managed, authorised Gypsy/Traveller sites will not only help meet the accommodation needs of the Travelling community but will help reduce tensions between the settled and Gypsy/Travelling communities.

These are seen as positive benefits. The Appeal Site owned by the Appellant is no exception. This includes the ability to maintain the family's links with community facilities, health services and sources of business. The Appeal Site presents an opportunity to create positive links with the settled community in Kirriemuir, to share cultures and to acknowledge diversity. Approval of this site will be one step toward resolving the Council's accommodation needs for Gypsy/Travellers at no cost to the public purse.

The Personal Circumstances of the Appellant

The Appellant has acquired the site and developed it, building a home for himself and his family in the absence of any suitable alternative. A living environment created is a private, permanent household for the family.

The Appellant is representing the interests of all of his family as occupiers of the Appeal Site all of whom are seeking to establish this site as their home in the absence of adequate and suitable accommodation elsewhere. This Appeal carries the full and unanimous support of all residents. The details of the site occupancy i.e. the residents, are contained in Table 1 below.

Table 1: Site Occupancy

Name	Age	Origins	Special Needs
Mr. John Townsley	46	Angus	None
Mr John Townsley Jnr.	20	Angus	None
Ms. Linda Isabella Townsley	28	Angus	None
Ms. Sharleen Townsley	24	Angus	None

The Appellant and his family has lived on the Appeal Site for approximately nine months and have lived in the Angus area most of their lives. The Appeal Site offers an opportunity for four adults to settle in the Region from which they all originate, creating a home and a safe and secure base from which they can live

and travel in accordance with their culture. The Appeal Site also allows the Appellant and his family to settle close to his parents/grandparents who stay nearby.

In the past the Appellant and his family has occupied various sites in the Angus area. This includes the Thrums Caravan Park, Maryton (10 years), and periodically on a camp site off the A90 (near McDonalds takeaway/restaurant). When sites in Angus were unavailable the Appellant had to travel outwith the Region to sites in Alyth, Perth and Kinross (next to the golf course); Kinneff, Aberdeenshire; and Piper Drive, Glenrothes, Fife.

The Appellant is a well known businessman in the motor trade operating a successful company in Brechin. This is a family run enterprise with his two daughters and his son part of the workforce. The workplace will remain separate from his home with no work being undertaken from the Site.

The current situation in Angus is that there is a shortage of accommodation for Gypsy/Travellers. Unauthorised sites do not present a sustainable option. Mr Townsley chose the land at North Croft Mains in desperation following his experiences on the road and in other sites.

It is against this backdrop that the Appellant has bought the Appeal Site and developed it as his home. This convenient location allowed this Gypsy/Travelling family to retain their rights to privacy and enjoyment of their home. The Appeal Site meets the needs of this Gypsy/Traveller family in the Angus area.

Personal Circumstances is a material consideration in the determination of the planning application and these are explained upon in more detail in Section 4 of this Statement.

Meeting the Need & Demand in Angus

Following on from the comments made in Section 2 above the **Communities and Local Government Report Gypsy Traveller Accommodation Needs and Assessment** (the Report see **Document AS4**) states why there is a requirement to assess the needs of this ethnic minority group. The Report states at paragraph 9:

“In the past, the accommodation needs of Gypsies and Travellers (especially those who live in caravans or mobile homes) have not routinely formed part of the process by which local authorities assess people’s housing needs. The consequences of this have been that the current and projected accommodation needs of Gypsies and Travellers have often not been well understood.”

This appears to apply to the Angus administrative area.

Paragraphs 12 and 13 of the Governments Report go on further to explain why local authorities need to understand such provision:

“Gypsies and Irish Travellers are distinct ethnic groups and all the duties on public bodies under Race Relations legislation apply. The accommodation needs of all Gypsies and Travellers, including the above groups as well as new travellers and travelling showpeople, should be identified, understood and addressed through the planning framework and housing strategy on the same basis as other sectors of the community. Only in this way can the needs of each sector of the community be understood and appropriate allocation of resources ensured. This will help to ensure that future planning and investment decisions are based on well informed and accurate data, that they gain acceptance from local communities, and are defensible if challenged.

An understanding of Gypsy and Traveller accommodation issues is essential to make properly planned provision and avoid the problems associated with ad-hoc or unauthorised provision. A comprehensive Accommodation Needs Assessment and strategy to meet the need which is identified will greatly strengthen the ability of local authorities to respond swiftly and firmly to inappropriate unauthorised developments and encampments.

At present there appears to be no Council document that provides a clear and comprehensive guidance as to how needs and demands of the Gypsy/Travelling community is to be addressed in the Angus area. The Council are failing this ethnic minority group and relying on current accommodation at Balmuir as their fall back position. This clearly demonstrates a lack of understanding of the needs of the Appellant and other Gypsy/Traveller families.

The **Angus Council Local Housing Strategy 2012 – 2017** [the Strategy] listed as **Document AS5** does make some reference to the needs of Gypsy/Travellers. On page 24 it is stated that the Council will:

“ensure there is housing provision to meet the housing need of black and ethnic communities, including other minority groups such as gypsy travellers.”

With regard to need and existing provision the Strategy (page 29) states:

*“Work to identify housing need of broader minority groups will also be required in the mid to long term. This includes Gypsy Travellers whose needs are sometimes complex and may require more carefully thought-out solutions than other social groups. **We recognise for instance that the existing official traveller sites may not be adequate in size or location, so research will be undertaken to tease out how the situation could be improved.**”*

The council continues to promote equality and diversity.”

The Council recognise the rights of the Gypsies/Travellers to practise a nomadic lifestyle, travelling and staying on short term sites and seeks to balance this with the needs of the settled community of Angus. The Council also states that it is seeking to promote a positive environment for good community relations and to prevent incidents of harassment. However, the above statements are recognition that Angus Council has failed to address the needs and demands of Gypsy/Travellers as an ethnic minority group. There remains a contradiction.

A recent report entitled **Draft Policy and Procedure for Unauthorised Encampments of Gypsy/Travellers** [the Policy and Procedure] was considered by Angus Council in 2015 (**Document AS6**) with the intention to adopt its content as Policy. The **purpose** of the document is explained:

“This document aims to give clear direction of the policy of Angus Council regarding unauthorised encampments of Gypsies/Travellers in Angus and the procedures to be followed by staff when responding to reports of these encampments. Highlighted will be the need for a clear policy and for procedural guidelines, the parties involved in this process and will clarify the different situations against which the policy and procedures will be applied.”

The Report recognises that Angus has always been a popular destination for Gypsies/Travellers, with certain unauthorised areas being regularly populated by encampments. It has been identified that the Council requires a clear and defined procedure which it can follow, along with its partners, to provide what it considers to be a consistent and fair course of action in dealing with unauthorised encampments. However,

the efforts associated with unauthorised encampments are not mirrored by the identification of suitable accommodation.

There are short stay sites available to Gypsy/Travellers within the Angus area. These are at St Christopher's Caravan Site in Tayock by Montrose managed by Angus Council; and Balmuir Wood, within the Angus administrative area managed by Dundee City Council. However, Balmuir does not have a permanent warden and remains unpopular with the Gypsy/Travelling community. A conference held in August last year, to discuss Gypsy/Traveller issues, noted the complaints about Balmuir. The site at Balmuir remains largely unoccupied whereas the properly managed and attractive St Christopher's site remains fully occupied with little prospect of accommodation in the future. This clearly demonstrates that the alternative at Balmuir is neither appropriate nor suitable accommodation for Gypsy/Travellers.

There remains an unmet demand in the Angus Council administrative area with no clear strategy for site provision to meet need. With the public sector experiencing financial difficulties a more innovative and proactive approach is required – a private/public partnership between the Gypsy/Travelling community and the Local Authority. The Appeal Site is a start to such a partnership.

The above paragraphs are adopted as the Appellants position regarding the lack of suitable sites in Angus. Based on this evidence the Statement of case sets out a reasoned justification to prove that the retrospective development is in accordance with national and Development Plan policy with other material considerations including the personal circumstances of the Appellant adding weight to the case for the grant of planning permission for what is special needs housing.

4. Planning Policy

Introduction

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 as amended by the Town and Country Planning (Scotland) Act 2006 requires that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan for the Appeal Site and on which the Council's decision relies, comprise TAYplan (2012), and the Angus Council Local Development Plan (2016) [hereinafter referred to as the LDP]. In addition the Scottish Government's Scottish Planning Policy 2014 [hereinafter referred to as SPP] is listed as one of the material considerations.

There is and continues to be changing economic, social and environmental circumstances with regard to the provision of Gypsy/Traveller sites in Scotland. This has the effect of influencing the decisions that need to be made by the Gypsy/Travelling community in relation to private sites. In the absence of positive action by Local Authorities to provide for this ethnic minority group, Gypsy/Travellers are purchasing land and looking to develop private sites to establish a home dictated by personal circumstances and a lack of suitable and adequate.

The status of the Site to the south west of Kirriemuir, as it relates to planning policy, is that it lies within The West Angus Housing Market Area in countryside situated outwith the settlement boundary of Kirriemuir. The terms of national policy and Development Plan policy provide justification for this special needs housing.

Development Plan Policy

Strategic Development Plan TAYplan (2012 - 2032)

TAYplan sets out policies where development should be located over the next 20 years and how to shape better quality places through careful selection of the location, design and layout of development from the outset. This along with the relevant LDP policies and in the context of SPP is important in assessing the principle of the development subject of this Appeal.

Two of the Visions and Objectives of TAYplan are to:

"Plan for an effective supply of land for housing and employment" –Page 6

And

"Promote prosperous and sustainable rural communities that support local services, including the provision of additional housing and related development proportionate to local need, available infrastructure and environmental capacity." – Page 6

In addition, TAYplan sets out a spatial plan of where development should and should not go. It reflects the a balanced approach stating:

"This Plan balances the importance of sustaining rural economies with the need to protect the countryside, by allowing some development in small settlements, which are not principal settlements. Implementation of

this principle will be set out in Local Development Plans.” – Page 8

And

“Delivering the vision and objectives of this Plan requires management of land and conservation of resources. This recognises that good quality development and the right type of development in the right places can lead to a series of social, economic and environmental benefits for those areas and the TAYplan region as a whole. This Plan balances these factors with the sometimes competing nature of different land uses. –Page 12

This Statement sets out to demonstrate that the Council are not aligning themselves with the Strategic Plan and in fact the proposed development is in accordance with the aims, objectives and vision for the Tayplan area i.e. catering for the housing needs for everyone and as in this case in sustainable locations.

Relevant extracts from TAYplan are submitted as **Document AS7**.

Angus Council Local Development Plan (LDP) September 2016

The policies of the Angus Council are contained within the LDP. The Policy Matrix in this document guides developers and Applicants to the policies which are relevant to their development proposal. The guidance has been used in the planning application. All relevant policies were assessed in the Planning Policy and Design Statement (**Document AS1f**).

For the purposes of this Appeal a focus is placed upon the policies relied upon in the Council's reasons for refusal which are:

Development Strategy

The LDP Policy Framework, Part 1, Thriving & Connected contains the most relevant policy related to Gypsy/Travellers.

It is confirmed in the LDP that the Council's LHS seeks to address the accommodation needs of Gypsy/Travellers through direct liaison with these groups, provision of additional spaces and where appropriate access to housing.

While the LDP does not identify areas of search or allocate specific sites the policy is intended to establish a framework for assessing proposals to establish new, or extend existing sites.

Policy TC6 Gypsies and Travellers and Travelling Showpeople provides that Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites (publicly or **privately owned** and managed). Existing authorised Gypsies and Travellers and Travelling Showpeople sites will be protected and there will be a presumption against their redevelopment or conversion to other uses unless it can be demonstrated to the satisfaction of Angus Council that there is a surplus of accommodation to meet identified needs. Proposals for new or extended permanent sites and temporary “short stay” sites for Gypsies and Travellers will only be supported where:

- the site will contribute to satisfying a local need identified in the Local Housing Strategy and is consistent with Angus Council's strategy for meeting the accommodation needs of these client groups;
- the development is designed and located to minimise adverse effects on the landscape, established amenity, character and built or natural heritage interests of the surrounding area;

- the proposed site will provide a good residential amenity for residents and has adequate access to community, education and health services and facilities; and
- the proposed development would not set a precedent or open up other areas for similar development.

Creating High Quality Places

To optimise the use of existing resource capacities and to ensure the impact of development on the wider environment and landscape is minimised, development proposals in the countryside should also ensure that they have investigated all possibilities of locating adjacent to existing development or groups of buildings.

Policy DS1 Development Boundaries and Priorities All proposals will be expected to support delivery of the Development Strategy. The focus of development will be sites allocated or otherwise identified for development within the LDP, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the LDP. Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the LDP. In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP. Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the LDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development. Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value. **Sharing an edge or boundary, neighbouring or adjacent.*"

Policy PV20 Soils and Geodiversity Development proposals on prime agricultural land will only be supported where they:

- support delivery of the development strategy and policies in the plan;
- are small scale and directly related to a rural business or mineral extraction; or
- constitute renewable energy development and are supported by a commitment to a bond commensurate with site restoration requirements.

Design and layout should minimise land required for development proposals on agricultural land and should not render any farm unit unviable. All development proposals will incorporate measures to manage, protect and reinstate valuable soils, groundwater and soil biodiversity during construction.

Assessment: These policies are assessed in Section 8 below. This includes assessment of the

related criteria of the LDP policies

Relevant extracts from the Local Development Plan are submitted as **Document AS8**.

5. Material Planning Considerations

Scottish Government Planning Policy on Gypsies and Travellers

The Scottish Government recognises that Gypsy//Travellers are a particularly discriminated against and marginalised group and they are committed to ensuring equality of opportunity for this community.

The Government set out the principal planning policies of the Scottish Ministers relevant to the provision of Gypsy/Traveller sites under the Scottish Planning Policy 2014 at Paragraph 133 which states:

“133. HNDA’s will also evidence need for sites for Gypsy/Travellers and Travelling Showpeople. Development plans and local housing strategies should address any need identified, taking into account their mobile lifestyles. In city regions, the strategic development plan should have a role in addressing cross-boundary considerations. If there is a need, local development plans should identify suitable sites for these communities. They should also consider whether policies are required for small privately-owned sites for Gypsy/Travellers, and for handling applications for permanent sites for Travelling Showpeople (where account should be taken of the need for storage and maintenance of equipment as well as accommodation). These communities should be appropriately involved in identifying sites for their use.”

On the issue of sustainable development SPP states:

“The SPP sets out how this should be delivered on the ground. By locating the right development in the right place, planning can provide opportunities for people to make sustainable choices and improve their quality of life. Well-planned places promote well-being, a sense of identity and pride, and greater opportunities for social interaction. Planning therefore has an important role in promoting strong, resilient and inclusive communities.” (Paragraph 15 SPP).

The policy principles state:

“This SPP introduces a presumption in favour of development that contributes to sustainable development.” (Page 9 SPP).

SPP also provides that:

“The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.” (Paragraph 28 SPP).

It is now apparent that Angus Council has not only failed to implement its housing policy properly but it has also failed to bring forward suitable sites for Gypsy/Travellers in this or other parts of the Angus administrative area. Balmuir remains an inappropriate form of private accommodation and St Christopher’s is at capacity. With the occupancy rate of the Balmuir site remaining low and not a preferred option for the Gypsy/Travelling community, there is still a pressing need and the Appeal Site provides the potential to address this need. The Appellant and his family have no other place to go.

The Appellants contend that the proposed development meets the needs of his family as Gypsy/Travellers and is a sustainable form of development within the meaning of SPP. It provides suitable accommodation for people, at no cost to the Council, with the environment of the site being suitable for the families at a

location which the Planning Authority consider is acceptable. There is no detriment to the local environment an issue examined in more detail below.

Document AS9 comprises extracts from SPP 2014.

Housing (Scotland) Act 2001

The Housing (Scotland) Act 2001 [the Act] requires local authorities to prepare and provide to Scottish Ministers a Local Housing Strategy [LHS] supported by an assessment of housing need and demand [HNDA's], to include Gypsy Travellers. Local authorities produce HNDAs which contribute to this requirement, under the Act.

The role of the Scottish Government is to quality assure HNDAs and to encourage local authorities to fully consider the housing needs of Gypsy/Travellers through their Local Housing Strategy (LHS). The Appellant contends that the Council has not properly discharged their duties in this regard.

By the very nature of their culture and traditions Gypsy/Travellers are homeless by definition. By reason of the Act the Council has a responsibility to provide accommodation. The Appeal Site is a form of special needs housing providing accommodation on a private site. Through their actions (enforcement and refusal of planning permission) the Council are not discharging their Public Sector Equality Duty and failing this family in terms of Equality and Human Rights. This is addressed in more detail below.

Extracts from the Act are submitted **Document AS10**.

Equalities and Human Rights Commission Report (EHRC) 44 (2015) Assessing local authorities' progress in meeting the accommodation needs of Gypsy and Traveller communities in Scotland - Final Report [the Study]

The aim of the study published in January 2015 (**Document AS11**) is to provide data about the extent to which local authorities in Scotland are meeting the accommodation needs of Scottish Gypsy/Travellers.

There are two main objectives:

- To ascertain the quantity of current Gypsy/Traveller site provision, including any recent changes in provision and any imminent plans to develop sites in the future.
- To investigate the timescales of delivery to meet any accommodation shortfalls.

The report states that despite the positive steps taken in Scotland, and although some inroads were being made into resolving the shortages of accommodation for Scottish Gypsy/Travellers, subsequent reviews identified slow progress and little change in the life chances of Scottish Gypsy/Travellers.

Drawing on other evidence from related research and consultations, the Commission for Racial Equality [CRE] identified the primary issues relating to the accommodation needs of Scottish Gypsy/Travellers as:

- The lack of a network of accessible and acceptable local authority sites.
- The poor physical condition and location of local authority sites.
- The difference in treatment experienced by Scottish Gypsies/Travellers when being housed compared

with those living on local authority sites.

- The absence of a network of adequate and appropriate temporary transit sites for Scottish Gypsies and Travellers.
- The inappropriate use of powers to evict Scottish Gypsies/Travellers from roadside encampments when no other appropriate provision is available.
- The widely reported harassment of Scottish Gypsies/Travellers in public and private sector housing.

Assessment: As referred to already in this Statement Angus Council has failed in its duty to provide sufficient and suitable accommodation for Gypsy/Travellers. Existing public sector sites are either at capacity or unmanaged and unpopular (Balmuir) with the Gypsy/Travelling community. Evidence suggests that the needs and demands of the Gypsies and Travellers continue to be unmet. The inclusion of a specific policy in the LDP (TC6) allows for increased provision encouraging use of privately owned sites provided criterion are met.

In this Appeal it is submitted that these parameters are met. It is hoped that a trend can be created with support given to the Appellant, through the grant of planning permission, in recognition of a need for accommodation in the context of their Personal Circumstances and compliance with the development plan.

Social, Economic and Environmental Justification

The following summary of relevant legislative provisions and case law add weight to the social and economic considerations (Personal Circumstances) surrounding this Appeal. The information sets out a case to demonstrate (further) that the proposals are a sustainable form of development in accordance with the terms of SPP and Development Plan policy.

The Importance of Personal Circumstances

The personal circumstances of the Townsley family have been described in Section 1 of this Statement. Their importance as a material consideration is justified in this case and it is submitted that the weight to be afforded to these circumstances is substantial, as part of the decision making process. This is now set out in more detail.

The Personal Circumstances are usually not of relevance in the determination of a planning application. However, given the inequalities faced by Gypsy/Travellers, there are cases where Personal Circumstances should be given significant weight in the determination of any planning application and/or appeal. Considerations may include the education of children, ill health, old age or other social and economic factors including inequality in housing provision as in the case in Angus.

These Personal Circumstances are only relevant if the Council find there is potential conflict with the Development Plan. Consequently the assessment of the needs of the occupants of the Appeal Site (as stated in Section 1) now need to be given serious consideration if the interpretation of Development Plan policies remain the same throughout this Appeal.

Case law is clear that there are occasions where exceptions should be made. Personal Circumstances of an occupier and personal hardship, as described in this Statement of Case, are not to be ignored.

It is inhumane to exclude the human factor from the administration of planning control. The human factor is always present, indirectly as the background to the consideration of the character of land use. It can, however, and sometimes should be given direct effect as an exceptional or special circumstance. It is submitted that the determination of the Appeal is one such case when viewed against the lack of alternative sites for this extended family and the Personal Circumstances that forced them into their current position.

It is submitted that these factors are prevalent and they need to be considered not as a general rule but as exceptions to a general rule and compliance with Development Plan policies. The Angus Development Plan makes provision for the submission of a socio economic case under the terms of Policy TC6. The Personal Circumstances (the social considerations) are part of the argument that requires to be used in this case (and has been used in case law) to outweigh any policy considerations if required.

It is recognised that, in such circumstances, a specific case has to be made and that the planning authority must give reasons for accepting Personal Considerations as a material consideration. This will only be necessary where it is prudent to emphasise that, notwithstanding the policy position of the Council, exceptions cannot be wholly excluded from consideration in the determination of the planning application. A case is made in this Statement of Case that Personal Circumstances apply to the Townsley family. It would be inhumane to think otherwise.

The Great Portland Estates plc. v Westminster City Council is a House of Lords case and is therefore binding in Scotland and is relevant to this case. It is submitted that if found to be necessary the Council should refer to this case. The Great Portland case is attached as **Document AS12**.

Human Rights

In 1998, the **European Convention of Human Rights** (ECHR) was incorporated into UK law by the Human Rights Act 1998. The parts of ECHR that are of particular relevance for the Gypsy/Traveller community as they relate to the planning issues in this case are:

- **The Convention Article 6:** right to a fair hearing-which is clearly relevant to the determination of the Appeal.
- **The Convention Article 8:** respect for private and family life - which is clearly relevant to decision that may involve the loss of accommodation, eviction proceedings or site clearance and the lack of other suitable accommodation.
- **The Convention Article 14:** prohibition of discrimination - re-enforcing the strong position of domestic law prohibiting Discrimination.
- **The Convention Article 11:** freedom of assembly and association- which can be relevant in respect of the concerning the assembly of groups of people on land to include the Townsley family.
- **First Protocol, Article 1:** protection of property.

Article 8 relates to the right to private and family life and provides that:

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

The implications of **Article 8** are that Public Authorities are required to consider carefully the proportionality of their actions when making decisions, which interfere with **Article 8** rights. In practice, for the Gypsy/Traveller, this is a matter of balancing the considerations such as a pressing social need; the protection of a designated area and/or resource; and overcoming technical difficulties. In doing so they are providing for their family.

The Appeal Site is in private ownership and although on a designation of prime quality agricultural land it was in a poor and unkempt state now much improved by the Appellant. He has created a home for his family. It will remain in private ownership and will not be in agricultural use. It was sold off as it was not in beneficial agricultural use. The Appellant has a Right to enjoy his private a family life. The Council has failed to provide suitable alternatives disregarding the human factor and their responsibilities under legislation (see above).

Article 14 is concerned with the prohibition of discrimination:

The enjoyment of the rights and freedoms set out in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. The requirements of **Article 14** ensure protection from discrimination.

The relevant and leading case law relevant to Gypsy/Travellers is that of Chapman v UK, which is concerned with planning enforcement against ethnic Gypsy/Travellers in Hertfordshire, England. There was no question of the statutory Gypsy status of the Appellant. The ECHR held the following view:

“73 The Court considers that the applicant's occupation of her caravan is an integral part of her ethnic identity as a Gypsy, reflecting the long tradition of that minority of following a travelling lifestyle. This is the case even though, under the pressure of development and diverse policies or from their own volition, many Gypsies no longer live a wholly nomadic existence and increasingly settle for long periods in one place in order to facilitate, for example, the education of their children. Measures, which affect the applicant's stationing of her caravans, have therefore a wider impact than on the right to respect for home. They also affect her ability to maintain her identity as a Gypsy and to lead her private and family life in accordance with that tradition.

74 The Court finds therefore that the applicant's right to respect for her private life, family life and home are an issue in the present case.”

At paragraph 96 the Court found that:

“the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in arriving at the decisions in particular cases. To this extent there is a positive obligation imposed on the Contracting States [in this case the Council] by virtue of Article 8 to facilitate the Gypsy way of life.”

There is a positive obligation on the UK to facilitate the Gypsy way of life. It is clear that **Article 8** is a key consideration for the decision makers in this case (the Site) as it relates to the needs of the Gypsy/Travelling community.

Applying this to the determination of the Appeal it is submitted that the Council must make an assessment of the facts of the case in the light of the requirements of Article 8 and strike the appropriate balance. They have failed to do so up to now.

This is of particular relevance if the Council is minded to refuse planning permission and act on an enforcement notice in circumstances where this Gypsy/Travelling family has no other alternative site to call their home as is the circumstance faced by the Appellant.

First Protocol to Article 1

The **First Protocol to Article 1** of the ECHR states that every person is entitled to the peaceful enjoyment of their property. No person should be deprived of their property except in the public interest and in accordance with law.

The effect of any refusal of planning permission and enforcement would be to deprive the Townsley family of the peaceful enjoyment of their property. Such deprivation must be proportionate to and be compatible with ECHR. Given there appears to be no alternative accommodation in the area for the family and given the Appellant's recent experiences on unauthorised sites his rights under the **First Protocol to Article 1** must be given serious consideration.

Extracts from the ECHR are submitted as **Document AS13**.

Equalities

The Equality Act 2010 expanded the racial equality duty in section 71 of the Race Relations Act 1976 to include other protected characteristics. As already stated above these include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation (referred to in the act as protected characteristics).

Section 149 introduced the **Public Sector Equality Duty [PSED]**. This requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with a protected characteristic and people without. This Duty includes Local Authorities and the Directorate for Planning and Environmental Appeals [DPEA].

The duty is set out to require:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to
- (a) tackle prejudice, and
 - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Applying relevance to Gypsy/Traveller planning cases, it is first important to note that Scottish Gypsy/Travellers have been held to be an ethnic minority for the purposes of the PSED. The case law *MacLennan v Gypsy/Traveller Education and Information Project* is relevant. A copy can be provided if required.

In summary, the decision maker has to have due regard to the need to advance equality of opportunity for this ethnic minority group. The obvious point here is that when compared to the settled population the Gypsy/Travelling community is at a severe disadvantage through a lack of accommodation. There is a shortage of suitable and adequate sites to meet the specific needs of the Appellant and his family. So it follows that there is an inequality with regard to access to accommodation for the Appellant. Given the personal circumstances (as described in this Supporting Statement) the Appellant was faced with a desperate situation, a need for a site for his family a place that they can call their home. The Council has failed when applying its PSED.

Extracts from the Equality Act 2010 is submitted Document AS14.

Summary

Based on the above evidence the Personal Circumstances of the Townsley family should be taken into consideration when determining the Appeal. The site houses an established family unit in a place that they can call their home. It is safe and secure with ease of access to local facilities on foot, cycle and by car. The facilities on site afford an excellent living environment where people live in relative comfort relative to their culture. The family enjoys their private and family life on land in their ownership.

The proposed development represents an excellent use of the land. In the absence of any other suitable site for the family to move to and in view of the difficulties experienced by the Appellant and his family in the past (see Section 1 above) this site represents suitable accommodation.

It is submitted that the aforementioned social and economic arguments must carry significant weight. They are of paramount importance, particularly in relation to Human Rights and Equality issues, in the consideration and the determination of this planning application.

It is submitted that it would be inhumane to ignore these factors and not to give them significant weighting when determining the Appeal. If this is not done it would be in contravention of the Equality Act. Human Rights and rights conferred upon the Council in relation to their PSED

6. Other Relevant Case Law

Introduction

To further reinforce this Appeal case it is submitted that the following case law adds weight to a positive planning decision.

The Chichester District Council Case

In **First Secretary of State & Others v Chichester District Council** September 2004 (**Document AS15a**) a defendant had established a residential site without planning permission. Additional families joined him. The planning authority issued enforcement notices requiring the use to cease and the land returned to pasture.

At appeal the Inspector found that to uphold the notices would interfere with the Gypsy/Travellers rights to respect for their homes under Article 8 (2) ECHR. The Inspector conducted proportionality analysis as required by Article 8. He weighed what he considered the limited harm to the environment caused by the development against the harm caused by the Planning Authority's failure to recognise and provide for the needs of Gypsy/Travellers in its District by granting planning permission for sites and found that interference was not justified under Article 8(2) ECHR. The notices were quashed and planning permission was granted.

Following a reinstatement of the Planning Authority's enforcement notices by a judge the Court of Appeal found in favour of the defendants rights under Article 8(1) that was justified under Article 8(2) as the Planning Authority had not made adequate site provision.

Assessment

Angus Council has not had proper regard to the rights and the needs/demands of the Gypsy/Travelling community relating to site provision when taking the decision. The Human Rights of the residents have not been properly considered and the Council has not discharged its Public Sector Equality Duty in a proper manner.

The environmental harm arising from the Appeal Site is undefined and submitted that it is negligible. The rights and needs of the family, in a circumstance where the Council has not made provision for Gypsy/Travellers, adds a case which outweighs the Council's decision to refuse and enforce. The Full Council's refusal of planning permission has not fully considered:

1. The need/demand in their administrative area.
2. The rights of Gypsy/Travellers under ECHR.
3. The Council's Public Sector Equality Duty and the Equality Act.
4. The Best Interests of the Children
5. The proper interrogation of relevant planning policy.

Moray Council Case

The **Appeal Decision (DPEA Ref PPA-300-2022)** relating to the Doohill site near Elgin (**Document AS15b**) is of particular relevance in the determination of this planning application. The Reporter in his decision letter made reference to the need in the Morayshire administrative area and the Council's lack of success in finding sites. The Reporter at paragraph 23 states:

“I cannot escape the conclusion that the appellants have been seriously disadvantaged by the council’s failure either to identify suitable sites, which it is required to do by local plan policy, or to establish a substantive policy framework for the assessment of proposals such as this one. Drawing all of these considerations together, I find there to be a very persuasive case for concluding that the appellants’ need for the proposed development outweighs the conflict with development plan policy and the quite limited harm to the countryside which I have identified.”

The Reporter concludes overall at paragraph 26 of his decision letter stating:

“I conclude overall that the proposed development is contrary to the development plan, for which protection of the countryside around Elgin is an important objective. That has to be balanced against the other material considerations set out above. I am in no doubt in this case that those other considerations clearly outweigh the proposal’s failure to accord with the development plan and indicate that permission ought to be granted. I do not consider that to do so would be to treat the appellants more favourably than the settled community, but rather that it would provide them with an equivalent opportunity to establish homes to suit their needs.”

Assessment

It is understood that providing Gypsy/Travellers sites is a complex and lengthy process as other local authorities have found. Some have been unable to provide suitable facilities for this ethnic minority group. The development of the Appeal Site was a response by the Townsley family and others to the unmet demand for suitable facilities for some years. The Appeal Site is suitable for the purposes of housing Gypsy/Travellers as proven in this Statement and in further text below.

In the absence of any meaningful progress by the Council regarding site development for Gypsy/Travellers in the context of the appeal decision in Morayshire (**Document AS15b**), along with other considerations throughout this Statement all carries significant weight in favour of a positive determination of this Appeal.

Aberdeenshire Case

The **Appeal Decision (DPEA Ref PPA-110-2310)** relating to the site at Boddam Cottages near Peterhead (**Document AS15c**) is of relevance to this Case with regards to human rights of the individual and family. The Reporter in her decision letter dated 20 January 2017 at paragraphs 28 and 29 states:

“Article 8 of the Human Rights Act 1998 provides, amongst other things, that everyone has a right to respect for his or her private and family life and home. Section 149(1) of the Equality Act 2010 places a duty on me in determining this appeal to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. The appellant asserts that through the imposition of conditions (including a temporary permission), the proposal can be made to be a model of how such sites should operate and provide the opportunity to foster good relations with the settled community.”

***“.....As well as the need for a private site, I also acknowledge the family’s desire to settle in the area on a more permanent basis. The appellant asserts that the opportunity to manage the site effectively so far has been thwarted by the council’s actions in terms of planning enforcement and that he is prepared to make the capital investment to provide a well-laid out and well-run site. I accept this possibility and consider that a three-year temporary permission provides some certainty in the short-term and also an opportunity to demonstrate whether the use here could integrate effectively with adjacent development.*”**

Based on the personal circumstances of the family the Reporter concluded on this aspect of the case (paragraph 32) that:

“I have reviewed the case law cited and I have considered all the matters contained therein relevant to this appeal. I consider there to be a need for the development in principle, which would generally uphold the rights of the Gypsy/Traveller community in this instance.”

The planner’s Report of Handling considers that the Human Rights of the Appellant are justified. This is a ridiculous statement to make particularly when the same report states that work is not complete regarding need in Angus. The Aberdeenshire case reinforces the correct interpretation that Human Rights are prevalent.

Assessment

From all the evidence it would appear that Angus Council have a limited experience in dealing with Gypsy/Traveller issues. The Balmuir site is in Angus but is operated by Dundee City Council a local authority that do have experience in such matters. As is evidenced above the Reporter determining the enforcement appeal for the Appeal Site the public sector run Balmuir site is not fit for purpose as a private site. The Appeal Site is suitable. Allowing it to continue to operate will allow the Council to meet the needs and rights of the Townsley family. In the absence of any meaningful progress on meeting site provision case law along with other material considerations adds to the significant weight already apportioned to this case.

The East Lothian Case

The case Miller Homes against Scottish Ministers is used in the assessment of the reasons for refusal (Section 8). The planners report of Handling makes no reference to what constitutes a loss of prime quality agricultural land in terms of “substantial” or “minimising” loss as stated in case law and the LDP. This demonstrates a lack of proper interrogation of planning policy. The following Sections set out to demonstrate that there is justification.

7. Rebuttal to Objections

The issues raised by an extremely low number objection (2) were as follows:

- (i) Visual impacts/removal of trees.
- (ii) Unsuitable pattern of development, i.e. extension of ribbon development.
- (iii) Site history of refusal for a dwellinghouse on the site

These were addressed during the processing of the planning application with a rebuttal letter submitted. The low level of objection from the community serves to demonstrate that the development on the Appeal Site is worthy of approval. There are no major concerns from the community.

The rebuttal letter is attached as **Document AS16a**.

8. Addressing the Reasons for Refusal

Introduction

The LDP recognises that rural Angus is not a single homogenous area, varying significantly in character, land use, population levels and availability of and access to a range of services and facilities. The LDP aims to maintain this diversity by supporting new development in appropriate locations and by encouraging people to live and work in rural communities.

The LHS seeks to address the accommodation needs of Gypsy/Travellers through, direct liaison with these groups, provision of additional spaces and where appropriate access to housing.

It is in this context that the proposed development is assessed with specific reference to **Policies PV20, TC6 and DS1** having regard to all the material considerations in this Statement.

Assessment of the Principle of Development

The reasons for refusal are now addressed in the context of the assessment of the LDP policies. This starts with the analysis of the Appeal Site in the context of prime quality agricultural land proving the use of this type of development to be acceptable in the context of the Gypsy/Travelling Policy.

Prime Quality Agricultural Land

The **loss of prime quality agricultural land** is an issue of concern raised by the Council relying on **Policy PV20** of the LDP. They cite development unrelated to a rural business or support to the development strategy or renewable energy in defence of their reasoned justification. By analysing the application of this Policy and demonstrating that there is compliance with PV20 this will establish an accepted principle for the development on this land.

Firstly, what needs to be established is what agricultural classification actually means. The Agricultural Land Classification provides a framework for classifying land according to the extent to which its physical or chemical characteristics impose long-term limitations on agricultural use. The limitations can operate in one or more of four principal ways: they may affect the range of crops which can be grown, the level of yield, the consistency of yield and the cost of obtaining it. The classification system gives considerable weight to flexibility of cropping, whether actual or potential, but the ability of some land to produce consistently high yields of a somewhat narrower range of crops is also taken into account. The classification is well established and needs to be well understood as part of the planning system. It provides an appropriate framework for determining the physical quality of the land at national, regional and local levels. However, it is recognised that when a broad classification is applied to land then it is not all parcels of land that will meet the criteria to be prime quality. Due to the previous use on the Appeal Site, the proximity of coniferous trees (shading the land and extracting goodness from the soil), the length of time which the land has been out of agricultural use and not being part of the recognised field pattern the land does not fall within the defined classification. It is a secluded parcel of land which exists within the broad classification of prime quality agricultural land. In support of this conclusion reference is made to the Mapping tool [data.gov.uk//data/maps](http://data.gov.uk/data/maps) which shows prime quality land across Kirriemuir and the surrounding rural area.

Secondly, what needs to be clarified is the definition of “temporary” in terms of land use. The Caravan Sites

and Control of Development Act 1960 defines what constitutes a caravan (including chalets by definition in the Act). Reference is made to Alan Seath Planning Consultancy's letter dated 24 October to the planner (**Document AS16b**). They are temporary structures by their very nature i.e. capable of being constructed in sections and dismantled accordingly. They can be removed from site and therefore they are a temporary use which can be granted a permanent permission. This is contrary to the planners understanding which confuses temporary structures with temporary permission despite previous correspondence and misleads the planning process.

With that established there is case law which acts as a defence in relation to the loss of prime quality agricultural land. Firstly, the proposed development is a change of use of land whereby structures (chalet, caravans), boundary treatment and surfacing are of a temporary nature. The land can be returned to its original use through removal of the development and spreading soils on the land.

The planning application considered by Angus Council (reference 15/00135/FULL) provides justification in this regard. The report considered by the Development Standards Committee (dated 15 August 2015) states:

"As noted the caravans are temporary in nature and do not have any impact on the fabric or setting of the listed structure. There would be no permanent loss of prime agricultural land because this is a temporary proposal which would assist the operational efficiency of the farm unit."

This case law states clearly that caravans are temporary in nature and the proposal is temporary in terms of land use. The proposal on the Appeal Site is unrelated to an agricultural unit and therefore its use does not affect viability of any business in the rural economy. It has been sold and remains in private ownership. It will not return to and arguably has never been in agricultural use evidenced by the enclosed nature of the site and previous use. However, the principles of loss of agricultural land remain relevant to the Appeal Site contrary to the assessment made in the planners Report of Handling

If proper interrogation was undertaken at the outset then the proposed development by reason of its scale and temporary nature can be made to comply with the terms of Development Plan Policy. It was and is in private ownership and unrelated to any farm unit. The abandonment of the previous use (market garden) left the site in an unkempt state. It has brought about improvements to the land at this location. The land can be returned to its former state as vacant land.

If further evidence is needed than the case of Miller Homes against Scottish Ministers (**Document AS17**) also applies. This assessed the loss of prime quality agricultural land stating (paragraphs 74 -76):

"Broadly speaking what follows thereafter in the reporter's decision letter are his reasons for reaching the decision to refuse the appeal. Although the reporter considered a number of considerations, in essence there were two grounds or considerations which militated against allowing the appeal and granting the outline permission which was sought. The first of those reasons or considerations may by way of shorthand be referred to as the prime agricultural land issue. The reporter's reasons are based upon paragraph 5(d) of Policy DC1 of the East Lothian Local Plan."

The Council does find conflict between the proposed development and the local plan policy for prime agricultural land. The Council's sixth reason for refusal of planning permission says that the proposed development would result in the loss of prime agricultural land and that this would be contrary to part 5 of local plan policy DC1 and contrary to Scottish Planning Policy. Loss of top-grade agricultural land is also a ground of objection in the representations.

The Appellant says that North Berwick is constrained on all sides by countryside. So far as the Appellant is

aware, most, if not all, of this is prime agricultural land. If housing requirements are to be met in East Lothian, it is inevitable that prime agricultural land will have to be used. Provision of adequate housing is a key objective of strategic and national policy: protection of prime agricultural land is a lesser priority.

I note that the local plan policy says that proposed development must minimise the loss of prime agricultural land. This is not the same as saying that there must be no loss of prime land. Rather, if prime land has to be developed, the amount of such land taken out of agricultural use must be the least possible.”

The Appeal Site does not result in the loss of a substantial amount of land. If this can be accepted then the terms of the criterion led **Policy PV20** needs further assessment. In the text associated with the policy it is stated:

*“Design and layout [of development] should **minimise** land required for development proposals on agricultural land and should not render any farm unit unviable.”*

Interpretation of **Policy PV20** in the context of the Miller Homes case as described above leads on to a finding that the proposed development on the Appeal Site results:

- (i) in a negligible if any impact of prime quality agricultural land;
- (ii) in a minimal amount of land being taken for development purposes;
- (iii) in improvements to an unkempt area of vacant land;
- (iv) in limited harm to the environment as defined in the case law above (**Document AS15a**)
- (v) no impact on the viability of a farm unit as it remains in private ownership. It was never part of the farm unit

In addition, the existing soil bund can be used to restore the remaining, undeveloped part of the site and if the Council so desire a temporary planning permission can be granted to allow the Council to have a degree of control if they consider it necessary.

If the case submitted for the loss of land to development on the Appeal Site can be accepted then this leads on to the assessment of the nature of development.

Use of Appeal Site for Gypsy/Travellers

If the Local Review Body accepts the above argument that means there will be no substantial loss of prime quality agricultural land and therefore compliance with **Policy PV20** then this takes the arguments to a justification of use of the Appeal Site by this Gypsy/Traveller family as a special housing need. The development is a use normally associated with a rural location. Such developments represent a very special circumstance where the general rule (other housing/development policies) do not normally apply and where an exception to the rule does. This is where Policy TC6 fits with the development.

Looking back to the case of Chapman v UK I would remind the Local Review Body that a case for special needs housing for Gypsy/Travellers is set out in law:

“the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in arriving at the decisions in particular cases. To this extent there is a positive obligation imposed on the Contracting States [in this case the Council] by virtue of Article 8 to facilitate the Gypsy way of life.

The Council policy establishes a pathway for assessing need. However, it is submitted that there is an obvious lack of understanding and action regarding the needs and demands of Gypsy/Travellers as well as their lifestyle evidenced in the policy interrogation. This led to the Council reasons for refusal stating:

“The application is contrary to Policy TC6 of the Angus Local Development Plan (2016) as there are existing authorised sites with capacity to accommodate the applicant and his family, as the proposal would not contribute to satisfying a local need in a formulated manner, as the proposal could set a precedent or open up other areas for similar development.”

The needs of the Gypsy/Travelling community have been clearly set out in this Statement. There is a lack of suitable and adequate accommodation and there are no known plans to find sites for this ethnic minority group in a Region of Scotland which is popular with the Travelling community (evidenced through the LHS). The grant of planning permission will serve to meet need in accordance with the LHS.

Gypsy/Traveller appeal cases create significant material considerations in the determination of similar planning appeals. The appeal decision (Reference: PPA-300-2022 **Document 15b**) on land at Doohill, Easter Coxton, Elgin IV30 8QS (dated 8 May 2013) made reference to relevant planning policy and their relevance in the context of need and demand. When assessing the development the Reporter had to determine whether the proposal represents an acceptable form of development in the countryside.

The Reporters conclusions on conformity with the Development Plan stated (at paragraphs 15 and 16):

“I find overall that, as the proposal fails to comply with development plan policy on development in the countryside, it is not in accord with the development plan. That said, I have found there to be no unacceptably adverse impact on the character and amenity of the countryside, or on the residential amenity of nearby residents.

Before moving on to consider other material considerations, there remains one further provision of the development plan which, for the sake of completeness, ought to be mentioned here. Policy H12: Travelling Persons Sites of the local plan, states that “The council acknowledges the needs of travelling people are taken into account, and will identify sites. These sites will be considered in the context of the applicable policies in the Plan.

Despite the local plan having been adopted in 2008, the council concedes that it has, some 5 years later, failed to identify such sites. Nor has it set out how private proposals for such sites are to be assessed, although it advises that work is now underway in framing such guidance. I shall consider the implications of this matter below.”

The Reporter, in his decision letter, had made specific reference to the need and demand in the Morayshire administrative area and the Council's lack of success in finding sites. The Reporter at paragraph 23 states:

“I cannot escape the conclusion that the appellants have been seriously disadvantaged by the council’s failure either to identify suitable sites, which it is required to do by local plan policy, or to establish a substantive policy framework for the assessment of proposals such as this one. Drawing all of these considerations together, I find there to be a very persuasive case for concluding that the appellants’ need for the proposed development outweighs the conflict with development plan policy and the quite limited harm to the countryside which I have identified.”

The appeal decision is of particular relevance in the determination of this Appeal Site.

The proposed development has no adverse impacts on the landscape (see assessment of LDP Policy in **Document AS1f**) or the built and natural environment. Due to natural screening (existing tree belts) the site has a negligible impact.

This private site is designed in accordance with the space standards associated with pitch development for Gypsy/Travellers. It is laid out to provide all the amenities necessary for this family as a household and is tidy, pleasant and well managed. It is close to community facilities.

The development is residential in its nature and therefore compatible with the neighbouring land use (housing).

This reason for refusal 1 challenges the rights of the family to live and enjoy their land (see reference to Human Rights above) and calls into question the application of the Councils PSED. The Council is providing a range of housing stock for the settled community, a choice in all tenures. The Councils obligations are to provide for the accommodation needs of everyone on their administrative area. To rely on one site (Balmuir) a site not even operated by the Council, does not meet the rights of the individual and does not meet the Councils housing obligations as well as their PSED. They have one named site (Balmuir) which is in a remote rural location, near to the A90 where noise and disturbance are evident and 2/3 miles from community facilities. It is a cold and a bleak site underused and it is not popular with the Gypsy/Travelling community. The Reporter when determining the Enforcement Appeal visited the Balmuir site. He observed at **paragraph 10 of the decision letter dated 23 November 2016 (Document AS18)**:

"I understand that the St Christopher's permanent gypsy site near Montrose is generally full and was shown the only site with capacity available is the Balmuir Wood Gypsy/Traveller site which, with its concrete pitches, bathroom blocks and location next to the busy A90, gave an impression more of a transit site. I have also taken account of all the points raised in the submissions but the availability of gypsy sites, the council's gypsy housing policies, Scottish Planning Policy, the Housing (Scotland) Act 2001 and the appellants rights under the European Convention on Human Rights and the Equalities Act 2010 are all matters to be considered under the planning application and are therefore not before me in this appeal."

The Balmuir sites suitability for private permanent use was called into question. Therefore the reliance on Balmuir as a suitable alternative to the Appeal Site is flawed. With the lack of suitable sites elsewhere and the lack of information on need and demand the Council have to meet its obligations and house the Townsley family. Based on the evidence submitted in this Statement the Appeal Site is a suitable form of accommodation.

For all the reasons set out above it is submitted that the proposed development is in accordance with Policy TC6 as well as Policy PV20 with other material considerations (case law) adding weight to strengthen the case for approval of planning permission.

Development Boundaries and Priorities (Policy DS1)

This leaves an assessment of the last Policy DS1 Development Boundaries and Priorities (Reason 3) which is predicated on the refusal based on policies PV20 and TC6.

This Policy provides that all proposals will be expected to support delivery of the Development Strategy. The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out.

Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of

sites to meet the development needs of the plan area. As this Policy [DS1] applies to the Appeal site the following needs to be considered:

“Proposals for sites outwith but contiguous with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.*

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.”

It is considered that the proposed development will not result in development on greenfield land. It was a derelict/unkempt area of vacant ground unrelated to any farm unit a private site made good by the Appellant. The proposed use makes use of this land to provide much needed Gypsy/Traveller accommodation. There will be no permanent loss of prime agricultural land, as described above. Accordingly the proposed development is in accordance with Policy PV20, TC6 and as a consequence it complies with Policy DS1. .

The site is accessible; on the periphery of Kirriemuir yet close enough to allow ease of access to services; is not allocated for other uses; and does not detrimentally affect the rural environment or residential amenity.

The single pitch and amenity block are partially visible at distance along the nearby countryside but is largely screened with the low lying structures on the site rendering the site impact to a negligible level. The level of traffic associated with the site does not and will not impact on the public and private roads. There is safe and convenient access with no detriment to road safety. The consultation response from the Councils Road Division raises no objection.

The site has been laid out as proposed. It is well maintained and well managed this is due to:

1. The investment of the Appellant;
2. The need of the Appellants family to find a home; and
3. In the absence of any suitable sites in the Angus area.

If planning permission is granted (and consideration could be given to a temporary planning permission and reclamation of the remaining land using the soil bund) this would:

- (i) add a degree of certainty for the Appellant and his family
- (ii) demonstrate to the Council and local residents that it can be operated and managed in an appropriate

manner.

(iii) return the remaining land to the north to its former use.

Overall Assessment of Development Plan Policy

The above paragraphs are hereby adopted in regard to the assessment of the Planning Application against the Development Plan policies and other relevant material considerations.

If the case for use of the Appeal Site on the former vacant site can be accepted this leaves the case set out against the Council's central Development Plan Policies on Gypsies/Travellers as set out in TC6 (Gypsies and Travellers And Travelling Showpeople) in the LDP to be accepted.

The Council has made it clear that it will, in terms of Policy TC6, approve Gypsy/Traveller sites where a newly arising need can be proven and subject to other criteria.

The Council accepts that Gypsy/Travellers are an ethnic minority group where there is a need to advance equal opportunity under the Equalities Act. In translating this into planning considerations the Council have accepted that a social and economic need can be demonstrated for the Development.

Assessing the Development against the criteria of Policy TC6 the following conclusions are reached: -

- a) The Development does not appreciably detract from the landscape character or appearance or loss of resources in the rural area.
- b) The Development does not unacceptably detract from the amenity of the rural environment and that currently enjoyed by residents in the area.
- c) The Development is sympathetically located in a secure, safe and pleasant environment and provided with (or can be provided with) essential utility services.
- d) The location of the Development does allow access to community facilities and the main road network.
- e) The Development is properly managed.
- f) It will not set an undesirable precedent for the reasons stated above and in particular given the sites defensible boundaries.
- (g) There is an unmet need and demand in Angus.

It is clear that the site provision allocated by the Council is inadequate and suitable sites are not being delivered. It is submitted that all the above factors are prevalent and they need to be considered not as a general rule but as exceptions to a general rule and compliance with Development Plan policies with material considerations adding considerable weight to the argument.

Therefore the approach that the Council should take to the assessment of this Planning Appeal against the Development Plan should be a reasonable.

9. Conclusions

It is against the background of all the above that the Appellant requests that the Local Review Board grant planning permission for the site to allow him to demonstrate that he can provide a satisfactory living environment for his extended family.

At present, in the Angus area (based on available evidence) there is a relatively small network of sites (when compared to other Authorities) one proving unsuitable for Gypsy/Travellers, (Balmuir) with one Council operational site at St Christopher's, Montrose at capacity with little prospect of vacancies in the near future. The Angus area appears to be characterised by unauthorised sites with Policy and Procedure regarded as the answer to the issue of Gypsy/Traveller issues. These actions are not mirrored by positive action to find suitable and adequate sites.

Due to the lack of progress by the Council to finding accommodation the Gypsy/Travelling community, who by the Councils own admission (LHS) find Angus a popular area, has been handed a disadvantage in this administrative area of Scotland. Angus Council appears to be similar to some other Local Authorities with a lack of suitable site provision for Gypsy/Travellers. The terms of the ECHR report provide evidence of the plight of Gypsy/Travellers in Scotland including Angus.

As a consequence an undefined and unaddressed need has been created despite years of trying. The Development Plan policy (TC6) related to Gypsy/Travelling sites allow a justification to be submitted for private, permanent sites. This Statement is the justification.

It is not accepted that the Appeal Site was or is located on prime quality agricultural land. It was a vacant site within a defined broad based designation of agriculture. There is no substantial loss of designated prime quality agricultural land.

With a case for the use of the land submitted there is justification for its use. The Appeal Site was purchased and developed by the Appellant, designed and laid out creating a safe, secure and suitable living environment for this family who originate from Angus. This proactive approach by the Appellant has provided a home for this Gypsy/Travelling family at no cost to the public purse. The work undertaken has transformed this once unkempt area of rural brownfield land, on the periphery of Kirriemuir, into a visually pleasing site, which has ease of access by road on foot and cycle with community facilities and public transport nearby.

Due to its scale and layout a development, which is temporary by its nature, is part of a small cluster of development having a negligible landscape impact. Existing mature landscape tree belts assist in mitigating any perceived impacts. The Appeal Site is well managed, tidy with no proven impact on the amenity of residents or the rural environment. It represents a sustainable solution responding to the needs of the Townsley family.

It is submitted that the proposal is in accordance with the relevant policies of the Development Plan and national planning policy (SPP).

As asserted in this Statement Human Rights; the provisions of the Equalities legislation and guidance; and the weight to be afforded to the Personal Circumstances of the Townsley family need to be factored into the decision making process if the Council consider that there is not accordance with the Development Plan. Given that all these factors are relevant they need to be considered not as a general rule but as exceptions to a general rule and Development Plan policies. It is incumbent on the Council to take into account social,

economic and environmental factors, which includes a right to family life. These material planning considerations need to be regarded as exceptional circumstances in this case if the Local Review Body still disagrees with the policy assessment contained herein.

This Statement provides a reasoned justification to allow the decision makers (who has to have due regard to the need to advance Equality of Opportunity for Gypsy/Travellers) reasons to grant planning permission. By taking a positive decision and granting conditional planning permission Angus Council can start making a difference to the lives a Gypsy/Traveller family, in line with the Scottish Government intentions.

It is submitted that planning permission should be granted for this development subject to appropriate and reasonable planning conditions. If a temporary planning permission is deemed desirable the Appellant has advised he would accept this.

10. Appendix 1: List of Documents

Document AS1: Planning Application reference 16/00738/FULL

AS1a Planning application form

AS1b Location Plan

AS1c Layout of the Pitch

AS1d Proposed Amenity Block

AS1e Survey Drawing

AS1f Planning Policy and Design Statement

Document AS2a: Report of Handling dated 30 December 2016

Document AS2b: Decision Notice ref 16/00738/FULL dated 6 January 2017

Document AS3a: Location Plan

Document AS3b: Photographs of Site and Surrounding Area

**Document AS4: Communities and Local Government Report Gypsy Traveller
Accommodation Needs and Assessment**

Document AS5: Angus Council Local Housing Strategy 2012 – 2017

**Document AS6: Draft Policy and Procedure for Unauthorised Encampments of
Gypsy/Travellers**

Document AS7: Relevant extracts from TAYplan 2012

Document AS8: Relevant extracts from the Local Development Plan

Document AS9: Relevant extracts from SPP (2014)

Document AS10: Housing (Scotland) Act 2001

**Document AS11: Extracts from the Equalities and Human Rights Commission Report
(EHRC) 44 (2015)**

Document AS12: The Great Portland Estates plc. v Westminster City Council

Document AS13: Extracts from the ECHR

Document AS14: Extracts from the Equality Act 2010

Document AS15: Case Law

AS15a First Secretary of State & Others v Chichester District Council

AS15b Appeal Decision (DPEA Ref PPA-300-2022)

AS15c Appeal Decision (DPEA Ref PPA-110-2310)

Document AS16a: Rebuttal letter to objections

Document AS16b: Letter to planner dated 24 October 2016

Document AS17: Case law Miller Homes v Scottish Ministers

Document AS18: Enforcement Appeal (DPEA Ref ENA-120-2007)



County Buildings Market Street Forfar DD8 3LG Tel: 01307 461 460 Fax: 01307 461 895 Email: plnprocessing@angus.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100019716-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

Type of Application

What is this application for? Please select one of the following: *

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

Description of Proposal

Please describe the proposal including any change of use: * (Max 500 characters)

Change of use of vacant land to form a chalet/caravan site (one pitch) to include; principal chalet; two touring caravans; amenity block; formation of hardstanding and parking; and erection of boundary wall and fence (in part retrospect).

Is this a temporary permission? * Yes No

If a change of use is to be included in the proposal has it already taken place?
(Answer 'No' if there is no change of use.) * Yes No

Has the work already been started and/or completed? *

No Yes – Started Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): *

Please explain why work has taken place in advance of making this application: * (Max 500 characters)

See supporting statement

Applicant or Agent Details

Are you an applicant or an agent? * (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant Agent

Agent Details

Please enter Agent details

Company/Organisation:	Alan Seath Planning Consultancy		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	ALAN	Building Name:	
Last Name: *	SEATH	Building Number:	88
Telephone Number: *	07731690473	Address 1 (Street): *	Scott Road
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Glenrothes
Fax Number:		Country: *	Scotland
		Postcode: *	KY6 1AE
Email Address: *	a_seath@sky.com		

Is the applicant an individual or an organisation/corporate entity? *

Individual Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Land 125m west
First Name: *	John	Building Number:	
Last Name: *	Townsley	Address 1 (Street): *	North Mains Croft
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Kirriemuir
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	DD8 5PG
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Angus Council

Full postal address of the site (including postcode where available):

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

753000

Easting

337978

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

Yes No

Site Area

Please state the site area:

1350.00

Please state the measurement type used:

Hectares (ha) Square Metres (sq.m)

Existing Use

Please describe the current or most recent use: * (Max 500 characters)

Vacant land (formerly market garden)

Access and Parking

Are you proposing a new altered vehicle access to or from a public road? *

Yes No

If Yes please describe and show on your drawings the position of any existing. Altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? * Yes No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? *

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? * Yes No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *

Yes – connecting to public drainage network

No – proposing to make private drainage arrangements

Not Applicable – only arrangements for water supply required

Do your proposals make provision for sustainable drainage of surface water?? * Yes No
(e.g. SUDS arrangements) *

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? *

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

Assessment of Flood Risk

Is the site within an area of known risk of flooding? * Yes No Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? * Yes No Don't Know

Trees

Are there any trees on or adjacent to the application site? * Yes No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * Yes No

If Yes or No, please provide further details: * (Max 500 characters)

See layout plan (bin storage area)

Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? *

Yes No

All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? *

Yes No

Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 *

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? *

Yes No

Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? *

Yes No

Is any of the land part of an agricultural holding? *

Yes No

Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: ALAN SEATH

On behalf of: Mr John Townsley

Date: 12/09/2016

Please tick here to certify this Certificate. *

Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? *

Yes No Not applicable to this application

b) If this is an application for planning permission or planning permission in principle where there is a crown interest in the land, have you provided a statement to that effect? *

Yes No Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? *

Yes No Not applicable to this application

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? *

Yes No Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? *

Yes No Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? *

Yes No Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: * (Max 500 characters)

Site survey plan

Provide copies of the following documents if applicable:

- | | | |
|--|---|---|
| A copy of an Environmental Statement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. * | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> N/A |
| A Flood Risk Assessment. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| Habitat Survey. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. * | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

Declare – For Application to Planning Authority

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr ALAN SEATH

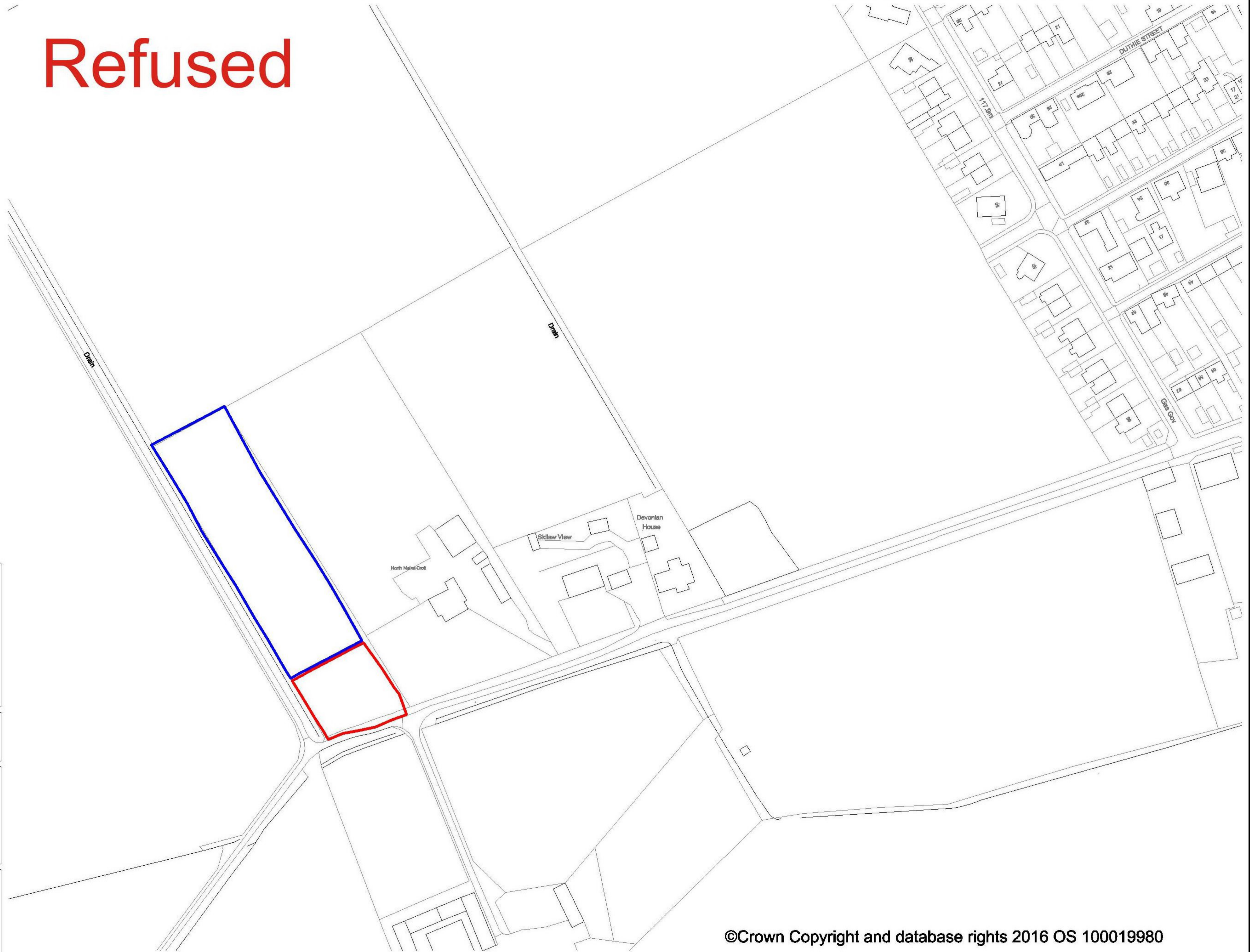
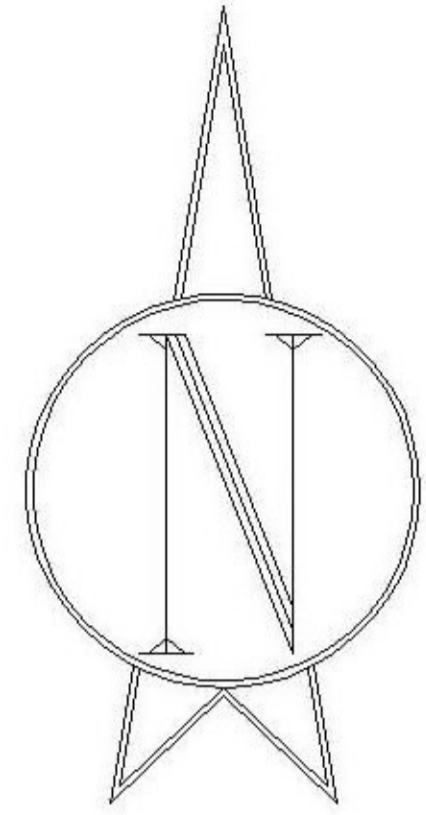
Declaration Date: 12/09/2016

Payment Details

Departmental Charge Code: 401

Created: 12/09/2016 20:50

Refused



31 Gardner Crescent, Leven, Fife, KY8 4FD
tel: 07977 507185
e: scott@prismeng.co.uk
w: www.prismengineering.co.uk

Client:

John Townsley

Project:

Proposed Development
Land West of North Mains Croft
Kirriemuir

Drawing:

Location Plan

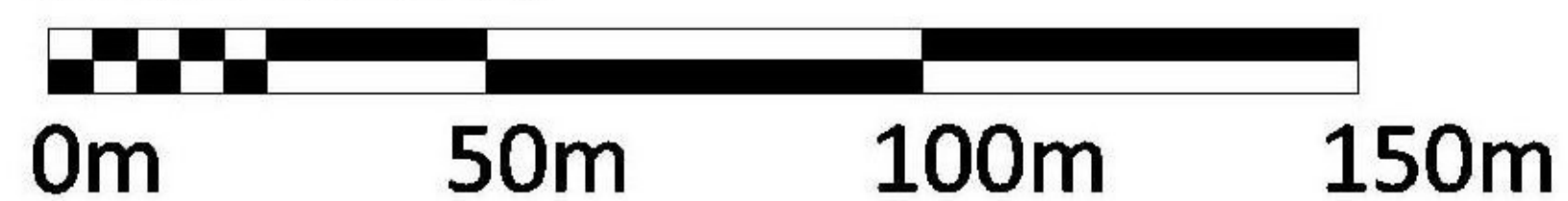
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Local	OSBM Newlyn	02

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Scale 1:1250



Refused



PRISM ENGINEERING
31 Gardner Crescent, Leven, Fife, KY8 4FD
tel: 07977 507185
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w: www.prismengineering.co.uk

Client:
John Townsley

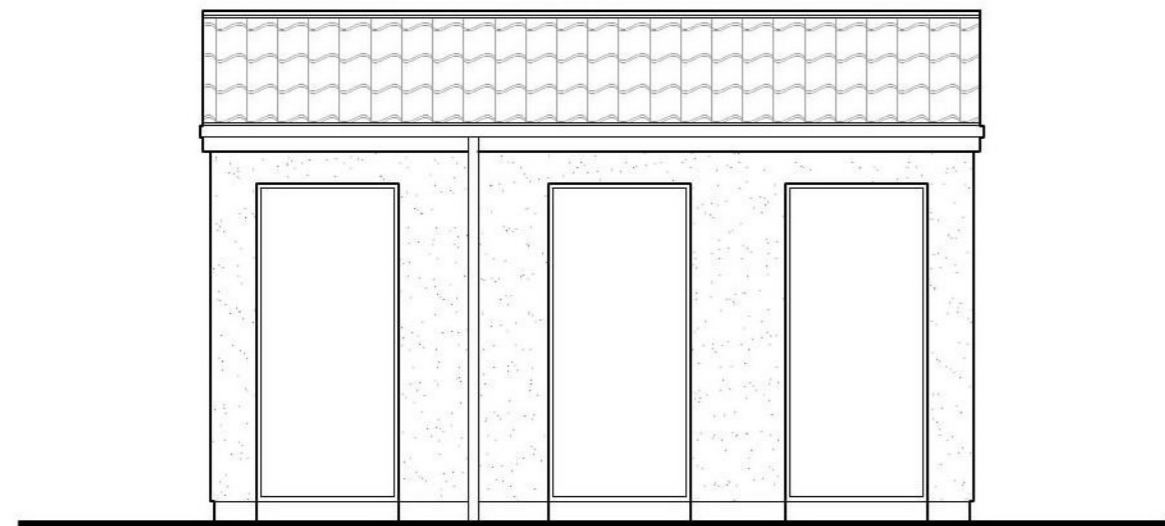
Project:
Proposed Development
Land West of North Mains Croft
Kirriemuir

Drawing:
Proposed Plot Layout

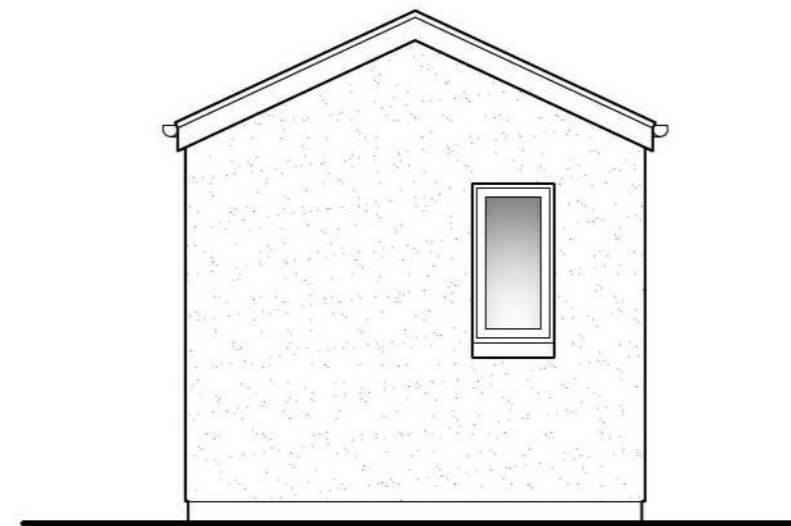
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Refused

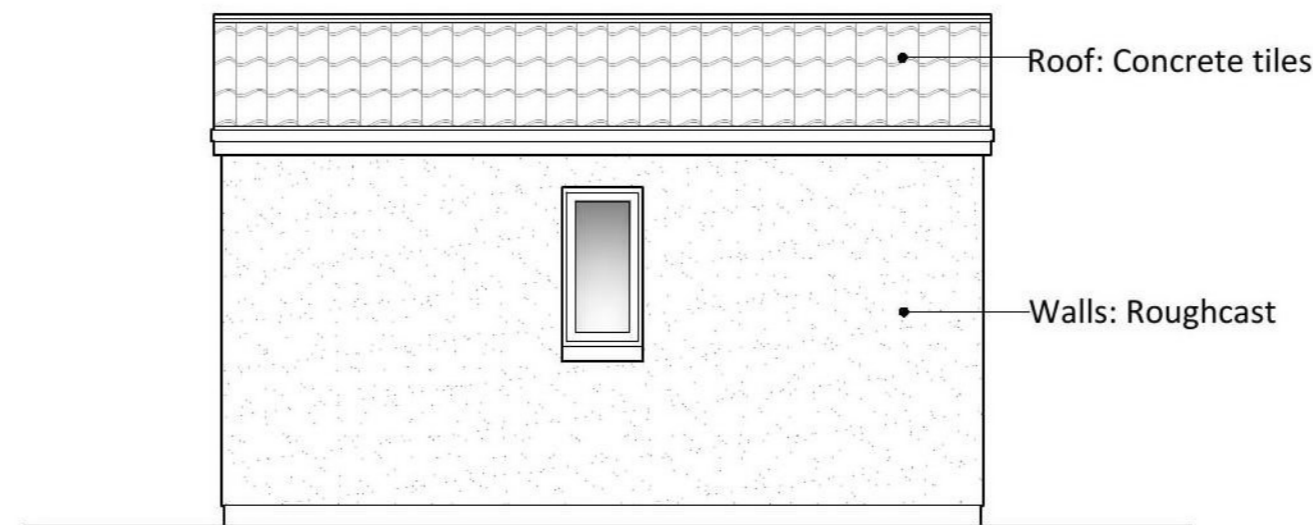


Front Elevation

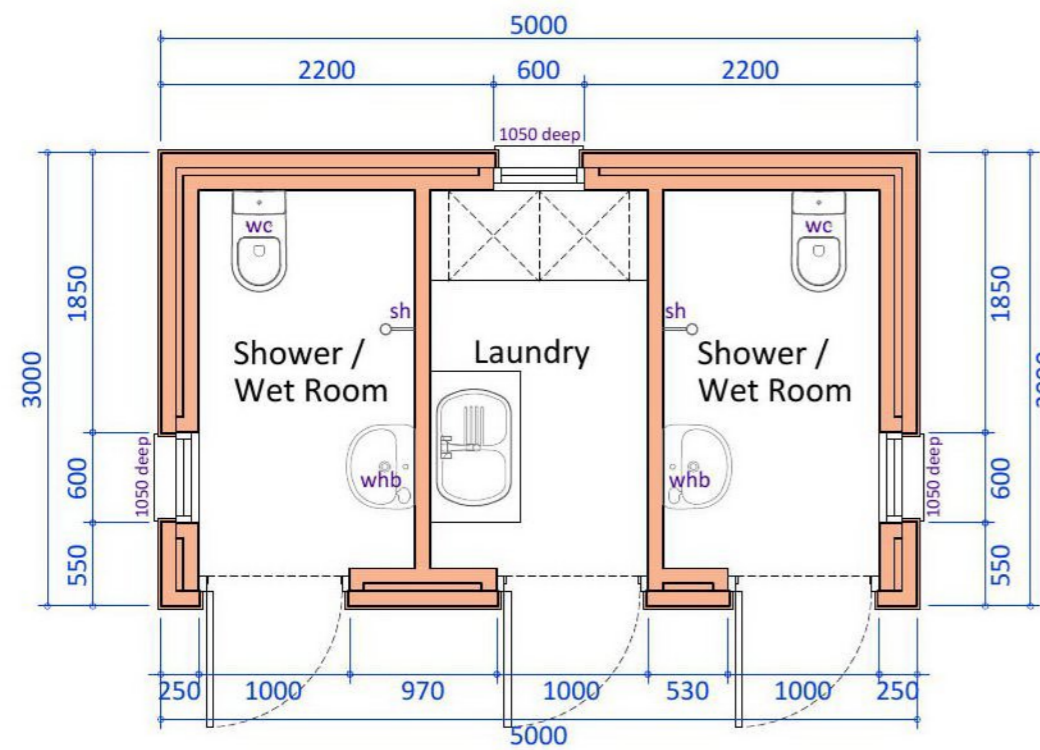


Side Elevation

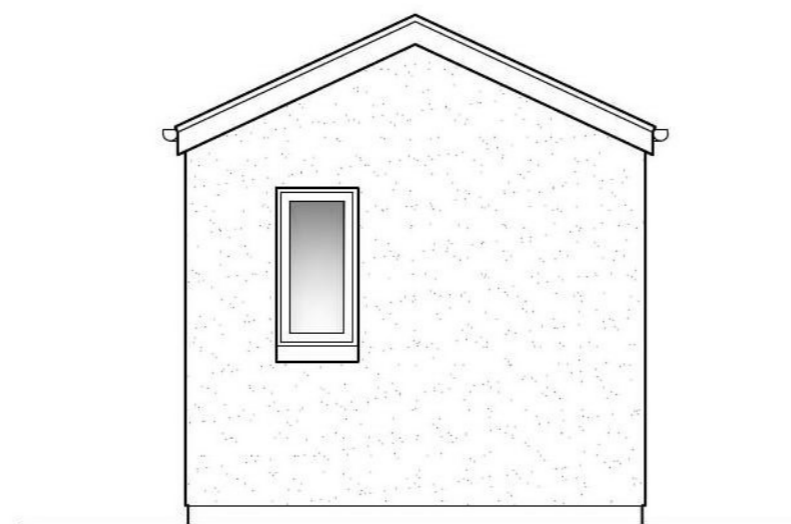
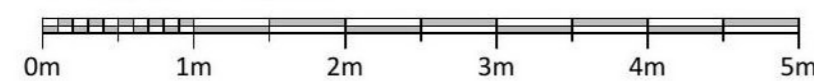
External finishes all to be agreed with the Planning Authority



Rear Elevation



Floor Plan



Side Elevation

Refused

General Notes:

- This drawing must be read in conjunction with all other drawings and specifications produced specifically for this project.
- Any discrepancies found are to be brought to the attention of the building designer and/or Engineer at the earliest possible moment.
- All dimensions given on this drawing are in millimetres, unless stated otherwise.
- All levels are given in metres above the datum.
- The contractor must check all sizes on site before proceeding with the works.
- All works are to be completed in strict accordance with the Building Regulations for Scotland as per the approved drawings.
- Where manufacturers' names are listed, they should be read as 'equal and approved'.
- The Contractor will allow for all necessary precautions to be undertaken to satisfy HSE requirements, including ensuring all construction risks including the use of hazardous materials are fully assessed, clearly highlighted and adequate safety measures are put in place to ensure the safety of the workforce, client and public at all times.
- Works shall be carried out in accordance with good building practices.
- All works to comply with the Building(Scotland) Act 2003, the Building (Scotland) Regulations 2004 and all current amendments.
- The Contractor shall be responsible for contacting the appointed Building Standards inspector as soon as works commence in order to establish the Local Authority's policy for carrying out inspections and witnessing the testing of drainage inspections. The Contractor is responsible for giving notice, arranging and carrying out the required inspections to the satisfaction of the the Local Authority. Work must not be covered over and concealed before the inspection takes place or the tests are witnessed.
- If in doubt, stop and ask.
- The Contractor is to satisfy himself as to the location of all overhead and underground services on site prior to the commencement of works.
- The Contractor is advised to expose all underground services by hand.
- The Contractor is responsible for notifying the building designer of any services below or adjacent to the building footprint.
- In the absence of a levels survey, the Contractor shall refer any discrepancies to the building designer prior to the commencement of works on site.

Rev'n	Date	Description	By

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Project / Client:
Proposed Amenity Block

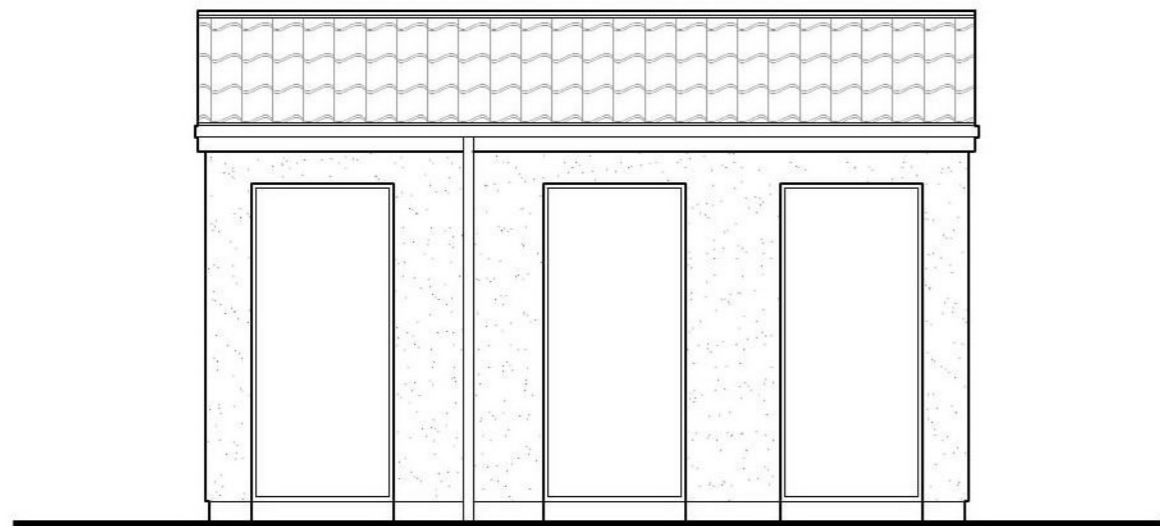
Drawing Title:
Floor Plan & Elevations

Architectural Services and
 Technical Construction Specialists

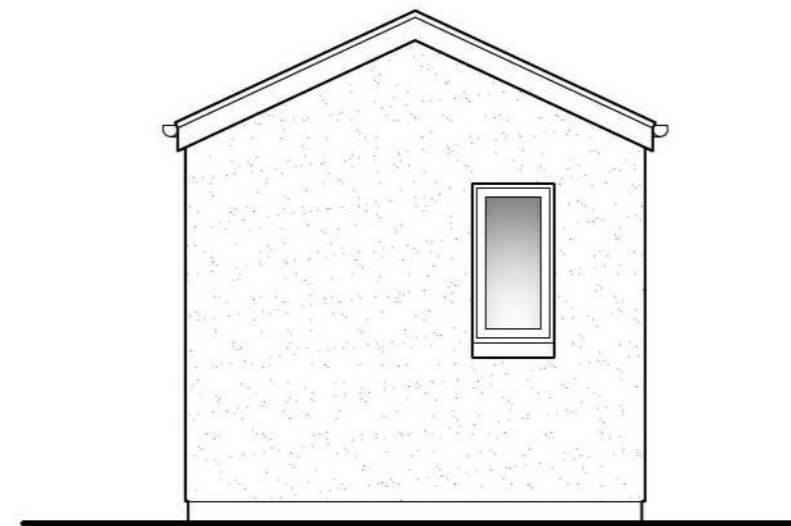
A: 317 Rona Place, Glenrothes, Fife, KY7 6RR
 T: 07925-372034 / 07925-130388
 E: enquiries@dx2consultancy.com
 W: www.dx2consultancy.com

Project Reference: 15-093-Generic	Scales: 1:50	Date: 01 May 16
Drawing Number: 16-15/093-046	Sheet size: A2	Drawn: d.v.
	Revision: -	Checked: d.d.g.

Refused

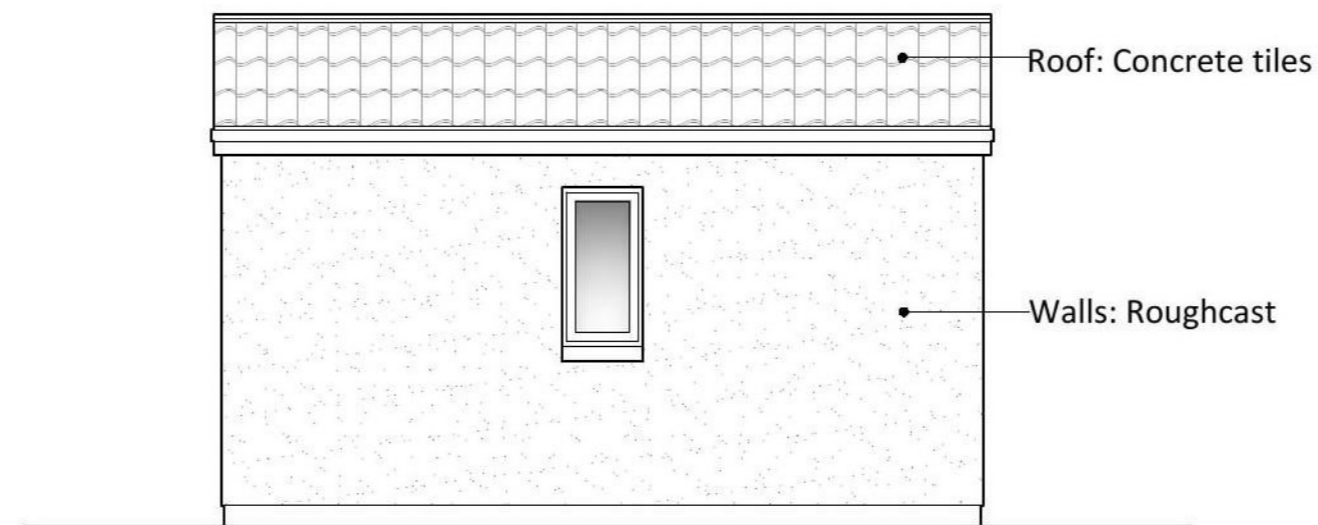


Front Elevation

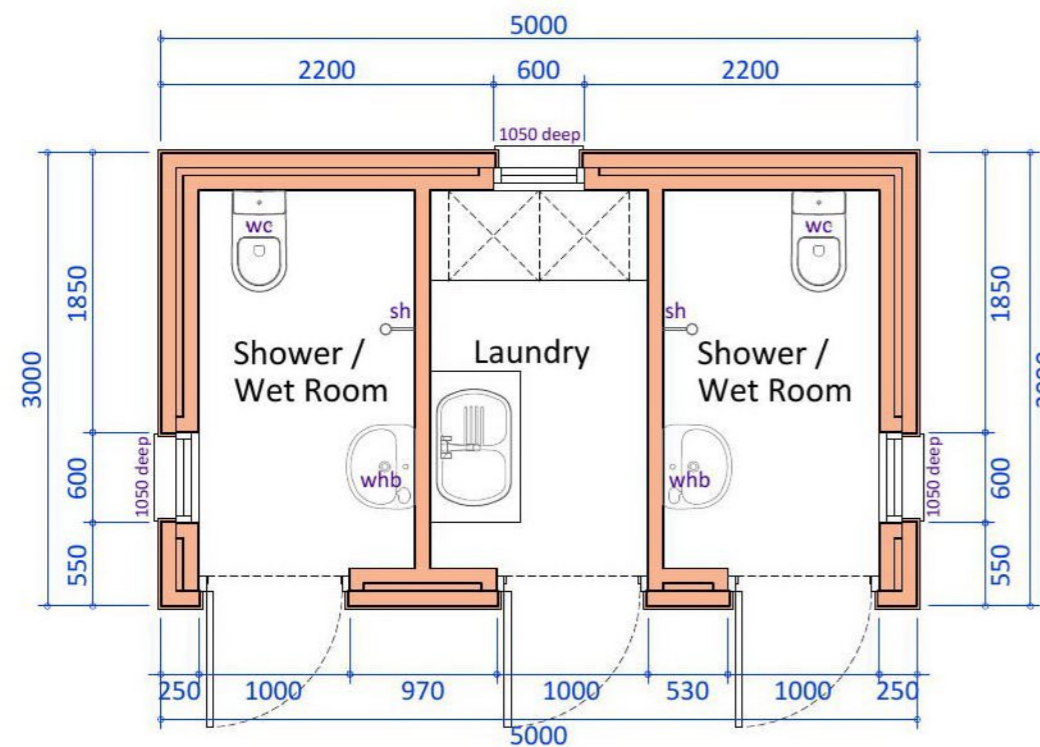


Side Elevation

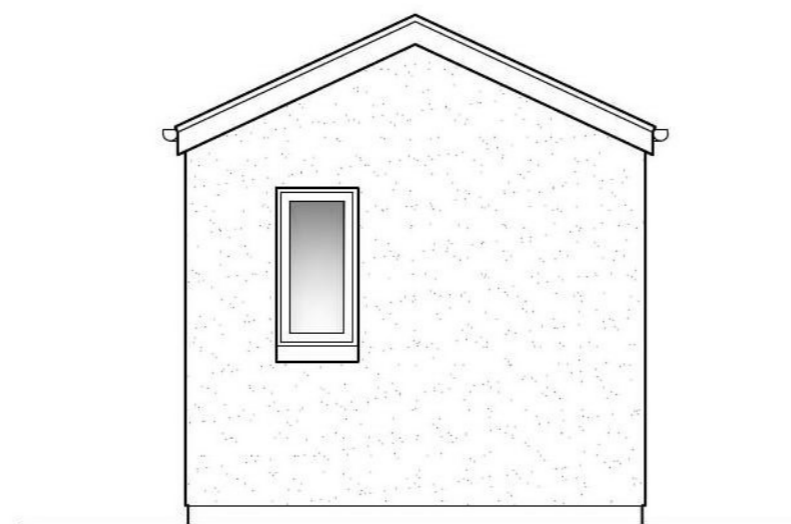
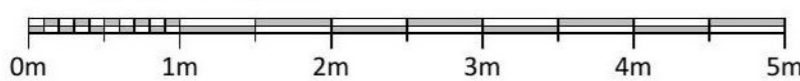
External finishes all to be agreed with the Planning Authority



Rear Elevation



Floor Plan



Side Elevation

Refused

General Notes:

- This drawing must be read in conjunction with all other drawings and specifications produced specifically for this project.
- Any discrepancies found are to be brought to the attention of the building designer and/or Engineer at the earliest possible moment.
- All dimensions given on this drawing are in millimetres, unless stated otherwise.
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- The Contractor shall be responsible for contacting the appointed Building Standards inspector as soon as works commence in order to establish the Local Authority's policy for carrying out inspections and witnessing the testing of drainage inspections. The Contractor is responsible for giving notice, arranging and carrying out the required inspections to the satisfaction of the the Local Authority. Work must not be covered over and concealed before the inspection takes place or the tests are witnessed.
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- In the absence of a levels survey, the Contractor shall refer any discrepancies to the building designer prior to the commencement of works on site.

Rev'n	Date	Description	By

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Project / Client:
Proposed Amenity Block

Drawing Title:
Floor Plan & Elevations

Architectural Services and
 Technical Construction Specialists

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 E: enquiries@dx2consultancy.com
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Project Reference: 15-093-Generic	Scales: 1:50	Date: 01 May 16
Drawing Number: 16-15/093-046	Sheet size: A2	Drawn: d.v.
	Revision: -	Checked: d.d.g.

Planning Policy & Design Statement

Applicant: Mr. John Townsley

Proposal: Change of use of vacant land to form a chalet/caravan pitch (principal chalet and two touring caravans), formation of hardstanding, erection of wall and fences and amenity block (in part retrospect)

at land 125M West of North Mains Croft,
Logie, Kirriemuir Angus

Date: 12 September 2016

Contents

1. Background	2
2. Gypsy/Traveller Community: Background	6
3. Planning Policy Background	8
4. Material Planning Considerations	28
5. Conclusions.....	34

1. Background

Introduction

This Statement is submitted in support of the planning application for a change of use of vacant land for use as one individual private permanent Gypsy Traveller pitches (one principal chalet and two touring caravans), erection of boundary wall and 1.8 metre high fencing, formation of hardstanding and car parking (in retrospective) on land to the west of North Mains Croft, Kirriemuir (the Site).

This Statement provides an assessment of the relevant background information, planning policies and other material considerations concluding that there is accordance with the Development Plan with material considerations adding significant weight to allow a grant of planning permission.

Planning Background

There are no previous planning applications associated with the Site. Following occupation of the land Angus Council served a Temporary Stop Notice and a Planning Contravention Notice (PCN) both dated 8 July 2016. A reply to the PCN was sent to the Council on the 26 July.

An Enforcement Notice, dated 19 August 2016, was served on the Mr Townsley (the Applicant). An Appeal has been lodged with the Division of Planning and Environmental Appeals against the Enforcement notice.

The Personal Circumstances of the Applicant

The Applicant has acquired the site and developed it, building a home for himself and his family in the absence of any suitable alternative. A living environment is being created as a private, permanent household for the family.

The Applicant is representing the interests of all of his family as occupiers of the site who are seeking to establish this site as their home. This planning application carries the full and unanimous support of all residents. The details of the residents are as follows:

Table 1: Site Occupation

Name	Age	Origins	Special Needs
Mr. John Townsley	46	Angus	None
Mr John Townsley Jnr.	20	Angus	None
Ms. Linda Isabella Townsley	28	Angus	None
Ms. Sharleen Townsley	24	Angus	None

The Applicant and his family has lived on the Site for approximately 3 months and have lived in the Angus area most of their lives. The Site offers an opportunity for four adults to settle in the Region from which they all originate, creating a home and a safe and secure base from which they can travel in accordance with their

culture. The Site also allows the Applicant and his children to settle close to his parents/grandparents who stay in Maryton.

In the past the Applicant and his family has occupied various sites in the Angus area. This includes the Thrums Caravan Park, Maryton (10 years), and periodically on a camp site off the A90 (near McDonalds takeaway/restaurant). When sites in Angus were unavailable the applicant had to travel outwith the Region including Alyth, Perth and Kinross (next to the golf course), Kinneff, Aberdeenshire and Piper Drive, Glenrothes, Fife.

The current situation in Angus is that there is a shortage of accommodation for Gypsy/Traveller. Unauthorised sites do not present a sustainable option. Mr Townsley chose the land at North Croft Mains in desperation following his experiences on the road and in other sites.

It is against this backdrop that the Applicant has bought the Site and developed it as his home. This convenient location allowed this Gypsy/Travelling family to retain their rights to privacy and enjoyment of their home. The Site meets the needs of this Gypsy Traveller family in the Angus area. The need and demand for accommodation in Angus is referred to in more detail below.

The Applicant is a well known businessman in the motor trade operating a successful company in Brechin. This is a family run enterprise with his two daughters and his son part of the workforce. The workplace will remain separate from his home with no work being undertaken from the Site.

Personal circumstances as a material consideration in the determination of the planning application are explained in more detail in Section 4 of this Statement.

Meeting the Need & Demand in Angus

At present there appears to be no Council document that provides a clear and comprehensive guidance as to how needs and demands of the Gypsy/Travelling community is to be addressed in the Angus area.

The Angus Council Local Housing Strategy 2012 – 2017 (the Strategy) does make some reference to the needs of Gypsy/Travellers. On page 24 it is stated that the Council will:

“ensure there is housing provision to meet the housing need of black and ethnic communities, including other minority groups such as gypsy travellers.”

With regard to need and existing provision the Strategy (page 29) states:

“Work to identify housing need of broader minority groups will also be required in the mid to long term. This includes Gypsy Travellers whose needs are sometimes complex and may require more carefully thought-out solutions than other social groups. We recognise for instance that the existing official traveller sites may not be adequate in size or location, so research will be undertaken to tease out how the situation could be improved.

The council continues to promote equality and diversity.”

Angus Council recognise the rights of the Gypsies/Travellers to practise a nomadic lifestyle, travelling and staying on short term sites and seeks to balance this with the needs of the settled community of Angus. The

Council states that it is seeking to promote a positive environment for good community relations and to prevent incidents of harassment.

A recent report entitled Draft Policy and Procedure for Unauthorised Encampments of Gypsy/Travellers (the Report) was considered by Angus Council and is soon to be adopted as Policy. However, the **purpose** of this document is:

“This document aims to give clear direction of the policy of Angus Council regarding unauthorised encampments of Gypsies/Travellers in Angus and the procedures to be followed by staff when responding to reports of these encampments. Highlighted will be the need for a clear policy and for procedural guidelines, the parties involved in this process and will clarify the different situations against which the policy and procedures will be applied.”

The Report recognises that Angus has always been a popular destination for Gypsies/Travellers, with certain unauthorised areas being regularly populated by encampments. It has been identified that the Council requires a clear and defined procedure which it can follow, along with its partners, to provide what it considers to be a consistent and fair course of action in dealing with unauthorised encampments. However, the efforts associated with unauthorised encampments are not mirrored by the identification of suitable accommodation. In addition, the procedures set out in the Report have not been followed as they relate to this site (see Enforcement Appeal Statement).

There are short stay sites available to Gypsy/Travellers within the Angus area. These are at St Christopher's Caravan Site in Tayock by Montrose managed by Angus Council; and Balmuir Wood, outwith the Angus administrative area managed by Dundee City Council. Tealing is another site available, located in Angus and operated by Dundee City Council. However, both Tealing and Balmuir do not have wardens and remain unpopular with the Gypsy/Travelling community. A conference held in August this year, to discuss Gypsy/Traveller issues, noted the complaints about Balmuir in particular in addition it is understood that Tealing is facing closure. Both these sites remain largely unoccupied whereas the properly managed and attractive St Christopher's site remains fully occupied with little prospect of accommodation in the future.

There remains an unmet demand in the Angus Council administrative area with no clear strategy for site provision to meet need. With the public sector experiencing financial difficulties a more innovative and proactive approach is required – a private/public partnership between the Gypsy/Travelling community and the Local Authority.

This Statement sets out a reasoned justification to prove that the retrospective development is in accordance with national and Development Plan policy with other material considerations including the personal circumstances of the Applicant adding weight to the case for the grant of planning permission.

The Site

The Site, which extends to 1350 sq. metres, lies on the south western edge of Kirriemuir. It is bounded by land owned by the Applicant to the north; residential properties to the east; agricultural land to the west; and a farm/equestrian use and agricultural land to the south.

Access to the site is gained via North Croft Mains then a private road which currently serves three residential properties and the farm. This is of a suitable width and alignment for all vehicle types including refuse and emergency vehicles.

The town's facilities are located close by with safe and convenient access available by foot, cycle and car. Public transport runs through Kirriemuir.

The photographs accompanying the planning application illustrate the site and surrounding area and the access. The location is illustrated in **Appendix 1**.

The Site Design and Layout

Gypsy and Traveller sites are designed to provide land for households (family members), which are suitable for caravans/chalets, together with space for parking and other amenities. Sites of various sizes, layouts and pitch numbers operate successfully throughout Scotland today. These sites work best when they take account of the needs and demographics of the families' proposing to reside on them. The Site at Kirriemuir is no exception.

The Site was formerly in market garden use. Polytunnels once occupied the Site. The Applicant inherited an unkempt area of ground which was not in any productive use. It is submitted that the abandonment of the former market garden use on site resulted in a vacant parcel of land which, for the purposes of this planning case can be defined as rural brownfield land. The work associated with the development adds substance to this claim.

The reclamation of the Site required the Applicant to strip off all the overgrowth, and the understorey of vegetation which produced large volumes of green waste liberally interspersed with a variety of debris. The Applicant separated the waste and disposed of it to landfill. The land was 'riddled', to separate out some of the sticks, stones and other sundry material to make a safe environment with the intention to grass and plant a mixed native species on top of the bund and ancillary land. This land has already been "greened".

Following this work a topographical survey was commissioned to map the site. The survey plan submitted with the planning application illustrates the current levels and development layout on the Site.

Thereafter, a properly managed build began. Drains were installed, as was a water supply, with hardstanding (Type 1) creating parking, maneuvering and access. Service connection to electricity is to be made at a later date.

All this work allowed the siting of a principal chalet, two touring caravans with associated car parking, turning and storage with an amenity block (toilets and laundry room) to be built all forming a suitable living environment. A block built feature wall with dry dash render finish (see photos) was erected on the south side of the Site with fencing along the north and east side of the pitch completing this retrospective development.

The Applicant will occupy the principal chalet. One touring caravans will be occupied by the daughter with the second one occupied by the other male members of the family. These living arrangements accord with the Gypsy/Traveller way of life.

The pitch size easily accords with the Scottish Government recommended space standards for such developments. The Site has been reclaimed by the Applicant and turned into an attractive site for the Townsley family. With ease of access from North Mains Croft and then via the private access track, a safe and secure home is being provided for this Gypsy/Traveller family. The remainder of the land in the Applicants ownership is to remain unoccupied.

2. Gypsy/Traveller Community: Background

Legislation

Article 25.1 of the Universal Declaration of Human Rights recognises the right to adequate housing as integral to the right to an adequate standard of living. Housing rights are enshrined in international treaties signed and ratified by the UK and therefore applicable in Scotland, including the International Covenant on Economic, Social and Cultural Rights (ratified in 1976).

From October 2010, the Equalities Act brought together different equality laws. The Equality Act covers discrimination for nine 'protected characteristics' - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is an equality issue to be addressed in this case which is analysed in more detail throughout this Statement.

Gypsy/Travellers are one of the most marginalised and vulnerable groups in society. Longstanding difficulties in the provision of private and public sites have resulted in not only the number of unauthorised encampments increasing throughout Scotland, but the marginalisation of these communities and a breakdown in relations between settled and Travelling communities.

Under the Homelessness (Scotland) Act 2003, a person is homeless if he/she has accommodation but it consists of a moveable structure, vehicle or vessel designed or adapted for human habitation; and there is no place where he/she is entitled or permitted both to place it and to reside in it. Although some Gypsy/ Travellers live in houses out-with the travelling season, for many their only accommodation all year round is a caravan. They are therefore deemed homeless if they have nowhere official to site and thereafter reside in their caravan.

Prior to the development of the Site the family stayed in various locations (see above) predominantly in the Angus area. With the need to find a permanent site and the lack of suitable sites the Townsley family were in effect homeless. In their desperation they have set up home on the Application Site.

Limitations in dealing with unauthorised encampments

In terms of Section 3 of the Trespass (Scotland) Act 1865 lodging in any premises or occupying or encampment on any land, being private property without the consent and permission from the owner or land owner of such premises is an offence. In 2001, the then Lord Advocate issued guidance to prosecutors that there should be a presumption against the prosecution of Gypsy/Travellers for unauthorised encampments in terms of Section 1 of the Trespass (Scotland) Act 1865. However, the presumption may be overridden by other public interest considerations in favour of prosecution. Examples of this are that a suitable alternative stopping place has been identified; and/or the Gypsy/Travellers have refused to relocate within a reasonable time frame; and/or the encampment is causing a road safety or public health hazard.

Currently there is no indication from the Lord Advocate that the position of presumption of non-prosecution will change. As a result, local settled communities can get frustrated over what is perceived as a lack of action by the police when dealing with unauthorised encampments.

The regular use of unauthorised stopping places is the source of issues between the settled and Travelling communities. If unauthorised sites continue to be an issue in the Angus area, as has been proven through past actions (publication of Policy and Procedure), it is reasonable to expect that issues surrounding unauthorised encampments in the Angus area will continue and will need to be managed on a regular basis with consequent resource implications for the Council.

This Planning Application seeks to address the unauthorised nature of the Site through the grant of planning permission.

The Positive Impact of Site Provision

Management and control of site provision has been proven to improve standards and conditions for all stakeholders. Well-managed, authorised Gypsy/Traveller sites will not only help meet the accommodation needs of the Travelling community but will help reduce tensions between the settled and Gypsy/Travellers.

There are positive benefits created by the provision of authorised sites. The Site owned by the Applicant is no exception. This includes the ability to maintain the family's links with community facilities, health services and sources of business. The Site presents an opportunity to create positive links with the settled community in Kirriemuir, to share cultures and to acknowledge diversity. Approval of this site is one step toward resolving the Council's accommodation needs for Gypsy/Travellers at no cost to the public purse.

3. Planning Policy

Introduction

There is and continues to be changing economic, social and environmental circumstances with regard to the provision of Gypsy/Traveller sites in Scotland. This has the effect of influencing the decisions that need to be made by the Gypsy/Travelling community in relation to private sites. In the absence of positive action by Local Authorities to provide for this ethnic minority group, Gypsy/Travellers are purchasing land and looking to develop private sites to establish a home dictated by personal circumstances and a lack of suitable site.

The status of the Site to the south west of Kirriemuir, as it relates to planning policy, is that it lies within The West Angus Housing Market Area in countryside situated outwith the settlement boundary of Kirriemuir. The terms of national policy and Development Plan policy provide justification for this special needs housing.

Scottish Planning Policy July 2014 (SPP)

Scottish Planning Policy June 2014 (SPP) encourages rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality.

On the issue of sustainable development the Government guidance states:

“The SPP sets out how this should be delivered on the ground. By locating the right development in the right place, planning can provide opportunities for people to make sustainable choices and improve their quality of life. Well-planned places promote well being, a sense of identity and pride, and greater opportunities for social interaction. Planning therefore has an important role in promoting strong, resilient and inclusive communities.” (Paragraph 15 SPP)

The policy principles state:

“This SPP introduces a presumption in favour of development that contributes to sustainable development.” (Page 9 SPP).

SPP also provides that:

“The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.” (Paragraph 28 SPP).

In addition, the aim of the SPP is to ensure that development and changes in land use occur in suitable as well as sustainable locations. The planning system must also provide protection from inappropriate development. SPP's primary objectives are:

- to set the land use framework for promoting sustainable economic development;
- to encourage and support regeneration; and
- to maintain and enhance the quality of the natural heritage and built environment.

National guidance recognises that planning policies and decisions should not prevent or inhibit development unless there are sound reasons for doing so. The planning system guides the future development and use of land in cities, towns and rural areas in the long term public interest. The goal is a prosperous and socially just Scotland with a strong economy, homes, jobs and a good living environment for everyone. It is recognised that proposed development and other issues are not always mutually exclusive objectives. The aim in this case is to resolve conflicts between the objectives set out above and to manage change for this family.

The Scottish Planning Policy (SPP) 2014 makes reference to Specialist Housing Provision and Other Specific Needs and specifically to Gypsy Travellers. SPP states:

“HONDA’s [Housing Needs and Demands Assessment’s] will also evidence need for sites for Gypsy/Travellers and Travelling Showpeople. Development plans and local housing strategies should address any need identified, taking into account their mobile lifestyles. In city regions, the strategic development plan should have a role in addressing cross-boundary considerations. If there is a need, local development plans should identify suitable sites for these communities. They should also consider whether policies are required for small privately owned sites for Gypsy/Travellers, and for handling applications for permanent sites for Travelling Showpeople (where account should be taken of the need for storage and maintenance of equipment as well as accommodation). These communities should be appropriately involved in identifying sites for their use.” (SPP paragraph 133)

Assessment: The application site provides a suitable and sustainable solution to the housing needs of the Townsley family. The assessment of Development Plan policy will prove that the site meets a social need for this Gypsy/Travelling family at a suitable location by providing special needs housing on the Site. The development will create a suitable living environment on this former rural brownfield site without detriment to natural heritage and/or countryside resources avoiding landscape impact; and at no cost to the public purse. It accords with the “triple bottom line” of sustainability (social, environmental and economic factors) all in accordance with SPP.

Angus Council Development Plan Policy

Introduction

The Angus Council Development Plan is in a transition period with the policy approach as contained in the Angus Local Plan Review 2009 (LPR) being transferred to the emerging policies in the Local Development Plan (LDP). At the time of writing this report the adopted Plan was the LPR. The Scottish Ministers had written to the Council advising that they will not hold up the adoption process for the LDP. The Full Council of Angus is required to approve the LDP. Following discussion with Council officers it was agreed that for the purposes of this Statement both sets of relevant policies should be assessed against the proposed development, for the avoidance of doubt.

The following policies are considered applicable in the assessment of this retrospective proposal.

The Angus Council Local Plan Review 2009 (LPR)

This document recognises that one of the key elements to building sustainable communities is providing a mix and range of housing developments to meet the needs and aspirations of all sectors of the community.

This includes the needs of Gypsy/Travellers. To reflect this requirement there is a specific policy dedicated to this ethnic minority group.

The Vision of the Council for everyone is:

*“Angus will be a place where first class quality of life **for all** can be enjoyed in vibrant towns and pleasant villages set in attractive and productive countryside.”*

Part of the Development Strategy provides to:

- Maintain and protect the diversity and quality of the rural area and encourage local development which supports the population and services of local communities;
- Support the protection and enhancement of the countryside; and
- Maintain the quality of valued landscapes; the natural, built and historic environment; and biodiversity.

The Development Priorities for Kirriemuir provide a further commitment to housing for everyone stating a need:

*“To consolidate the role of Kirriemuir the Local Plan identifies sites to **provide for local housing and employment needs**. Proposals that sustain and enhance Kirriemuir as a local service centre, complement its tourist role as a “Gateway to the Glens” and maintain its character and heritage will also be supported.”*

The relevant Policies of the LPR are now listed with an assessment against the proposed development provided for each.

Gypsy/Traveller Sites

Reference is made to the study commissioned jointly between Communities Scotland, Angus Council, Dundee City Council and Perth and Kinross Council – An Assessment of the Housing Needs and Aspirations of Gypsies/Travellers in Tayside (2003). The report found that some sites which were originally temporary have become permanent, and some private sites are no longer available to Gypsies and Travellers and so there is a need to provide more transit spaces.

The Angus Local Housing Strategy seeks to address the accommodation needs of Gypsies and Travellers through direct liaison with these groups, the provision of additional spaces where necessary and access to housing. There do exist local authority sites at Tayock, Montrose, and Balmuir, Tealing (see Section 1 above). The privately run site at Maryton, Kirriemuir where the Applicants used to stay has been closed.

Policy SC13 (Sites for Gypsies/Travellers) provides that Angus Council will support existing sites and consider the development of new sites for Gypsies/Travellers where they satisfy an identified local demand and meet the following criteria:

1. are compatible with surrounding land uses;
2. provide a good residential environment for the people living there, including the provision of public utilities for each pitch or in amenity blocks as appropriate; and
3. are well located for access to the local road network.

The Local Plan complements the aims set out in the Dundee and Angus Structure Plan for the sustainable management of the Council's environmental resources by giving priority to:

- protecting and enhancing wildlife habitats identified as being of international, national or local importance;
- protecting and enhancing the biodiversity of Angus;
- conserving and enhancing important landscapes and landscape features and ensuring that new development is sympathetic to landscape character;
- protecting and enhancing the quality of the built and historic environment and ensuring that development proposals respect local characteristics;
- promoting the sustainable use of water resources and ensuring that new development does not exacerbate any flood risk;
- promoting the integrated management of the coastal area and minimising unnecessary coastal development;
- guiding proposals for renewable energy;
- safeguarding good quality agricultural land from inappropriate and irreversible development;
- providing a framework for the selection of sites for mineral extraction, landfill and land raise developments to minimise environmental damage to landscape, heritage and environmental assets.

Assessment: The proposed use on site (residential) is compatible with the surrounding development i.e. three residential properties and it does so without any detrimental effect on the biodiversity of Angus. The retention of the existing tree belts assists in the preservation of biodiversity and reducing any perceived landscape impact. As is demonstrated elsewhere in this Statement tree belts are a characteristic of the Broad Lowland Valley Landscape Character Zone. The character of this area is preserved. There are no effects on the built heritage and flooding is not an issue in this case. The issue of safeguarding countryside resources is addressed later in this Statement with the conclusion that there is a negligible impact due to the scale nature, location and temporary use of the development.

There is a misconception that use of land for Gypsy/Travellers sites by their definition can be incompatible in land use terms. This preconceived ideology is clarified in case law.

The appeal decision issued by the Directorate of Planning and Environmental Appeals (reference: PPA-340-2093) for the Formation Of Permanent Gypsy/Traveller Site And Associated Works in Part Retrospective at Mawcarse, Kinross provides guidance on the likely impact of Gypsy/Traveller developments on residential amenity. The Reporter at Paragraphs 11 and 12 of the decision, when referring to criteria of Policy RD5B of the Perth and Kinross Local Development Plan states:

“The third criterion requires that the use of the site must be environmentally compatible with, and not negatively affect or be affected by neighbouring land uses. The appellants own and use the adjoining stables, so there is no incompatibility with that use.

The nearest other residential properties are in Mawcarse, a small settlement of some 25 or so houses spread out along the B919 road. All these houses are of modern construction. The nearest is about 130 metres away from the site and I have concluded above that the caravans would not have a significant visual impact on the existing houses in Mawcarse. If the houses with planning permission are built, they will be significantly closer. However, I do not consider that the two caravans would

have a significant visual impact on them; and any such impact can be reduced over time by additional screen planting. Some reference has been made to the possible lifestyle and activities of the occupants of the caravans. I do not consider that to be relevant to my consideration of this development, which is for the provision of residential accommodation, in the context of the needs of Gypsies/Travellers. Overall, there is no evidence before me to suggest that this development would have an adverse impact on the amenity of existing residents of the area. I therefore conclude that the third criterion is met.”

The Perthshire case serves to determine that the lifestyle and activities have been determined as irrelevant as a material planning consideration. In this case there are residential properties in close proximity to the site as illustrated on the location plan. With the relatively small scale of the Site development (1 pitch); the erection of a feature wall; and landscape screening already existing (mature trees); then it is concluded that any impact on the amenity of residents (existing and proposed) and on the environment would be negligible.

Taking into consideration all the aforementioned and the comments under Local Development Plan Policy TC6 below, it is concluded that the proposed development is compliant with Policy SC13.

Development Boundaries

Policy S1: Development Boundaries provides that:

- (a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.
- (b) Development proposals on sites outwith development boundaries (i.e. in the countryside) will generally be supported where they are of a scale and nature appropriate to the location and where they are in accordance with the relevant policies of the Local Plan.
- (c) Development proposals on sites contiguous with a development boundary will only be acceptable where there is a proven public interest and social, economic or environmental considerations confirm there is an overriding need for the development which cannot be met within the development boundary.

Assessment: Criterion (b) and (c) are applicable to the proposed development which is of a scale and nature appropriate for this countryside location. The Site meets an overriding need for the Gypsy/Travelling community and in particular this family. It is a response to the demand for suitable sites. The response by the Applicant has resulted in a development which (as is demonstrated throughout this Statement) is in accordance with other relevant policies of the Development Plan (LPR and emerging policy in the Local Development Plan), and most importantly the Policy related to the Gypsy/Travelling community (SC13).

The assessment of the relevant policies below allow a conclusion to be reached that the proposed development is in accordance with Policy S1.

Accessible Development

A key element in the creation of sustainable communities is how well new development is integrated with the existing form of development and transport networks.

The LPR requires that the design and layout of new development should, ensure that accessibility for

walking, cycling and public transport; including access for people with mobility difficulties has been properly addressed. Opportunities to enhance path networks for walking and cycling and the provision of public transport links should be maximised.

Policy S2: Accessible Development provides that:

Development proposals will require to demonstrate, according to scale, type and location, that they:

- Are or can be made accessible to the existing or proposed public transport networks and make provision for suitably located public transport infrastructure such as bus stops, shelters, lay-bys, turning areas which minimise walking distances and allow easy access for the mobility impaired.
- Provide and/or enhance paths for walking and cycling which are safe, provide pleasant routes, are suitable for use by the mobility impaired, and link existing and proposed path networks.
- Are located where there is adequate local road network capacity or where capacity can be made available.

Assessment: The Site has ease of access by road, on foot and/or on cycle via the private access track and North Mains Croft to Kirriemuir and elsewhere. The town of Kirriemuir has a good public transport service (bus).

The proposed development accords with the terms of Policy S2 of the LPR.

Design Quality

The LPR requires new development to add to or improve the local environment and should consider the potential to use innovative, sustainable and energy efficient solutions. A well-designed development is of benefit to the wider community and also provides opportunities to:

- create a sense of place which recognises local distinctiveness and fits in to the local area;
- create high quality development which adds to or improves the local environment and is flexible and adaptable to changing lifestyles;
- create developments which benefit local biodiversity; and
- create energy efficient developments that make good use of land and finite resources.

Policy S3: Design Quality provides that:

A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:

- site location and how the development fits with the local landscape character and pattern of development;
- proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;

-
- use of materials, textures and colours that are sensitive to the surrounding area; and
 - the incorporation of key views into and out of the development.

Innovative and experimental designs will be encouraged in appropriate locations.

Assessment: The space standards associated with the development of sites for Gypsy/Travellers has been described in this Statement. The Site accords with the requirements. The low level and spacious development fits in well with the local landscape character (see assessment of policies related to Landscape below) and its use (residential) is compatible with the neighbourhood within which it is located. There are views out of the site and limited views into the site except at distance from the south and those passing the Site.

Taking all the above into consideration there is accordance with Policy S3.

Environmental Protection

Policy S4: Environmental Protection provides that:

Where development proposals raise issues under environmental protection regimes, developers will require to demonstrate that any environmental protection matter relating to the site or the development has been fully evaluated. This will be considered alongside planning matters to ensure the proposal would not unacceptably affect the amenity of the neighbourhood.

Policy S6: Development Principles provides that:

Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.

Throughout this Statement the proposed development on the Site is assessed against the design principles (Schedule 1) which are contained in this Statement at **Appendix 2**.

Angus Council is also committed to the principles of sustainability. In relation to the proposed development it is stated in the LPR that **priority** will be given to:

Providing a mix and range of housing developments to meet the needs and aspirations of all sectors of the community; and

Ensuring development makes a contribution towards protection of the environment, resource management, reducing pollution, and developing energy efficiency.

The LPR recognises that housing is a significant land use and as such can have a major impact on the character of an area. In promoting a sustainable approach to development in Angus, the LPR seeks to provide opportunities for more people to gain access to housing which meets their needs and to encourage the creation of a variety of high quality housing developments whether it is a single house in the countryside or urban development on a larger scale.

The LPR makes reference to the outdated SPP3 which states:

“SPP3: Planning for Housing (2003) states that planning authorities should continue to play a role through development plans, by identifying suitable locations for Gypsies/Traveller’s sites where need is

demonstrated, and setting out policies for dealing with applications for small privately owned sites.”

The LPR recognises that one of the key elements to building sustainable communities is providing a mix and range of housing developments to meet the needs and aspirations of all sectors of the community. This includes the needs of Gypsy/Travellers and to reflect this requirement there is a specific policy dedicated to this ethnic minority group.

Assessment: There is a need to provide housing for the Gypsy/Travelling community as part of creating sustainable communities. The proposed development is in accordance with the principles set out in Appendix 2 by reason of the scale, design, layout and finish of the Site with a negligible impact on the landscape with no impact on important countryside resources. The Site is accessible with links to community facilities and has the ability to be drained and have connection to utility services. A suitable living environment is created with no detriment to amenity (residential and visual). Assessment of the proposed development against other specific environmental planning polices provide further justification.

Environment and Resources

Protecting and enhancing the environmental assets and built and historic heritage of Angus is central to the Council’s approach to the sustainable development and the use of the areas finite and non-renewable resources.

Assessment: The Site does not affect any Natura 2000, Ramsar Sites, National Nature Reserves, Sites of Special Scientific Interest, Regional or Local designations nor does it affect wider Natural, Built Heritage and/or Biodiversity resources. The development does not contravene Policies ER1, ER2, ER3 and ER4 of the LPR.

Landscape

In seeking to conserve the landscape character of the area the Council consider it important to assess the impact of development proposals on all parts of the landscape. To assist in assessing impacts “Tayside Landscape Character Assessment (1999)”, which was commissioned by Scottish Natural Heritage, establishes Landscape Character Zones (LCZ) and key character features within the LPR area. This provides a better understanding of landscape features to enable a better conservation, restoration, management and enhancement strategy. The Site lies within the Broad Valley Lowland Landscape Character Zone.

Policy ER5: Conservation of Landscape Character provides that development proposals should take account of the guidance provided by the Tayside Landscape Character Assessment and where appropriate will be considered against the following criteria:

- (a) sites selected should be capable of absorbing the proposed development to ensure that it fits into the landscape;
- (b) where required, landscape mitigation measures should be in character with, or enhance, the existing landscape setting;
- (c) new buildings/structures should respect the pattern, scale, siting, form, design, colour and density of existing development; and
- (d) priority should be given to locating new development in towns, villages or building groups in preference to

isolated development.

Assessment: The Broad Valley Lowland LCZ is characterised by the decline of hedgerows and incremental loss of tree lines is diluting the strong character of these pattern/space-defining elements. The distinctive arable landscape, the steep western slopes of the Lomond Hills and remaining hedgerow trees make an important contribution to landscape character.

Kirriemuir lies in the Strathmore district and it is this area that the distinctive character of the landscape is most evident. From a distance, the area appears as a very broad, flat-bottomed valley enclosed by the Highland Foothills to the north and the rising sweep of the Sidlaws' north-facing dip slope to the south. Where estate planting survives the Strathmore landscape is rich and textured and particularly colourful during spring and autumn.

Where the trees have been lost, it is an open and expansive landscape of rectangular fields punctuated with a scatter of large farmsteads. The landscape of the Strathmore contrasts strongly with neighbouring areas of upland, particularly where the woodland structure has survived.

The principal types of change that have affected this landscape type in the recent past or which are likely to affect it in the future are:

- agriculture, reflecting the dominance of this land use in this LCZ;
- transport; and
- development concentrated in the existing settlements with development outside these settlements comparatively limited and confined to farmsteads and a scatter of agricultural dwellings.

Guidelines for new development include:

- Encouraging new development to reinforce the existing settlement pattern, focused on market towns and smaller villages.
- New residential development should respond to the morphology of existing settlements (e.g. nucleated market settlements, grid-iron 19th century new villages). Explore the need and scope for a small number of new villages, echoing those established in the 19th century.
- Encouraging developers to use local building materials and to adopt local vernacular in respect of density, massing, design, colour and location. There are local variations which reflect subtle changes in the character of the local geology and there is a need to avoid standard designs and layouts.

Assessment: The proposed development avoids any detrimental impact on the landscape through the retention of the tree belts along the northern, eastern and western boundaries. These mature conifers mitigate any perceived impact which the development may have had and allow an integration into the landscape. In addition, the low level structures (caravans, chalet and proposed amenity block) are sympathetic to the LPZ forming a small cluster of development. The Site is seen at distance from the south (open farmland) and passers-by using the private road. The use of materials in the wall and fences are in keeping with this cluster of development nearby.

The Site also responds to the morphology of the existing built form as a natural extension to the row

of residential properties. The open farmland beyond the tree belt to the west contrasts with the enclosed nature of the Site, which is a defensible barrier to further development.

It is submitted that there is compliance with Policy ER5 of the LPR.

Trees on Development Sites

The importance of trees and treelines on development sites should not be underestimated. The LPR recognises that they can make a substantial contribution towards the overall amenity and integration of new development into the environment and the layout of development proposals should, wherever possible, accommodate trees and treelines worthy of retention.

Policy ER7: Trees on Development Sites provides that planning applications for development proposals affecting sites where existing trees and hedges occur and are considered by Angus Council to be of particular importance will normally be required to:

- (a) provide a full tree survey in order to identify the condition of those trees on site;
- (b) where possible retain, protect and incorporate existing trees, hedges, and treelines within the design and layout;
- (c) include appropriate new woodland and or tree planting within the development proposals to create diversity and additional screening, including preserving existing treelines, planting hedgerow trees or gapping up/ enhancing existing treelines.

Assessment: The Applicant has protected and retained all the dense mature conifer tree lines along the Site boundaries in recognition of;

- their contribution they make to the landscape setting of the area generally; and
- their value to privacy and amenity in the context of the proposed development.

There is compliance with Policy ER7 of the LPR.

The Water Environment

The LPR seeks to ensure that development activity does not lead to a deterioration of the quality and status of the water resource in Angus. The following Policies are applicable in this case.

Policy ER23: Private Drainage Systems Development provides that proposals requiring the private provision of wastewater treatment plant, biodiscs, septic tanks or similar arrangements will only be acceptable where:

- (a) the site is located outwith the public sewerage network;
- (b) the proposed development is in accord with the development strategy and other relevant policies of the Local Plan;
- (c) there is no detrimental effect to a potable water supply, or supply for animals or an environmentally sensitive water course or loch, including ground and surface waters; and
- (d) the requirements of SEPA and/or The Building Standards (Scotland) Regulations 1990, as amended, are

met in relation to installation, e.g. proximity to other buildings.

Policy ER24: Surface Water Disposal provides that Sustainable Urban Drainage Systems (SUDS) are preferred in dealing with surface water drainage from all new development. In considering development proposals Angus Council will consult and liaise closely with SEPA, Scottish Water and developers in order to ensure that appropriate methods of surface water runoff collection, treatment, decontamination and disposal are implemented to minimise the risk of flooding and the pollution of water courses, lochs and ground water. Proposals that adopt ecological solutions to surface water management which promote local biodiversity by the formation of ponds and/or wetlands for example, and create or improve habitats will also be encouraged.

Assessment: The Site has a connection to the public drainage network and public water supply. The temporary nature of the surfacing and soils beneath provide excellent permeability and a natural SUDS scheme. The proposed development accords with Policies ER23 and ER24.

Agricultural Land

Current national policy seeks to protect prime quality agricultural land from inappropriate and irreversible development. It is estimated that Angus has around 9.6% of this national resource, predominantly located in the lowland area along Strathmore and the coastal strip between Carnoustie and Arbroath. As the Local Plan strategy seeks to accommodate development in and around the main towns, it accepts that it is inevitable that some prime quality land will be required for development.

Policy ER30: Agricultural Land provides that proposals for development that would result in the permanent loss of prime quality agricultural land and/or have a detrimental effect on the viability of farming units will only normally be permitted where the land is allocated by this Local Plan or considered essential for implementation of the Local Plan strategy.

Assessment: The proposed development is a change of use of land whereby structures (chalet, caravans), boundary treatment and surfacing are of a temporary nature. The land can be returned to its original use through removal of the development and spreading soils on the land.

The planning application considered by Angus Council (reference 15/00135/FULL) provides justification. The report considered by the Development Standards Committee (dated 15 August 2015) states:

“As noted the caravans are temporary in nature and do not have any impact on the fabric or setting of the listed structure. There would be no permanent loss of prime agricultural land because this is a temporary proposal which would assist the operational efficiency of the farm unit.”

The previous use of the Site was unrelated to an agricultural unit and therefore its use does not affect viability of any business in the rural economy.

The proposed development by reason of its scale and temporary nature complies with the terms of Policy ER30. It was and is in private ownership and unrelated to any farm unit. The abandonment of the previous use (market garden) left the site in an unkempt state.

Angus Council Local Development Plan (LDP)

The emerging policies of the Angus Council are contained within the LDP. The Policy Matrix contained in this document guides developers and applicants to the policies which are relevant to their development proposal. The guidance has been used in this case.

Development Strategy

Rural Angus is not a single homogenous area, varying significantly in character, land use, population levels and availability of and access to a range of services and facilities. The LDP aims to maintain this diversity by supporting new development in appropriate locations and by encouraging people to live and work in rural communities.

The Local Housing Strategy seeks to address the accommodation needs of Gypsy/Travellers through direct liaison with these groups, provision of additional spaces and where appropriate access to housing.

The LDP Policy Framework, Part 1, Thriving & Connected contains the most relevant policy related to Gypsy/Travellers.

It is confirmed that the Council's LHS seeks to address the accommodation needs of Gypsy/Travellers through direct liaison with these groups, provision of additional spaces and where appropriate access to housing.

While the ALDP does not identify areas of search or allocate specific sites the policy is intended to establish a framework for assessing proposals to establish new, or extend existing sites.

Policy TC6 Gypsies and Travellers and Travelling Showpeople provides that Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites (publicly or **privately owned** and managed). Existing authorised Gypsies and Travellers and Travelling Showpeople sites will be protected and there will be a presumption against their redevelopment or conversion to other uses unless it can be demonstrated to the satisfaction of Angus Council that there is a surplus of accommodation to meet identified needs. Proposals for new or extended permanent sites and temporary "short stay" sites for Gypsies and Travellers will only be supported where:

- the site will contribute to satisfying a local need identified in the Local Housing Strategy and is consistent with Angus Council's strategy for meeting the accommodation needs of these client groups;
- the development is designed and located to minimise adverse effects on the landscape, established amenity, character and built or natural heritage interests of the surrounding area;
- the proposed site will provide a good residential amenity for residents and has adequate access to community, education and health services and facilities; and
- the proposed development would not set a precedent or open up other areas for similar development.

Assessment:

The needs of the Gypsy/Travelling community have been clearly set out in this Statement. There is a lack of suitable accommodation and there are no known plans to find sites for this ethnic minority in

a Region of Scotland which is popular with the Travelling community. The grant of planning permission will serve to meet need in accordance with the LHS.

Gypsy/Traveller appeal cases create significant material considerations in the determination of similar planning applications. The appeal decision (Reference: PPA-300-2022) on land at Doohill, Easter Coxton, Elgin IV30 8QS (dated 8 May 2013) made reference to relevant planning policy and their relevance in the context of demand and need. When assessing the development the Reporter had to determine whether the proposal represents an acceptable form of development in the countryside.

The Reporters conclusions on conformity with the Development Plan stated (at paragraphs 15 and 16):

“I find overall that, as the proposal fails to comply with development plan policy on development in the countryside, it is not in accord with the development plan. That said, I have found there to be no unacceptably adverse impact on the character and amenity of the countryside, or on the residential amenity of nearby residents.

Before moving on to consider other material considerations, there remains one further provision of the development plan which, for the sake of completeness, ought to be mentioned here. Policy H12: Travelling Persons Sites of the local plan, states that “The council acknowledges the needs of travelling people are taken into account, and will identify sites. These sites will be considered in the context of the applicable policies in the Plan.

Despite the local plan having been adopted in 2008, the council concedes that it has, some 5 years later, failed to identify such sites. Nor has it set out how private proposals for such sites are to be assessed, although it advises that work is now underway in framing such guidance. I shall consider the implications of this matter below.”

The Reporter, in his decision letter, had made specific reference to the demand and need in the Morayshire administrative area and the Council’s lack of success in finding sites. The Reporter at paragraph 23 states:

“I cannot escape the conclusion that the appellants have been seriously disadvantaged by the council’s failure either to identify suitable sites, which it is required to do by local plan policy, or to establish a substantive policy framework for the assessment of proposals such as this one. Drawing all of these considerations together, I find there to be a very persuasive case for concluding that the appellants’ need for the proposed development outweighs the conflict with development plan policy and the quite limited harm to the countryside which I have identified.”

The appeal decision is of particular relevance in the determination of this planning application. The proposed development for the Townsley family is considered to be in accordance with the Development Plan as set out in this Statement. With the Council failing to meet the needs of the Gypsy/Travelling community in its administrative area, this adds weight to the grant of planning permission based on the case at Doohill.

The proposed development has no adverse impacts on the landscape (see assessment of LPR Policy above) or the built and natural environment. Due to natural screening (existing tree belts) the site has a negligible impact.

This private site is designed in accordance with the space standards associated with pitch development for Gypsy/Travellers. It is laid out to provide all the amenities necessary for this family as a household and is tidy, pleasant and well managed. It is close to community facilities.

Additional land is in the Applicants ownership but he has no intention of developing this land. He proposes to use this land for storage and domestic use (garden) ancillary to the main residential use.

The proposed development is in accordance with Policy TC6 with other material considerations (case law) adding weight to strengthen the case for approval of planning permission.

Creating High Quality Places

To optimise the use of existing resource capacities and to ensure the impact of development on the wider environment and landscape is minimised, development proposals in the countryside should also ensure that they have investigated all possibilities of locating adjacent to existing development or groups of buildings.

Policy DS1 Development Boundaries and Priorities All proposals will be expected to support delivery of the Development Strategy. The focus of development will be sites allocated or otherwise identified for development within the LDP, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the LDP. Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the LDP. In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP. Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development. Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value. **Sharing an edge or boundary, neighbouring or adjacent.*

Assessment: As with Policy S1 of the LPR the proposed development is of a scale and nature appropriate for this countryside location. It makes use of vacant rural brownfield land and in doing so meets a proven need for the Gypsy/Travelling community. It is in accordance with other relevant policies of the Development Plan (LPR and emerging policy in the LDP), particularly those related to the Gypsy/travelling community and protection of the rural environment.

There is accordance with Policy DS1 of the LDP.

Accessibility

The LDP places an emphasis on Accessibility which is seen as a key element in the creation of sustainable

communities and how well new development is integrated with the existing form of development and transport networks.

Policy DS2 Accessible Development provides that development proposals will require to demonstrate, according to scale, type and location, that they:

- are or can be made accessible to existing or proposed public transport networks;
- make provision for suitably located public transport infrastructure such as bus stops, shelters, lay-bys, turning areas which minimise walking distances;
- allow easy access for people with restricted mobility;
- provide and/or enhance safe and pleasant paths for walking and cycling which are suitable for use by all, and link existing and proposed path networks; and
- are located where there is adequate local road network capacity or where capacity can be made available.

Assessment: The Site has ease of access by road, on foot and/or on cycle via the private access track and North Mains Croft to Kirriemuir and elsewhere on an adequate road network. The town of Kirriemuir has a good public transport service (bus). As with Policy S2 of the LPR there is accordance with the Policy DS2 of the LDP.

Design Quality & Placemaking

The creation of successful, well-designed sustainable places is an objective of the Angus Community Plan and Single Outcome Agreement (2013-2016), and is key to delivering the Council's vision that *"Angus is a place where a first class quality of life can be enjoyed by all."*

Good design delivers benefits for everyone in Angus. For its residents it can reduce energy costs, improve health and wellbeing, improve safety, engender civic pride and promote social inclusion. The creation of well-designed places where people want to live and visit can also attract economic development and can help developers by increasing the value of their investment.

Policy DS3 Design Quality and Placemaking Development provides that proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- **Distinct in Character and Identity:** Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- **Safe and Pleasant:** Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- **Well Connected:** Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.

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- **Adaptable:** Where development is designed to support a mix of compatible uses and accommodate changing needs.
 - **Resource Efficient:** Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Planning applications for certain types of development will be required to submit a Design Statement. Further details will be set out in Supplementary Guidance.

Assessment: The Gypsy/Travelling community find sites which provide their family with a safe and pleasant environment which is not too close to the settled community but well connected to facilities. The Scottish Government recommends the space standards and layout. Due to the temporary nature of the developments this makes them very adaptable and they are resource efficient with energy efficiency built into the temporary structures (chalet and caravans). Their distinct character and identity is created by who they are an ethnic minority group proud off their traditions and culture.

The Site accords with the terms of Policy DS3 by reason of the creation of a safe, pleasant, well connected and adaptable residential environment, one which is distinct yet compatible with the environment within which it is located.

Amenity

The stewardship of natural resources is key to sustainable development and the LDP has a role in avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for air quality. There is also a need to safeguard the amenity of future occupiers, or existing properties near to development as well as the wider area.

Policy DS4 Amenity provides that all proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties. Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection/storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured. Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration. Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

Assessment: There are no air quality issues and with no work to be undertaken on Site noise, vibration, odours, fumes or dust will not be an issue. There is no lighting proposed on the Site so there will be no associated pollution. Traffic levels will be very low, associated with a residential use and therefore impacts will be negligible.

The previous use of the site (market garden) has no known contamination. Soils removed from the Site are being stored for recycling purposes.

In relation to residential amenity attention is drawn to case law above (page 11). The Site is very well screened and distanced from nearby properties. There will be no impact on the amenity of nearby residents.

The proposed development accords with Policy DS4 of the LDP.

Landscape

Safeguarding and enhancing landscape character is an important planning objective. As well as the protection of designated sites, policy and guidance will seek to retain and enhance the distinctive landscape character of Angus. The LDP recognises that development and landscape change should be a positive process – enhancing degraded landscapes; delivering quality design within a local landscape setting and the wider landscape; and identifying and protecting areas where sensitive landscapes have little or no capacity to accommodate development.

The landscape setting of the towns and villages is an important consideration in the location of development sites and is reflected in the identification and application of development boundaries. The integration of new development on the edge of towns and villages into the landscape and creation of new green infrastructure should reflect principles and policies established within the plan.

Policy PV6 Development in the Landscape provides that Angus Council will seek to protect and enhance the quality of the landscape in Angus, its diversity (including coastal, agricultural lowlands, the foothills and mountains), its distinctive local characteristics, and its important views and landmarks. Capacity to accept new development will be considered within the context of the Tayside Landscape Character Assessment, relevant landscape capacity studies, SNH's wild land maps, any formal designations and special landscape areas to be identified within Angus. Development which has an adverse effect on landscape will only be permitted where:

- the site selected is capable of accommodating the proposed development;
- the siting and design integrate with the landscape context and minimise adverse impacts on the local landscape;
- potential cumulative effects with any other relevant proposal are considered to be acceptable; and

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- mitigation measures and/or reinstatement are proposed where appropriate. Landscape impact of specific types of development is addressed in more detail in other policies in this plan.

Assessment: An assessment of any potential landscape impact has been undertaken under the terms of Policy ER5 of the LPR (page 15). Based on the findings of this assessment it can be concluded that the proposed development is also in accordance with Policy PV6 of the LDP.

Protection and Management of the Water Environment

The LDP contains three policies associated with the water environment. These are listed below and all three assessed.

Policy PV14 Water Quality provides to protect and enhance the quality of the water environment. Development proposals will be assessed within the context of:

- the Scotland River Basin Management Plan and associated Area Management Plans;
- relevant guidance on controlling the impact of development and associated works;
- relevant guidance on engineering works affecting water courses; and
- potential mitigation measures.

Development proposals which do not maintain or enhance the water environment will not be supported. Mitigation measures must be agreed with SEPA and Angus Council. Development proposals must not pollute surface or underground water including water supply catchment areas due to discharge, leachates or disturbance of contaminated land.

Policy PV15 Drainage Infrastructure Development proposals within Development Boundaries will be required to connect to the public sewer where available. Where there is limited capacity at the treatment works Scottish Water will provide additional wastewater capacity to accommodate development if the Developer can meet the 5 Criteria*. Scottish Water will instigate a growth project upon receipt of the 5 Criteria and will work with the developer, SEPA and Angus Council to identify solutions for the development to proceed.

Outwith areas served by public sewers or where there is no viable connection for economic or technical reasons private provision of wastewater treatment must meet the requirements of SEPA and/or The Building Standards (Scotland) Regulations. All new development (except single dwelling and developments that discharge directly to coastal waters) will be required to provide Sustainable Drainage Systems (SUDs) to accommodate surface water drainage and long term maintenance must be agreed with the local authority.

SUDs schemes can contribute to local green networks, biodiversity and provision of amenity open space and should form an integral part of the design process. Drainage Impact Assessment (DIA) will be required for new development where appropriate to identify potential network issues and minimise any reduction in existing levels of service.

Policy PV18 Waste Management in New Development Proposals for new retail, residential, commercial, business and industrial development should seek to minimise the production of demolition and construction waste and incorporate recycled waste into the development. Where appropriate, Angus Council will require the submission of a Site Waste Management Plan to demonstrate how the generation of waste will be minimised during the construction and operational phases of the development. Development proposals that are likely to generate waste when operational will be expected to include appropriate facilities for the

segregation, storage and collection of waste. This will include provision for the separate collection and storage of recyclates within the curtilage of individual houses.

Assessment: This Statement describes how the Site was developed (page 5). This was done to preserve waste (soils) and dispose of material to landfill. Soils were recovered from the Site during development and have been stored for future use (bund).

Domestic waste (wheelie bins) is stored in a designated point (see layout plan and photographs) and is to be collected by the Council.

There is compliance with Policy PV18.

Policy PV20 Soils and Geodiversity Development proposals on prime agricultural land will only be supported where they:

- support delivery of the development strategy and policies in this local plan;
- are small scale and directly related to a rural business or mineral extraction; or
- constitute renewable energy development and are supported by a commitment to a bond commensurate with site restoration requirements.

Design and layout should minimise land required for development proposals on agricultural land and should not render any farm unit unviable. Development proposals affecting deep peat or carbon rich soils will not be allowed unless there is an overwhelming social or economic need that cannot be met elsewhere. All development proposals will incorporate measures to manage, protect and reinstate valuable soils, groundwater and soil biodiversity during construction.

Assessment: The assessment of the issue of prime agricultural land has been undertaken under the terms of Policy ER30 of the LPR. The related Policy of the LDP adds in criteria, which requires consideration.

The proposed development assists in delivering the Strategy of the LDP and its Policies by providing much needed accommodation for the Gypsy/Travelling community in accordance with Policy TC6. It is considered that the proposed development, which will not result in the permanent loss of prime agricultural land, as described under the assessment of Policy ER30 (page 18). Accordingly the proposed development is in accordance with Policy PV20.

Overall Assessment of Development Plan Policy

The above paragraphs are hereby adopted in regard to the assessment of the Planning Application against the Development Plan policies.

The Council's central Development Plan Policies on Gypsies/Travellers are set out in SC13 (Sites for Gypsies/Travellers) as contained in the LPR; and TC6 (Gypsies and Travellers and Travelling Showpeople) in the LDP.

It is considered that the Planning Application is in accordance these policies for the following reasons:

The Council will, in terms of both policies, approve Gypsy/Traveller sites where a newly arising need can

be proven and subject to other criteria.

The Council accepts that Gypsy/Travellers are an ethnic minority group where there is a need to advance equal opportunity under the Equalities Act. In translating this into planning considerations the Council have accepted that a social and economic need can be demonstrated for the Development.

Assessing the Development against the Policies criteria the following comments are submitted: -

- a) The Development does not appreciably detract from the landscape character or appearance or loss of resources in the rural area.
- b) The Development does not unacceptably detract from the amenity of the rural environment and that currently enjoyed by residents in the area.
- c) The Development is sympathetically located in a secure, safe and pleasant environment and provided with (or can be provided with) essential utility services.
- d) The location of the Development does allow access to community facilities and the main road network.
- e) The Development is properly managed.

It is clear that the site provision allocated by the Council is inadequate and suitable sites are not being delivered. The approach that the Council should take to the assessment of this Planning Application against the Development Plan should be a reasonable one taking into consideration these facts.

4. Material Planning Considerations

Equalities and Human Rights Commission Report (EHRC) 44 (2015) Assessing local authorities' progress in meeting the accommodation needs of Gypsy and Traveller communities in Scotland - Final Report

The aim of this study published in January 2015 is to provide data about the extent to which local authorities in Scotland are meeting the accommodation needs of Scottish Gypsy/Travellers.

There are two main objectives:

- To ascertain the quantity of current Gypsy/Traveller site provision, including any recent changes in provision and any imminent plans to develop sites in the future.
- To investigate the timescales of delivery to meet any accommodation shortfalls.

The report states that despite the positive steps taken in Scotland, and although some inroads were being made into resolving the shortages of accommodation for Scottish Gypsy/Travellers, subsequent reviews identified slow progress and little change in the life chances of Scottish Gypsy/Travellers.

Drawing on other evidence from related research and consultations, the Commission for Racial Equality (CRE) identified the primary issues relating to the accommodation needs of Scottish Gypsy Travellers as:

- The lack of a network of accessible and acceptable local authority sites.
- The poor physical condition and location of local authority sites.
- The difference in treatment experienced by Scottish Gypsies/Travellers when being housed compared with those living on local authority sites.
- The absence of a network of adequate and appropriate temporary transit sites for Scottish Gypsies and Travellers.
- The inappropriate use of powers to evict Scottish Gypsies Travellers from roadside encampments when no other appropriate provision is available.
- The widely reported harassment of Scottish Gypsies Travellers in public and private sector housing.

Assessment: as referred to throughout this Statement Angus Council has failed in its duty to provide sufficient and suitable accommodation for Gypsy/Travellers. Existing public sector sites are either at capacity or unmanaged and unpopular with the Gypsy/Travelling community. Evidence suggests that the needs and demands of the Gypsies and Travellers continue and are not being met. The inclusion of specific policies in the LPR (SC13) and LDP (TC6) allows increased provision for private sites provided criteria are met.

In this case these parameters are met. It is hoped that a trend can be created with support given to the Applicant, through the grant of planning permission, in recognition of a need for

accommodation in the context of their personal circumstances.

Social, Economic and Environmental Justification

The following summary of relevant legislative provisions and case law add weight to the social and economic considerations (personal circumstances) surrounding this planning application. The information sets out a case to demonstrate (further) that the proposals are a sustainable form of development in accordance with the terms of SPP and Development Plan policy.

The Importance of Personal Circumstances

The personal circumstances of the Townsley family have been described in Section 1 of this Statement. Their importance and weight to be afforded to them, in the planning decision making process, are now set out.

The personal circumstances of any Applicants and occupants of a site are usually not of relevance in the determination of a planning application. However, given the inequalities faced by Gypsy/Travellers, there are cases where personal circumstances of an Applicant should be given weight in the determination of a planning application. This approach is commonplace in England and Wales. Considerations may include the education of children, ill health, old age or other social and economic factors including inequality in housing provision.

These personal circumstances are only relevant if the Council find there is potential conflict with the Development Plan. Consequently the assessment of the needs of the occupants of the application site (as stated in Section 1) may need to be taken into consideration dependent upon the attitude of the Planning Authority and their interpretation of Development Plan policies.

Case law is clear that there are occasions where exceptions should be made. Personal circumstances of an occupier and personal hardship, as described in this Supporting Statement, are not to be ignored.

It is inhuman to exclude the human factor from the administration of planning control. The human factor is always present, indirectly as the background to the consideration of the character of land use. It can, however, and sometimes should be given direct effect as an exceptional or special circumstance. It is submitted that the determination of the planning application is one such case when viewed against the lack of alternative sites for this extended family and the personal circumstances that forced them into their current position.

It is submitted that these factors are prevalent and they need to be considered not as a general rule but as exceptions to a general rule and compliance with Development Plan policies. The Angus Development Plan makes provision for the submission of a socio economic case under the terms of Policies SC13 and TC6. The personal circumstances (the social considerations) are part of the argument that is required to be used in this case (and has been used in case law) to outweigh any policy considerations if required.

It is recognised that, in such circumstances, a specific case has to be made and that the Planning Authority must give reasons for accepting personal considerations as a material consideration. This will only be necessary where it is prudent to emphasise that, notwithstanding the policy position of the Council, exceptions cannot be wholly excluded from consideration in the determination of the planning application.

The Great Portland Estates plc. v Westminster City Council is a House of Lords case and is therefore binding in Scotland and is relevant to this case. It is submitted that if found to be necessary the Council should refer to this case (a copy can be provided).

Human Rights

In 1998, the **European Convention of Human Rights** (ECHR) was incorporated into UK law by the Human Rights Act 1998. The parts of the Act that are of particular relevance for the Gypsy/Traveller community as they relate to the planning issues in this case are:

- The Convention Article 6: right to a fair hearing-which is clearly relevant to the determination of the Appeal.
- The Convention Article 8: respect for private and family life - which is clearly relevant to decision that may involve the loss of accommodation, eviction proceedings or site clearance.
- The Convention Article 14: prohibition of discrimination - re-enforcing the strong position of domestic law prohibiting Discrimination.
- The Convention Article 11: freedom of assembly and association- which can be relevant in respect of the concerning the assembly of groups of people on land.
- First Protocol, Article 1: protection of property.

Article 8 regards the right to private and family life and provides that:

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

The implications of **Article 8** are that Public Authorities are required to consider carefully the proportionality of their actions when making decisions, which interfere with **Article 8** rights. In practice, for the Gypsy/Traveller, this is a matter of balancing the considerations such as a pressing social need; the protection of a designated area and/or resource; and overcoming technical difficulties. In doing so they are providing for their family.

Article 14 is concerned with the prohibition of discrimination:

The enjoyment of the rights and freedoms set out in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. The requirements of **Article 14** ensure protection from discrimination.

The relevant and leading case law relevant to Gypsy/Travellers is that of Chapman v UK, which is concerned with planning enforcement against ethnic Gypsy/Travellers in Hertfordshire, England. There was no question of the statutory Gypsy status of the Applicant. The ECHR held the following view:

“73 The Court considers that the applicant's occupation of her caravan is an integral part of her ethnic identity as a Gypsy, reflecting the long tradition of that minority of following a travelling lifestyle. This is the case even though, under the pressure of development and diverse policies or from their own volition, many Gypsies no longer live a wholly nomadic existence and increasingly settle for long periods in one place in order to facilitate, for example, the education of their children. Measures, which affect the applicant's stationing of her caravans, have therefore a wider impact than on the right to respect for home. They also affect her ability to maintain her identity as a Gypsy and to lead her private and family life in accordance with that tradition.

74 The Court finds therefore that the applicant's right to respect for her private life, family life and home are an issue in the present case.”

At paragraph 96 the Court found that:

“the vulnerable position of Gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory planning framework and in arriving at the decisions in particular cases. To this extent there is a positive obligation imposed on the Contracting States [in this case the Council] by virtue of Article 8 to facilitate the Gypsy way of life.”

There is a positive obligation on the UK to facilitate the Gypsy way of life. It is clear that **Article 8** is a key consideration for the decision makers in this case (the Site) as it relates to the needs of the Gypsy/Travelling community.

Applying this to the determination of the planning application for the Site it is submitted that the Council must make an assessment of the facts of the case in the light of the requirements of **Article 8** and strike the appropriate balance.

This is also of particular relevance if the Council is minded to refuse planning permission and act on an enforcement notice in circumstances where this Gypsy/Travelling family has no other alternative site to call their home as is the circumstance faced by the Applicant.

First Protocol to Article 1

The **First Protocol to Article 1** of the ECHR states that every person is entitled to the peaceful enjoyment of their property. No person should be deprived of their property except in the public interest and in accordance with law.

The effect of any refusal of planning permission and enforcement would be to deprive the Townsley family of the peaceful enjoyment of their property. Such deprivation must be proportionate to and be compatible with ECHR. Given there appears to be no alternative accommodation in the area for the family and given the Applicant's recent experiences on unauthorised sites his rights under the **First Protocol to Article 1** must be given serious consideration.

Equalities

The Equality Act 2010 expanded the racial equality duty in section 71 of the Race Relations Act 1976 to include other protected characteristics. As already stated above (Section 1) these include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation (referred to in the act as protected characteristics).

Section 149 introduced the Public Sector Equality Duty (PSED). This requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with a protected characteristic and people without. This Duty includes Local Authorities and the Directorate for Planning and Environmental Appeals (DPEA).

The duty is set out to require:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to
 - (a) tackle prejudice, and
 - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Applying relevance to Gypsy/Traveller planning cases, it is first important to note that Scottish Gypsy/Travellers have been held to be an ethnic minority for the purposes of the PSED. The case law *MacLennan v Gypsy/Traveller Education and Information Project* is relevant. A copy can be provided if required.

In summary, the decision maker has to have due regard to the need to advance equality of opportunity for this ethnic minority group. The obvious point here is that when compared to the settled population the Gypsy/Travelling community is at a severe disadvantage through a lack of accommodation. There is a shortage of **suitable sites** to meet the specific needs of the Applicant and his family. So it follows that there is an inequality with regard to access to accommodation for the Applicant. Given the personal circumstances (as described in this Supporting Statement) the Applicant was faced with a desperate situation, a need for a site for his family a place that they can call their home. The Council has failed when applying its PSED.

Summary

Based on the above evidence the Personal Circumstances of the Townsley family should to be taken into consideration when determining the planning application. The site houses an established family unit in a place that they can call their home. It is safe and secure with ease of access to local facilities on foot, cycle and by car. The facilities on site afford an excellent living environment where people live in relative comfort relative to their culture.

The proposed development represents an excellent use of the land. In the absence of any other suitable site for the family to move to and in view of the difficulties experienced by the Applicant and his family in the past (see Section 1 above) this site represents a place they can call home.

It is submitted that the aforementioned social and economic arguments must carry significant weight. They are of paramount importance, particularly in relation to Human Rights and Equality issues, in the consideration and the determination of this planning application.

5. Conclusions

At present, in the Angus area (based on available evidence) there is a network of sites two proving unsuitable for Gypsy/Travellers, with one Council operated site at St Christopher's, Montrose at capacity with little prospect for accommodation in the near future. The Angus area appears to be characterised by unauthorised sites with Policy and Procedure regarded as the answer to the issue of Gypsy/Traveller issues.

Due to the lack of progress by the Council to finding suitable accommodation the Gypsy/Travelling community, who by the Councils own admission find Angus a popular area, has been handed a disadvantage in this administrative area of Scotland. Angus Council appears to be similar to a number of Local Authorities with a lack of suitable site provision for Gypsy/Travellers. The terms of the EHRC report provide evidence of the plight of Gypsy/Travellers elsewhere in Scotland.

As a consequence an undefined and unaddressed need has been created. The Development Plan policies (TC6 and SC13) related to Gypsy/Travelling sites allow a justification to be submitted for private, permanent sites. This Statement is the justification. To be included is the Personal Circumstances of the Applicant as described above as part of the needs case. The land that has been purchased and developed by the Applicant is designed and laid out creating a safe, secure and suitable living environment for this family who originate from Angus.

This has been done in the absence of any alternative site provision in the Angus administrative area This proactive approach by the Applicant has provided a home for this Gypsy/Travelling family at no cost to the public purse. A private site has been developed to meet a local need. The work undertaken has transformed this once unkempt area of rural brownfield land, on the periphery of Kirriemuir, into a visually pleasing site, which has ease of access by road on foot and cycle with community facilities and public transport nearby.

Due to its scale and layout a development, which is temporary by its nature, is part of a small cluster of development having a negligible landscape impact. Existing mature landscape tree belts assist in mitigating any perceived impacts. The site is well managed, tidy with no proven impact on the amenity of residents or the rural environment (including loss of agricultural land). It represents a sustainable solution responding to the needs of the Townsley family.

It is submitted that the proposal is in accordance with the relevant policies of the Development Plan and national planning policy (SPP).

As stated in Section 4 Human Rights; the provisions of the Equalities legislation and guidance; and the weight to be afforded to the Personal Circumstances of the extended family on the site may need to be factored into the decision making process if the Council consider that there is not accordance with the Development Plan. Given that all these factors are relevant they need to be considered not as a general rule but as exceptions to a general rule and Development Plan policies. It is incumbent on the Council to take into account social, economic and environmental factors, which includes a right to family life. These material planning considerations need to be regarded as exceptional circumstances in this case if the Council disagree with the policy assessment contained herein.

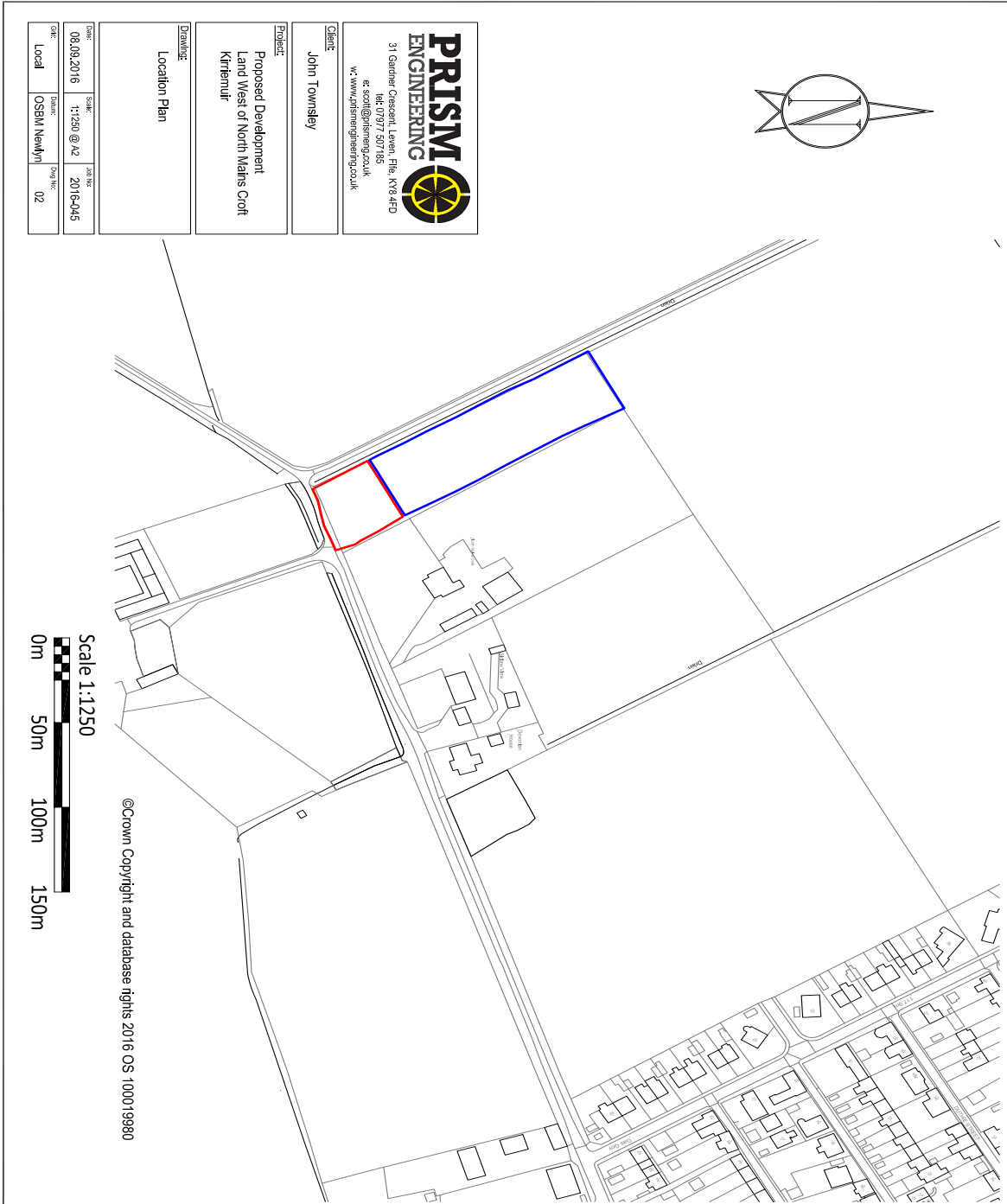
This Statement provides a reasoned justification to allow the decision makers (who has to have due regard to the need to advance Equality of Opportunity for Gypsy/Travellers) reasons to grant planning permission. This is based on the case that the development is in accordance with planning policy; and the weight, which

can be given to other material considerations, with the social and economic factors taking primacy providing a sustainable solution to the housing of this Gypsy/Travelling family.

By taking a positive decision on this planning application and granting conditional planning permission Angus Council can start making a difference to the lives a Gypsy/Traveller family, in line with the Scottish Government intentions.

It is submitted that planning permission should be granted for this development subject to appropriate and reasonable planning conditions.

Appendix I Location Plan



Not to scale

Appendix 2: Design Principles

Schedule 1: Development Principles

Amenity

- (a) The amenity of proposed and existing properties should not be affected by unreasonable restriction of sunlight, daylight or privacy; by smells or fumes; noise levels and vibration; emissions including smoke, soot, ash, dust, grit, or any other environmental pollution; or disturbance by vehicular or pedestrian traffic.
- (b) Proposals should not result in unacceptable visual impact.
- (c) Proposals close to working farms should not interfere with farming operations, and will be expected to accept the nature of the existing local environment. New houses should not be sited within 400m of an existing or proposed intensive livestock building. (Policy ER31). Roads/Parking/Access.
- (d) Access arrangements, road layouts and parking should be in accordance with Angus Council's Roads Standards, and use innovative solutions where possible, including 'Home Zones'. Provision for cycle parking/storage for flatted development will also be required.
- (e) Access to housing in rural areas should not go through a farm court.
- (f) Where access is proposed by unmade/private track it will be required to be made-up to standards set out in Angus Council Advice Note 17: Miscellaneous Planning Policies. If the track exceeds 200m in length, conditions may be imposed regarding widening or the provision of passing places where necessary.
- (g) Development should not result in the loss of public access rights. (Policy SC36) Landscaping / Open Space / Biodiversity.
- (h) Development proposals should have regard to the Landscape Character of the local area as set out in the Tayside Landscape Character Assessment (SNH 1998). (Policy ER5).
- (i) Appropriate landscaping and boundary treatment should be an integral element in the design and layout of proposals and should include the retention and enhancement of existing physical features (e.g. hedgerows, walls, trees etc.) and link to the existing green space network of the local area.
- (j) Development should maintain or enhance habitats of importance set out in the Tayside Local Biodiversity Action Plan and should not involve loss of trees or other important landscape features or valuable habitats and species.
- (k) The planting of native hedgerows and tree species is encouraged.
- (l) Open space provision in developments and the maintenance of it should be in accordance with Policy SC33 Drainage and Flood Risk.
- (m) Development sites located within areas served by public sewerage systems should be connected to that system. (Policy ER22).
- (n) Surface water will not be permitted to drain to the public sewer. An appropriate system of disposal will be

necessary which meets the requirements of the Scottish Environment Protection Agency (SEPA) and Angus Council and should have regard to good practice advice set out in the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland 2000.

(o) Proposals will be required to consider the potential flood risk at the location. (Policy ER28).

(p) Outwith areas served by public sewerage systems, where a septic tank, bio-disc or similar system is proposed to treat foul effluent and /or drainage is to a controlled water or soakaway, the consent of SEPA and Angus Council will be required. (Policy ER23). Waste Management

(q) Proposals should incorporate appropriate waste recycling, segregation and collection facilities (Policy ER38).

(r) Development should minimise waste by design and during construction.

Supporting Information

(s) Where appropriate, planning applications should be accompanied by the necessary supporting information. Early discussion with Planning and Transport is advised to determine the level of supporting information which will be required and depending on the proposal this might include any of the following:

Air Quality Assessment;

Archaeological Assessment;

Contaminated Land Assessment;

Design Statement;

Drainage Impact Assessment;

Environmental Statement;

Flood Risk Assessment;

Landscape Assessment and/or Landscaping Scheme;

Noise Impact Assessment;

Retail Impact Assessment;

Transport Assessment.

Angus Council

Application Number:	16/00738/FULL
Description of Development:	Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure
Site Address:	Land 125M West Of North Mains Croft Logie Kirriemuir
Grid Ref:	337985 : 752997
Applicant Name:	Mr John Townsley

Report of Handling

Site Description

The application site measures approximately 1350sqm and is located in the countryside 350m to the southwest of the Kirriemuir Development Boundary. The site has recently been levelled, hardcore laid throughout and is occupied by a chalet and two touring caravans. It is predominantly surrounded by farmland, where the applicant owns the land directly to the north of the site. There is a residential property directly to the east, a farm track which runs to the south and core paths 253 and 254 are adjacent to the southern and western boundaries. North Mains of Logie Farm is located a short distance to the south. The site is served by an existing unmade access track taken from North Mains Road.

Proposal

The application seeks retrospective planning permission to allow the siting of a chalet and two touring caravans, for the erection of a boundary wall and for formation of car parking, alteration to the ground levels and other associated infrastructure at the site. The chalet currently on site has a footprint of approximately 45sqm and a height of 3.35m and two standard sized touring caravans are sited adjacent to this. The existing boundary wall is approximately 1.5m high with feature piers. The wall is finished in off white harl and topped with concrete coping stones. The site is also partially lined by a 1.8m high dark green fence. The ground has been levelled and the entire site has been topped with Type 1 aggregate. Drainage and water supply infrastructure has also been installed for connection to the public drainage network and public water supply. In addition the application also proposed the erection of a 15sqm amenity block which would measure approximately 3.4m in height and would be finished in rough cast and concrete tiles. The amenity block would include two wet rooms and a laundry room.

The application has not been subject of variation.

Publicity

The application was subject to normal neighbour notification procedures.

The application was advertised in the Dundee Courier on 14 October 2016.

The nature of the proposal did not require a site notice to be posted.

Planning History

13/00969/PPPL for Planning Permission in Principle for Erection of Dwellinghouse & Garage was determined as "Refused" on 20 December 2013.

As well as the above planning application the site has also been subject to a recent Enforcement Case ref: 16/00165/UNDV, where an Enforcement Notice was served by the Council on 19 August 2016 requiring the removal of caravans, drainage and services and reinstatement of the channels which have been dug; removal of rubble, hard core and the earth bund with restoration of the site to a greenfield condition. The Enforcement Notice was subject of an appeal to the Scottish Government Directorate for Planning and Environmental Appeals (DPEA). The appeal decision was issued on 23 November 2016. The appeal was allowed in that, amongst other things, it modified the terms of the Enforcement Notice to allow the period for removal of the caravans to be extended to 3 August 2017, with the remaining steps specified in the notice to be completed on or before 3 September 2017. The time periods were extended by the Reporter to allow the applicant the opportunity to appeal the planning decision for this application (16/00738/FULL), should it be refused.

Applicant's Case

The following supporting documentation has been provided:

Planning Policy and Design Statement - is an overarching document which provides a summary to the history of the application, the personal circumstances of the applicant, the need and demand of the Gypsy/Travelling community in Angus, the site design and layout, and legislation relating to the Gypsy/Traveller Community and the current proposal. The statement also highlights the limitations in dealing with unauthorised encampments, the positive impact of site provision and considers the proposal against the relevant national and local planning policy, concluding the proposal would be in general compliance with SPP, the Angus Local Plan Review and the Angus Local Development Plan. The agent also suggests a number of material planning considerations such as the Equalities and Human Rights Commission Report (EHRC) 44 (2015), social, economic and environmental justifications, Human Rights, the Equality Act 2010 and the personal circumstances of the applicant. The statement concludes that at present there are two unsuitable Gypsy/Travellers sites in Angus and there has been a lack of progress by the Council to find suitable accommodation. As a consequence an undefined and unaddressed need has been created and the Development Plan policies related to Gypsy/Travelling sites allows a justification to be submitted for private, permanent sites. The agent notes the justification in this case should include the personal circumstances of the applicant and that the development is designed to create a safe, secure and suitable living environment in the absence of any alternative site provision. The agent also notes the proactive approach by the Applicant has provided a home for this Gypsy/Travelling family at no cost to the public purse and is to meet a local need. The work undertaken has transformed the rural brownfield land into a visually pleasing site, which has ease of access by road on foot and cycle with community facilities and public transport nearby and would have a temporary negligible landscape impact. The statement notes it is incumbent on the Council to take into account social, economic and environmental factors, which includes a right to family life and these material planning considerations need to be regarded as exceptional circumstances in this case if the Council disagree with the policy assessment and as such there is a reasoned justification to allow the grant of planning permission.

Correspondence from the agent, dated 24 October - was received in response to various questions posed by the Planning Department and confirmed an invoice had been submitted to indicate the type and volume of materials imported onto the site to form the parking area. The letter confirmed the chalet is the only structure that will be connected to the drainage infrastructure and noted the drainage connection is by means of a pipe attached to the main drain. In response to a question relating to whether the chalet had an axel, the agent noted that the issue of whether the units have or do not have an axel is irrelevant and in this case the caravans and chalet are capable of being de-constructed and transported and are in accordance with the 1960 Act. The letter concludes that the chalet and caravans are not operational development as they fall within the definition of a "caravan" as defined in the "Caravan Sites and Control of Development Act 1960", as supplemented by the "Caravan Sites Act 1968". The units are residential and temporary nature and it is the agent's understanding that the operator of this "caravan site" will be required to obtain a "site license" from the Council.

Correspondence from the agent, dated 15 November - was received as a rebuttal to objections received to the planning application, where the agent noted sections of the Angus Council Local Development Plan (LDP) Housing Policy Framework and the preamble to Policy TC6 'Gypsies and Travellers and Travelling Showpeople'. The preamble notes "The Angus LHS seeks to address the accommodation needs of gypsy/travellers through direct liaison with these groups, provision of additional spaces and where

appropriate access to housing." The agent also notes that one letter of objection included discriminatory references and this was as a result of the lack of positive action to find an adequate supply of land/sites for the Gypsy/Travelling community in the Angus area. The agent also makes reference to the recent appeal site visit to the existing Balmuir Wood site, where a number of vacancies were observed and the Reporter noted the proximity of the site to the busy A90 and the distance from community facilities (2/3 miles). The agent highlights that this remains a site which is not favoured by the Travelling community. The letter goes on to state that there remains an inequality of approach when addressing the Gypsy/Travellers as an ethnic minority group in Angus with a lack of choice of quality sites contrary to the LDP policy approach. The Applicant is searching for a site to call his home and has no intention of expanding the site for the purposes stated in the objection. The Applicant's approach to developing this site is in accordance with the Government Guidance for Gypsy/Travellers sites with space standards in accordance with this Guidance and the Caravan Site License provisions. The development is well designed and laid out with natural screening provided by the existing trees which remain untouched and a living environment has been created without detriment to visual and residential amenity. The letter concludes by highlighting matters which would not be considered valid objection points.

Invoice - An invoice from W. Douglas Contractors Ltd, dated June 2016, to the applicant was submitted in support of the application. The invoice provides a brief indication of the works carried out and the materials (type 1 aggregate) and machinery used to level and lay the existing hardcore on the site.

Full copies of the supporting documentation can be viewed via the Public Access portal.

Consultations

Angus Council Housing Service - has advised the travelling site at Balmuir Wood has 20 pitches (about 13 are currently vacant) and Angus Council has access to this site through the Site Liaison Officer. Angus Council are entitled to nominate travelling people and their families for allocation of pitches at this site, provided vacant pitches are available. Dundee City Council shall accept such nominations provided they are in accordance with Dundee City Council's letting procedures. St Christopher's has 18 pitches; 17 are currently occupied with one being held vacant to assist with decants during the planned upgrades. The draft findings of a need assessment [carried out in association with TAYplan] indicate a projected surplus of accommodation in TAYplan over the next five years. In Angus however there is projected to be a small shortfall, particularly attributed to demand in the North area and to a smaller extent the West. While the draft findings are still being analysed they do not appear to indicate a significant requirement for additional provision in Angus.

Angus Council - Countryside Access - has advised core paths 253 and 254 are adjacent to the southern and western boundaries of the site and in order to protect the privacy of residents and public access over the paths, the extent of private land associated with any accommodation on the site should be clearly defined by boundary features such as walls, fences or hedges.

Angus Council Environmental Health - There was no response from this consultee at the time of report preparation.

Community Council - There was no response from this consultee at the time of report preparation.

Angus Council - Roads - has offered no objection to the proposal.

Scottish Water - There was no response from this consultee at the time of report preparation.

Representations

2 letters of representation were received. The main points of concern were as follows:

- Visual impacts/ removal of trees
- Unsuitable pattern of development, i.e. extension of ribbon development
- Site history of refusal for a dwellinghouse on the site

Comment - The above matters will be discussed during the assessment of the proposal

- **Existence of unauthorised works carried out on the site, possibility of this setting a precedent for future unauthorised works and discrimination against those who have previously applied for planning permission** – planning legislation makes provision for the submission of retrospective planning applications. Issues regarding any possible precedent are discussed in the assessment below but those submitting retrospective applications run the risk that enforcement action may be taken in relation to any unauthorised use or works that are found to be unacceptable.
- **Impact upon house prices** - issues regarding the impact upon surrounding house prices are not a material planning consideration.
- **Lack of notification of the application** - the application was subject to statutory publicity and consultation as prescribed by the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
- **Potential anti-social behaviour** - it is not the purpose of the planning system to regulate antisocial behaviour and I do not consider that the proposal for the siting of a chalet and two touring caravans with associated infrastructure would be of a nature to generate anti-social behaviour.

Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities
 Policy DS3 : Design Quality and Placemaking
 Policy DS4 : Amenity
 Policy TC6 : Gypsies and Travellers and Travelling Showpeople
 Policy PV7 : Woodland, Trees and Hedges
 Policy PV20 : Soils and Geodiversity

TAYplan Strategic Development Plan

The proposal is not of strategic significance and policies of TAYplan are not referred to in this report.

The full text of the relevant development plan policies can be viewed at Appendix 1 to this report.

Assessment

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The site is not located within a Development Boundary and is not allocated or safeguarded for any particular use in the Angus Local Development Plan (ALDP). Policy DS1 in the ALDP states that outwith development boundaries, proposals will be supported where they are of a scale and nature appropriate to the location and where they accord with other relevant policies in the ALDP.

The primary policy test in this instance is Policy TC6 which relates to sites for Gypsies and Travellers and Travelling Showpeople. The first statement in this policy notes that Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites, where such sites would be protected from alternative redevelopment. Proposals for new or extended permanent sites and temporary "short stay" sites for Gypsies and Travellers will only be supported where; the site will contribute to satisfying a local need identified in the Local Housing Strategy and is consistent with Angus Council's strategy for meeting the accommodation needs of these client groups; the development is designed and located to minimise adverse effects on the landscape, established amenity, character and built or natural heritage interests of the surrounding area; the proposed site will provide a good residential amenity for residents and has adequate access to community, education and health services and facilities; and the proposed development would not set a precedent or open up other areas for similar development.

The policy clearly identifies that Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites. There is currently one authorised site in the control of Angus Council, St Christopher's at Tayock, Montrose, which is near capacity. In addition there is an authorised site at

Balmuir Wood which is managed by Dundee City Council, but is within the Angus Council boundary. Balmuir Wood has 20 pitches where about 13 of these are currently vacant. The Balmuir Wood site is around 14 miles from the application site and 5 additional miles from the applicant's town of work. Angus Council has access to the Balmuir Wood site through the Site Liaison Officer and are entitled to nominate travelling people and their families for allocation of pitches at this site, provided vacant pitches are available. Dundee City Council is required to accept such nominations provided they are in accordance with Dundee City Council's letting procedures. On this basis and in accordance with the above policy the applicant would be directed to this existing site as opposed to encouraging a proposal for an existing unauthorised site.

Additionally, Policy TC6 indicates that proposed sites must contribute to a local need identified in the Local Housing Strategy. The current Local Housing Strategy indicates amongst other things that additional research is required to identify housing need of a range of minority groups including gypsies/travellers. In this regard the TAYplan partner authorities (including Angus Council) has commissioned research on the matter and to gather details on existing sites and capacities. The initial findings suggest a projected surplus of accommodation in the TAYplan area over the next five years but a small shortfall in Angus, particularly attributed to demand in the north and to a smaller extent the west. However the Housing Service has advised that the draft findings are still being analysed and do not appear to indicate a significant requirement for additional provision in Angus. In these circumstances, and as there are pitches available at the authorised site at Balmuir Wood, there is no justification to support a proposal for an ad hoc site.

Policy TC6 also requires that proposals do not set a precedent or open up other areas for similar development. In this regard it is noted that the applicant owns the area of ground to the north of the application site. The applicant's agent has advised there is no intention of developing this land but that it may be used for storage and domestic use (garden) ancillary to the main residential use. However this area of ground is not included within the current application site and the alternative uses indicated would require planning permission in their own right. That land has similar characteristics to the current application site and approval of this application could establish a precedent for similar development on that area. Similar concern regarding precedent was raised when a planning application for the erection of a house on the current application site was refused in 2013 (appn: 13/00969/PPPL refers). The proposal does not give rise to significant issues in terms of the remaining criteria of the policy but on the basis of the above assessment the proposal is clearly contrary to Policy TC6.

Policy DS3 deals with design quality and place-making and indicates that proposals should deliver a high design standard taking account of aspects of landscape and townscape that contribute positively to the character and sense of place of the area in which they are located. A third party has raised concerns with regards to the pattern of development where it is acknowledged the proposal would extend the linear form of development in the area. Linear or ribbon development is generally accepted to be a poor form of development in the countryside and would not be supported were the proposal for a mainstream dwelling.

Policy DS4 deals with amenity and indicates that regard will be had to opportunities for maintaining and improving environmental quality. The site is reasonably well screened from neighbouring property and the proposed use would not give rise to significant amenity impacts on those that live in the immediate area. The proposal would utilise an existing access track and the Roads Service has offered no objection. There is no suspected land contamination at the site.

Policy PV7 primarily seeks to protect and retain woodland, trees and hedges to avoid fragmentation of existing provision. There is a shelterbelt of trees to the east and west of the site, and a third party has suggested trees have recently been removed. The applicant's agent has suggested that the applicant has protected and retained all dense mature conifer trees surrounding the site in recognition of their contribution to the landscape setting of the area and privacy and amenity value. The trees are not protected and any that have been removed would not have required consent from the planning authority. In any case the current application does not propose the removal of any trees.

Policy PV20 Soils and Geodiversity notes that development proposals on prime agricultural land will only be supported where they support delivery of the development strategy and policies in this local plan; are small scale and directly related to a rural business or mineral extraction; or constitute renewable energy development and are supported by a commitment to a bond commensurate with site restoration

requirements. In this case the application site comprises Class 2 prime agricultural land and the proposal does not comply with any of the criteria identified in the policy that would allow development of prime quality land. The agent has suggested that the proposed development is of a temporary nature and the land can be returned to its original use through removal of the development and spreading soils. However, the application form has been completed to indicate that temporary permission is not sought and therefore it must be assumed that this is an application for permanent use of the site. The agent has also referenced a planning application ref: 15/00135/FULL for use of land for the siting of seasonal worker caravans at Charleton Farm Montrose. That application was located within a walled garden area and sought permission to provide temporary accommodation for seasonal workers required in association with the activities of the farm at that location. It is not comparable with the proposal subject of the current application.

The proposal does not comply with the Policies TC6 or PV20 and as such is also contrary to Policy DS1. The proposal is contrary to the Angus Local Development Plan.

As noted above a previous proposal for a house on this site was refused in 2013 as it did not comply with policies in the Angus Local Plan Review (2009). That Plan has been replaced by the Angus Local Development Plan but the principle of a house on the site remains contrary to the policies of the new Plan.

In terms of other material considerations, the supporting statement makes reference to the human rights and equalities legislation. However, it is a well-established principle that the lawful operation of the planning system will not result in a breach of that legislation. The applicants desire to provide family accommodation is appreciated but no compelling information has been provided to demonstrate that existing sites cannot meet that desire. Similarly, no information has been provided to demonstrate that the applicant requires accommodation at this specific location. The applicant and other family members that would be accommodated at the site all appear to be employed in association with a business that is operated at Brechin. Whilst it is indicated that there are other family members resident at Maryton, no information has been provided to demonstrate why the applicant and his family need to be located in proximity of the extended family.

The supporting statement also makes reference to other cases, including court cases and appeal cases. Account has been taken of those matters. However, in this case there is no compelling justification for the site selected by the applicant and there is an existing authorised site that has capacity to accommodate the family.

The supporting statement suggests that the site is brownfield. However, its last lawful use was for agriculture and that position was accepted by the Reporter who determined the Enforcement Notice appeal. The terms of the extant Enforcement Notice require the site to be returned to a greenfield condition. The condition of the site, which has largely been created by the actions of the applicant, does not justify approval of the current application.

In conclusion, the proposal is contrary to policies of the Angus Local Development Plan. The personal circumstances of the applicant and his family have been taken into account but are not considered to justify approval of the application, particularly when there is an existing authorised site that has capacity to accommodate the applicant's caravans. There are no material considerations which justify approval of planning permission contrary to the development plan.

Human Rights Implications

The decision to refuse this application has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying the decision in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. Any interference with the applicant's right to peaceful enjoyment of his possessions by refusal of the present application is in compliance with the Council's legal duties to determine this planning application under the Planning Acts and such refusal constitutes a justified and proportionate control of the use of property in accordance with the general interest and is necessary in the public interest with reference to the Development Plan and other material planning considerations as referred to in the report.

Equalities Implications

The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

Decision

The application is Refused

Reason(s) for Decision:

1. The application is contrary to Policy TC6 of the Angus Local Development Plan (2016) as there are existing authorised sites with capacity to accommodate the applicant and his family, and as the proposal could set a precedent or open up other areas for similar development.
2. The application is contrary to Policy PV20 of the Angus Local Development Plan (2016) as the development is located on prime agricultural land and as it does not meet the criteria for development of prime agricultural land identified in that policy.
3. The proposal is contrary to Policy DS1 of the Angus Local Development Plan (2016) because it is contrary to other policies of the local development plan, namely Policies TC6 and PV20.

Notes:

Case Officer: Stephanie Porter
Date: 30 December 2016

Appendix 1 - Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities
All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available

brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

*Sharing an edge or boundary, neighbouring or adjacent

Policy DS3 : Design Quality and Placemaking

Development proposals should deliver a high design standard and draw upon those aspects of landscape or townscape that contribute positively to the character and sense of place of the area in which they are to be located. Development proposals should create buildings and places which are:

- o Distinct in Character and Identity: Where development fits with the character and pattern of development in the surrounding area, provides a coherent structure of streets, spaces and buildings and retains and sensitively integrates important townscape and landscape features.
- o Safe and Pleasant: Where all buildings, public spaces and routes are designed to be accessible, safe and attractive, where public and private spaces are clearly defined and appropriate new areas of landscaping and open space are incorporated and linked to existing green space wherever possible.
- o Well Connected: Where development connects pedestrians, cyclists and vehicles with the surrounding area and public transport, the access and parking requirements of the Roads Authority are met and the principles set out in 'Designing Streets' are addressed.
- o Adaptable: Where development is designed to support a mix of compatible uses and accommodate changing needs.
- o Resource Efficient: Where development makes good use of existing resources and is sited and designed to minimise environmental impacts and maximise the use of local climate and landform.

Supplementary guidance will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out above. Further details on the type of developments requiring a design statement and the issues that should be addressed will also be set out in supplementary guidance.

Policy DS4 : Amenity

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use to prevent unacceptable risks to human health.

Policy TC6 : Gypsies and Travellers and Travelling Showpeople

Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites (publicly or privately owned and managed). Existing authorised Gypsies and Travellers and Travelling Showpeople sites will be protected and there will be a presumption against their redevelopment or conversion to other uses unless it can be demonstrated to the satisfaction of Angus Council that there is a surplus of accommodation to meet identified needs.

Proposals for new or extended permanent sites and temporary "short stay" sites for Gypsies and Travellers will only be supported where:

- o the site will contribute to satisfying a local need identified in the Local Housing Strategy and is consistent with Angus Council's strategy for meeting the accommodation needs of these client groups;
- o the development is designed and located to minimise adverse effects on the landscape, established amenity, character and built or natural heritage interests of the surrounding area;
- o the proposed site will provide a good residential amenity for residents and has adequate access to community, education and health services and facilities; and
- o the proposed development would not set a precedent or open up other areas for similar development.

Policy PV7 : Woodland, Trees and Hedges

Ancient semi-natural woodland is an irreplaceable resource and should be protected from removal and potential adverse impacts of development. The council will identify and seek to enhance woodlands of high nature conservation value. Individual trees, especially veteran trees or small groups of trees which contribute to landscape and townscape settings may be protected through the application of Tree Preservation Orders (TPO).

Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity, townscape or landscape value of Angus will be protected and enhanced. Development and planting proposals should:

- o protect and retain woodland, trees and hedges to avoid fragmentation of existing provision;
- o be considered within the context of the Angus Woodland and Forestry Framework where woodland planting and management is planned;
- o ensure new planting enhances biodiversity and landscape value through integration with and contribution to improving connectivity with existing and proposed green infrastructure and use appropriate species;
- o ensure new woodland is established in advance of major developments;
- o undertake a Tree Survey where appropriate; and
- o identify and agree appropriate mitigation, implementation of an approved woodland management plan and re-instatement or alternative planting.

Angus Council will follow the Scottish Government Control of Woodland Removal Policy when considering proposals for the felling of woodland.

Policy PV20 : Soils and Geodiversity

Development proposals on prime agricultural land will only be supported where they:

- o support delivery of the development strategy and policies in this local plan;
- o are small scale and directly related to a rural business or mineral extraction; or
- o constitute renewable energy development and are supported by a commitment to a bond commensurate with site restoration requirements.

Design and layout should minimise land required for development proposals on agricultural land and should not render any farm unit unviable.

Development proposals affecting deep peat or carbon rich soils will not be allowed unless there is an overwhelming social or economic need that cannot be met elsewhere. Where peat and carbon rich soils are present, applicants should assess the likely effects of development proposals on carbon dioxide emissions.

All development proposals will incorporate measures to manage, protect and reinstate valuable soils, groundwater and soil biodiversity during construction.

ANGUS COUNCIL



TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
(AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND)
REGULATIONS 2013

PLANNING PERMISSION REFUSAL
REFERENCE : 16/00738/FULL

To **Mr John Townsley**
c/o Alan Seath Planning Consultancy
88 Scott Road
Glenrothes
Scotland
KY6 1AE

With reference to your application dated 6 October 2016 for planning permission under the above mentioned Acts and Regulations for the following development, viz.:-

Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure at Land 125M West Of North Mains Croft Logie Kirriemuir for Mr John Townsley

The Angus Council in exercise of their powers under the above mentioned Acts and Regulations hereby **Refuse Planning Permission (Delegated Decision)** for the said development in accordance with the particulars given in the application and plans docketed as relative hereto in paper or identified as refused on the Public Access portal.

The reasons for the Council's decision are:-

- 1 The application is contrary to Policy TC6 of the Angus Local Development Plan (2016) as there are existing authorised sites with capacity to accommodate the applicant and his family, as the proposal would not contribute to satisfying a local need in a formulated manner, as the proposal could set a precedent or open up other areas for similar development.
- 2 The application is contrary to Policy PV20 of the Angus Local Development Plan (2016) as the development would not preserve prime agricultural land or be related to a rural business, support delivery of the development strategy or relate to renewable energy development.
- 3 The proposal is contrary to policy DS1 of the Angus Local Development Plan (2016) because it is contrary to other policies of the local development plan, namely Policies TC6 and PV20.

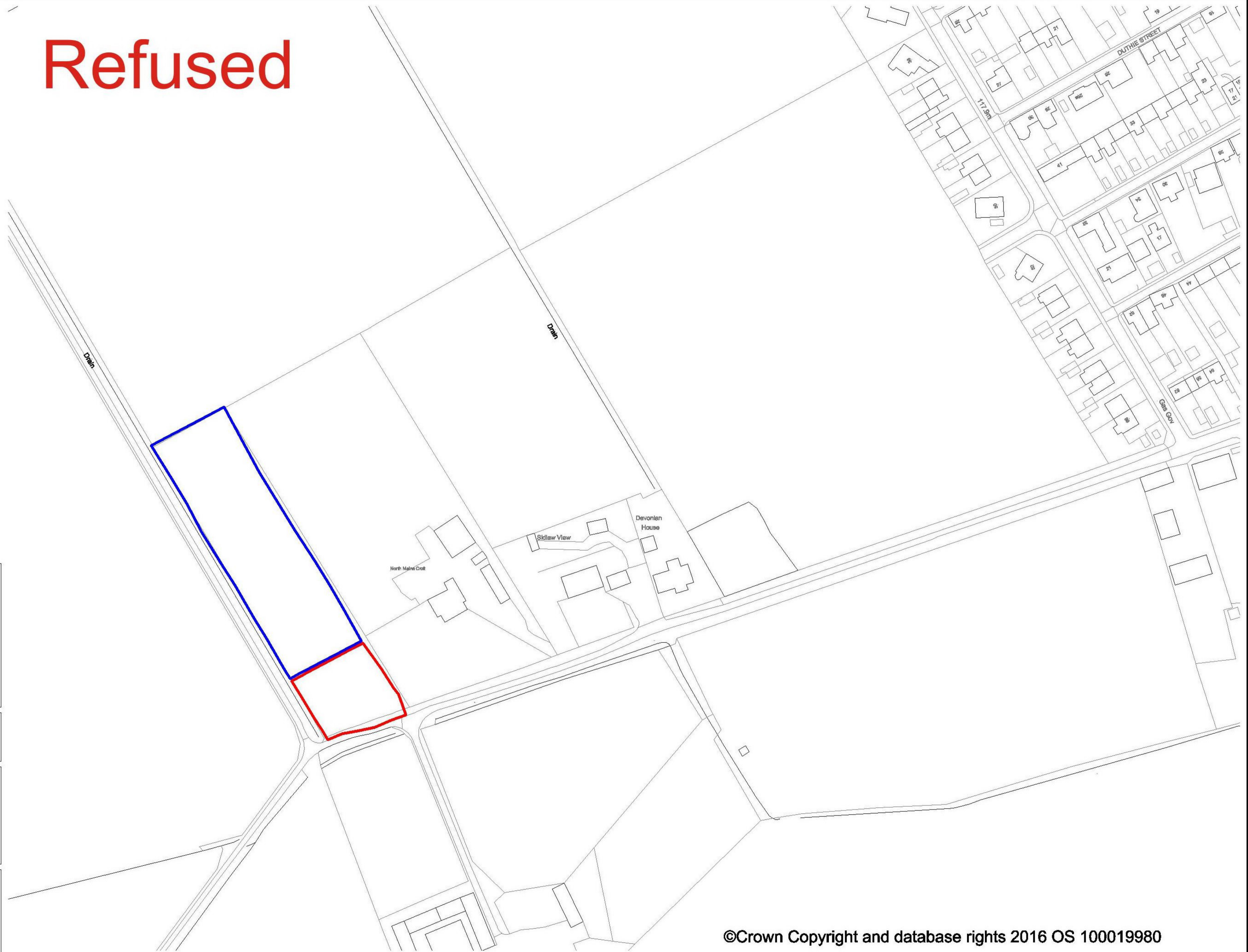
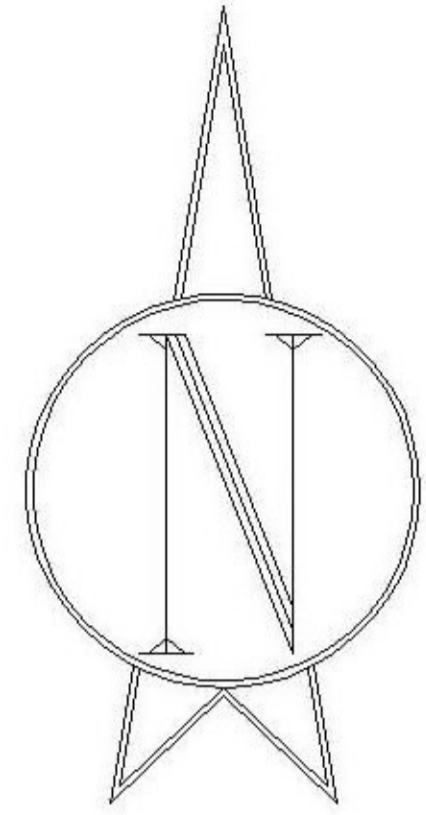
Amendments:

The application has not been subject of variation.

Dated this **6 January 2017**

Kate Cowey - Service Manager
Angus Council
Communities
Planning
County Buildings
Market Street
FORFAR
DD8 3LG

Refused



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Client:

John Townsley

Project:

Proposed Development
Land West of North Mains Croft
Kirriemuir

Drawing:

Location Plan

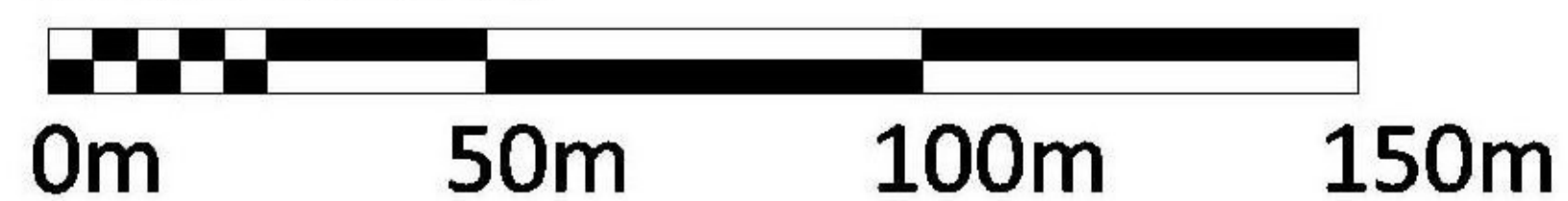
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08.09.2016	1:1250 @ A2	2016-045

Grid:	Datum:	Dwg No:
Local	OSBM Newlyn	02

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Refused

Scale 1:1250





Touring Caravan



Touring Caravan



Principel chalet



The Site



Fence & Wall Detail



Boundary Wall



Western Boundary



View from West



Site from East



Nearby farm



Farmland to South



Access Track

*Gypsy and Traveller
Accommodation Needs
Assessments*

Guidance

*Gypsy and Traveller
Accommodation Needs
Assessments*

Guidance

Communities and Local Government
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Contents

	Page
Chapter 1	
Introduction	5
Chapter 2	
Assessing the accommodation needs of Gypsies and Travellers	7
Chapter 3	
Carrying out the assessment	13
Chapter 4	
Making use of the assessment	23
Annex	
Possible topic list	27

CHAPTER 1

Introduction

1. The assessment of Gypsy and Traveller accommodation needs when carrying out a periodical review of housing needs under section 8 of the Housing Act 1985 is a statutory requirement under section 225 of the Housing Act 2004. Local authorities may also be required, under section 87 of the Local Government Act 2003 (as amended), to produce a strategy that addresses the need identified, including that of Gypsies and Travellers. The assessment and the strategy will need to be informed by a full understanding of their accommodation needs. A Gypsy and Traveller Accommodation Needs Assessment will be required either as part of a Strategic Housing Market Assessment in respect of the local community generally, or separately where a Strategic Housing Market Assessment is not being conducted at that time.
2. The Government's policies on Gypsy and Traveller accommodation and enforcement are set within a framework of rights and responsibilities, in which everyone's rights must be respected but where, at the same time, equal standards of behaviour are expected from all. Creating and sustaining strong communities is at the heart of the Government's Respect agenda and will have benefits for the settled and Gypsy and Traveller communities alike.

Aim of the guidance

3. The guidance aims to provide advice on carrying out an assessment of the accommodation needs of Gypsies and Travellers. It is not exhaustive or prescriptive. While it is recommended that the basic principles outlined here should be followed, the exact approach will need to be adapted to local circumstances.
4. This guidance sets out:
 - why the Accommodation Needs Assessment has to be done;
 - what it should produce;
 - whom it should survey;
 - key differences between the Gypsy and Traveller community and others, and the practical implications of these differences;
 - how 'accommodation need' for Gypsies and Travellers differs from that for the settled community;
 - timescales for carrying out and updating the assessment.
5. In addition, it provides advice on carrying out the assessment, including:
 - partnership working;
 - deciding who should carry out the assessment;

- the use of existing data sources;
 - the use of specialist surveys, including survey techniques and questions;
 - how to identify and communicate with the Gypsy and Traveller community.
6. This supplements guidance on the Strategic Housing Market Assessment and should be read in conjunction with it.

Who should use the guidance?

7. The guidance is provided for those within local authorities who have responsibility for ensuring that section 225 of the Housing Act 2004 is acted upon, and who will be undertaking, arranging or commissioning the Accommodation Needs Assessment for Gypsies and Travellers.
8. It is also recommended that local councillors are made aware of the requirement to conduct an Accommodation Needs Assessment in respect of the Gypsy and Traveller community, and of this guidance. Gypsy and Traveller accommodation can be a sensitive issue within communities and it may be helpful to ensure that council members are fully briefed at an early stage.

CHAPTER 2

Assessing the accommodation needs of Gypsies and Travellers

Why assess Gypsy and Traveller accommodation needs?

9. In the past, the accommodation needs of Gypsies and Travellers (especially those who live in caravans or mobile homes) have not routinely formed part of the process by which local authorities assess people's housing needs. The consequences of this have been that the current and projected accommodation needs of Gypsies and Travellers have often not been well understood.
10. The introduction of the new planning system provides for an evidence-based, strategic and regional system, in which the needs and wider demand of the Gypsy and Traveller communities for suitable accommodation can be considered and met equally and fairly alongside other sectors of the community.
11. Regional Planning Bodies and Planning Inspectors will require local authorities to produce Gypsy and Traveller Accommodation Needs Assessment reports which are clearly expressed and provide a robust and credible evidence base. These should demonstrate that the assessment process has been conducted properly and fairly, giving details of the methodology used to ascertain levels of need. This guidance is intended to support that process.
12. Gypsies and Irish Travellers are distinct ethnic groups and all the duties on public bodies under Race Relations legislation apply. The accommodation needs of all Gypsies and Travellers, including the above groups as well as new travellers and travelling showpeople, should be identified, understood and addressed through the planning framework and housing strategy on the same basis as other sectors of the community. Only in this way can the needs of each sector of the community be understood and appropriate allocation of resources ensured. This will help to ensure that future planning and investment decisions are based on well informed and accurate data, that they gain acceptance from local communities, and are defensible if challenged.
13. An understanding of Gypsy and Traveller accommodation issues is essential to make properly planned provision and avoid the problems associated with ad-hoc or unauthorised provision. A comprehensive Accommodation Needs Assessment and strategy to meet the need which is identified will greatly strengthen the ability of local authorities to respond swiftly and firmly to inappropriate unauthorised developments and encampments.

What is 'accommodation need' for Gypsies and Travellers?

14. In Planning Policy Statement 3, housing need is defined as 'the quantity of housing required for households who are unable to access suitable housing without financial assistance' and housing demand 'the quantity of housing that households are willing and able to buy or rent'.

15. In many cases, this definition will also be appropriate for Gypsies and Travellers, particularly those living in bricks and mortar housing. However, the distinctive accommodation requirements of some Gypsies and Travellers will give rise to similar types of need, but in a different context, for example:

Caravan dwelling households:

- who have no authorised site anywhere on which to reside;
- whose existing site accommodation is overcrowded or unsuitable, but who are unable to obtain larger or more suitable accommodation;
- who contain suppressed households who are unable to set up separate family units and who are unable to access a place on an authorised site, or obtain or afford land to develop one.

Bricks and mortar dwelling households:

- whose existing accommodation is overcrowded or unsuitable ('unsuitable' in this context can include unsuitability by virtue of proven psychological aversion to bricks and mortar accommodation).

16. It should also be recognised that the shortage of sites and local hostility, as well as lack of income, may prevent Gypsies and Travellers exercising their free choice in the accommodation market – and that there may in fact be no 'local accommodation market' in sites.
17. Once the Accommodation Needs Assessment has been carried out for Gypsies and Travellers on unauthorised sites, it will be possible to identify whether their presence on those sites indicates a need for permanent site accommodation within that area, or for temporary accommodation there to help facilitate a desire to travel elsewhere for economic or cultural purposes. The lifestyles and cultural traditions of Gypsies and Travellers often give rise to patterns of nomadism or semi-nomadism. Some of those on unauthorised sites may have permanent bases elsewhere and hence not be 'in need' in the strict sense set out above. However, it should be recognised that there is a lifestyle and cultural tradition of travelling within these communities, and the need for transit or stopping place sites should be addressed to facilitate this, and minimise the disruption it can cause.

Why do Gypsies and Travellers need a separate Accommodation Needs Assessment?

18. Gypsies and Travellers will typically form only a very small percentage of the population in any given area. The total population is estimated to be about 0.6% of the total UK population, of which only a proportion are living in, or seeking, caravan site accommodation. This means that the Strategic Housing Market Assessment is unlikely to yield results that are statistically robust for Gypsies and Travellers as a separate group.

19. Cultural differences, a reluctance of some members of these communities to identify themselves as Gypsies or Travellers, or a disinclination to participate in a process with which they are not familiar, mean that the main Strategic Housing Market Assessment process is likely to be markedly less successful in accessing this group than others. In addition, the particular lifestyle and culture of Gypsies and Travellers may give rise to distinctive accommodation needs, which the main assessment will be unlikely to pick up.

What should the Accommodation Needs Assessment produce?

20. The aim of the assessment is to provide data which will identify Gypsy and Traveller accommodation need separately from wider demand and aspiration, in the same way as for the rest of the population. As in the case of the Strategic Housing Market Assessment, it should expressly identify all accommodation need which has been revealed, whether resources are currently available to meet it or not.
21. A key aim of the wider Strategic Housing Market Assessment is to provide the basis on which to allocate resources, including for Gypsy and Traveller provision. A Gypsy and Traveller Accommodation Needs Assessment, founded on a robust and credible evidence base, will mean that a local authority will be able to produce one combined strategy for addressing accommodation need across the whole community.
22. It should enable Gypsy and Traveller accommodation need to be quantified in terms of:
- site accommodation on private sites;
 - site accommodation on socially rented residential sites;
 - site accommodation on transit sites;
 - bricks and mortar housing for owner occupation by Gypsies and Travellers;
 - affordable bricks and mortar housing.

Whom does the Gypsy and Traveller Accommodation Needs Assessment cover?

23. The definition of ‘gypsies and travellers’ for this purpose is specified in ‘*The Housing (Assessment of Accommodation Needs) (Meaning of Gypsies and Travellers) (England) Regulations 2006*’.
24. The following definition of “gypsies and travellers” should now be used:
- (a) persons with a cultural tradition of nomadism or living in a caravan; and
 - (b) all other persons of a nomadic habit of life, whatever their race or origin, including:
 - (i) such persons who, on grounds only of their own or their family’s or dependant’s educational or health needs or old age, have ceased to travel temporarily or permanently; and

- (ii) members of an organised group of travelling showpeople or circus people (whether or not travelling together as such).
25. The intention of this definition is to cover all those whose distinctive ethnicity, cultural background and/or lifestyle may give rise to specific accommodation needs, now or in the future, which need to be assessed and planned for.
26. A broad definition is necessary to achieve a full understanding of the accommodation needs of this community, and to put appropriate strategies in place to meet it. For example, Gypsies and Travellers, and their children and other relatives, in bricks and mortar housing may form part of the source from which future site need and aspiration may arise, and it will be essential to understand this. On the other hand assessing the needs of housed Gypsies and Travellers will also help identify the ways in which housing may be made to work better for them, and made more attractive to Gypsies and Travellers in general. This could reduce the numbers who leave or wish to leave housing for sites, and encourage some of those currently on unauthorised sites to move into, or back into, housing.
27. In some parts of the country new travellers form a substantial section of the travelling population. Although these people have adopted a nomadic lifestyle relatively recently, their needs should be assessed alongside those of the more traditional Gypsy and Traveller groups. To do otherwise would be to neglect the needs of part of the community, and lead to practical problems and potential legal challenge.
28. It may not always be clear-cut where a particular group falls within the definition. However local authorities are reminded that the accommodation needs of the whole community must be assessed under section 8 of the Housing Act 1985. Therefore if the local authority decides that accommodation needs of a particular group should not be assessed under this guidance in the context of section 225 of the Housing Act 2004 they are nonetheless under a duty to assess those needs as part of the wider section 8 requirement.
29. The inclusion of someone within a survey as a ‘Gypsy’, ‘Traveller’, ‘New Traveller’ or ‘Travelling Showman’, within the definition set out in paragraph 24 above, does not in itself imply that that person ‘should’ live on a site, or that they have ‘gypsy status’ for planning purposes, nor does it carry any presumption about how identified needs should be met. Gypsy and Traveller accommodation needs may be met in a variety of ways, including:
- standard owner-occupied bricks and mortar housing;
 - affordable housing, or group lets of affordable housing;
 - provision of group housing (small groups of purpose-built bungalows designated for use by Gypsies and Travellers);
 - socially rented site accommodation of various kinds;
 - privately rented site accommodation;
 - Gypsies’ and Travellers’ own provision of authorised accommodation providing legal and licensed sites on their own land.

How will it differ from assessing the housing needs of the settled community?

30. The aims of Accommodation Needs Assessment for Gypsies and Travellers will be the same as for other sectors of the community. However, the shortage of Gypsy and Traveller accommodation, as well as the distinctive lifestyle and culture of Gypsies and Travellers, will mean that some aspects of the process may need to differ. Unlike other sectors of the community, Gypsies and Travellers reside in three main types of accommodation:
- bricks and mortar housing;
 - authorised local authority, RSL or private caravan sites;
 - unauthorised sites (either unauthorised encampments, on land they do not own, or unauthorised developments, on land they do own).
31. The accommodation needs of Gypsy and Traveller communities may differ from the rest of the population because of:
- their nomadic or semi-nomadic pattern of life;
 - the preference for caravan-dwelling;
 - movement between housing and caravans;
 - their presence on unauthorised encampments or developments.
32. Mobility between areas may have the following implications for carrying out an assessment:
- a need to work at a sub-regional level (although not necessarily the housing market level, which is the basis of the Strategic Housing Market Assessment) both in carrying out assessments and delivering solutions;
 - the timing of the Accommodation Needs Assessment for Gypsies and Travellers will need to be considered (see paragraphs 81-82);
 - different questions may need to be asked (see paragraphs 86-87);
 - different data sources may need to be used.
33. It is important to consider:
- how you identify and engage with those to be surveyed (see paragraphs 67-70);
 - how interviewers put questions (see paragraphs 79-80)

34. If a local authority has little knowledge of, or reliable data on, Gypsies and Travellers, the results of the initial assessment may be less precise than for other groups, and long-term forecasting may be more difficult. If this is the case, it will be important for the assessment to be regularly updated. In any event, the assessment should be revisited and updated from time to time, to take into account, household change, movement in and out of the area and natural demographic changes generally.

Timescales for carrying out the Accommodation Needs Assessment

35. In line with ODPM Circular *Planning for Gypsy and Traveller Caravan Sites*, ODPM 01/2006, Regional Planning Bodies will be preparing Regional Spatial Strategies (RSS) and local planning authorities will be preparing Development Plan Documents (DPDs) on the basis of pitch requirements identified by local Accommodation Needs Assessments.
36. Local planning authorities are producing DPDs which need to contain policies and site allocations for Gypsy and Traveller sites. It is therefore essential assessments provide data on pitch numbers as soon as possible to inform the specific site allocations in these DPDs, and the pitch allocations for each local planning authority in Regional Spatial Strategies.

CHAPTER 3

Carrying out the Accommodation Needs Assessment

Preparation

37. The degree of sensitivity that often surrounds Gypsy and Traveller issues will make it very important to achieve buy-in to the Accommodation Needs Assessment process, from local politicians and the settled community. If the process is not seen as legitimate, it will be much harder to get support for the later stages of providing Gypsy and Traveller accommodation to meet those needs.
38. It is also essential to ensure that the process has credibility and acceptance within the local Gypsy and Traveller community. This can best be achieved by involving members of the local Gypsy and Traveller communities from the very outset of the process, both to advise and help ensure that the culture and traditions of the communities and their accommodation needs are fully understood by those conducting the assessment, and to ensure that the process is properly explained. This should help ensure the communities have trust in the objectivity of the proceedings and encourage a willingness to participate.

Responsibility for the process

39. The Accommodation Needs Assessment process should be led by the local authority housing department working closely together with the planning department. Those responsible should have suitable seniority to take ownership of the outcome and ensure that policies are adopted across the local authority as a whole.
40. While the responsibility to carry out the assessment rests with individual local authorities, it is strongly recommended that local authorities work in partnership with others. The potential benefits of such an approach are particularly relevant in relation to the Gypsy and Traveller communities because of their mobility and travelling patterns, which are liable to cross local authority boundaries, and which must be understood if appropriate provision is to be made. For example, a network of transit sites along well-used routes will be far more useful than a single isolated transit site.
41. Partnership working should help to deliver:
 - a bigger sample size, hence more accurate results;
 - a better understanding of migration into, out of, and within the survey area;
 - a better understanding of travelling patterns, particularly where they cross administrative boundaries;
 - a common approach and consistency across that area;
 - economies of cost and scale;
 - reduced risks of double counting;

- opportunities to work together to devise a concerted and strategic approach to Gypsy and Traveller accommodation shortages and enforcement against unauthorised sites.
42. Early discussions should take place with other local authorities in the region to identify the scope for partnership working, and the most appropriate areas to be involved. Some local authorities have already formed successful partnerships for assessing Gypsy and Traveller accommodation need and demand.
43. The area to be covered will largely depend on travel and movement patterns within the region, and local authorities will generally have some experience of these. County councils are often involved in Gypsy and Traveller provision, and if appropriate should be invited to be involved in the partnership.
44. Although partnership working is strongly recommended, it is essential that the data arising from jointly conducted assessments remain capable of disaggregation to the local authority level, to ensure each partner retains ownership of its own information base and can produce this information in circumstances involving a planning inquiry or appeal specific to the situation within that local authority area alone.
45. The picture of where Gypsies and Travellers live and want to live may have become distorted by different approaches to provision and enforcement adopted by different local authorities over the years. Where this is the case the local authority responsible for the area where the need is currently found will need to work closely with other local authorities in the region to find a shared solution. In some cases, local authorities which currently show a low level of need may have to accept that they will have to play a greater part in meeting regional need particularly where respondents express a wish to reside in that area.

Working arrangements

46. A steering group for the work will help to ensure that the process is informed by all available expertise, and links in as far as possible with the Strategic Housing Market Assessment for the rest of the community. It is important that key stakeholders are aware and involved from the outset, for example:
- representatives from the Housing and Planning Departments;
 - representatives from the local Gypsy and Traveller communities;
 - representatives from the BME and/or Gypsy and Traveller Service and other services such as education who work closely with the Gypsy and Traveller communities.
47. It may also be useful to include:
- someone with detailed knowledge of the Strategic Housing Market Assessment for the settled community;
 - someone with detailed knowledge of Gypsy and Traveller Accommodation Needs Assessments in another geographical area.

48. As well as considering specific issues to do with the design of the assessment, this group will also have an important role in publicising the assessment within their respective constituencies and ensuring that its results are taken seriously and properly acted on. In particular local authority Housing and Planning Department representatives on the steering group will need to work closely together to ensure the outcome of the assessment process, and subsequent actions and policies arising from it, are closely co-ordinated across their respective Departments and across the local authority as a whole.

Stakeholder engagement

49. Wider consultation on the design and conduct of the assessment should also be undertaken with local agencies and the local Gypsy and Traveller communities. Advice on how to assess the accommodation needs of ethnic minority groups in general is provided within the Communities and Local Government guidance on the Strategic Housing Market Assessment.
50. It is crucial that the purpose of the work is fully explained to the Gypsy and Traveller communities before the assessment begins. A community liaison group could be formed for this purpose, with the help of the Gypsy and Traveller representatives on the steering group, which could also provide advice on other matters, including the conduct of the assessment itself. Representatives of the Gypsy and Traveller community would be able to advise on this. They could also help interpret and comment on the results emerging from the assessment, the conduct of a specialist survey where undertaken and generally help encourage greater trust and community buy-in for the overall process.

Ensuring a high quality assessment

51. Given that the results of the assessment are a crucial aspect of the evidence base for both planning and housing purposes, it is essential that the exercise is conducted properly and contains a high quality evidence base. The process involved in conducting the assessment should be transparent, with clearly documented evidence of assumptions made, and decisions taken, to ensure that others can understand how the results have been reached.
52. In the event of challenge or judicial review during the LDF process or planning appeals, it is essential for a planning inspector to have access to a properly conducted assessment of Gypsy and Traveller accommodation needs, and a clear picture of the basis on which the local authority is intending to address it. This will help to ensure that the local authority's actions and decisions are defensible in these circumstances otherwise there is a risk that appeals could be lost simply on grounds of insufficient evidence or a lack of demonstrable effort in providing suitable authorised site accommodation elsewhere.

Carrying out the assessment

53. Once it has been decided what area the assessment should cover, the local authority or partnership will have to decide who will have overall responsibility for the conduct of the assessment. In addition, each local authority will have to appoint someone who will take ownership of the outcome and responsibility for securing agreement to it within that local authority.

54. The local authority or partnership will also need to appoint those who will be managing the assessment itself. There are several options for the latter, which include:
- in-house staff, either within the Gypsy and Traveller section or the housing department of the local authority;
 - county council staff, if they are leading an assessment across several districts;
 - consultants.
55. It may be sensible for different groups to be involved at different times – for example, in-house staff analysing the existing data, and specialists being brought in to do more detailed assessments.
56. In reaching a decision on the way forward, a local authority or partnership will wish to consider:
- the capacity and expertise of in-house staff;
 - the qualifications and track record of consultants;
 - how effective each option might be in reaching the target group (e.g. whether in-house staff are also responsible for enforcement action, and hence might be seen negatively by Gypsies and Travellers, or whether the use of Gypsies and Travellers themselves may be helpful in obtaining access to the community and secure the trust of those being assessed);
 - the perceived independence of the process, which will be vital for securing public acceptance of the results;
 - the credibility of each option with both Gypsies and Travellers and the settled community;
 - costs.
57. Where consultants are employed, particular care should be taken to ensure that all parties have a clear and detailed understanding of what service the consultant is expected to provide, the methodology to be used and the outcome to be delivered. Members of the steering group should be involved in production of a specification for the purpose of appointing a consultant, and to ensure the subsequent process is best planned to secure an accurate evidence base and analysis of accommodation needs in the area concerned.
58. In the event that a local authority or partnership proceeds to commission a consultant, the management of the process can be assisted if one person is appointed as the client representative, responsible for contractual matters, issues concerning the consultant's brief and co-ordinating comments and responding to queries.
59. The guidance on Strategic Housing Market Assessments gives further advice about the use of consultants.

60. The next step will be to implement the assessment itself. This is likely to have two separate components:
- an analysis of existing data sources;
 - conducting a specialist survey.
61. Local authorities are reminded of their duties under the Data Protection Act 1998, which covers personal information provided to them as part of the Accommodation Needs Assessment process. It is essential that the privacy of those who participate is safeguarded. No personal information relating to specific individuals should be made public, and no individual should be identifiable through the description of where or how they live or their other circumstances. Further information on data protection is available from the Information Commissioner's Office, on 01625-545745, or at www.informationcommissioner.gov.uk.

Existing data sources

62. Some information is currently held by local authorities or other agencies, and subject to data protection requirements, can be used to inform the assessment. For example:
- the number of Gypsy and Traveller caravans and type of site on which they are located are recorded by the local authority via the Gypsy and Traveller caravan count every January and July. Until January 2005, the caravan count also recorded numbers of families. This data is publicly available on the Communities and Local Government website;
 - information should also be available from local authority site management records. These may provide information about site licensee households, pitch turnover or length of licences, site waiting lists and transfer applications and movement between site accommodation and bricks and mortar housing or vice versa;
 - information relating to private authorised sites should include the number of caravans permitted on each site, whether the planning permission was granted on a permanent or temporary basis, and whether it restricted occupancy to named individuals;
 - local authorities should also gather data on unauthorised encampments and unauthorised developments in their area. This should include the number of caravans and family groups on each site, length of occupation, and the up to date position regarding planning applications, appeals and/or enforcement action, planning applications for Gypsy and Traveller caravan sites which have been refused planning permission by the local planning authority over the previous 5 years, the outcomes of any appeals, and those where enforcement action has been taken;
 - a local authority may also have additional sources of data about local Gypsy and Traveller populations, subject to personal confidentiality safeguards, via service providers, such as health workers, Supporting People staff, and the Traveller Education Service (TES). The TES will have information on Gypsy and Traveller pupil numbers via the Pupil Level Annual School Census but, as with all personal data, any transfer will need to comply with the Data Protection Acts;

- Gypsy Liaison Officers and others working with the community have detailed records of encampments which are useful in assessing the need for transit provision. They may also have much more detailed personal knowledge of the communities, and local authorities or partnerships may want to draw on this when designing and carrying out their assessment.
63. However, for some groups there is likely to be very little secondary data. Although more than half of the Gypsy and Traveller communities are thought to be residing in bricks and mortar accommodation, housing records are unlikely to identify who or where they are. Ethnic monitoring categories often do not identify Gypsies and Travellers separately, and where they do, Gypsies and Travellers in housing may be reluctant to identify themselves as such for fear of reprisals. Similarly, housing waiting lists are unlikely to identify Gypsies and Travellers as a BME category. The records held by other service providers cannot be assumed to be comprehensive either, as they will only record those accessing the service, and it is known that Gypsies and Travellers frequently do not take up available services, for a variety of reasons.
64. It is unlikely that existing data alone will be sufficient in carrying out a Gypsy and Traveller Accommodation Needs Assessment, as such data is not likely to be comprehensive or detailed. For example, while the caravan count data can provide a proxy for the amount of unmet need for authorised pitches, it will be a crude proxy, as it says nothing about the number of households or individuals in those caravans, the adequacy of their accommodation, their needs, their preferences, their travelling patterns or their reasons for living where they do. It will not establish the need for pitches among those housed in bricks and mortar, or whether some of those on unauthorised sites would prefer to live in bricks and mortar if they could access it.
65. Fuller information is needed to ensure that Gypsy and Traveller accommodation need is adequately identified and plans put in place to address it. It is therefore recommended that the local authority or partnership conduct a specialist survey and/or qualitative research to obtain further more detailed information.

Conducting a specialist survey

66. The Strategic Housing Market Assessment guidance sets out general guidance on these assessments and on commissioning a survey. However, there are several aspects unique to Gypsy and Traveller Accommodation Needs Assessments which will need to be considered.

Identifying the communities

67. To ensure that the sample surveyed is as representative of the population of Gypsies and Travellers as possible, existing data about the community should be used to inform the selection of sites and the households visited. It is likely that the best quality data will be held about Gypsies and Travellers on authorised sites, and these are likely to be the easiest group to identify and approach.
68. Gypsies and Travellers on unauthorised developments can be identified via the appropriate local authority planning department. Those on unauthorised encampments may be well known to the local authority, as regular and perhaps tolerated visitors, or may be less well known, and less easy to identify.

69. Existing data about Gypsies and Travellers in bricks and mortar housing is likely to be incomplete. Techniques which are used to contact other 'hard to reach' groups may be adapted for use with this community. In these cases, Gypsy Liaison Officers, Traveller Education Services, health workers or other voluntary agencies may be able to assist with identification of these groups.

Difficulties in accessing the community

70. Even where the local Gypsy and Traveller community has been identified, approaching the community to undertake a specialist needs assessment survey may not be straightforward. There may be a reluctance to provide information, or a suspicion about the purposes to which the information will be put. Some Gypsies and Travellers may be unwilling to co-operate. Gypsy Liaison Officers and other service providers who may have the trust of the various Traveller communities, along with Gypsy and Traveller representatives can play an important role in preparing the ground and encouraging participation, explaining the purpose of the survey and introducing researchers.

Survey coverage and response rates

71. The survey will need to cover a sufficiently representative sample of each type of site accommodation existing in the local authority or each of the partner authority areas. Ideally those sites selected for survey interviews should include both the more and less popular sites, where this can be ascertained by occupancy, waiting lists and local experience. Coverage should be sought in respect of Gypsies and Travellers in each of the accommodation circumstances mentioned in paragraph 29 of this guidance.
72. The steering group should decide the degree of survey coverage at an early stage, bearing in mind that the evidence base and the process by which conclusions are drawn from it should be clearly identifiable to the public, planning inspectors and others and be sufficiently robust to be properly defended against any subsequent challenge. Good survey coverage will help to achieve these qualities.
73. To help ensure the assessment is valid and based on robust evidence, surveys should be conducted on a statistically representative proportion of the Gypsy and Traveller community. Where it is known that the population of site based Gypsies and Travellers in a survey area is relatively small, and perhaps concentrated in one or two locations, almost 100% coverage should be possible. Efforts should be made to try and contact everyone on the sites concerned (see paragraphs 83-85). Participation rates are obviously subject to the willingness of the community to be involved but significant response rates could be reached in these circumstances.
74. Where larger or more widespread Gypsy and Traveller communities are concerned it will necessary to strike a more realistic balance between coverage and economy of scale, but care should be taken to ensure that subsequent interpretations and analyses of data are based on statistically representative samples.
75. Gypsy and Traveller communities are not equally distributed between individual local authorities in a given area, and where a partnership arrangement is in place care should be taken to ensure that a proper evidence base has been achieved for each individual sub-region and each type of accommodation is covered. Projections and

assumptions on a small evidence base, perhaps gathered in one or two locations only, may not be representative of communities elsewhere in the area.

76. A crucial objective of the survey process is to identify and interpret those aspects of Gypsy and Traveller accommodation need which are less well understood. This can often manifest itself in the case of unauthorised and private authorised sites and bricks and mortar housing. Special effort may be needed to ensure that a similar amount of evidence is available as for local authority owned sites for which more information may already be available. This may imply a higher percentage sample size coverage.
77. It can be very helpful for those conducting the assessment to hold a stakeholder event at key stages to present emerging findings and to have early warning of any differences of understanding or interpretation which may arise from that of the local Gypsy and Traveller community. Members of the community liaison group, if formed, would be able to help encourage participation in this. In the event that the steering group has doubts about the degree or quality of data which has been obtained, it may be necessary to consider whether a booster survey should be conducted to improve the evidence base.

Managing expectations

78. In conducting the survey, it should be emphasised to those taking part, that this exercise is designed to gain a clearer understanding of the scale of Gypsy and Traveller accommodation need (as defined in paragraphs 14-17 of this guidance) which is to be addressed by the local authority, and to help it develop a strategy to meet it. However it should also be emphasised that there is no obligation on the local authority to address the needs identified in precisely the way the respondent would prefer.

Cultural sensitivities

79. Cultural sensitivities should be carefully researched and considered during the design of the survey. They may affect both the questions asked, and the way the survey is carried out. Questions should be carefully phrased to avoid those which could cause offence, while at the same time secure necessary data in the same way that it is from others in the population generally. Advice should be sought from the communities themselves, and those who work with them, about the cultural sensitivities or language which may be problematic.
80. There may be cultural sensitivities to do with age and gender. Women may not wish to speak to male researchers about some issues. Where extended families are interviewed together, family members should be given the opportunity to respond separately and in confidence if they wish.

Timing of the survey

81. Careful consideration should be given to the appropriate timing for the survey. The caravan count consistently shows higher numbers on unauthorised encampments, and lower numbers on permanent residential sites, in the summer. It is likely that numbers in housing will also be lower in the summer.

82. The local authority or partnership will need some knowledge of travelling patterns and the local Gypsy and Traveller population before a decision can sensibly be made. For example, if Gypsies and Travellers moving during the summer come from the local area, they may be easier to access during the winter in their permanent residential bases. If on the other hand they come from outside the area, the survey will need to be carried out during the summer if their needs are to be assessed – and account should also be taken of the fact that some Gypsies and Travellers normally resident in the area may be away travelling themselves. Experience has shown that a Gypsy and Traveller Accommodation Needs Assessment is best conducted over a six to nine month period to identify the effect of seasonal migration.

Survey techniques

83. Traditional survey techniques, such as sending a mail shot to random addresses, are very unlikely to deliver sound results. Levels of literacy within the community are generally lower than among the settled community, and given the need to build trust, interview surveys will yield much higher response rates and more reliable data.
84. Once on a site it would be best to interview as many residents as are present and willing to be interviewed. Where possible it is useful to achieve an even gender split among interviewees. Given that male members of the families are often away during working hours consideration should be given to some surveying later in the day.
85. One possible approach is to organise detailed discussions or consult with a group of individuals believed to be representative of a particular group. Studies of this type have been used successfully in this area and can often produce useful insights and additional information. Group interviews need to be facilitated by someone who has a good understanding of the research objectives, the Gypsy and Traveller community and the issues involved. These groups should be small and care is needed with composition to ensure for example that family hierarchies do not sway opinion unduly and inhibit younger members of the community from expressing their own individual views.

Survey questions

86. Where possible, the questions asked of Gypsies and Travellers, both on sites and within housing, should be the same as those asked of the settled population, where surveys have been undertaken for a Strategic Housing Market Assessment, to ensure that results are comparable. To be most effective questionnaires should be developed in consultation with representatives of the local Gypsy and Traveller communities. They may include a mix of tick-box closed questions and more open questions where respondents are encouraged to expand their answers.
87. Questions will need to be adapted in some ways:
- questions about current accommodation and facilities need to reflect the differences between living in a house and living in a caravan (both on an authorised site, where there will be separate pitches and amenity blocks, and on an unauthorised site, where there may not be);

- questions about needs and preferences for type of accommodation should cover a range of options: standard bricks and mortar housing, group housing, permanent residential sites, transit sites or stopping place sites;
- questions about accommodation needs should ascertain whether there are different needs at different times of the year – travelling is usually concentrated during the summer;
- where travelling forms part of the lifestyle of a household, it will be important as far as possible to find out travelling patterns. Respondents should be asked what areas they travel to and where they tend to seek accommodation. If this is in another area they can be asked whether they are prevented from doing so by shortages of suitable accommodation in that area. Where this is the case, it should be recorded in the Accommodation Needs Assessment, and the relevant local authority should also be notified so that the data can also be included in their own assessment.

CHAPTER 4

Making use of the Accommodation Needs Assessment

88. It is important to be able to identify both current and future accommodation needs of the Gypsy and Traveller communities by use of local data. This should be provided in the assessment report in sufficient detail to explain the process of analysis that has been applied and to differentiate between the specific groups defined in paragraph 12.
89. Data contained within the assessment report should also make clear the individual needs for each of these communities in terms of the type of accommodation they currently occupy (see paragraph 30).

Current need

90. The data collected through the Accommodation Needs Assessment process should enable the local authority or partnership to derive overall figures by which to identify accurately the current levels of Gypsy and Traveller households and the accommodation needs existing in that area.
91. It should be possible to identify:
 - the number of Gypsy and Traveller households that have or are likely to have accommodation need to be addressed, either immediately, or in the foreseeable future;
 - a broad indication of where there is a demand for additional pitches;
 - the level and types of accommodation required for this need to be suitably addressed (eg socially rented/private site provision, transit sites or stopping places, bricks and mortar housing);
 - the level of unauthorised development which, if planning permission is not approved, is likely to swell the scale of need.

Future Need

92. Accurate projections of future needs are likely to be more difficult. Current levels of satisfaction with existing accommodation will provide some indication of whether households are likely to stay in that accommodation. Analysis of changing demand (which may be expressed through unauthorised sites, or low demand for authorised sites) will provide further information.
93. Information on the likely rate of household formation and assessments of future accommodation need should be based primarily on locally gathered evidence, rather than average national estimates which may not reflect the position in the survey area concerned. Local trends should be identifiable from the current demographic profile of the community obtained from the local survey, from agencies working directly with local Gypsy and Traveller communities and from figures previously given for the caravan count. Gypsy and Traveller community representatives on the steering group

should also be able to advise. In the event that local data does not provide a clear picture it should be noted that average national estimates range between 3-4%.

94. In the case of Gypsies and Travellers it will probably not prove realistic to try and forecast need for up to 15 years ahead, as is recommended within the Strategic Housing Market Assessment guidance for the rest of the community. However, the most accurate projections possible covering the next 5-10 years should be made.
95. It should be possible to identify:
 - the intentions of those households planning to move which may free up spare pitch or bricks and mortar capacity;
 - the likely rate of household formation and annual population increase;
 - travelling patterns within the survey area and in and out of surrounding areas.
96. An illustration of how current and future need might be calculated is set out below.

An estimate of need for residential site pitches: 2005 – 2010

For example, on the basis of need identified from a survey of Gypsies and Travellers in a local authority or partnership area, the following approach could apply.

a. Current residential supply (based on 1 pitch per household) Pitches

Current supply of occupied local authority residential site pitches in local authority/partnership area	300
Current supply of occupied authorised privately owned site pitches in local authority area/partnership area	200

Total Households = 500

Number of unused local authority pitches, and vacancies on privately owned sites available in local authority/partnership area ⁽¹⁾	15
Number of existing pitches expected to become vacant in near future (local authority and privately owned) ⁽²⁾	5
Number of households in site accommodation expressing a desire to live in housing 3	
[New local authority pitches already planned in year 1]	10
[Existing applications for private site development/extension likely to gain planning permission during year 1]	20
Total pitch provision available = 553	

b. Current residential demand

Households

– seeking permanent site accommodation in the area ⁽³⁾	12
– on unauthorised encampments	5
– on unauthorised developments for which planning permission is not expected	30
– currently overcrowded ⁽⁴⁾	15
– new households expected to arrive from elsewhere ⁽⁵⁾	5
i. new family formations expected to arise from within existing households ⁽⁴⁾	4
ii. in housing but with a need for site accommodation ⁽⁵⁾	2

Current shortfall = 20 pitches

iii. family formation 2005 – 2010 = 88 households ⁽⁶⁾

Thus extra pitch need 2005 – 2010 = 108 pitches

Notes

(1) Including closed local authority sites which could be brought back into use

(2) As identified in the assessment of Gypsy and Traveller need

(3) Based on waiting lists and results of survey

(4) Overcrowding – eg where family numbers have grown to the extent that there is now insufficient space for the family within its caravan accommodation and insufficient space on the pitch or site for a further caravan

(5) As identified in the survey, on a waiting list for site accommodation and trends from the caravan count.

(6) 553 families @ 3% * year on year for 5 years.

*NOTE. The 3% family formation growth rate is used here as an example only. The appropriate rate for individual assessments will depend on the details identified in the local survey, information from agencies working directly with local Gypsy and Traveller communities, and trends identified from figures previously given for the caravan count.

Using the Accommodation Needs Assessment

97. Once the Accommodation Needs Assessment has been completed, the local authority will need to begin considering how to meet the accommodation needs identified in the assessment. Needs can be met in a variety of ways, through the socially rented or commercially rented sectors, through private ownership of sites, or through bricks and mortar housing. The assessment will provide the data on which decisions about the appropriate mix of provision can be made.
98. The local authority lead will therefore need to disseminate the results of the Accommodation Needs Assessment to all relevant people and departments within the local authority and partner organisations (such as RSLs), and begin the process of facilitating or providing the necessary provision. This could for example require the identification of land for sites, or an application for central government funding from the Gypsy and Traveller Sites Grant. As with the assessment itself, it will be important to involve the right people at a sufficiently high level to drive the agenda forward.
99. The assessment also fits in to more formal local and regional processes, as set out below, and the local authority lead will need to ensure that it is fed into these appropriately. However, these processes should not be seen as a substitute for urgent action where this is needed.

100. At a local level the assessment:

- will be an essential element in the preparation of the Gypsy and Traveller component of the local authority's housing strategy, which will itself inform investment decisions. The Housing Act 2004 requires local authorities to include the needs of 'gypsies and travellers' in any housing strategy they produce in line with section 87 of the Local Government Act 2003.
- will also form a key part of the evidence base underpinning the preparation of Local Development Frameworks, which must set out policies to address the particular accommodation needs of specific groups such as Gypsies and Travellers and allocate land to meet those needs. One of the tests of the soundness of a draft Development Plan Document at its examination will be whether it is based on robust and credible evidence. Further guidance on planning for Gypsy and Traveller provision can be found in the Planning Circular *Planning for Gypsy and Traveller Caravan Sites*, ODPM 01/2006.

101. The Accommodation Needs Assessment also has a key role in establishing regional needs and plans.

- It feeds into the Regional Housing Strategy, which identifies key priorities in each region, and provides a basis on which decisions on housing capital investment can be made.
- It will also be a component in the overall assessment of need which informs the housing policies in the Regional Spatial Strategy (RSS). The RSS should identify the number of pitches required (but not their location) for each local planning authority in the light of the Gypsy and Traveller Accommodation Needs Assessment and a strategic view of needs across the region. Development Plan Documents must be in conformity with the RSS.

102. The Accommodation Needs Assessment will also inform the wider housing work of the local authority and its partners, by providing a clearer understanding of the accommodation issues faced by Gypsies and Travellers. These issues are not confined to the need for more sites. The assessment will help to show what support may be needed by Gypsies and Travellers to access and maintain stable accommodation, how homelessness may be prevented, and how bricks and mortar housing can be made to work better for the Gypsies and Travellers who live there.

103. In addition it may help inform wider work on improving Gypsy and Traveller access to services, for example in the field of health, education and employment. It should be possible to identify any aspects of existing accommodation provision which occupants consider to be leading to poor health problems, and local authorities may wish to consider whether provision of this information, subject to data protection principles, could assist local NHS bodies and Local Strategic Partnerships for health planning purposes. Similarly, evidence of difficulties experienced with access to education may assist local education providers target these problems.

ANNEX

Possible topic list

In conducting Gypsy and Traveller surveys the general guidance set in the appendices of the Strategic Housing Market Assessment guidance should be followed, particularly the suggested list of topics to be covered when conducting a survey interview. Given the particular culture and lifestyle of the Gypsy and Traveller communities, some of these questions may need to be amended, and others added.

The list below is not prescriptive. Local authorities or partnerships will wish to tailor their approach in the light of local circumstances and refine supplementary questions depending on initial answers given.

As a guide however the suggested subject areas listed below are indicated as “key issues” (in the context of identifying need) or “additional issues” (suggested follow up issues or those helping to increase awareness of longer term or supplementary accommodation demand).

1. GENERAL HOUSEHOLD INFORMATION

a. In respect of individual members of the household

Key issues

Ethnic origin (English Roma, Irish Traveller etc)

Age by band eg below 5; 5-10 etc

Gender

Relationship to the head of the household

Frequency of travel

Additional issues

Type of work and availability in the area

Location and distance of work place

b. In respect of the household generally

Key issues

Size of household, number of dependent children (*but see note on cultural sensitivities, at paras 79-80 of this guidance*).

Number of caravans/mobile homes occupied on pitch

Rent payable (excluding council tax and bills, but including any rent currently met by housing benefit)

Is your accommodation affordable?

Whether housing benefit received

Does anyone in your household have a disability or serious illness?

Does anyone in the household have health needs for special or adapted accommodation which need to be addressed?

Is the proximity of a hospital or doctor a reason why household lives where it does?

Additional issues

Any instances of harassment or neighbour disputes/discrimination, and were they dealt with satisfactorily?

What sort of work would they like their children to do when older?

2. INTENTIONS AND PREFERENCES

Key Issues

Do you want to live in this area – if not, where?

Are you residing in current accommodation by choice or because nowhere else to go?

Where would you prefer to live/travel ? Why are you not living/travelling there?

Which places do you normally travel to for work, and for roughly what period?

For what type of work?

Would relatives living nearby travel with you?

Does the household plan to move to another location in the next 1-5 years?

If so, main reason for moving

Do you know if there is accommodation available there?

Would you wait until it was available if not?

Any members of the household likely to want independent accommodation in the next 1-5 years? If so, will they wish to live in the same area or elsewhere?

Will they wish to live on a permanent residential sites and/or travel, or live in bricks and mortar housing?

Are you on a waiting list for a local authority, private or RSL site, or a housing register in that area?

To live in the new area would you be prepared to move to site accommodation/bricks and mortar housing, instead of what you already have (as appropriate)?

Area preferred – elsewhere in the neighbourhood or further afield

Likely to be a short term/long term move

Would this involve a change of accommodation type and/or tenure, e.g. private to public site; caravan to housing; authorised to unauthorised development or site?

What steps taken or planned so far? Have you experienced problems in finding accommodation there?

Is there a need for extra sites to be developed? If so

Where needed?

What sort (permanent or transit)?

What size, in terms of numbers of caravans and/or pitches?

Do you wish to develop your own site, and could you afford to?

If so, where? Will you/have you sought planning permission?

Restrictions which impact on employment, need to travel further for work?

If you wish to develop your own family site how much could you afford to pay for the land? e.g. £5,000, £5-10,000..... £50,000 (probably realistic upper limit)

What size, in terms of numbers of caravans and/or pitches?

If transit sites needed

Where and why needed?

Would you use them if available?

If not, why not?

Additional issues

Have you had to stay in an unauthorised camp in the past, if so in which area?

Was this just for the short term, would you have chosen permanent site accommodation if it was available?

Which of the following types of accommodation would be acceptable, or not acceptable, for your household;

A private site owned by you and your family

A site owned by the local council, and if so what size

A site owned by another Gypsy or Traveller

A house or bungalow rented from the local council

A house or bungalow that you own yourself

3. SPECIFIC ACCOMMODATION CIRCUMSTANCES

a. Gypsies and Travellers currently residing in caravan accommodation on authorised sites

General household information etc as for sections 1 and 2 above, plus the following additional question areas –

Key issues

Type of accommodation eg caravan, mobile home

If moved into present site within last year –

reasons for move

location of previous home (within present local authority boundaries?)

was this from caravan or bricks and mortar accommodation?

Any relatives living on site nearby, would you wish to all live on the same site if possible?

Additional issues

Type of tenure of present home

Length of residence in caravan accommodation

Length of residence on present site/pitch

AMENITIES AND CONDITIONS

Key issues

Are essential services available? (e.g. water, electricity, heating etc)

Is there a separate amenity block? (with toilet, bathroom kitchen) – or shared facilities?

Is there a land line telephone or the opportunity to have one?

Are there good fire safety arrangements?

Are general site conditions satisfactory?

Are you worried about health and safety aspects?

Is size of site and of pitch too big/too small/sufficient to accommodate family needs eg desired number of trailers?

Is there overcrowding in the caravan which cannot be safely rectified by placing another caravan on the pitch?

Is there overcrowding on the site generally, e.g. more caravans on pitch than permitted by fire regulations?

Is the site under used? If so, why do you think that is?

Do you and your household plan to move again from the site eg within one, three or five years? If yes, why?

What would you hope to move to in terms of type, size or location of accommodation?

Would you stay where you are if there were improvements made to your existing site or accommodation? If so, what improvements are they?

Additional issues

Pitch location e.g. urban/rural location; near industrial areas, dumps, sewage works.

Potential health hazards arising from contaminated land, noise levels, fumes, close vicinity of traffic on motorways or major trunk roads.

Any other aspects or shortcomings which are leading to instances of ill health

Effective management and security on site?

Is there convenient access to the site?

Is layout of site spacious or cramped? State of security arrangements, fencing, adequate site management arrangements.

Is there room for a visiting caravan?

Good access to other services eg public transport, shops/leisure facilities – would you use them if available?

Need for repairs? Are there difficulties in getting these done?

Sufficient parking facilities?

Are there facilities for keeping animals?

Are there working restrictions on site?

Is there room for storage of equipment?

Are meeting/social rooms available?

Provision for children (on-site play areas)?

Sufficient outside lighting?

Regular refuse collections?

Access to GP, hospital services and specialist treatment?

Good access to schools?

Access to training or adult education desired? Are there barriers to this?

b. Gypsies and Travellers residing on unauthorised private sites

Key issues

General household information as for sections 1 and 2 above, plus the following additional question areas –

Have the local authority made any attempt to move you on?

How often have you been moved in the past year?

What is the longest you have managed to stay in one place?

How many times have you had to attend court proceedings to do with your living situation?

What has your children's pattern of schooling been?

Are you registered with a doctor's surgery?

Are you en route to another area or looking for permanent accommodation in the area?

What would be the ideal accommodation for you, were we able to provide it?

Would you accept site or bricks and mortar accommodation as a temporary or permanent solution?

Additional issues

What sort of accommodation respondents had before their current home

Where was this

Why left it

c. Gypsies and Travellers residing on unauthorised encampments, roadside etc

Key issues

General household information as for sections 1 and 2 above, and those for unauthorised private sites above, plus the following additional question areas –

Where residing; on roadside, in lay by, on playing fields, private or public land.

Do you travel throughout the year or would you prefer to have settled accommodation? If so, what type and where?

What areas are you planning to travel to?

If there were a network of authorised transit sites would you use them and where should they be?

Additional issues

Did you previously live in bricks and mortar housing or on a residential site?

Do you have access to electricity, water and WCs?

Do you have access to local services, including doctors and education facilities?

d. Gypsies and Travellers currently residing in bricks and mortar housing

Key issues

General household information as for sections 1 and 2 above, suggested list of topics set out in the guidance for Strategic Housing Market Assessments, plus the following additional question areas –

Do you live in a house by choice or only in the absence of suitable site accommodation?

Additional issues

If site accommodation was available in another area would you be happy to move there, or must it be in the near vicinity?

What do you like about living in a house, and this house in particular?

What do you not like about living in a house and/or this house?

Have you suffered harassment from your neighbours or other members of the settled community?

e. Travelling showpeople

Key issues

General household information as for sections 1 and 2 above, from section 3a-d as appropriate, plus the following additional question areas -

Is your pitch always occupied, or only at certain times of the year?

Is there sufficient provision available for storage of equipment?

Is the storage provision easily accessible and secure?



Local Housing Strategy 2012-2017



Foreword



I am pleased to introduce Angus Council's Local Housing Strategy setting out our key priorities and actions for the 5 year period until 2017. The strategy puts forward our proposals on how we intend to improve the provision of housing and housing services

for all of our residents.

We have a clear vision for Angus of creating places that people are proud to call home, but we know that it won't be easy. We face a future where the challenges are many, coupled with a present still suffering the effects of economic inertia and continued pressure on the public purse.

We have a growing population in which the proportion of older people is rising dramatically; we are undergoing welfare reforms that will inevitably alter the income stream for both social and private rented landlords; more demanding environmental standards will require higher levels of investment; at the same time increasing energy costs mean that more households may slip into fuel poverty.

With this as the background, we still retain a duty to ensure fairness in terms of providing choice and accessibility to housing which is affordable, and meets the needs of all our residents. The Scottish Social Housing Charter provides a new framework for the tenants of social landlords, including the council, overseen by the new Scottish Housing Regulator. At the same time, wide ranging changes may come about as a result of the Scottish Government's consultation on the future of the

private rented sector. Whichever the sector, we hope to increase the opportunity for people to access the type of housing they want, in the location they would like it. We believe that by getting the mix and quality of housing right, we can develop more cohesive and sustainable communities, and help improve the health and wellbeing of our residents.

All this means that we will have to be prudent in our use of the scarce resources available to us, and we know that this will sometimes mean taking tough decisions. However, it also opens the door to more innovative way of working, both in terms of the solutions we find to challenges, but also in how we engage with partners to achieve our ambitions. In particular, working more closely with Registered Social Landlords and voluntary organisations will become an important aspect through the lifetime of this strategy. Closer integration with the health and social work agenda will also be a feature of the mid to long term.

The housing market has become increasingly complex, with boundaries between what is traditionally seen as private and public sectors becoming blurred. However, we see this as an opportunity for delivering the aims of our local housing strategy in a more joined up way, and which links more closely with the council's other strategic objectives. Housing plays an integral part in the social and physical character of Angus, and I hope that this strategy will give us the means to increase its contribution to developing a community which is safe, secure and vibrant.

COUNCILLOR DONALD MORRISON

Convener, Neighbourhood Services Committee

Content

Glossary	4
Executive Summary	6
Section 1. Introduction	8
Section 2. How everything links up	10
Section 3. Housing Environment	12
Section 4. Our Strategic Priorities	18
• increase housing supply, access and choice	18
• provide special needs housing and housing support	24
• improve the quality of housing, making it energy efficient and easy to heat	30
Section 5. Conclusion	33
Section 6. Research and further reading	34
Section 7. Monitoring and Evaluation	36
Section 8. Action Plan and Monitoring Framework	38

Your views

We welcome your views and any feedback you may wish to make on whether you agree with our focus on outcomes and the actions set out in this document

We completed the first stage of consultation with the public and members of the Angus Housing Market Partnership in November 2011. We revised our initial Local Housing Strategy (LHS) in line with the comments and feedback we received.

We welcome your views in these areas:

- Have we made all the relevant strategic links?
- Are our policy actions to meet housing need identified in the Angus Housing Need & Demand Assessment the right ones?
- Do you recognise our local priorities as common themes among all our stakeholders and partners?
- Will our action plan deliver the outcomes required to meet housing need? If not, have you any suggestions how we can improve our Action Plan?

You can write your comments on response forms available on our website or you can contact us direct. Your comments and views on the Angus Local Housing Strategy 2012-17 are invited before 28 September 2012.

Contact us

Write to us	Strategic Housing Team William Wallace House Orchard Bank Business Park Orchard Loan Forfar DD8 1WH
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Call us	01307 474767 and ask for Shirish
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Email us	HousingStrategy@angus.gov.uk
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Visit the web	http://tinyurl.com/bskpxa3
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This document can be translated, on request, into other community languages. For people with visual impairment, large print, audio or Braille versions can be provided. Contact ACCESSLine on 08452 777 778 if you need assistance.

Glossary

This is what we mean when we use terms and acronyms in the LHS

AFFORDABLE HOUSING: Housing of a reasonable quality that is affordable to people on modest incomes. This includes social rented housing (provided by councils and RSLs) and intermediate housing, which can include mid-market rent and low cost home ownership.

AFFORDABLE HOUSING SUPPLY PROGRAMME (AHSP): Funding from the Scottish Government for RSLs and Councils to build affordable homes.

ANGUS COMMUNITY PLANNING PARTNERSHIP (CPP): A group made up of representatives from public agencies, forming a partnership responsible for community planning to achieve Angus Council's Single Outcome Agreement objectives.

BELOW TOLERABLE STANDARDS (BTS): A dwelling that does not meet the tolerable standard as defined in the Housing (Scotland) Act 1987 (as amended).

CARE AND REPAIR: A service to help older or disabled people to get repairs done and physical adaptations installed to their home.

FUEL POVERTY: Being unable to keep a home warm at a reasonable cost. A household which spends more than 10% of its disposable income on fuel costs is defined as being in fuel poverty.

HOUSING NEED AND DEMAND ASSESSMENT (HNDA): A framework that Local Authorities follow to develop a good understanding of how their local housing market operates. This informs the development of local housing strategies and development plans.

HOUSING DEMAND: Quantity and type/quality of housing which households wish to buy or rent and are able to afford.

HOUSING MARKET AREAS: Geographical areas which are relatively self contained in terms of housing demand, i.e. a large percentage of people moving house or settling in the area will have sought a dwelling only that area.

HOUSING MARKET PARTNERSHIP (HMP): A multi-disciplinary team including other relevant organisations who work together to plan for housing.

HOUSING NEED: Households lacking their own housing or living in inadequate or unsuitable accommodation who are unlikely to be able to meet their own needs in the housing market without some assistance.

HOUSING REGISTER (COMMON HOUSING REGISTER, CHR): A register of those who have applied and qualify for affordable housing.

INTERMEDIATE AFFORDABLE HOUSING: Housing available at a cost below full market value to meet an identified need, includes: subsidised low cost housing for sale (discounted, shared ownership or shared equity); low cost housing without subsidy (entry –level housing for sale) and mid market.

LOCAL DEVELOPMENT PLAN (LDP): Sets out the direction for long term development and the policies and proposals for the development and use of land.

LOCAL HOUSING STRATEGY (LHS): A Statutory document that assesses the housing need, and the resources to meet that need in the area.

MARKET HOUSING: Private housing for rent or for sale, where the price is set in the open market.

MAINSTREAM HOUSING: Any house which has not been adapted to meet a specific housing need of an occupant.

PRIVATE SECTOR HOUSING GRANT (PSHG): Used to finance the Scheme of Assistance. The council have a duty to provide a minimum of 80% grant funding for adaptations to provide a disabled occupant with the necessary adaptations. Its aim is to assist homeowners and private tenants to remain in their homes and live independently.

RIGHT TO BUY (RTB): Enables tenants of social rented housing the right to purchase their homes at a discount.

REGISTERED SOCIAL LANDLORD (RSL): A 'not for profit' Housing Association or Co-operative registered with the Scottish Housing Regulator.

SCHEME OF ASSISTANCE (SoA): A system of information, advice, practical and financial help, for private owners, landlords and tenants introduced by the Housing (Scotland) Act 2006 to improve the maintenance and repair of private housing.

SCOTTISH HOUSE CONDITION SURVEY (SHCS): The largest single housing research project in Scotland, which looks at the physical condition of Scotland's homes as well as the experiences of householders.

SCOTTISH HOUSING QUALITY STANDARDS: A standard of housing which all social landlords must comply with by 2015. The standard is intended to provide a measure against which the standard of accommodation provided to tenants can be measured and encouraged.

SCOTTISH PLANNING POLICY: The statement of the Scottish Government's approach to land use planning matters. This complements the guidance on the LHS and indicates the requirement for clear linkages between the LHS and the Strategic Development Plan.

STRATEGIC DEVELOPMENT PLAN (SDP): A document used to explain the local authorities vision for the long term

and the development strategy required to deliver that vision.

STRATEGIC HOUSING INVESTMENT PLAN (SHIP): A document linked to the LHS which sets out the priorities for investment in housing in the local area, and how resources will be used over a five year period to deliver additional housing supply.

STRATEGIC LOCAL PROGRAMME: Sets out the programme of affordable housing development which Angus Council and its partners will work together to deliver during the period 2012–2015.

SINGLE OUTCOME AGREEMENT (SOA): Agreement between the Scottish Government and Community Planning partners which seeks to improve outcomes for local people within the context of the Government's national outcomes and purpose.

SPECIAL NEEDS HOUSING: Assessment of Housing and Support Needs, identifies the need for special needs housing such as, sheltered housing, very sheltered housing, supported accommodation, ground floor housing, adapted housing or wheelchair housing.

SAVE CASH AND REDUCE FUEL (SCARF): Provides householders, businesses and organisations with independent, free and impartial advice on the sustainable use of energy.

TAYPLAN STRATEGIC DEVELOPMENT PLAN: Sets out a development strategy for the period 2012 – 2032 detailing where new development should be located and a policy framework to help shape good quality places and enhance the quality of life in the Tayside region.

TAYSIDE SOLICITORS PROPERTY CENTRE (TSPC): Advertises properties for sale or to rent within the Tayside region.

UNIVERSAL HOME INSULATION SCHEME (UHIS): A Scottish Government initiative which along with private and public sector funding, provides a free loft and cavity wall insulation.

Executive Summary

Local Authorities must submit a Local Housing Strategy (LHS) to Scottish Ministers, supported by a Housing Need and Demand Assessment (HNDA).

The HNDA (2010) established key recommendations that form the basis for our LHS strategic direction on how we intend to tackle housing need and demand across all tenures up to 2018/19. The strategy is informed by our Strategic Housing Investment Plan 2011 (SHIP), integrated with the TAYplan Strategic Development Plan (SDP) and the forthcoming Local Development Plan 2012 (LDP).

Our vision for housing in Angus is to 'Create places that people can be proud to call home'. Successful delivery though, will be shaped by local circumstance, and by the following external challenges:

- An ageing population projected to increase by 29% over the next ten years;
- An increasing need for accessible housing;
- Single person households projected to increase by 20% over the same period;
- A shortage of the right type and size of housing in areas where people want to live;
- Unmet need for affordable housing in Angus will range between 3,000 and 4,200 by 2019;
- Severe constraints on housing investment.

The construction of new homes continues to fall as building costs rise, and profit margins are declining in an environment where it is difficult to sell properties at market value. The reduction in housing subsidy from the Scottish Government is also expected to continue. First time buyers are increasingly unable to raise sufficient mortgage finance to buy homes in the open market. This will result in greater need for rented housing, and until economic recovery takes hold, households will struggle financially. With projected average annual new build rate targets of around 330 properties up to 2018/19, it is clear that new build can only make a small contribution to housing supply.

Consequently, the HNDA recommends we maximise use of the current housing stock by:

- Developing partnerships with the private rented sector;
- Tackling private sector disrepair;
- Using assistive technology to promote independence in older people;
- Tackling and preventing homelessness;

- Making better use of current affordable and private stock;
- Developing flexible tenure options;
- Improvements in social housing management.

Considering these issues, we have set ourselves three local priorities:

1. TO INCREASE HOUSING SUPPLY, ACCESS AND CHOICE.

We want to increase the supply of both affordable and market housing, so it is our intention to deliver new homes, whilst also making better use of our current housing stock across all tenures.

Both Angus Council and RSLs continue to support the construction industry with new build programmes, whilst private sector partnerships will help us maximise other new build opportunities.

Promoting a strong private rented sector is also essential to maintaining a balanced housing market, but it needs to be better regulated and provide higher quality if it is to meet housing need more effectively. We will provide advice and financial support to help tackle disrepair, and where possible we will help tackle fuel poverty with access to home insulation grants. We aim to improve access to this sector and help provide more housing options through initiatives such as Leasing and Deposit Guarantee schemes. We will promote Landlord Registration and Accreditation Schemes to help improve housing management in this sector, and bring it more closely in line with social housing. We will also introduce an Empty Properties Strategy, to help bring properties back into use.

Stronger partnership working with other social housing providers will help us make the most efficient use of our existing stock of houses. We will improve allocation processes so that tenants can move to homes that better fit their needs. We also aim to tackle under occupation by giving households more transfer opportunities like our Downsizing Incentive Scheme.

2. TO PROVIDE SPECIAL NEEDS HOUSING AND HOUSING SUPPORT

Whilst we aim to increase the number of homes available to people who have special needs, the ageing population presents especially challenging goals. Although we aim to increase the number of homes



where a high level of care can be provided, we also need to ensure that more older households can continue to live independently at home.

The existing housing stock therefore continues to require physical adaptations, much of it in the private sector, so resources will continue to be made available through the Private Sector Housing Grant, and Scheme of Assistance. We will also ensure accessibility is a key feature of new homes.

We can also reduce housing need by tackling homelessness with a more preventative based approach. We have therefore introduced Housing Options that will help people to secure suitable housing that better meets their need and will result in longer tenancy sustainability. Increased access to the private rented sector through rent deposit and leasing schemes will also add to the total number of affordable homes available.

3. TO IMPROVE THE QUALITY OF HOUSING, AND MAKE IT ENERGY EFFICIENT AND EASY TO HEAT

We have taken steps to improve the quality of all our new build homes by setting higher new building standards outlined in our Strategic Housing Investment Plan. However, it is the quality of the existing stock, across all tenures, where we need to make dramatic improvements.

We will use the Scottish Housing Quality Standard (SHQS) as the benchmark measure, and in particular work with the private sector to ensure that all stock meets the tolerable standard, and is largely free from disrepair. We will therefore continue to focus resources on assisting vulnerable households to undertake essential repairs through the Private Sector Housing Grant,

and other grants.

We have recently provided energy checks to over 8,000 homes and believe that financial assistance, backed by good energy advice, is the key to helping householders heat their homes at lower cost. We will therefore continue to promote home insulation initiatives such as the Scottish Government Universal Home Insulation Scheme, to ensure households can get their homes properly insulated, and make them easier to heat.

CONCLUSION

There are many challenges ahead as the housing landscape continues to change. The global recession threatens our ability to deliver outcomes that can help all households fulfil their housing ambitions. However, we have a good understanding of housing need and demand in Angus and believe we have developed a strategic plan that is appropriate and deliverable.

We are not fixed in the way we move forward other than having a determination to work in greater partnership with all our stakeholders and partners to achieve our vision.

We will critically review our LHS annually so that it is responsive to changing housing need and the ever-shifting external environment. However, with levels of available public subsidy reducing, it is critical that our investment in housing is planned over the long-term, so that we use our assets and resources efficiently and effectively. We believe this LHS sets out a strategy that makes this possible, and we would welcome your support and participation in delivering our vision.

1. Introduction

As the Strategic Housing Authority, our vision for housing in Angus is clear: it's about creating places that people can be proud to call home

WHY WE HAVE A LOCAL HOUSING STRATEGY

We have a statutory duty to prepare and submit a Local Housing Strategy (LHS) to Scottish Ministers supported by a Housing Need and Demand Assessment (HNDA). This LHS sets out the strategic direction we will take to tackle the imbalance between the demand for housing and its supply, the measures we can take to reduce housing demand and increase housing supply and inform future investment across all housing tenures.

Our LHS is our policy statement on how we intend to influence the housing system, both in terms of open market housing (private rented or private sector purchase) and affordable housing (social rented and subsidised). This LHS contains housing supply targets for housing need and demand up to 2018/19 while also addressing house conditions, fuel poverty and domestic carbon emissions.

OUR VISION

We want to build strong and diverse communities that promote social inclusion, economic growth and well-being that exist in a balanced housing market. We have a clear vision as the Strategic Housing Authority: to create places that people can be proud to call home.

Our LHS will assist to create places that are attractive, vibrant, prosperous, safe, and sustainable. In other words, we want our LHS to deliver positive outcomes for all Angus residents, but especially people in housing need.

ACHIEVING OUR VISION

To help achieve our vision we will:

- work to ensure there's enough housing of the right type and size available in areas where people want to live at a price they can afford;
- meet national and local priorities to increase housing supply across all tenures and tackle unmet housing need across Angus;
- target our limited housing investment and resources to meet newly arising housing need;
- maximise partnership working and deliver outcomes as shared priorities benefiting all stakeholders.

WE FACE SOME SIGNIFICANT CHALLENGES

We are faced with a series of economic and demographic challenges that impact on the need for housing and its supply. For example, the work force is projected

to contract as the population ages so we will need to encourage in-migration to support the local economy which itself will create new housing need. The UK is in recession and the UK government's austerity measures are resulting in public spending cuts. While the council's economic recovery plan aims to develop a strong local economy through business growth, the creation of employment opportunities, and training and education as a response to the current global recession, the economic outlook remains gloomy.

First time buyers are increasingly unable to raise sufficient mortgage finance to buy homes in the open market. This will result in greater need for rented housing, and until economic recovery takes hold, households will struggle financially.

The construction of new homes continues to fall as building costs rise, and profit margins are declining in an environment where it is difficult to sell properties at market value. The reduction in housing subsidy from the Scottish Government is also expected to continue.

OUR ACTIONS MUST BE WIDER THAN NEW BUILD

We estimate that we will need in the region of 330 new build properties each year up to 2018/19 to meet housing need. We cannot meet the levels of housing need we anticipate through new build alone given the cuts in public subsidy for affordable housing and the current financial climate.

However, there are several additional policy actions we can take to meet unmet affordable and market housing need that taken together are intended to help narrow the gap between housing need - the demand for housing - and housing supply.

OUR STRATEGIC PRIORITIES

We have three strategic priorities to address current and newly arising housing need. Those priorities are to:

1. increase housing supply, access and choice;
2. provide special needs housing and housing support;
3. improve the quality of housing, and make it energy efficient and easy to heat.

OUR VISION

Creating places that people can be proud to call home

OUR STRATEGIC PRIORITIES

- To increase housing supply, access and choice;
- To provide special needs housing and housing support;
- To improve the quality of housing, and make it energy efficient and easy to heat.

ACHIEVING OUR VISION

- We will try to ensure there's enough housing of the right type and size available in areas where people want to live at a price they can afford;
- We will meet national and local priorities to increase housing supply across all tenures and tackle unmet housing need across Angus;
- We will target our limited housing investment and resources to meet newly arising housing need;
- We will maximise partnership working and deliver outcomes as shared priorities benefiting all stakeholders.

KEY STRATEGIC LINKS

- Angus Community Plan and Single Outcome Agreement 2011-2014
- Angus Economic Recovery Plan 2010
- Angus Local Development Plan
- Cairngorms National Park Local Development Plan
- Change Fund Program
- Community Safety & Anti-Social Behaviour Strategy 2009-2012
- Enablement Program
- Older Peoples Services Best Value Review
- Strategic Housing Investment Plan 2011
- TAYplan Strategic Development Plan

2. How everything links up

The LHS contributes to, and complements, the Angus Community Plan. The Community Planning Partnership (CPP) has five core thematic groups, all of which include some housing element

THERE ARE WIDER LINKS

The LHS does not sit in isolation from the strategic environment in which it operates: the LHS links and feeds into a range of strategies that assist the council to meet its corporate priorities, its Community Plan, and its wider obligations under the Single Outcome Agreement with the Scottish Government. Taken together they will assist in achieving our vision for housing in Angus.

At the centre of the council's corporate vision is the Community Planning Partnership (CPP). The partnership aims to ensure that we all live in safe, well designed, and sustainable neighbourhoods in both rural and urban settings, with particular attention to households with special needs. However, the CPP is only one of several key strategies that feed in to, and link with, the LHS.

LOCAL DEVELOPMENT PLAN (LDP)

The LDP is the council's land use planning document for new build homes. It will be consistent with the TAYplan Strategic Development Plan 2012, the regional planning document for Dundee, Perth, Angus and North Fife.

The Cairngorms National Park includes part of upland Angus, but its relevance to housing in Angus is only marginal. We will, however, work in partnership with the national park authority to support sustainable communities in Angus.

TAYPLAN

The TAYplan Proposed Plan puts forward annual average build rates of 330 new houses to meet identified housing need and demand across the four Angus Housing Market Areas (HMAs) over the 12 year period between 2012 & 2024. The Angus LDP will allocate sufficient land to assist in delivering these targets, including provision for new affordable housing.

There will be substantial shortfalls in the number of affordable and market homes provided in the period to 2018/19; the HNDA projects an unmet need for up to 4,200 affordable homes and an unmet need (or unmet housing demand) for up to 5,250 market homes. These shortfalls arise because of a mismatch between the total demand for housing and its supply.

All our policy actions address both the demand and supply side factors that influence the gap between the need for housing and its supply and give rise to the shortfall in affordable and market homes. We will intervene to influence levels of demand and levels of supply

but we recognise that new build alone is not the only solution to address the imbalance.

HOW TO PRIORITISE RESOURCES

While sufficient land will be allocated to support TAYplan build rates through the LDP, there will be insufficient financial resources to meet housing need of between 3,000 and 4,200 homes by 2018/19.

While the HNDA assumed an annual new build rate of 50 units of affordable housing to 2018/19 at a projected £15m in government grant funding – an average subsidy of £30,000 per unit – we anticipate this level of funding will be unavailable given the current recession.

Our greatest challenge is to deliver the good quality homes we need with the smallest amount of public money. Our Strategic Housing Investment Plan 2012 (SHIP) addresses this challenge over a three year period for new affordable and market housing, targeting resources to areas of greatest need using a standard matrix to assess each investment proposal against five criteria:

- how the proposal meets housing need;
- whether it can deliver a suitable housing mix;
- the planning status of the site;
- its impact on the environment and sustainability;
- the wider benefits to the community.

Our overall challenge is how we can increase the level of completions given that the development of new homes has slowed since 2007. We will continue to work with a range of house builders and RSLs to maximise new build completions, but recognise that it will not be possible to build all the homes we need to meet the HNDA shortfalls by 2018/19.

Affordable housing goes beyond social housing alone: in every development, we will aim to create mixed tenure communities to meet the needs of a growing and changing population. Our actions will also include new approaches to funding house building. The SHIP sets out our commitment to develop new housing to a high standard with improved energy efficiency.

THE LOCAL ECONOMY

- The council's Economic Recovery Plan aims to develop and maintain a strong economy, supporting our growing sectors of tourism, renewable energy, forestry; food and drink; bio-technology and life sciences; digital media; call centres; and other service led industries. Strong economies can generate increased household formation enabling households to consider broader housing choices.
- Since 2009, unemployment has slowly increased, the recession has affected every sector, especially those that rely on consumer spending and cheap bank loans, such as:
 - construction;
 - retail;
 - manufacturing;
 - agriculture;
 - engineering.
- Average earnings in Angus are around 12% lower than the Scottish average.
- Before the recession in 2007:
 - there were 2,350 residential house sales per annum in Angus, by 2010 sales fell to 1,273.
 - the average house price was £154,000 by 2010 prices fell by 14% to around £132,000
- Continued lower value in property equity and constraints in mortgage lending (higher deposits and lower lending multiples) will continue to suppress the rate of house sales.

CPP CORE THEMATIC GROUPS

- Children and Learning
- Community Care and Health
- Community Safety
- Economic development
- Rural and Environment

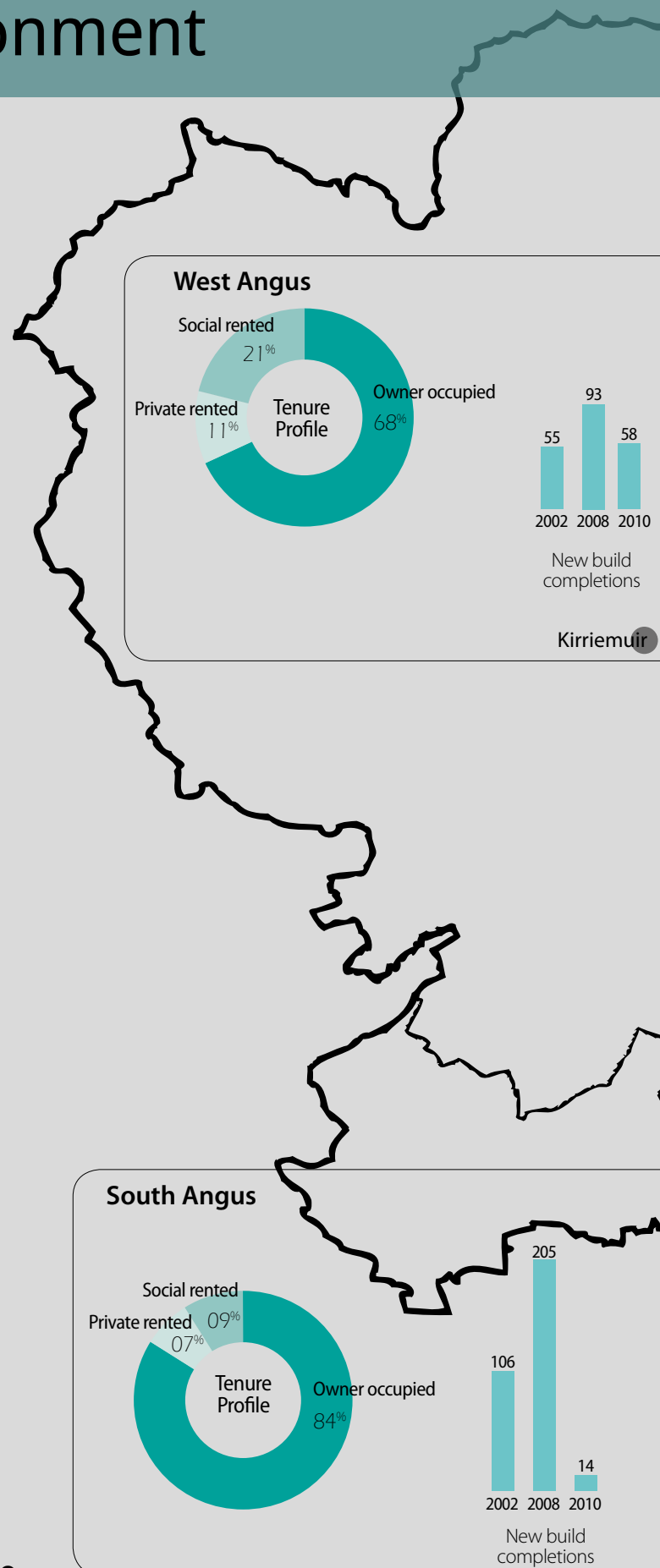
3. Housing Environment

When developing our LHS, we've considered the Angus Housing Market and national and regional challenges such as the economic downturn and long-term demographic change

HOUSING MARKET AREAS (HMAs)

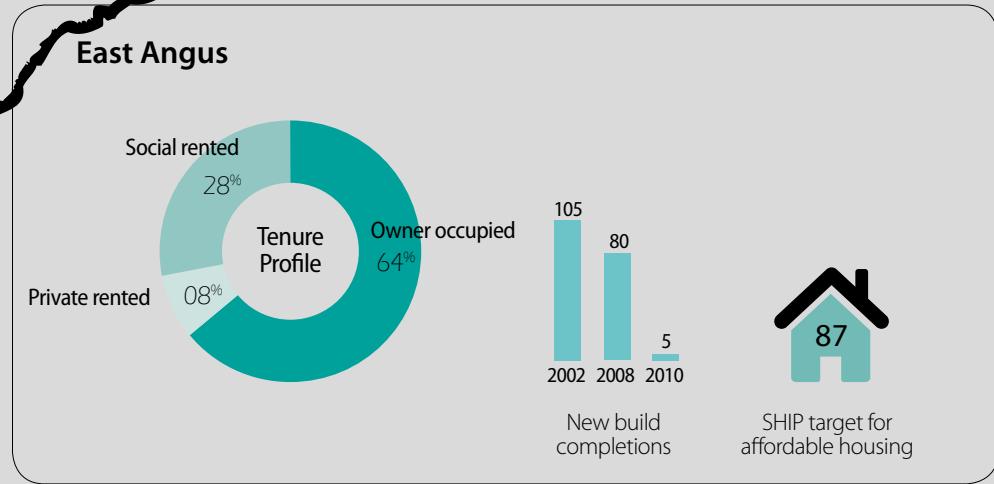
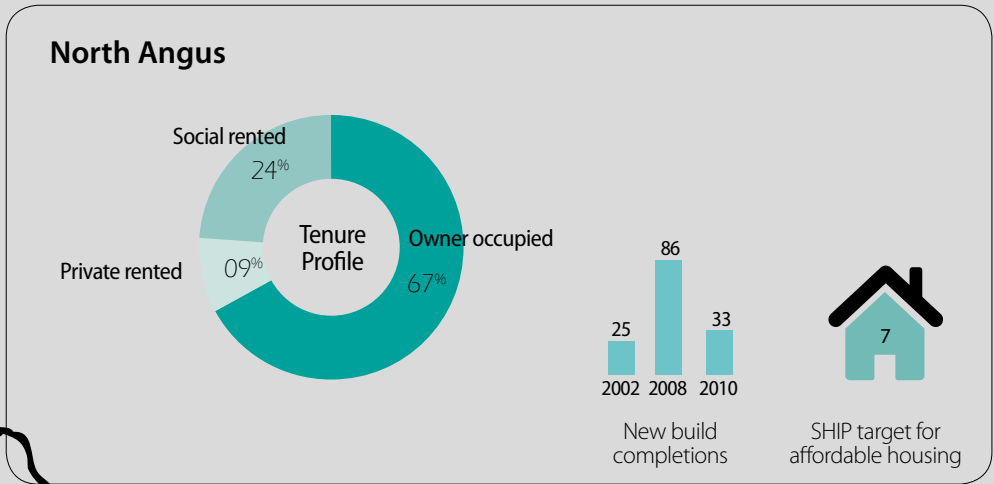
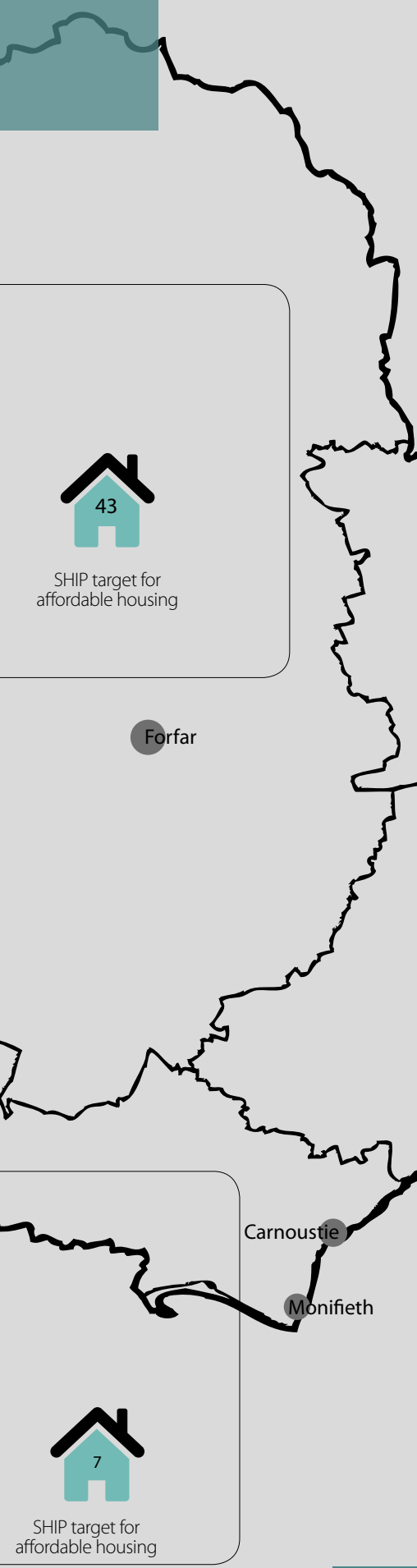
HMAs are defined geographic areas where existing households live, work and fulfil their housing aspirations. House purchase and sales data indicates that the four HMAs are relatively self-contained and 'functional' in that they meet local demand, with 65% of purchases originating from Angus itself. There is also a strong influence from Dundee City with 14% of purchasers, whilst buyers from Aberdeen total around 6%, with only 3% from Perth and Kinross.

The East HMA has the highest level of self-containment with over 67% of purchases from households already living in the area. The South HMA has the least containment and the highest percentage of purchases from Dundee City, with over 53% of purchases from outside the HMA. It is evident that there is very little movement between HMAs. This suggests high satisfaction levels from Angus households, and a wish to remain in Angus. However, the current economic downturn has reduced the volume of sales by half.



Angus Housing Market Areas

New build completions and tenure profile



3. Housing Environment

CALCULATING HOUSING NEED AND DEMAND

The HNDA projects the range of housing need for affordable and market housing in each housing market area. The assessment considered a range of primary and secondary data, but essentially adds the number of households with an existing requirement for new or alternative accommodation to the projected number of new households in need and then compares this figure to the supply of affordable housing.

The difference between these figures gives us an estimate of the number of affordable homes needed until 2018/19. Households who can buy or rent a private property without financial assistance are considered as having a demand for market housing. An analysis of household survey results and house sales from 2007, added to preexisting unmet demand for market housing, has been used to generate

estimates of the number of market homes needed until 2018/19. These figures helped to determine our overall housing supply targets.

Housing need and demand will continue to increase in the coming years. There is a significant backlog resulting from a lack of suitable housing and insufficient stock to meet need and demand. While the population is estimated to marginally increase, demographic changes will create new arising need. As the population ages and remain in their current homes there are fewer opportunities for newly forming households. Additionally the rate of household formation is projected to continue to rise with more single person households while aspirations and expectations continue to rise, at a pace greater than housing supply.

It is estimated that there is a backlog of between 2,277 to 4,132 units over the period 2009 to 2019. These households experiencing a degree of unsuitability in their current housing may require affordable housing. This includes homeless households and vulnerable households with special needs excluding those where the need would be met by an in situ solution such as a physical adaptation or floating housing support. Households who can afford their own market housing solution are also excluded.

A range of factors such as income, employment, property equity, and the availability of mortgage finance, can all influence newly arising housing need.

While 48% of households had sufficient income to meet their housing need through renting or buying in the private sector in 2008, this percentage may fall if the recession and restrictions on mortgage finance and the need for larger deposits continue.

House prices in Angus have fallen only slightly compared to the national average, remaining relatively high which may be due to sellers' reluctance to reduce asking prices. Overall, there was a 46% fall in house sales between 2007 and 2010 and private developers have seen a reduced financial return and profits from their investment, discouraging them from more ambitious new build programs.

There will be substantial shortfalls in the number of affordable and market homes needed in the period to 2018/19; the HNDA projects an unmet need for up to 4,200 affordable homes and an unmet need (or unmet housing demand) for up to 5,250 market

Calculating housing need (demand) and affordable and market housing supply

A. Housing Demand (Households in need and households who would like to move but having no need to)

Households with an existing housing need
PLUS accepted homeless households
PLUS newly formed households
PLUS incoming (migrant) households
MINUS those that can afford to buy
MINUS those that can afford to rent privately
MINUS adapting or adjusting current home

B. Housing Supply

Affordable Housing Supply
Social vacancies (relets)
PLUS making better use of existing stock
PLUS new build social housing
PLUS new build intermediate housing
PLUS new social housing conversions
MINUS units demolished/awaiting demolition
MINUS social housing units converted

Market Housing Supply
Sales
PLUS new build private (market) housing
MINUS private (market) housing leaving pool

Source: Angus Council (2012) - derived from the HNDA

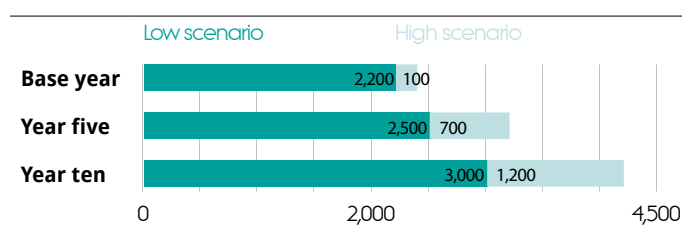
homes. These shortfalls arise because of a mismatch between the total demand for housing and its supply.

POLICY ACTIONS

The HNDA identified seven housing policy actions, considered to have the potential to meet a proportion of the HNDA projected shortfalls. Implementation of these seven actions while underpinned by some new build development, will focus more on better use and management of existing homes across all tenures.

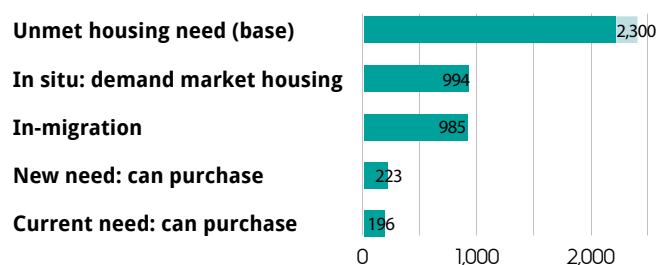
All our policy actions address both the demand and supply side factors that influence the gap between the need for housing and its supply: it is this gap that gives rise to the shortfall in affordable and market homes. We will intervene to influence levels of demand and levels of supply wherever we can as we recognise that new build alone cannot address this imbalance.

Table 1.
Unmet housing need (figures rounded off)



Source: Angus HNDA (2010)

Table 2.
Component of housing need (figures rounded off)



Source: Angus HNDA (2010)

TENURE AND STOCK PROFILE

- 53,174 dwellings (2009)
 - 71% is owner-occupied
 - 20% social rented
 - 9% private rented (Census 2001)
- Highest proportion of owner-occupation in the South Angus HMA: this suggests that a large proportion of internal need and demand comes from people with property equity (and may help to sustain house sales in the area).

DEMOGRAPHICS IN 2010

- 110,570 people live in Angus in over 50,000 households
- around 1.5% of households define themselves as black or from a minority ethnic background, this is similar to Scotland as a whole
- 30,000 people live in the South Angus HMA, 27% of the Angus population

ECONOMIC CHANGE

- the workforce is likely to contract as the population ages increasing the current and backlog of housing need
- in-migration will support the local economy but this will create new need as their housing needs must be met

POPULATION CHANGES TO 2019 AND BEYOND

We expect:

- households over 75 years of age to increase by 29% by 2019
- single parent and single person households will increase by 20% by 2019
- the number of two adult family households will fall by around 20% by 2019
- the 16–44 age group is to decline over the next 10 years to 2019.
- the 25–29 age group, will marginally increase above the national average
- overall, there will be a small increase in the number of people and households living in Angus

3. Housing Environment

DEMAND-SIDE POLICIES

We will address both existing and future household need through our demand-side policies.

In the social rented sector, we will address existing need as we continue to maximise the number of allocations we make from each initial void, meeting the needs of as many people in the reasonable preference categories as we can. We will continue to turnaround properties quickly, reducing the amount of time properties lay empty without good reason making best use of existing housing stock. We will continue to promote schemes that encourage movement in the social rented stock such as downsizing and exchange schemes. We will continue our capital investment to improve the quality of social rented stock.

For owners, we will promote existing information and advice schemes on what support is available to help them improve their own homes and

We will prevent newly arising need wherever we can. We will promote the use of technology that will allow people to continue to live in their homes and promote schemes to adapt homes as needs change due to age or a medical condition. We will build in design features to 'future proof' our new build homes against an occupier's potential medical needs in future years. We will prevent homelessness wherever we can and offer good quality housing support to help people manage both their tenancies and their homes.

SUPPLY-SIDE POLICIES

While we expect a steady increase in newly arising housing need up to 2019 and the supply of affordable homes to fall marginally in the same period, we recognise that new build homes alone cannot address supply side shortfalls.

We see an accessible, well-regulated private sector providing good quality homes at prices people can afford. We must explore the financial viability of bringing empty homes back in to use and the impact their contribution could make to increasing housing supply. We will drive up the standard of housing management in the sector through accreditation schemes and a fair but proportional approach to regulation.

We recognise that the welfare reform agenda threatens the viability of private renting for some households and that rental caps for single people under 35 and large households may limit choice and access to the sector. We will deliver a private sector housing strategy outlining how we will widen access to the private sector for all while stimulating improvements in the quality of accommodation in the sector. Our housing options approach will promote the private sector as a viable housing solution for people in need or for people whose aspirations cannot be met through affordable or market housing.

OUR HOUSING SUPPLY TARGETS

Our housing supply targets were set using the evidence gathered in the HNDA. Our housing supply targets include new supply homes, conversions and re-using empty homes. Our targets are ambitious and our ability to deliver new homes depends on how quickly the economy recovers and capacity within the local building industry.

This overall target is consistent with the average annual build rates set out in the TAYplan Strategic Development Plan but is slightly higher than these requirements, which are calculated for the longer time period of 2012-2024.

The housing land requirements of the development plan will be phased to help delivery over the life of the plan, this option will be investigated through the LDP Main Issues Report in 2012.

Table 3.
Projected reduction in HNDA shortfalls by 2018/19
assuming adoption of policy action (high scenarios)

Policy action	Fall by 2018/19
Tackling and preventing homelessness	1,038
Making better use of affordable and private stock	346
Assistive technology to promote independence	287
Partnerships with the private rented sector	196
Tackling private sector disrepair	175
Improvements in social housing management	25
Total	2,067

Source: Setting Housing Supply Targets for Angus: Final Report (2011)



Table 4.
Overall Housing Supply Targets to 2018/19

HMA	Housing Supply Target		Housing Supply Target
	New build & conversion	Empty homes	
North Angus	665	146	810
East Angus	640	114	755
South Angus	730	92	820
West Angus	770	190	960
Total	2805	542	3345

Source: Angus Setting Housing Supply Targets for Angus: Final Report (2011)

Note: figures for the new build and conversion element of the housing supply targets, and for the overall housing supply targets themselves have been rounded to the nearest five homes. This means that the totals for Angus and for each housing market area may not correspond to the sum of other figures in the table

AFFORDABLE HOUSING POLICY

We ask private developers to contribute a proportion of their development of affordable homes for sale towards our housing supply targets. While the Scottish Government suggests the proportion should be set at 25% of all homes, we have some flexibility to set different percentages by HMA dependent on housing need. If we do this, we must note any deviation from the government guidance in this LHS and the development plan.

Our supply targets have been successfully delivered in all HMAs except South Angus where many development sites had planning permission before the policy was introduced.

We feel it would not be economically viable to request a percentage contribution from house builders higher than the national benchmark given current borrowing constraints. However, we encourage development sites for affordable housing where this would be acceptable in land-use planning terms.

We will review the current contribution levels as part of the LDP Main Issues Report and once revised, the specific requirements will be included in the annual review of the LHS.

To achieve these targets we have taken account of these policy actions and set ourselves three local priorities; namely to -

- increase housing supply, access and choice;
- provide special needs housing and housing support;
- improve the quality of housing, and make it energy efficient and easy to heat.

OUR STRATEGIC PRIORITIES

We have three strategic priorities to address current and newly arising housing need. Those priorities are to:

1. increase housing supply, access and choice;
2. provide special needs housing and housing support;
3. improve the quality of housing, and make it energy efficient and easy to heat.

4. Our strategic priorities

Our first priority is to increase housing supply, access and choice

We aim to ensure there's enough housing of the right type and size available in areas where people want to live at a price they can afford

To achieve this, we will:

- address the shortfall of affordable and market housing, through Private Sector Partnerships to help private housing developers and the construction industry. Ensure there is year on year increase in build rates;
- quantify through the development plan the size of a generous supply of housing land for Angus;
- improve access to the private rented sector, develop a comprehensive and resourced strategy;
- tackle disrepair in the private sector by maximising advice and assistance to homeowners and;
- bring empty homes back into use where best value can be achieved;
- improve the management of social housing to enable households to live in housing that meets their needs;
- make best use of existing social housing stock, tackle under occupation to enable tenants to transfer easily and ensure allocations policies help households to get the most appropriate housing.

OUR NEW-BUILD PROGRAMME

In 2011 the Scottish Government introduced the Innovation and Investment Fund to help councils, RSLs and private developers deliver new affordable homes. We obtained around £4m of funding to support our capital programme. This change in funding affordable housing, with possibilities of prudential borrowing has opened the way for us to develop a 10 year council new-build programme, to meet very specific local housing need.

We aim to deliver affordable, high quality, and well designed homes in places where there is need to meet a number of local and national objectives:

- Use creative business models to deliver more homes with less money;
- Use existing surplus council assets;
- Utilise brownfield sites;
- Establish good practice for improving home safety;
- Address housing requirements identified in the council's Older People's strategy;
- Encourage local employment and training opportunities;
- Help meet the SOA local outcome: 'Our communities are developed in a sustainable manner'.

Suitable brownfield sites have been identified from the council's land-bank, which would enable houses to be built across all parts of Angus. These new homes are to be sustainable and barrier free in design, have good home safety measures including sprinklers, and affordable to rent. They will help the council meet identified housing need in pressured areas, increase the number of affordable family sized properties available for rent, and also improve the provision of suitable accommodation for older people with varying needs.



OUR VISION

Creating places that people can be proud to call home

OUR STRATEGIC PRIORITIES

We have three strategic priorities to address current and newly arising housing need which will be influenced in part by economic and demographic changes.

1. To increase housing supply, access and choice;
2. To provide special needs housing and housing support;
3. To improve the quality of housing, and make it energy efficient and easy to heat.

These new-build homes create a unique opportunity to manage housing allocations in a more strategic manner. The objective is to create a chain of moves, which will make best use of the total housing stock by increasing turnover, and creating sustainable tenancies. The objective is to tackle an imbalance, in that there are a small number of large households, and households with disabled family members living in overcrowded houses. Each initial move will lead to at least one additional move within the housing stock, so that the number of new tenancies will be double the number of new build houses. It enables us to tackle under occupation and overcrowding and offers additional housing options to those who would otherwise have to wait a considerable time for a new tenancy. This will start to make a considerable impact on lowering the common housing register waiting list.

There are currently 159 houses in the programme. 12 have just been completed in Carnoustie and Monifieth, and are the first council houses to be built in Angus for over 15 years. They will be followed by

completion of further brownfield sites in Arbroath, Forfar, Inveraldie, Kirriemuir and Montrose.

These homes will be delivered within the 30 year business plan parameters, and will still enable us to deliver on our commitment to meet the Scottish Housing Quality Standard by 2015. The programme has injected £20m into the local economy and provided training and employment, not least by including apprenticeship provision as part of contractor selection.

Ten further feasibility studies are underway on surplus council assets to provide a portfolio of sites for continuing the programme into the next decade. This could deliver up to 141 additional affordable units, taking the total potential number in the 10 year programme to 300.

SOCIAL RENTED SECTOR

Social housing totals over 10,000 dwellings, of which 7,817 are council owned and 3,049 are RSL stock. The number of council homes available for rent fell by 50% since the introduction of right to buy in 1980, a

4. Our strategic priorities

significant reduction in available affordable housing of a size, type and location where it is needed.

Improvements in the way we manage the stock will have a limited impact on increasing the actual number of homes we have to offer, therefore our policy action will focus on tackling imbalances that currently exist. We must use the existing stock carefully, through allocations that are more efficient, and try to address the shortage of larger family sized homes. To create more movement in the social rented sector, we have:

- Introduced a Downsizing Incentive Scheme to address shortfalls in family sized accommodation. The scheme encourages council tenants who are under-occupying their homes to move to smaller council accommodation. It is expected to create additional opportunities for households with unmet need on the waiting list. Incentives are expected to have a limited impact and therefore the assumed additional provision of affordable housing supply target is set at 25 over the period 2011/12 to 2018/9.
- Joined 'House Exchange' a national scheme to encourage mutual exchange. The website allows tenants to advertise their own homes and search for properties in different areas.
- Been working closely with RSL partners to improve allocation policies to maximise the availability of stock through a common housing register, in order to make allocations quickly and offer the most suitable property.
- Prioritised new build of larger properties accessible by design
- Prioritised the installation of physical adaptations to help tenants to live safely in their current homes.

OWNER OCCUPIED SECTOR

Around 71% of households in Angus are owner occupiers. This is higher than the Scottish National average (65%) and over half of all owner occupied properties are owned outright. This high degree of property equity could help to re-inflate the housing market (once mortgage finance conditions have also improved for first-time buyers) and potentially sustain household formation rates.

However, the possibility of buying a home remain difficult for households with acute housing need

Table 5.
Households unable to enter owner occupation

HMA	Lower quartile market entry house price	Households that cannot afford market entry price in HMA	
		No.	%
North Angus	£82,875	5,438	47%
East Angus	80,000	5,891	47%
South Angus	133,000	8,157	65%
West Angus	94,000	7,230	54%
Total	93,000	25,869	52%

Source: Setting Housing Supply Targets for Angus: Final Report (2011)

given that the average price of a home from the cheapest 25% of the private housing market was £93K in 2010. Affordability varies between HMAs but increases sharply in South Angus where house prices are around 40% higher on average than other HMAs.

Table 5 highlights the proportion of households unable to enter into owner occupation at housing market entry level in 2008. This indicates the difficulties faced by over half the households in Angus with unmet need and demonstrates the increased need for affordable housing to rent or low cost home ownership opportunities.

We plan to support new build development projects to meet our housing supply target of 2,800 (2011-2019), early indications show there is sufficient development interest across Angus, we will enable private new build to go forward with sufficient land supply and work to secure mixed funding where possible. We will, as a strategic priority consider settlement capacity and make provision of adequate land supply to deliver our targets, just how we achieve this will be considered through the Angus LDP Main Issues Report in 2012.

The Affordable Housing Policy will take account of the cost of new development sites as well as helping to deliver mixed tenure housing. The SHIP sets out our intention to maximise housing investment in Angus.

We have established a Housing Market Partnership to facilitate active engagement with all the stakeholders. We want to encourage a collaborative approach to increase housing supply: we believe that everyone must work together to increase the

supply of homes.

PRIVATE RENTED SECTOR

The private rented sector accounts for around 9% of tenure in Angus, the greatest concentration of private rented stock situated in the West and North HMA. Because housing pressure is strongest in the South HMA, driven by housing demand from Dundee City, there are only half as many private lets available.

While private sector rents vary between HMAs, rents for one, two and three bed properties generally match those set by Local Housing Allowance rates. The most competitive rents are in the West Angus HMA. The demand for private lets is likely to increase given that 48% of households in current need can afford to enter the private sector to buy or rent. Constraints in mortgage lending may force more households to consider private renting as a solution to their housing need but deposits and rent in advance may remain hurdles to accessing homes in the private rented sector.

WELFARE REFORM

Welfare Reform proposes benefit income caps, many claimants of the Local Housing Allowance (LHA), in particular, those under 35 years of age will receive the equivalent of only a single room rental. Additionally households with a need for 5 bedroom accommodation will only qualify for benefit for up to 4 bedrooms.

Tenants with reduced LHA may find they can no longer afford their accommodation and will need to find alternative housing. This reinforces the need for greater private sector partnerships and the

Table 6.
Average weekly housing costs by tenure (2008/09)

Private (owned)	£130.91
Private (rented)	113.45
RSL	54.23
Angus Council	46.15

Source: Setting Housing Supply Targets for Angus: Final Report (2011)

PROFILE OF ALL HOMES

Over 50% of all homes are family sized 2 or 3 bed homes of which 74% are houses

PROFILE OF SOCIAL HOMES FOR RENT

- There are 10,866 homes for social rent:
 - 84% of council homes for rent are either one or two bedroom homes;
 - 77% of RSL homes for rent are either one or two bedroom homes
 - 12% of all social homes are for households with special needs of which 61% are sheltered homes, 36% are amenity homes and 3% are supported accommodation

HOUSE PRICE INFLATION IN ANGUS

- Highest level between 2003 and 2008, median house price was £143,685
- By 2010, start of the recession, median house price fell by 7% to around £133,627

THE PRIVATE SECTOR

- There are 3,180 landlords and over 5,000 properties in the private landlord register

EMPTY PROPERTIES

- An empty property survey in 2005 suggested that it would cost £35,000 on average to bring an empty property back into use

PROPERTY CONDITION

- 71% of properties in Angus failed the Scottish Housing Quality Standard (2004) although no properties fell below the tolerable standard



4. Our strategic priorities

development of the private rented sector to ensure there are adequate homes at all price ranges. A Private Sector Housing Strategy will be produced and appended to the LHS in 2012. The strategy will set out the council's response to the governments ongoing reform of the private rented sector, in order to increase supply, access and quality.

The private rented sector is susceptible to a range of market forces and these factors have been considered in estimating a housing supply target. Projections have therefore been conservative with an assumed delivery of 196 housing solutions over the period 2011/12 to 2018/19 as these initiatives are untested in Angus. We will develop:

- **a private sector leasing initiative:** this could provide greater housing options for vulnerable households threatened or suffering homelessness;
- **a rent deposit guarantee scheme:** this could provide increased housing options for homeless households who are on low incomes or who are not vulnerable but who find it difficult to access the sector in the open market without adequate deposits;
- **a landlord accreditation initiative:** this may help landlords access advice, information and training to enable them to maintain the quality of their properties. It can also assist landlords to find suitable tenants, help to maintain good landlord and tenant relations to avoid tenancy breakdown and contribute to the development of mixed sustainable communities;
- **mid-market tenure:** offering affordable, good quality housing solutions.

We will promote a thriving sector through Private Landlord Registration, supporting local landlords to better manage their properties. A more consumer driven approach can foster good landlord and tenant relations, which in turn can reduce turnover and voids making tenancies and rental income more sustainable.

MAKING BETTER USE OF EMPTY HOMES

The HNDA identified 2,309 unoccupied properties in Angus. The vast majority of these dwellings are in private ownership with varying levels of disrepair.

Although the council has powers to compulsorily purchase properties and raise council tax revenue, resources remain limited to giving advice and providing limited grant assistance to empty property owners through the Private Sector Housing Grant (PSHG).

Additionally, we are investigating other financial opportunities such as prudential borrowing, second homes council tax receipts and the Innovation and Investment Fund to reinvest in the existing stock as well as supporting new build, where there are assured 'best value' outcomes. Other financial incentives will be considered, including redevelopment of town centres through Regeneration Schemes and partnership working to attract affordable housing grants to fund initiatives such as Lead Tenancies.

Our strategy to bring empty properties back into use is currently being prepared and will be appended in 2012. While there are considerable financial constraints, we will investigate how to resource any initiative to provide financial incentives and assistance to empty property owners. We have set a conservative and achievable housing supply target of bringing 542 empty properties back into use between 2011-2019.

4. Our strategic priorities

Our second priority is to provide housing for special needs groups and housing support

We aim to reduce the proportion of older people placed in residential care homes, shift the balance of care to supporting people to maintain their independence in their own home and support vulnerable and homeless households to sustain their homes

To achieve this, we will:

- work in partnership with Social Work & Health to enable people to live independently through providing a range of support services including increasing the use of community alarm and telecare and expanding the community alarm response teams;
- develop an enablement focused assessment process providing a period of intensive support of up to 6 weeks to assist service users to regain their independent living skills and confidence after a period of hospitalisation or a change in their community care needs;
- streamline access to housing adaptations and improve the joint equipment loan service including the provision of “smart” technologies;
- expand the provision of supported housing as an alternative to residential care;
- develop a Homelessness Strategy around prevention and housing options;
- ensure there is housing provision to meet the housing need of black and ethnic communities, including other minority groups such as gypsy travellers.

A significant proportion of current and projected unmet need for affordable and market housing, comes from:

- older people;
- people with disabilities;
- people with learning disabilities;
- people suffering from poor mental health;
- people suffering from substance misuse;
- people with dementia and other long term conditions.

These households may also have housing support and care needs, their numbers range between 8,600 and 11,900 households by 2018/19. These and other vulnerable people, struggle to sustain healthy independent lifestyles within the community. Table 7 sets out HNDA survey results where residents were asked to give their own perspective, therefore these estimates are not based on medically assessed need.

The HNDA estimated 13.5% of all households contained someone with a mobility problem or physical disability. Respondents were asked if they had someone living with them with long term illness, health problem or disability, which limits their daily activity or the work that they can do, 20% of respondents agreed, this equates to over 9,000 households across Angus.

These households represent a significant support challenge for Angus. Within the Angus Community Care and Health Partnership there are plans to develop a Joint Commissioning Plan, which will set out the procurement process for the required support services. This forms part of a wider program of work contained in the Community Care Change Programme in Social Work and the Community Medicine and Redesign Programme to deliver positive individual outcomes, which in turn will be reported in the Single Outcome Agreement. These Plans will be appended to the LHS when they have been produced in 2012.

The two most significant contributions to reducing the projected level of unmet need for affordable housing will be through helping the ageing population to live independently in their own home and minimise newly arising need by tackling and preventing homelessness.

OLDER PEOPLE AND PEOPLE WITH PHYSICAL DISABILITIES

The development of sustainable and flexible housing and support options for older people has emerged as a key strategic policy priority following the best value review of Older Person's Services. Around 790 older people are in receipt of support in a residential care home setting. Around half of these service users have complex needs that require 24 hour nursing care or high dependency care. Older people living in

care homes and in the dispersed community are supported with community alarm services and Telecare equipment enabling many vulnerable households to live safely and more independently.

We have invested significantly over the last few years in upgrading our alarm call systems in sheltered housing and in the dispersed community alarm service in the wider community. These services are integrated through a single call centre with four rapid response teams operating across Angus. The system supports a wide range of telecare and telehealth peripherals that enable people with complex needs to remain independent at home.

For many adults with physical disabilities, and for many older people, their main barrier to maintaining independence is the design and layout of their home. The provision of physical adaptations (referred to as 'in-situ' solutions) can also help people to live independently in their current homes. Council and RSLs will install adaptations where possible or offer more suitable accommodation to meet assessed need. Households in the private rented sector and owner occupiers are provided assistance from the Private Sector Housing Grant. Under the terms of the Housing (Scotland) Act 2006, section 72, Scheme of Assistance (SoA), financial assistance is provided for adaptations. Grant aid is also available to help older people for minor disrepair to ensure their homes do not fall below tolerable standard.

The SoA has a limited budget, which is under

Table 7.
Numbers per specific special need

Mobility or physical disability	6,113
Long term illness	4,867
Being frail due to old age	1,172
Don't Know or refused	721
Mental health challenges	707
Other	558
Severe hearing difficulties	344
Severe sight difficulties	326
Learning disabilities	123
Dementia	93
Drug or alcohol dependency	73

Source: Setting Housing Supply Targets for Angus: Final Report (2011)

4. Our strategic priorities

increased pressure because of the ageing population. Homeowners can receive a contribution of up to 25% grant aid toward the cost repairs where there is a likelihood of a significant breach of the tolerable standard. We will encourage owners to self finance repairs, helping to investigate equity release and explore all their financial options before considering some grant assistance. The majority of homes in Angus are of traditional construction. Many are unsuitable for adaptation and where adaptations can be installed, they can be costly. Applicants in receipt of welfare benefits requiring a disability adaptation will receive 100% grant while those with means can expect only 80% grant aid. The council has powers to give further discretionary assistance, which could be used to meet our strategic goals.

Significant resources will need to be strategically targeted to address these complex housing needs, with careful planning of the types of available housing, care and support. We have started to develop strategies 'shifting the balance' of care from generic, institution-based social care and support to bespoke care packages delivered within the community.

ENABLEMENT FOCUSED ASSESSMENT

The council's Social Work and Health department have introduced an enablement focused assessment process for all older people or adults with physical disabilities applying for social care services. The service provides up to 6 weeks of intensive services aimed at restoring confidence and capacity to maintain their own independence, and continue to live in their own home for longer. Enablement has already had a significant impact, contributing to a reduction

in the proportion of older people who require residential care from 3.57% in March 2010 to 3.36% in December 2011.

EQUIPMENT AND ADAPTATIONS

The best solution would be for all housing in Angus to be fully accessible or to be designed to be easily adapted to meet the occupants changing needs. We have adopted this approach and will incorporate it into our new build programme. We will also work in partnership with the private and RSL sectors to ensure all new homes are as accessible and adaptable as possible.

Our priority will be to stream access to grant and loan funding, whilst also undertaking a major redevelopment of the Joint Equipment Loan Service, which is operated jointly with NHS Tayside.

An 'enablement' approach will ensure that a range of services will be tailored to help older people to remain in their current home. This will include further enhancements of assistive technology (Telecare) to promote independence. However, financial constraints and policy objectives of the Older Peoples Best Value Review will have a significant impact on delivery of 'in-situ' solutions in affordable and market housing.

Installing physical adaptations into many homes could deliver up to 287 affordable and market homes over the period of 2011/12 to 2018/9.

SUPPORTED HOUSING FOR OLDER PEOPLE

In general most people with disabilities and older people can continue to maintain their independence in their existing home with appropriate adaptations,

Table 8.
Assumed additional in-situ affordable and market housing solutions using assistive technology (High scenario)

HMA	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	Totals
North Angus	9	9	13	12	9	9	9	9	79
East Angus	4	4	4	7	10	4	4	4	41
South Angus	12	22	12	12	12	12	12	12	106
West Angus	7	9	10	7	7	7	7	7	61
Total	32	44	39	38	38	32	32	32	287

Source: Setting Housing Supply Targets for Angus: Final Report (2011)

equipment, and community based care and support services.

However, for a small, but increasing, proportion of the older population the complexity, frequency, and intensity of their care needs mean that they cannot be supported in their current home safely and will require 24 hour supervision and support.

Traditionally this has been provided in a residential care home setting. However, through careful design, accessible housing can be grouped together in such a way as to enable 24 hour support to be provided in a safe and secure environment while at the same time enabling people to retain a home of their own and maintain as much independence as possible.

There are currently 50 supported housing tenancies for older people in Angus and the council are committed to expanding supported housing across Angus by at least 265 properties by 2028.

The council has invested £9m in developing a new care centre and 28 supported housing cottages at Kinloch Street in Carnoustie. The new complex opened in 2012.

With the wider availability of community alarm and community based care and support services the need for traditional sheltered housing is on the decline, as is demand. However many existing sheltered schemes are suitable for conversion to function as supported housing to meet the growing requirement for housing with 24 hour on-site care.

We have planning a phased transition of Andy Stewart Court in Arbroath from sheltered housing to supported housing. We will in the future review the options for the transition of other sheltered schemes to enable the provision of 24 hour support.

We are also working with Registered Social Landlords and private developers to redevelop other sheltered schemes around Angus and deliver new build schemes for sale as well as for rent.

Our long term vision is to enable an increasing proportion of the older population and of adults with physical disabilities to receive the care they need while retaining their independence in their own home and to eliminate, as far as possible, the need for people to move into residential care.

PREVENTING HOMELESSNESS

The trend in homelessness presentations in Angus

has been falling since 2004 although presentations in 2010 increased slightly to 1130.

We began in 2006 to work toward the 2012 target, to abolish "priority need." A single shared assessment process was introduced offering all homeless people support to find and sustain tenancies, this helped to minimise 'lost contacts' and prevent homelessness.

We discharged our duty to provide permanent accommodation to 59% of homeless applicants, the vast majority of whom received council or RSL secure tenancies. The remaining 41% of applicants were helped with advice and assistance to either prevent their homelessness or provided with temporary accommodation.

More than a third of homeless applicants in 2010/11 were between the age of 16 and 25. The high incidence of homelessness amongst young people has led to the development of a 2-year Housing Options Pilot to try to do more to reunite families and give young people the skills to enable them to find and sustain their own housing solutions.

Over the last two years, there has been an increase in the proportion of homeless households who sustained their tenancies for over 12 months, which reinforces the need for more housing support, focusing on homelessness prevention.

The implementation of the Housing Options approach to preventing homelessness has more recently gained momentum. Further improvements at the Homeless Assessment stage have been made and in 2011-12 an estimated 75% of 'homeless decisions' will be made within 28 days.

Neighbourhood Services and Social Work and Health Committees have approved the implementation of a Young Persons Housing Options Pilot for 2 years to establish the impact that a Housing Options approach can have for this client group. We expect this pilot to commence in 2012. It will contribute to a wider strategy to prevent and alleviate homelessness. The focus for Housing Options will be to:

- Identify households with current or potential housing need and help them to plan to meet that need at an early stage;
- Identify a range of options for households in housing need including social rented housing but also private rented accommodation and, where appro-

4. Our strategic priorities

priate, owner-occupation opportunities. Review of the Housing Options Guide will also improve the range of information available to people in housing need;

- Provide enhanced Housing Options services to young people to prevent them becoming homeless through mediation services and links with employment, education and training services;
- Ensure appropriate Housing Support services are available to all who need it to prevent homelessness and to break the cycle of repeat homelessness.

The effect of this approach should ensure that fewer people require assessment under homeless legislation thus reducing the numbers requiring temporary and then permanent accommodation, resulting in more sustainable housing outcomes through people moving house when they want to rather than when they need to.

These measures should help to reduce housing need, reducing in the number of homeless households and contribute towards the delivery target of 1038 housing solutions.

A re-engineer of the teams providing Assessment Services and the administration of the Common Housing Register will be completed by autumn 2012, this combined team, will be responsible for providing Housing Options services. There will also be roles for ACCESS, Community Housing Teams and the Homeless Support Service. A Homelessness Strategy

will be appended in 2012, it will outline models of how temporary and permanent accommodation will be employed to contribute to positive sustainable outcomes for households threatened with and suffering homelessness.

Welfare reform will have a significant impact on households in the private rented sector, reduced allowances may cause financial hardship and may lead to rent arrears and homelessness for some households. Homeless households seeking accommodation may find it hard to secure suitable accommodation that they can afford. The council will monitor in the coming year how these changes will impact homelessness. Further reform of the private rented sector is ongoing and may help to ease barriers to accessing private rented accommodation, additionally the council will develop a private rented sector strategy (to be appended in 2012) aiming to ease access and increase housing choices.

PROMOTING DIVERSITY

We live and work in a diverse and multi-cultural nation and all our actions must consider and reflect the needs of the diverse communities we serve. At all times, we will act fairly and promote the diversity of the communities we serve.

Black and Ethnic minority communities (BME) represent 1.6% of the Angus population. Within this group we include 'international workers' from the European Union. Around 37%, of 'international workers' are from Poland. It is often difficult to properly assess the housing needs of minority groups. In order to address this more research will be undertaken to investigate

Table 9.
Homeless presentations 2005-2010

Source Scottish Government HLI Data



Source: Angus HNDA 2010

Table 10.
Additional affordable housing solutions by preventing homelessness

HMA	2011/12-2018/19 (rounded)	Annual Rate (rounded)
North Angus	222	28
East Angus	315	39
South Angus	117	15
West Angus	384	48
Total	1038	130

Source: Setting Housing Supply Targets for Angus: Final Report (2011)



their housing need during the life of this LHS 2012-17.

Work to identify housing need of broader minority groups will also be required in the mid to long term. This includes Gypsy Travellers whose needs are sometimes complex and may require more carefully thought-out solutions than other social groups. We recognise for instance that the existing official traveller sites may not be adequate in size or location, so research will be undertaken to tease out how the situation could be improved.

The council continue to promote equality and diversity. We carry out equality impact assessments on all our strategies, plans and services to ensure fairness as defined in the equality scheme framework for:

- People with a disability;
- Black and Ethnic minority communities, including migrant international workers;
- Gender;
- Lesbian, gay, bisexual, transgender groups;
- age (both older and younger people);

The council will continue to consult with community groups through forums and other methods, and is committed to developing better forms of communication to meet the needs of minority groups effectively.

Our third priority is to improve the quality of housing and make it energy efficient and easy to heat

We aim to improve the housing stock cross tenure and improve fuel efficiency to help alleviate fuel poverty.

To achieve this, we will:

- ensure all social housing stock meets Scottish Housing Quality Standard by 2015;
- encourage and help the private sector to improve the quality of their properties;
- bring empty properties into use;
- tackle fuel poverty, achieve fuel efficiency of new and existing housing by 2016, and;
- comply with the requirements of the Climate Change (Scotland) Act 2009, so as to minimise the effects of climate change through the reduction in green house gas emissions.

IMPROVING THE QUALITY OF ALL HOUSING

The Scottish Government has set a target for all social rented housing to meet the Scottish Housing Quality Standard (SHQS) by 2015. The SHQS has five main measures. Housing stock should; be above the tolerable standard; be free from disrepair; be energy efficient; have modern facilities; be safe and secure. Over 81% of all social housing in Angus already meets the standard. Our own stock is currently 85% compliant, there is an extensive 4 year planned capital investment programme in place to address any gaps and ensure 100% compliance by 2015.

RSLs have Standard Delivery Plans in place, which show it is likely that their stock will also be compliant.

PRIVATE SECTOR DISREPAIR

Properties in the private sector both rented and owned require maintenance to ensure they do not fall below tolerable standard and meet the Scottish Housing Quality Standard. It is vital we help property owners to maintain their properties in good repair, and keep them in use, preventing increases in un-met housing need.

Table 11.
Additional affordable housing solutions by tackling private sector disrepair (high scenario)

HMA	2011/12-2018/19	Annual Rate (rounded)
North Angus	42	5
East Angus	42	5
South Angus	33	4
West Angus	42	5
Total	159	20

Source: Setting Housing Supply Targets for Angus: Final Report (2011)

We will continue to target our Private Sector Housing Grant (PSHG) through the Scheme of Assistance to help all property owners with advice and grant aid. Vulnerable households unable to afford minor repairs or in need of physical adaptations may receive between 80% to 100% financial help. Less vulnerable property owners will receive financial advice. In 2009-2010, 225 private sector properties received grant aid totalling £672,768.

FUEL POVERTY AND CLIMATE CHANGE

As one of its major priorities the Scottish Government set a target of ensuring that, by 2016, no-one in Scotland should be living in fuel poverty. There are estimated to be up to 15,000 households currently in fuel poverty in Angus (30% of homes). There are three factors that drive up fuel poverty;

- Poor energy efficiency of houses (where we can have a direct influence);
- Low household income (where we have some influence); and
- High cost of domestic fuel (where we have no influence).

Our approach to improve energy efficiency is to maximise insulation to the building envelope, and to that end several insulation schemes have been run effectively over the last 12 years. In 2009 and 2011, the council was successful in attracting the Scottish Government's Home Insulation Scheme (HIS) to Angus. HIS took a street by street approach and tried to contact every household in north east Angus. The project aimed to deliver energy assessments and benefit and tariff checks, with households being offered free or heavily discounted loft and cavity insulation. It aimed to future-proof the area against fuel poverty.

Of 24,000 homes, 8,500 received energy efficiency checks and over 2,000 received insulation measures. These measures should cut average household energy bills by £51 a year and by around £2,000 over the 40 year lifetime of the insulation. Carbon emissions will also be reduced by an average of 11 tons over the lifetime of the measures.

In addition, the project provided much needed employment and training for surveyors and installers in Angus, and injected around £3 million investment into the local construction sector. 32 full time

temporary staff were sourced through the Forfar and Brechin Job centres, who all achieved city and guilds qualifications in energy advice.

More recently the Heatseekers project, carried out with the Mark Group, used Infra-red surveys to identify lofts and cavities requiring insulation in South and West Angus. The council is now continuing its energy efficiency drive by taking part in the Government's Universal Home Insulation Scheme (UHIS), in which insulation will be free to customers.

To tackle fuel poverty the council continue to promote all available home insulation schemes and encourages people in all tenures to use energy advice from government approved providers, while also seeking appropriate financial advice from local agencies such as:

- SCARF who provide energy efficiency, money and grant advice;
- the Welfare Rights team that helps maximise benefit entitlement;
- Citizens Advice providing independent debt and money advice.

In addition to this, we have carried out training events with health professionals in hospitals and health centres to raise awareness with people who are already interacting with customers. This use of trusted intermediaries is an effective way of getting people to take up the offer of grants or insulation measures.

While we have no influence over fluctuating fuel prices, we have worked closely with partner organisations to apply pressure on the UK Government to bring some regulation to the domestic heating oil supply sector that has been subject to large price fluctuations caused by the world oil price and harsh winters. This is an important fuel source in rural Angus and may have increased the number of households suffering fuel poverty.

It is therefore clear that whilst the energy efficiency of the housing stock is being increased dramatically, the improvements are being out-stripped by the rising cost of fuel (due to global markets) and falling incomes (due to the recession). Although we promote fuel switching advice to help drive down the cost of fuel bills, the average annual dual fuel bill still

4. Our strategic priorities

went up from £689 in 2006 to £1,294 in 2012.

Despite our actions, fuel poverty is not decreasing. Nevertheless, we can ensure that any new build houses have good design and build quality, high levels of energy efficiency and use low carbon materials. Fuel efficient new-build homes will, at least, help to reduce the incidence of fuel poverty for householders in the new housing stock.

CLIMATE CHANGE CHALLENGES

Research informing the development of the Climate Change (Scotland) Act 2009 revealed that around 25% of greenhouse gas emissions derive from homes. The Act itself introduced a framework for reducing these emissions in tranches by 2020 and 2050. The council has signed the Climate Change Declaration, and is supporting programs to improve thermal efficiency across all housing tenures and to reduce carbon emissions. The SHIP prioritises brownfield sites as the preferred development route to minimise environmental impact and the council's actions include:

- **mitigation:** to directly reduce harmful emissions;
- **adaptation:** to adjust behaviours to limit emissions;
- **sustainability:** to ensure that social, economic and environmental aspects are considered relative to the impact of greenhouse gas emissions.

5. Conclusion

We have made significant inroads into meeting housing need but there is a long way to go if we are to meet our vision and our three strategic priorities

Successful Innovation and Investment bids from our RSL partners and ourselves have secured £4m to increase new build of affordable housing in Angus by 135 units. Of these, 10 units have been completed through our own new build programme. Our Survive and Thrive initiatives have also helped to increase the supply of affordable housing. Our Downsizing Incentive Scheme has produced good results with 22 households agreeing to exchange their properties.

Through a Community Based Letting Plan, and allocation with reasonable preference to households in housing need on our waiting list, has created a chain of moves, consequently we have aided 57 applicants to move to suitable homes.

We have begun to demolish and redevelop 2 sites in Angus, which will create a further 23 new homes. This will also help to keep the construction sector working helping to sustain the local economy.

Progress toward increasing the number of available lets in the private rented sector is good with a gradual increase of private landlords registered in Angus. We are also near completion of our Empty Property and Private Sector Leasing/ Deposit Strategies that will make a positive contribution to affordable and market housing.

Progress to provide more enhanced housing options advice to homeless households is moving forward with emphasise on early intervention and mediation to prevent homelessness. We have made significant in roads in helping our own tenants to sustain their tenancies, with rent arrears falling year

on year, we will support the most vulnerable families in our communities to find other accommodation if they are affected by Welfare reform.

As a response to our ageing population, forward planning has progressed well, with a capital grant from the Change Fund Programme awarded, to re-provisioning of two sheltered housing schemes into Supported Housing.

Progress toward meeting the Scottish Housing Quality Standard is also progressing well with Heatseekers Scheme moving onto the next phase, extending the offer of free or subsidised home insulation to landward settlements.

Our progress has not been deterred by the economic recession, while access to finance remains difficult we have and continue to undertake activities that have the least financial implication. We will continue to invest in our knowledge management to try to find innovative solutions and improve the way we work, with a focus on continuous improvement.

We recognise the benefits of asset development, subsequently community partnership development initiatives have been put in place to improve the way our communities look and our collective responsibilities to make sure our communities work well. To achieve positive results we will invest in consultation and involvement with all our stakeholders and partners. With strong partnership investment and commitment, we will move forward to deliver our vision and enjoy together the benefits of living in good quality homes supported by a strong economy.

6. Research and further reading

Original research and primary and secondary data sources informed the LHS. You can find the key outputs if you follow these short hyperlinks

- Angus Affordable Housing Policy: <http://tinyurl.com/bsmq4mg>
- Angus Community Plan & Single Outcome Agreement 2011-14: <http://tinyurl.com/cm2qsoc>
- Angus Community Safety & Anti-Social Behaviour Strategy 2009-2012: <http://tinyurl.com/bryqv3r>
- Angus Corporate Plan 2011-15: <http://tinyurl.com/cxkj533>
- Angus Housing Need & Demand Assessment 2010: <http://tinyurl.com/bnj32fl>
- Angus Economic Recovery Plan 2010: <http://tinyurl.com/bo7w7ol>
- Angus Scheme of Assistance (SoA) 2010: <http://tinyurl.com/bq56fla>
- Angus Scottish Housing Investment Plan 2011 (SHIP): <http://tinyurl.com/c97um68>
- Older Peoples Services Best Value Review: <http://tinyurl.com/d9jecq4>
- Scottish Social Housing Charter: <http://tinyurl.com/cdch87s>
- Setting Housing Supply Targets for Angus - Final Report (2012): <http://tinyurl.com/cq3ozyd>
- TAYplan Proposed Strategic Development Plan 2011: <http://tinyurl.com/d67fkyx>





7. Monitoring and Evaluation

We will review the LHS each year and report our progress to elected members and the Angus Housing Market Partnership to ensure we continue moving towards our vision and achieving our three strategic priorities.

We need to remain flexible and responsive given the changing housing landscape and as the economy recovers from the downturn, a recovery that is still uncertain.

We anticipate further reductions in affordable housing subsidy at a time when demand will increase and we need adequate financial resources to deliver the outcomes we need to achieve. We are committed to implement as many of our actions as possible particularly those that have minimal or no financial implications.

We remain optimistic and committed to the firm principles of collaboration and partnership working to increase housing supply whilst achieving value for money.

We welcome and invite our partners and stakeholders to make what ever contribution they can to meet the housing needs of the people of Angus.

Relevant Indicators

Priority 1. To increase housing access and choice

New build and conversion of affordable and market housing

Number of affordable homes to rent

Number of shared equity opportunities

Effective and planned supply of land, free from any known risk of environmental constraint

Number of additional Private Sector affordable housing for unmet need

Number of properties repaired in Private Sector

Number of empty properties back in use (affordable and market)

Number of additional lets created resulting from improvement in social housing management

Priority 2. To Provide Special Needs Housing and Housing Support

Increasing the use of community alarm and telecare and expanding the community alarm response teams

Number of households receiving grants for adaptations and or assistive technology to remain in their home thereby expanding the provision of supported housing as an alternative to residential care

Provide faster and more responsive services to vulnerable people to reduce and prevent unmet need for affordable and market housing by ensuring people get free personal care within 6 weeks to 100% by 2014

Proportion of homeless tenancies sustained (tackling and preventing homelessness)

Reduction in the number of homeless applications in Angus

Reduction in the length of time taken to secure permanent accommodation

Priority 3. To improve the quality of housing, and make it energy efficient and easy to heat

3.75% improvement year on year performance to meet SHQS of all Council Stock

Increase the %of Council house dwellings that are energy efficient

% Increase of properties that pass the SHCS criteria

Increase % of properties passing SHQS, SHCS

Improve National Home Energy Rating of all tenure as defined in SHCS

Increase grant allocation to private sector through the Scheme of Assistance year on year (includes help with adaptations, repair and the number of empty properties due to disrepair bought back into use)

Number of new build containing energy efficient technologies

Reduce the tonnage of CO2 emission per capita

Maintain % of population who can access amenities and services by sustainable means, through ensure maximum occupation in towns

Baseline (2008/09)	Housing Supply Target	Timescale
	1,766	2012/13 to 2018/19
		2012/13 to 2018/19
		2012/13 to 2018/19
187 (at 2011/12)		2012/13 to 2018/19
		2012/13 to 2018/19
		2012/13 to 2018/19
		2012/13 to 2018/19
		2012/13 to 2018/19
		2012/13 to 2018/19
3,500	189 - 287	2012/13 to 2018/19
254	10% reduction	2012/13 to 2018/19
(Ranges between 8,600 and 11,900)	10% yr on yr target 1038 over 10yrs	2012/13 to 2018/19
	5% reduction	2012/13 to 2018/19
1041 (2009/10)	10% reduction by 2014	2012/13 to 2018/19
301 days (2010/11)		2012/13 to 2018/19
82.7%	100%	2015
82.7%	96%	2015
71% (2004-07)		2012/13 to 2015/16
		2012/13 to 2015/16
		2012/13 to 2015/16
254	7%	2012/13 to 2015/16
		2012/13 to 2015/16
	42%	2020 (80% by 2050)
	90%	2014

8. Action plan and monitoring framework

Priority 1. To increase housing access and choice

Ensure there is enough housing of the right type and size available in areas where people want to live at a price they can afford as evidenced by the Angus Housing Need and Demand Assessment

Task No	Action Plan
1.	<p>Implement Angus SHIP, achieve Housing Supply Targets for each Housing Market Area, increase supply of new build for market and affordable housing through maximising housing investment through the Innovation & Investment Fund, AHSP and other national government initiatives. Deliver the greatest number of new build completions with lower subsidy, for affordable housing to rent or buy</p> <ul style="list-style-type: none"> • Develop Council new build program, with cross subsidy approach, investigate capital funding opportunities; • Promote and increase shared equity, both public and private; • Review Angus Local Plan Review Policy SC9, Affordable Housing through the Angus LDP process.
2.	Contribute to development of TAYPlan Strategic Development Plan annual average build rates of 330 units across the HMAs over 12 years
3.	Develop a land-use policy approach to new housing development that is capable of delivering the HSTs
4.	<p>Develop and implement a Private Rented Sector Strategy to achieve housing supply target to allow greater access through one or combination of following initiatives:</p> <ul style="list-style-type: none"> • Private Sector Leasing; • Rent Deposit Guarantee Scheme; • Landlord Registration and Landlord Accreditation; • Mid market tenure.
5.	Help people with minor repairs in private housing sector to maintain independent living in their current home with an 'in situ' housing solution
6.	Undertake a Stock Conditions Survey to identify properties that could be brought back into use
7.	Implement Downsizing Scheme and other interventions to improve allocation processes (CHR) to tackle imbalance in housing occupation and appropriate allocation to improve sustainability, and tackle low demand through improved stock management. Improve performance in line with requirements of the Scottish Housing Charter and the Scottish Housing Regulator
8.	Undertake Equality Impact Assessments of all strategies and plans to ensure equality of access, and that our services do not discriminate against any particular minority community, or gender

Partners responsible	Resources
Angus Council (AC) Registered Social Landlords (RSLs) Scottish Government (SG) Development Industry (DI)	Housing Association Grants (HAG) Innovation & Investment Fund (IIF) Housing Revenue Account (HRA) Council Tax Revenue (CTR) Private Finance (PF) National Housing Trust (NHT) Affordable Housing Policy contributions (AHP)
AC TAYPlan Authority (TyA)	Existing resources
AC	Existing resources
AC SG National Housing Trust (NHT) Scottish Association Of Landlords (SAL)	AC PF
AC SG RSL	Private Sector Housing Grant (PSHG)
AC SG	PF Private Sector Housing Grant (PSHG)
AC RSLs	Existing resources
AC	Existing resources

8. Action plan and monitoring framework

Priority 2. To provide special needs housing and housing support

Ensure there is enough suitable affordable housing for the ageing population to live independently in their home and minimise newly arising need by supporting vulnerable households (care groups), tackling and preventing homelessness

Task No	Action Plan
1.	<p>Reduce the proportion of older people placed in residential care homes and shifting the balance of care to supporting those people to maintain their independence in their own home</p> <ul style="list-style-type: none"> • Complete integration of a single call centre with four rapid response teams operating across Angus. Increase the range of telecare and telehealth peripherals to enhance personal support; • Developing an enablement focused assessment process providing a period of intensive support of up to 6 weeks to assist service users to regain their independent living skills and confidence after a period of hospitalisation or a change in their community care needs; • Streamlining access to housing adaptations and improving the joint equipment loan service including the provision of “smart” technologies; • Expanding the provision of supported housing as an alternative to residential care.
2.	<p>Support vulnerable households who form ‘care groups’ who have either an unmet housing need or may have a newly arising need if they are unable to sustain independent living, they form a significant proportion of households with unmet need for affordable and market housing ranging between 8,600 and 11,900 homes by 2018/19</p> <ul style="list-style-type: none"> • Increase the percentage of adults with a long term condition feeling supported to self-manage their condition; • Increase the number of people accessing enablement services by 10% by 2013; • Reduce the number of alcohol/drug related deaths by 5% by 2014; • Increase the number of vulnerable people supported into education, training, volunteering and employment by 5% by 2014; • Implement a Joint Commissioning Strategy.
3.	<p>Implementation of Homelessness prevention strategies to prevent and alleviate homelessness, helping people to sustain tenancies and reduce projected levels of housing need</p> <ul style="list-style-type: none"> • Improve advice, assistance, advocacy, focusing on housing options at the point of assessment; • Help people threatened with eviction in the private sector with access to financial assistance through Mortgage Rescue/ Support Schemes; • Ensure appropriate management and allocation of permanent and temporary accommodation with appropriate levels of housing support; • Review CHR lettings procedures and develop new protocols with RSLs to increase the proportion of lets to homeless households.
4.	<p>Ensure there is housing provision to meet the housing need of black and ethnic communities, including other minority groups such as gypsy travellers</p> <ul style="list-style-type: none"> • Undertake Equalities Impact Assessments of all strategies and plans to ensure equality of access to meet housing need of all our minority groups living in Angus; • Undertake additional research to identify housing need of a range of minority groups including gypsies/ travellers.



Partners responsible	Resources
Angus Council, Registered Social Landlords, Scottish Government	HAG, LLF, PSHG, The Change Fund, NHS Budget 2012-13
AC, NHS	Existing resources
AC, RSLs, PRS	Existing resources
AC, Housing Market Partnership	Existing resources

8. Action plan and monitoring framework

Priority 3. To improve the quality of housing and make it energy efficient and easy to heat

Improve the quality, condition and energy efficiency of housing stock and neighbourhoods taking into account community and environmental sustainability

Task No.	Action Plan
1.	<p>Increase the number and proportion of all housing stock to meet the Scottish Housing Quality Standard by 2015</p> <ul style="list-style-type: none"> • Continue to improve council stock by meeting all the five criteria to meet the SHQS, (Tolerable Standard, tackle serious disrepair, achieve energy efficiency, modernisation of facilities, provide healthy, safe and secure accommodation, measure achievement of total stock against SHQS); • Complete program of kitchen replacement, installation of door entry systems and thermal insulation of council stock; • Work in partnership with private sector and RSLs to promote good practice and help fund stock improvement through Scheme of Assistance, to improve Scottish House Conditions, and prevent properties becoming unoccupied due to failing to meet Tolerable Standard); • Tackle fuel poverty, promote and fund Home Insulation Scheme and Energy Assistance Package, to be achieved in all tenure, via Private Landlord Register and through the HMP, RSLs; • Return empty properties back into use where best value can be achieved, undertake a conditions survey, target advice and information of funding regime available to property owners, attract Scottish Government funding (IIF) to bring back empty stock in town centres through Homelessness Lead Tenancies.
2.	<p>Promote high standard of new build and tackle the effects of climate change</p> <ul style="list-style-type: none"> • Promote and help to fund SHIP priorities and principles of high standard of design, build good quality homes with high specification that incorporates energy efficiency; • Promote the use of brownfield sites to minimise environmental impact; • Develop sustainable local communities, with mixed developments with mix of tenure and house types to reduce travel time to work, thereby reduce greenhouse gas emissions.
3.	<p>Reduce greenhouse gas emissions that derive from homes by using technologies that lower CO2 emissions</p> <ul style="list-style-type: none"> • Efficient central heating systems, improve thermal insulation, low energy appliances; • Awareness raising around energy efficiency; • Ensure that council-built homes comply with the future requirements of the Local Development Plan regarding the installation and operation of low and zero carbon generating technologies.



Partners responsible	Resources
Angus Council Registered Social Landlords Scottish Government Private Landlords	AC HRA PSHG
AC RSLs Private Developers SG	AHP CBR HAG HRA IIF PF
AC HMP	Existing resources



ANGUS COUNCIL



**MANAGING UNAUTHORISED
ENCAMPMENTS OF GYPSIES/TRAVELLERS**

POLICY & PROCEDURE

CONTENTS

	TITLE	PAGE
1.0	INTRODUCTION	3
2.0	LEGISLATIVE BACKGROUND	3
3.0	BACKGROUND	4
4.0	POLICY – ANGUS COUNCIL OWNED LAND	4
5.0	LEGAL	8
6.0	CONSULTATION AND COMMUNICATION	8
7.0	MONITORING AND REVIEW	9
8.0	GYSIES/TRAVELLERS WORKING GROUPS	9
9.0	EVICTON PROCESS	10
10.0	PROCEDURE FOR STAFF – MANAGING UNAUTHORISED ENCAMPING	11
11.0	PROCEDURE FLOWCHART	14
12.0	ASSOCIATED PAPERWORK	15
13.0	ASSOCIATED DOCUMENTS AND POLICIES	16
APPENDICES		17
	GTI-01-14 Information re Balmuir Wood Site	
	GTI-02-14 Welfare/Visit Checklist	
	GTI-03-14 Guidance for staff on completion of checklist	
	GTI-06-14 Information for Gypsies/Travellers (draft)	
	GTI-07-14 Guidelines for Managing Unauthorised Encampments of Gypsies/Travellers - link	

1.0 INTRODUCTION

1.1 Purpose

1.2 This document aims to give clear direction of the policy of Angus Council regarding unauthorised encampments of Gypsies/Travellers in Angus and the procedures to be followed by staff when responding to reports of these encampments. Highlighted will be the need for a clear policy and for procedural guidelines, the parties involved in this process and will clarify the different situations against which the policy and procedures will be applied.

1.3 Terms

1.4 This document uses the terminology advocated by the Scottish Government, which acknowledges the social and cultural differences between Traveller communities living in Scotland. The term Gypsies/Travellers will refer to:

those groups of Travellers in Scotland who variously refer to themselves as Travellers, Scottish Travellers, Scottish Gypsies/Travellers or Gypsy/Traveller people (plural Gypsies/Travellers). This includes English Gypsies, Irish Travellers and European Roma. This term refers to all travelling communities who regard travelling' as an aspect of their cultural/ethnic identity.¹

1.5 The term "Unauthorised Encampment" will refer to:

where a person camps (in vans, trailers or any other moveable accommodation) on land that they do not own, and where they do not have permission to reside

2.0 LEGISLATIVE BACKGROUND

2.1 This policy updates and replaces the policy statement by Angus Council of 2000. It reflects guidance subsequently issued by the then Scottish Executive in 2004 to local authorities. Police Scotland has also developed and implemented a standard operating procedure for officers regarding gypsy travellers and unauthorised encampments and the position of Police Scotland is reflected in this document. This policy does not apply to New Age Travellers or Travelling Showmen.

2.2 Angus Council policies and procedures reflect legislation such as the Human Rights Act 1998 and the Equality Act 2010. Furthermore, the Scottish Parliament's Equal Opportunities Committee, which, following an enquiry in 2001, indicted amongst a total of 37 recommendations, that Gypsies/Travellers should be regarded as an

¹ Gypsy Travellers in Scotland – A Resource for the Media (Equality and Human Rights Commission Scotland 2010)

ethnic group. Other relevant legislation includes the Children's (Scotland) Act 1995 and Homelessness legislation.²

2.3 The **Equality Act 2010 contains** general equality duties for public bodies to, in the exercise of their functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation.
- advance equality of opportunity between persons who share a relevant protected characteristic, and persons who do not share it.
- foster good relations between persons who share a relevant protected characteristic, and those who do not share it.

2.4 The policy has been agreed by *****

3.0 BACKGROUND

3.1 Angus has always been a popular destination for Gypsies/Travellers, with certain unauthorised areas being regularly populated by encampments. It has been identified that the Council requires a clear and defined procedure which it can follow, along with its partners, to provide a consistent and fair course of action in dealing with unauthorised encampments.

3.2 There are short stay sites available to Gypsies/Travellers within Angus. These are; St Christopher's Caravan Site, in Tayock by Montrose, managed by Angus Council and Balmuir Wood, Tealing near Dundee, administered by Dundee City Council.

4.0 POLICY – Angus Council Owned Land

4.1 Angus Council recognises the right of the Gypsies/Travellers to practise a nomadic lifestyle, travelling and staying on short term sites and seeks to balance this with the needs of the settled community of Angus. Angus Council seeks to promote a positive environment for good community relations and to prevent incidents of harassment.

4.2 Unauthorised encampments can sometimes give rise to friction with local communities if they are in inappropriate locations or are not being conducted in a responsible manner. The standards of behaviour expected of Gypsies/Travellers are the same as those expected of the settled community.

²Guidelines for Managing Unauthorised Camping by Gypsies/Travellers in Scotland (Scottish Executive 2004)

4.3 Code of Conduct

Unauthorised Gypsies/Travellers encampments residing on Angus Council land will be required to adhere to a code of behaviour in order to remain on site. These conditions will be provided to each encampment by Angus Council.

- a) *Keep groups small;*
- b) *Look after the land you park on and respect nearby residents*
- c) *Keep animals under control at all times, this includes minimising the noise from dog barking;*
- d) *Dispose of litter and other rubbish in the black bags provided. Angus Council will arrange to collect these.*
- e) *Get rid of animal and human waste hygienically*
- f) *Do not fly-tip. Dispose of commercial waste at the appropriate landfill site or recycling centre*
- g) *For your own safety and that of others remember the Highway Code*
- h) *Do not start fires or burn rubbish on the site*
- i) *Noise from generators should be minimised to prevent nuisance*

This list is non-exclusive and will depend on the make up of each encampment.

4.5 Where perpetrators of issues such as littering and fly-tipping etc can be identified then relevant action will be taken.

4.6 There will be circumstances when unauthorised Gypsies/Travellers encampments will not be permitted. This will be when the presence of the encampment causes **immediate concerns**. These concerns include:-

- (a) Public Safety (including Road Safety) concerns,
- (b) concerns that the encampment is causing unacceptable harm to an area (including financial and environmental harm),
- (c) concerns that the encampment is significantly impacting on the ability of others to exercise rights in relation to that land or the rights of the public to enjoy the use of that land; and
- (d) concerns that the encampment is preventing an organised event from taking place.

In those circumstances, and notwithstanding that encampments are complying with the Code of Conduct, legal action may be commenced immediately.

4.7 There are a number of instances when the Council exercises control over land which it does not own. The most important of these is in relation to land not owned by the Council but which forms part of a publicly adopted road (including lay-bys, verges and visibility splays). In these circumstances, the Council, as roads authority under the Roads (Scotland) Act 1984, will exercise its powers under that Act and other legislation in a manner constant with the terms of this policy. As with 4.6 above, there will be circumstances when unauthorised Gypsies/Travellers

encampments will not be permitted on land controlled by the Council, as roads authority, and legal action may be commenced immediately.

4.8 Legal Action

4.9 The Lord Advocate issued an instruction to Procurators Fiscal in 2004 stating that **there is a presumption against prosecution in the public interest where the sole issue in relation to an encampment is the physical occupation of land by Gypsies/Travellers**, rather than activities where prosecution is always regarded in the public interest such as breach of the peace, drug dealing or possession of an offensive weapon.

4.10 In accordance with the Lord Advocate's instruction and Scottish Government Guidance³, Angus Council shall not actively seek to immediately remove an unauthorised encampment from land owned or controlled by it unless one or more of the following is a factor.

The site of the unauthorised encampment is:

- a site of scientific or environmental interest
- a site where pollution could damage water courses/water supply
- in an area with toxic waste, serious ground pollution or other environmental hazard
- adjacent to the verge of a road (from a road safety perspective), as defined by the Roads (Scotland) Act 1984 and which includes lay-bys
- in proximity to a railway line, where there may be a danger to individuals

However, eviction will also be considered where:

- a suitable alternative site has been identified and the Gypsies/Travellers have refused to re-locate within a reasonable time (taking local circumstances into account)
- the use or size of a particular site causes a road safety or public health hazard
- the same Gypsies/Travellers have been repeatedly moved from the same site only to return
- the encampment is on land which is in the process of being sold by Angus Council
- the location of the encampment leaves Angus Council liable to legal action
- the behaviour/actions of the occupants of the encampment are such as would not be accepted or would be acted upon by Angus Council within the settled community.
- the encampment is sited upon operational council premises such as recycling centres, country parks, car parks, public parks and playing fields.

4.11 Adherence to these specific requirements will be monitored on at least a weekly basis by Angus Council and/or their partner agencies.

³ Guidelines for Managing Unauthorised Camping by Gypsies/Travellers in Scotland (Scottish Executive 2004)

- 4.12 Each encampment will be considered on its own individual merits – e.g. capacity, location, ground conditions, safety issues and any other relevant issues as described in the foregoing.
- 4.13 The final decision on eviction from Angus Council land will lie with the designated service budget holder of the land on which the encampment is sited. The main involved services in Angus Council are likely to be:
- Parks and Cemeteries, Communities Directorate.
 - Economic Development, Chief Executive Directorate.
 - Roads, Communities Directorate.
 - Housing, Communities Directorate.
- 4.14 POLICY - Privately Owned Land (Non-Angus Council land)**
- 4.15 Any enforcement action taken in regard of encampments on privately owned land **MUST** be taken by the landowner. However, landowners may contact Angus Council for advice only as regards management of encampments.
- 4.16 Angus Council will seek to offer services to an encampment on private land, and will ask permission of the landowner to access the land for this reason.
- 4.17 Landowners will be advised of the Angus Council policy and Code of Conduct and reminded that it is their responsibility to ensure that the Code is being met and that local residents and the environment are not adversely affected.
- 4.18 Angus Council can take enforcement action related to a particular behaviour on private land (e.g. fly-tipping) if there is sufficient evidence to identify individual perpetrators. However, it is the responsibility of the landowner to remove any fly-tipped material/litter left on site.
- 4.19 For long term encampments on private land, requirements in terms of planning legislation and the Caravan Sites & Control of Development Act 1960⁴ will require to be adhered to.
- 4.20 If it is not possible to identify the owner of the land on which an encampment is sited, Angus Council will undertake to manage the encampment in line with the policy and procedures applied to Angus Council land.

⁴ Caravan Sites and Control of Development Act 1960

5.0 LEGAL

- 5.1 Legal & Democratic Services will be responsible for providing legal advice and support to assist the Council in implementing this Policy. Legal & Democratic Services will also be responsible for raising legal Proceedings for Ejection in the Sheriff Court.
- 5.2 Legal Proceedings for Ejection commence with the serving of a Notice to Quit on the occupiers. It shall be the responsibility of Legal & Democratic Services to arrange for preparation and service of the Notice to Quit and to thereafter pursue, in consultation with all other interested or relevant parties, proceedings for Ejection.
- 5.3 Legal & Democratic Services will issue regular updates, as matters progress, to interested or relevant parties.
- 5.4 Paragraph 9 below outlines the likely route that an action for Ejection can follow. This will not always be the case. Legal & Democratic Services will ensure, insofar as possible, where that route is not or cannot be followed or that further additional steps are required, that:-
- all other interested or relevant parties are advised of the departure from the likely route and the reasons for the departure
 - the impact of the departure on the timescales for obtaining decree for ejection; and
 - the impact on interested or relevant parties of the departure from the likely route on them.

6.0 CONSULTATION AND COMMUNICATION

- 6.1 This policy will be available for distribution in a variety of formats, accessible to Gypsies/Travellers, settled community, businesses etc.
- 6.2 This policy will be the basis of all communications with the local community when an Unauthorised Gypsies/Travellers encampment occurs.
- 6.3 All press releases/liaison regarding unauthorised encampments in Angus will be managed by the Communications service of Angus Council, in association with partner agencies such as Police Scotland.
- 6.4 Information regarding specific details and actions taken regarding a particular encampment will not be made available to the public as a matter of course, especially where there are ongoing legal actions to consider. However, complaints regarding any encampment will be responded to in accordance with this policy and the Angus Council Customer Care Strategy and service standards.

7.0 MONITORING AND REVIEW

- 7.1 The Strategic Gypsies/Travellers Group will have responsibility for monitoring the implementation of the Policy. The policy will be reviewed on an annual basis, which will include consultation with partner agencies and where possible, members of the Gypsies/Travellers community.

8.0 GYPSIES/TRAVELLERS WORKING GROUP(S)

- 8.1 The co-ordination, collation and circulation of information regarding unauthorised encampments in Angus is under the remit of Community Safety staff in the Joint Services Team. Liaison with the Gypsies/Travellers is via Housing staff and the Administrative Assistant/Site Supervisor at St Christopher's, Montrose.

- 8.2 The Strategic Gypsies/Travellers Group shall comprise:

- Director of Communities
- Service Manager – Housing
- Service Manager - Economic Development
- Service Manager – Community Safety
- Service Manager – Regulatory, Protection & Prevention Services
- Service Manager – Parks & Burial Grounds
- Inspector, Safer Communities, Police Scotland
- Communications Manager
- Principal Solicitor, Angus Council

This Group shall meet at least 4 times a year.

- 8.3 The Operational Gypsies/Travellers Group shall comprise of operational staff from:

- Joint Services Team – Angus Council (as lead coordinating agency)
- Waste Services
- Environmental & Consumer Protection
- Parks & Burial Grounds
- Education
- Social Work
- Health
- Legal Services
- Economic Development
- Roads
- Consumer Protection
- Police Scotland
- Fire Scotland
- Any other group/agency relevant to the particular encampment site/makeup

It should be noted that the composition of the operational Gypsies/Travellers Group will vary dependant on where in Angus the encampment is sited. *E.g. if the*

encampment is in Carnoustie, staff from Arbroath/Carnoustie Housing Team will be involved; if the encampment is in Forfar, staff from the Forfar Housing Team will be involved.

9.0 EVICTION PROCESS FOR UNAUTHORISED ENCAMPMENTS ON COUNCIL-OWNED LAND

9.1 The final decision on eviction from Angus Council land will lie with the designated service budget holder of the land on which the encampment is sited. The main services in Angus Council are likely to be:

- Parks and Burial Grounds
- Economic Development
- Roads
- Housing

9.2 Once a decision has been made to raise eviction proceedings, an officer of the Community Safety Team shall contact Legal & Democratic Services, Angus Council, with their request to remove the Unauthorised Gypsies/Travellers encampment from the land.

9.3 If Legal & Democratic Services agree to the case being taken forward, they will arrange for Sheriff Officers to serve a letter to the occupants of the encampment, known as a Notice to Quit, requiring them to leave by a certain date.

9.4 If the site continues to be occupied after the period of notice has ended, Legal & Democratic Services will prepare the appropriate application to the Court seeking the removal of the unauthorised encampment. These will be lodged with the Sheriff Court.

9.5 At the initial hearing at Court, the Sheriff may grant a warrant to serve the writ on the occupiers and would give a period of time for the occupiers to oppose the application.

9.6 Legal and Democratic Services will arrange for Sheriff Officers to serve the Court papers in the encampment. This is normally done either the same day the Sheriff grants the warrant or the next day.

9.7 If opposition to the application is lodged, further Court procedures will follow.

9.8 If no opposition is lodged and the site remains occupied, Legal and Democratic Services will return to Court at the appointed time and ask the Sheriff to grant Decree.

9.9 Once the Council has an Extract Decree, Legal and Democratic Services will instruct Sheriff Officers to enforce the Decree and carry out the eviction. A period of notice of the eviction will be required.

- 9.10 If the unauthorised encampment has not moved within the time period allowed by the Sheriff Officers, they will take steps to enforce the decree and remove the occupiers.
- 9.11 Prior to any eviction date, the Community Safety Team will convene a meeting of relevant officers to discuss the roles and responsibilities on the eviction day. This will include ensuring an alternative site for the travellers to potentially be towed to, provision for any potential homelessness issues created by the eviction and any child or adult protection issues arising from the eviction procedure.

10.0 PROCEDURE FOR STAFF - MANAGEMENT OF UNAUTHORISED ENCAMPMENTS WITHIN ANGUS

- 10.1 Angus Council manage unauthorised encampments of Gypsies/Travellers who set up camp within the boundaries of Angus.

10.2 Roles and Responsibilities

Angus Council has a Strategic and an Operational Gypsies/Travellers Group, both of which can convene to discuss the best course of action for individual unauthorised encampments. However, the make-up of the Operational GTG will change dependent on the locality of the encampment i.e. Montrose/Brechin Community Housing Team if the encampment is in Montrose.

Key departments/agencies and their roles are as follows:

Service/Agency	Function
Community Safety Team	The co-ordination, collation and circulation of information regarding unauthorised encampments in Angus is under the remit of Community Safety Team. Staff from this section circulate the encampment checklists, inform other departments of outstanding tasks, collate encampment case files and are the conduit for updates from Legal & Democratic services regarding any legal action. Any information or communication with the encampment or should be passed to this team.
Housing Service	The Housing Service is responsible for carrying out initial visits to the site and completing the encampment checklists.
Police Scotland	Police Scotland are kept up to date throughout the duration of any encampment and will react to any acts of criminality arising from the encampment. Police Scotland have agreed that they may in certain circumstances accompany Angus Council staff on encampment visits if deemed necessary to prevent a breach of the peace or a disturbance occurring. However, they would not compel any details such as names

Service/Agency	Function
	and addresses from the travellers.
Social Work	Social Work have involvement regarding the welfare of the Gypsies/Travellers, especially children, who may be onsite.
Education	Education will have any involvement regarding the welfare and educational needs of any children who may be onsite.
Environmental and Consumer Protection	The Environmental & Consumer Protection service will have responsibility for the possible harm to the site and humans due to environmental or hygiene issues arising from the encampment. This area also co-ordinates the dog warden should there be any issues with straying or uncontrolled dogs on the encampment.
Waste Management	The Waste Management service are responsible for organising the collection and clean-up of any waste or litter arising from the site. They also have an enforcement remit along with SEPA for any fly-tipping issues.
Legal & Democratic Services	Legal & Democratic services will advise on any legal issues arising from the encampment and take forward enforcement action(s) on behalf of Angus Council.
Economic Development	Landowners who may request action to remove travellers from their land.
Parks and Burial Grounds	Landowners who may request action to remove travellers from their land.
Roads	Landowners/roads authority who may request action to remove travellers from their land.
NHS Tayside	NHS Tayside are responsible for ensuring the health needs of the travellers are being met and that they have access to local healthcare should the require it.

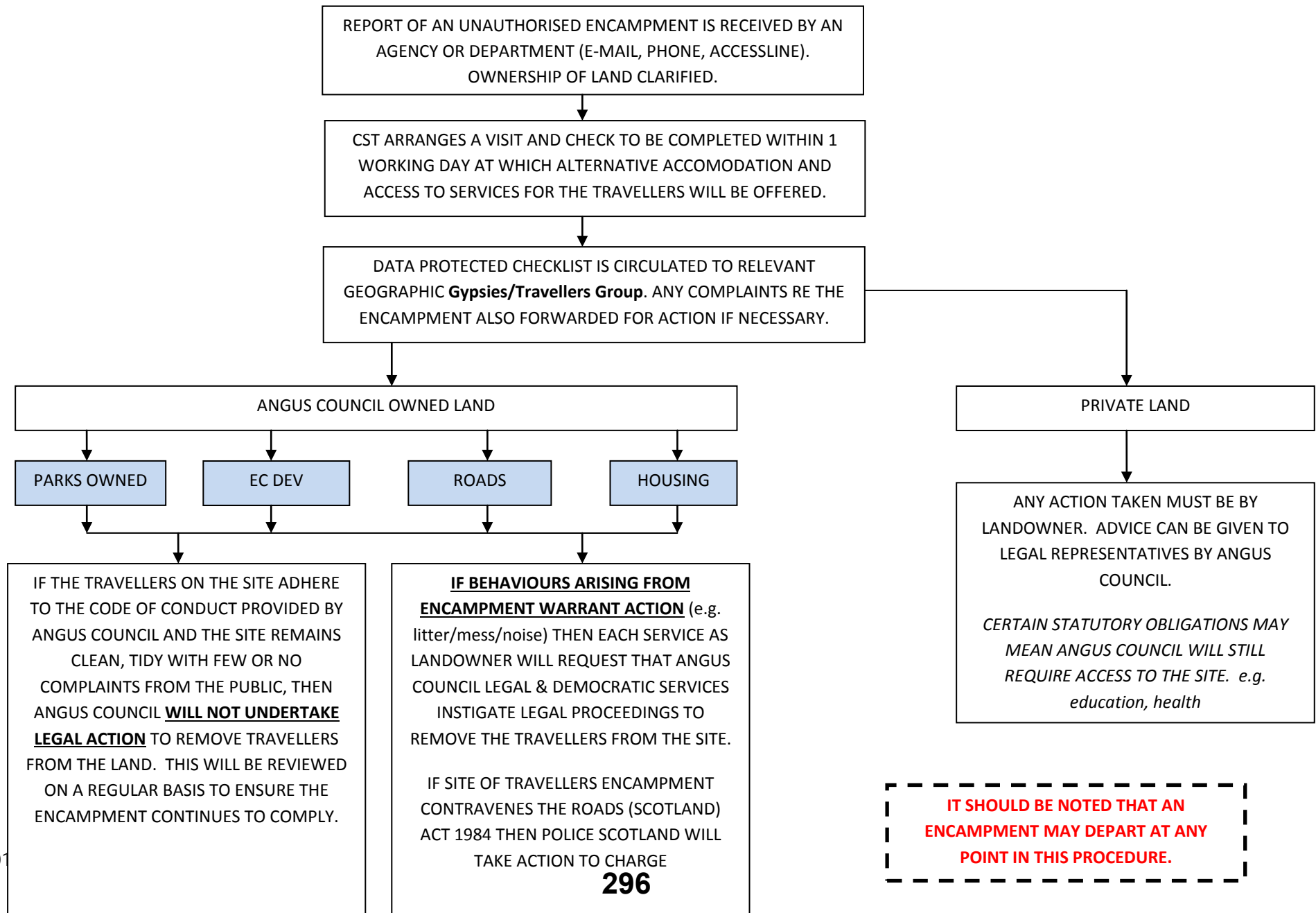
All involved members have a responsibility to share all information and data available to each other, being mindful of the Data Protection Act 1998⁵.

⁵ Data Protection Act 1998

10.3 STEP BY STEP PROCESS

- A. Community Safety receives a report of an encampment by means of ACCESSline, directly from public, local ACCESS Office, other council service or Police Scotland.
- B. Community Safety ascertain the ownership of the land (if not know at this point). Sources of clarification include Economic Development service of Angus Council, Legal & Democratic Services, Roads , Police Scotland and local residents/knowledge. Ownership of the land defines the next stage of the procedure.
- C. Community Safety contact relevant Manager to request an encampment visit is carried out and a checklist is completed.
 - (i) a member/s of staff from the Community Housing Team carries out encampment visit and completes checklist (GTI -02-14)
 - (ii) Community Housing Team staff member sends electronic copy to Community Safety.
 - (iii) If the encampment is on private land, permission will be sought form the landowner for a checklist visit by council staff to take place.
- D. Community Safety updates the encampment case file and removes all data protected information from the checklist.
- E. Community Safety circulates the checklist to the correct geographical Gypsy Traveller Group and anyone else who may be relevant.
- F. Agencies/departments decide whether to offer services/make a visit to the encampment. More regular contributors will include:
 - i) Waste Management – to organise rubbish collections
 - ii) Education and Social Work – if there are children on site
 - iii) NHS Tayside – any health issues on site
- G. If the behaviours arising from the encampment warrant action then Angus Council MAY consider action to remove the encampment from the site. Behaviours may include accumulating litter/waste/mess or noise nuisance.
- H. The status of the encampment will be reviewed regularly, taking into account any to new complaints or information regarding the conduct of the encampment.

UNAUTHORISED ENCAMPMENT PROCEDURE – FLOWCHART



12.0 SUPPORTING PAPERWORK

In order to best manage unauthorised encampments of Gypsies/Travellers, Angus Council will keep records for each encampment. To facilitate this, standardised paperwork has been devised for each agency involved.

GYPSIES/TRAVELLERS - DOCUMENTS

REF NO	Document Title
GTI-01-14	Information re Balmuir Wood Site
GTI-02-14	Welfare/Visit Checklist
GTI-02-14(b)	Agency/Service Response Sheet
GTI-03-14	Welfare Check Protocol
GTI-06-14	Information for Gypsies/Travellers
GTI-07-14	Guidelines for Managing Unauthorised Encampment of Gypsies/Travellers - SG

N.B. This paperwork is appended at the end of this document for information.

13.0 ASSOCIATED DOCUMENTS AND POLICIES

- Guidelines for Managing Unauthorised Camping by Gypsies/Travellers in Scotland (Scottish Executive 2004)
- Police Scotland - Standard Operating Procedures
- Data Protection Act 1998
- Caravan Sites and Control of Development Act 1960
- Gypsies/Travellers in Scotland – A Resource for the Media (Equality and Human Rights Commission Scotland 2010)
- Roads (Scotland) Act 1984
- Equality Act 2010
- Human Rights Act 1998
- Children (Scotland) Act 1995
- Homelessness etc. (Scotland) Act 2003

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Information for Gypsies / Travelling People

Dundee City Council provides a purpose built caravan park for use by gypsies/travelling people. It is located in a rural setting at Balmuir Wood, Tealing about 6 miles from Dundee just off the A90, towards Forfar. [Map](#)



[Click to see on map](#)

The [site](#) has 20 individual pitches each with its own utility unit, a hook up facility for electricity and hardstanding for parking caravans and motor vehicles. There is also a safe [children's play area](#).

Each utility unit has been refurbished with a new [kitchen and bathroom](#) with shower. There is also room for storage.

If you are interested in renting a pitch or would like more information please contact the Liaison Officer at

Balmuir Wood Gypsy/Travellers Site
Tealing
By Dundee DD4 0QY [Map](#)
Tel: 07951380 112

or

East District Housing Office
169 Pitkerro Road
Dundee DD4 8ES [Map](#)
Tel: 307401

Renting a pitch

- You can rent a pitch on a long term basis or stay for only a few weeks
- You may be able to claim Housing Benefit to help with paying the rent of the pitch. The Liaison Officer can help you with filling in forms etc
- We will give you advice and information when you sign your tenancy agreement. We will explain the site rules, what we are responsible for and what you are expected to do

At Balmuir Wood Gypsy/Travellers Site

- You can get 24 hour access to the site by calling 07951380112
- Electric meters are read weekly and payments can be made at the site office weekly in arrears
- Refuse is collected weekly
- Local shops/doctor are 3 miles from the site
- Local Primary School at Tealing

Links

- [Friends, Families and Travellers](#)
- [Travellers' Times Online](#)

Unauthorised Encampment - Visit Checklist

Date/Time of Welfare Visit:	Location of Encampment:
Date Encampment Commenced:	Ownership of Land:
Scheduled Date of Next Visit:	Officers in Attendance:

A. General

Subject	Comments
Where have the travellers arrived from?	
Where are they travelling to?	
How long are they likely to be staying?	
What is the purpose (if any) of their visit?	
Have the travellers been told this is Angus Council owned/managed land and they are not entitled to stay here? (If applicable)	
Have the travellers been given information regarding alternative sites? (Balmuir)	

B. Physical Details

Number of Caravans:				
Make/Model	Registration	Family Name	No of Adults	No. of children

--	--	--	--	--

**Continue on back page as required*

Number of Vehicles:					
Make/Model	Registration	Business Livery	Family Name	No of Adults	No. of children

**Continue on back page as required*

C. Encampment Area

Subject	Answer	Comments
Has there been any damage to property or environment?	YES / NO	
Does the encampment interfere with public use of land?	YES / NO	
Are there any Road Traffic issues?	YES / NO	
Has there been consecutive occupation? (Has the land recuperated?)	YES / NO	
Are there any animals on site? (Are there any concerns?)	YES / NO	

D. Behaviours

Subject	Answer	Comments
Is there any rubbish or mess being left?	YES / NO	
Is there any fouling or hygiene issues?	YES / NO	
Is there any intimidating or antisocial behaviour?	YES / NO	
Is there any criminal behaviour?	YES / NO	

E. Actions

Subject	Answer	Comments
"Code for Gypsies/Travellers" leaflet provided?	YES / NO	
Bin bags provided?	YES / NO	
Advised where to find local services? (water, toilets, recycling centre etc)	YES / NO	
Any requests for services /aid?	YES / NO	

F. Any Further Details/Comments

PLEASE FORWARD THIS CHECKLIST TO COMMUNITY SAFETY AS SOON AS POSSIBLE SO IT CAN BE SENT TO PARTNER AGENCIES FOR ASSESSEMENT.

TO BE COMPLETED BY COMMUNITY SAFETY STAFF

G. PARTNERS INPUT/VISIT REQUIRED (based on checklist and complaints received)

AGENCY	ISSUE
Waste	
Environmental Health	
Police Scotland	
Education	
Health	
Social Work	
Trading Standards	
Dog Warden	
Other	

*CONTD/

**AGENCY/SERVICE RESPONSE SHEET
UNAUTHORISED GYPSIES/TRAVELLERS ENCAMPMENT**

AGENCY/SERVICE	ENCAMPMENT REF:
Date/Time of Visit:	Location of Encampment:
Scheduled Date of Next Visit:	Officers in Attendance:

Action Requested	
Date of Request	
OUTCOME	

COMPLAINTS (Please note any complaints received directly to your agency/department)

Please return this completed form to CommunitySafety@angus.gov.uk as soon as possible.

Unauthorised Encampments of Gypsies/Travellers Guidance on completion of Visit Checklist and Agency Dept Response Documentation

Angus Council has a duty of care to all citizens who stay in or visit Angus. All Angus Council procedures for managing unauthorised encampments of Gypsies/Travellers have been implemented in accordance with the Scottish Executives 'Guidelines for Managing Unauthorised Camping by Gypsies/Travellers in Scotland'. Gypsies/Travellers are also protected under the terms of the Race relations legislation and our procedures reflect our statutory duties.

Who completes the checklist?

Visit Checklists are undertaken by staff from the Housing Service of the Communities Directorate.

Pre-Visit

Staff should undertake a risk assessment prior to any visit taking place.

Police Scotland have agreed that they may in certain circumstances accompany Angus Council staff on welfare visits if deemed necessary to prevent a breach of the peace or a disturbance occurring, and would not compel any details such as names and addresses from the travellers.

Visit

The aim of the *Visit Checklist* is to ensure Gypsies/Travellers are offered access to services to aid them and minimise disruption to the area during their stay.

Travellers should be offered

- Information for Gypsies/Travellers leaflet and ACCESSLine number
- Alternate and legal camping site at Balmuir Wood, Tealing
- Black bin bags that will be collected by AC if left neatly at road side
- Access to water at St Christopher's (if in Montrose)
- Directions to nearest public toilets
- Access to Social Work, Education, NHS if required.

Where possible, staff should collate:

- Names
- Caravan/vehicle make and registration number
- Any business names/slogans on vehicles
- Where they have come from
- Where they are going
- Intended length of stay.

The *Visit Checklist* document (GTI 02-14) notes all the information that officer should try to collect.

Post Visit

The *Visit Checklist* form should be completed as soon as practically possible and forwarded to CommunitySafety@angus.gov.uk

Thereafter

The *Visit Checklist* is assessed by staff at the Community Safety Team. If there are any obvious concerns or requests arising from the checklist which require the attention/action of a specific agency or department, then this will be noted at section G of the checklist.

Any agency/service noted with an action at section G will also be sent an *Agency/Service Response Sheet* (GTI 02-14(b)). This form should be returned to CommunitySafety@angus.gov.uk once the required action has been completed. This information is then collated on the encampment overview spreadsheet held by Community Safety.

There is also a section which allows agencies and services to note any complaints regarding an encampment which have come directly to them. This will be collated onto the encampment overview spreadsheet.

All GTLC services and agencies will also hold a blank template of the *Agency/Service Response Sheet* to cover any action(s) taken without input from the JST.

A data protection compliant version of the *Visit Checklist* will then be circulated to the agencies and services who make up the Gypsies/Travellers Liaison Group. They may wish to offer services to the travellers during their stay.

This procedure has been agreed by the Strategic Director of Communities and other relevant senior managers. If anyone has any queries arising from this guidance, please contact the Community Safety Team for further clarification.

You may also be asked to move if:

- you are on land which is in the process of being sold by Angus Council
- your location leaves Angus Council liable to legal action
- your behaviour/actions are such as would not be accepted or would be acted upon by Angus Council within the settled community.
- you are sited upon operational council premises such as recycling centres, country parks, car parks, public parks, playing fields or land which forms part of a public road.

If you follow these conditions, Angus Council will not, as a matter of course, take action to remove an encampment. Staff from Angus Council will regularly visit and monitor any encampment to see that the code is being met.

Where you park on private land, it will be the decision of the landowner whether or not to take eviction action.

Further details of the Angus Council policy on the management of unauthorised encampments of Gypsies/Travellers Encampment can be found at www.angus.gov.uk/gypsytravellers

Angus Council ACCESSline - 08452 777 778
Police Scotland - 101

This leaflet can be translated on request into other community languages. For people with visual impairment, large print, audio or braille versions can also be provided.



INFORMATION FOR GYPSIES/TRAVELLERS UNAUTHORISED CAMPING IN ANGUS



Angus Council recognises the right of Gypsies/Travellers to practise a nomadic lifestyle, travelling and staying on short term sites and seeks to balance this with the needs of the settled community of Angus.

Angus Council also acknowledges that there should be no discrimination against Gypsies/Travellers due to their lifestyle.

Gypsies/Travellers must recognise that they are required to behave responsibly as members of the settled community. Angus Council seeks to promote a positive environment for good community relations and to prevent incidents of racial harassment.

This leaflet gives guidance as to the expected standards of behaviour to Gypsies/Travellers visiting and camping in Angus.

CODE OF CONDUCT FOR GYPSIES/TRAVELLERS VISITING ANGUS

Unauthorised Gypsies/Travellers encampments residing on Angus Council land will be required to adhere to a code of behaviour in order to remain on site. *Please note Angus Council will always give you details of our fixed sites (if pitches are available) as an alternative to unauthorised encamping.*

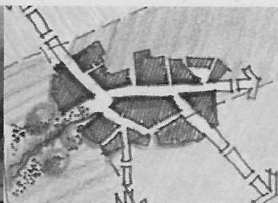
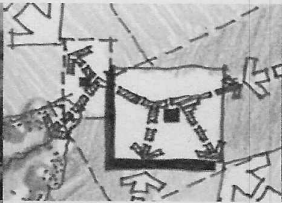
These conditions are provided to each encampment by Angus Council.

- a) Keep groups small; no more than 5 vehicles;
- b) Look after the land you park on and respect nearby residents
- c) Keep animals under control at all times, this includes minimising the noise from dog barking;
- d) Dispose of litter and other rubbish in the black bags provided. Angus Council will arrange to collect these.
- e) Get rid of animal and human waste hygienically
- f) Do not fly-tip. Dispose of commercial waste at the appropriate landfill site or recycling centre
- g) For your own safety and that of others remember the Highway Code
- h) Do not start fires or burn rubbish on the site
- i) Noise from generators should be minimised to prevent nuisance

SCOTTISH GOVERNMENT GUIDANCE

The Scottish Government document entitled **Guidelines for Managing Unauthorised Camping by Gypsies/Travellers in Scotland** can be found at:

<http://www.gov.scot/Publications/2004/12/20417/48826>



Global



National

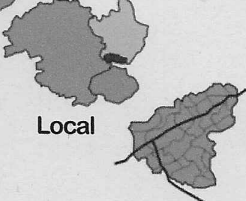
TAYplan: Scotland's SusTAYnable Region
Strategic Development Plan
 2012 - 2032

Approved
 June 2012

TAYplan

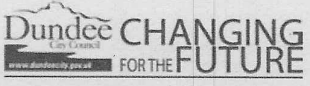
TAYplan

The Strategic Development Planning Authority
 for Dundee, Angus, Perth and North Fife

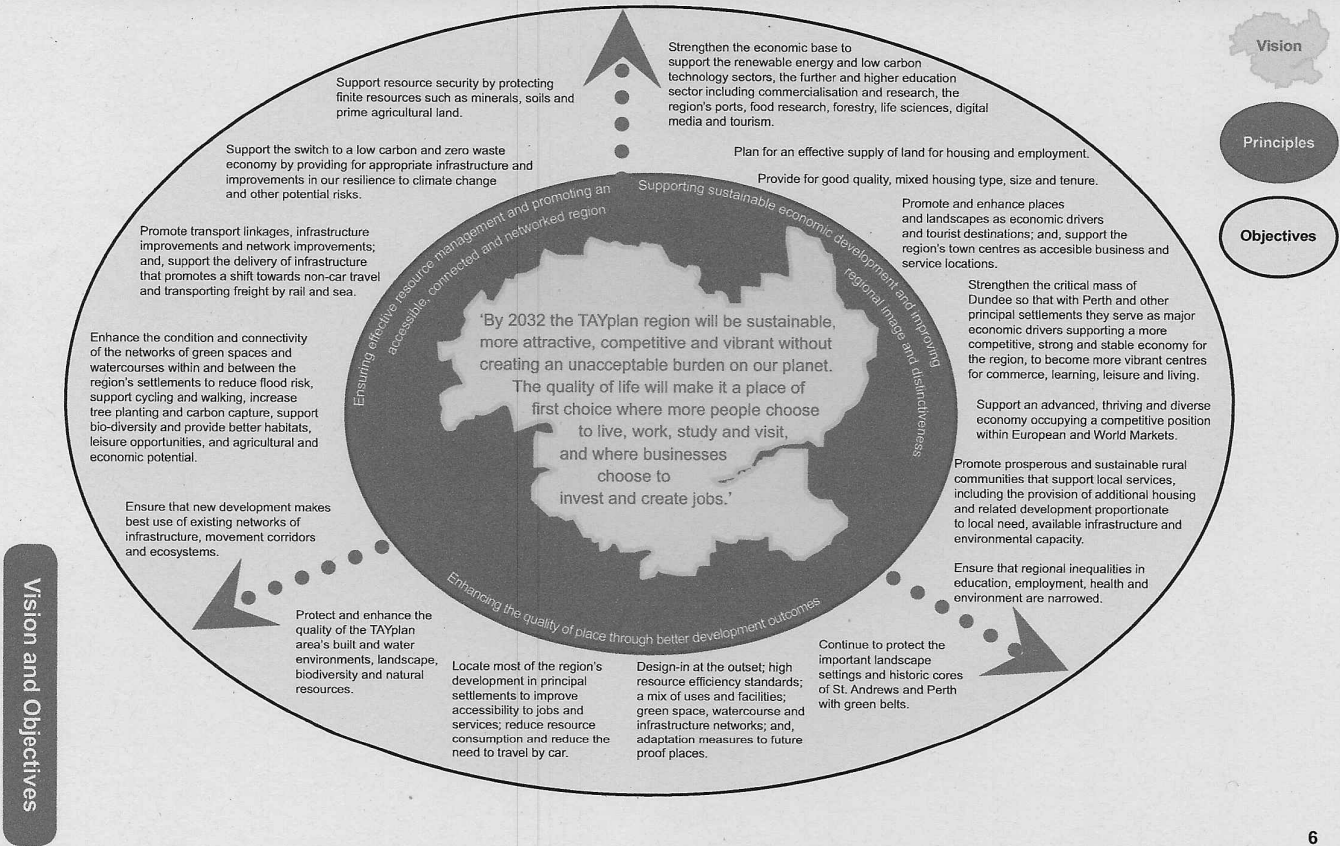


Local

Settlement



Vision and Objectives: how the region will be in 2032 and what must occur to bring about this change.



Location Priorities: Sets out a spatial strategy of where development should and should not go.

This Plan sets out a spatial strategy which says where development should and should not go. It is designed to deliver the many location-related components of sustainable economic development, good quality places and effective resource management described in this Plan's objectives.

It focuses the majority of the region's new development within its principal settlements. These are where most of the region's people, jobs, services and facilities are already located and they offer the best ability to access these by a range of transport modes and to reduce carbon emissions. They also have significant land capacity to accommodate future development.

This Plan is informed by a range of assessments including Strategic Environmental Assessment, Habitats Regulations Appraisal (HRA), Strategic Flood Risk Assessment and an appraisal of transport network capacity.

National infrastructure improvements within this region are vitally important to achieving the Scottish Government's objectives to reduce journey times between the knowledge and business centres of Newcastle, the central belt, Aberdeen and Inverness, whilst maintaining regional and local connectivity and supporting a strong, sustainable regional economy.

This Plan identifies the principal settlements in three tiers reflecting their present and future roles (Policy 1). The focus on principal settlements covers all types of development. However, the most appropriate locations for energy and waste/resource management infrastructure* will also be determined by a series of other considerations (Policy 6). Suitable locations for these and minerals extraction will be identified through Local Development Plans.

This approach complements the shaping of better quality places (Policy 2) to ensure that good quality development is focussed in and makes the most of development locations in principal settlements.

All settlements will play some role in growing the tourism sector of the economy; either as specific destinations of choice; or as bases from which to experience other attractions such as the region's mountains, lochs, coastline and forests e.g. Pitlochry; or attending major events, such as international golfing competitions e.g. St. Andrews.

Prioritising land release within principal settlements ahead of land elsewhere is integral to ensuring that the majority of growth is concentrated there. Reusing previously developed (brownfield)** land and buildings (particularly listed buildings) will play an important role in this by making the most efficient and effective use of land.

Therefore, this Plan advocates that developing land within principal settlements (brownfield or greenfield that is not protected for heritage, environmental or recreation purposes) is preferable to developing land outside of them even where this is brownfield.

The capacity of principal settlements to accommodate growth beyond the Strategic Development Areas (Policy 4) will be considered in more detail by Local Development Plans. There will be no need for any new settlements during the lifetime of this Plan.

This Plan balances the importance of sustaining rural economies with the need to protect the countryside, by allowing some development in small settlements which are not principal settlements. Implementation of this principle will be set out in Local Development Plans.



*Energy and waste management infrastructure: Infrastructure for heat and power generation and transmission; and, collection, separation, handling, transfer, processing, resource recovery and disposal of waste. This includes recycling plants, anaerobic waste digesters, energy from waste plants, wind turbines, biomass plants, combined heat and power plants, solar power, hydro electric power plants and other facilities.

**Previously developed land and buildings (brownfield land): land which has previously been developed, including vacant or derelict land, land occupied by redundant or unused building and developed land within the settlement boundary where further intensification of use is considered acceptable.

Shaping better quality places: Requires new development to be fit for place, supporting more sustainable ways of life for people and businesses.

Quality of place within TAYplan is central to the vision and objectives of this Plan. This directly contributes to a better quality of life for the TAYplan region's people and to improving its economic competitiveness as a place.

Better quality helps provide for improved resilience through greater adaptability to the risks posed to the residents, economy and environments of the region by climate change. Measures to mitigate and adapt to climate change also help to improve resilience to global peak oil* production; contributing to a more diverse and stronger economy for the TAYplan region that can better weather global changes.

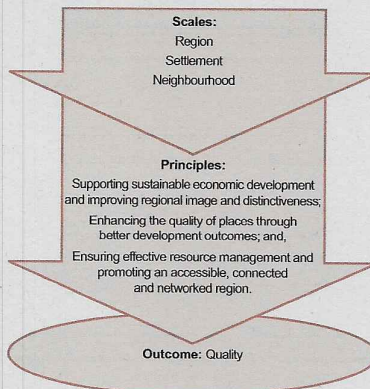
This Plan requires all types of new development within the TAYplan region to be fit for place and be capable of supporting more sustainable ways of life for the people and businesses that use them. The approach set out in Policy 2 requires better quality to be designed-in to all types of development from the outset.

Good quality development properly considers how location, design and layout can reduce the need to consume resources, maximise the contribution towards sustainable economic development and support a better quality of life for people and a better quality of environment.

This is about ensuring new development mitigates against and adapts to climate change and becomes an integral part of its surroundings rather than exclusive from them. It is about how new development adapts to, interacts with and responds by enhancing the existing features, networks and

design of TAYplan's many different and distinct places, rather than standardised products which can diminish local character and/or put unacceptable infrastructure and/or environmental burdens upon them. Better location, design and layout also have the potential to increase land values making additional infrastructure more deliverable.

This Plan recognises that different measures to deliver quality, being applied at different scales, contribute individually or collectively to the delivery of this Plan's vision. Policy 2 is therefore built around achieving quality as a direct outcome of the three principles of this Plan's objectives with a recognition that these apply individually and collectively at three scales.



In delivering quality Strategic Development Frameworks** will consider a range of factors to:

1. Highlight constraints and opportunities
2. Identify the opportunities for an integrated network of public transport
3. Relate opportunities for increased density to public transport accessibility
4. Draw out a hierarchy of connected routes and spaces that link well into transport routes
5. Focus civic and community building onto major routes and spaces
6. Promote frontage developments and a range of complementary uses on busy streets
7. Establish a pattern of local streets and blocks which are clearly contained and enclosed
8. Bring forward guidance (or design codes) on issues such as scale (height and massing) and the public realm

Source: Architecture and Design Scotland using Willie Miller Urban Design 'Inverness City Vision' and Urban Initiatives (image 8).

*Peak Oil: This is the point when the maximum rate of global oil extraction is reached, after which the rate of production declines but continued demand increases price. This is expected in the 2020s or 2030s.

**Strategic Development Frameworks: Wide area proposals of strategic links, accessibility, and land use principles, and how these relate to the masterplan site. They establish key development parameters through a process of consultation with community, stakeholders and the local authority. Strategic Development Frameworks are used for large masterplan sites and neighbourhoods.

Policy 2: Shaping better quality places

A. ensure that climate change resilience is built into the natural and built environments through:

- i. a presumption against development in areas vulnerable to coastal erosion, flood risk and rising sea levels; including the undeveloped coast. To ensure flood risk is not exacerbated, mitigation and management measures; such as those envisaged by Scottish Planning Policy, should be promoted;
- ii. reducing surface runoff including through use of sustainable drainage systems;
- iii. protecting and utilising the water and carbon storage capacity of soils, such as peatlands, and woodland/other vegetation; and,
- iv. Identifying, retaining and enhancing existing green infrastructure and spaces whilst making the best use of their multiple roles.

B. integrate new development with existing community infrastructure and work with other delivery bodies to integrate, concentrate and co-locate additional new infrastructure to optimise its coverage and capability.

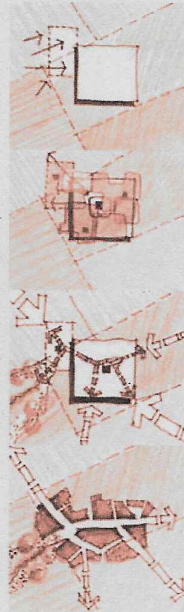
C. ensure the integration of transport and land use to: reduce the need to travel and improve accessibility by foot, cycle and public transport; make the best use of existing infrastructure to achieve a walkable environment combining different land uses with green space; and, support land use and transport development by transport assessments/ appraisals and travel plans where appropriate, including necessary on and offsite infrastructure.

D. ensure that waste management solutions are incorporated into development to allow users/occupants to contribute to the aims of the Scottish Government's Zero Waste Plan.

E. ensure that high resource efficiency is incorporated within development through the orientation and design of buildings, the choice of materials and the use of low and zero carbon energy generating technologies to reduce carbon emissions and energy consumption to meet the Scottish Government's standards.

To deliver better quality development and places which respond to climate change, Local Development Plans, masterplans and development proposals should:

F. ensure that the arrangement, layout, design, density and mix of development and its connections are the result of understanding, incorporating and enhancing present natural and historic assets*, the multiple roles of infrastructure and networks and local design context, and meet the requirements of Scottish Government's Designing Places and Designing Streets and provide additional green infrastructure where necessary.



Outside - In.

Understanding the environmental context of a site, how a site works in its wider location and how that shapes what happens within is essential to integrating new development.

Inside - Out.

Conversely, considering how the site connects from the inside-out and builds on existing features, networks and infrastructure, enhancing these through new development.

Integrate Networks

Making it easy, safe and desirable to walk and cycle within and between neighbourhoods utilising existing green space and water networks and enhance these areas to deliver a better quality of place and life.

Work with the grain of the place

Respecting and working with the grain of a place. This approach will help determine the size, shape and form of development and how it can respond to adaptation to help achieve future-proofing our new communities and facilities.

*Natural and historic assets: Landscapes, habitats, wildlife sites and corridors, vegetation, biodiversity, green spaces, geological features, water courses and ancient monuments, archaeological sites and landscape, historic buildings, townscapes, parks, gardens and other designed landscapes, and other features (this includes but is not restricted to designated buildings or areas).

Managing TAYplan's Assets: Safeguarding resources and land with potential to support the sustainable economic growth.

Delivering the vision and objectives of this Plan requires management of land and conservation of resources. This recognises that good quality development and the right type of development in the right places can lead to a series of social, economic and environmental benefits for those areas and the TAYplan region as a whole. This Plan balances these factors with the sometimes competing nature of different land uses.

This Plan safeguards for present and future generations important resources and land with potential to support the economy. It also requires us to ensure that development and growth in the economy occur in a way that does not place unacceptable burdens on environmental capacity and increase the exposure of users or inhabitants to risks. This can be achieved by directing development to specific locations (Policies 1, 4, 5, 6 and 7); ensuring that development is fit for place (Policies 2 and 8); and, that some areas or assets are safeguarded for a specific range of land uses (Policy 3).

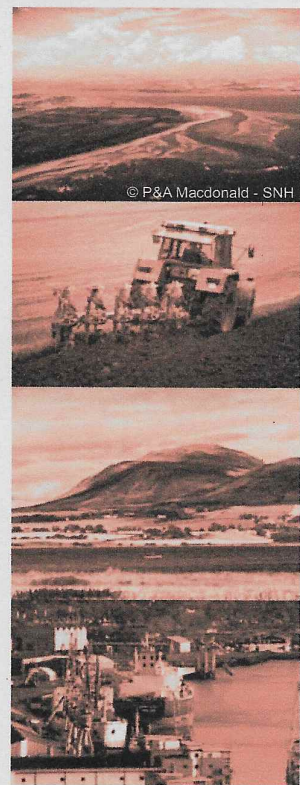
This is important to support the growth of emerging sectors of the economy, such as the off-shore renewable energy sector through the protection of the region's ports for port-related uses, particularly Dundee and Montrose Ports. Similarly employment land, particularly in rural areas, can be affected through redevelopment for alternative uses or by alternative uses nearby. This could hinder or even prevent the start up of businesses in the future and/or limit business operations.

The economic recovery of the region and new development will need to be supported by appropriate infrastructure, particularly transport infrastructure. This will also contribute to behavioural change and reducing reliance on the car and on road-based freight. Ensuring that this can be delivered will require land and routes to be protected from prejudicial development. It also requires the public and private sectors to work jointly to deliver infrastructure.

Supporting future food and resource security will require the protection of finite resources like minerals, forestry and prime agricultural land* by management as one consideration in the prioritisation of land release under Policy 1.

Limiting the types of land uses that can occur within green belts at Perth and St. Andrews will contribute to protecting the settings and historic cores of those settlements from inappropriate development and prevent coalescence with neighbouring areas.

It is essential to grow the economy within environmental limits and build-in resilience to climate change, natural processes and increased risk from sea level rise. Identifying environmentally sensitive areas and important natural and historic assets where no or very limited development would be permitted, such as some coastal areas, Natura 2000** sites and other locations, will contribute to this. It will also be important to ensure that plans for managed realignment of coast and other coastal management are devised in liaison with Scottish Natural Heritage and Marine Scotland.



*Prime agricultural land: Land classes 1, 2 and 3.1 – these are the most suited to arable agriculture.

**Natura 2000: European-wide designations to protect habitats and species – special protection areas (SPAs), Ramsar sites and special areas of conservation (SACs)

ANGUS LOCAL DEVELOPMENT PLAN

September 2016



THE STRATEGY

will allocate small-scale development sites for housing in these locations to help to support and maintain services and facilities, and reduce the need to travel. To support and maintain population levels the ALDP makes provision for development of up to 50 houses in each Rural Service Centre over the life of the plan.

In pursuing a strategy promoting development in accessible locations in settlements with access to a range of services and facilities, the Local Development Plan does not allocate sites for residential development outwith the seven towns and four Rural Service Centres. Below Rural Service Centre level appropriate infill or redevelopment proposals will be supported in those settlements and villages with development boundaries, and on appropriate sites in the open countryside.

At Ballumbie, Letham Grange and Piperdam, a substantial number of houses have been developed alongside and in support of golf course, leisure and tourist based developments. Although larger than many settlements, these standalone developments include no community infrastructure (e.g. shops, primary school, health care facilities) requiring residents to travel for virtually all their needs. Further residential development at Ballumbie and Piperdam would promote an unsustainable pattern of development and is therefore not supported. At Letham Grange additional housing development will only be considered where it is required to cross-subsidise tourism and recreation development. This is outlined in statements for these settlements.

The Angus countryside is divided into Category 1 and 2 Rural Settlement Units. In Category 1 areas (which are areas that are not remote from towns) the opportunity for new development outwith settlements will be more restricted, as development should be directed towards existing settlements. In Category 2 areas (which are remote rural areas), the emphasis will be on maintaining and growing communities by encouraging diversity in the rural economy and enabling new housing development which can support important rural services.

PART 3. CREATING HIGH QUALITY PLACES

Development Principles

Angus Council has defined development boundaries to protect the landscape setting of Angus towns and villages and prevent the uncontrolled spread of development. These development boundaries provide the definition between built up areas and the open countryside and may include peripheral areas of open space that are important to the settlement's setting and character. Although sites within development boundaries are the preferred location for most development, this does not mean that all land within boundaries has development potential.

New land allocations made in the ALDP have been accommodated within development boundaries where possible. Where this has not been possible, and where it is appropriate, development boundaries have been extended to include greenfield land allocations.

The development boundaries shown on the Proposals Map have been brought forward from previous plans and have not been the subject of review apart from where significant greenfield allocations are proposed as extensions. A review of the development boundaries will be a priority in the review of the ALDP to ensure they remain robust and reflect current circumstances.

Wherever development is proposed, it is important to ensure that all opportunities are taken to re-use or re-develop brownfield land before development takes place on greenfield sites.

THE STRATEGY

To optimise the use of existing resource capacities and to ensure the impact of development on the wider environment and landscape is minimised, development proposals in the countryside should also ensure that they have investigated all possibilities of locating adjacent to existing development or groups of buildings.

Policy DS1 Development Boundaries and Priorities

All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

**Sharing an edge or boundary, neighbouring or adjacent*

Policy DS1 SEA Implications									
Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
?	++	+	+/?	?	+	?	?	+/?	?

Accessibility

A key element in the creation of sustainable communities is how well new development is integrated with the existing form of development and transport networks. The ALDP Development Strategy supports development within the Towns and Rural Service Centres and allocates land for new development in locations that are well related to the existing form and pattern of development and therefore the existing transport network.

THE POLICY FRAMEWORK – PART 1

THRIVING & CONNECTED

Policy TC5 Seasonal or Transient Worker Accommodation

Proposals for the development of temporary accommodation (including residential caravans and mobile homes) for seasonal or transient workers will only be permitted where:

- there is a functional and essential economic need for the amount and type of accommodation proposed that cannot be reasonably met elsewhere in the locality;
- the accommodation is required to house seasonal or transient workers employed on the agricultural unit;
- the proposal involves the conversion, reuse or redevelopment of suitable vacant buildings or brownfield land on, or adjoining, the agricultural unit or it can be demonstrated that there are no such buildings or sites capable of accommodating the proposed development;
- the proposed site will provide a good residential environment with adequate access to facilities;
- the scale and nature of the development is in keeping with local landscape character and pattern of development; and
- there is no unacceptable impact on the built and natural environment, surrounding amenity, access and infrastructure.

Planning permission will not normally be granted for more than 5 years when the requirement for seasonal or transient worker accommodation can be reviewed. Temporary structures, including residential caravans, must be removed when the need for them ceases or the planning permission expires, whichever is sooner.

Policy TC5 SEA Implications									
Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
+	+	+	+	+	+	+	+	+	+

Gypsies and Travellers and Travelling Showpeople

In line with Scottish Planning Policy (SPP) (2014) Angus Council recognise the need to support the provision of appropriate sites to address the accommodation needs of Gypsies and Travellers and Travelling Showpeople through the ALDP and Local Housing Strategy (LHS). There are no known requirements in Angus for overwintering sites for Travelling Showpeople.

The current supply of permanent managed sites in Angus is limited to the local authority managed sites for Gypsies and Travellers at Tayock, Montrose and at Petterden, Tealing. There are currently no privately owned licensed sites in Angus.

While the Angus Housing Needs and Demand Assessment (HNDA) identified an under provision of pitches for Gypsies and Travellers in Angus there is currently limited understanding of the geographic distribution of need/demand for both permanent pitches and transit sites (including any cross boundary implications with neighbouring authorities). To plan for the accommodation needs of groups effectively Angus Council require to undertake additional research as part of the Angus LHS Review process to identify specific areas of need and inform development of a strategy and policy approach to meeting the complex needs of these communities.

THE POLICY FRAMEWORK – PART 1

THRIVING & CONNECTED

The Angus LHS seeks to address the accommodation needs of gypsy/travellers through direct liaison with these groups, provision of additional spaces and where appropriate access to housing.

While the ALDP does not identify areas of search or allocate specific sites the policy is intended to establish a framework for assessing proposals to establish new, or extend existing sites.

Policy TC6 Gypsies and Travellers and Travelling Showpeople

Gypsies and Travellers and Travelling Showpeople will be encouraged to stay at authorised sites (publicly or privately owned and managed). Existing authorised Gypsies and Travellers and Travelling Showpeople sites will be protected and there will be a presumption against their redevelopment or conversion to other uses unless it can be demonstrated to the satisfaction of Angus Council that there is a surplus of accommodation to meet identified needs.

Proposals for new or extended permanent sites and temporary “short stay” sites for Gypsies and Travellers will only be supported where:

- **the site will contribute to satisfying a local need identified in the Local Housing Strategy and is consistent with Angus Council’s strategy for meeting the accommodation needs of these client groups;**
- **the development is designed and located to minimise adverse effects on the landscape, established amenity, character and built or natural heritage interests of the surrounding area;**
- **the proposed site will provide a good residential amenity for residents and has adequate access to community, education and health services and facilities; and**
- **the proposed development would not set a precedent or open up other areas for similar development.**

Policy TC6 SEA Implications									
Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
+/?	++	?	?	?	?	0	++	?	+

THE POLICY FRAMEWORK – PART 2

PROTECTED AND VALUED

Policy PV19 Minerals

Angus Council will protect existing mineral resources within Angus which are of economic and/or conservation value from other forms of development.

Proposals for new or extended mineral workings must demonstrate that the development is required to maintain, at least a 10 year land bank for aggregates or the development is required for the local, regional and/or national market that cannot be satisfied by recycled or secondary aggregates at existing workings.

Proposals will only be supported where:

- impacts on the natural and built environment, amenity, landscape, visual amenity, air quality, water quality, groundwater resources, prime quality agricultural land, geodiversity, site access, traffic movements, road capacity and road safety are acceptable or could be satisfactorily mitigated through planning conditions, a Section 75 agreement or other legal agreement; and
- appropriate details of restoration, aftercare and after use are submitted for approval by Angus Council, recognising that ecological solutions are the preferred form of restoration. Opportunities to enhance, extend and / or link to existing green networks should be investigated. Prior to commencement of development Angus Council may require a bond to cover the cost of the agreed scheme of restoration, aftercare and after use.

Policy PV19 SEA Implications

Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
+	0	0	+/?	+	+	+	+	?/+	+

Soils and Geodiversity

Geodiversity is the variety of rocks, minerals, fossils, landforms, sediments and soils, together with the natural processes which form and alter them. It is increasingly recognised as the basis for plant, animal and human life and defines our physical surroundings from landscape to the quality of farmland and location of mineral deposits. The ALDP aims to protect and enhance geodiversity through a range of policies. Soils form an important part of this biodiversity and their specific protection and preservation should be addressed through the planning system.

Soils are recognised as a valuable resource in many ways – food production, carbon absorption, biodiversity, flood management. It takes millennia for soils to form but their destruction is much quicker and restoration difficult. The Scottish Government's Soil Framework; Land Use Strategy and NPF3 emphasise the importance of prime agricultural land and deep peat and carbon rich soils and this should be balanced against the need for new development and infrastructure.

The protection, storage and reinstatement of soils should be undertaken with care and in accordance with the appropriate available guidance for various types of development provided by SEPA, SNH and Scottish Government.

THE POLICY FRAMEWORK – PART 2

PROTECTED AND VALUED

Policy PV20 Soils and Geodiversity

Development proposals on prime agricultural land will only be supported where they:

- support delivery of the development strategy and policies in this local plan;
- are small scale and directly related to a rural business or mineral extraction; or
- constitute renewable energy development and are supported by a commitment to a bond commensurate with site restoration requirements.

Design and layout should minimise land required for development proposals on agricultural land and should not render any farm unit unviable.

Development proposals affecting deep peat or carbon rich soils will not be allowed unless there is an overwhelming social or economic need that cannot be met elsewhere. Where peat and carbon rich soils are present, applicants should assess the likely effects of development proposals on carbon dioxide emissions.

All development proposals will incorporate measures to manage, protect and reinstate valuable soils, groundwater and soil biodiversity during construction.

Policy PV20 SEA Implications

Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
0	0	0	++	++	0	0	0	+	0

Pipeline Consultation Zones

There are a number of pipelines which pass through the plan area. There are potential hazards which may arise from developing in proximity to them. Within specified distances from these pipelines there is a statutory framework for ensuring that the Health and Safety Executive is consulted on the implications which arise from development proposals which are the subject of planning applications. These pipeline consultation zones are identified on the proposals map, and the following policy will be applied to submitted development proposals within them. The Health and Safety Executive has produced a 'Planning Advice Web App' to assist developers in preparing planning applications for development proposals.

Policy PV21 Pipeline Consultation Zones

Decisions on whether to grant planning permission for development proposals within the pipeline consultation zones shown on the proposals map will be taken in light of the views and advice of the Health and Safety Executive.

Policy PV21 SEA Implications

Biodiversity Flora and Fauna	Population	Human Health	Soil	Water	Air	Climatic Factors	Cultural Heritage	Material Assets	Landscape
0	+	0	0	0	0	0	0	0	0



Scottish Planning Policy

11. NPF3 and this SPP share a single vision for the planning system in Scotland:

We live in a Scotland with a growing, low-carbon economy with progressively narrowing disparities in well-being and opportunity. It is growth that can be achieved whilst reducing emissions and which respects the quality of environment, place and life which makes our country so special. It is growth which increases solidarity – reducing inequalities between our regions. We live in sustainable, well-designed places and homes which meet our needs. We enjoy excellent transport and digital connections, internally and with the rest of the world.

12. At the strategic and local level, planning can make a very important contribution to the delivery of Single Outcome Agreements¹⁵, through their shared focus on ‘place’. Effective integration between land use planning and community planning is crucial and development plans should reflect close working with Community Planning Partnerships¹⁶.

13. The following four planning outcomes explain how planning should support the vision. The outcomes are consistent across the NPF and SPP and focus on creating a successful sustainable place, a low carbon place, a natural, resilient place and a more connected place. For planning to make a positive difference, development plans and new development need to contribute to achieving these outcomes.

Outcome 1: A successful, sustainable place – supporting sustainable economic growth and regeneration, and the creation of well-designed, sustainable places.

14. NPF3 aims to strengthen the role of our city regions and towns, create more vibrant rural places, and realise the opportunities for sustainable growth and innovation in our coastal and island areas.

15. The SPP sets out how this should be delivered on the ground. By locating the right development in the right place, planning can provide opportunities for people to make sustainable choices and improve their quality of life. Well-planned places promote well-being, a sense of identity and pride, and greater opportunities for social interaction. Planning therefore has an important role in promoting strong, resilient and inclusive communities. Delivering high-quality buildings, infrastructure and spaces in the right locations helps provide choice over where to live and style of home, choice as to how to access amenities and services and choice to live more active, engaged, independent and healthy lifestyles.

16. Good planning creates opportunities for people to contribute to a growing, adaptable and productive economy. By allocating sites and creating places that are attractive to growing economic sectors, and enabling the delivery of necessary infrastructure, planning can help provide the confidence required to secure private sector investment, thus supporting innovation, creating employment and benefiting related businesses.

Outcome 2: A low carbon place – reducing our carbon emissions and adapting to climate change.

¹⁵ www.scotland.gov.uk/Topics/Government/PublicServiceReform/CP/SOA2012

¹⁶ www.scotland.gov.uk/Topics/Government/PublicServiceReform/CP

Principal Policies

Sustainability

NPF and wider policy context

24. The Scottish Government's central purpose is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.

25. The Scottish Government's commitment to the concept of sustainable development is reflected in its Purpose. It is also reflected in the continued support for the five guiding principles set out in the UK's shared framework for sustainable development. Achieving a sustainable economy, promoting good governance and using sound science responsibly are essential to the creation and maintenance of a strong, healthy and just society capable of living within environmental limits.

26. The NPF is the spatial expression of the Government Economic Strategy (2011) and sustainable economic growth forms the foundations of its strategy. The NPF sits at the top of the development plan hierarchy and must be taken into account in the preparation of strategic and local development plans.

27. The Government Economic Strategy indicates that sustainable economic growth is the key to unlocking Scotland's potential and outlines the multiple benefits of delivering the Government's purpose, including creating a supportive business environment, achieving a low carbon economy, tackling health and social problems, maintaining a high-quality environment and passing on a sustainable legacy for future generations.

Policy Principles

This SPP introduces a presumption in favour of development that contributes to sustainable development.

28. The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

29. This means that policies and decisions should be guided by the following principles:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;

130. Plans should consider how affordable housing requirements will be met over the period of the plan. Planning and housing officials should work together closely to ensure that the phasing of land allocations and the operation of affordable housing policies combine to deliver housing across the range of tenures. In rural areas, where significant unmet local need for affordable housing has been shown, it may be appropriate to introduce a 'rural exceptions' policy which allows planning permission to be granted for affordable housing on small sites that would not normally be used for housing, for example because they lie outwith the adjacent built-up area and are subject to policies of restraint.

131. Any detailed policies on how the affordable housing requirement is expected to be delivered, including any differences in approach for urban and rural areas, should be set out in supplementary guidance. Where it is considered that housing built to meet an identified need for affordable housing should remain available to meet such needs in perpetuity, supplementary guidance should set out the measures to achieve this. Any specific requirements on design may also be addressed in supplementary guidance.

Specialist Housing Provision and Other Specific Needs

132. As part of the HNDA, local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. This supports independent living for elderly people and those with a disability. Where a need is identified, planning authorities should prepare policies to support the delivery of appropriate housing and consider allocating specific sites.

133. HNDAs will also evidence need for sites for Gypsy/Travellers and Travelling Showpeople. Development plans and local housing strategies should address any need identified, taking into account their mobile lifestyles. In city regions, the strategic development plan should have a role in addressing cross-boundary considerations. If there is a need, local development plans should identify suitable sites for these communities. They should also consider whether policies are required for small privately-owned sites for Gypsy/Travellers, and for handling applications for permanent sites for Travelling Showpeople (where account should be taken of the need for storage and maintenance of equipment as well as accommodation). These communities should be appropriately involved in identifying sites for their use.

134. Local development plans should address any need for houses in multiple occupation (HMO). More information is provided in Circular 2/2012 Houses in Multiple Occupation⁵³. Planning authorities should also consider the housing requirements of service personnel and sites for people seeking self-build plots. Where authorities believe it appropriate to allocate suitable sites for self-build plots, the sites may contribute to meeting the housing land requirement.

53 www.scotland.gov.uk/Publications/2012/06/4191

Housing (Scotland) Act 2001

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 13th June

2001 and received Royal Assent on 18th July 2001

An Act of the Scottish Parliament to make provision about housing, including provision about homelessness and the allocation of housing accommodation by social landlords, the tenants of social landlords, the regulation of social landlords, Scottish Homes, the strategic housing functions of the Scottish Ministers and local authorities and grants for improvement and repairs; and for connected purposes.

PART 1

HOMELESSNESS AND ALLOCATION OF HOUSING

1 Homelessness strategies

(1) Every local authority must, when required to do so by the Scottish Ministers—
(a) carry out an assessment of homelessness in its area, and
(b) prepare and submit to the Scottish Ministers a strategy for preventing and alleviating homelessness in its area (a “homelessness strategy”).

(2) A requirement under subsection (1) may make provision as to:-
(a) the particular matters to be assessed under subsection (1)(a),
(b) the time by which the strategy is to be submitted to the Scottish Ministers,
(c) the form of the strategy and the matters which it is to include,
(d) the period to which the strategy is to relate.

(3) The Scottish Ministers may issue guidance, either to local authorities generally or to a particular authority, as to the form and content of an assessment and of a homelessness strategy and as to consultation on a proposed strategy.

(4) Without prejudice to subsections (2) and (3), a homelessness strategy must state how the local authority is to comply with its duty under section 106 so far as relating to the matters included in the strategy.

(5) A local authority must provide a copy of its homelessness strategy to any person who requests it.

(6) A local authority—
(a) may, from time to time, and
(b) must, if required to do so by the Scottish Ministers, review its homelessness strategy and prepare and submit to the Scottish Ministers a revised homelessness strategy.

2 Advice on homelessness etc.

(1) Every local authority must secure that advice and information about—
(a) homelessness and the prevention of homelessness, and
(b) any services which may assist a homeless person or assist in the prevention of homelessness, is available free of charge to any person in the authority’s area.

(2) The Scottish Ministers may issue guidance, either to local authorities generally or to a particular authority, as to the form and content of such advice and information.

3 Homeless persons and persons threatened with homelessness

(1) In section 24 (definition of persons threatened with homelessness) of the 1987 Act:-

(a) in subsection (1), for “Scotland, or England or Wales” substitute “the United Kingdom or elsewhere”,

(b) in subsection (3), after paragraph (d) insert “; or

(e) it is not permanent accommodation, in circumstances where, immediately before the commencement of his occupation of it, a local authority had a duty under section 31(2) in relation to him.”,

(c) in subsection (4), for “28 days” substitute “2 months”,

(d) after subsection (4) insert:-

“(5) For the purposes of subsection (3)(e), “permanent accommodation” includes accommodation—

(a) of which the person is the heritable proprietor,

(b) secured by a Scottish secure tenancy,

(c) secured by an assured tenancy that is not a short assured tenancy,

(d) where paragraph 1 or 2 of schedule 6 to the Housing (Scotland) Act 2001 (asp 10) is satisfied in relation to the person, secured by a short Scottish secure tenancy.”

(2) In section 29(1) (interim duty to accommodate) of that Act, the words “and have a priority need” are repealed.

(3) In section 31 (duties to persons found to be homeless) of that Act—

(a) in subsection (2), after “secure that” insert “permanent”,

(b) in subsection (3)—

(i) for the words from “Where” to “intentionally” substitute “In any other case”,

(ii) in paragraph (b), for the words from “such” to “circumstances” substitute “assistance of such type as may be prescribed”,

(c) subsection (4) is repealed,

(d) at the end insert:-

“(5) For the purposes of subsection (2), “permanent accommodation” includes accommodation—

(a) secured by a Scottish secure tenancy,

(b) secured by an assured tenancy that is not a short assured tenancy,

(c) where paragraph 1 or 2 of schedule 6 to the Housing (Scotland) Act 2001 (asp10) is satisfied in relation to the applicant, secured by a short Scottish secure tenancy.”

(4) In section 32 (duties to persons found to be threatened with homelessness) of that Act:-

(a) in subsection (3)—

(i) for the words from “Where” to “intentionally” substitute “In any other case”,

(ii) for the words from “such” to “circumstances” substitute “assistance of such type as may be prescribed”,

(b) in subsection (5)—

(i) after “accommodation” insert “(a)”,

(ii) at the end insert:-

“(b) that does not meet any special needs of the applicant and any other person referred to in section 24(2), or

(c) that it is not reasonable for the applicant to occupy.”,

(c) after subsection (5) insert:-

“(6) Regulations made by virtue of section 31(3)(b) or subsection (3) above may make different provision for different purposes and different areas.

(7) Before making any such regulations, the Scottish Ministers shall consult—

(a) such associations representing local authorities, and

(b) such other persons, as they think fit on the proposed regulations.

(8) In exercising their functions under section 31 or this section in respect of a person falling within section 25(1)(b), the local authority shall have regard to the best interests of the dependent children referred to in that provision.”

(5) After that section insert:-

“32A Power of the Scottish Ministers to modify application of sections 31 and 32

(1) The provisions of—

(a) section 31(2) so far as requiring that accommodation is to be permanent accommodation (within the meaning of section 31(5)), and

(b) section 32(5)(b), do not apply in such circumstances as may be prescribed.

(2) Where:-

(a) accommodation has been provided under section 31(2), and

(b) by virtue of subsection (1) above, that accommodation is not permanent accommodation (within the meaning of section 31(5)) or does not meet the special needs of the applicant and any other person referred to in section 24(2), section 26 does not apply.”

(6) In section 34 (duties to persons whose applications are referred):-

(a) in subsection (2), after “that” in the second and fourth places where it occurs insert “permanent”,

(b) in subsection (3)(a), after “that” insert “permanent”,

(c) after subsection (4) insert—

“(5) For the purposes of subsection (1), “accommodation” has the meaning given in section 32(5).

(6) For the purposes of subsections (2) and (3)(a), “permanent accommodation” has the meaning given in section 31(5) as read with section 32(5).”

4 Review of decisions

(1) In section 29 (interim duty to accommodate) of the 1987 Act, in subsection (1)—

(a) after “occupation” insert “(a)”,

(b) at the end insert—

“(b) where the applicant has, under section 35A, requested a review of a decision of the authority, until they have notified him in accordance with section 35B of the decision reached on review.”

(2) In section 30 (notification of decision and reasons) of that Act, after subsection (4)

insert—

“(4A) They shall also notify him—

(a) that he may request a review of the decision and of the time within which such a request must be made, and

(b) of the advice and assistance that is available to him in connection with any such review.”

(3) In section 34 (duties to persons whose applications are referred) of that Act—

(a) after subsection (3) insert—

“(3A) The notifying authority shall also notify him—

(a) that he may request a review of the determination and of the time within which such a request must be made, and

(b) of the advice and assistance that is available to him in connection with any such review.”,

(b) in subsection (4), for “subsection (3)” substitute “this section”.

(4) After section 35 of that Act insert—

“35A Right to request review of decision

(1) Where an applicant requests a review of a decision to which subsection (2) applies, the local authority concerned shall review the decision.

Housing (Scotland) Act 2001 (asp 10) 5

Part 1—Homelessness and allocation of housing

(2) This subsection applies to the following decisions of a local authority—

(a) any decision as to what duty (if any) is owed to the applicant under section 31 or 32,

(b) any decision to notify another authority under section 33(1),

(c) any determination under section 33(4) or 34(2) as to whether the conditions for referral of an application are satisfied,

(d) where accommodation is secured for the applicant under section 31, 32 or 34, any decision as to whether the provision of that accommodation discharges the authority’s duty to the applicant under that section.

(3) A request for a review shall be made before the end of the period of 21 days beginning with the day on which the applicant is notified of the decision or such longer period as the authority may allow.

(4) There is no right to request a review of a decision reached on review.

35B Procedure on review

(1) A review under section 35A shall be carried out by a person senior to the person who made the decision being reviewed and who had no involvement in the making of that decision.

(2) The authority, or as the case may be either of the authorities, concerned shall notify the applicant of the decision reached on review.

(3) If the decision is—

(a) to confirm the original decision on any issue against the interests of the applicant, or

(b) to confirm a previous decision—

(i) to notify another authority under section 33(1), or

(ii) that the conditions are met for referral of his case, the authority shall also notify him of the reasons for the decision.

(4) Where subsection (3) applies, notice of the decision shall not be treated as given unless and until that subsection is complied with.

(5) Any notice required to be given to an applicant under this section shall be given in writing and shall, if not received by him, be treated as having been given to him only if it is made available at the authority’s office for a reasonable period for collection by him or on his behalf.”

5 Duty of registered social landlord to provide accommodation

(1) Where a local authority has a duty under section 31(2) (duty to persons found to be

homeless) of the 1987 Act in relation to a homeless person, it may request a registered

social landlord which holds houses for housing purposes in its area to provide accommodation for the person.

(2) In deciding whether to make such a request, the local authority must have regard to the

availability of appropriate accommodation in its area.

(3) A registered social landlord must, within a reasonable period, comply with such a

request unless it has a good reason for not doing so.

6 Housing (Scotland) Act 2001 (asp 10)

Part 1—Homelessness and allocation of housing

(4) A registered social landlord complies with such a request only if it provides for the

person concerned accommodation—

(a) where paragraph 1 or 2 of schedule 6 is satisfied, secured by a short Scottish secure tenancy,

(b) in that or any other case, secured by a Scottish secure tenancy.

(5) Subsection (4) does not apply where such a request is expressly for the provision of

accommodation not secured as mentioned in that subsection.

(6) A registered social landlord which holds housing for housing purposes in a local

authority's area must comply with any reasonable request for information in relation to

that housing made to it by the authority in connection with the exercise of the authority's functions under this section.

(7) The Scottish Ministers may issue guidance as to what constitutes—

(a) for the purposes of subsection (3)—

(i) a reasonable period,

(ii) a good reason,

(b) for the purposes of subsection (6), a reasonable request.

(8) Before issuing any such guidance, the Scottish Ministers must consult—

(a) such associations representing local authorities,

(b) such associations representing registered social landlords, and

(c) such other persons,

as they think fit.

6 Duty of registered social landlord: further provision

(1) Where—

(a) a registered social landlord does not, within a reasonable period, comply with a

request made by a local authority under section 5,

(b) the local authority considers, having regard to any guidance issued under subsection (7) of that section, that the landlord had no good reason for not complying with the request, and

(c) the local authority and the landlord are unable, within such period as the Scottish

Ministers may specify by order, to reach agreement as to whether there is such a good reason,

the local authority and the landlord must appoint an arbiter to determine the issue.

(2) In determining for the purposes of subsection (1)(a) what is a reasonable period, regard

must be had to any guidance issued under section 5(7).

(3) If there is no agreement as to who is to be appointed as arbiter, the Scottish Ministers

must, on the request of the local authority, appoint an arbiter.

(4) The cost of any arbitration under this section is to be shared equally between the local

authority and the landlord unless the arbiter determines otherwise.

(5) The Scottish Ministers may issue guidance as to—

(a) the period within which an arbiter is to be appointed under subsection (1), Housing (Scotland) Act 2001 (asp 10) 7

Part 1—Homelessness and allocation of housing

(b) the procedure for appointing an arbiter under that subsection,

(c) the remuneration and other expenses which may be paid to an arbiter appointed

under subsection (1) or (3), and any other expenses which may be paid in respect

of arbitration,

(d) the procedure to be followed at arbitration,

(e) the maximum length of time of the arbitration procedure.

(6) Any determination of an arbiter by virtue of this section is final.

7 Persons living in hostel and other short-term accommodation

(1) This section applies to the occupancy of residential accommodation, or of any description of residential accommodation, on such basis as may be specified in regulations made by the Scottish Ministers.

(2) Such regulations must not specify occupancy of accommodation—

(a) as heritable proprietor,

(b) secured by—

(i) a Scottish secure tenancy or what would be a Scottish secure tenancy but for paragraph 1, 2 or 8 of schedule 1,

(ii) a short Scottish secure tenancy,

(iii) an assured tenancy or what would be an assured tenancy but for paragraph 8 of Schedule 4 to the 1988 Act,

(iv) a short assured tenancy.

(3) The Scottish Ministers may specify by regulations terms which are to have effect as

terms of an occupancy to which this section applies as between the occupier and the

person providing the accommodation; and any agreement between those persons has no

effect so far as it is inconsistent with any such term.

(4) Regulations under subsection (3) must include provision for a minimum period of notice

to be given by the person providing the accommodation to the occupier before the right

of occupancy can be terminated; but such provision does not prevent the earlier termination of occupancy rights where there is a serious danger to other occupiers or

staff of the accommodation.

(5) Regulations under subsection (3) may also make provision for an application to the court by a person whose occupancy is terminated on the ground that there is a serious danger to other occupiers or staff of the accommodation.

(6) Subsection (3) does not prevent the occupier and the person providing the accommodation from agreeing terms of the occupancy additional to those specified in the regulations.

(7) A person providing such accommodation who fails, without reasonable excuse, to comply with a term specified under subsection (3) is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) Before making any regulations under subsection (3), the Scottish Ministers must consult—

(a) such associations representing local authorities,
8 Housing (Scotland) Act 2001 (asp 10)

Part 1—Homelessness and allocation of housing

(b) such associations representing registered social landlords, and

(c) such other persons,

as they think fit on the proposed regulations.

8 Common housing registers

(1) A local authority must, when required to do so by the Scottish Ministers, prepare and submit to the Scottish Ministers proposals for establishing and maintaining a list of applicants for housing to be kept jointly by or on behalf of any two or more housing providers in connection with the allocation of housing held by them for housing purposes.

(2) In subsection (1), “housing providers” means the local authority, any other local authority and any registered social landlord.

(3) The Scottish Ministers may by regulations make provision as to establishing and maintaining such a list.

(4) Such regulations may, in particular, make provision as to—

(a) the time by which proposals under subsection (1) are to be submitted to the Scottish Ministers,

(b) the form of such proposals and the matters which they are to include,

(c) consultation on such proposals,

(d) the procedure for approval of such proposals by the Scottish Ministers,

(e) the procedure for implementing such proposals.

(5) Where the Scottish Ministers approve proposals by virtue of this section, the local authority must ensure that a list of applicants for housing is established and maintained

in accordance with the proposals as so approved.

(6) A registered social landlord which holds housing for housing purposes must comply

with any reasonable request made to it by a local authority in connection with the exercise of the authority's functions under this section.

9 Housing lists

For section 19 (admission to housing list) of the 1987 Act substitute—

“19 Admission to housing list

(1) An applicant for housing held by a local authority or a registered social landlord is entitled to be admitted to a housing list unless the applicant is under 16 years of age.

(2) In this section, “housing list” means a list of applicants for housing which is kept by any housing provider or jointly by or on behalf of any two or more housing providers in connection with the allocation of housing held by it or them for housing purposes.

(3) In subsection (2), “housing provider” means any local authority or any registered social landlord.”

Housing (Scotland) Act 2001 (asp 10) 9

Part 1—Homelessness and allocation of housing

10 Allocation of housing

(1) Section 20 (persons to have priority on housing list and allocation of housing) of the

1987 Act is amended as follows.

(2) In subsection (1)—

(a) after “authority” insert “and a registered social landlord”,

(b) for paragraph (b) substitute—

“(b) to homeless persons and persons threatened with homelessness (within the meaning of Part II).”

(3) In subsection (2)—

(a) for “local authority” in the first place where it occurs substitute “such”,

(b) after “authority” in the second place where it occurs insert “and a registered social

landlord”,

(c) in paragraph (a), for sub-paragraph (iii) substitute—

“(iii) any liability (for payment of rent or otherwise) of the applicant which is attributable to the applicant's tenancy of a house but which is no longer outstanding; or

(iv) any such liability which is outstanding but in respect of which subsection (2A) is satisfied; or

(v) any outstanding liability of the applicant or of any person who it is proposed will reside with the applicant which is not attributable to the tenancy of a house; or

(vi) except to the extent permitted by subsection (2B), the age of the applicant provided that the applicant has attained the age of 16 years; or

(vii) the income of the applicant and his family; or

(viii) whether, or to what value, the applicant or any of his family owns or has owned (or any of them own or have owned) heritable or moveable property;”,

(d) after paragraph (a) insert—

“(aa) shall take no account of whether an applicant is resident in their area if the applicant—

(i) is employed, or has been offered employment, in the area; or

(ii) wishes to move into the area and they are satisfied that his purpose in doing so is to seek employment; or

(iii) wishes to move into the area to be near a relative or carer; or
(iv) has special social or medical reasons for requiring to be housed within the area; or

(v) is subject to conduct amounting to harassment (“conduct” and “harassment” being construed in accordance with section 8 of the Protection from Harassment Act 1997 (c.40)) and wishes to move into the area; or

10 Housing (Scotland) Act 2001 (asp 10)

Part 2—Tenants of social landlords

Chapter 1—Scottish secure tenancies

(vi) runs the risk of domestic violence (within the meaning of section 33(3)) and wishes to move into the area; and”.

(4) After subsection (2) insert—

“(2A) This subsection is satisfied in respect of an outstanding liability where—

(a) the amount of the outstanding liability is not more than one twelfth of the annual amount payable (or which was payable) by the applicant to the landlord in respect of the tenancy in question; or

(b) the applicant—

(i) has agreed with the landlord an arrangement for paying the outstanding liability;

(ii) has made payments in accordance with that arrangement for at least three months; and

(iii) is continuing to make such payments.

(2B) A local authority and a registered social landlord may take into account the age

of applicants in the allocation of—

(a) houses which have been designed or substantially adapted for occupation by persons of a particular age group;

(b) houses to persons who are or are to be in receipt of housing support services (within the meaning of section 91 of the Housing (Scotland) Act 2001 (asp 10)) for persons of a particular age group.”

(5) After subsection (3) insert—

“(4) In the application of this section to registered social landlords, any reference to

their area means the local authority area or areas, or the part of that area or those areas, in which the registered social landlord holds houses for housing purposes.”

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CONTENTS

	Page
Tables, figures and boxes	ii
Glossary	iii
Executive summary	v
1. Introduction	1
2. Context	4
3. Analysis of the caravan counts	16
4. Policing issues	27
5. Needs assessment and housing strategies	28
6. Gypsy Traveller sites and planning	34
7. Progress on pitch provision	42
8. Council / RSL site quality and Gypsy / Traveller sites grant	46
9. Perceptions of progress, barriers to site provision and how they can be overcome	56
10. Concluding comments	63
References	66
Appendix 1: The survey methodology	70
Appendix 2: Covering letter for the survey	72
Appendix 3: Questionnaire to local authorities	74
Appendix 4: Policing issues – full response	88

TABLES

	Page
Table 3.1: Number of caravans: England, Scotland and Wales: 2008	19
Table 3.2: Caravan numbers by type of site: Scotland: 2008	20
Table 8.1: Concerns with aspects of quality of Council / RSL sites	47

FIGURES

Figure 3.1: Proportion of caravans by type of site: January 2008	21
Figure 3.2: Proportion of caravans by type of site: July 2008	21
Figure 3.3: Percentage change in caravan numbers: January 2006 to January 2008	23
Figure 3.4: Percentage change in caravan numbers: July 2006 to July 2008	24

BOXES

Box 6.1: Examples of criteria-based policies for the approval of Gypsy Traveller sites	36
Box 6.2: Examples of arrangements for involving Scottish Gypsy Traveller communities	40
Box 7.1: Details of planning applications and permissions for private Gypsy Traveller sites since 2006	44
Box 8.1: Examples of positive comments made about Council / RSL sites	48
Box 8.2: Examples of steps being taken to restore site occupancy rates	51
Box 8.3: Examples of upgrading works carried out with Gypsy / Traveller sites grant	53

GLOSSARY

The following terms are used in this report.

Term	Explanation
Bricks and mortar	Permanent mainstream housing.
Caravan	Mobile living vehicle used by Scottish Gypsy Travellers. Also referred to as trailers.
Council / Registered Social Landlord (council / RSL) site	An authorised site owned by either a local authority or a Registered Social Landlord.
Private site	An authorised site owned by a private individual (who may or may not be a Gypsy or a Traveller). These sites can be owner-occupied, rented or have a mixture of owner-occupied and rented pitches.
Scottish Gypsy Traveller (as used in this report)	In this report, the term is used to include all ethnic Gypsies and Irish Travellers, plus other Travellers who adopt a nomadic or semi-nomadic way of life. It does not include occupational Travellers such as Travelling Showpeople or New Age Travellers.
Pitch	An area of land on a site / development generally home to one licensee household. It can differ in size and accommodate varying numbers of caravans.
Site	An authorised area of land on which Scottish Gypsy Travellers are accommodated in trailers / chalets / vehicles. It can contain one or multiple pitches.
Transit site	A site intended for short stays. Such sites are usually permanent, but there is a limit on the length of time residents can stay.
Travelling Showpeople	Commonly referred to as Showmen, these are a group of occupational Travellers who work on travelling shows and fairs across the UK and abroad. This report does not include the accommodation requirements of Travelling Showpeople.

Unauthorised development	This refers to a caravan / trailer or group of caravans / trailers on land owned (possibly developed) by Scottish Gypsy Travellers without planning permission.
Unauthorised encampment	Stopping on private / public land without permission (for example, at the side of the road).

EXECUTIVE SUMMARY

Background

In its 2006 report *Common Ground*, the Commission for Racial Equality (CRE) concluded that Gypsies and Irish Travellers are the most excluded groups in Britain today. Advances in social mobility and access to power made by other disadvantaged groups in Britain, such as other ethnic minority groups, have not been matched by Gypsies and Travellers. The research reported here builds on the earlier work done by the CRE.

The aim of this study is to provide data about the extent to which local authorities in Scotland are meeting the accommodation needs of Scottish Gypsy Travellers. There are two main objectives:

- To ascertain the quantity of current Gypsy Traveller site provision, including any recent changes in provision and any imminent plans to develop sites in the future.
- To investigate the timescales of delivery to meet any accommodation shortfalls.

The research is designed to explore the perspective of local authorities and, to a lesser extent, police forces in Scotland and their understanding of the accommodation needs of Scottish Gypsy Travellers. As a result there has been no direct involvement of Scottish Gypsy Traveller communities and it can therefore, of course, give one side of the picture only.

The term 'Scottish Gypsy Traveller' is used in an inclusive manner to comprise **all** ethnic Gypsies and Irish Travellers, plus other Travellers who adopt a nomadic or semi-nomadic way of life. Variants of the term (for example, Gypsy / Traveller or Gypsy and Traveller) are used where they appear in sources being referred to or quoted, for example the term Gypsy / Traveller Sites Grant is used throughout. Caravan sites specifically intended to be occupied by Scottish Gypsy Travellers are referred to as 'Gypsy Traveller sites'.

Approach to the research

The research follows a broadly similar study carried out in England for the Equality and Human Rights Commission (Brown and Niner, 2009) and used the following approaches to gather relevant information:

- An analysis of 2006-08 Caravan Count data.
- A detailed questionnaire sent to all 32 local authorities in Scotland resulting in 26 responses (81 per cent).
- A brief email survey to Police Authorities; the Association of Chief Police Officers Scotland (ACPOS) provided a collective response to this survey.

Policy framework

Accommodation issues impacting on Scottish Gypsy Travellers have been debated by Government and organisations campaigning with and on behalf of Scottish Gypsy Travellers in Scotland over many years. But in post-devolution Scotland, a clear watershed was the Inquiry into Gypsy Travellers and public sector policies by the Equal Opportunities Committee (EOC) of the Scottish Parliament in 2000/01. This Inquiry's recommendations fed into the development of housing policy and legislation, in particular the Housing (Scotland) Act 2001, and encouraged the production of thematic studies of provision of services for Gypsies / Travellers. Despite these positive steps, and although some inroads were being made into resolving the shortages of accommodation for Scottish Gypsy Travellers, subsequent reviews identified slow progress on the EOC recommendations and little change in the life chances of Scottish Gypsy Travellers. In 2006, drawing on the 2001 Inquiry, its subsequent review in 2005 and other evidence from related research and consultations, the CRE identified the primary issues relating to accommodation needs of Scottish Gypsies / Travellers as:

- The lack of a network of accessible and acceptable local authority sites.
- The poor physical condition and location of local authority sites.
- The difference in treatment experienced by Scottish Gypsies / Travellers when housed compared with those living on local authority sites.
- The absence of a network of adequate and appropriate temporary transit sites for Scottish Gypsies / Travellers.
- The inappropriate use of powers to evict Scottish Gypsies / Travellers from roadside encampments when no other appropriate provision is available.

- The widely reported harassment of Scottish Gypsies / Travellers in public and private sector housing.

The Scottish Government's Race Equality Scheme and Statement (2008) embeds Gypsy / Traveller issues in its approach to race equality and proposes future resources for services to tackle some key priorities for Scottish Gypsy Travellers by 2011. While positive, this statement comes some 10 years after the first Scottish Parliament's Equal Opportunities Committee inquiry into public sector policies, and further illustrates how slow progress in this area has been.

Caravan Count: findings

Twice Yearly Counts of Gypsies / Travellers (undertaken each year in January and July) were introduced in Scotland in 1998 by the Scottish Executive (now Scottish Government). The purpose of the Count is to establish standardised and consistent estimates as to the size and characteristics of the Scottish Gypsy Traveller community living on sites and encampments across Scotland to assist and inform the development of public policies and services nationally and locally. The Count is carried out by local authorities and reported by the Scottish Government.

The Count has been criticised for its accuracy and consistency. Most importantly it can give only a partial picture of the Scottish Gypsy Traveller community because it omits people living in housing. Despite this, it is important because it is the only source of reasonably consistent, time-series information on numbers and locations of Scottish Gypsy Travellers living in caravans and is thus useful as context. Information from the Counts cannot be used directly as a basis for accommodation needs assessment since they ignore needs arising from Scottish Gypsy Travellers in housing.

The main findings from an analysis of the Caravan Count, including a comparison with other parts of the United Kingdom, are:

- Caravan numbers in Scotland are relatively low and numbers have changed little since 2006. Unlike England, there is no clear evidence of growing numbers of Scottish Gypsy Travellers living on Council / RSL, private or unauthorised sites to support presumptions of widespread major shortfalls in pitch provision. However, there were around 100 caravans on unauthorised

sites in January 2008 suggesting a round-the-year shortfall in the current provision of authorised sites.

- The great majority of caravans on authorised sites in Scotland are on council / RSL sites; the private site sector is relatively undeveloped.
- There is a marked variation between January and July figures suggesting seasonal travelling in summer. Numbers of caravans on unauthorised sites and, to a lesser extent, on private sites rise in summer. The Counts do not indicate reasons for travelling, nor do they indicate where summer travellers spend winter – for example, in bricks and mortar housing and / or outside Scotland.

Police: findings

Police Authorities are often involved in managing unauthorised encampments and are ideally placed to offer informed views on how the accommodation situation of Scottish Gypsy Travellers is working out 'on the ground'. For this reason each of the eight Police Authorities was approached to explore their views and practice on Scottish Gypsy Traveller accommodation issues and needs. ACPOS produced a collated response to this survey. Their response acknowledged that:

- Gypsies and Travellers have an historical place in Scotland and a continuing desire to travel.
- The lack of appropriate site provision and loss of traditional stopping places leads to greater awareness of unauthorised encampments, and their impact, on the part of the settled community.
- Internal conflicts within the Scottish Gypsy Traveller communities have some impact on site use and levels of site occupancy.
- There are no simple answers given the nature of the Scottish Gypsy Traveller communities involved, the presence of entrenched views, and the complex historical context of Scottish Gypsy Traveller accommodation and travelling needs.

Questionnaire: findings

A survey questionnaire was sent to all 32 local authorities in Scotland to explore the steps that they have taken since 2006 in meeting the accommodation needs of Scottish Gypsy Travellers. Twenty-six local authorities completed the survey, representing a response rate of 81 per cent. The survey looks at how much

progress is being made in a number of different areas. The key findings for each area are given below.

Needs assessment

- Seventeen out of the 26 local authorities responding to the survey said that they had completed an assessment of the accommodation needs of Scottish Gypsy Travellers.
- Only five of the 17 local authorities with a completed accommodation assessment said that it gave them a numerical assessment of present and future pitch needs.
- A total of eight local authorities were able to provide an estimate of the number of additional residential pitches required in their area over the next five years; this ranged from zero to 50 pitches.
- Seven local authorities were able to provide an estimate for transit or short stay need for the next five years; this ranged from zero to six pitches.
- Just one local authority making an estimate for additional pitches – either transit or residential – thought that these requirements would be met.

After analysing the responses around needs assessments, two main conclusions can be drawn. These are:

- It is highly probable that there are accommodation requirements which are currently either unquantified or unacknowledged across the country.
- In comparison to England, where Gypsy and Traveller Accommodation Assessments (GTAAAs) have identified and quantified requirements virtually everywhere, Scotland is potentially less advanced in preparing for additional site provision both nationally and locally. The first step – identifying the scale of the shortfall to be met – is not yet in place.

Housing strategies

- Scottish Gypsy Travellers are referred to in the great majority of local housing strategies.
- Widespread references to general service provision, site conditions and site management suggest that Scottish Gypsy Traveller issues are embedded in wider housing policies.

- There is little apparent recognition in the strategies of any significant shortfalls in site provision, nor indications that authorities are well prepared to move towards increasing site provision.

Gypsy and Traveller sites and planning

- Just over half of responding local authorities reported that they had identified or were working towards identifying suitable locations for Gypsy Traveller sites.
- The majority of local authorities do not have approved formal planning policies on Gypsy Traveller site provision or for dealing with applications for small privately owned sites. Three main reasons were given:
 - Gypsy Traveller site provision was not identified as a priority by local authorities, and / or they had developed their planning policies before specific national guidance existed on the inclusion of Scottish Gypsy Traveller communities in this process.
 - Some local authorities thought specific planning policies around Scottish Gypsy Travellers were unnecessary as new sites were not needed and / or no planning applications had been submitted.
 - A few authorities commented that there is no need for a specific policy for dealing with applications for private sites from Scottish Gypsy Travellers because other general planning policies can be applied.

Progress on pitch provision

- The number of council / Registered Social Landlord (RSL) pitches in the responding authorities has decreased by 32 since 2006.
- 14 private pitches have been created since 2006.
- Six council / RSL pitches are currently in development (apparently transferred from the private sector) and four private pitches have planning permission but have not yet been completed.
- Overall there has been a net decrease in the number of pitches available to Scottish Gypsy Travellers since 2006 among authorities responding to the survey.

Council / RSL site quality and site occupancy

- Seventy-three per cent of responding authorities with a council / RSL site expressed at least one concern over the quality of sites in their area. The physical condition and state of repair of the sites was the issue most

frequently mentioned, followed by site management issues. These are perceptions of local authority officers and may not be matched by Scottish Gypsy Travellers living on, or familiar with, the sites.

- The majority of local authorities responding to the survey reported that some pitches were currently vacant on their sites; three sites were totally vacant or closed.
- Local authorities most often saw vacancies as evidence of a lack of demand from Scottish Gypsy Travellers for site places.

Gypsy / Traveller sites grant

- The Gypsy / Traveller Sites Grant, provided by the Scottish Government to local authorities to meet up to 75 per cent of approved costs of site development or refurbishment / improvement, has been an important driver in upgrading council / RSL sites. All but one of the responding site-owning authorities have applied for the grant. Eighty-six per cent of the authorities which have applied were successful on at least one occasion.
- A total of 321 pitches across 16 authorities have benefited from grants awarded for site upgrading or refurbishment.
- Just five local authorities have applied for grants to develop new sites and, of these, three applications were successful.
- A lack of evidence of demand for site accommodation was given as the main reason for not applying for a grant by authorities currently without a council / RSL site.

Views on progress and perceptions of barriers to progress

- The survey asked local authorities to award marks out of 10 for their progress on the provision of accommodation for Scottish Gypsy Travellers since 2006. The average assessment was 6.65.
- How 'progress' is defined is complex and relative to the circumstances and perceptions of each local authority.
- The survey suggests that local authorities' assessments of progress commonly relate to improving conditions and management on existing council / RSL sites and not to making additional provision whether in the social or private sectors.
- Local authorities noted a number of barriers to moving forward with the provision of Gypsy / Traveller accommodation. These can be grouped as:

- finding suitable land
- resistance from local communities
- lack of demand from Scottish Gypsy Travellers for accommodation
- finance
- unwillingness or opposition from Scottish Gypsy Traveller community members to site development
- complexity of the issue

Concluding comments

This study suggests that ‘progress’ in relation to Gypsy Traveller site accommodation is complex and the situation in Scotland is far more difficult to interpret, at this point in time, than that in England. The survey shows an overall decrease in the number of authorised pitches available to Scottish Gypsy Travellers since 2006. At the same time, there is a lack of emphasis on quantifying any additional pitch needs by local authorities. The data tells us that a number of pitches are currently unoccupied on council / RSL sites but the reasons for these vacancies are not well understood. As a result, it is unclear whether local authorities’ ‘progress’ on site provision has been adequate or inadequate. Pitch reductions and / or lack of pitch increases might be seen to reflect the actual level of demand for accommodation by Scottish Gypsy Traveller communities. The overarching conclusion from this study is that more work needs to be done at both a local and national level in order to better understand the current use of sites and what need (if any) there is for further site / pitch provision.

There are several other points to note from the findings:

- Given the extent of seasonal travelling in Scotland and associated unauthorised encampments, transit site provision can be seen as a more obvious priority than residential sites. Concerns have been expressed about how transit sites should be designed and managed, and local authorities might welcome guidance on these issues.
- There has been significant investment in site upgrading with the support of the Gypsy / Traveller Sites Grant, and several authorities would make further bids if the grant continues. The survey found that there are a few sites with serious and multiple problems. Apart from these extreme cases, however, local authority respondents to the survey were generally reasonably confident

about the location, design and quality of their sites. It is not clear whether these perceptions are always shared by Scottish Gypsy Travellers.

- The predominance of council / RSL sites raises issues around lack of choice for Scottish Gypsy Travellers. Greater variety of site tenure and size would potentially increase choice.
- Most needs assessments undertaken to date and local authority initiatives to involve Scottish Gypsy Travellers focus predominantly on council / RSL site residents. There is a need to engage more fully with Scottish Gypsy Travellers in housing and on unauthorised encampments, as well as on sites, if the community's needs are to be met.
- Finally, where additional sites are needed, it is difficult to find suitable land for their development. A major factor in this is resistance by local settled communities to site development. There is still hostility and fear, often based on stereotype and ignorance, to the idea of site development. Overcoming this barrier will be very important in future. Local authorities should be reminded of their general duty to promote equality of opportunity and good relations between different racial communities. This is also an area where the Equality and Human Rights Commission can take a lead.

1. INTRODUCTION

In 2006, in its report *Common Ground* (CRE, 2006a), the Commission for Racial Equality (CRE) concluded that Gypsies and Irish Travellers are the most excluded groups in Britain today. Advances in social mobility and access to power made by other disadvantaged groups in Britain, such as other ethnic minority groups, have not been matched by Gypsies and Travellers. The research reported here builds on earlier work by the CRE and looks at the steps being taken by local authorities to meet site accommodation needs of the Scottish Gypsy Traveller community in Scotland.

Aims and objectives

The aim of this study is to provide hard data about the extent to which each local authority in Scotland is identifying and meeting the accommodation needs of Scottish Gypsy Travellers. Within this there are two objectives:

- To ascertain the quantity of current Gypsy Traveller site provision, including any recent changes in provision and any imminent plans to develop sites in the future.
- To investigate the timescales of delivery to meet any accommodation shortfalls.

This research follows a broadly similar study carried out in England on behalf of the Equality and Human Rights Commission (Brown and Niner, 2009). As in that study, the main emphasis is on assessment of accommodation needs, the resulting shortfalls of pitches on caravan sites for Gypsy Traveller communities, and how / when these shortfalls will be met. Less emphasis is placed on changes occurring in the management of existing sites, or the development of general policies, approaches or initiatives under the heading of equality and diversity. The research is designed to explore the perspective of local authorities and police forces in Scotland and their understanding of the accommodation needs of Scottish Gypsy Travellers. As a result there has been no direct involvement of the Scottish Gypsy Traveller community.

Research approach

The study brings together secondary data sources and the results of a survey of local authorities across Scotland. The key activities involved in producing this study were:

- Analysing the bi-annual Caravan Count between 2006 and 2008.
- Carrying out a postal / email survey of all 32 local authorities across Scotland to establish their view of their progress on assessing, planning for and delivering accommodation provision for Scottish Gypsy Travellers. A total of 26 questionnaires were analysed – a response rate of 81 per cent. Full details of the survey methodology are in Appendix 1, and the covering letter and questionnaire used can be found in Appendices 2 and 3.
- Contacting each Police Authority with a brief e-mail survey to establish their views on accommodation shortages, uptake issues and examples of local good practice. The Association of Chief Police Officers Scotland (ACPOS) provided a collective response to this survey. Full details of this response are in Appendix 4.

Structure of the report

This report is intended to help the Equality and Human Rights Commission and others understand the steps that local authorities have taken since 2006 in meeting the accommodation needs of Scottish Gypsy Travellers. The report begins by setting out the context against which this work is happening. It then looks at the progress being made by local authorities under a number of different headings and looks at some of their views on barriers to progress and how these can be overcome. A fuller breakdown on the focus of each chapter is given below:

Chapter 2 sets out the context for the study by looking at significant and relevant publications on Scottish Gypsy Traveller accommodation issues. It also looks at other policies and support mechanisms related to the Scottish Gypsy Traveller community.

Chapter 3 analyses the Caravan Count as a background indicator of progress in site provision, and includes some comparison with other countries in the United Kingdom.

Chapter 4 reports the results of the survey of police forces.

Chapter 5 starts the analysis of the questionnaire survey of local authorities and looks at progress with the assessment of Scottish Gypsy Traveller accommodation needs and local housing strategies.

Chapter 6 considers planning policies towards Gypsy Traveller sites.

Chapter 7 reports changes in the supply of council / Registered Social Landlord (RSL) and private pitches since 2006.

Chapter 8 notes the number and nature of concerns expressed by survey respondents about existing council / RSL sites, and looks at the take-up of the Gypsy / Traveller Sites Grant and its contribution towards site improvement and development.

Chapter 9 shows the responding local authorities' assessments of their own progress on the provision of Gypsy Traveller sites since 2006. It also looks at their perceptions of the main barriers to site provision and how they are being overcome.

Chapter 10 offers some concluding remarks based on the findings of the research.

The Glossary (page iii) explains the use of terms in this report. We use the term Scottish Gypsy Traveller in an inclusive manner to comprise **all** ethnic Gypsies and Irish Travellers, plus other Travellers who adopt a nomadic or semi-nomadic way of life. It does not include occupational Travellers such as Travelling Showpeople. New Age Travellers are also not considered here. Variants of the term (for example, Gypsy / Traveller or Gypsy and Traveller) are used where they appear in sources being referred to or quoted, for example the term Gypsy / Traveller Sites Grant has been used throughout. Caravan sites specifically intended to be occupied by Scottish Gypsy Travellers are referred to as 'Gypsy Traveller sites'.

2. CONTEXT

Scottish Gypsy Travellers

Although some work was done earlier (Scottish Office, 1974), accommodation issues impacting on Scottish Gypsy Travellers have, since the late 1990s, been particularly debated by Government (Scottish Office, 1998; Scottish Executive, 2000) and organisations campaigning with and on behalf of Scottish Gypsy Travellers (Bancroft et al, 1996). In post-devolution Scotland, a clear watershed came in 2001 with the reporting of an inquiry on 'Gypsy Travellers and public sector policies' by the Scottish Parliament's Equal Opportunities Committee (EOC) and with the development of housing policy and legislation, in particular the Housing (Scotland) Act 2001.

In Scotland, Gypsy Traveller issues have been viewed, particularly since the EOC inquiry, within an equal opportunities framework despite the uncertainty of the status of Scottish Gypsy Travellers as an ethnic group under the Race Relations Act (1976). Clark (2006a) argued the cultural and legal case for Scottish Gypsy Traveller ethnicity, even though there had, at that date, been no recognition in law that Scottish Gypsy Travellers were a racial group as were Romani Gypsies after 1988 (CRE v. Dutton) and Irish Travellers from 2000 (O'Leary v. Allied Domecq). An Employment Tribunal Judgement in October 2008 concluded that the main characteristics set out in *Mandla v. Dowell Lee* had been satisfied in the case of Scottish Gypsy Travellers, confirming the protection of the Race Relations Act 1976 (Case No: S/132721/07).

The counting of Gypsy Travellers in Scotland, other than two one-off counts in 1974 and 1992, was a new development when the bi-annual Caravan Count (January and July) was introduced in 1998. Despite concerns about the methodology used and the Count's accuracy (Clark, 2006b), it is still used to underpin accommodation assessments, policies and services. The Caravan Count does not include Scottish Gypsy Travellers staying in housing and thus presents a partial picture of the Scottish Gypsy Traveller community. Scottish Gypsy Travellers themselves estimate that their community includes more than 15,000 people (CRE, 2006c).

The latest figures available are for January and July 2008. The Count Report for January 2008 identified a total of 455 households and around 1,547 people: 276

households (61 per cent) were on council / Registered Social Landlord (RSL) sites, 81 (18 per cent) on private sites and 98 (22 per cent) on roadside encampments (Craigforth, 2008:1). The Count report for January 2008 notes:

'In January 2006 for the first time a higher percentage (23 per cent) of Gypsies / Travellers stayed on unauthorised encampments rather than private sites (20 per cent). This pattern has been repeated in this latest count...' (Craigforth, 2008: 6/7)

Differences between the summer and winter Counts reflect seasonal travelling and the July 2008 Count Report records a greater number of households on sites and camps: 313 households on council / RSL sites, 162 on private sites and 269 on roadside camps. The report notes that these figures are the highest recorded for a summer Count since July 2001 but also notes the first decrease in the number of roadside camps in July for four years (Craigforth, 2009).

Nonetheless, the long-term pattern of greater numbers of caravans or households staying on roadside camps rather than on private sites suggests a lack of access to adequate and appropriate site provision for Scottish Gypsy Travellers (see Cemlyn et al, 2009).

A detailed analysis of trends from the Caravan Counts and a comparison with other countries of the United Kingdom is provided in Chapter 3.

The Scottish Parliament Equal Opportunity Committee Inquiry, 2001

Reporting in 2001, the Equal Opportunities Committee of the Scottish Parliament undertook an *Inquiry into Gypsy Travellers and Public Sector Policies*. This Inquiry examined policies relating to the provision of accommodation, education, health and social services for Gypsy Travellers. It also looked at the issues of policing and criminal justice and the promotion of good relations between the Gypsy Traveller and settled communities (Scottish Parliament, 2001a and 2001b).

The Inquiry report made 37 recommendations in total, a number of which focused on principles, such as the use of the term Scottish Gypsy Traveller. The Inquiry also recommended that legislation and policies should be framed on the understanding that Gypsy Travellers in Scotland are covered as a racial group

under the Race Relations Act and therefore should be clearly identified as a specific community of interest for the Scottish Government's Equality Strategy.

Eleven recommendations on accommodation were made. These covered local authority sites (at this time there were no sites managed by Registered Social Landlords), private sites, unauthorised camping and housing; and notably said that services for Gypsy Travellers should be included under the new single regulatory framework to be established under the Housing (Scotland) Act 2001.

While the Scottish Executive's response to the report (2001 and the updated response in 2004 – *Delivering for Scotland's Gypsies / Travellers*) may have been somewhat cautious, the implementation of the Housing (Scotland) Act 2001 certainly raised expectations of improvement to local authority provision of site services. For example, the Act required the development of local housing strategies (LHS), and the guidance on these strategies specified that Scottish Gypsy Travellers should be included in assessments of accommodation needs. An update in March 2006 reminded local authorities that:

'This guidance lists gypsies / travellers (sic) as one of the groups whose accommodation needs should be covered in the LHS. Local authorities should therefore include details of any progress they have made in assessing or meeting the accommodation needs of Gypsies / Travellers in their areas.' (Communities Scotland, 2006a)¹ .

The role of Communities Scotland as an inspection agency was extended to include local authorities in addition to Registered Social Landlords. Following a recommendation from the Equal Opportunities Committee Inquiry (Recommendation 14), an activity standard on site services was developed, alongside a range of housing and homelessness performance standards for inspection (AS6.1 Sites for Gypsies / Travellers for local authorities only) and guidance on self-assessment and good practice.

¹ Earlier guidance detailing the expectations are no longer accessible electronically.

Activity Standard 6.1, states:

‘We plan and provide or arrange good quality serviced stopping places for Gypsies / Travellers. We let pitches in a way that ensures fair and open access for all. We take Gypsies’ / Travellers’ views into account in delivering our services, and we are responsive to their needs.’

(Communities Scotland, 2002: 1)

The basis of this activity standard was developed through a thematic study of Gypsy Traveller site service provision (Communities Scotland, 2002) and was included in early Pathfinder Inspections (such as that for East Lothian Council, Communities Scotland, 2004). As in previous studies (Lomax et al, 2000; Bancroft et al, 1996), fundamental problems were identified for site quality and management. These problems were:

- Site nuisance or hazards (landfill, pylons, flooding) impacting on sites, out-of-town locations and inadequate transport; concerns about design, poor insulation of amenity chalets, layout and size.
- Costs of pitch rental, fuel costs, lack of planned maintenance and lack of secure tenancy when compared to council house costs and agreements.
- Difficulty in accessing funding for disabled facilities for adaptations and provision of accessible chalets for older and disabled residents.

Later inspection reports, after the Pathfinders, do not consider site planning and management when assessing progress by local authorities on this standard. As a result, the quality of services to Scottish Gypsy Travellers is only assessed periodically through the thematic study approach.

Policy and progress reviews

The review of progress (Scottish Parliament, 2005) following the 2001 Scottish Parliament Equal Opportunities Committee (EOC) Inquiry, found that progress in meeting a range of the Inquiry’s recommendations was slow. This was confirmed by evidence to the EOC’s own Review, including a report from a project with young Gypsy Travellers (Save the Children, 2005). Meanwhile, sites and pitches were still being lost to Gypsy Travellers on both local authority and private sites (Research Consultancy Services, 2006).

The Commission for Racial Equality (CRE, 2006b), drawing on the 2001 policy inquiry, the 2005 review and evidence from other related research and consultations, identified the primary accommodation issues as:

- The lack of a network of accessible and acceptable local authority sites.
- The poor physical condition and location of local authority sites.
- The difference in treatment experienced by Scottish Gypsies / Travellers when housed compared with those living on local authority sites.
- The absence of a network of adequate and appropriate temporary transit sites for Scottish Gypsies / Travellers.
- The inappropriate use of powers to evict Scottish Gypsies / Travellers from roadside encampments when no other appropriate provision is available.
- The widely reported harassment of Scottish Gypsies / Travellers in public and private sector housing.

(CRE, 2006b: 5)

Scottish planning policy since 2001

In 2003, government guidance for planning authorities, *Scottish Planning Policy 3: Planning for Housing (SPP3)*, referred to the role of local planning strategies in addressing the needs of Gypsies / Travellers:

‘Planning authorities should continue to play a role through development plans, by identifying suitable locations for Gypsies / Travellers’ sites where need is demonstrated, and setting out policies for dealing with applications for small, privately-owned sites.’ (Scottish Executive, 2003, p 5)

SPP3: Planning for Homes (Revised 2008a), following consultations, reiterated the previous guidance on the inclusion of Gypsies and Travellers in both housing need and demand assessments and in local housing strategies. Local authorities were also asked to identify suitable locations for sites and set out policies on applications for small, privately owned sites.

The revised SPP3 also noted ‘the existing policy framework for assessing and meeting the accommodation needs of Gypsies and Travellers’: referring back to much earlier guidance from the Secretary of State’s Advisory Committee on Scotland’s Travelling People guidance on site provision (Scottish Executive,

1997) and the Ninth Term Report 1998-99 (Scottish Executive, 2000). It also referenced the guidance from the Department of Communities and Local Government on Gypsy and Traveller Accommodation Needs Assessments (CLG, 2007a).

Accommodation needs assessments

These requirements have led to the inclusion of Scottish Gypsy Travellers in research commissioned by local and national government, such as studies undertaken to identify housing needs or access to housing services. These studies are either specifically focused on Scottish Gypsy Travellers, or alternatively Scottish Gypsy Travellers are included in studies aimed at the housing needs of ethnic minority communities more generally (Craigforth, 2007; Lomax et al., 2004; Netto et al., 2004).

The Scottish Government's *Housing Need and Demand Guidance* (2008b) makes specific reference to Gypsies and Travellers in the section on 'Minority and hard to reach groups'. The guidance notes the importance of local level research and qualitative research techniques, with directions to good practice from Communities Scotland research and community profiles (such as the profile for Gypsies / Travellers in Falkirk) and the Communities and Local Government Guidance on needs assessment (2007a).

Unlike in England, Gypsy Traveller accommodation needs assessments in Scotland have not, to date, been quantitative in approach. They provide broad indicators of need rather than precise numbers of sites and / or pitches required at the local authority level. For example, the West Central Scotland accommodation needs assessment identified a best estimate 'that there may be a need for 50 pitches across West Central Scotland over the next 5-6 years' (Craigforth, 2007: 6), identifying priority areas in Lanarkshire and West Dunbartonshire.

Other research on the accommodation needs of Scottish Gypsy Travellers

Studies of accommodation needs of Scottish Gypsy Travellers have been limited in terms of the previously collected data available to researchers. Scottish Gypsy Travellers have not been included in the UK census as a distinct ethnic group; the only opportunity to self-identify their ethnicity on the census forms was under the category 'Other'. But a new tick box 'Gypsy / Traveller' was included in the

2006 test census in Scotland (Clark, 2006b) and has been recommended as a category for Scotland's 2011 census (The Scottish Government and General Register Office for Scotland, 2008).

The Caravan Count 'Gypsies / Travellers in Scotland' undertaken in January and July each year since 1998 provide a snapshot on one day of the number of caravans, the locations of sites used and the type of site. More detailed information on households is collected but only for those living on local authority or Registered Social Landlord managed sites (Research Consultancy Services, 2006). Local authorities currently have little or no information about the needs of Scottish Gypsy Travellers from previous housing needs research in their areas (Lomax et al., 2004) whether they live in housing, on caravan sites or on roadsides. Also, as Niner (2002; 2004) has noted for England, few agencies identify this group in their record-keeping systems, including for housing management.

There is a limited amount of research which bears on Scottish Gypsy Travellers who live in bricks and mortar housing. Fundamentally, there is no authoritative estimate of numbers although there are indications that the housed population significantly exceeds those staying on sites or encampments. Some accommodation needs assessments (for example Lomax et al, 2008) include interviews with people in houses and / or with Scottish Gypsy Travellers on the roadside with a house elsewhere. For some, moving to a house is clearly a last resort when they cannot find accommodation on a Gypsy Traveller site. Some young Scottish Gypsy Travellers living in housing want to experience travelling or living on a Gypsy Traveller site. 'Latent' need for Gypsy Traveller site places is likely to exist in housing, but its extent is unknown and very difficult to assess.

Research is also very limited on Scottish Gypsy Travellers who do not travel at present, some of whom stay on Gypsy Traveller sites, as well as people in housing. Again, there is some information from needs assessment studies which reveal a range of reasons for not travelling including lack of sites and safe places to camp, and being harassed and moved on while on the roadside, as well as a desire for greater stability because of old age, ill health or children's education. For some, travelling is seen as a much too 'hard life'. There is no information to show how many Scottish Gypsy Travellers who do not travel at present would do so if more sites were available.

Scottish Gypsy Traveller accommodation and accommodation needs have proved difficult areas for study. Reflecting on the research process for a study of accommodation needs, Lomax et al. (2004) identified some limitations and made recommendations for such studies in the future, including one key lesson:

‘Sufficient time needs to be given to developing the study and ideally this would be in conjunction with Gypsies / Travellers themselves, either through representation on local liaison groups which need to be fully aware of the research in developing the remit and as it is commissioned, or through representation on a project advisory group.’ (Lomax et al., 2004, p 55)

Yet opportunities for involvement in resident or tenant participation and consultation by this community have also been limited to date, which means that finding representatives is a necessary first step in the commissioning process and in setting up a study of accommodation needs. Even when Scottish Gypsy Travellers are present at liaison group meetings, the experience of some of them is that, in practice, their views are not listened to. A review of services for Gypsies / Travellers noted that although most local authorities had arrangements for consultation, this was mainly limited to residents on sites and even here key issues were not consulted on. Not surprisingly:

‘Gypsies / Travellers spoken to expressed dissatisfaction with consultation methods.’ (Communities Scotland, 2006b, p 45)

This leaves researchers and local authorities with the challenge of convincing Scottish Gypsy Travellers that their engagement with needs assessments and participation in planning consultations might influence decisions and lead to resources to meet their accommodation needs. Qualitative research (Lomax and McPhee, 2008; Lomax et al., 2008) has provided a fuller understanding of the needs, aspirations and preferences of Scottish Gypsy Travellers and has developed an understanding of models of provision that will meet their future requirements for culturally sensitive accommodation. However, this qualitative focus in the research has resulted in a lack of precision around the exact level of accommodation shortfall arising on Gypsy Traveller sites and among the housed community.

Gypsy / Traveller Sites Grant

In June 2005, the Scottish Executive announced a site development grant of £3 million over three years for new residential or transit sites and for refurbishment of existing local authority sites. Consultations with local resident Gypsy / Traveller communities were required when putting applications together and before submission for funding. Refurbishments following grants awarded from the first applications were on site in 2007, for example in Edinburgh (where pitches were upgraded) and Perth (where the installation of twin units / chalets to replace the former caravans and amenity unit configuration was completed in 2008).

A survey of local authorities' views on the 'use and role of the site grant funding provided so far' was undertaken by the Scottish Government (2007). Questions were asked about their views on: the quality of site provision; engagement with site residents; issues in the bidding process for the grant; the relationship between site provision and local unauthorised encampment, and future priorities on-site provision. However, as yet, there has not been a full evaluation of the impact of the site grant funding on the quality of refurbishments to current sites and the extent to which the grant has improved the provision of adequate and appropriate accommodation for Scottish Gypsy Travellers.

Funding of the Gypsy / Traveller site grant has continued and £1 million has been made available each financial year in 2008/09 and 2009/10. In August 2008, local authorities were invited to submit bids for Gypsy / Traveller Site Grant funding for both 2008/09 and 2009/10. The deadline for bids was 30 October 2008.

The Site Grant has been offered for funding up to 75 per cent of the total project costs. The grant is available for developing new residential or transit sites and for improvements to existing sites. Applications were required to demonstrate that the project will meet one or more of the following criteria:

- To provide good-quality, sustainable facilities on any new residential / transit sites.
- To extend significantly the useful life of the site.
- To bring unused or underused sites back into full use.

- To improve the quality of life of residents by modernising or improving sub-standard facilities.

In total, 21 bids were received from 15 local authorities. Seventeen of the bids were for refurbishment to existing sites and three were for new site provision. From 2010/11, funding for Gypsy / Traveller sites will be rolled into the local government settlement (email communication 26 February 2009, SL / Scottish Government).

While this limited grant funding for new local authority sites and the refurbishment of current sites is available from the Scottish Government, to date there is little innovation or wider consideration of other funding mechanisms to provide support for Scottish Gypsy Travellers in accessing affordable accommodation, whether on sites or in appropriate models of housing, across different tenures.

Scottish Government Race Equality Schemes

The Scottish Executive's Race Equality Scheme (RES) 2005 *Working Together for Race Equality* commented that, at that time, not all Gypsy / Traveller communities were recognised for the purposes of the race relations legislation but acknowledged the need for protection from discrimination and abuse (section 3.43). In following up the Scottish Parliament's Equal Opportunity Committee's 2001 Report and 2005 Review, the RES notes the setting up of a short-life Gypsy / Traveller Steering Group, planned to meet through late 2005 to early 2006 and to include Gypsy / Traveller representatives. Six meetings were proposed for this group but minutes of only three meetings are available, possibly indicating that the Steering Group did not complete its work². A report back on the priorities identified by the Steering Group was due in summer 2009.

The Race Equality Statement (December 2008), drawing on the latest Race Equality Scheme (Scottish Government, 2008c), refers to people 'from minority ethnic (including Gypsy / Traveller), refugee, asylum seeker and faith communities'.

² The Scottish Government website provides minutes from three meetings of the Gypsy / Traveller Steering Group:
<http://www.scotland.gov.uk/Topics/People/Equality/gypsiestravellers/strategy>

‘We should also make very clear that we include Gypsies / Travellers in this statement. During the period of the current Spending Review, i.e. to March 2011, we will commit significant resources towards improving the position of Scottish Gypsies / Travellers where it is in our powers to do so.’ (Scottish Government, 2008d: p 4)

While acknowledging that race legislation is a reserved matter, the statement again notes recognition of Gypsies / Travellers as an ethnic group for the Scottish Government’s own work and encourages this approach from other agencies. Reference is made to the employment tribunal judgment (K. MacLennan v Gypsy Traveller Education and Information Project) as:

‘...an important step forward for this community, which is particularly marginalised and discriminated against.’ (p 4)

The Statement goes on to propose the provision of resources for education, transit sites and community development, with an unspecified number of transit sites in place by March 2011. It notes that these were priorities in the 2005 Equal Opportunity Committee Interim Report and from the Gypsies / Travellers Steering Group (from 2005-06).

Conclusions

The Scottish Parliament started well with its Equal Opportunity Committee 2001 Inquiry, the Communities Scotland thematic studies and the inspection activity standard for local authorities. Expectations from the Scottish Gypsy Traveller community for improvements in service provision were encouraged yet subsequent reviews identified slow progress on the recommendations and little change in the life chances of Scottish Gypsy Travellers (Communities Scotland, 2006; Scottish Parliament, 2005). This situation is unlikely to be resolved until Scottish policy on accommodation for Scottish Gypsy Travellers is further developed.

The Scottish Government’s Race Equality Scheme and Statement (2008) emphasises the embedding of Scottish Gypsy Travellers in its approach to race equality and proposes future resources for services to tackle some key priorities for this group by 2011, some 10 years after the first Scottish Parliament’s Equal Opportunities Committee inquiry into public sector policies.

Since the action taken by the Scottish Parliament EOC in undertaking the Inquiry on public sector policies in 2000/01, England has now 'caught up' in terms of policy and planning and overtaken Scotland in the provision of a framework of legislation and guidance requiring local authorities to assess needs and plan for the provision of appropriate accommodation.

Each local authority in England is required to produce a Gypsy and Traveller Accommodation Assessment (GTAA). These have revealed significant shortfalls in pitch numbers – around 6,000 residential pitches being required over a five-year period (Brown and Niner, 2009). Following arrangements outlined in Office of the Deputy Prime Minister Circular 01/2006 *Planning for Gypsy and Traveller Caravan Sites*, each local authority will get a target for the number of pitches it must plan for through the Regional Spatial Strategy, primarily based on needs revealed by the GTAAs. Local Plan Documents are to allocate sufficient suitable land for sites to meet these pitch targets. This framework provides a clear national, regional and local focus on the provision of additional pitches in a context of acknowledged shortage. The approach is not, however, without its drawbacks, specifically the time the formal planning process takes (Brown and Niner, 2009). In comparison, the Scottish policy framework is less directive and less oriented specifically to site provision. Gypsy and Traveller accommodation issues in England are primarily set within a planning and, to a lesser extent, a housing context with community cohesion overtones. In Scotland, the equalities framework appears potentially stronger with, arguably, more comprehensive reference to management and service issues. It remains to be seen which framework will prove more successful in achieving progress on the ground.

3. ANALYSIS OF THE CARAVAN COUNTS

In July 1998, the former Scottish Executive (now Scottish Government) introduced a series of Twice Yearly Counts of Gypsies / Travellers in Scotland (undertaken each year in January and July) to establish standardised and consistent estimates of the number of Scottish Gypsy Travellers staying on sites and encampments across Scotland. The purpose of the Count is to understand more fully the characteristics of this community and to assist and inform the development of public policies and services for Scottish Gypsy Travellers, both nationally and locally. Each local authority has responsibility for the Count within their area and this information is then submitted to the Scottish Government and a report compiled.

Caravan Counts have been criticised, and their accuracy and completeness has been challenged by groups concerned that they misleadingly understate the size of the community (Clark, 2006b). The Scottish Government has commissioned a review of the Count to be undertaken in late 2009. A significant shortcoming is the omission of Scottish Gypsy Travellers living in housing which, of course, means that the picture of the community can only be partial, leading to widely divergent estimates of population numbers – the July 2008 Caravan Count estimated a population of about 2,455 people living on sites and encampments (Craigforth, 2009) while Scottish Gypsy Travellers themselves estimate that their community includes more than 15,000 people (CRE, 2006c). Because of the omission of Scottish Gypsies and Travellers in housing, the Counts cannot be used as a direct basis for accommodation needs assessment. However, it is worthwhile to examine Count information as contextual material since it provides the only reasonably consistent, time-series information on numbers and locations of the section of the population living in caravans.

This chapter looks at the Caravan Count information for Scotland, presents this within a wider context and identifies ways in which Scotland resembles or is different from other parts of the United Kingdom. The chapter looks specifically at:

- Caravan numbers on different types of site to identify any distinctive patterns in the sites 'market'.
- Changes in caravan numbers between 2006 and 2008.

The data

There are important differences between the data collected and published in the countries of the UK, and this has implications for making cross-country comparisons:

- **England:** The Caravan Count was introduced in 1979 and has been published continuously since, albeit with some amendments over time in what is published (for example, distinguishing now between caravans on unauthorised sites on Gypsy and Traveller owned land and on other land) and the background guidance. The main units counted are caravans (including mobile homes) rather than individuals or households.
- **Wales:** The Caravan Count in Wales was discontinued in 1997 and only re-introduced in July 2006. The Count form is identical to that used in England although the style of report is different. The units counted are caravans. It may be that local authorities are still becoming familiar with local sites and populations; and this could affect the consistency of the Count. The Count return is voluntary and to date one or more authority has not submitted a return each time meaning that the count is always incomplete. Unlike in England, the Welsh Assembly Government does not impute figures for missing returns. For the analysis below, where there are missing figures these have been filled using the figures from the local authority's returns made at the same month in the next or previous year.³
- **Scotland:** The twice yearly Count of Gypsies / Travellers in Scotland is more than a basic statistical return as in England. It includes much more information on council / Registered Social Landlord (RSL) sites and site management. Most fundamentally for comparative purposes, the basic unit counted in Scotland is a 'household' and there is information about household composition on council / RSL sites. On private and unauthorised sites, the basic count is of caravans, and the household number reported assumes that households occupy a single caravan. These figures are, therefore, directly comparable with England and Wales. Pitches on council / RSL sites can accommodate up to two caravans or mobile homes. The Count does not provide figures for the number of caravans per household or pitch. The West Central Scotland needs assessment (Craigforth, 2007) comments that most

³ This affects: Wrexham and Monmouthshire (July 2007 figures used for July 2006); Powys and Monmouthshire (January 2007 figures used for January 2008); and Rhondda Cynon Taff and Merthyr Tydfil (July 2007 figures used for July 2008).

families keep more than one trailer on a pitch (no average given). As a result, comparing household numbers in Scotland with caravan numbers in England and Wales would be highly misleading. For the purposes of this analysis, it was estimated that households on council / RSL sites have an average of 1.5 caravans and all household figures on council / RSL sites have been multiplied by 1.5 in the tables below. The 1.5 multiplier is to an extent arbitrary. In England a multiplier of 1.7 caravans per pitch or household, based on empirical findings from Gypsy and Traveller accommodation needs assessments, is commonly used (CLG, 2007b). This has been reduced to 1.5 for Scotland given the contention in the Count report that, on private and unauthorised sites the assumption that one caravan is equivalent to one household will be accurate in the majority of cases suggesting that rates of caravan use may be lower than in England (Craigforth, 2009: 18).

- **Northern Ireland:** There is no regular Count in Northern Ireland, but needs assessments were carried out in 2002 and 2008 which provide some potentially similar information. There are big differences, however. The assessments include all identified Travellers in Northern Ireland, including those living in bricks and mortar. The basic unit is the household rather than 'caravan'. The differences are such that it is impossible to incorporate Northern Ireland fully into this analysis.

Caravan numbers 2008

Including the adjustment described above to convert household figures to caravans, 593 caravans were counted in Scotland in January 2008 and 901 in July 2008. This shows an extremely large difference over six months. Two factors contributed to this:

- The January 2008 Count total appears unusually low relative to previous years. On the Count's own measure of households, there were 455 households in January 2008, compared with 551 in 2007 and 525 in 2006. Fewer households were counted in 2008 on both council / RSL and private sites than in 2006 and 2007. July 2008 figures were more in line with earlier years although lower than the unusually high figure in 2007.
- There is always a significant difference in Scotland between January and July Count figures. The four-year average of published household numbers 2005-08 shows a January figure of 490 and a July figure of 756. Thus July is, on average, 54 per cent higher than January.

Table 3.1 shows caravan figures for England, Scotland and Wales for 2008.

	January 2008	July 2008
England	17,844	17,626
Scotland	593	901
Wales	813	829

Note: Scottish figures have been amended to facilitate comparisons

Caravan numbers are much higher in England than in Scotland or Wales, not only in an absolute sense, as would be expected in a larger country, but also in a relative sense. If caravan numbers (January 2008) are expressed in relation to 2008 taxable dwelling units, the following emerges:

In England there are eight caravans per 10,000 dwellings

In Wales there are six caravans per 10,000 dwellings

In Scotland there are three caravans per 10,000 dwellings

A further difference between the countries is in the relationship between January and July figures. As noted above, in Scotland, July figures are regularly significantly higher than the January figures. Despite the pattern in 2008, July figures in England have also generally been higher than January figures but to a much lesser extent. The time period available in Wales is short, but the pattern seems closer to the situation in England than in Scotland. This suggests a much more marked seasonality to caravan dwelling in Scotland than in England and Wales, perhaps attributable to the climate. Insofar as this reflects a desired pattern of living, there are implications for the type of sites to be provided. Seasonal or transit sites might be expected to be relatively more important in Scotland than in England and Wales.

Type of site: 2008

Table 3.2 shows the number and percentage of caravans (amended as described above) in Scotland on different sorts of site in January and July 2008.

Table 3.2: Caravan Numbers by Type of Site: Scotland: 2008		
	January 2008	July 2008
Council / RSL sites number	414	470
<i>Council / RSL sites %</i>	70	52
Private sites number	81	162
<i>Private sites %</i>	14	18
Unauthorised sites number	98	269
<i>Unauthorised sites %</i>	17	30
Total number	593	901
<i>Total %</i>	100	100

Note: Council / RSL figures have been amended to convert from households to caravans

In January 2008, seven out of 10 caravans were on council / RSL sites. This shows the great importance of council / RSL sites in providing for year-round caravan dwelling among Scottish Gypsies and Travellers. Only about one caravan in seven was on a private site.

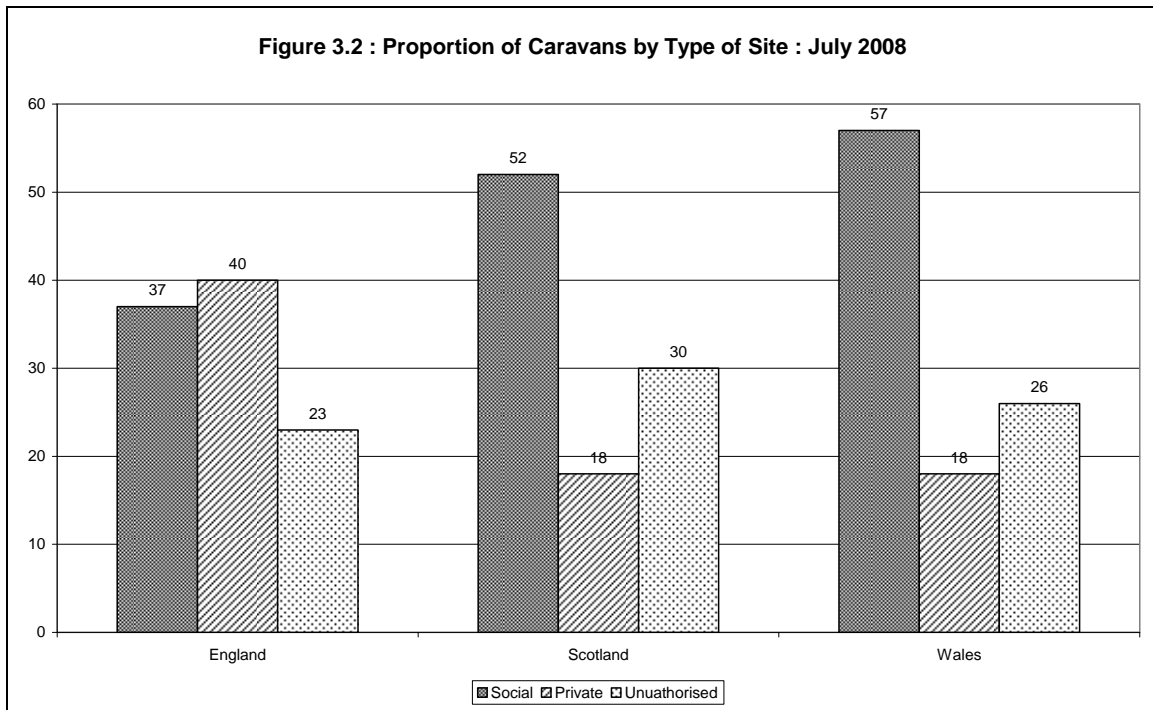
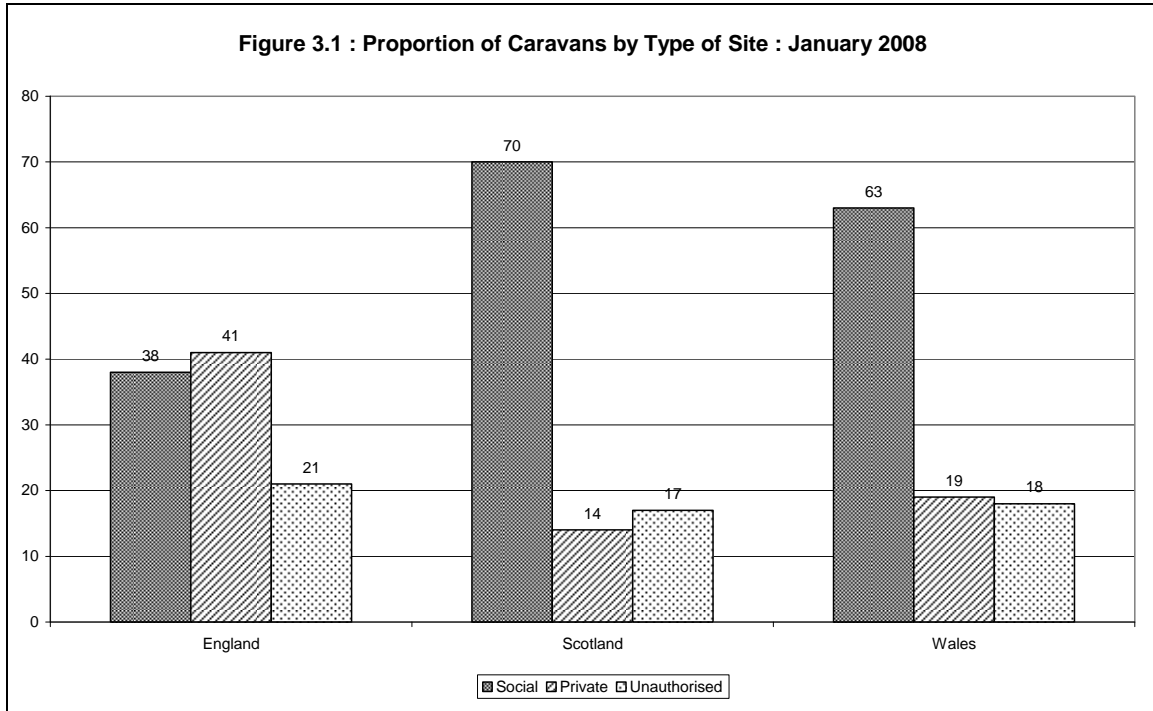
In July the picture is very different. Caravan numbers increased on all types of sites, but to a much lesser degree on council / RSL sites. Numbers on private sites doubled January to July, and on unauthorised sites they almost tripled. This appears to reflect the use of private caravan sites and, especially, the roadside to accommodate seasonal travel.

Looking at the Count figures at local authority level and averaging years between 2005 and 2008 shows that the following local authorities averaged more than 20 caravans on unauthorised sites in July:

- Fife (also relatively high in January)
- Moray
- West Lothian
- Aberdeen
- Highland
- North Ayrshire

The list includes urban and rural areas, but apart from Aberdeen does not include major population or employment centres such as Glasgow, Edinburgh and Dundee. This suggests travelling may be particularly oriented to social reasons and holidays alongside seasonal employment out of school term time.

The distribution of caravans across types of sites is different in England, Scotland and Wales. Figures 3.1 and 3.2 show the patterns for January and July respectively.



The January distributions show the clear contrast between England on the one hand, and Scotland and Wales on the other in terms of the relative importance of private sites. This is a major difference which is probably also true of Northern Ireland where a re-calculation of 2008 figures for Traveller households living on sites suggests that 72 per cent are on social sites of some kind, 12 per cent on privately owned sites and 16 per cent on unauthorised sites (a pattern quite similar to Scotland). The proportion of caravans on unauthorised sites is highest in England at 21 per cent; this probably reflects the relative importance of unauthorised developments – that is the development of private sites by Gypsies and Travellers without planning permission.

There is little difference in the pattern of site usage in England between January and July. However, in both Scotland and Wales the relative importance of social sites decreases somewhat in July and the importance of unauthorised sites increases, especially in Scotland.

It is not clear from the figures alone whether differences in preferences underlie these site tenure differences between Scotland and England. The lesser contribution of private sites could perhaps be the result of different aspirations, or planning policies, or levels of affordability. Whatever the underlying factors, however, it does suggest that there are dangers in automatically assuming that the situation in England is replicated elsewhere and that English policy approaches will necessarily work elsewhere.

Trends since 2006

Comparing caravan figures for 2006 and 2008 reveals a degree of variability in Scotland which is hard to account for. It might be dangerous to try to make too much of these variations, however, as they may be caused by the way the data has been collected. As the Count report for July 2008 notes in relation to private sites 'while figures suggest a decline, the difficulties in collecting accurate data means that what is available can be unrepresentative of what is actually happening on these sites' (Craigforth, 2009: 6). Difficulties are likely to include identifying and gaining access to private caravan sites and unauthorised sites where Scottish Gypsy Travellers are staying (see also Clark 2006b).

Figure 3.3 shows percentage change in caravan numbers from January 2006 to January 2008 in Scotland and England (there are no January 2006 figures in Wales). Over the period, total caravan numbers in Scotland apparently fell by -12 per cent from 675 to 593. This contrasts with an increase of 13 per cent in England. Caravan numbers were lower on every type of site in 2008 than in 2006 in Scotland, while they were higher on all types of site in England. It is easier to account for growth (through natural population increase) than for decline.

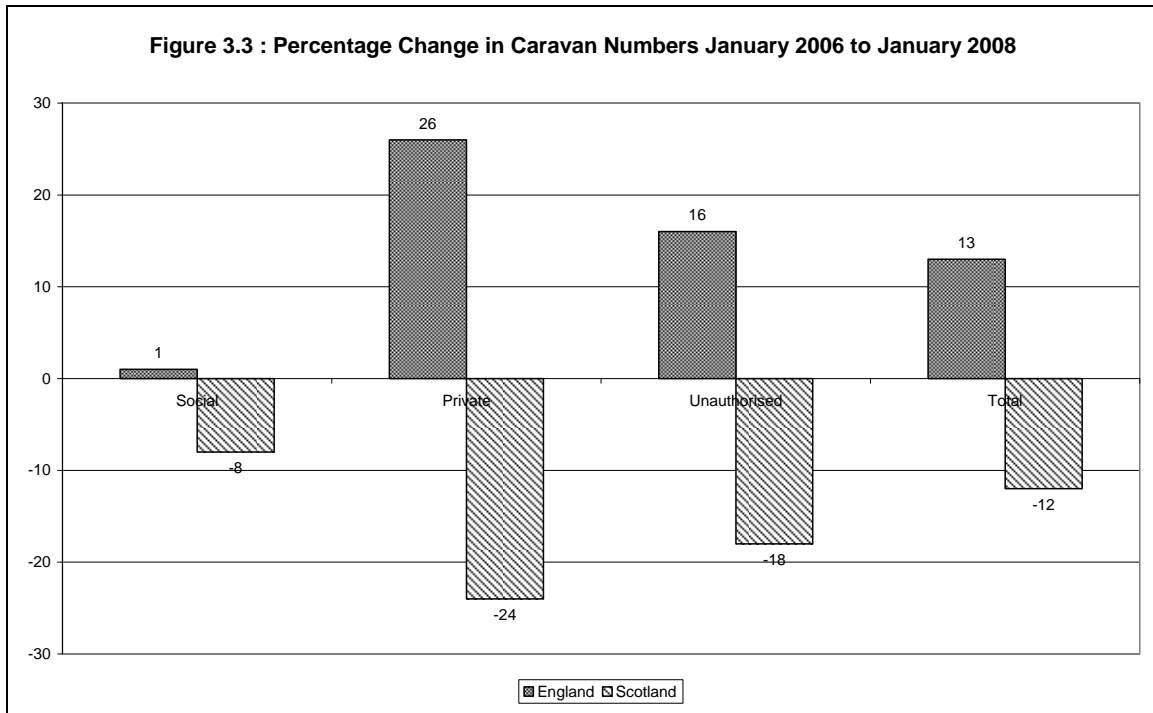
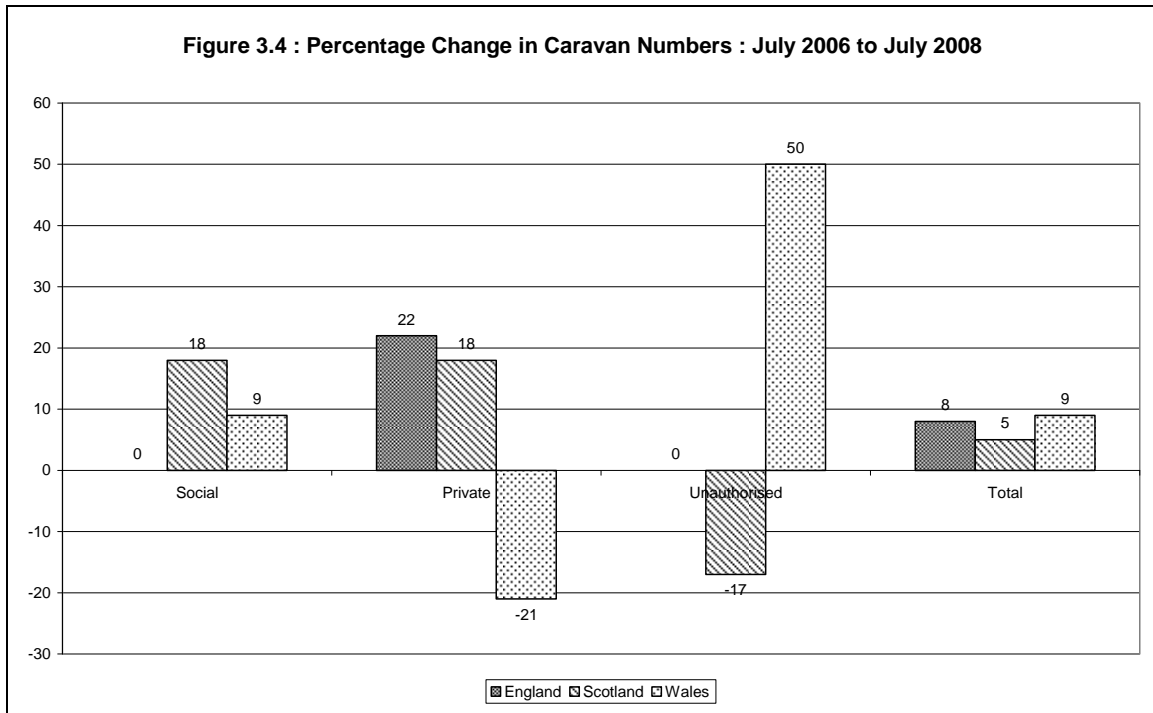


Figure 3.4 shows percentage change in caravan numbers by type of site between July 2006 and July 2008. In this case, Scottish caravan numbers increased by five per cent from 861 to 901; increases on council / RSL and private sites more than made up for a decrease on unauthorised sites. The rate of increase recorded is lower than in England or Wales.



It is not clear whether caravan numbers in Scotland are increasing or not. However, as will be seen in Chapter 7, local authorities recorded a net loss of pitches on council / RSL sites not fully offset by increases in pitches on private sites. This gives a rather different context to that of England where growth and need are widely accepted as the proper objective of policy.

Council / RSL sites in Scotland

The Scottish Count for July 2008 gave details of pitch numbers and occupancy of 32 council / RSL sites spread across 23 local authorities (Craigforth, 2009: 30). Three sites are seasonal and open only in summer.

Most local authorities have a single site only:

No site: nine authorities

One site: 18 authorities

Two sites: two authorities (Dumfries & Galloway and South Lanarkshire)

Three sites: two authorities (Argyll & Bute and Fife)

Four sites: one authority (Highland)

While Scottish Gypsy Travellers are potentially able to live on council / RSL sites in most parts of Scotland, there is little choice of site available.

The 32 sites had a total of 499 pitches, which equates to an average size of 16 pitches. Most sites had 15 or more pitches:

- One to 10 pitches: five sites
- 10 to 14 pitches: six sites
- 15 to 19 pitches: nine sites
- 20 pitches and over: 12 sites

There are relatively few 'small' sites among the current council / RSL site stock.

In July 2008, 70 per cent of pitches on council / RSL sites were let, 22 per cent were available for letting and eight per cent were not available. This suggests an under-use of the stock which is explored in more detail in Chapter 8.

Comment

This analysis of Caravan Count figures across the UK has highlighted distinctive Scottish features which form a backdrop to the survey of local authorities on the accommodation needs of Scottish Gypsy Travellers. The main features are:

- Relatively low caravan numbers and small and somewhat indeterminate changes in numbers since 2006. Unlike England, there is no clear evidence of growing numbers to support presumptions of widespread major shortfalls in pitch provision.
- Having said that, there were around 100 caravans on unauthorised sites in January 2008 suggesting a round-the-year shortfall in sites.
- July figures are significantly and consistently higher than January figures, suggesting seasonal travelling in summer. Simply from the Counts, the evidence for some form of transit provision is more marked than for additional residential provision. The Counts do not indicate reasons for travelling, whether for employment, social purposes or holidays. Nor do they indicate where summer travellers spend winter – for example, in bricks and mortar housing and / or outside Scotland. The nature of the areas showing a particular summer peak on unauthorised sites suggests a mix of underlying factors may be in play.
- A significant difference from England is the relative unimportance of private sites in terms of caravan numbers. It is unclear why this difference exists.

Some needs assessments (for example in Perth & Kinross) have found Scottish Gypsy Travellers prefer private family sites, as do their counterparts in England. This preference is supported by a number of planning applications for private sites reported by a small number of local authorities replying to our survey – but the survey also shows the difficulties applicants face in getting Gypsy Traveller sites approved, especially without resorting to the expense and stress of a planning appeal (see Chapter 7). There is no information to show whether Scottish Gypsy Travellers would find it more difficult to afford to buy and develop land than their English counterparts.

4. POLICING ISSUES

Police Authorities are particularly active in managing unauthorised encampments in a number of areas of Scotland and are ideally placed to offer informed views as to how the accommodation situation of Scottish Gypsy Travellers is working out 'on the ground'.

Each of the eight Police Authorities was approached to explore their views and practice via a short email survey. The Association of Chief Police Officers (ACPOS) in Scotland produced a collated response to the nine separate questions asked. The questions, together with detailed responses, are presented in Appendix 4. We also sought the views of Ian Taggart (a former police officer who is now a researcher) and these are also presented alongside those of ACPOS in Appendix 4. Main themes emerging from the responses can be summarised as follows:

- There is an acknowledgement that Gypsy Travellers have an historical presence within Scotland and have a continuing desire to travel. There was no indication that there had been an increase or a decline in numbers of Scottish Gypsy Travellers or their desire to travel.
- Features of the current accommodation situation for Scottish Gypsy Travellers across the country include a lack of appropriate site provision and the loss of traditional stopping places. This leads to greater awareness of unauthorised encampments, and their impact, on the part of the settled community.
- Tensions within and between Scottish Gypsy Traveller groups were seen to have impacted on the use of some sites and therefore on the levels of occupancy on these sites, often resulting in an increase in vacancies.
- There is a recognition that there are no simple answers given the nature of the Scottish Gypsy Traveller communities involved, the presence of entrenched views and the complex historical context of Scottish Gypsy Traveller accommodation and travelling needs.

5. NEEDS ASSESSMENT AND HOUSING STRATEGIES

'Local authorities are to consider the needs of all Gypsies and Travellers for appropriate accommodation within their housing need and demand assessment and take these into account in preparing their local housing strategies' (Scottish Planning Policy 3 *Planning for Homes*, 2008, para 83)

Chapter 2 outlined the policy approach towards the provision of accommodation for Scottish Gypsy Travellers. The first section of the questionnaire sent to local authorities examined progress made in terms of carrying out accommodation needs assessments for Scottish Gypsy Travellers, and the extent to which these are taken into account in local housing strategies as required by SPP3 (see box above). The figures in this chapter relate to the 26 survey responses (81 per cent of local authorities) received and analysed by 10 July 2009.

Accommodation needs assessments

Seventeen of the 26 responding authorities (65 per cent) said that they had undertaken an assessment of the accommodation needs of Scottish Gypsy Travellers in their area. These assessments had been completed between 2003 and 2008. One authority (Perth & Kinross) has carried out two assessments, one as part of a sub-regional study in Tayside in 2003, and a further study focusing on Scottish Gypsy Travellers on private sites and unauthorised encampments in 2007. A further six authorities (23 per cent) said that an assessment was in progress at the time of the survey; all but one of these was expected to be complete by the end of 2009.

Only three authorities (Eilean Siar, Highland and North Lanarkshire) had not embarked on an assessment. An assessment is planned to commence in Highland in 2009/10. No assessment has been carried out in Eilean Siar because of the reported absence of Scottish Gypsy Travellers, attributed to the expense of travelling to the islands. In North Lanarkshire, lack of demand for access to the existing Gypsy Traveller site in the area and the provision of support in accessing both temporary accommodation and permanent accommodation, were given as reasons for not carrying out a recent needs assessment. It is also apparent from

answers elsewhere in the survey that North Lanarkshire is planning to carry out an assessment at some point.

The great majority (94 per cent) of authorities with completed assessments had been part of a sub-regional study (West Central Scotland; Tayside; and East Lothian, Midlothian, Edinburgh and Scottish Borders). Only West Lothian had undertaken a single-authority assessment. However, four of the six studies in progress are single-authority assessments.

The 2008 revised guidance from SPP3 quoted at the head of this chapter refers to the guide *Gypsy and Traveller Needs Assessments* issued by the Communities and Local Government department in 2007 in England (CLG, 2007). However, the majority of the completed studies in Scotland pre-date this guidance and show significant differences from their English counterparts. In particular, while almost all English assessments make a quantitative estimate of requirements for additional pitches over the next five or 10 years, only five of the 17 Scottish authorities with a completed study said that it provided a numerical estimate of requirements. All were part of the West Central Scotland study which made somewhat tentative estimates of pitch requirements (50 additional pitches across the study area qualified by the need to take account of pitch turnover) and their distribution (priority areas for additional official sites in Lanarkshire and West Dunbartonshire). Three of the responding authorities from the West Central Scotland grouping that were not in these named priority areas interpreted their requirement as zero, others were apparently uncertain about what the assessment meant for their area.

Pitch requirements

In the light of the largely non-quantified nature of needs assessments in Scotland, it is not surprising that only eight authorities were able to give an estimate of the number of additional residential pitches required over the next five years. Answers were:

Zero: Argyll & Bute, Dundee, East Dunbartonshire, East Renfrewshire and South Ayrshire

20 pitches: West Dunbartonshire (from the West Central Scotland assessment)

40 pitches: Perth & Kinross (from their more recent study which recommended that there were at least 37-42 Scottish Gypsy Traveller households requiring alternative accommodation preferably residential trailers, pitches or chalets)
50 pitches: Fife (source of estimate unknown)

Only seven authorities were able to give an estimate of transit or stopping places need over the same period:

Zero: Argyll & Bute, East Dunbartonshire, East Renfrewshire, South Ayrshire and West Dunbartonshire
One pitch: Dundee (possibly one site rather than pitch intended)
Six pitches: Fife (source of estimate unknown)

Where authorities felt able to give an answer, they indicated that most of the requirements identified were for social (local authority and registered social landlord) provision rather than private provision. This may reflect the status quo in which most provision takes the form of council / Registered Social Landlord (RSL) sites rather than local authorities fully understanding what Scottish Gypsy Travellers desire or need.

Question A8 of the survey asked whether identified shortfalls would be met during the next five years. Of the authorities acknowledging a positive requirement, only Fife thought that it would probably be met. The others thought it unlikely that it would be met and gave the following reasons:

Dundee (one transit pitch/site): 'There is a shortage of suitable land to provide transit sites within Dundee City's boundaries. There are also no funds available to create a transit site.'

Perth & Kinross (approximately 40 residential pitches): 'It is very difficult to make provision for Gypsy Travellers. Local Authorities would be required to fund such provision from the General Fund which is already very stretched in maintaining Council Services. There are also many problems in getting planning provision for developments of this nature.'

West Dunbartonshire (20 residential pitches): 'The Gypsy / Travellers Action Group, who represent the residents living on the permanent site, have stated clearly that they do not want an additional site located in West

Dunbartonshire. They have advised that if the Council were to go ahead (land has been identified) the site would be either unused or destroyed.'

These answers illustrate some of the barriers to site provision explored in more detail in Chapter 9 below. The final point from West Dunbartonshire is somewhat unexpected and counterintuitive to Scottish Gypsy Traveller accommodation needs and research more widely.

The figures given in the survey for pitch requirements are hard to interpret. From eight authorities providing estimates (31 per cent of survey respondents and 25 per cent of all Scottish authorities) there is a requirement for over 100 additional residential pitches – located in just three areas. However, the general lack of numerical estimates of requirements to date suggests that it would be very unsafe to attempt to scale this figure up to make a national estimate. Two rather different conclusions can be drawn:

- It is highly improbable that requirements are confined to three areas. It is highly probable that there are requirements currently either unquantified or unacknowledged across the country.
- In comparison to England, where Gypsy and Traveller Accommodation Assessments (GTAAAs) have identified and quantified requirements virtually everywhere, Scotland is potentially less advanced in preparing for additional site provision both nationally and locally. The first step – identifying the scale of the shortfall to be met – is not yet in place.

While we have concentrated here on the (lack of) quantified elements in Gypsy and Traveller accommodation assessments, the overall usefulness of the studies must not be understated. The production of a pitch requirement figure to address accommodation shortfall is only part of the story. The studies completed so far provide a wealth of qualitative information in terms of the characteristics of Scottish Gypsy Travellers and their wider needs. There is also valuable detail about site quality and management issues and much material to assist local authorities in developing policies towards improved service provision and equalities issues for Scottish Gypsy Travellers.

Local housing strategies

The majority of authorities (65 per cent) said that there is a specific policy or action in their local housing strategy aimed at providing or facilitating the provision of accommodation for Scottish Gypsy Travellers. A further five authorities (19 per cent) said that such policies / actions were in preparation, usually with a completion date in 2009. Three of the four authorities answering 'no' (Dundee, East Renfrewshire and Falkirk) appear to have been very precise in their interpretation of the question. All their local housing strategies include references to Scottish Gypsy Travellers, including, for example, an action to assess needs, but no specific policy / action aimed at providing or facilitating the provision of accommodation for Scottish Gypsy Travellers. Very similar statements / policies / actions appear in the strategies of those authorities answering 'yes' to the question. Only Eilean Siar among the responding authorities neither makes, nor plans to make, reference to Scottish Gypsy Travellers in their local housing strategy because of the reported absence of Scottish Gypsy Travellers on the islands.

Examination of local housing strategies provided by responding authorities or from the internet suggests that most policies / actions relate to assessing needs and developing action plans in line with the findings, improving service provision, upgrading the condition and / or management of existing council / RSL sites and developing communications and consultation with Scottish Gypsy Travellers. Specific references to **additional** site provision are sparse and include:

Angus: the shortfall in transit sites is acknowledged

Fife: there is a shortfall of sites and existing sites are overcrowded

Renfrewshire: ongoing discussion with neighbouring authorities to see if joint site provision is justified

Several local housing strategies explicitly comment on the lack of need locally for (additional) site provision.

This brief consideration of local housing strategies suggests:

- Scottish Gypsy Travellers are referred to in the great majority of local housing strategies. In this regard, guidance has been followed.

- References to general service provision, site conditions and site management suggest that Scottish Gypsy Traveller issues are embedded in wider housing policies.
- There is little apparent recognition in the strategies of any significant shortfalls in site provision, nor indications that authorities are well prepared to move towards increasing site provision.

6. GYPSY TRAVELLER SITES AND PLANNING

‘Planning authorities should identify suitable locations for sites for Gypsies and Travellers and set out policies for dealing with planning applications for small privately-owned sites. Planning authorities should ensure that Gypsy and Traveller communities are involved in decisions about sites for their use.’ (Scottish Planning Policy 3 *Planning for Homes*, 2008, para 83)

This chapter looks at how local authorities are responding to the above guidance. It is based on Section B of the questionnaire completed by 26 local authorities.

Looking for locations for sites

Eleven authorities (42 per cent) said that they had identified suitable locations for sites for Scottish Gypsy Travellers. Given the apparently low acceptance of need for additional sites, in some instances at least this may include existing sites. A further four authorities (15 per cent) said that they were actively working towards identifying suitable locations.

Nine authorities (35 per cent) are not working towards identifying suitable locations (two did not answer this question). The most important reason given was lack of need beyond an existing site. For example:

‘By providing a permanent site, we have met our requirements. The accommodation needs assessment and current waiting lists would suggest that there is no need for additional permanent site provision.’
(South Ayrshire)

‘There is no identified need for additional provision.’ (South Lanarkshire)

‘Several years ago the predecessor authority (Dundee District Council) undertook an assessment of potential sites for the provision of Gypsy / Traveller accommodation within its area. Following the identification of a suitable site, approval was obtained and the site was developed. The facility has operated, apparently successfully, for many years and seems

to be meeting the local requirement for this type of accommodation. Given this situation there was not felt to be a requirement for policy guidance on additional provision.’ (Dundee)

Other authorities were awaiting the outcome of ongoing needs assessments:

‘Suitable locations have yet to be identified and will be influenced by the outcome of the planned Gypsy / Traveller Accommodation Needs Assessment and Planning Policy.’ (Highland)

A rather different form of answer was given by East Ayrshire:

‘It was found to be extremely difficult to identify and agree suitable sites for this use.’

Development plan policies

Informal working towards identifying suitable locations for sites is not necessarily reflected in formal planning policies. A minority of local authorities (eight out of 26, or 31 per cent) said that their approved Development Plan includes a specific policy relating to the provision of Gypsy Traveller caravan sites. A further authority (accounting for four per cent) said such a policy was in preparation with an expected completion date of September 2012.

Question B6 asked whether authorities have policies for dealing with planning applications for small privately owned sites for Scottish Gypsy Travellers. Only five authorities out of the 26 (19 per cent) said that they had, while a further four (15 per cent) said that such a policy is in preparation. All five with a policy also said they had specific policies relating to the provision of Gypsy Traveller caravan sites; an earlier question in Section B. Examination of the policies themselves shows considerable overlap between the general policies and those for dealing with applications for small private sites.

The most common form of policy is a list of criteria which must be met before a site will be approved. Box 6.1 provides examples of a relatively simple and a more complex policy from Angus and West Lothian.

Two Development Plan policies refer to specific sites:

East Dunbartonshire: Policy HMU5: The Council will implement a site for travelling persons at Auchenhowie Road, Milngavie for 12 pitches (which has conditional planning consent).

West Dunbartonshire: Finalised Draft of the West Dunbartonshire Local Plan is referred to in the Local Housing Strategy 2007 Update.
Policy PS3 Public Service Opportunities: The schedule of opportunity sites includes two Traveller sites:

PS 3(1) Site north of Dalmoak Farm, Renton 0.86 hectares

PS 3(2) Dennystoun Forge Caravan Park, Dalreoch, Dumbarton
0.82 hectares for extension of site

The policy says these sites will be supported by the Council for development subject to conformity with other Local Plan policies.

Neither specified new site appears to have been developed to date.

Box 6.1: Examples of Criteria-based Policies for the Approval of Gypsy Traveller Sites

Angus: Finalised Angus Local Plan Review

Policy SC13: sites for Gypsies / Travellers

Angus Council will support existing sites and consider the development of new sites for Gypsies / Travellers where they satisfy an identified local demand and:

- are compatible with surrounding land uses
- provide a good residential environment for the people living there, including the provision of public utilities for each pitch or in amenity blocks as appropriate, and
- are well located for access to the local road network.

West Lothian: West Lothian Local Plan

Policy HOU 11

Proposals to establish private sites for the accommodation of Gypsy Travellers will be supported provided that they:

- a) do not conflict with environmental protection policies ENV 2 (Local

Biodiversity Action Plan species), ENV 3 (European designated sites), ENV 4 (nationally designated sites, ENV 5 (local sites) and ENV 11 (woodland and trees)

- b) will not result in the loss of prime agricultural land (ENV 7)
- c) do not conflict with landscape protection polices ENV 19 (Areas of Great Landscape Value), ENV 21 (Areas of Special Landcsape Control), ENV 22 (Countryside Belts), ENV 26 (Rights of Way), ENV 27 (Core Paths)
- d) would not have an adverse environmental impact on neighbouring uses and, in particular, housing through an increase in noise, road traffic movements and other disturbances
- e) are not located within or adjacent to an established residential area, strategic employment land or recreational area
- f) can be made compatible with the character and appearance of the surrounding area through appropriate landscaping and screening
- g) can reasonably access local services and facilities eg shops, hospitals, schools and public transport
- h) can achieve appropriate access and parking, and
- i) do not create a danger to the health and safety of gypsy travellers.

In addition, the site must be easily accessible, but not conspicuous from any view from a major road.

The majority of local authorities do not have approved formal planning policies on Gypsy Traveller site provision or for dealing with applications for small privately owned sites. Three main reasons were given:

- Gypsy Traveller site provision was not identified as a priority and / or there was no specific national guidance at the time the approved Development Plan was produced. For example, Renfrewshire noted: 'There was no requirement, statutory or otherwise, for the provision of such policy in DP [Development Plan] at the time of the Structure and Local Plans for this area. In the preparation of the next round of Strategic and Local Development Plans due regard will be had to any relevant guidance or policy in force at that time.' This illustrates the importance of guidance in encouraging authorities to consider issues which might otherwise be accorded lower local priority.
- Perceived lack of need for a policy because of lack of need for sites and / or planning applications being submitted. For example, from South Ayrshire: 'There was no need to include it within the Local Plan, as we already provide

access to a permanent site for Gypsies / Travellers.’ Explaining why there is no policy for dealing with planning applications for small privately owned sites, North Ayrshire comments: ‘Never had any approach for such sites.’

- A few authorities commented that there is no need for a specific policy for dealing with applications for private sites because other general development control policies can be applied: ‘Any planning application would be considered within Planning Policy similar to that for new build housing or that of a new caravan park’ (South Ayrshire).

This suggests the need for action on the part of most authorities if they are to meet the guidance in Scottish Planning Policy 3 *Planning for Homes* outlined at the head of this chapter.

Involvement of Scottish Gypsy Travellers

Question B9 asked authorities to outline the steps taken to involve Scottish Gypsy Traveller communities in decisions about sites for their use. It is clear from answers that authorities vary widely in the extent to which they involve Scottish Gypsy Travellers, and in the means used. This may well be an area where perceptions of local authorities and Scottish Gypsy Travellers would diverge.

Twenty-two authorities answered the question. Five answers were to the effect that there had not, to date, been any such involvement. In the case of North Ayrshire, this was said to be because: ‘The Gypsy and Traveller communities in North Ayrshire do not want to engage with the Council in such matters.’ Two further authorities noted that the Local Plan had been subject to general consultation procedures, but that these were not specifically geared to Scottish Gypsy Traveller needs.

About two-thirds of respondents reported some means of involving Scottish Gypsy Travellers locally. A number of respondents referred to the process of carrying out the Gypsy and Traveller accommodation assessment. For example, Glasgow noted that consultation and involvement of Scottish Gypsy Traveller communities was an important element in the brief of the West Central Scotland study. North Lanarkshire, in describing their planned assessment, note:

‘It is intended, as part of the planned assessment, to conduct one-to-one interviews with gypsy travellers to gather information on their views on our

current site provision and future possible locations for site development. This will include other aspects, such as, the type of support and site facilities that they view as integral in achieving successful site development.'

Other authorities noted that they regularly involve Gypsy Traveller site residents on matters to do with the site and its management, for example:

'The Gypsies / Travellers from St Christopher's site are consulted in any decision taken by the council: allocation policies, new leases, modernisation of the site etc.' (Angus)

This has not always proved straightforward:

'We talk to the residents on the site, but have found that they do not wish to talk as representative for anyone other than their own immediate family. The improvements to the Council owned site in recent years have come from ideas and requests put forward from the site residents.' (Stirling)

Some answers suggest well-developed involvement arrangements with regular meetings and / or specific working groups. It is apparent that some authorities are in the process of developing approaches, having recognised the importance of the issue. Box 6.2 gives some examples. It is apparent that site-based Scottish Gypsy Travellers are most commonly involved in consultations rather than Scottish Gypsy Travellers in bricks and mortar accommodation or using unauthorised encampments.

Comments

It is clear that authorities do not yet fully comply with the guidance in SPP3 regarding identifying suitable locations for sites and including policies for site provision in Development Plans.

To some extent this appears attributable to uncertainties about the extent of need for further site provision and often assumptions are made around this without clear information. The following quotation sums this up. It has been edited to preserve the anonymity which was promised to respondents for the final section of the questionnaire.

‘The overwhelming reality appears to be a decline in demand for permanent gypsy / traveller site accommodation in []. . . . We are aware that this position is different from that in the south of England. There was an upsurge in demand in the 1970s and 1980s which the authority responded to by providing at one stage two sites, in different parts of the city, but the situation is different now. The fall off in demand may reflect changing needs within the community itself. Recent comprehensive national research in Northern Ireland highlighted that increasingly the community prefer settled accommodation, only a minority continue to travel and mainly during the summer months. This latter aspect fits with the pattern of unauthorised encampments experienced by [] and neighbouring local authorities.’

Box 6.2: Examples of Arrangements for Involving Scottish Gypsy Traveller Communities	
Dumfries & Galloway	
	Currently have a Travelling Person’s liaison group which includes representatives from the travelling community and meets on a quarterly basis.
Fife	
	Fife Council’s Travelling People Working Group (TPWG) involved people from the Travelling community and had representatives from Save the Children and FRAE Fife (Fairness Race Awareness and Equality), who advocated on behalf of the Travelling People. There were members from the Council’s sites’ Tenants Associations on the TPWG.
West Dunbartonshire	
	West Dunbartonshire supports the Gypsy / Traveller Action Group. Regular meetings have been held with local councillors, the MP and the MSP. There is an established history of consultation.
West Lothian	
	<ul style="list-style-type: none"> • Consultation with Travellers both on sites and on unauthorised sites when applying for funding from Scottish Government to upgrade site.

	<ul style="list-style-type: none"> • Consultation with Travellers on permanent site on individual kitchens and bathrooms. • Two volunteer consultants from Travelling Community who are involved in Focus Group, Race Forum and advising on education work with young people.
Perth & Kinross	
	<p>We are working with Planning Aid and hope to run a pilot public consultation exercise with them on hard to reach groups, including gypsy travellers.</p>
Scottish Borders	
	<p>We are looking to set up focus groups around the management of our one official site in the Borders, again only recently identified as an objective and priority, in partnership with our equality and diversity departments.</p>

7. PROGRESS ON PITCH PROVISION

Section C of the survey questionnaire deals with progress on pitch provision since the beginning of 2006. It asks first about gains and losses of council / Registered Social Landlord (RSL) pitches, then about planning applications for private pitches. The perspective is that of the local authorities. There is, for example, no information on perceptions of the planning application system or problems in negotiating its requirements held by Scottish Gypsy Travellers.

Council / RSL pitches

The survey shows that, among the 26 responding authorities, the number of pitches on council / RSL sites decreased over the period. The only report of pitches on a new residential site was from Perth & Kinross where a chalet project is being developed at Pitlochry. This is for people currently living on a site owned by a local private estate which is now leased by the Council. This 'new' site will provide six timber chalets. While representing an increase to the stock of council / RSL pitches, it presumably also represents a loss of private provision and cannot be seen as a net gain overall.

The only other reported 'positive' change is the re-opening in 2006 of four pitches on the existing site in Glasgow. These were re-occupied but have subsequently become vacant again along with the other six pitches on the Rodney Street site. The site is still available for occupation but, in view of continuing non-use, permanent closure is now under consideration.

Council / RSL site closures were reported by:

North Ayrshire: 12 pitches on the island of Aran. There was no demand for the site over a long period prior to its closure.

Scottish Borders: access to 10 pitches is no longer available to the Council following the closure of a commercial site in Galashiels in 2007/08.

Highland: five pitches were closed at Kentallen, one of the sites in Lochaber. There were a number of reasons for this decision:

- vacancy levels over a period of time
- no new demand

- certain families achieving social housing solutions in nearby rural communities
- health and safety – fences had been erected around the unused pitches, and
- site upgrade - a successful bid for the Gypsy / Traveller Site Grant 2007/2008 included the proposed demolition of the unused and inaccessible pitches. A consultation with residents was undertaken as part of the grant application submission.

Falkirk: two pitches were closed when they were damaged beyond use in 2007. These are scheduled for re-build in 2009 which will bring the site back to full capacity.

West Lothian: the chalets on two pitches were developed using funding from the Education Department to make a Resource Centre for internal/external agencies to use to deliver services to Travellers.

South Lanarkshire: one pitch has been closed to provide on-site community facilities.

In total, 32 council / RSL pitches have been lost, of which seven might be seen as contributing to site improvements, and two as temporarily lost. Beyond this, there has been a fairly significant loss of council / RSL pitch provision albeit sometimes in response to evidence of low demand for the sites in their current location and / or condition.

Change since 2006 appears to represent somewhat negative progress in regard to council / RSL site provision. The extent of loss appears to be greater than indicated by the Caravan Counts analysed in Chapter 3.

Private sites

In contrast, reported changes in provision of private pitches – while modest – are positive since 2006. Box 7.1 summarises planning applications and grants of planning permission reported by the 26 responding authorities. In total, 12 applications were received by six local authorities (23 per cent of respondents), involving at least 26 pitches. There were no applications to extend existing private sites. Only one application (four pitches) received full planning permission and one (four pitches) was given a personal planning permission limited to the applicant only. In addition, three permanent permissions were granted on appeal involving 10 pitches. The following points can be made:

- A minority of authorities received applications. Only Perth & Kinross received more than one application in the period (although two permissions fell into the period in Falkirk).
- A crude 'success' rate, calculated by expressing permissions as a percentage of applications, is 42 per cent including permissions granted on appeal and 17 per cent excluding appeal decisions.
- The appeal system is obviously very important in achieving permissions for Scottish Gypsy Travellers.
- Most permissions were full rather than personal or temporary.

Box 7.1: Details of Planning Applications and Permissions for Private Gypsy Traveller Sites since 2006	
Planning applications for site development or expansion	
	Perth & Kinross: 7 sites, 12 pitches Falkirk: 1 site, 2 pitches West Lothian: 1 site, 4 pitches South Lanarkshire: 1 site, 4 pitches Aberdeenshire: 1 site, 3 pitches Angus: 1 site, unknown number of pitches
Applications to renew temporary planning permissions	
	Nil
Permanent planning permissions granted for site development or expansion	
	Falkirk: 1 site, 4 pitches
Temporary of personal planning permissions granted for site development or expansion	
	South Lanarkshire: 1 site, 4 pitches
Permanent permissions for site development or expansion granted on appeal	
	Falkirk: 1 site, 2 pitches Perth & Kinross: 1 site, 4 pitches West Lothian: 1 site, 4 pitches
Temporary permissions for site development or expansion granted on appeal	
	Nil
Completed new residential pitches on private sites since 2006 with full planning permission	
	Perth & Kinross: 6 pitches Falkirk: 4 pitches

Completed new transit pitches on private sites since 2006 with full planning permission	
	Nil
Completed new residential pitches on private sites since 2006 with personal or temporary planning permission	
	South Lanarkshire: 4 pitches
Completed new transit pitches on private sites since 2006 with personal or temporary planning permission	
	Nil

Not all these permissions are known to have resulted in completed sites / pitches on the ground as can be seen from Box 7.1. Over the period, two sites (10 pitches) have been completed with full and one site (four pitches) with restricted personal planning permissions. These might be regarded as a net increase in provision since no local authority was aware of any loss of private Gypsy Traveller sites in their area⁴. However, the response from Perth & Kinross suggests that this conclusion may perhaps be over-optimistic since it draws attention to the fact that some caravan sites previously available to Scottish Gypsy Travellers may be catering for other groups such as migrant workers thus diminishing accommodation opportunities on sites not specifically designed for Scottish Gypsy Travellers.

Overall change

Looking at both council / RSL and private pitches suggests a decrease in national provision since 2006. The loss of 32 council / RSL pitches is not fully offset by the gain of 14 private pitches. Six council / RSL pitches were in development (but may not represent a total net gain), and a further four private pitches have permission but have not yet been completed. Pipeline developments will not offset the national loss over the period.

There has been a small qualitative change over the period since the development of small / family sites through the planning system has increased the diversity of overall provision. Some council / RSL pitch loss was associated with site improvements.

⁴ The apparent transfer of pitches from the private sector to the council / RSL sector in Perth & Kinross was not identified as a private pitch loss in the response.

8. COUNCIL / RSL SITE QUALITY AND GYPSY / TRAVELLER SITES GRANT

The Count of Gypsies / Travellers in Scotland for July 2008 (Craigforth, 2009) showed a total of 32 council / Registered Social Landlord (RSL) sites, three of which are seasonal and operate in summer only. Together they provided 499 pitches. Eight local authorities (accounting for 25 per cent) do not have a site.

All but four respondents to the survey (East Ayrshire, East Renfrewshire, Eilean Siar and Renfrewshire) had at least one council / RSL site (85 per cent). Seventeen responding authorities have a single site, two (South Lanarkshire and Dumfries & Galloway) have two, and three (Argyll & Bute, Fife and Highland) have three. Authorities with sites were asked about any concerns they have with the quality of those sites and about their occupancy. All authorities were asked about applications made for Gypsy / Traveller Sites Grant for site upgrading and / or development. Site quality is obviously an area where perceptions differ. It must be stressed again that this report looks at local authority perceptions only, and not those of Scottish Gypsy Travellers.

Concerns over quality of council / RSL sites

The survey asked about concerns respondents have over five aspects of quality of their council / RSL sites. Most respondents gave some comments under each heading, sometimes describing the site, sometimes saying that there had been a concern since remedied. Some answers were slightly ambiguous as to whether or not concern was being expressed – for example from West Dunbartonshire under the heading **neighbouring land uses and environment**: ‘The site is adjacent to a scrap yard and farm land’. A certain amount of interpretation has been made to produce the summary incidence of concerns shown in Table 8.1. As noted above, these are answers from landlords / site managers rather than residents.

The table shows that concerns over **physical condition / state of repair** are most prevalent. Concerns were expressed in different ways and levels of detail, but the answer from East Lothian is fairly typical: ‘The site now requires to be upgraded as a result of inappropriate, unsuitable and outdated facilities and general wear and tear’. In some instances, damage was said to be the result of vandalism as well as wear and tear.

Concerns over **site management issues** were next in frequency. There were two themes here: feuds between families and repeated fly tipping.

Concern	Number of local authorities (LAs)	% of LAs with a site
Physical condition / state of repair	9	41
Site layout or design	2	9
Site location /access to services	4	18
Neighbouring land uses and environment	4	18
Site management issues	6	27
Number of concerns		
None	6	27
One	11	50
Two	1	5
Three	2	9
Four	2	9

Fewer than one respondent in five identified concerns with **site location / access to services** and **neighbouring land uses and environment**. The following answers illustrate the very varied sorts of concern being expressed:

‘Set in a rural village access to services etc can be an issue.’ (Scottish Borders)

‘The site is surrounded on three sides by a river. When the river is in spate, the site is more susceptible to flooding, with four floods in the past three years. An application was submitted in October 2008 to the Scottish Government for funding to rebuild protective embankments, however this was refused due to an over-subscription to the fund. As such, the local authority is currently investigating alternative flood defence mechanisms.’ (South Ayrshire)

‘The site is bounded by commercial land, public open space and a public non-vehicular access way separates it from the seashore. Some Travellers have previously expressed concerns about privacy.’
(Aberdeenshire)

‘Location of current site may present some issues due to fraught relationships with neighbouring communities following repeat vandalism of the site.’ (North Lanarkshire)

Only two respondents expressed concern about **site layout or design**, and these were not very specific.

Several respondents took the opportunity to make positive rather than negative comments about their sites. The examples in Box 8.1 illustrate some of the considerable positives within the current stock of sites.

Box 8.1: Examples of Positive Comments Made about Council / RSL Sites	
Physical condition / state of repair	
	‘Excellent. Fully modernised in 2008.’ (Angus)
	‘Investment in upgraded amenity blocks was completed in 2006/07 and the Needs Assessment in 2007 highlighted positive feedback from residents in respect of quality and involvement.’ (Argyll & Bute)
	‘The current local authority site has recently been refurbished and provides 20, 3 bed roomed chalets for residents. All are in a good state of repair.’ (Perth & Kinross)
Site layout or design	
	‘There are 18 pitches each with an amenity unit which has a kitchen, bathroom and storage area. There is room on the pitch for 2 caravans and a vehicle for towing. There is a children’s play park with play equipment. A portacabin has been installed for use by tenants, Social Work, Health, Education, Police and other social groups. There is also a toddlers playgroup.’ (Fife)
	‘Residents on the site are very pleased with the site layout and design.’ (South Ayrshire)
Site location / access to services	
	‘Doctors, dentists, school, public transport are all accessible. Extra

	services such as Library, Police, and Health all operate from the site using the Community facility.’ (Falkirk)
	‘The site is located just outside the small town of Bathgate, West Lothian. It is located in a nice setting surrounded by woodlands. Bathgate has everything you would possibly need to live within a local community with a good range of shops, education, leisure and work opportunities.’ (West Lothian)
Neighbouring land uses and environment	
	‘The Torlochan site is well situated with no significant environmental issues or problems arising from neighbouring land use. The area is rural in nature but also adjoins a small Business Park.’ (Argyll & Bute)
	‘Idyllic setting.’ (Scottish Borders)
Site management issues	
	‘There is a published charter for the management of the site. A site manager is based on the site Monday through Friday 9am until 5pm. All new arrivals are issued with a welcome pack listing all services and telephone numbers. The manager is supported by the out of hour’s service.’ (Falkirk)
	‘None – our Site Manager produces a monthly newsletter to advise residents of issues on the site or to highlight new health, literacy or educational resources being arranged. Feedback is regularly received from residents, which is then used to improve policies and procedures. In June 2008, steps were taken to provide greater rights to the tenancy by improving opportunities to succeed and assign the tenancy at the request of residents.’ (South Ayrshire)

The second part of Table 8.1 shows the number of concerns about site quality expressed by each respondent local authority with a council / RSL site. A minority (27 per cent) expressed no concerns on any aspect of the quality of council / RSL sites in their area. Just half expressed a single concern only. The more problematic sites with more than one concern are:

- 4 concerns: Glasgow and North Lanarkshire; both these sites are either unoccupied or closed.
- 3 concerns: Argyll & Bute and Highland; each of these authorities has three sites and the concerns expressed do not focus on a single site.
- 2 concerns: Edinburgh and West Dunbartonshire.

The relatively favourable assessment of council / RSL sites given by local authorities appears to conflict rather with the less favourable comments reported in Chapter 2 (see page 7).

Council / RSL site occupancy

A majority of authorities (13 out of 22, or 59 per cent) reported that there were pitches currently vacant (not let) on a council / RSL site in their area at the time of the survey. Three sites (East Dunbartonshire, Glasgow and North Lanarkshire) were totally vacant or closed. This pattern is similar to that revealed by the July 2008 Caravan Count when 70 per cent of pitches were let, 22 per cent were vacant but available to let and eight per cent were not available to let (Craigforth, 2009).

Because site occupancy is shown to be an issue in Scotland by the Count and needs assessments, our survey asked about reasons for pitches being vacant. This was a prompted question with respondents asked to tick as many of the seven given reasons as appropriate and / or to write in other reasons. In order of importance, the reasons given by the 13 authorities with vacant pitches are:

1. Lack of demand for site places: 7 authorities
2. Catering for a transient population – vacancies are inevitable: 4 authorities
3. Poor physical condition of the pitch or site: 4 authorities
4. Friction / potential friction with other site residents: 4 authorities
5. Pitches held for major repairs or decanting: 3 authorities
6. Between lettings – expect to re-let within a month: 2 authorities
7. Lack of demand for pitches on social rented sites: 2 authorities
8. Vandalism: 1 authority
9. Poor location of site: 0 authority

Lack of demand is clearly the single most significant issue, for council / RSL sites generally. It was mentioned by Argyll & Bute, Dundee, East Lothian, Glasgow, North Ayrshire, Scottish Borders, Stirling and West Lothian. There is little clear geographical pattern. However, if taken together, issues around the appropriateness of sites for Scottish Gypsy Travellers – poor physical condition, friction with other site residents, pitches held for major repairs – are also significant. Eleven authorities cite these as reasons for pitch vacancies.

It is probably the case that low demand is sometimes exacerbated by site condition and / or friction or potential friction between site residents (a point emerging also from the ACPOS response reported in Chapter 4). Of the eight authorities referring to demand issues, three also reported either site condition or friction as reasons. However more generally, there is a clear relationship between pitch vacancies and the number of concerns expressed by respondents. The average number of concerns for authorities with vacant pitches is 1.77, compared with 0.44 for authorities with no pitch vacancies.

When asked about the steps being taken to restore site occupancy rates, several authorities referred to site upgrading or repair programmes. Where vacancies were attributed to turnover or a transient population, no action was being taken. Box 8.2 illustrates some of the more innovative steps being taken by a few authorities. Glasgow’s comments are most pessimistic:

‘In view of the negative experience following partial refurbishment, and of the assessment by Craigforth consultants, we do not think the Rodney Street site can be restored to use unless there is an unexpected upturn in demand.’

This suggests that this site, currently unoccupied, will be lost.

Box 8.2: Examples of Steps being Taken to Restore Site Occupancy Rates	
Argyll & Bute	
	In general, there is only a limited waiting list for the social rented sites in Argyll and Bute. Occupants tend to be fairly settled, long-term residents, usually comprising single, extended families on individual sites. Recently, Argyll Community Housing Association has been pro-actively engaged in promoting site occupancy rates through, for example, posters in local doctor surgeries and other service points used by Gypsies and Travellers. The Association is also considering the use of adverts in the <i>Travellers’ Times</i> . In addition, the association is currently considering the development of a specific Gypsy / Traveller’s policy.
Scottish Borders	
	Refurbishment completed April, 2009 meetings with site management around site management issues etc, meetings to continue.
Stirling	
	<ul style="list-style-type: none"> • Advert in <i>Travellers’ Times</i>.

	<ul style="list-style-type: none"> • Leaflets sent to all other local authority sites in Scotland. • Recent successful bids for funding to improve the amenities available on the site.
West Lothian	
	<ul style="list-style-type: none"> • Upgrading site. • Reviewing policies and procedures. • Developing information / leaflets. • Using Focus Group. • Volunteer consultants.

Gypsy / Traveller Sites Grant

The Gypsy / Traveller Sites Grant has been important in upgrading council / RSL sites. All but one of the site-owning responding authorities (Dumfries & Galloway; no reason given for not applying) has applied for the grant; 86 per cent of the authorities which applied have been successful on at least one application. The great majority of grant-aided work has been completed. In all, 321 pitches across 16 authorities have benefited from grants awarded for site upgrading or refurbishment.

Descriptions of the works carried out with grant aid suggest quite extensive improvement programmes, sometimes spread over several phases. Amenity units have been improved; chalets installed; hardstandings, roadways and fences improved; and play-space and / or community building introduced or extended. Box 8.3 shows examples of both extensive and less extensive works that have been carried out.

Not all the grants awarded were taken up:

‘A funding bid for improvement works was made in 2006 but funding only awarded for a play area. This did not proceed due to opposition from Gypsy / Travellers on-site.’ (East Lothian)

In the great majority of instances (82 per cent), the grant-aided work left the number of pitches unchanged. In two cases (Highland and South Lanarkshire), pitch numbers decreased by six pitches overall. In one case (Perth & Kinross),

pitch numbers for council / RSL sites⁵ increased by six suggesting that the effect was numerically neutral.

Box 8.3: Examples of Upgrading Works Carried out with Gypsy / Traveller Sites Grant	
Dundee	
	There was an extension to the site office and a children's play area which received funding in 2007. In 2008 we received funding to improve 10 utility units, and we have received funding to refurbish the remaining 10 units. Dundee City Council has match funded these grants.
East Dunbartonshire	
	CCTV installed.
Fife	
	Children's play parks with play equipment on each of the 3 sites. Upgrading and insulating and upgrading heating in amenity units. Concreted all pitches, new gates, fencing. Security camera systems, chalets for 2 families with disabled children. Five-aside football / netball court with safety base and floodlights. Portakabins on each site for use by tenants, Social work, education, health, police and other community groups.
Scottish Borders	
	General improvements, hard standing site development, refurbishment to DDA standard.
South Lanarkshire	
	<p><u>Springbank, East Kilbride:</u></p> <p>2009/10:</p> <ul style="list-style-type: none"> ▪ Upgrade of internal facilities within the amenity blocks by refurbishing kitchens and bathrooms including upgrading heating and ventilation, flooring and decoration. ▪ Upgrade bulkhead lighting and replace with low-energy bulkhead security lights. <p>2008/09:</p> <ul style="list-style-type: none"> ▪ Improve the surfaces of the pitches and the drainage of the site. <p>2007/08:</p>

⁵ This scheme appears to have involved transfer of a private site to the council / RSL sector and thus cannot be seen as an overall net gain in pitches.

	<ul style="list-style-type: none"> ▪ Landscaping. <p>2005/06:</p> <ul style="list-style-type: none"> ▪ Installation of new boundary fencing, divisional fencing and gates. <p><u>Swinhill, Larkhall</u></p> <p>2007/08:</p> <ul style="list-style-type: none"> ▪ Resurfacing pitches. ▪ Installation of boundary fencing. ▪ Traffic calming measures. <p>Upgrade work funded from other sources in 2007/08:</p> <ul style="list-style-type: none"> ▪ Upgrade of play area (Changing Places/Regeneration funding). ▪ Formation of Community Centre (funded from various sources). <p>2006/07:</p> <ul style="list-style-type: none"> ▪ Installation of CCTV. ▪ Installation of new timber doors, uPVC windows and canopies. <p>2005/06:</p> <ul style="list-style-type: none"> ▪ Upgrading of amenity blocks comprising renewal of kitchen unit, WC and wash hand basin and upgrade of electrics.
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Grants for new sites

There had been many fewer applications for grants to develop new sites. In all, five authorities had applied (Aberdeen, Fife, Perth & Kinross, Scottish Borders and South Ayrshire), of which three (Fife, Scottish Borders and South Ayrshire) had been successful. However, to date, none of these has resulted in a completed new site. South Ayrshire is planning to provide six transit pitches. In Fife:

‘The search for suitable land has been unsuccessful for different reasons. Either the land was unsafe or the Travelling People did not approve of the area and on some occasions planning permission was not available. A transit site was due to open last year but a mineshaft was identified on the grounds which, because of health and safety, prevented this from happening.’

In Scottish Borders subsequent analysis of demand was said to have shown no real need, and monies were returned.

Lack of evidence of demand was given as the main reason for not applying for the grant by authorities currently without a council / RSL site. Some councils in West Central Scotland referred to inter-authority discussions around possible transit site provision on a shared basis. East Ayrshire suggested that Scottish Gypsy Travellers arriving there might be referred to the proposed transit site in South Ayrshire.

Plans for future grant applications

The majority of respondents (18 local authorities, or 69 per cent) plan to apply for the grant in the next two years, or are considering doing so. The most frequent intention (nine authorities) is to apply to improve or refurbish an existing residential site. Four authorities (Aberdeenshire, Falkirk, Fife and Perth & Kinross) plan to apply for the grant to develop a new transit site. Eight other authorities are considering intentions in the light of needs assessments or are waiting for the position on the future availability of the grant to be clarified. In some instances, inter-authority discussions are taking place.

This suggests that, in future, grant aid may facilitate new site provision. In line with perceived requirements, transit rather than residential sites are likely to be developed.

9. PERCEPTIONS OF PROGRESS, BARRIERS TO SITE PROVISION AND HOW THEY CAN BE OVERCOME

At the beginning of the final section of the questionnaire, authorities were asked to mark themselves out of 10 in terms of how satisfactory their progress has been since the beginning of 2006 on the provision of Gypsy Traveller sites.

Respondents were guaranteed anonymity in order to encourage open answers to this section of the questionnaire. All but three responding authorities replied to the question.

Marks awarded ranged from 2 to 10, with an average of 6.65. This is higher than the average mark (5.1) self-awarded by English authorities in the comparable study (Brown and Niner, 2009). The range was as follows:

2 out of 10: 1 authority
3 out of 10: 1 authority
4 out of 10: 2 authorities
5 out of 10: 3 authorities
6 out of 10: 2 authorities
7 out of 10: 5 authorities
8 out of 10: 5 authorities
9 out of 10: 2 authorities
10 out of 10: 2 authorities

One authority pointed out the difficulties and dangers of making such an assessment, and they spelled out their reasoning:

'We are not sure that this is the most meaningful way for us to measure our progress. It is very subjective and perhaps over-simplified for what is a complex and multifarious issue. Since this is the method we have been presented with, we have given a score of 8. This is based on the following:

- We have participated in research to help us understand the accommodation needs of Gypsy Travellers.
- This research confirms that we have well-managed sites with high levels of occupancy.

- We have made a number of successful applications to the Gypsy / Traveller Sites Grant to improve the sites and facilities.
- We have undertaken a number of significant improvements to the site funded from other sources, including a community centre and play area.
- We have on-site managers who can provide a range of advice and services to residents.
- We have revised our pitch allocation policy, tenancy agreement and application form.
- We are developing our methods of engagement and plan to hold consultation / information sessions on-site in the near future.'

Perhaps not surprisingly in light of the above, there is no simple relationship apparent between marks awarded and indicators of progress explored in this study (assessing needs, having policies, granting planning permission, upgrading sites and so on). Slightly above average marks were awarded by authorities currently preparing local housing strategy or Local Plan policies and thus, presumably, actively considering related issues at present. Authorities with council / Registered Social Landlord (RSL) sites awarded themselves higher marks (average 6.8) than those without (average 5.7). Among those with a council / RSL site, marks were slightly higher where there were no pitches currently vacant (average 6.9) than where pitches were vacant (average 6.7). However, perceptions of progress appear to also reflect local circumstances not revealed in the survey and local expectations. It is clear that much perceived progress relates to improving conditions and management on existing council / RSL sites and not to making additional provision whether in the social or private sectors. There are no indications, of course, as to how local Scottish Gypsy Travellers would grade their local authorities.

Barriers to site provision

Authorities were asked what, in their experience, are the main barriers to provision of Gypsy Traveller sites in their area. All but two authorities gave an answer. Again, responses have been anonymised.

Replies can be grouped into six main categories; several respondents mentioned factors in more than one of these categories.

Numerically most significant were barriers around difficulties in **finding suitable land**, especially for transit sites (mentioned by eight authorities). For example:

'[] City council has very little open space which could be utilised to provide transit sites.'

'The provision of stopover / transit sites. The search has been unsuccessful despite advertising for private landowners and farmers to make land available for rent. The planning department were active in the searches.'

Resistance from local communities and the media contributes to difficulties in finding suitable land (mentioned by five authorities):

'The Council is committed to providing sites for Gypsy / Travellers, however opposition from local communities and the media have been the main barriers.'

An interesting and potent barrier identified is **lack of demand** especially for residential sites (mentioned by four authorities):

'Present provision adequate.'

'Currently, both the Council and the site landlord, believe that the provision of social rented Gypsy / Traveller sites actually exceeds demand across the authority area. The main requirement comes from well-established and long-term settled families who are integrated within the local communities. Qualitative and anecdotal evidence suggests a decline in the level of transient Travellers seeking temporary or seasonal work in [] and consequently there is low demand for existing pitches and no demand for additional provision.'

In some answers a slight distinction appears in that under-occupied existing sites **appears** to make further provision risky:

'Low occupancy rates on Council site means it looks like there is not a need for any more sites / pitches in [].'

'The main barriers experienced in the [] area are:

- Understanding what the identified regional need means in terms of need within the [] Council area.
- Having the confidence that a site(s) provided would be well used. (This is based on past experiences within this and neighbouring authorities.)
- Resource implications given the uncertainty of the two points above.'

Three authorities mentioned barriers related to **finance** for site development. Three authorities mentioned barriers in terms of the **local Gypsy Traveller communities** themselves and their perceived unwillingness to engage with the local authority:

'The site suggested as transit site was rejected by travellers.'

'The principal barrier is the inability to communicate with the Travelling community. They are unwilling to co-operate with the Council and resist any attempts at contact.'

'The main barrier to further development is opposition from the Gypsy / Travellers themselves. The site residents would like chalets – similar to the site in Perth. They are not prepared to consider any other development options.'

Answers from three authorities illustrate barriers presented by **complexity of issues** and doubts around commitment or skills:

'There is a lack of demand for permanent sites. The main demand which could be met in theory is for transit accommodation. However, the experts in the field unanimously advise against providing a transit site which they do not believe is manageable. Hence we continue to see occasional temporary unauthorised encampments, which are managed sensitively.'

'The main barriers can include perceptions by neighbouring communities of the Gypsy Travelling Community; relationship dynamics and tensions

within the Gypsy Travelling Community itself; provision of appropriate site management to enable safe, sustainable sites, and resource implications.'

'Lack of corporate or political buy-in, lack of funding, lack of understanding on the needs and rights of ethnic minority groups specific to the gypsy travellers group, lack of quality in the management standards that currently dictate gypsy traveller provision (authorised) in [], lack of partnership understanding of all of the above.'

Finally, as a contrast to the barrier of low demand, one authority identified a barrier from **localised high demand**:

'The Research pointed to the importance of key sites across the region. The high demand area in [] is at [], which we feel has a level of provision appropriate to the population. While our involvement in the accommodation needs research is clearly positive, there are limitations in applying the housing needs analysis model to the Gypsy Traveller population and difficulty in projecting need based on a very small population. We will continue to work with other Local Authorities to consider the demand and accommodation needs of the Gypsy Traveller communities in the [] region.'

Steps being taken to tackle the barriers

Steps being taken by responding authorities reflect the nature of the barriers identified. Three authorities felt that they had no need of steps because current site provision was adequate. Among positive answers, four main themes emerge:

Gaining **greater understanding of the needs** of the Scottish Gypsy Traveller community. For some authorities, this involves carrying out a needs assessment for the first time; for others, it means refining or developing assessments.

For example:

'The Council, with [] and [] Councils are about to complete an Accommodation Needs of Gypsy / Travellers when it is hoped this will show the true needs.'

‘As above, we will continue to work with other Local Authorities to consider the needs of the Gypsy Traveller communities. Locally we will continue to develop our understanding of accommodation needs.’

The second theme is **reviewing and developing policies, procedures and protocols** including local housing strategies and management policies on existing sites.

The third theme is continuing to **search for suitable land** for sites:

‘The search continues.’

‘The search is continuing. The Travelling People Working Group is committed to finding suitable stopover / transit sites.’

‘Suitability assessments complete on all available land in the region. Consultation and good practice on working with communities for the provision of sites being adopted from English examples. Site design being based on models of good practice and taking account of planning policies. Consultation sessions to take place with existing communities to discuss proposals prior to Planning Application.’

The fourth main theme is developing better **communications and joint working** with other authorities, agencies working with Scottish Gypsy Travellers, and with Scottish Gypsy Traveller communities. For example:

‘Joint discussions with our neighbouring local authorities.’

‘Better partnership working around gypsy travellers and their needs, [], NHS, [] Police Equality and Diversity Departments. Agreed action points specific to partnership priorities and objectives that will tackle some of the issues raised in this questionnaire. Meetings agreed with current site providers around management issues and lack of rent books appropriate lease agreements etc as identified in our independent study of 2008.’

‘Continue to try and engage in dialogue. Work closely with our partners on the Gypsy / Traveller Corporate Forum.’

It is interesting that, of the five authorities referring to resistance from local communities as a barrier to site provision, only two included actions being taken to overcome this. In both instances, the approach appears indirect, beginning with the media and elected members.

‘To work with the media to give a more positive representation of the Gypsy / Travellers’ life style and culture.’

‘Awareness raising with elected members regarding responsibilities in relation to the duty to promote race equality and in assessing and making provision for Gypsy / Travellers.’

A final quote illustrates a comprehensive approach with clearly marked actions towards achieving site provision:

‘Trying to identify sites which would be suitable for transit sites. Bidding for any funds made available by Scottish Government. Researched the aspirations and need for future provision. Formulating policies to be included in Local Development Plans and Local Housing Strategy.’

10. CONCLUDING COMMENTS

In 2000/01 the Scottish Parliament, under the auspices of the Equal Opportunities Committee (EOC), brought the various needs of Scottish Gypsy Travellers up the agenda of public policy in Scotland. This was accompanied by the development of relevant housing policy and legislation, in the form of the Housing (Scotland) Act 2001, and guidance which ensured that Scottish Gypsy Travellers are included in local housing strategies and under the new single regulatory framework. A thematic study carried out by Communities Scotland increased understanding of Gypsy Traveller site planning and management and underlaid an Activity Standard in the regulatory framework. Progress towards meeting the recommendations of the EOC was reviewed in 2005. The following year, in 2006, the Commission for Racial Equality (CRE) published the report *Common Ground: Equality, good race relations and sites for Gypsies and Irish Travellers*, which made a number of recommendations aimed at improving accommodation provision for Gypsies and Travellers across Britain. Three years have now elapsed since the publication of this report, and it is useful to take stock of progress achieved thus far.

What seems clear from this study is that 'progress' is complex and multi-faceted. The situation in Scotland is far more difficult to interpret at this point in time than that in England. The reasons for drawing this conclusion are as follows. Our survey, involving all but six local authorities, has shown that provision of pitches on authorised Gypsy Traveller sites appears to have decreased since 2006, with a net loss of around 18 pitches. Although a number of private pitches have been developed, these have been outweighed by the number of council / Registered Social Landlord (RSL) pitches lost. However, there is currently no way of knowing how closely the number of pitches available matches actual need / demand for pitches because of the lack of quantification of any shortfall (or excess) in many local authority areas and the number of pitches currently unoccupied on council / RSL sites. As a result, it is unclear whether progress has been 'inadequate' – as suggested by the literature reviews in Chapter 2 and the opinions expressed by the Association of Chief Police Officers Scotland (ACPOS) (Chapter 4) – or 'adequate' in that the reduction in pitch numbers reflects actual demand as is suggested by the responses of several local authorities in the survey. The overarching conclusion from this study is that more work needs to be done at both national and local levels in order to better

understand the current use of sites and what need (if any) there is for further site / pitch provision. Further work is required to resolve the apparent lack of consensus between the literature and local authorities about the extent and nature of any shortage of site accommodation in Scotland. It is essential that Scottish Gypsy Travellers, including those currently living in housing and those involved in unauthorised sites, are fully engaged in such research and that their needs, demands and aspirations are taken into account. This is essential to supply the Scottish Gypsy Traveller perspective which is missing from our study and which is vital to the formulation of appropriate and sustainable policies.

Such research must also of course involve, and be owned by, local authorities. Only five local authorities responding to our survey were able to give a quantitative estimate of the number of additional pitches required in the future. Without a clearer view of the accommodation circumstances of Scottish Gypsy Travellers and outstanding issues concerning the number and quality of sites, it will be hard to generate the commitment needed to act. It will be particularly hard – where additional sites are found to be required – to find land and develop sites and / or work with Scottish Gypsy Travellers to help them provide for themselves. Information is an essential first step to action.

There are several other points to note from the findings:

- A distinctive feature, evident from the Caravan Count, is the extent of seasonal travelling in Scotland and associated unauthorised encampments, especially in summer. Local authorities appear to anticipate the development of transit sites as opposed to sites for residential use. In this context, and mirroring the view expressed by the CRE in 2006 (see page 7), transit sites can be seen as the main obvious provision priority. At the same time, concerns have been expressed about the design and management of transit sites. Local authorities might welcome guidance on these issues to reassure them that transit sites are feasible and likely to be effective in reducing unauthorised encampment.
- An aspect of 'progress' by local authorities considered briefly in this study is the quality of council / RSL sites. There has been significant investment in site upgrading with the support of the Gypsy / Traveller Sites Grant, and several authorities would make further bids if the grant continues. There are clearly a few sites with serious and multiple problems, and apparent lack of demand

(certainly for the sites in their current condition). Apart from these extreme cases, local authority respondents to the survey were generally quite confident about the location, design and quality of their sites. This appears to be somewhat at variance with reports referred to in Chapter 2, and there may be some divergence of perception as to the extent and nature of priority issues. This is another where the views of Scottish Gypsy Travellers are essential.

- The Caravan Count (Chapter 3) shows the relatively overwhelming importance of council / RSL sites within authorised pitch provision at present. In addition to any concerns over quality, there is perhaps an issue around relative lack of choice for Scottish Gypsy Travellers. While not quantified, several needs assessments noted a desire for small family private sites to be developed. Another aspect of lack of choice relates to site size; the great majority of council / RSL pitches are provided on sites with 15 or more pitches. Again, softer information from needs assessments suggests a desire for smaller sites which can provide variety and flexibility, and run less risk of having to accommodate incompatible families.
- The emphasis in this report, and in the needs assessments undertaken to date, is on Gypsy Traveller sites, and Scottish Gypsy Travellers who live on sites. Local authority initiatives to involve Scottish Gypsy Travellers appear to focus predominantly on site residents too. However, while numbers are unknown, it is likely that the majority of Gypsy Travellers in Scotland live in bricks and mortar housing. There is a need to engage more fully with Scottish Gypsy Travellers in housing as well as on sites if the community's needs are to be met.
- Finally it is clear that, where additional sites are needed, it is difficult to find suitable land for their development. A major factor in this is resistance by local settled communities to site development. There is still hostility and fear, often based on stereotype and ignorance, to the idea of site development and this can put pressure on officers and elected members in a planning system which involves public consultation and where councillors can lose their seats. Overcoming this barrier will be very important in future. Local authorities should be reminded of their general duty to promote equality of opportunity and good relations between people from different racial groups. The Scottish Government has a role in line with their Race Equality Scheme and Statement. Countering stereotype and ignorance of Scottish Gypsy Travellers is an area where the Equality and Human Rights Commission can also take a lead.

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APPENDIX 1: THE SURVEY METHODOLOGY

The local authority survey was the main source of primary information for the research and the findings are fully presented in this report in Chapters 5 to 9.

A questionnaire was developed, with the involvement of the Equality and Human Rights Commission (the Commission). The starting point was a recent study in England which looked at progress on needs assessment and pitch provision (Brown and Niner, 2009); the questionnaire used there was tailored to local circumstances and the policy framework in Scotland. The questionnaire has sections on:

- Assessing the accommodation needs of Gypsies and Travellers, needs identified, and specific policies / actions in local housing strategies aimed at providing or facilitating the provision of accommodation for Gypsies and Travellers.
- Policies relating to Gypsy and Traveller sites in Development Plans, and involvement of Gypsy and Traveller communities.
- Council / Registered Social Landlord (RSL) site provision and private site provision facilitated by the planning system.
- Views on the quality of council / RSL sites in the area and site occupancy.
- Gypsy / Traveller Sites Grant applications and plans.
- An assessment of local progress.
- Reported barriers to moving forward with site provision.

A copy of the questionnaire and the covering letter used are presented in Appendices 2 and 3.

In the great majority of cases (all but three authorities), the letter and questionnaire were sent by email to the officer thought to take the lead on Gypsy and Traveller issues. This contact point was established from pre-existing information held by the researchers and the Commission, and from telephone calls made to local authorities where such information was lacking. A copy of the letter, but not the questionnaire, was sent to Chief Executives for information which led to further requests for the questionnaire to be sent electronically.

The questionnaire was sent out on 26 March, with an initial deadline for return of 17 April 2009. In order to achieve as high a response rate as possible, the deadline was extended several times to facilitate chasing by the researchers and Commission. The final cut-off point for the receipt of completed questionnaires was 10 July 2009.

Response rate

Questionnaires were sent to all 32 local authorities; 26 were completed and returned – a response rate of 81 per cent. Table A1.1 shows which authorities responded.

Aberdeen City	Yes
Aberdeenshire	Yes
Angus	Yes
Argyll & Bute	Yes
Clackmannanshire	Received after final deadline; not included in analysis
Dumfries & Galloway	Yes
Dundee City	Yes
East Ayrshire	Yes
East Dunbartonshire	Yes
East Lothian	Yes
East Renfrewshire	Yes
Edinburgh City	Yes
Eilean Siar	Yes
Falkirk	Yes
Fife	Yes
Glasgow City	Yes
Highland	Yes
Inverclyde	No
Midlothian	No
Moray	No
North Ayrshire	Yes
North Lanarkshire	Yes
Orkney Islands	No
Perth & Kinross	Yes
Renfrewshire	Yes
Scottish Borders	Yes
Shetland Islands	No
South Ayrshire	Yes
South Lanarkshire	Yes
Stirling	Yes
West Dunbartonshire	Yes
West Lothian	Yes

In order to give an impression of geographical representativeness, Table A1.2 expresses the response in terms of Communities Scotland (as was) area offices.

Area office	Number of LAs	Response	% response
Glasgow	1	1	100
Grampian	3	2	67
Highland and Islands	4	2	50
Lothian, Borders and Fife	6	5	83
Argyll and Clyde	6	5	83
South West Scotland	6	6	100
Tayside and Forth Valley	6	5	83
Total	32	26	81

APPENDIX 2: COVERING LETTER FOR THE SURVEY

******EHRC HEADED PAPER******

26th March 2009

Dear Colleague

Research into Scottish Local Authority Accommodation Provision for Gypsies and Travellers – questionnaire for completion by 17 April

The Equality and Human Rights Commission Scotland has commissioned a team of researchers from the University of Salford, University of Birmingham and Heriot-Watt University to investigate Scottish Local Authority provision of accommodation for Gypsies and Travellers.

We are keen to gather this information in order to build a comprehensive picture of the Local Authority accommodation and progress towards increasing provision of accommodation for Gypsies and Travellers across Scotland. We also anticipate that the report may inform our discussions with the Scottish Government about its strategy for Scottish Gypsy Travellers, bearing in mind the commitments set out in the Scottish Government's Race Equality Statement.

This is an important study that will play a significant role in informing the work of the Commission. It represents the first co-ordinated attempt to investigate accommodation provision for Gypsies and Travellers nationally in Scotland.

We are keen to encourage a high response rate to ensure that the analysis and assessment undertaken by the researchers is as comprehensive as possible. By completing this questionnaire, you will be providing us with important information that will ensure that this research is informed by data from as many Local Authorities in Scotland as possible.

Included with this letter you will find a short questionnaire from the research team, together with details of how to complete and return it.

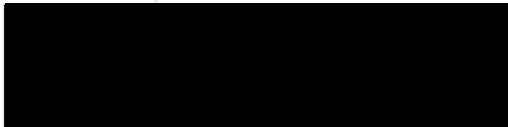
We would be very grateful if you could return the attached questionnaire to Pat Niner p.m.niner@bham.ac.uk at the University of Birmingham by **17 April 2009**.

The results of the survey will be analysed by the research team. The Commission will then publish the research results in a Commission research report. All local authorities in Scotland are being invited to take part in this research.

The EHRC Scotland Directorate contact for this work is Dr Suzi Macpherson. Please contact her on 0141 228 5948 if you need further information about this project.

Thank you in advance for your co-operation in assisting us with this important work, which we hope will help us to support and inform policy and funding decisions at both Scottish Government and Local Authority levels.

Yours sincerely

A solid black rectangular box redacting the signature of Ros Micklem.

Ros Micklem
National Director Scotland

cc Chief Executive (issued with letter only)

APPENDIX 3: QUESTIONNAIRE TO LOCAL AUTHORITIES

UNIVERSITY OF BIRMINGHAM

EQUALITY AND HUMAN RIGHTS COMMISSION MONITORING PROGRESS IN MEETING GYPSY / TRAVELLER ACCOMMODATION NEEDS

The Equality and Human Rights Commission (EHRC) wishes to assess the progress that local authorities in Scotland have made in assessing and meeting the accommodation needs of Gypsies / Travellers. This survey forms an important part of the research evidence.

Details of how to complete the questionnaire are given on the next page. Please complete and return it by **Friday 17 April 2009**. Please return it by e-mail to P.M.Niner@bham.ac.uk or in hard copy by post to:

Pat Niner Centre for Urban and Regional Studies University of Birmingham Edgbaston Birmingham B15 2TT
--

If you have any queries about completing the questionnaire, please contact Pat Niner (P.M.Niner@bham.ac.uk and 0121 414 5024) or Phil Brown (P.Brown@salford.ac.uk and 0161 295 3647)

Local authority	
Contact name	
Telephone number	
E-mail address	

**EQUALITY AND HUMAN RIGHTS COMMISSION
MONITORING PROGRESS IN MEETING GYPSY / TRAVELLER
ACCOMMODATION NEEDS**

INTRODUCTION AND INSTRUCTIONS

This questionnaire survey is an important element of research commissioned by the Equality and Human Rights Commission (EHRC) to monitor local authority progress in assessing and meeting the culturally-specific accommodation needs of Gypsies / Travellers.

The focus of the survey is provision of caravan sites / pitches for **Gypsies / Travellers** as defined for policy purposes in Scotland, excluding New Travellers and Travelling Showpeople.

The questionnaire is being sent to all local authorities in Scotland. Information provided in the questionnaire will be analysed, along with any available material from secondary sources including accommodation needs assessments and the Twice-yearly Count of Gypsies / Travellers in Scotland, at individual local authority level. **This will be reported to the EHRC and may appear in published reports. The EHRC will be informed which authorities have responded and not responded to the survey and a list may be published in the final report.**

In order to better understand the current position, some opinion information is requested in Section F. **Answers to these questions (Section F only) will be reported on a non-attributed basis only and the anonymity of responding authorities will be maintained.**

We have tried to keep the questionnaire as short as possible. For clarity, it is divided into sections:

- A. Gypsy / Traveller Accommodation Assessments and Local Housing Strategies
- B. Gypsy / Traveller Sites and Planning
- C. Progress on Pitch Provision
- D. Social Site Quality
- E. Gypsy / Traveller Sites Grant
- F. Views and Comments

We recognise that it may be necessary to involve planning, housing and Gypsy / Traveller officers in completing the survey.

Instructions about how to complete the questionnaire are normally in ***bold and italics***. There may be questions where the options given for answers do not adequately express your views – in such cases please write in to provide a more appropriate answer or to explain the answer you have given. Most of the questions ask for a box to be ticked – if completing this electronically use an X in the box if that is easier. Where there is a write-in answer, please provide as long an answer as you wish.

A. Gypsy / Traveller Accommodation Assessments and Local Housing Strategies

This Section asks about the assessment of accommodation needs of Gypsies / Travellers, including the extent and nature of any requirements identified. It also asks about Gypsy / Traveller policies in the Local Housing Strategy

'Local authorities are to consider the needs of all Gypsies and Travellers for appropriate accommodation within their housing need and demand assessment and take these into account in preparing their local housing strategies' (Scottish Planning Policy 3 *Planning for Homes*, 2008, para 83)

A1. Have the accommodation needs of Gypsies / Travellers been assessed in your local authority? ***Please tick one box***

Yes		<i>Go to A4</i>
No but assessment is in progress		<i>Go to A3</i>
No		<i>Go to A2</i>

A2. Why has no assessment been undertaken? ***Please write in then skip to A10***

A3. Please give details of the expected completion date and the geographical area covered by your assessment. ***Please write in then skip to A10***

Expected completion date :

Geographical area covered :

A4. Please give details of your assessment. ***Please write in***

Completion date :

Geographical area covered :

Please provide a copy of the report, or give a link for internet access

A5. Does the assessment provide a numerical estimate of pitch requirements for your local authority? ***Please tick one box***

Yes		<i>Go to A6</i>
No		<i>Go to A10</i>

A6. How many additional pitches does your authority need to provide / allocate in the first five year planning period (e.g. 2006-2011)? Please distinguish between pitches for residential (permanent) use and transit pitches or stopping places. **Note : In this section and throughout the questionnaire a 'pitch' means the area of a site occupied by a single family – broadly equivalent to a dwelling-house.**

Type of pitch	Pitches required (enter number)	Don't know (please tick)
Residential (permanent)		
Transit or stopping place		

A7. How are these requirements split between social (local authority or registered social landlord) and private provision?

Tenure of provision	Requirements (enter number or proportion)	Don't know (please tick)
Social provision		
Private provision		

A8. Will the identified shortfalls be met during the first five year planning period (e.g. by 2011)? **Please tick one box**

Yes – certainly		Go to A10
Yes – probably		Go to A10
No – unlikely		Go to A9
No – certainly		Go to A9

A9. Why not? When will the identified shortfalls be met? **Please write in**

A10. Is there a specific policy or action in your authority's Local Housing Strategy aimed at providing or facilitating the provision of accommodation for Gypsies and Travellers? **Please tick one box**

Yes		Go to A11
In preparation – please give estimated completion date below		Go to B1
No		Go to A12

A11. Please provide a copy of the Local Housing Strategy, or give a link for internet access **Now go to B1**

A12. Why not? **Please write in**

B. Gypsy / Traveller Sites and Planning

This Section asks about land use planning policies towards Gypsy / Traveller caravan sites, and the involvement of Gypsies / Travellers in decisions about sites.

'Planning authorities should identify suitable locations for sites for Gypsies and Travellers and set out policies for dealing with planning applications for small privately-owned sites. Planning authorities should ensure that Gypsy and Traveller communities are involved in decisions about sites for their use.' (Scottish Planning Policy 3 *Planning for Homes*, 2008, para 83)

B1. Does your authority's approved Development Plan include a specific policy relating to the provision of Gypsy / Traveller caravan sites? ***Please tick one box***

Yes		<i>Go to B2</i>
In preparation – please give estimated completion date:		<i>Go to B4</i>
No		<i>Go to B3</i>

B2. Please provide a copy of the Policy, or give a link for internet access ***Now go to B4***

B3. Why not? ***Please write in***

B4. Has your authority identified suitable locations for sites for Gypsies and Travellers? ***Please tick one box***

Yes		<i>Go to B6</i>
Actively working towards identifying suitable locations		<i>Go to B6</i>
No		<i>Go to B5</i>

B5. Why not? ***Please write in***

B6. Does your authority have policies for dealing with planning applications for small privately-owned sites for Gypsies and Travellers?

Yes		Go to B7
Actively working towards developing policies		Go to B9
No		Go to B8

B7. Please provide a copy of the policies, or give a link for internet access **Now go to B9**

B8. Why not? **Please write in**

B9. Please outline the steps taken by your local authority to involve Gypsy and Traveller communities in decisions about sites for their use. **Please write in**

C. Progress on Pitch Provision

This Section asks about sites and pitches developed or lost since the beginning of 2006. It includes social Gypsy / Traveller sites (local authority and registered social landlord) and private sites.

C1. How many **new** pitches have been provided on **social Gypsy / Traveller sites** (local authority and registered social landlord) in your authority area since the beginning of 2006? How many pitches on social Gypsy / Traveller sites which were closed at the start of the period have been re-opened? Please enter the number of pitches in the appropriate cell in the grid below.

If none have been provided / re-opened please tick here and leave the grid blank

None	
------	--

Please enter number of pitches affected

Type of pitch	In the planning process	In development (being built)	Work complete and let / ready to let
Residential: new site			
Residential : expanded site			
Residential : existing pitch re-opened			
Transit : new site			
Transit : expanded site			
Transit : existing pitch re-opened			

C2. How many pitches on **social Gypsy / Traveller sites** have closed or otherwise ceased to be available since the beginning of 2006, and are closed / unavailable now? How many pitches on social Gypsy / Traveller sites have been sold or transferred from social ownership since the beginning of 2006 but remain available for use by Gypsies / Travellers?

If none have been closed / lost / transferred please tick here and leave the grid blank and go to C4

None	
------	--

Please enter number of pitches affected

	Residential pitches	Transit pitches
Pitches closed / ceased to be available		
Pitches sold / transferred still available for use by Gypsies and Travellers		

C3. What were the reasons for pitch closure / loss / transfer? **Please write in**

C4. Please complete the grid below to provide information on the number of sites and pitches involved in planning applications and approvals relating to **private Gypsy / Traveller sites** since the beginning of 2006.

Please enter numbers

	Number of sites	Number of pitches
Planning applications received for site development or expansion		
Applications received to renew temporary planning permissions		
Permanent planning permissions granted for site development or expansion		
Temporary planning permissions granted for site development or expansion		
Permanent permissions for site development or expansion granted on appeal		
Temporary permissions for site development or expansion granted on appeal		

C5. How many pitches with permanent planning permission on **private Gypsy / Traveller sites** have been completed (occupied or ready for occupation) in your area since the beginning of 2006? Please include any previously unauthorised private pitches granted permanent planning permission during the period.

Type of pitch	Pitches (<i>enter number</i>)	Don't know (<i>please tick</i>)
Residential (permanent)		
Transit or stopping place		

C6. How many pitches with temporary planning permission on **private Gypsy / Traveller sites** have been completed (occupied or ready for occupation) in your area since the beginning of 2006? Please include any previously unauthorised private pitches granted temporary planning permission during the period.

Type of pitch	Pitches (<i>enter number</i>)	Don't know (<i>please tick</i>)
Residential (permanent)		
Transit or stopping place		

C7. Have any pitches on **authorised private Gypsy / Traveller sites** (i.e. with planning permission) closed or otherwise ceased to be available for use by Gypsies / Travellers since the beginning of 2006? **Please tick one box**

Yes		Go to C8
No		Go to D1
Don't know		Go to D1

C8. How many pitches have been lost?

Type of pitch	Pitches (enter number)	Don't know (please tick)
Residential (permanent)		
Transit or stopping place		

C9. Please give the background (as you understand it) to the loss of authorised private pitches for use by Gypsies / Travellers (e.g. site transferred to mobile home use or migrant workers; land sold for housing). **Please write in**

D. Social Site Quality

This Section asks about concerns about the quality of any social Gypsy / Traveller site in your area, and about pitch vacancies on social sites.

D1. Is there one or more social (local authority or registered social landlord) Gypsy / Traveller site in your area? ***Please tick one box***

Yes		<i>Go to D2</i>
No		<i>Go to E1</i>

D2. Please describe any significant outstanding concerns over the quality of any social Gypsy and Traveller sites in your area. ***Please write in in the grid below; if there is more than one site in your area, please repeat the grid for each site.***

Physical condition/ state of repair	
Site layout or design	
Site location/access to services etc	
Neighbouring land uses and environment	
Site management issues	
Other	

D3. Are any pitches currently vacant (not let rather than vacant because the occupier is travelling) on a social site in your area?

Yes		Go to D4
No		Go to E1

D4. What are the main reasons for pitches being vacant? **Please tick all that apply**

Catering for a transient population – vacancies are inevitable	
Between lettings – expect to re-let within a month	
Lack of demand for site places	
Lack of demand for pitches on social rented sites	
Poor physical condition of the pitch or site	
Poor location of the site	
Friction / potential friction with other site residents	
Other – please write in:	

D5. What steps is your authority taking to restore site occupancy rates? **Please write in**

E. Gypsy / Traveller Sites Grant

This Section asks about applications made for Gypsy / Traveller Sites Grant by your authority for refurbishment and new site development. It also asks about Grants received.

Gypsy / Traveller Sites Grant has been available since 2005/06. It is currently available for either developing new transit and residential sites or for improving existing sites.

E1. Has your authority, at any time, submitted an application for Gypsy / Traveller Sites Grant?

Yes		Go to E2
No		Go to E3

E2. Why has no application been made? ***Please write in, then skip to E11***

E3. Has your authority, at any time, made an application for Gypsy / Traveller Sites Grant to improve / refurbish and existing site?

Yes		Go to E4
No		Go to E8

E4. Was the application successful?

Yes		Go to E5
No		Go to E8

E5. What improvement / refurbishment works were undertaken? ***Please write in***

E6. Did the work involve any change in the number of pitches available on the site?
Please tick one box and write in the number of pitches involved if appropriate

		No. pitches
Pitch numbers increased		
Pitch numbers remained same		
Pitch numbers decreased		

E7. How many pitches, in all, have benefited from Grant awarded for site improvement or refurbishment?

Number	
--------	--

E8. Has your authority, at any time, made an application for Gypsy / Traveller Sites Grant to develop a new site?

Yes		Go to E9
No		Go to E11

E9. Was the application successful?

Yes		Go to E10
No		Go to E11

E10. How many pitches have been or will be created through Grant-aided site development? **Please complete the grid below**

Type of pitch	New pitches opened	New pitches planned
Residential		
Transit		

E11. Does your authority plan to apply for Gypsy / Traveller Sites Grant in the next 2 years? **Please tick as many boxes as required**

To develop a new residential site	
To develop a new transit site	
To improve / refurbish an existing residential site	
To improve / refurbish an existing transit site	
Other – please write in:	

F. Views and Comments

This Section asks about your views on progress on provision of Gypsy / Traveller sites in your area and perceived barriers to provision. Any answers provided in this Section will be treated as confidential to the research team and reported only in a generalised, non-attributed manner

F1. In your view, has your authority made satisfactory progress since the beginning of 2006 on the provision of Gypsy / Traveller sites? Please give your authority a mark out of 10, where 1 is not satisfactory and 10 is highly satisfactory.

	Mark out of 10
Authority's progress	

F2. In your experience, what are the main barriers to provision of Gypsy / Traveller sites in your area? ***Please write in***

F3. What steps are being taken by your local authority to tackle these? ***Please write in***

F4. Any other comments you would like to make about Gypsy / Traveller site requirements and/or provision. ***Please write in***

THANK YOU VERY MUCH

APPENDIX 4: POLICING ISSUES – FULL RESPONSE

1. What in your view are the main issues in relation to Scottish Gypsy Traveller (SGT) accommodation in Scotland?	
Association of Chief Police Officers Scotland (ACPOS)	<p>The main issue in relation to site provision is the loss of traditional sites used by Gypsy and Travellers, often for the development of retail / business parks. This, combined with a lack of provided pitches on Authorised sites and the absence of Interim or Stopover site by Local Authorities, leads to the necessity for Gypsy and Travellers to establish unauthorised encampments. This in turn brings the GT community into conflict with the settled community, agencies and the Police none of which enhances relationships.</p> <p>Further, there are significant levels of harassment, intimidation and violence between different family groups within the Gypsy Traveller community often meaning that many families will flee from authorised sites as a result of threats received, whereby there are a number of vacant sites in Scotland.</p> <p>The absence of definitive guidance, which places a mandatory imposition on Local Authorities to provide accommodation means that there is an inconsistent approach across Scotland. The existing Guidance from the then Scottish Executive owes its origins to work conducted in 2004 and requires to be updated.</p>
Ian Taggart (IT)	Lack of available and appropriate sites.
2. In your view, has the SGT accommodation situation in Scotland improved or become worse over the past few years? Please give a reason for your answer.	
ACPOS	It was the opinion of the members that the status quo prevails and that there has been no discernible difference in recent years in terms of accommodation provision. This picture is however somewhat distorted by the fact that there have been significant tensions between Irish / English Gypsy Travellers and Scottish Gypsy Travellers, causing vacancies within the recognised encampments. In addition, the long term imprisonment of a significant number of members from a specific family group, has caused significant power struggles and inter-family feuds again causing vacancies in recognised encampments.
IT	<p>Accommodation has become worse with a reduction in available sites.</p> <p>For national figures see The Scottish Executive. <i>Gypsies/Travellers in Scotland. The Twice Yearly Count, January 2007.</i> (The Scottish Executive, Edinburgh 2007).</p>
3. What, in your view, are the main explanations for 22 per cent of SGT households staying on unauthorised sites across Scotland?	
ACPOS	The key reasons identified in relation to the continued use of unauthorised sites were the lack of adequate site provision, intimidation within peer group and the affordability of permanent site pitches.
IT	<p>Lack of appropriate accommodation and in the case of Aberdeen, at the time of my research, the condition of the site.</p> <p>Additionally it was evident there is a substantial number of Travellers (34 per</p>

	cent of interviewees) did not use private or local authority sites and did not intend doing so for various reasons.
4. Do unauthorised encampments have an impact on the local area? In what way?	
ACPOS	Given the previous comment that many of the traditional sites have been developed into commercial parks, there are frequent tensions / conflict between both parties. Invariably, such issues are picked upon by the media and a significant level of negative press is published, which heightens tensions further. This can on occasions manifest itself in hate related types crimes and incidents towards the Gypsy Traveller Community.
IT	Yes. Inevitably there is increased inter-community tension that is undoubtedly the reason for increased prejudice towards Travellers leading to racially motivated incidents in many occasions. Increasingly environmental issues, surrounding waste originating in encampments, fuel this tension. Whilst there are occasional instances of fly tipping by the settled community around these encampments the majority originates with Travellers. Despite the provision of minimal services to these encampments in Aberdeen I was informed by word of mouth recently that when originally provided several years ago cleanups occurred in approximately 10 per cent of cases however this figure has risen to approximately 90 per cent. During my research on large encampments, Travellers often advised me that a few identified families were responsible for this on each encampment. These issues result in stereotyping with resolution lying with Travellers themselves.
5. Can the number of unauthorised encampments be reduced? If so, what in your view is the most effective means to achieve this? If not, why not?	
ACPOS	This particular issue has been of some concern to ACPOS members for a considerable period of time. Given the circumstances outlined in question 1, members were unsure that there is a readily identifiable solution. Issues proposed but not progressed, included UK-wide legislation, greater accountability imposed on Local Authorities and the introduction of more effective partnerships.
IT	Introducing appropriate planning and management techniques can reduce them. It however remains the case that a substantial number of Travellers will continue to use unauthorised encampment however this can be managed. (See Taggart, I., <i>Gypsy Travellers – A Policing Strategy: “Why don’t you just move them on?”</i> (2003).
6. What in your view encourages good relations between SGT and Travellers and non-SGT?	
ACPOS	A difficult question for the Police, given that in many instances they are called upon to address unauthorised encampments in the absence of a Local Authority representative or in circumstances where dialogue has failed and matters have escalated to the extent that Police intervention is necessary. There are many aspects of social cohesion, which may be more effectively delivered by the key partners within Local Authority structures.
IT	Awareness raising regarding Traveller culture, equalities and human rights issues.

	There is also an onus on Travellers themselves to understand the settled communities' concerns and understand these. It is a two-way street effectively however at present the relationship between the settled community and Travellers is very strained to almost non-existent in some areas.
7. Are there challenges you face when dealing with SGT? If so, what are these and how are these challenges managed?	
ACPOS	The main challenge faced by the Police is that of a lack of trust on the part of the Gypsy Traveller community. The appointment of Local Police Liaison Officers has done much to improve that relationship, whilst regular engagement is necessary if the relationship is to be developed. The production of various advisory materials has proved beneficial, however the itinerant nature of the Gypsy and Traveller Community means that in reality there is little time to develop the relationship. Furthermore, the absence of any truly representative national group on behalf of Gypsy and Travellers is a barrier to developing informed policies and strategies which reflect the needs of the community.
IT	Personally I have had few problems if any in dealing with Travellers. Whilst commonly described as a hard to reach community, my experience has, in the great majority of cases, been very positive. I have concluded that it is the case that those that should engage with Travellers find it hard to reach out to them. It is however apparent that Travellers resist engagement with public bodies as they have a lack of confidence in any positive outcomes. This can be overcome.
8. What is your view of the role residents' groups play in managing community relations where there are SGT on authorised or unauthorised sites?	
ACPOS	The experiences related across Scotland are invariably negative, with a significant element of 'not in my back yard' being expressed by community groups and Elected members. The media invariably pick up on the political aspects surrounding environmental / pollution and the associated cleaning up costs.
IT	In my experience I have found residents groups to be very difficult to deal with regarding issues surrounding Travellers as they invariably take cognisance of the majority viewpoint taking little or no interest in Travellers issues. Some in the North East have actively engaged in anti-Traveller activities.
9. Are you aware of any leadership strategies being used to manage and promote good relations between SGT and long term resident communities?	
ACPOS	Presently ACPOS are about to launch their revised Equality and Diversity Strategy for Scotland of which a key component is effective community engagement and the development of effective networks with Gypsy and Travellers.
IT	The current ACPOS strategy on unauthorised encampment is holistic in nature and has been implemented fully in the North East of Scotland. It is undoubtedly resulted in improved Police / Traveller relations in this area.

Contacts

England

Equality and Human Rights Commission Helpline
FREEPOST RRL- GHUX-CTR
Arndale House, Arndale Centre, Manchester M4 3AQ

Main number 0845 604 6610
Textphone 0845 604 6620
Fax 0845 604 6630

Scotland

Equality and Human Rights Commission Helpline
FREEPOST RSAB-YJEJ-EXUJ
The Optima Building, 58 Robertson Street, Glasgow G2 8DU

Main number 0845 604 5510
Textphone 0845 604 5520
Fax 0845 604 5530

Wales

Equality and Human Rights Commission Helpline
FREEPOST RRLR-UEYB-UYZL
3rd Floor, 3 Callaghan Square, Cardiff CF10 5BT

Main number 0845 604 8810
Textphone 0845 604 8820
Fax 0845 604 8830

Helpline opening times:

Monday to Friday: 8am – 6pm

Calls from BT landlines are charged at local rates, but calls from mobiles and other providers may vary.

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www.equalityhumanrights.com

This report explores the perspective of local authorities and, to a lesser extent, police forces in Scotland and their understanding of the accommodation needs of Scottish Gypsy Travellers. There are two main objectives: to ascertain the quantity of current Gypsy Traveller site provision, including any recent changes in this provision and plans to develop sites in the future; and to investigate timescales in meeting any accommodation shortfalls for Scottish Gypsy Travellers.

WESTMINSTER CITY COUNCIL V GREAT PORTLAND ESTATES PLC: HL 1985

References: [1985] AC 661, [1984] 3 WLR 1035

Coram: Lord Scarman

Ratio The House was asked whether the 1971 Act permitted the relevant authorities, by resort to their development plans, to support the retention of traditional industries or was the ambit of the Act such as to permit only 'land use' aims to be pursued? The court considered also the relevance of personal considerations in planning matters.

Held: Lord Scarman considered what was a material consideration: 'The test, therefore, of what is a material 'consideration' in the preparation of plans or in the control of development (see section 29(1) of the Act of 1971 in respect of planning permission: section 11(9) and Schedule 4 paragraph 11(4)) in respect of local plans) is whether it serves a planning purpose: see *Newbury District Council v Secretary of State for the Environment* [1981] AC 578, 599 per Viscount Dilhorne. And a planning purpose is one which relates to the character of the use of the land.'

Ratio Lord Scarman drew attention to the relevance to planning decisions, on occasion, of personal considerations, saying: 'Personal circumstances of an occupier, personal hardship, the difficulties of businesses which are of value to the character of a community are not to be ignored in the administration of planning control.' and

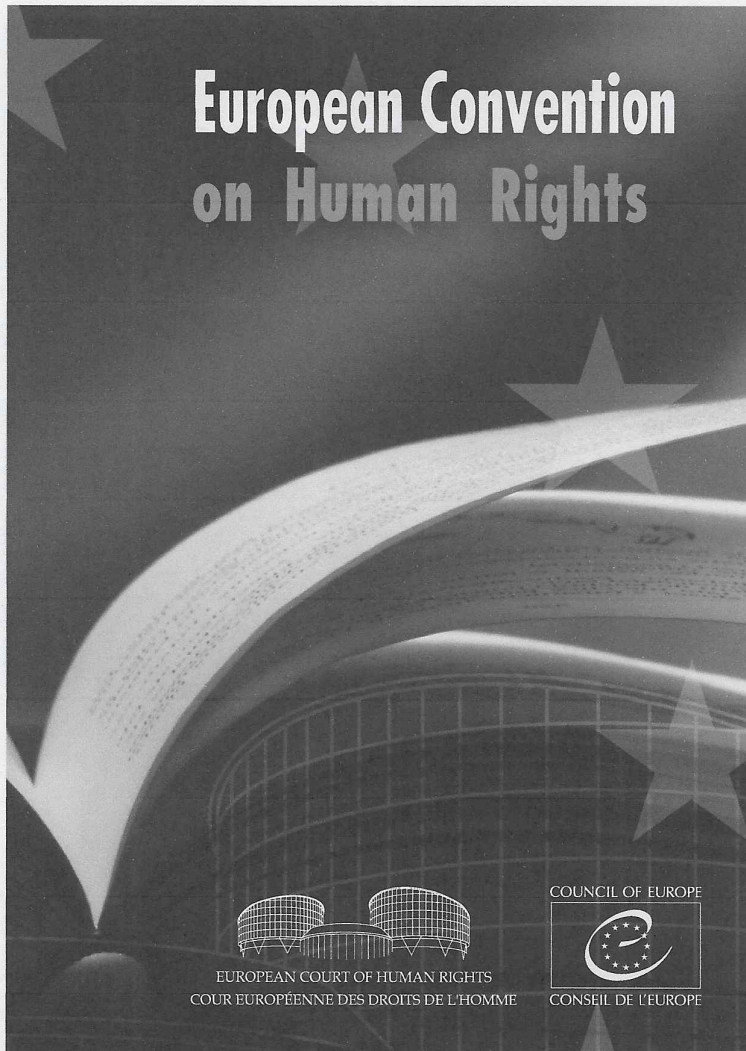
However, like all generalisations Lord Parker's statement has its own limitations. Personal circumstances of an occupier, personal hardship, the difficulties of businesses which are of value to the character of a community are not to be ignored in the administration of planning control. It would be inhuman pedantry to exclude from the control of our environment the human factor. The human factor is always present, of course, indirectly as the background to the consideration of the character of land use. It can, however, and sometimes should, be given direct effect as an exceptional or special circumstance. But such circumstances, when they arise, fall to be considered not as a general rule but as exceptions to a general rule to be met in special cases. If a planning authority is to give effect to them, a specific case has to be made and the planning authority must give reasons for accepting it. It follows that, though the existence of such cases may be mentioned in a plan, this will only be necessary where it is prudent to emphasise that, notwithstanding the general policy, exceptions cannot be wholly excluded from consideration in the administration of planning control.'

On the other hand: 'It is a logical process to extend the ambit of Lord Parker LCJ's statement so that it applies not only to the grant or refusal of planning permission and to the imposition of conditions, but also to the formulation of planning policies and proposals. The test, therefore, of what is a material consideration in the preparation of plans or in the control of development in respect of planning permission and in local plans, is whether it serves a planning purpose, and a planning purpose is one which relates to the character of the use of the land.'

Ratio Lord Scarman discussed the extent of reasons needed to be given, saying that once there is an explicit requirement on a public authority to provide reasons then they must be proper, adequate and intelligible.

If no new point however was raised by the Inspector, the reasons given by the authority may be a simple repetition of those given to the Inspector.

European Convention on Human Rights



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE



as amended by Protocols Nos. 11
and 14

supplemented by Protocols Nos. 1, 4,
6, 7, 12 and 13

The text of the Convention is presented as amended by the provisions of Protocol No. 14 (CETS no. 194) as from its entry into force on 1 June 2010. The text of the Convention had previously been amended according to the provisions of Protocol No. 3 (ETS no. 45), which entered into force on 21 September 1970, of Protocol No. 5 (ETS no. 55), which entered into force on 20 December 1971, and of Protocol No. 8 (ETS no. 118), which entered into force on 1 January 1990, and comprised also the text of Protocol No. 2 (ETS no. 44) which, in accordance with Article 5 § 3 thereof, had been an integral part of the Convention since its entry into force on 21 September 1970. All provisions which had been amended or added by these Protocols were replaced by Protocol No. 11 (ETS no. 155), as from the date of its entry into force on 1 November 1998. As from that date, Protocol No. 9 (ETS no. 140), which entered into force on 1 October 1994, was repealed and Protocol No. 10 (ETS no. 146) lost its purpose.

The current state of signatures and ratifications of the Convention and its Protocols as well as the complete list of declarations and reservations are available at www.conventions.coe.int.

Only the English and French versions of the Convention are authentic.

European Court of Human Rights
Council of Europe
F-67075 Strasbourg cedex
www.echr.coe.int

CONTENTS

Convention for the Protection of Human Rights and Fundamental Freedoms	5
Protocol	31
Protocol No. 4.....	34
Protocol No. 6.....	38
Protocol No. 7.....	42
Protocol No. 12.....	48
Protocol No. 13.....	52



Convention for the Protection of Human Rights and Fundamental Freedoms

Rome, 4.XI.1950

THE GOVERNMENTS SIGNATORY HERETO, being members of the Council of Europe,

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December 1948;

Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;

Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of Human Rights and Fundamental Freedoms;

Reaffirming their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the Human Rights upon which they depend;

Being resolved, as the governments of European countries which are likeminded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration,

Have agreed as follows:

ARTICLE 1

Obligation to respect Human Rights

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

SECTION I RIGHTS AND FREEDOMS

ARTICLE 2

Right to life

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

- (a) in defence of any person from unlawful violence;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

ARTICLE 3

Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

6

ARTICLE 4

Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term "forced or compulsory labour" shall not include:
 - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
 - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
 - (c) any service exacted in case of an emergency or calamity threatening the life or wellbeing of the community;
 - (d) any work or service which forms part of normal civic obligations.

ARTICLE 5

Right to liberty and security

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for noncompliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;

7

- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
 - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
 - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
 - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
 3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
 4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
 5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

8

ARTICLE 6

Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

9

ARTICLE 7

No punishment without law

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.

ARTICLE 8

Right to respect for private and family life

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

ARTICLE 9

Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and

in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

ARTICLE 10

Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

ARTICLE 11

Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

ARTICLE 12

Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

ARTICLE 13

Right to an effective remedy

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

ARTICLE 14

Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

12

ARTICLE 15

Derogation in time of emergency

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 (paragraph 1) and 7 shall be made under this provision.

3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

ARTICLE 16

Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

ARTICLE 17

Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and

13

Equality Act 2010
CHAPTER 15

- (b) persons who apply for employment, or
 - (c) persons the employer considers for employment.
- (8) “Trade organisation”, “qualifications body” and “relevant qualification” each have the meaning given in Part 5 (work).

PART 11

ADVANCEMENT OF EQUALITY

CHAPTER 1

PUBLIC SECTOR EQUALITY DUTY

149 Public sector equality duty

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons’ disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) tackle prejudice, and
 - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

- (7) The relevant protected characteristics are –
- age;
 - disability;
 - gender reassignment;
 - pregnancy and maternity;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation.
- (8) A reference to conduct that is prohibited by or under this Act includes a reference to –
- (a) a breach of an equality clause or rule;
 - (b) a breach of a non-discrimination rule.
- (9) Schedule 18 (exceptions) has effect.

150 Public authorities and public functions

- (1) A public authority is a person who is specified in Schedule 19.
- (2) In that Schedule –
- Part 1 specifies public authorities generally;
 - Part 2 specifies relevant Welsh authorities;
 - Part 3 specifies relevant Scottish authorities.
- (3) A public authority specified in Schedule 19 is subject to the duty imposed by section 149(1) in relation to the exercise of all of its functions unless subsection (4) applies.
- (4) A public authority specified in that Schedule in respect of certain specified functions is subject to that duty only in respect of the exercise of those functions.
- (5) A public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

151 Power to specify public authorities

- (1) A Minister of the Crown may by order amend Part 1, 2 or 3 of Schedule 19.
- (2) The Welsh Ministers may by order amend Part 2 of Schedule 19.
- (3) The Scottish Ministers may by order amend Part 3 of Schedule 19.
- (4) The power under subsection (1), (2) or (3) may not be exercised so as to –
- (a) add an entry to Part 1 relating to a relevant Welsh or Scottish authority or a cross-border Welsh or Scottish authority;
 - (b) add an entry to Part 2 relating to a person who is not a relevant Welsh authority;
 - (c) add an entry to Part 3 relating to a person who is not a relevant Scottish authority.
- (5) A Minister of the Crown may by order amend Schedule 19 so as to make provision relating to a cross-border Welsh or Scottish authority.

Neutral Citation Number: [2004] EWCA Civ 1248

Case No: C1/2003/1818

IN THE SUPREME COURT OF JUDICATURE
COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE ADMINISTRATIVE COURT
THE HONOURABLE MR JUSTICE BLACKBURNE

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/09/2004

Before :

THE RIGHT HONOURABLE LORD JUSTICE AULD
THE RIGHT HONOURABLE LORD JUSTICE WALL
and
THE HONOURABLE MR JUSTICE PUMFREY

Between :

	1) THE FIRST SECRETARY OF STATE 2) GRANT DOE 3) GREGORY YATES 4) PAUL EAMES	<u>Appellants</u>
	- and -	
	CHICHESTER DISTRICT COUNCIL □	<u>Respondent</u>

Mr Tim Mould (instructed by **Treasury Solicitor**) for the **First Appellant**
Mr David Watkinson (instructed by **Community Law Partnership**) for the **Second, Third & Fourth Appellants**
Mr Richard Langham (instructed by **Sharpe Pritchard**) for the **Respondent**

Hearing dates : 24th March 2004

Judgment

Lord Justice Auld :

1. This is an appeal by the first defendant (“the First Secretary of State”) and the second, third and fourth defendants (“the applicants”) against an order of Blackburne J on 29th July 2003 under section 288 of the Town and Country Planning Act 1990 (“the 1990 Act”), quashing the First Secretary of State’s appointed Inspector’s decision to grant planning permission to the applicants for use of land at Clearwater, Ratham Lane, West Ashling, Chichester as a private gypsy site with mobile homes and associated outbuildings. The Inspector had also granted planning permission to similar effect to the mobile home owners on three planning applications deemed to have been made by the in accordance with section 177 of the 1990 Act in the course of enforcement proceedings taken by the claimant, Chichester District Council (“the Council”) as local planning authority.
2. The appeal raises three issues, only one of which is of any substance in the sense that it affects the outcome of the appeals, namely whether the Inspector was correct in determining that the Council, by refusal of the planning permissions and issue of enforcement proceedings, had violated the applicants’ rights under Article 8 of the European Convention of Human Rights (“ECHR”,) to respect for their private and family life and their home. The other two issues are associated, but largely academic. They are: whether the Inspector did and/or should have found that the development breached a particular policy of the applicable Structure Plan; and whether he erred in law in failing to identify and/or explain the material considerations that he found weighed in favour of the grant of planning permission to one of the applicants, Mr Eames. The Judge held that the Inspector had erred in law on all three grounds.
3. The First Secretary of State and the applicants appeal on the ground that the Judge wrongly found fault with the Inspector’s decisions on all three issues.

The site and planning policies.

4. In about 1999 one of the applicants, Mr Yates, bought the appeal site. He and the other two applicants, Mr Doe and Mr Eames, subdivided it into three main plots, and, without notification to the Council or application for planning permission, they began to lay it out with services for future residential use. Eventually, they moved their mobile homes and caravans onto the site and began to live there. The Yates and Doe families, who had a close association with the Chichester District, moved there from a County Council site where they had been experiencing difficulties. Mr Eames, who had a strong attachment to them and had travelled with them from time to time, seemingly moved there from somewhere else in West Sussex.
5. The appeal site is a triangular shaped area bounded to the east by a lane and to the west by a stream. As I have said, it is divided into three main plots, two, each housing a mobile home and a touring caravan, and the third, a touring caravan. There is a further strip of land on the site providing access to the three plots from the lane. The site lies in the countryside outside, but quite close to one or more well-defined settlement areas and with a good range of local facilities. It is reasonably well screened from distant views by various copses of trees and tall hedges, and is about 150 metres from a major road, the A27. The Inspector described it in paragraph 33 of his decision letter, as “close to few dwellings and largely hidden from view”. The site does not fall within an area subject to any special designation by reference to its landscape qualities; it is not within a Green Belt or other designation of land

where the policy is strongly to resist development; it is not in an area of recognised nature conservation value or archaeological or historic value. In short, as the Inspector described it, in paragraph 66 of his decision letter, it is “ordinary countryside afforded the least degree of protection”.

6. Consideration of the applicable National and local planning policies must take into account the move by the Government from the obligation imposed on County Councils by Part II of the Caravan Sites Act 1968 to provide caravan pitches to its replacement, as a result of amendments made by the Criminal Justice and Public Order Act 1994, to reliance on gypsies to provide their own sites assisted by national and local planning policies requiring local authorities, in the exercise of their planning function, to have regard for their special needs.

7. Departmental Circular 1/94 – “Gypsy Sites And Planning” – revised the previous guidance so as to take account of the repeal of Part II of the 1968 Act and to encourage gypsies to secure their own sites making use of the planning process where necessary and appropriate. In paragraph 6, it stated that the land-use requirements of this tiny proportion of the Country’s population “need to be met” and that local planning authorities “need to be aware of” their accommodation and occupational needs”. Paragraph 9 stated that once the statutory obligation on local authorities to provide pitches had gone, they should make adequate provision in their development plans “through the appropriate use of occupational and/or criteria-based policies”. Paragraph 14 indicated that local planning authorities might consider locations outside existing settlements, “provided that care ...[was] taken to avoid encroachment on the open countryside”. And in paragraph 22, the Circular indicated, in the case of gypsies, the balance to be drawn between traditional land-use factors and their interests:

“As with any other planning applications, proposals for gypsy sites should continue to be determined solely in relation to land-use factors. Whilst gypsy sites might be acceptable in some rural locations, the granting of permission must be consistent with agricultural, archaeological, countryside, environmental, and Green Belt policies. ... The aim should always be to secure provision appropriate to gypsies’ accommodation needs while protecting amenity.”

8. In 1997 the Department revised its PPG7, providing, in paragraph 2.3, for strict control of development in “the open countryside, away from existing settlement or from areas allocated for development in development plans” - the greater the landscape, wildlife or historic qualities of the countryside, the greater the priority to be given to the restraint.

9. The Development Plan relevant to the appeal site consisted of the approved West Sussex Structure Plan of July 1993, which preceded the change in the law removing the obligation on County Councils to provide gypsy caravan pitches, and the adopted Chichester District Local Plan, First Review of April 1999, which took into account the Circular 1/94 obligation “to make adequate provision for” gypsies in local development plan policies.

10. The Inspector, in paragraphs 21 and 22 of his decision letter, correctly identified the two main relevant provisions of the Structure Plan. The first is G1, which, consistently with

paragraph 2.3 of PPG7, requires strict control of all development outside existing or potential built up areas defined in local plans-

“Outside such areas development is to be strictly controlled, subject only to limited exceptions allowed for in other policies.”

The second was C1, which the Inspector described as the ethos of the Structure Plan policy for the countryside:

“The Planning Authorities will seek to protect the countryside for its own sake from development which does not need a countryside location, and will ensure that the amount of land taken for development is kept to the minimum consistent with the provision of high quality and adequate space within the built environment.

Development will not normally be approved outside built up area boundaries unless it is for quiet informal recreation or related to essential needs of any of: agriculture, forestry, the extraction of minerals, the deposit of waste or the implementation of policy H6 [i.e. social housing outside, but usually adjoining, built-up area boundaries where there is a proven local need].

Permission will not normally be given for the extension of isolated groups of buildings or the consolidation of linear or sporadic development.”

11. The Structure Plan makes specific provision for gypsies in Policy H7, which was still, as Mr Tim Mould, for the First Secretary of State put it, rooted in the 1968 duty on County Councils to provide pitches. It provided:

“While permission may be granted for the establishment by gypsies themselves of caravan sites in suitable locations, further provision by the Local Authorities will be considered only in the light of demonstrated need.”

The note to Policy H7 specifically referred to the impending change in the law:

5.31. West Sussex, as a designated county under the Caravan Sites Act 1968, has met the Government requirement to make provision for gypsy caravan pitches. However, Government legislation has been suggested which may change the situation, and the position will be monitored. The Council wishes sites to be in locations with convenient access to schools and health services and with a basic infrastructure available

12. The Chichester District Local Plan, First Review of 1999, only permitted development in the area in which the appeal site is situated in accordance with specified policies in the Plan, one of which is RE22 “Sites for Gypsies”. In outline, and as a reflection of the revised guidance given in Circular 1/94, in particular paragraphs 9 and 22, it permits such sites in rural areas “only when it can be demonstrated that the numbers of families who reside in or resort to the District need the number of pitches in the location sought, and provided that” a number of other criteria are satisfied. These include criterion (1) that “[t]hey do not detract from the

undeveloped and rural character and appearance of the countryside, particularly the areas of outstanding natural beauty” and: criterion (8) that “[t]hey are sited on reasonably flat land, provided that the proposals do not create visual encroachment into the open countryside.”

13. The Inspector’s decision letter of 14th January 2003 identified, in paragraph 25 two main issues before him, as agreed by the parties, namely: the effects of the development on the policy aims of protecting the character and appearance of the countryside around Ratham Lane; and if those effects would be harmful, whether such harm would be outweighed by other material considerations, including the fact that the applicants are gypsies, any need for gypsy sites in that part of West Sussex and Article 8 of the ECHR.

14. Although the Article 8 issue is by far the most important in these appeals, I consider it helpful to set the planning scene by dealing first with the other two.

Issue 1 – Effect on the character and appearance of the countryside/Whether the proposed development conflicted with planning policy

15. This issue, so far as it goes, is whether the Inspector did and/or should have found that the proposed development would breach the Structure Plan Policy C1.

16. The Inspector, at paragraphs 27 to 28 of his decision letter, found that, as the appeal site lay in the countryside and, in particular, outside built up area boundaries, it did not “technically” fall within any of the exceptions in Policy C1 of the Structure Plan. However, he found some tension between that policy, considered on its own, and the wider context, including the provision in Policy H7 for the grant of permission “in suitable locations” for private gypsy sites, stating at paragraph 28 of his decision letter:

“... Policy H7 refers only to ‘suitable locations’ for private gypsy sites, a phrase which is not defined. It is thus impossible to deduce from the policy where gypsy sites should be located, apart from some guidance in paragraph 5.31 of the supporting text. [i.e. convenient access to schools, health services and basic infrastructure]which the site plainly has. ...”

17. In terms of Government Policy, he noted the changes that had occurred since the adoption of the Structure Plan.

“Furthermore, the Structure Plan was approved at a time when Government Policy on gypsy sites was inclined very much towards local authority provision. Though paragraph 5.31 presages the changes introduced by Criminal Justice and Public Order Act 1994 and the Policy advice of Circular 1/94, the Structure Plan does not address those changes because they post-date its approval. In these circumstances, though the Council’s argument is technically correct, that the letter of Policy C1 does not allow for the establishment of gypsy sites in the rural area, that alone is not conclusive. Rather, it is the purpose behind the policy which have to be given particularly careful consideration, together with the changes to Government policy since 1994.”

18. The Inspector went on to find that in that wider context – the Development Plan as a whole and Government Policy, including Circular 1/94, paragraph 14, and PPG7 - the fact that the appeal development was strictly contrary to Policy C1 begged the question whether it should now be necessarily be seen as contrary to the ethos or underlying aim of strategic policy for the countryside. In paragraphs 29 to 31 he examined that question and concluded that, in the light of subsequent changes in government policy on the location of gypsy sites in rural areas, a proposal to locate such a site in the West Sussex countryside should not necessarily be seen as in conflict with the underlying aims of Policy C1, i.e. to limit development in the countryside to that which needs to be located there. It is clear, however, that he regarded the appeal development as a breach of the terms of Policy C1.

19. The Inspector then turned to policy RE22 in the local plan permitting the establishment of gypsy sites in rural areas where there is a demonstrated need for them, which he found reasonable as a criteria-based policy and in accord with the aim of PPG 7 of protecting the countryside for its own sake. However, he found that there was a conflict between the clear aim of that policy and the Council's operation of it in practice:

“32. ... the policy does not operate in isolation but in the context of applications by gypsies for private sites, which is the method of provision now encouraged by Government policy. According to the Council's planning witness, since the introduction of Policy RE22 some three years ago, no gypsy site has been approved within the district. That in itself is by no means conclusive of the reasonability of the policy in practice, but it was evident from the witness that the reason for this record was that all applications were in the countryside. Furthermore he considered that the only sites which could meet the criteria of the policy would be those marginal sites which would be seen as the backdrop to the built up area and which did not encroach on the countryside.

33. Thus it would appear that in practice the Council's interpretation of Policy RE22 is one where only sites close in to built up areas, or within small groups of dwellings in the countryside and not defined as SPAs are considered acceptable. Those beyond, whether in countryside with special sensitivity, such as the AONBs, or in what might be termed 'ordinary' countryside, are considered to be in breach of the policy criteria. Such an interpretation is not considered reasonable or realistic because it conflicts with the advice of paragraph 10 of Circular 1/94. ...

34. Perhaps more significantly the Council's interpretation of Policy RE22 also appears to conflict with paragraph 249 of the supporting text to the Local Plan, which is expressly referred to by the policy. That paragraph recognises that some sections of the community have special needs resulting from occupation, disability or through their chosen lifestyle. It goes on to explain that these requirements mean that in some cases exceptions have to be made to the Plan policies, for example policies relating to the general restraint of development in the rural area. ...

35. But the evidence to this inquiry appears to demonstrate that in practice there is a conflict between the Council's implementation of Policy RE22 and the expressed aims of both the Circular and the policy as adopted. Accordingly it is concluded that the criteria of RE22 should be applied to the appeal site, without any assumption that this gypsy development is inherently unacceptable in the rural area.”

20. Following that analysis of the relevant policies and his finding of the Council's operation of them, he found, at paragraphs 36-38, by reference to the criteria, including (1) and (8), of Policy RE22, that the proposed development would cause some, but little, harm to the undeveloped and rural appearance of the countryside and that such harm could, in any event, be largely mitigated by planting. In paragraph 39 of the decision letter, the Inspector drew together the various points on policy against the backdrop of the aim in PPG7 of protecting the countryside for its own sake:

“... That aim is important but it has to be seen in the context of the advice in Circular 1/94 that the needs of gypsies have to be met and that rural and semi-rural settings for sites may be appropriate. The PPG itself makes no specific reference to gypsy site provision, and given that Circular 1/94 pre-dates it, but that its advice on such sites is not amended or cancelled by PPG 7, it is concluded that the Circular advice should enjoy greater weight in these gypsy cases. Bearing that in mind, and having regard to all the above considerations, it is concluded that the development causes, and in the case of the planning appeal would cause, some harm to the character of the countryside around Ratham Lane in the light of the aims of ... Policy RE22. This harm therefore weighs against permission and accordingly it is appropriate to consider whether there are any material considerations which outweigh that harm.”

21. In the light of that finding, which is in part confirmatory of his earlier expressed view that the proposed development would breach Structure Plan Policy C1/94, it is plain that, whether he regarded it as a technical breach or of some materiality, it did not affect his threshold planning decision that the proposal would cause some planning harm.

22. The Judge found that there was a clear breach of Policy C1. He viewed the Inspector as in error for failing explicitly to note this. He regarded the Inspector's approach as a misreading of the terms of the Policy. He said, at paragraph 15 of his judgment, that the Inspector had incorrectly found that the proposed development was not a material, as distinct from a technical, breach of Policy C1

“... He was entitled to find that other material considerations (including subsequent Department of Environment policy guidance and the other factors to which he drew attention ... led to a conclusion that policy C1 should be disregarded. ... But that was not how the inspector was approaching matters. He was not acknowledging a clear breach of policy C1 but finding that it was justified by other considerations. Rather he was finding that, given what he described as ‘the underlying aims of the policy’, there was no breach. But ... he should have proceeded on the basis that the development was in breach of the policy, as in my view it clearly was. To that extent ... the inspector fell into error ...”.

23. Mr Mould submitted that the Inspector was entitled to approach Policy C1 as he did. He was obliged, by section 70(2) of the 1990 Act, to have regard to the relevant policies of the development plan and, by section 54A of the Act, to determine the appeal in accordance with the development plan unless material considerations indicated otherwise. However,

provided that he recognised the priority to be given to the development plan, the Inspector was entitled to adopt the process of analysis which seemed to him to be appropriate to the circumstances of the given case: *R v Leominster District Council ex parte Potheary* 76 P&CR 346 at 352-353.

24. The Inspector had expressly accepted the Council's case that the appeal development was contrary to the terms of Policy C1. However, that in itself was not necessarily decisive of the merits of the development. It was necessary to consider whether there were factors that indicated that, although the appeal scheme was not among those limited categories of development specifically identified in Policy C1, there were good reasons for departing from the strict letter of the policy. On a fair reading of his decision, that is the approach adopted by the Inspector. In particular, it was plainly relevant to take account of subsequent changes in national planning policy indicating that gypsy sites may need to be located in the countryside, since it is need for a countryside location that provides the underlying rationale for the control of development imposed by Policy C1. So Circular 1/94 was logically relevant to the overall question whether, as the Council contended, Policy C1 should be read as raising an objection of principle against the appeal development. He submitted that the Inspector was entitled to base his rejection of that contention upon the contents of more recent, relevant national planning policy guidance, which is directed specifically at identifying appropriate locations for gypsy sites through the planning process and following the repeal in 1994 of the statutory duty to provide County Council sites. In other words, in applying the Structure Plan, the Inspector was entitled to take account of the fact that it did not reflect the current statutory and national policy framework; and to seek to make good that shortcoming by reference to the relevant locational guidance given in the up to date, relevant national planning policy guidance document. That is what he did. He added that, even if the Judge was right to find that the Inspector had erred in his approach to Policy C1, the Inspector's decision should be allowed to stand. The Inspector's overall conclusion that planning permission was merited in this case would have been unaffected by any more clear finding that the development was in breach of Policy C1.

25. Mr David Watkinson, on behalf of applicants, advanced much the same arguments in support of the reasoning of the Inspector in this respect. He submitted that the Judge erred in finding that the Inspector had proceeded on the basis that the proposed development would not breach Policy C1. He said that the Inspector had clearly accepted, at paragraphs 27 to 28 of his decision letter, that there would be such a breach. He added that it was important to keep in mind that the Inspector, in considering Policy C1, was doing so in the context of the first of the two broad issues he had identified, namely as to the effects of the proposed development on the character and appearance of the countryside in the vicinity of the appeal site. He said that, once the Inspector had acknowledged the breach, he was entitled to consider it in the context of the other policies and guidance as part of his consideration of all material factors.

26. However, Mr Richard Langham, on behalf of the Council, supported the Judge's view and reasoning that the Inspector erred in finding that the proposed development would not be in material, as distinct from technical, breach of Policy C1. He said that the relevance of that to the Inspector's final decision was that, it skewed his approach to the subsequent and necessary question whether other material considerations justified a material breach. Consideration of such matters should follow a correct application of the Policy itself, and the Inspector did not correctly apply the Policy. However, along with Mr Mould and Mr

Watkinson, he acknowledged that even if the Inspector had expressly found the breach of Policy C1 to be a material, it is unlikely that he would have given it much weight.

Conclusion

27. The Judge saw force in the arguments of Mr Mould and Mr Watkinson, given the directly relevant policy RE22 of the Chichester District Local Plan, which, as I have said, permits, subject to stringent criteria, the establishment of gypsy sites in rural areas of the Chichester District. It was the Inspector's clear conclusion that Policy RE22 itself raised no objection in principle to the use of the appeal site for a gypsy caravan site. Policy RE22 reflects not only the relevant policies of the Structure Plan, including Policy C1, but also the Secretary of State's more recent policy on the provision of gypsy sites as stated in Circular 1/94. In these circumstances, the Inspector's finding that the development was not objectionable in principle under the relevant Local Plan Policy would not have been affected by a finding that the County-wide Structure Plan Policy was breached.

28. In my view, and as the Judge said at paragraph 38 of his judgment, if the Inspector's view of the breach of Policy C1 had been the only issue, it could not sensibly affect the outcome of the appeal whether he regarded the breach of Policy C1 as technical or material. However he expressed himself, it is plain that he regarded the location of the proposed development in this rural area as causing only slight planning harm. I would, therefore, uphold this ground of appeal, so far as goes, directed at the Judge's finding on this issue.

Issue 2 – Personal circumstances - Mr Eames

29. This issue, again for what it is worth, is whether the Inspector clearly explained the material consideration weighing in favour of Mr Eames' case for planning permission.

30. As I have indicated, the Inspector, in his decision letter, considered both the general need for sites in the Chichester District and each of the applicants' personal circumstances. As to the former, he concluded, at paragraph 49 of his decision letter, after comparing the outcome of supply and demand analyses for gypsy sites in the Chichester District, that the evidence before him plainly demonstrated that the applicants had deployed a compelling case on the aspect of need.

31. The Inspector considered separately the extent to which each individual applicant was able to point to personal considerations that also weighed in favour of his case for planning permission. He considered the personal circumstances of each of the applicants in turn. He dealt first with Mr Yates and Mr Doe and found, at paragraphs 50 to 59 that family ties and educational/cultural factors and their close association for some years with the Chichester District weighed in favour of their appeals.

32. In relation to Mr Eames, the Inspector found, at paragraphs 61, 62, 70 and 72, that, on the evidence, such personal circumstances – family ties and cultural factors – did not apply, or not to the same extent. However, he found that, as a single man, Mr Eames would be unlikely to obtain any pitch that might become available within the County as a whole, on account of his low status in the County Council's allocations policy. He regarded that as a

factor adding weight to Mr Eames' case. This is how he summed up his position in paragraph 72 of his decision letter :

“In the case of the enforcement appeal by Mr Eames it is concluded that the material considerations of the need for gypsy sites in the District, his personal circumstances, including his gypsy status, and the interference with his Article 8 rights which would arise from the refusal of permission are sufficient to outweigh the limited harm to the aims of planning policies seeking to protect the character of the countryside arising from the stationing of his caravan on this land....”

33. The Judge, at paragraphs 30 and 31, said that he was unclear as to what exactly the Inspector had found weighed in Mr Eames' favour.

Submissions

34. Mr Mould submitted that the Inspector's approach to the issues of need and personal circumstances correctly reflects the approach of the High Court in *Hedges and Hedges v Secretary of State for the Environment and East Cambridgeshire District Council* 73 P & CR 534, per Gerald Moriarty, QC, sitting as a Deputy High Court Judge, at 545. Both were material considerations capable of adding weight to the case of planning permission. Neither Mr Mould nor Mr Watkinson could see any uncertainty in the Inspector's decision on this issue. They pointed to the clear references in the decision letter to the particular difficulties Mr Eames would have, as a single man, in obtaining a pitch, even if one was available, on a Council site in West Sussex due to allocations criteria. The distinction between the general and the personal is clear, as is the separate and complementary significance of each factor. These points are reflected in the Inspector's reasoning.

35. Mr Langham, on behalf of the Council, suggested there was considerable uncertainty as to what additional personal circumstances the Inspector was weighing in Mr Eames' favour, since, although he was part of the demand for gypsy sites, the area applicable in his case was the wider area of West Sussex rather than the Chichester District and the only "additional factor" resulting from that was the likely difficulty for him, as a single man, in obtaining a County Council pitch.

Conclusion

36. In my view, Mr Mould and Mr Watkinson are correct in their submissions that the Inspector made perfectly plain the additional consideration that he had in mind in the case of Mr Eames. In any event, as Mr Watkinson observed the Inspector identified a number of factors in favour of his application, including the shortage of gypsy sites in the District and the County and the likely difficulty for him in obtaining a pitch on a Council site in West Sussex. In my view, it follows that the Inspector explained adequately for the purpose his approach to the questions of general need and personal circumstances and why both were

material considerations weighing in Mr Eames' favour. I would reject the Judge's criticisms of the Inspector on this account and, so far as it goes, uphold this ground of appeal.

Issue 3 – Article 8 ECHR –Chapman v UK

37. The issue is whether the Judge correctly approached the question whether the Council's refusal of planning permission and issue of enforcement proceedings violated the applicants' rights under Article 8 ECHR to respect for their private and family life and home and, the effect one way or another on the balancing exercises respectively required by section 54A of the 1990 Act and Article 8.2.

38. It is common ground that Article 8 was engaged in the sense that the applicants' right to respect for their homes and family lives was capable of becoming a material consideration, that is, it was "at issue", just as the European Court found in *Chapman v. United Kingdom* (2001) 33 EHRR 18, at paragraph 74, that Mrs Chapman's right to respect for her private family life and home was at issue. But it was not common ground that the refusal of planning permission and upholding of enforcement notices would necessarily constitute an interference with those rights, still less whether such an interference would be justified under Article 8.2.

39. The Inspector, having found, as I have said, that the proposed development would cause only slight planning harm, then considered, pursuant to section 54A of the 1990 Act, other "material considerations" arising from the evidence before him. These considerations included, in addition to an unmet need for gypsy sites in the Chichester District, the personal circumstances of the applicants, and those circumstances included their deliberate settlement on the appeal site without prior notification to the Council or seeking planning permission and the potential of the Council's decisions for rendering them homeless and possible violation of their Article 8 rights.

40. As to the former, the Inspector said, at paragraph 54 of his decision letter, that, though the applicants' conduct could not be condoned, two of the families had "a cogent reason" for leaving a County Council site and that their development of the appeal site was not "wholly in conflict with the present Government policy of encouraging private site provision by gypsies". In short, he concluded that this aspect of their personal circumstances did not weigh heavily against their case.

41. As to the impact of the Council's refusal of planning permission and upholding of the enforcement notices on the Article 8 rights of the applicants, he noted the Council's acceptance before him that it would engage Article 8.1, and found, at paragraph 65, on a balance of probabilities that "the harm arising from interfering with their right to a home could potentially affect any of the ... [applicants] and would be substantial".

42. He then immediately turned to the issue of justification under Article 8.2, which, for convenience, I set out here, before rehearsing his treatment of it:

"There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

43. As the Inspector observed, it was common ground that the enforcement action taken by the Council accorded with the law. As to necessity for the interference, in this case to protect the environment from harm from the unauthorised proposed development, the Inspector described it, as I have said, as “ordinary countryside afforded the least degree of protection”, and concluded that there was, therefore, less of a pressing social need to keep it undeveloped than there would have been if it were more highly protected land. He added that such necessity for the avoidance of harm as there was would reduce if planting controls were imposed as a condition of development.

44. Finally, and importantly, the Inspector turned to the particular vulnerability and needs of the applicants as gypsies and the implications for his decision of *Chapman*, in which the Court had held, inter alia, that the public authorities are not obliged to provide an adequate number of gypsy sites. He reasoned nevertheless that, as in his view, the development would do only limited harm to the environment, and the Council had failed properly to implement its local policy RE22 to permit the establishment of gypsy sites in rural areas where there was a demonstrated need for them, the applicants’ Article 8.1 rights weighed heavily in their favour. This is how he put it in paragraphs 69 and 70 of his decision letter:

“69. Account has been taken of the Council’s argument that the judgment in *Chapman* found that the United Kingdom government was not under an obligation to provide an adequate number of gypsy sites. But paragraph 9 of Circular 1/94 says that repeal of the statutory duty of local authorities under the 1968 Act to provide gypsy sites makes it all the more important that local planning authorities make adequate gypsy site provision in their development plans. In this case the Council has not demonstrated that it has a sound statistical basis for its conclusion that there is no need for any new gypsy site, despite saying that it accepts there is a small unmet need. Furthermore the Council has not granted a single planning permission for a private gypsy site since their Local Plan was adopted in 1999, and the only private gypsy sites in the District all appear to have been granted on appeal, that is following refusal of permission in the first instance by the Council. That situation, coupled with the Council’s interpretation of the Local Plan gypsy policy, RE22, appears to have ensured that in practice there is little credible prospect of any private gypsy site being permitted by the Council. This conclusion has to be seen in the context of the need for sites in the District, Policy RE22 and paragraph 249 of the Local Plan, and the Government policy in Circular 1/94 which makes it clear that the needs of gypsies must be met.

“70. Against this background the limited harm caused to the environment, and hence to the public interest, by the appeal development has to be weighed against the serious harm to the appellants arising from the failure to recognise and provide for the needs of gypsies in the District by granting permission for sites. It is concluded that in this case that limited harm does not constitute a pressing social need for the interference with Article 8(1) rights of all the appellants which would result from the upholding of these notices. Moreover, by leading to a situation where there is a high probability that at least one of the appellants would lose their present home for a significant period, such interference would be disproportionate. For these reasons, and because the Council has not convincingly established why the interference is necessary, it is concluded that it is unacceptable. Thus the human rights arguments weigh heavily in favour of the appellants.”

45. Like the Judge, I take the last sentence of paragraph 70 of the decision letter to be a finding that to uphold the enforcement notices would constitute an unjustifiable interference with the applicants' Article 8 rights.
46. The Judge dealt quite shortly with that reasoning of the Inspector, holding that he had effectively put the Council under an obligation to exercise its planning powers to provide an adequate number of gypsy sites within its area. He said at paragraph 36 of his judgment:
- “36. ... although in paragraph 69 the inspector noted that the United Kingdom Government was not under any obligation (by virtue of article 8) to provide an adequate number of gypsy sites, he, in effect, held that article 8 carries with it a duty on the Council, as the relevant local planning authority, to exercise its planning powers to help achieve that end in its area. In my judgment the article imposes no such an obligation. The inspector was wrong to think as he did.”
47. The Judge went on to hold, at paragraphs 37 and 38, that, in a matter so fundamental as the correct approach to Article 8 and, having regard to the weight the Inspector gave to it, the Inspector's decision could not stand. He, therefore, quashed the decision and remitted the matter to the Secretary of State for reconsideration.

The issue and the submissions.

48. Mr Mould, whose submissions on this issue Mr Watkinson adopted, appears to have approached the issue on the basis that, as Article 8 was “engaged”, to refuse planning permission and uphold the enforcement notices would necessarily constitute an interference with the applicants' rights under Article 8.1 and, therefore, that the only question was and is whether the interference was, in the circumstances, justified in the terms of Article 8.2 Mr Mould submitted that the Judge, in paragraph 36 of his judgment, had wrongly credited the Inspector with holding that Article 8 obliged the Council to exercise its planning powers so as to fulfil a general obligation to provide an adequate number of gypsy sites in its area regardless of availability. He maintained that the Judge overlooked the fact that a finding of a breach of Article 8 in a particular case does not amount to an acceptance of a general duty to provide sites and that the Inspector had not so decided here.
49. Mr Mould, submitted that it is clear from paragraphs 69 and 70 of the Inspector's decision letter that he was there engaged on the only live issue under Article 8, namely one of the *Chapman* balancing exercise under Article 8.2. He maintained that the Inspector carried out the exercise in an exemplary way, deciding as a result that enforcement of planning control in the circumstances would be disproportionate. He said that, the Inspector acknowledged that an inadequate supply of sites to meet the needs of gypsies did not of itself give rise to a breach of Article 8, but nevertheless, he gave, and was entitled to give, weight to the fact that, notwithstanding Government planning policy in Circular 1/94, the Council had failed to provide for the needs of the gypsy community through the development plan process.
50. He submitted that the Government's planning policy is that land-use requirements of

gypsies should be met through the planning process and that local planning authorities, such as the Council, should seek to make adequate provision of gypsy sites through the development plan process, either through the identification of suitable sites or through criteria-based policies. He maintained that the planning policy in Circular 1/94 reflects that positive obligation towards the gypsy community in recognition of their particular land-use requirements, identified by the European Court in paragraph 96 of *Chapman* as “a positive obligation ... by virtue of Article 8 to facilitate the gypsy way of life”.

51. Mr Mould said that, in deciding whether there was an Article 8.2 justification in this case, the Inspector was entitled to take account of that planning objective and to attach weight to the fact that this Council had failed to meet it, with the result that gypsies’ accommodation needs in this district have become more pressing. That fact was a relevant consideration in deciding whether the Council had justified its interference with these gypsies’ Article 8 rights in the circumstances of this case.

52. It followed, he submitted, that the Inspector was bound to determine whether it was a proportionate interference with the applicant’s Article 8 rights for the Council to evict the applicants in all the circumstances of this case. In doing so, the Inspector was entitled to take account of the limited environmental harm caused by the presence of the caravan site in this location and to balance that limited harm against the factors that weighed in the gypsies’ favour. The latter properly included the fact that the Council had, on the Inspector’s findings, failed to fulfil its role, as local planning authority for Chichester, in pursuing the Government’s planning policy objective of seeking to meet the accommodation needs of gypsies. He submitted that, for those reasons, the Judge wrongly held that the Inspector’s approach conflicted with *Chapman*, and placed an unwarranted constraint upon the fulfilment of the Government’s positive obligation through the planning process.

53. Mr Watkinson added that the fact there is no general duty to provide a home does not mean that there cannot be particular instances in which a decision preventing the establishment or maintenance of a home through the planning process would breach Article 8. He submitted that if the Court were to uphold the reasoning of the Judge it could wrongly inhibit planning authorities and inspectors from granting planning permission in an appropriate case under threat of a challenge that, in holding that Article 8 can in such circumstances impose such a duty, they have acted contrary to *Chapman*.

54. Mr Langham prefaced his submissions on behalf of the Council with the observation that a decision-maker, in assessing whether a decision, in this case, refusal of a proposed development, would violate Article 8, must first understand the content of the Article 8.1 right before considering whether it is justifiable under Article 8.2 and proportionate. He submitted that the Inspector, in paragraph 69 of his decision letter, was dealing with Article 8.1, not 8.2. He pointed out that the Inspector began it by acknowledging that effect of *Chapman* is that public authorities are not obliged to provide an adequate number of gypsy sites, but then, without reference to matters of justification, turned it into a general obligation “that the needs of gypsies must be met”. He submitted that the Judge correctly read the Inspector’s treatment in that paragraph as contradicting *Chapman*. This is not, said Mr Langham, the language of justification of the violation by reference to particular material factors in the case, but a mistaken view of the primary Article 8 right. Given such an error, he submitted, it is not surprising that the Inspector found the justification proffered by the Council insufficient and, apparently, that Article 8 would be violated.

Conclusion

55. The first question for an inspector is to determine whether a proposal is in material breach of planning policy. If it is, he should, in accordance with section 54A of the 1990 Act, determine the matter in accordance with the plan unless other material considerations indicate otherwise. Those other material considerations may include, as here, the personal circumstances and needs of the applicants, which in turn may include any Article 8 rights bearing on the issue. However, before embarking on the balancing exercise required by section 54A of the 1990 Act and that of Article 8.2 it is necessary to identify clearly, on the one hand, whether and to what extent the proposal is not in accord with local planning policy, and, on the other, the exact content of any countervailing material factors, including in cases like these, the Article 8.1 rights, if any, capable of being interfered with. The content of the Article 8.1 right in this context is a positive obligation upon United Kingdom authorities to facilitate the gypsy way of life, by giving special consideration to their needs and nomadic lifestyle both in the regulatory planning framework and in reaching decisions in particular cases. It is not, as the Inspector appears to have concluded in paragraph 69 of his decision letter, an obligation on such authorities to make available to the gypsy community an adequate number of suitably equipped sites to meet their needs either generally or in individual cases.

56. As I have said, it was and is common ground that Article 8 was engaged in the sense that the applicants' right to respect for their homes and family lives was capable of becoming a material consideration. But it was not common ground that the refusal of planning permission and upholding of enforcement notices would necessarily constitute an interference with those rights, still less whether such an interference would be justified under Article 8.2. There is a difference between the "engagement" of Article 8 and the question whether there has been an interference with whatever form the Article 8 right takes in any individual case. Only if there is such interference, does the balancing exercise under Article 8.2 arise for consideration.

57. This three stage test was expressly acknowledged by the European Court of Justice in *Chapman*. The Court, first, in paragraphs 71 to 74 under the heading "A. As to the rights in issue under Article 8 ...", concluded that they were in issue, i.e. the Article was engaged. The Court, secondly, in paragraphs 75 to 78, under the heading "B. Whether there was an 'interference' with the applicant's rights under Article 8 ...", seemingly relied on the United Kingdom Government's acceptance that there had been such an interference as a result of the local authority's refusal of planning permission and the taking of enforcement measures, and it declined to consider in the abstract whether the framework legislation and planning policy and regulations disclosed a lack of respect for her Article 8 rights. Instead, it said, its task was "to examine the application of specific measures or policies to the facts of each individual case". And without further reasoning on those facts on this issue, it found, in paragraph 78, that, "[having regard to the facts of ...[the] case" the planning authorities' decision "constituted an interference with ... [Mrs Chapman's right to respect for her private life and home within ... Article 8.1"

58. The Court then proceeded to its third question, namely whether the interference was justified within the provisions of Article 8.2. However, it was in the context of that question, not the second, that the Court established, in paragraphs 111-113 that, on the facts of the case, the refusal of planning permission would not render Mrs Chapman homeless.

And it was in the context of the third question that the Court turned to generality in stating: 1) at paragraph 96, that gypsies are not immune from general laws intended to safeguard the environment; 2) at paragraph 98, that a decision “in itself, and without more” not to allow gypsies to occupy land where they wished” would not “constitute ... a violation [i.e. an unjustified interference] of Article 8”; 3) also in paragraph 98, that there is no general “obligation by virtue of Article 8 to make available to the gypsy community an adequate number of suitably equipped sites”; and 4) in paragraph 99 “that Article 8 does not in terms give a right to be provided with a home”.

59. So *Chapman* still leaves us with the question whether, in any individual case, refusal of planning permission and enforcement action against a gypsy caravan dweller is capable of amounting to an interference with an Article 8 right. Before deciding whether there has been such an interference, a fortiori, whether it amounts to a violation of the right in the sense of not being justifiable within Article 8.2, it seems to me vital to determine the content of the right in any individual case, something that the Court did not do, or have to do, in *Chapman*, leaving the whole issue to be swept up in an Article 8.2 balance.

60. I acknowledge that it is not always easy to identify the Article 8 right that is said to be the subject of the alleged interference, shorn of the circumstances applicable to the Article 8.2 exercise, as both Strasbourg jurisprudence and a recent decision of this Court have illustrated. See e.g. *Botta v Italy* (1998) 26 EHRR 241, ECtHR; *Dehnalova and Zchnal v Czech Republic* (14 May 2002); and *Anufrijeva & Ors v SSHD* 2003 EWCA 1406, per Lord Woolf CJ, giving the judgment of the Court, at paras 9-38. But where, as in this context, the European Court has clearly and firmly said in *Chapman*, that Article 8 does not confer an entitlement to provision of a home, planning inspectors should not effectively reverse that general proposition when considering, first, whether there has been an interference with an Article 8 right in the circumstances of the case. In my view, Mr Langham correctly submitted that the Inspector should have confined his finding in paragraph 69 of his decision letter as to the nature of the Article 8 right, namely a right of the applicants to “respect” in the sense of a qualified right not to have their existing private and family life and home interfered with. He should not have converted it into the broader proposition that the needs of gypsies “must be met”.

61. However, the exercise undertaken by the Inspector in paragraphs 69 and 70 was to draw on the United Kingdom’s policy guidance in paragraph 9 of Circular 1/94, the Local Plan Policy RE22 and his finding that the Council had seemingly failed correctly to apply that policy in other cases. He then did what the European Court in *Chapman* expressly declined to do, namely hold that “the needs of gypsies must be met”. And, in paragraph 70, he referred to the Council’s failure “to recognise and provide for the needs of gypsies in the District by granting permission for sites”. As Mr Langham put it, in those paragraphs the Inspector exaggerated or miscast the right, so as to equate shortage of gypsy sites as in itself a violation of - an interference with - some quite different and invalid notion rejected by the European Court in *Chapman*.

62. The exercise undertaken by the Inspector, in his consideration of Article 8.2, was to balance the weight of the breach of planning policy and its resultant harm to the environment – i.e. the seriousness of the planning harm - against other countervailing material, in particular the personal circumstances and needs of the applicants including any interference with any Article 8 rights and the seriousness of such putative interference. In my view, his misreading of the nature of Article 8 rights in this context put him at risk of

wrongly finding that the Council's decisions in issue interfered with the applicant's such rights, and, in any event, of wrongly placing too much weight on such interference, as he found it to be, in his Article 8.2 balance and in its effect on the balance of planning considerations required by section 54A.

63. Accordingly, I would uphold the Judge's ruling on this issue. Although I am not as confident as he was that the error of the Inspector went to the heart of his decision to grant the applicants, including Mr Eames, planning permission, the point of principle is likely to be of great general importance whenever Article 8 is brought into play in such a context. I would, therefore, direct that the matter be remitted to the First Secretary of State for him to reconsider this issue. In doing so, I may perhaps be permitted to make the following comment. In a case like this where the planning harm caused by the development is said to be weak and the countervailing material considerations, including the personal circumstances of the applicants, are said to be strong, recourse to Article 8 may add little but unnecessary complication to the balancing exercise required for the planning decision by section 54A of the 1990 Act.

Lord Justice Wall:

64. I have had the opportunity to read Auld LJ's judgment in draft. Whilst I am in full agreement with him in his conclusions on the first two issues raised by this appeal (namely; (1) The effect on the character and appearance of the countryside / Whether the proposed development conflicted with planning policy (paragraphs 15 to 28 of his judgment); and (2) The personal circumstances of Mr. Eames (ibid paragraphs 29 to 36)), I find myself in respectful disagreement with him on the third and critical issue in the appeal, namely the inspector's approach to ECHR Article 8. In my judgment; (a) the inspector did not make any error of law in his application of Article 8 to the circumstances of this case; (b) the judge was wrong to find that he did; and (c) the appeal should accordingly be allowed, and the decision of the inspector restored.

65. Save where references to them as individuals are required, I propose to refer to Messrs Doe, Yates and Eames collectively as "the Appellants" and to the First Secretary of State by that title. I will refer to Chichester District Council as "the Council".

66. I do not share Auld LJ's view that the inspector misidentified the nature of the rights enjoyed by the Appellants under ECHR Article 8 to which respect was due. The words of Article 8(1) are familiar, but bear repetition: -

Everyone has the right to respect for his private and family life, his home and his correspondence.

67. At the risk of appearing simplistic, it seems to me that the Article 8 analysis properly runs along the following lines. The caravans which the Appellants had placed on the land belonging to Mr. Yates were their homes (also, in the cases of Messrs Doe and Yates the homes of their respective wives and children and, in the case of Mr. Eames his partner's home). Under Article 8(1) the Appellants had a right to respect for their homes (leaving out of account, for present purposes, their right to respect for their private and family lives). Self-evidently, however, that right was, in the circumstances of the case, subject to the

qualifications imposed by Article 8(2). The Appellants' homes had been placed on land, which, although it was owned by Mr. Yates, did not have planning permission for the caravan dwellings placed on it. Their right to respect for their homes was, accordingly, subject to legitimate attack from the State. The State, in the form of the Council, sought to interfere with their Article 8(1) rights by enforcement notices requiring them to remove the caravans and vacate the site. That interference was plainly in accordance with the law. The Article 8 question for the inspector was, accordingly, whether or not the interference was necessary for any of the reasons identified in Article 8(2), and, if it was, whether the implementation of enforcement notices requiring the Appellants and their dependants to vacate the land was a proportionate response to the identified objective.

68. In my judgment, this analysis (which also seems to me to be the one adopted by the inspector) is entirely consistent with the decision of the European Court of Human Rights (ECtHR) in *Chapman v United Kingdom* (2001) 33 EHRR18 (*Chapman*). Mrs. Chapman was a gypsy who purchased a piece of land with the intention of living on it in a mobile home. Over a period of many years and after numerous inquiries and appeals, the course of which it is not necessary for me to catalogue, the local planning authority made a final attempt to require her to remove her home from the land. After a planning inspector had dismissed her latest appeal against the refusal of her planning application, the case reached the ECtHR. The ECtHR identified Mrs. Chapman's rights under Article 8 of ECHR in the following way: -

71. The applicant submitted that measures threatening her occupation in caravans on her land affected not only her home, but also her private and family life as a gypsy with a traditional lifestyle of living in mobile homes, which allow travelling. She refers to the consistent approach of the Commission in her own and similar cases (eg *Buckley v United Kingdom* (1997) 23 EHRR 342).

72. The Government accepted that the applicant's complaints concerned her right to respect for home and stated that it was unnecessary to consider whether the applicant's right to respect for her private and family life was **also** in issue. (My emphasis).

73. The Court considers that the applicant's occupation of her caravan is an integral part of her ethnic identity as a gypsy, reflecting the long tradition of that minority of following a travelling lifestyle. This is the case even though, under the pressure of development and diverse policies or from their own volition, many gypsies no longer live a wholly nomadic existence and increasingly settle for long periods in one place in order to facilitate the education of their children. Measures, which affect the applicant's stationing of her caravans, have therefore a wider impact than on the right to respect for home. They also affect her ability to maintain her identity as a gypsy and to lead her private and family life in accordance with that tradition.

74. The Court finds therefore that the applicant's right to respect for her private life, family life and home are in issue in the present case.

69. This was the basis on which Article 8 was engaged in *Chapman*. The Government accepted that there had been “an interference by a public authority” with Mrs. Chapman’s right to respect for her home. This interference was identified as “the refusal of planning permission to allow her to live in her caravan on her own land and the pursuit of enforcement measures against her” (paragraph 75 of the judgment). It was common ground that the interference was in accordance with the law (paragraph 79). The Court found that the interference pursued a legitimate aim, which it identified as “protecting ‘the rights of others’ through preservation of the environment” (paragraph 82). The critical question, accordingly, was whether the interference was “necessary in a democratic society”. This, in classic human rights language, involved considering whether it answered a pressing social need and was proportionate to the legitimate aim pursued (judgment paragraph 90).
70. Whilst I see powerful arguments for distinguishing *Chapman* on the facts (apart from anything else, Mrs. Chapman had put up her caravans in the Green Belt) I see no reason for departing from the framework by means of which the ECtHR identified the constituent parts of Article 8 in that case. In my judgment, the inspector followed the *Chapman* structure in his approach to the issue, and was right to do so.

The judge’s approach to the Article 8 issue

71. In paragraph 32 of his judgment, the judge identified the issue: -
- The Council accepted that to uphold the enforcement notices would involve an interference with the appellants’ Article 8(1) rights. Instead, it argued that the circumstances of the interference and the requirement to protect the environment justified the interference under Article 8(2).
72. The judge then summarises paragraphs 64 to 69 of the inspector’s decision letter as “a careful review to determine whether, on the facts, the admitted interference with the appellants’ Article 8(1) rights constituted by the refusal of planning permission and the consequent upholding of the enforcement notices, was necessary. The judge then set out paragraphs 96 to 100 of the ECtHR’s decision in *Chapman* and paragraphs 69 and 70 of the decision letter, which Auld LJ has set out at paragraph 44 of his judgment, and which I need not repeat.
73. The paragraphs from *Chapman*, which the judge recited, dealt with the extent to which a positive obligation was imposed on Contracting States by virtue of Article 8 to facilitate the gypsy way of life. The ECtHR recognised that “the provision of an adequate number of sites which the gypsies find acceptable and on which they can lawfully place their caravans at a price which they can afford is something which ...[had] not been achieved” (paragraph 97). However, the ECtHR on to say: -

98. The Court does not, however, accept the argument that, because statistically the number of gypsies is greater than the number of places available in authorised gypsy sites, the decision not to allow the applicant gypsy family to occupy land where they wished in order to install their caravan in itself, and without more, constituted a violation of Article 8. This would be tantamount to imposing on the United Kingdom, as on all the other Contracting States, an obligation by virtue of Article 8 to make available to the gypsy community an adequate number of suitably equipped sites. The Court is not convinced, despite the undoubted evolution that has taken place in both international law, as evidenced by the Framework Convention, and domestic legislation in regard to protection on minorities, that Article 8 can be interpreted to involve such a far reaching positive obligation of general social policy being imposed on States.

99. It is important to recall that Article 8 does not in terms give a right to be provided with a home. Nor does any of the jurisprudence of the Court acknowledge such a right. While it is clearly desirable that every human being has a place where he or she can live in dignity and which he or she can call home, there are unfortunately in the Contracting States many persons who have no home. Whether the State provides funds to enable everyone to have a home is a matter for political not judicial decision.

100. In sum, the issue for determination before the Court in the present case is not the acceptability or not of a general situation, however deplorable, in the United Kingdom in the light of the United Kingdom's undertakings in international law, ***but the narrower one whether the particular circumstances of the case disclose a violation of the applicant, Mrs. Chapman's right to respect for her home under Article 8 of the Convention (my emphasis).***

74. The judge picks up on the final sentence of paragraph 70 of the decision letter. This reads: "Thus the human rights arguments weigh heavily in favour of the Appellants" and continues: -

I take the last sentence of paragraph 70 to be a finding that the upholding of the enforcement notices would indeed constitute an unjustifiable interference with the Appellants' Article 8 rights.

36. It seems to me that, as Mr. Langham submitted, although in paragraph 69 the inspector noted that the United Kingdom Government was not under any obligation (by virtue of Article 8) to provide an adequate number of gypsy sites, he, in effect, held that Article 8 carried with it a duty on the Council, as the relevant local planning authority, to exercise its planning powers to help achieve that end in its area. In my judgment, the Article imposes no such an obligation (sic). The inspector was wrong to think that it did.

75. With great respect to the judge, I do not think the inspector was doing what the judge says, or importing into Article 8 considerations outlawed by *Chapman*. To explain why I have reached that view, however, it is necessary to look once again at the whole of the inspector's decision-making process on the Article 8 issue.

The inspector's approach to the Article 8 issue

76. In what seems to me (as someone with only a limited experience of planning law) a careful, thorough, manifestly independent and well reasoned decision letter, the inspector prefaced his consideration of the Article 8 issue with these words: -

63. The Council accepted that, to dismiss these appeals so that the enforcement notices come into effect would result in the appellants losing their homes on this land and that this would constitute an interference with their right to respect for their home and private and family life under Article 8(1) of ECHR. It is therefore considered that in all three appeals, Article 8 is engaged. That being so, under paragraph 2 of Article 8, it has to be established whether that interference is, firstly, in accordance with the law, and secondly, necessary in a democratic society in the interest of the economic well-being of the country (which includes the preservation of the environment) or for the protection of the rights and freedoms of others. In the light of the judgments in *Cremieux v France* (1993) 16 EHRR 357 and *Chapman* it is acknowledged that the exceptions provided for in paragraph 2 of Article 8 are to be interpreted narrowly and the need for them in a given case convincingly established, and that the interference must correspond to a pressing social need and be proportionate to the aims pursued.

77. As a self-direction, I find that impossible to fault. My only criticism is that the inspector has a tendency to use the passive when he means himself. I take it, therefore, that when he says: "it is therefore considered that in all three appeals Article 8 is engaged" in paragraph 63 of the decision he means, "I consider that Article 8 is engaged". Similarly, I take "it is acknowledged that" later in the paragraph to mean, "I acknowledge that".

78. In paragraph 64 of the decision letter, the inspector records the fact that it was not an issue between the parties to the appeal that the taking of enforcement action by the Council was "in accordance with the law". The argument, accordingly, was about whether the interference is necessary, and whether the action proposed by the authority is proportionate. The inspector records the Appellants' argument that the effects of enforcement would be disproportionate because the harm to the extended family group would be increasingly serious, whereas the harm to the environment would not be great.

79. In the balance of paragraph 64 and in paragraph 65, the inspector discusses the appellants' circumstances and concludes that: -

... the coming into effect of the notices would, on the balance of probabilities, deprive at least one of the appellants of their homes for a significant period. The length of that period without a secure home and those who would be affected cannot

be determined with any degree of certainty. In these circumstances it is concluded that the harm arising from the interference with their right to a home could potentially affect any of the appellants, and would be substantial.

80. In my judgment, those conclusions were manifestly open to the inspector on the evidence, and I do not see how they could be challenged.

81. In paragraph 66 of the decision letter, the inspector discusses the Council's argument that the interference was necessary in order to protect the environment from the harm caused by the unauthorised and proposed development. He concludes that there will be some harm to the environment if planning permission is granted. However, he contrasts the instant case with the facts of *Chapman* and points out that the land under consideration is not subject to any special designation due to its exceptional landscape qualities. It is not in the Green Belt. He describes it as "ordinary countryside afforded the least degree of protection". He adds: -

That is not to devalue its role as open land or the policies, which seek to protect it, but to establish its place within the hierarchy of protection from development given by the planning system. Thus it is land which the public can reasonably expect to remain free from development, but on which when development permission is sought, the weight of argument which needs to be deployed to gain permission is less than in the case of other land subject to higher levels of protection. It follows that the pressing social need for the appeal site being kept undeveloped is correspondingly less than would be the case with more highly protected land.

82. Once again, speaking for myself, I find that conclusion unexceptionable. In paragraph 67, the inspector points out that the harm to the public interest can be reduced on a continuing basis by the imposition of suitable planting conditions, so that in the end the harm would be, not to the landscape itself, but only to the character of the area and the need to prevent development in the countryside. He describes these as "matters of some, but not the greatest, weight" and considers that this conclusion is not undermined by the fact that the appellants established themselves without first seeking planning permission. He refers back to *Chapman* and says: -

Firstly, as the Council pointed out, in *Chapman* the ECtHR said that it would be slow to grant protection to those who established their home on an environmentally protected site in conscious defiance of the law. But the degree of harm caused to the environment is a matter for the national authorities, as the ECtHR acknowledged, and it would seem to be reasonable to expect that, where this harm is less, the degree of protection would increase accordingly.

83. In paragraph 68 of the decision letter, the inspector turns to the position of the appellants as gypsies. He says: -

Secondly, the appellants in these appeals are members of a particular and vulnerable minority, whose needs for a home are recognised in planning policy and

Government advice. In this case both the advice in Circular 1/94 and in Policy RE22 and paragraph 249 of the Local Plan acknowledge that private gypsy sites may be appropriate in rural locations where the need for such homes can be established. Given that only about 23% of the rural area of the District is not subject to special designation, the amount of land where only limited harm would be caused by the establishment of any gypsy site is strictly limited. Thus because the appeal site occupies part of that quantum there would seem to be no reasonable prospect of another site coming forward in the rural part of the District with fewer planning constraints.

84. In paragraphs 69 and 70 of the decision letter (set out by Auld LJ in paragraph 44 of his judgment) the inspector, as it seems to me, discusses the Council's performance of its obligations under paragraph 9 of Circular 1/94 to make adequate gypsy site provision in their development plans. He finds it wanting. He concludes that, "in practice there is little credible prospect of any private gypsy site being permitted by the Council". He comments that this conclusion has to be seen in the context of a number of factors, including Government policy in Circular 1/94 which, he says, "makes it clear that the needs of gypsies must be met".
85. In paragraph 70 of the decision letter, the inspector concludes his balancing exercise. His conclusion is that the harm to the environment is outweighed by the harm to the appellants "arising from the failure to recognise and provide for the needs of gypsies in the District by granting permission for sites". Furthermore, the interference would be disproportionate. The Council has not convincingly established why interference is necessary. He concludes with the sentence: "Thus the human rights arguments weigh heavily in favour of the appellants".
86. With great respect to the judge, I simply cannot read the inspector's decision letter in general and paragraphs 69 and 70 in particular as identifying within Article 8 and thus imposing on the Council a non-existent and impermissible duty to exercise its planning powers to help achieve the end of providing an adequate number of gypsy sites.
87. The point, which stands out, to my mind, is that the context of paragraphs 69 and 70 is the Article 8(2) balancing exercise. The inspector is weighing in the balance the factors, which, on the particular facts of the case, support the Council's interference, and those, which weigh against it. Accordingly, all the inspector was doing, in my judgment, was identifying the policy considerations contained particularly in Circular 1/94 and pointing out that the Council's interpretation of the policy meant, in practice, that there was "little credible prospect of any private gypsy sites being permitted by the Council". This, in my judgment, was an entirely legitimate conclusion for the inspector to draw from the evidence, and an entirely legitimate factor for him to place in the balance when considering the relative strengths under Article 8(2) of the competing considerations of legitimate interference, proportionality and the likely hardship suffered by the appellants as a consequence of enforcement.
88. At its highest, it seems to me that what the inspector was doing, was pointing out that in his judgment, and on the evidence he had heard, the Council had not made adequate provision for gypsies in accordance with national policy, and that this was a factor which he was entitled to weigh in the Article 8 equation as pointing in the Appellant's favour. The matter can be tested by looking at the converse. Had there been an abundance of Council

sites for gypsies in the area, this would plainly have been a material factor in the Article 8(2) equation, and would have weighed strongly in favour of interference.

89. In my judgment, this assessment of the inspector's reasoning is reinforced by the language of Circular 1/94, from which the inspector is quoting. Paragraph 9 reads: -

After the proposed repeal of this duty (the duty under the Caravan Sites Act 1968 to make adequate provision for gypsies residing in or resorting to their areas) local planning authorities should continue to indicate the regard they have had to meeting gypsies' accommodation needs. Repeal of the statutory duty will make it all the more important that local planning authorities make adequate gypsy site provision in their development plans, through appropriate use of locational and/or criteria based studies

90. It is plain that the inspector thought that the Council had not followed that guidance. That was a conclusion, which was open to him. I can see no error of law in his approach. He was not stating that the Council had a duty of the kind contradicted by *Chapman*.

91. It follows that in my judgment, the First Secretary of State has made out his first four grounds of appeal, which I am content to incorporate into this judgment as part of my reasoning: -

1. The learned judge was wrong to conclude that the inspector had misinterpreted and misapplied ECHR Article 8.
2. The inspector's approach was correct and in accordance with the principles established by the ECtHR in *Chapman*.
3. The inspector was bound to determine whether it was proportionate for the Council to evict the gypsies in all the circumstances of this case, in order to decide whether the Council could justify its admitted interference with the gypsies' right to respect for their homes and private life under Article 8(2) of the Convention. He was entitled to take account of the limited environmental harm caused by the presence of the caravan site in this location; and to balance that limited harm against the factors that weighted in the gypsies' favour. The latter properly included the fact that the Council had, on the inspector's findings, failed to fulfil its role as local planning authority for Chichester, in pursuing the national planning policy objective of seeking to meet the accommodation needs of gypsies. That policy objective is set out in paragraphs 6 to 12 of Circular 1/94 "Gypsy Sites and Planning". The fact that Article 8 does not oblige the United Kingdom to accommodate every gypsy on a site of his choice does not prevent the First Secretary of State setting out the planning objective in Circular 1/94. Nor does it prevent him (through his appointed inspector) attaching weight to the fact that this particular local planning authority has failed meet that policy objective (with the result that the accommodation needs of gypsies in Chichester have become more pressing) when he decides whether the Council has justified its interference with these gypsies' rights under Article 8 in the circumstances of this case.

4. This is the correct approach following *Chapman*. The inspector took that approach and the learned judge was wrong to find fault with him for the reasons he gives in paragraph 36 of his judgment.

92. As I indicated in paragraph 66 above, the principal point at which I respectfully part company with Auld LJ is in his identification (or rather in his interpretation of the inspector's identification) of the nature of the Article 8(1) rights enjoyed by the Appellants. My understanding of Blackburne J's judgment is that the Council accepted before him that to uphold the enforcement notices would involve an interference with the appellants' Article 8 rights - see paragraph 32 of the judgment set out at paragraph 71 above. The question, therefore, was justification under Article 8(2).

93. For the reasons, which I have attempted to give, the inspector in my judgment did not, as Auld LJ suggests, convert the appellants' qualified Article 8 rights to respect for their homes into the broader proposition that "the needs of gypsies must be met". In my view, the Article 8 rights in this case are not (and were not perceived by the inspector to be) the non-existent "rights" as gypsies to be provided with a home or a site for a home by the State. The rights were to respect for the homes, which they had created – homes admittedly created in breach of planning laws. The Council's legitimate action in issuing enforcement notices was an interference with those rights, and the question for the inspector was whether, under Article 8(2) the interference was justified and proportionate.

94. As I have already stated, the fact that the Council was in breach of the Guidance with the consequence that there was little credible prospect of any private gypsy site being permitted by the Council (as the inspector was entitled to find) was, in my judgment, a factor in the Article 8(2) balance which the inspector was entitled to take into account. The inspector did not, in my judgment, elevate the Council's breach of the policy into an impermissible breach of non-existent Article 8(1) rights enjoyed by the appellants.

95. For all these reasons, I would allow this appeal.

Mr Justice Pumfrey:

96. Three challenges are advanced to the decision of the learned judge in this case.

- i) The inspector was right to take the approach that he did in the light of the decision of the ECtHR in *Chapman v United Kingdom* (2001) EHRR 18, and the learned Judge was wrong to fault him in this regard in paragraph 36 of the judgment;
- ii) The inspector was entitled to approach Mr Eames's deemed application for planning permission in the manner that he did, and in particular was entitled to take into account the fact that Mr Eames was unlikely by reason of his personal circumstances to become entitled to obtain any pitch that did become available in the county; and
- iii) The inspector was entitled to find that there were good reasons for departing from the strict letter of Structure Plan Policy C1, and the Judge should not have criticised the inspector, whose approach was consistent with that approved by this Court in *R (Potheary) v Leominster DC* (1998) 76 P&CR 346.

97. I have had the opportunity of reading the judgments of Auld LJ and Wall LJ in draft. I respectfully agree with their conclusions on the second and third issues, but in agreement with Wall LJ I consider that the learned Judge was incorrect on the Art 8 point. I shall express my reasons as concisely as I can.

The position of the individual appellants

98. The individual appellants respectively occupy Plots A, B and C at the appeal site. Plot A contains a twin unit mobile home occupied by Mr and Mrs Doe and their baby. Plot B also contains a twin unit mobile home, and is occupied by Mr and Mrs Yates and their daughter. Mrs Yates and Mrs Doe are sisters, and the families intend that the common grandparents, the Golbys, should move to a fourth proposed pitch at the site which is the subject of an appeal under section 78 of the 1990 Act. Mr Eames and his partner occupy a large touring caravan on Plot C. In addition to the mobile homes, each plot has a brick meter box, and each also contains building equipment, building materials, and one or more vehicles. Each plot is provided with hardstanding. Plot D, the last plot on the appeal site provides access. As I understand it, Mr Yates is the freehold owner of the entire site.

99. Each family went into occupation on the same day (21 December 2001) and three applications were made to the District Planning Authority for planning permission to station mobile homes and touring caravans on the land. This was, therefore, an unlawful development at its inception. The inspector found that the failure to approach the Council or apply for planning permission could not be condoned, but that there were cogent reasons for the Doe and Yates families to leave their previous site. These applications for planning permission were rejected at a meeting of the District Council's Area Development Control Committee in February 2002. Stop Notices and Enforcement Notices were issued soon after 5 January 2002, specifying compliance periods of one month. Appeals were entered against the enforcement notices on 15 January 2002 under section 174 of the 1990 Act. Further application for permission for a private gypsy site was made on 15 April 2002, and rejected under delegated powers on 21 June 2002. This application is the subject of the appeal under section 78.

100. The effect of the enforcement notices is to require the use of the site for residential purposes to cease. The notices necessarily require, therefore, that the appellants seek pitches for their mobile homes elsewhere or cease to occupy mobile homes at all, going into ordinary residential accommodation.

101. By section 70(2) of the 1990 Act, in dealing with an application for planning permission the local planning authority is required to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations, and by section 54A the inspector's determination is required to be made in accordance with the plan 'unless material considerations indicate otherwise'. The statutory development plan in this case comprises the Approved West Sussex Structure Plan 1993 and the adopted Chichester District Local Plan First Review 1999. The 1993 Structure Plan was approved before the change in national policy affecting the provision of gypsy sites took place that is reflected in the policy advice of Circular 1/94. The Local Plan obviously was adopted after that change in national policy.

102. Policies C1 and H7 of the Structure Plan are as follows:

C1. The Planning Authorities will seek to protect the countryside for its own sake from development which does not need a countryside location, and will ensure that the amount of land taken for development is kept to the minimum consistent with the provision of high quality and adequate space within the built environment.

Development will not normally be approved outside built up area boundaries unless it is for quiet informal recreation or related to the essential needs of any of: agriculture, forestry, the extraction of minerals, the deposit of waste or the implementation of Policy H6.

Permission will not normally be given for the extension of isolated groups of buildings or the consolidation of linear or sporadic development.

...

H7. While permission may be granted for the establishment by gypsies themselves of caravan sites in suitable locations, further provision by the Local Authorities will be considered only in the light of a demonstrated need.

103. C1 is the fundamental policy. As the inspector said, its aim is to prevent development in the countryside outside the defined settlement areas and SPAs which does not need to be there. Policy H7 refers expressly to gypsy sites but gives no guidance on location. The note accompanying Policy H7 adds nothing simply referring to West Sussex's satisfaction of the requirements of the Caravan Sites Act 1968, and adding that future changes in legislation will be monitored.

104. Circular 1/94: Gypsy Sites and Planning, provides policy guidance in anticipation of the repeal of the Caravan Sites Act 1968. It provides guidance on the content of development plans (paragraph 9). The basic guidance given (paragraph 12) is that local plans and Part II of unitary development plans should wherever possible identify locations suitable for gypsy sites, but where that is not possible development plans should set out clear realistic criteria for suitable locations. Further guidance is given on the provision and location of sites, including, in paragraph 13, the general policy that it will not as a rule be appropriate to make provision for gypsy sites in areas of open land where development is severely restricted, for example, in Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest and other protected areas, nor in Green Belt. In paragraph 14, a suggestion is advanced that rural sites may be appropriate, provided that care is taken to avoid encroachment on the open countryside and to ensure consistency with agricultural and countryside policies, including those set out in PPG7 on the protection of the best and most versatile agricultural land. PPG7 sets out national policy on land use planning in rural areas of England, and is a further thread in the underlying policy fabric.

105. In compliance with the need for clear criteria for suitable locations identified in Circular 1/94, Policy RE22 of the Local Plan accordingly provides a list of eight criteria for the location of gypsy sites in rural areas, echoing the suggestions of Circular 1/94:

RE22: Sites for gypsies (defined as persons of nomadic habit of life) will only be permitted in the rural area when it can be demonstrated that the numbers of families who reside in or resort to the district need the number of pitches in the location sought, and provided that:

- (1) They do not detract from the undeveloped and rural character and appearance of the countryside, particularly the areas of outstanding natural beauty;
- (2) They are not likely to cause harm to sites designated as sites of special scientific interest, nature reserves or other sites of nature conservation interest;
- (3) They are not sited within strategic gaps or on the best and most versatile agricultural land unless there are compelling circumstances;
- (4) The siting, layout and design are acceptable to the district planning authority in accordance with policies BE11, BE14 and TR1;
- (5) They have convenient and safe access to the road network;
- (6) They are convenient for schools and other community facilities;
- (7) The uses do not result in development which would be likely to cause a disturbance to neighbours by reason of noise, fumes and dust resulting from vehicular movement and the storage of machinery and materials;
- (8) They are sited on reasonably flat land, provided that the proposals do not create visual encroachment into the open countryside.

106. The inspector recognised that RE22 is the only up to date specific gypsy site development plan policy, which, as he said, accorded with national advice in PPG7 and Circular 1/94.

107. By virtue of section 54A of the 1990 Act, the inspector was bound to consider the proposed development in the light of Policy C1 of the Structure Plan and Policy RE22, interpreted in the context of a change in national policy occurring between the two. His material conclusions seems to me as follows:

- i) The aims of development plan policies are clearly towards preventing development or the consolidation of development outside settlement boundaries and SPAs in order to protect and enhance the countryside. The appeal development does not fall within any of the exceptions in Structure Plan Policy C1. (paragraphs 27 and 28 of the decision letter).
 - ii) It is not reasonable or realistic to interpret Policy RE22 as making acceptable only those sites that are close to built up areas or within small groups of buildings in the countryside and not defined as SPAs, as does the Council (paragraph 33);
 - iii) There is a conflict between the Council's implementation of Policy RE22 and the aims expressed in Circular 1/94 on the one hand and in 'the policy as adopted' on the other. I take the last phrase to mean that there is inconsistency with Policy RE22 as properly interpreted in the light of Circular 1/94 (paragraph 35);
 - iv) In the light of that conflict, Policy RE22 should be applied to the appeal site, but without any assumption that this gypsy development is inherently unacceptable in a rural area (paragraph 35);
 - v) The development causes some harm to the character of the countryside at the appeal site in the light of the aims of Policy RE22, and this harm weighs against the grant of permission.

108. In coming to this conclusion, it seems to me clear that the inspector considered that there was a breach of policy C1; that policy C1 did not stand alone, but had to be considered with

policy RE22 in the light of the underlying national policy expressed in Circular 1/94; and that the appropriate assessment of the degree of planning harm would be that which I have set out in paragraph 107.iv) above. In my judgment, in agreement with Auld LJ and Wall LJ, this was a basis for his assessment that was open to him. The principles are set out by Schiemann LJ in *R v Leominster DC ex parte Potheary* (1998) 76 P&CR 346 by reference to the speech of Lord Clyde in *Edinburgh City Council v Secretary of State for Scotland* [1997] 1 WLR 1447:

‘The section [sc. Section 54A of the 1990 Act] has not touched the well-established distinction in principle between those matters which are properly within the jurisdiction of the decision-maker and those matters in which the court can properly intervene. It has introduced a requirement with which the decision-maker must comply namely the recognition of the priority to be given to the development plan. It has thus introduced a potential ground on which the decision-maker could be faulted were he to fail to give effect to that requirement. But beyond that it still leaves the assessment of the facts and the weighing of the considerations in the hands of the decision maker. It is for him to assess the relative weight to be given to all the material considerations.

...

[The decision-maker’s] decision will be open to challenge if he fails to have regard to a policy in the development plan which is relevant to the application or fails properly to interpret it. He will also have to consider whether the development proposed in the application before him does or does not accord with the development plan. There may be some points in the plan which support the proposal but there may be some considerations pointing in the opposite direction. He will be required to assess all of these and then decide whether in light of the whole Plan the proposal does or does not accord with it. He will also have to identify all the other material considerations which are relevant to the application and to which he should have regards. He will then have to note which of them support the application and which of them do not and he will have to assess the weight to be given to all these considerations. He will have to decide whether there are considerations of such weight as to indicate that the development plan should not be accorded the priority which the Statute has given to it. And having weighed these considerations and determined these matters he will be required to form his opinion on the disposal of the Application. If he fails to take account of some material consideration or takes account of some consideration which is irrelevant to the application his decision will be open to challenge. But the assessment of the considerations can only be challenged on the ground that it is irrational or perverse.

Schiemann LJ observes that Lord Clyde rejected the submission that inevitably in the practical application of the section two distinct stages should be identified, with these words:

The precise procedure followed by any decision-maker is so much a matter of personal preference or inclination in the light of the nature and detail of the particular case that neither universal prescription nor even general guidance are useful or appropriate.

109. I should refer also the judgment of Robert Walker LJ at 76 P&CR 359:

In his speech, Lord Clyde rejected the Secretary of State's submission that the new section always requires a two-stage approach, the first stage being for the decision-maker to decide whether or not the development plan should be given its statutory priority. This appeal shows that there are cases, of which this is a striking example, when the first stage must be for the decision-maker to decide whether the proposed development is or is not in accordance with the development plan.

Sometimes, of course, the answer to that question will be obvious (for instance, the development plan may have a bald and unqualified prohibition on open-cast mining or quarrying in a conservation area). But more often the development plan will (as in the *City of Edinburgh Council* case, and as in this case) contain exceptions, qualifications, overlapping or even contradictory policies and issues on which value judgments have to be made.

110. These statements of principle clearly indicate the limits of the court's jurisdiction to interfere in the inspector's decision. The court is ill-equipped itself to reach any factual conclusions about a particular application, or itself to make the value judgments called for in the context of a particular application.

'Other material considerations': Mr Eames

111. The inspector considered three matters under the head 'Other material considerations'. These were (i) the need for gypsy sites in the Chichester District (ii) the appellants' personal circumstances, including the personal circumstances of Mr Eames, which were distinct from those of the Yates and Doe families and (iii) human rights considerations. He held that the need for sites in the District 'weighs strongly in favour of permission'. He considered the personal circumstances of the Yates and Doe families, including the reasons they had left their previous site, the strength of the ties between the Yates and Doe (and Golby) families and the effect of separation and educational considerations. He found that 'the health, education and social welfare arguments in the context of the recognition of the cultural importance of extended gypsy families adds weight to the case for permission for the Yates and Doe families.' There is no challenge to these findings.

112. In paragraphs 60 and 61 of the decision letter, the inspector considers the position of Mr Eames. This part of the decision is challenged, but I agree with Auld LJ that the appeal on this ground should be allowed. The basis for finding a factor in favour of Mr Eames case is, I agree, clear.

Human Rights considerations

113. For ease of reference I set out Articles 8 and 14 of the Convention:

Article 8
Right to respect for private and family life

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

Article 14
Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Is Article 8 'engaged'?

114. The inspector dealt with human rights considerations as his third head of 'other material considerations'. He first considered the proper approach to Art 8 ECHR and then considered the 'micro' considerations affecting this particular case. He stated the legal approach in terms that in agreement with Wall LJ I consider to be difficult to fault:

63. The Council accepted that, to dismiss these appeals so that the enforcement notices come into effect, would result in the appellants losing their homes on this land and that this would constitute an interference with their right to respect for their home and private and family life under Article 8(1) of the European Convention on Human Rights. It is therefore considered that, in all three appeals, Article 8 is engaged. That being so, under paragraph 2 of Article 8, it has to be established whether that interference is, firstly, in accordance with the law, and secondly, necessary in a democratic society in the interests of the economic well-being of the country (which includes the preservation of the environment) or for the protection of the rights and freedoms of others. In the light of the judgments in *Cremieux v France* (1993) 16 ehrr 357 and *Chapman v United Kingdom* (2001) 33 EHRR 399 it is acknowledged that the exceptions provided for in paragraph 2 of Article 8 are to be interpreted narrowly and the need for them in a given case convincingly established, and that the interference must correspond to a pressing social need and be proportionate to the aims pursued.

115. I am conscious that I am not familiar with planning law, but with great respect to Auld LJ I believe that this correctly states the content of the Art 8(1) right. 'Home' is an autonomous

concept in the law under the EHCR. In *Chapman v United Kingdom* (2001) 33 EHRR 399 the ECtHR said

73. The Court considers that the applicant's occupation of her caravan is an integral part of her ethnic identity as a gypsy, reflecting the long tradition of that minority of following a travelling lifestyle. This is the case even though, under the pressure of development and diverse policies or from their own volition, many gypsies no longer live a wholly nomadic existence and increasingly settle for long periods in one place in order to facilitate, for example, the education of their children. Measures which affect the applicant's stationing of her caravans have therefore a wider impact than on the right to respect for home. They also affect her ability to maintain her identity as a gypsy and to lead her private and family life in accordance with that tradition.

116. This is a clear statement of the Art 8(1) right in the *Chapman* case, and, it seems to me, in other gypsy planning permission and enforcement cases. The ECtHR in *Chapman* considered the issue of interference separately. It records an acceptance by the Government that there had been 'an interference by a public authority' with the applicant's right to respect for her home disclosed by the refusal of planning permission and the pursuit of enforcement measures against her, and then makes a determination (paragraph 78) which appears to follow the concession:

78. Having regards to the facts of this case, it finds that the decisions of the planning authorities refusing to allow the applicant to remain on her land in her caravans and the measures of enforcement taken in respect of her continued occupation constituted an interference with her right to respect for her private life, family life and home within the meaning of Article 8(1) of the Convention. It therefore examines below whether this interference was justified under paragraph 2 of Article 8 as being 'in accordance with the law', pursuing a legitimate aim or aims and as being 'necessary in a democratic society' in pursuit of that aim or aims.

117. It has been repeatedly emphasised that Art 8 does not confer on the citizen a right to a home, but a right to respect for a home, which is different: see *Chapman* paragraph 99 and (not cited to us, but a parallel case) the decision of the House of Lords in *LB Hounslow v Qazi* [2003] UKHL 43. In the present case the Council says, and the learned Judge agreed, that when the inspector considered the question of justification of the interference under Art 8(2) he made precisely this error.

118. Of course, it is not possible to assess whether the interference with the protected right is proportionate to the interests to be protected under Art 8(2) if one incorrectly identifies the protected right in the first place. But it is equally important, in my judgment, not to confuse considerations which naturally belong in the realm of justification with the identification of the protected right or with a finding that there is an interference with that right. My reading of paragraphs 65 to 70 of the inspector's decision letter is that he uses the framework provided by Art 8(2) to identify and balance the planning factors that he has already identified with the other factors he identifies relating to the interference to arrive at a

conclusion whether there is a pressing social need for the interference and that it is proportionate to the aims pursued. I summarise the factors as follows:

- i) If permission were refused, the evidence was that the appellants would have to look elsewhere, and more widely that in West Sussex;
 - ii) There was no evidence that any private pitches were available, and so public pitches would have to be sought, and, although the Doe and Yates families were model tenants, there was no reason to suppose that any Council pitch would be available, and the position for Mr Eames, a single man, would be worse (paragraph 64 of the decision letter);
 - iii) Further movement might well not result in finding a pitch, there being a national shortage of lawful sites, and so they would be without a secure home for an appreciable period (paragraph 65);
 - iv) The interference implicit in the foregoing considerations was said to be necessary to protect the environment, and, while the development would result in some harm to the environment, the site was not subject to any special designation due to its qualities either in a national or local context, had no recognised nature conservation value, or archaeological potential and had no declared historical value—it was ordinary countryside accorded the least degree of protection in the hierarchy of protection conferred by the planning system (paragraph 66);
 - v) Environmental harm could be further reduced by suitable conditions as to planting (paragraph 67); and
 - vi) The appellants are members of a particular and vulnerable minority whose needs for a home are recognised in planning policy and Government advice, which recognise in Circular 1/94 and RE22 that private gypsy sites may be appropriate in rural locations where a need for such homes can be established. Given that only about 23% of the rural area of the district is not subject to special designation, the amount of land where only limited harm would be caused by the establishment of any gypsy site is strictly limited.
119. Having set out these factors, the inspector concludes his analysis of the human rights issues in paragraphs 69 and 70 of the decision letter. For ease of reference, I set them out again:

69. Account has been taken of the Council's argument that the judgment in *Chapman* found that the United Kingdom government was not under an obligation to provide an adequate number of gypsy sites. But paragraph 9 of Circular 1/94 says that repeal of the statutory duty of local authorities under the 1968 Act to provide gypsy sites makes it all the more important that local planning authorities make adequate gypsy site provision in their development plans. In this case the Council has not demonstrated that it has a sound statistical basis for its conclusion that there is no need for any new gypsy site, despite saying that it accepts there is a small unmet need. Furthermore the Council has not granted a single planning permission for a private gypsy site since their Local Plan was adopted in 1999, and the only private gypsy sites in the District all appear to have been granted on appeal, that is following refusal of permission in the first instance by the Council. That situation,

coupled with the Council's interpretation of the Local Plan gypsy policy, RE22, appears to have ensured that in practice there is little credible prospect of any private gypsy site being permitted by the Council. This conclusion has to be seen in the context of the need for sites in the District, Policy RE22 and paragraph 249 of the Local Plan, and the Government policy in Circular 1/94 which makes it clear that the needs of gypsies must be met.

70. Against this background the limited harm caused to the environment, and hence to the public interest, by the appeal development has to be weighed against the serious harm to the appellants arising from the failure to recognise and provide for the needs of gypsies in the District by granting permission for sites. It is concluded that in this case that limited harm does not constitute a pressing social need for the interference with the Article 8(1) rights of all the appellants which would result from the upholding of these notices. Moreover, by leading to a situation where there is a high probability that at least one of the appellants would lose their present home for a significant period, such interference would be disproportionate. For these reasons, and because the Council has not convincingly established why the interference is necessary, it is concluded that it is unacceptable. Thus the human rights arguments weigh heavily in favour of the appellants."

120. Before the Judge, it was common ground that Art 8 was engaged, in the sense that the respondent Council accepted that 'to uphold the enforcement notices would involve an interference with the appellants' article 8(1) rights' (judgment paragraph 32). Having considered the decision letter and the judgment of the ECtHR in *Chapman*, the judge held

36. It seems to me that...although in paragraph 69 the inspector noted that the United Kingdom Government was not under any obligation (by virtue of article 8) to provide an adequate number of gypsy sites, he, in effect, held that article 8 carries with it a duty on the Council, as the relevant local planning authority, to exercise its planning powers to help achieve that end in its area. In my judgment the article imposes no such an obligation. The inspector was wrong to think that it did.

121. With great respect to the learned Judge, I am unable to find that the inspector did by implication suggest that there was such a duty on the council. If numbers of available sites are a factor to take into account in deciding whether to grant permission in a particular case, it may be difficult to indicate as a matter of language that a shortage (or as the inspector seems to have thought, a deliberate shortage) of sites is being taken into account without also suggesting that there is duty to provide more sites having regard to the paucity of existing provision. In my judgment it is clear that the nature of existing provision is highly material: this is made clear by *Chapman*:

103. A further relevant consideration, to be taken into account in the first place by the national authorities, is that if no alternative accommodation is available, the interference is more serious than where such accommodation is available. The more suitable the alternative accommodation is, the less serious is the interference constituted by moving the applicant from his or her existing accommodation.

...

111. The Court observes that during the planning procedures it was acknowledged that there were no vacant sites immediately available for the applicant to go to...

112. Moreover, given that there are many caravan sites with planning permission, whether suitable sites were available to the applicant during the long period of grace given to her was dependent upon what was required of a site to make it suitable. In this context, the cost of a site compared with the applicant's assets, and its location compared with the applicant's desires are clearly relevant...

113. The Court is therefore not persuaded that there were no alternatives available to the applicant besides remaining in occupation on land without planning permission in a green belt area...

122. For my part I would not accept that in saying (at the end of paragraph 69 of the decision letter) that Circular 1/94 makes it clear that the needs of gypsies must be met the inspector prepared the ground for the error that he is said to have made. It is, after all, paragraph 6 of the Circular that says that the land use requirements of gypsies 'need to be met', and paragraph 9 of the same document points out that repeal of the statutory duty to provide sites 'will make it all the more important that local planning authorities make adequate gypsy site provision in their development plans'. In my judgment, paragraph 70 of the decision letter sets out with sufficient clarity the balancing operation that the inspector carried out to satisfy me that he did not permit the shortage of sites to trump the planning harm that he identified. It was one of many factors which he identified in deciding that enforcement was disproportionate to the planning harm he identified.

123. For the foregoing reasons, as well as those set out by Wall LJ, I respectfully consider that the learned Judge's criticisms of the inspector's approach to the Art 8 ECHR considerations in this case are unjustified and I would allow the appeal accordingly.

Appeal Decision Notice

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Decision by Scott M Ferrie, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-300-2022
- Site address: land at Doohill, Easter Coxton, Elgin IV30 8QS
- Appeal by Mr George Stewart and others against the decision by The Moray Council
- Application for temporary planning permission 12/00481/APP dated 22 March 2012, refused by notice dated 22 August 2012
- The development proposed: three year temporary planning permission, application partly in retrospect, change of use to establish on existing hardstanding six private permanent Gypsy/Traveller pitches together with facilities for access, parking, fencing, screening and individual utility/toilet/laundry/storage units
- Application drawings: 01 location and neighbour notification plan; 02A site layout and landscaping plan; 03 details of proposed pitch enclosures and individual utility units
- Date of site visit by Reporter: 8 January 2013

Date of appeal decision: 8 May 2013

Decision

I allow the appeal and grant temporary planning permission subject to the 12 conditions listed at the end of the decision notice. Attention is also drawn to the 2 advisory notes at the end of the notice.

My separate decision on the appeal against the council's enforcement notices served in regard to this development is also issued today.

Reasoning

1. The appeal proposal is partly in retrospect. At the time of my site inspection, the access and individual pitches had largely been formed, certain other physical development had been undertaken, and 5 of the 6 pitches were occupied, with pitch 3 remaining undeveloped and unoccupied.
2. The determining issues in this appeal are: (i) whether the proposal represents an acceptable form of development in the countryside; (ii) whether the proposal would adversely affect the character and visual amenity of the area, or the amenity of nearby residents, all having regard to the provisions of the development plan; (iii) whether the



proposal would preserve the setting of the category A listed Coxtan Tower; and (iv) whether other material considerations indicate that planning permission should nonetheless be granted or refused.

Whether the proposal represents an acceptable form of development in the countryside

3. The appeal site is located in the countryside to the south-east of Elgin. It sits within, but on the outer edge of, the ‘Elgin Countryside Around Towns’ as designated in the adopted Moray Local Plan.

4. Policy 2 (e) of the approved Moray Structure Plan states that the structure plan strategy will be supported by providing protection from development to the countryside around 5 towns, including Elgin.

5. Policy E10 of the local plan states that development proposals within the countryside around towns areas will be refused unless they fall into one of the criteria set out in the policy. In brief summary, these permitted use types relate to: the rehabilitation, conversion or replacement of existing buildings; development necessary for the purposes of agriculture or other appropriate rural use; or for long term housing allocations released for development under policy H2.

6. As the proposal falls within none of the use types permitted by policy E10, I must find the proposal to be contrary to that policy, and consequently also policy 2(e) of the structure plan. I conclude that the proposal does not represent an acceptable form of development in the countryside as set out in the development plan.

Impact on the character and amenity of the countryside and on residential amenity

7. Policy 1(e) of the structure plan states that the structure plan strategy will be supported by “low impact, well-designed development in the countryside to support local communities and rural businesses”. Policy IMP1 of the local plan provides, amongst other things, that development will require to be sensitively sited and designed. The scale, density and character of development must be appropriate to the surrounding area and development must be integrated into the surrounding landscape.

8. The appeal site is irregularly shaped, measuring about 240 metres in length and varying between about 30 metres and 90 metres in width. The length of the site is oriented on a north-west to south-east axis, with the south-west boundary being well contained by an established coniferous tree belt with the B9103 local road beyond, and the north-east boundary being largely open to adjacent farmland.

9. The site is very well-contained visually, from the north and west, by the conifer plantation. I found, during my inspection of the site and its surrounds, that glimpses of the development could be seen from those directions, but that the impact of the proposal on the visual amenity of the area was not significantly adverse. The site is however, appreciably more open to view from the east, and especially so from the local road from Lhanbryde. From that direction, many of the individual elements of the proposal can be relatively clearly seen. I found to a material extent though, that the visual impact of the proposal from that direction was reduced by the backdrop of the conifer plantation behind the site. I also note

the appellants' proposal to establish 4 areas of tree and shrub planting along the north-eastern site boundary, which would provide an element of screening and further reduce the visual impact of the proposal. I shall return to that matter later.

10. Bearing in mind the extent of the appeal site and the nature of the development proposed, I found the development overall to have remarkably little adverse impact either on the visual amenity of the area or on its rural character.

11. Turning to the issue of impact on residential amenity, the nearest residential neighbour to the appeal site, the dwelling at Doohill, was pointed out to me during the site inspection. It is located about 190 metres to the north-west of the appeal site. Other residential dwellings are located further still to the west and the north-east. The appellants have established a bunded landscape strip along the north-western site boundary, facing those nearby dwellings. The planting at the time of my site inspection remained very immature. Even so, I found the visual impact of the proposal from the vicinity of the nearest dwelling at Doohill to be almost insignificant, due primarily to the intervening distance and the containing effect of the coniferous plantation. In addition, I am satisfied that no adverse impact on the privacy of nearby dwellings would arise, or that there would be any other unacceptable impacts on residential amenity. I find that the proposal would not have an unacceptably adverse impact on the residential amenity of neighbouring residents.

12. On the whole, I find the proposal to integrate satisfactorily into the surrounding landscape and to have a minimal impact on the rural character of the area. I conclude on this matter that the impacts of the proposal considered above would not be sufficiently adverse to lead me to find the proposal to be contrary to policy 1(e) of the structure plan or policy IMP1 of the local plan.

Impact on the setting of the category A listed Coxtan Tower

13. Section 59 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that I have special regard to the desirability of preserving the setting of any listed building affected by a grant of planning permission.

14. The category A listed Coxtan Tower is located in excess of 200 metres to the north-west of the appeal site. There are intervening residential dwellings, the B9103 local road and the conifer plantation bounding the appeal site. I am satisfied that due to these factors, and the low-profile (in terms of development height) nature of the proposal, there would be no adverse impact on the appreciation of the listed building, and that its setting would be preserved.

Conclusions on conformity with the development plan

15. I find overall that, as the proposal fails to comply with development plan policy on development in the countryside, it is not in accord with the development plan. That said, I have found there to be no unacceptably adverse impact on the character and amenity of the countryside, or on the residential amenity of nearby residents.

16. Before moving on to consider other material considerations, there remains one further provision of the development plan which, for the sake of completeness, ought to be

mentioned here. Policy H12: *Travelling Persons Sites* of the local plan, states that “The council acknowledges the needs of travelling people are taken into account, and will identify sites. These sites will be considered in the context of the applicable policies in the Plan”. Despite the local plan having been adopted in 2008, the council concedes that it has, some 5 years later, failed to identify such sites. Nor has it set out how private proposals for such sites are to be assessed, although it advises that work is now underway in framing such guidance. I shall consider the implications of this matter below.

Other material considerations

17. Scottish Planning Policy requires that development plans should address the housing needs of sections of the community such as Gypsies and Travellers, stated to have specific housing needs and often requiring sites for caravans and mobile homes. The need for such accommodation is to be considered, amongst other things, through the council’s housing needs and demand assessment.

18. Council officers acknowledge that “policy on the provision of privately owned Gypsy/Travellers sites is not properly addressed in the Council’s development plan; nor is there any supplementary planning guidance prepared by the Council on this issue”. The council’s housing needs and demand assessment, prepared in 2011, and which the appellants criticise as understating true demand, indicates there to be a shortfall of 23 Gypsy/Traveller pitches in Moray.

19. In this context I find the council’s failure to date to establish a policy context for the provision of private sites, or to identify suitable sites (as policy H12 of the local plan requires it to do) to be significant, and to weigh in favour of permission being granted for this proposal.

20. The council does not dispute that the appellants have long-standing links to Moray, or that they have “rights/needs” to have accommodation in the area, specifically within Elgin or the surrounding area. It acknowledges that private site provision is an acceptable way of meeting those needs. In this context, the appellants have submitted information demonstrating that occupants of the site are established in local schools and that certain of the residents have ongoing serious health issues which are being treated in local medical facilities.

21. Article 8 of the Human Rights Act 1998 provides, amongst other things, that everyone has the right to respect for his private and family life and his home. There is to be no interference by a public authority with the exercise of this right except in accordance with the law and is necessary in a democratic society, including in the interests of the protection of the rights and freedoms of others. The protection of the environment is held to be such a balancing interest. The balance of that interest against the Article 8 right is a matter for planning judgement in cases such as this one.

22. The Equalities Act 2010 introduced a general duty to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. Section 149(6) of the Act states that “Compliance with the duties in this section may involve

treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act”.

23. I cannot escape the conclusion that the appellants have been seriously disadvantaged by the council’s failure either to identify suitable sites, which it is required to do by local plan policy, or to establish a substantive policy framework for the assessment of proposals such as this one. Drawing all of these considerations together, I find there to be a very persuasive case for concluding that the appellants’ need for the proposed development outweighs the conflict with development plan policy and the quite limited harm to the countryside which I have identified.

24. The council has not relied on, as a reason for refusal, any fear of a precedent being set by a decision to grant permission for this proposal. I am satisfied that no such precedent would be set and that any subsequent proposals would require to be assessed on their own merits. The potential for cumulative adverse impacts on rural character arising from such proposals would be likely to be a material consideration in such cases.

25. I note those other matters raised in letters of objection from neighbouring residents and landowners. I have already concluded above that there would be no unacceptable impact on privacy or residential amenity. Any impact on property value is not a material planning consideration. I have no reason to conclude that the proposal would adversely affect the neighbouring farm business. The council is satisfied that the site access is acceptable, subject to conditions, and I agree with that assessment. I have carefully considered all other matters raised but am satisfied that none could lead me to refuse permission.

Overall conclusions

26. I conclude overall that the proposed development is contrary to the development plan, for which protection of the countryside around Elgin is an important objective. That has to be balanced against the other material considerations set out above. I am in no doubt in this case that those other considerations clearly outweigh the proposal’s failure to accord with the development plan and indicate that permission ought to be granted. I do not consider that to do so would be to treat the appellants more favourably than the settled community, but rather that it would provide them with an equivalent opportunity to establish homes to suit their needs.

27. In reaching this decision, I must acknowledge the contrary decision arrived at by the reporter in the previous appeal relating to this site. I am satisfied however, that circumstances have altered materially since that decision (principally the passage of time with little progress on the matters referred to in paragraph 19 above, and the coming into force of the Equalities Act), and that there is no inconsistency between the 2 decisions.

28. In granting permission, I attach those conditions largely as suggested by the council. I am satisfied that I could not, as latterly requested for the appellants, grant a temporary permission materially longer than the 3 year temporary permission originally sought by the appellants and consulted upon. On the other hand, the 18 month temporary permission suggested by the council (should permission be granted) does not seem to me to

adequately respond to the appellants' personal circumstances, particularly given the very limited harm to the character of the local area arising from the proposal. On this basis I consider the 3 year temporary permission originally sought by the appellants to be appropriate, even taking into account the period during which the site has been occupied without the benefit of planning permission.

29. Circular 4/1998 – The Use of Conditions in Planning Permissions provides that it is seldom desirable to have planning permission run other than with the land. It does acknowledge however, that there are occasions where a personal permission would be appropriate, such as where permission would not normally be allowed but for strong compassionate or other personal grounds. As such grounds do contribute to the grant of permission in this case, I consider it appropriate that the permission be made personal to the appellants. I do not however, find it necessary, as the council suggests, to name individually each person, including each child, to be permitted to reside in the development. I consider that to represent an unwarranted intrusion into the appellants' right to enjoy their private family lives.

30. I do not consider that the current landscape proposals would adequately contain the appeal site when viewed from the east. I have therefore, amended the council's suggested landscape conditions to provide for increased planting along the north-eastern boundary of the site. I have omitted the council's reference to removal of the site roadway from condition 2, as the council acknowledges that the roadway was in place prior to the appellants' occupation of the site. I do not consider that a condition requiring its removal would meet the test of reasonableness set out in the circular.

31. In accordance with section 58(4)(c) of the Act, I have not attached the standard advisory note relating to the commencement of development, as the permission hereby granted is time limited. Similarly, I have not attached the standard note relating to the submission of advance notice of the start of development, as the proposal is partly in retrospect.

Scott M Ferrie

Principal Reporter

Conditions

1. The permission hereby granted is for a temporary period expiring 3 years from the date of this permission. This permission is temporary in its entirety irrespective of the reference to 'permanent' pitches in the application description.

Reason: In order that the planning authority may retain control over the use of the site and to allow for interim policy guidance to be put in place, thereby allowing the suitability of the site to be assessed; and to avoid any ambiguity regarding the terms of this permission.

2. At the end of the period specified in the above condition the site shall be tidied and cleared of all caravans, chalets, structures, hard surfaces, septic tanks, pylon protection

measures and means of enclosure, all to the satisfaction of the council as planning authority.

Reason: To reflect the fact that temporary permission is granted and in order that the planning authority may retain control over the use of the site.

3. Unless otherwise approved in writing by the council as planning authority, the permission hereby granted shall relate solely for and to the appellants, namely the Stewart family, and the site shall be occupied only by that family.

Reason: To reflect the basis on which permission was granted, and in order to ensure the planning authority retain control over the use, and occupation, of the site for the period of the permission.

4. No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0 metres in height and fronting onto the public road shall be erected or placed within 204 metres of the edge of the carriageway.

Reason: To ensure acceptable development in the interests of road safety, in accordance with Moray Local Plan Policy T2.

5. The width of the vehicular access shall be 5.5 metres and have a maximum gradient of 1:20 measured for the first 5.0 metres from the edge of the public carriageway. The first 15 metres of the access track, measured from the edge of the public road, shall be constructed to the Moray Council specification and surfaced with bituminous macadam. These works must be completed to the council's satisfaction no later than 3 months from the date of this permission.

Reason: To ensure acceptable infrastructure at the development access, in accordance with Moray Local Plan Policy T2.

6. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

Reason: To ensure acceptable development that does not create any hazard to road users in the interests of road safety, in accordance with Moray Local Plan Policy T2.

7. Turning areas shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear. These works must be completed to the council's satisfaction no later than 3 months from the date of this permission.

Reason: To ensure acceptable development in the interests of road safety, in accordance with Moray Local Plan Policy T2.

8. The access radii shall be 9 metres and shall be kerbed using 254 x 127 mm splayed/half battered precast concrete kerbs to the Moray Council specification. These works must be completed to the council's satisfaction no later than 3 months from the date of this permission.

Reason: To ensure acceptable infrastructure at the development access, in accordance with Moray Local Plan Policy T2.

9. A visibility splay of 2.4 metres x 120 metres to the east and 2.4 metres x to the point perpendicular to the B9013 to the west shall be provided and maintained at the access in

both directions, clear of any obstruction above 1.0 metres in height (measured from the level of the carriageway). The visibility splay lies within the road verge although at present vegetation from within the site is extending into the road verge and obscuring visibility. The developer must remove the vegetation within the splay. These works must be completed to the council's satisfaction no later than 3 months from the date of this permission.

Reason: To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety, in accordance with Moray Local Plan Policy T2.

10. That within 3 months of the date of this permission an amended landscape scheme, incorporating the provision of continuous planting/hedging along the north-eastern site boundary, shall be submitted for the written approval of the planning authority.

Reason: In order to enhance the proposed landscape scheme to adequately screen the development from the east.

11. That all planting as shown on the amended landscape scheme, required by condition 10 above, shall be carried out in the first planting and seeding season following the council's written approval of that scheme. Any trees or plants which (within 1 year of planting) die, are removed, become seriously damaged or diseased shall be replaced in the following planting season with others of a similar size, number and species unless the council as planning authority gives written consent to any variation of this planning condition.

Reason: In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will allow them to screen and enhance the site and locality.

12. Within 3 months of this approval a 2 metre palisade fence around the tower on site must be erected, with a security type access gate. Where vehicular access is taken under the power line, height restriction goal posts over any track 15 metres clear of the outer conductor will be required for the duration of the development. The fence and access goal posts must be constructed to the satisfaction of the council, in consultation with Scottish and Southern Electricity.

Reason: To ensure an adequate degree of protection is provided between the site occupants and the power lines within the site.

Advisory notes

1. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position. (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended).)

2. **The Moray Council's list of informatives:** With the exception of the informative relating to a schedule of occupants, which I have referred to in my reasoning above, I draw the appellants' attention to the list of informatives contained in the council committee report

prepared for the Special Meeting of the Planning and Regulatory Services Committee on 14 August 2012.



INVESTOR IN PEOPLE





Decision by Claire Milne, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-110-2310
- Site address: site to the West of 2 Springhill Cottages, Boddam, Peterhead, AB42 3AF
- Appeal by Mr Thomas Collins against the decision by Aberdeenshire Council
- Application for planning permission APP/2015/2211 dated 9 July 2015 refused by notice dated 4 July 2016
- The development proposed: full planning permission for change of use from vacant land to Travellers site suitable for 4 pitches with associated parking, internal access road and fencing (part retrospective)
- Application drawings: 15-093-129 Rev A, Location Layout; 15-093-128 Rev C, Site Layout; 15-093-204 Rev A, Amenity Block – Floor Plan and Elevations.
- Date of site visit by Reporter: 26 October 2016

Date of appeal decision: 20 January 2017

Decision

I allow the appeal and grant temporary planning permission subject to the 13 conditions listed at the end of the decision notice. Attention is drawn to the one advisory note at the end of the notice.

My decision on the appeal against the council's enforcement notice (reference: ENA-110-2017) is issued separately.

Preliminary

During the process of dealing with this appeal, it became apparent that the appellant had been issued with the wrong site layout plan in association with the refusal of planning permission. The council has now clarified that the correct plan is that listed above. This is the plan I have referred to in relation to this appeal.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan, the main issues in this appeal are:

- (i) the need for the proposed development;
- (ii) impact on the character, appearance or nature conservation of the area;

- (iii) impact on residential amenity; and
- (iv) impact on road safety.

2. The development plan for this area comprises the approved Aberdeen City and Shire Structure Plan, 2014 and the adopted Aberdeenshire Local Development Plan, 2012. While the approved structure plan is more recent and highlights that new development should meet the needs of the whole community including the specific needs of Gypsy/Travellers, I do not consider that the development proposed raises issues of strategic significance.

3. The report of examination into the Proposed Aberdeenshire Local Development Plan, 2014, has recently been issued. As the proposed policy dealing with Gypsy/Travellers remains relatively unchanged from that set out in the adopted local development plan and no new issues are raised that are relevant to the development proposed, I have assessed this appeal against the policies of the adopted plan and the supplementary guidance that supports them.

Need for the development

4. Although the local development plan policies dealing with housing in the countryside and with residential caravans have been referred to in the representations, the council has not referred me to any such policies. The proposed development is not housing nor is it a residential caravan in the sense that it is for the general population. Therefore, I consider Policy 7 and supplementary guidance SG SHN3 from the local development plan, which deal specifically with special housing needs and with Gypsy/Traveller sites, to be the key policy considerations.

5. The reasoned justification to SG SHN3 explains that its aim is to ensure sites for Gypsy/Travellers are located on land specifically for that purpose and that the demand for small privately owned sites can be considered against a relevant policy. In relation to private sites, it states that the developers of such sites for their own use do not have to prove a need.

6. The development proposal comprises of four caravans in total; three are for the appellant Mr Collins and his family, and the fourth for workers associated with the family business. Based on this description, I consider it reasonable to conclude that the site is intended for the appellant's own use and that no proof of need is required. Therefore, I find that there is an established need for the development and consistent with Policy 7 and SG SHN3, it can be supported in principle.

Impact on the character, appearance and nature conservation of the area

7. Where there is a need for a Gypsy/Traveller site and it is supported in principle, SG SHN3 requires a range of criteria to be satisfied and for other relevant policies to be met. The first of these criteria relates to the character or appearance of the area.

8. The appeal proposal is partly in retrospect as the use has already commenced. Some caravans have been located on the site, some fencing erected and an internal access created. I noted on my site inspection that the caravans were not in the exact

positions indicated in the proposed site layout plan and the proposed amenity block had not been built. However, I must consider the proposal as shown on the relevant plans - not as I found it on the ground.

9. The character of the landscape surrounding the site is agricultural, generally flat, with expansive views across open fields. Existing hedgerows and groups of trees demarcate the field boundaries and groups of residential and farm properties are scattered across the wider area. A few kilometres to the north, the public road reaches an industrial estate and joins up with the A90 road and the outskirts of Peterhead.

10. The site lies amongst a group of three residential properties on the northwest side of the public road. There is little existing screening on the southwest edge of the site and it has an open aspect to the adjacent fields. Although the site sits slightly lower than the adjoining ground, parts of the caravans are still visible when viewed from the southwest. From the northeast, the ground levels, erected fencing and the existing house mainly restrict views of the site.

11. Although it is currently possible to see and identify the existing caravans from the public road, the site is contained amongst the existing group of three houses, which make up Springhill Cottages. The proposed caravans would have a compact layout and the whole site fits in between and in line with the boundaries of the existing cottages to the southeast and northwest. I note that a 1.8 metres high screen fence is proposed along the southwest boundary of the site. When the proposed development is seen alongside the existing houses, garages and with the proposed fencing in place, I do not consider that it would appear obtrusive in the wider landscape. Therefore, with regard to criterion (a) of SG SHN3, the proposed development would not substantially detract from the character or appearance of the area.

12. Policy 11 and SG Natural Environment 1 deal with the protection of natural heritage and nature conservation sites. The site forms part of the Skelmuir, Stirling and Dudwick Hills and Den of Boddam Local Nature Conservation Site. Its conservation value is from being rich in flint. I agree with the council that the proposed development will not result in any significant impact on the protected area and therefore the proposal would comply with Policy 11 and SG Natural Environment 1.

Impact on residential amenity

13. The council's reason for refusal states that the development is significantly detrimental to the amenity enjoyed by the residents in the area. This reason is in line with the second criterion of SG SHN3. As the proposal is essentially for the provision of residential accommodation, in the context of the needs of Gypsies/Travellers, I have focused my assessment of amenity on visual impacts and on privacy and overlooking – these being the typical considerations with regard to adjoining residential type developments.

14. The house at No.1 Springhill Cottages is closest to the boundary of the site, at around 15 metres. Its garden is separated from the site by an access track and the house has an oblique view of the site. To the rear of the site, the house at No.3 Springhill

Cottages is located around 50 metres away and separated by an area of scrubland and a bund (the bund is subject to an enforcement notice).

15. The refused site layout plan shows a proposed distance of around 3.5 metres between the nearest two caravans and the garden boundary of No.2 Springhill Cottages. Although this distance is consistent with the council's Site Licence Conditions, which requires the distance between any unit and the site boundary to be not less than 3 metres, the garden of the property immediately abuts the site. In these circumstances, and without sufficient screening along the boundary, the caravans would be highly visible and the occupiers would be able to look directly into the garden area. This could potentially lead to overlooking and loss of privacy. As the dwelling house is over 35 metres away from the boundary, I find it unlikely that the same degree of impact that would affect the garden area would be experienced within the house itself.

16. The proposal is in part-retrospect, but for the purposes of the planning appeal, I must assess it in the same way as if no development had taken place. In my considerations, I am required to assess the full impact of the development including the proposed layout of the caravans, the proposed boundary treatments and other elements. Based on the evidence submitted, I do not conclude that the proposed development would have a significant and unacceptable impact on the amenity enjoyed by residents, such that I consider it necessary to refuse planning permission. Therefore, I find that it would comply with criterion (b) of SG SHN3. However, I accept that some degree of visual intrusion, resulting in potential overlooking and loss of privacy could occur given the proximity of neighbouring property boundaries.

17. The council has suggested that temporary planning permission be granted, in order to provide an opportunity to review the impact of the development on amenity. The appellant appears to be agreeable to a temporary permission of one year. While no details are included, I note that the appellant is also agreeable to accepting a condition to require landscape planting along the boundary with No.2 Springhill Cottages. The council has not suggested any such condition, possibly because it is unlikely that any substantial planting could be grown and established within one year.

18. I have considered the merits of both a permanent and temporary permission relative to my concerns over residential amenity. The proposed boundary treatment with No.2 Springhill Cottages comprises a 1.8 metres high screen fence. The type of fence is not specified and the amount and type of landscaping to which the appellant refers is not indicated. Although I could require the details of these to be provided through a planning condition, I consider there to be too much uncertainty over how effective the proposed boundary screening will be in terms of protecting the residential amenity of neighbouring properties. This would justify a temporary permission in this instance. I have considered granting permission for one year but regard a three-year permission as providing greater potential to secure a more robust and suitable landscaped boundary. This timescale should allow the boundary screening to become established. In the event that a subsequent application was made to extend the temporary permission or to make it permanent, the council would in turn be able to assess the effectiveness of the boundary treatment in mitigating the impacts of the development on the visual amenity of neighbouring properties.

19. Finally, in relation to this matter, I note that the proposed density and layout of the caravans is consistent with the council's Site Licence Conditions and would not be contrary to Policy 8 and SG LSD2 concerning the layout, siting and design of new development.

Impact on road safety

20. Although the impact on road safety has not been raised by the council as a reason for refusal, there are third party concerns. With regard to achieving suitable visibility at the public road, the council has confirmed that the existing visibility splays comply with its requirements in relation to the type of road, speed limit and alignment. At my site inspection, I took care to view the existing access, which egresses onto a rural, mostly straight road at this point. I agree with the council's view on this matter and I am satisfied that the public road could accommodate the level of traffic generated by the development, including any weight restrictions placed upon it.

21. The council has confirmed that the requirement to surface the road at the access junction and ensure that the gradient is no more than 1 in 20, was not considered necessary or fair to apply in the case of a temporary proposal. It was also noted that the access already serves two residential properties and is level where it meets the public road. The council's only outstanding requirement therefore, with regard to granting permanent permission, would be the surfacing of the road at the access junction.

22. Based on my site inspection, I agree with the council's explanation with regard to the access gradient but I am of a different opinion with regard to the surfacing of the access road relative to a temporary permission. The access is shared and I noted at my site inspection the poor condition of the road surface and that further vehicle movements, particularly larger vehicles normally used by the Gypsy/Traveller community, would be likely to worsen its condition. Allowing loose material to transfer onto the public road would not be in the interests of road safety. As I am approving the development for a period of three years, and the road surface is likely to deteriorate over this time, I consider it reasonable, necessary and fair that a condition requiring its improvement is included.

23. The owners of No.2 Springhill Cottages have stated that any improvements to the access would cut across land, which is outwith the appellant's control. The appellant has stated that within his title deeds, there is a servitude right of pedestrian and vehicular access over the area covered by the access upon payment of a proportional share of the maintenance and repair of this area. Any dispute over this issue is a civil matter between the owners and those with rights of access. However, it appears that there is the potential to deliver the necessary road surface improvements referred to above providing agreement can be reached with other parties. There seems to me to be a reasonable prospect that this can be achieved, but any uncertainty in this regard tends to support my conclusion that a temporary permission is appropriate in this instance.

24. With regard to the issue of road safety, I find that the location of the site allows reasonable access to the main road network. Although there is a lack of public transport in the area, I find that the site's location close to the public road and relative proximity to Peterhead town centre some 5 kilometres away, provide reasonable access to employment, education and community facilities. Therefore, with regard to these matters, the proposal would comply with criterion (d) of SG SHN3.

Assessment against other criteria of SG SHN3

25. SG SHN3 includes one other relevant criterion (c) which requires a secure environment and essential services to be provided. The council has confirmed that the site can be served with all the necessary services relative to a temporary planning permission subject to the suggested planning conditions. I note that the relevant items listed in the council's Site Licence Conditions and certain requirements of the environment health service are contained within the suggested conditions. These include details of external lighting, refuse and recycling storage, surface water and foul drainage disposal, and connections to the public water supply. Therefore, subject to these conditions, I find that the proposal would comply with criterion (c).

Development plan conclusions

26. In summing up my conclusions with regard to the development plan, I find that the proposed development, subject to the imposition of a temporary three-year permission and other necessary conditions, would comply with Policy 7, Policy 8 and Policy 11 of the adopted local development plan and the associated supplementary guidance.

Material considerations

27. I have been referred to a number of material considerations in support of and against the proposed development.

28. Article 8 of the Human Rights Act 1998 provides, amongst other things, that everyone has a right to respect for his or her private and family life and home. Section 149(1) of the Equality Act 2010 places a duty on me in determining this appeal to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not. The appellant asserts that through the imposition of conditions (including a temporary permission), the proposal can be made to be a model of how such sites should operate and provide the opportunity to foster good relations with the settled community. I have already concluded above that the proposal is consistent with the terms of the development plan. These considerations also point towards the desirability of planning permission being granted in this case.

29. I have also been referred to the UN Convention on the Rights of the Child and those matters relevant to the best interests of children. As three of the children who reside at the site attend the local school, it would not be in their best interests to have their education and their potential to integrate with the local community, disrupted, certainly not in the short-term. As well as the need for a private site, I also acknowledge the family's desire to settle in the area on a more permanent basis. The appellant asserts that the opportunity to manage the site effectively so far has been thwarted by the council's actions in terms of planning enforcement and that he is prepared to make the capital investment to provide a well-laid out and well-run site. I accept this possibility and consider that a three-year temporary permission provides some certainty in the short-term and also an opportunity to demonstrate whether the use here could integrate effectively with adjacent development.

30. Where a need is identified and informed by evidence from the local housing strategy, Scottish Planning Policy requires local development plans to identify sites for Gypsy/Travellers and to consider whether policies for privately owned sites are required. The council has included such a policy (Policy 7 and SG SHN3) in the adopted local development plan and I have concluded that the proposal complies with it.

31. The council is seeking to increase the provision of sites for Gypsy/Travellers in Aberdeenshire and a recent report to the council confirms this. The council acknowledges however that there is an immediate need and lack of sites identified in north Aberdeenshire. The council argues that proposals are being taken forward to identify sites. These include a proposed seasonal stopover site at Aikey Brae, which appears to be in the early planning stages, and the planning application for the site at St.Cyrus, which has been called-in by the Scottish Ministers and is still to be determined. I find that at this time, there remains considerable uncertainty over future site provision in north Aberdeenshire. In relation to the particular circumstances of this case, I do not consider it appropriate to wait indefinitely for sites to be confirmed, given the current unmet need and development plan support for the private use of this site.

32. I have reviewed the case law cited and I have considered all the matters contained therein relevant to this appeal. I consider there to be a need for the development in principle, which would generally uphold the rights of the Gypsy/Traveller community in this instance.

33. References have been made to the previous refusal of a dwelling house at the appeal site. I have no information before me in relation to that decision, nor is it relevant to the consideration of this appeal, which is for a specialised form of residential accommodation for which there is a particular need.

34. Concerns are expressed that a business is being run from the site with associated noise and vehicle traffic. The use of the site for business activity was not included as part of the planning application and is not before me as part of this appeal proposal. However, it would not be unusual for someone who is self-employed, which the appellant claims, and have the need to travel to and from his home for work purposes.

Overall conclusions

35. For the reasons set out above, I conclude that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant a temporary planning permission. I have considered all the other matters raised but there are none which would lead me to alter my conclusions.

36. The council has suggested 10 conditions be imposed if planning permission were to be granted and I have assessed these against the tests set out in Circular 4/1998. I do not consider that a personal permission, which names the appellant and restricts the use to him and his dependants, is enforceable and it would represent an unwarranted intrusion into his right to enjoy his private family life. In accordance with development plan policy, I am allowing temporary permission on the basis that this site is intended for private

use for the Gypsy/Traveller community and I have included a suitable condition to reflect this.

37. As discussed above, I have concluded that a temporary three-year permission is appropriate in this instance, along with a landscaping condition, in order to allow for suitable screen planting to be provided and become established. I have further stipulated that details of the proposed fences are submitted for approval and that they are provided timeously. I also consider that an additional condition requiring the access road to be resurfaced is required, given that I am allowing a three-year rather than one-year permission as considered by the council. Where the council has referred to impacts on the amenity of the area in the reasons for a condition, I have expanded on this where appropriate to ensure that the reasons are more satisfactory and consistent with Circular 4/1998. I have also amended the reason for requiring the formation of the driveway, parking and turning area, in order that it more accurately reflects the purpose for this condition and removed the reference to industrial waste, as this is not relevant to this proposal.

38. In accordance with section 58(4)(c) of the Town and Country Planning (Scotland) Act 1997 (as amended), I have not attached the standard advisory note relating to the commencement of development, as the permission hereby granted is time limited. Similarly, I have not attached the standard note relating to the submission of advance notice of the start of development, as the proposal is partly in retrospect.

Claire Milne

Reporter

Conditions

(1) That permission for the development hereby approved shall be for a limited period of three years from the date of this permission.

Reason: In order that the impact of the development on residential amenity can be assessed, relative to visual intrusion, loss of privacy and overlooking.

(2) That within one month of the date of the expiry of this permission the use hereby approved shall cease, the caravans and buildings removed, and the site shall be restored all in accordance with a scheme of restoration, which shall be submitted for written approval no less than three months prior to the expiry of the temporary planning permission.

Reason: To reflect the fact that temporary permission is granted and in order to ensure the timeous reinstatement of the site following the expiry of this temporary permission.

(3) That the use hereby granted permission shall ensure solely for the benefit of members of the Gypsy/Traveller community providing it is for their own private use.

Reason: Permission has been granted on the basis that the proposal would accommodate members of this community for private use only, for which there is specific provision in planning policy.

(4) That within one month of the date of this permission, details of the type of screen fencing proposed shall be submitted for the approval of the planning authority and provided as approved in the locations indicated on the Site Layout (15-093-128 Rev C).

Reason: To ensure that suitable fences are delivered timeously in order to adequately screen the development in views from the public road and surrounding countryside, and in the interests of protecting residential amenity, relative to visual intrusion, loss of privacy and overlooking.

(5) That within one month of the date of this permission, details of how the boundary of the site with No.2 Springhill Cottages will be landscaped, shall be submitted for the approval of the planning authority. Such details shall include a schedule of plant species, sizes, proposed numbers and planting, and a programme for completion and subsequent maintenance. The scheme as approved shall be implemented in the first planting season following its approval by the planning authority.

Reason: To ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will allow them to screen and enhance the site and locality.

(6) That within one month of the date of this permission, the area within the bell mouth of the private access road and for a minimum distance of 6 metres from the public road carriageway shall be surfaced with dense bitumen macadam or asphalt, appropriate to the type of traffic which will use the access.

Reason: To prevent loose material being carried onto the public road in the interests of road safety.

(7) That within one month of the date of this permission, the lay-by driveway, parking and turning areas within the site shall be provided. Once provided, all parking and turning areas shall thereafter be retained while the temporary permission is in place.

Reason: To ensure the timely completion of the driveway to an adequate standard and to allow adequate space for vehicles to turn and exit the site in forward gear in the interests of road safety.

(8) That within one month of the date of this permission, details of external lighting shall be submitted for the approval of the planning authority and installed as approved. The lighting shall only remain in place as long as the use of the site remains as a caravan site.

Reason: In the interests of safe access and movement within the site and in order to control the levels of light pollution from the site.

(9) That within one month of the date of this permission, full details of the proposed means of disposal of surface water from the development must be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing by the Planning Authority, surface water shall be disposed of via the use of Sustainable Urban Drainage Systems. The agreed drainage system must be provided in its entirety and maintained thereafter throughout the lifetime of the consent in accordance with the approved maintenance scheme.

Reason: To ensure the provision of an acceptable drainage system in the interests of the amenity of the area.

(10) That within one month of the date of this permission, details shall be provided for the proposed foul drainage system and the method of disposal. The site shall not be occupied unless the approved drainage system has been implemented in this form, unless otherwise agreed in writing with the Planning Authority. Following provision of the drainage system, it shall thereafter be maintained by the applicants or their successors in accordance with the approved maintenance scheme for as long as the site remains as a caravan site.

Reason: In order to ensure that adequate drainage facilities are provided, and maintained, in the interests of the amenity of the area.

(11) That within one week of the date of this permission, a scheme for the storage of refuse and recycling within the application site must be submitted to, and approved in writing by, the Planning Authority. The approved scheme shall thereafter be implemented within one week and thereafter maintained as long as the site remains in use as a caravan site.

Reason: To ensure that suitable provision is made for the storage of waste and recycling bins.

(12) That the caravans on the site hereby approved shall not be occupied until the site has been connected to the public water supply. Should any alternative supply be proposed, full details must be provided and must be agreed in writing by the Planning Authority prior to occupation.

Reason: The planning application states that the water supply will be public; to ensure a wholesome water supply (in terms of quality and quantity) in the interests of public health.

(13) That no more than four caravans can be connected to the services provided on the site at any time.

Reason: The site can only accommodate four pitches to comply with the requirements of the Caravan Licence.

Advisory notes

Notice of the completion of the development: As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

Date: 15 November 2016

Ms. S Porter,
Planning Officer,
Planning and Place,
Angus Council,
County Buildings,
Market Street,
Forfar,
DD8 3LG

Our ref: AS/044
Your Ref: 16/00738/FULL

Dear Ms. Porter

Subject: Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure.

This letter is to be treated as a rebuttal to the three objections received to the above planning application.

The Angus Council Local Development Plan (LDP) Housing Policy Framework states (at page 18):

“Angus Council aims to ensure that at all times an effective supply of housing land is available that is capable of providing choice in the type, size, tenure and affordability of housing in accessible and sustainable locations across Angus.

The ALDP seeks to promote and sustain successful communities and create quality residential environments by helping to deliver new housing and by managing changes to existing housing across Angus.”

The LDP on page 27 makes specific reference to Gypsy/Travellers accommodation and states:

“The Angus LHS seeks to address the accommodation needs of gypsy/travellers through direct liaison with these groups, provision of additional spaces and where appropriate access to housing.”

The discrimination referred to in one of the letters of objection is rooted in the lack of accommodation for the Gypsy/Travelling community. This has come about through the lack of positive action to find an adequate supply of land/sites for the Gypsy/Travelling community in the Angus area. The LDP housing policies make adequate provision for the settled community through the land supply for the Plan period.

During the recent appeal site visit the Reporter decided to visit the only Gypsy/Travellers site in Angus (managed by Dundee City Council). It was evident that there was number of vacancies on this site with one pitch occupied out of a total of 20 outwith the travelling season. The Reporter noted the proximity of the site to the busy A90 and the distance from community facilities (2/3 miles). This remains a site which is not favoured by the Travelling community.

There remains an inequality of approach when addressing the Gypsy/Travellers as an ethnic minority group in Angus with

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a lack of choice of quality sites contrary to the LDP policy approach.

There is also a suggestion that the planning application site can become the next "St Cyrus". The Applicant is searching for a site to call his home, setting up a household to allow his family to settle and exercise their rights to live by the Travellers lifestyle after years of living on unauthorised encampments. He has no intention of expanding the site for the purposes stated in the objection. The objectors should have an informed opinion before writing and this they can obtain through reading the detailed planning statement accompanying the planning application. They can also visit the Applicant and find out for themselves that they are a family trying to create a home where there are no other suitable alternatives.

The Applicant's approach to developing this site is in accordance with the Government Guidance for Gypsy/Travellers sites with space standards in accordance with this Guidance and the Caravan Site License provisions. The development is well designed and laid out with natural screening provided by the existing trees which remain untouched. A living environment has been created without detriment to visual and residential amenity. The Applicant has turned an unkempt area of land into a home. It is anything but an eyesore.

In the Council's Notes for Guidance "How to Comment on a Planning Application" it is stated that matters which do not form valid planning objections according to legislation, Government guidance or case law include:-

1. issues covered by other legislation e.g. Licensing, Building Standards, Health & Safety etc.
2. private property rights e.g. boundary or access disputes;
3. the developer's motives, record or reputation;
4. perceived impact on property values;
5. competition between businesses;
6. the impact on a private view over someone else's land;
7. inconvenience caused by construction works;
8. moral issues, e.g. an amusement arcade might attract children.

When providing advice about lodging objections Martin Goodall's Planning Law Blog states:

"but your Council will not publish or take account of any material which they think is libelous, racist or offensive. There is no point in putting things in your letter which are not relevant to planning, because by law the Council can only take into account the planning issues and must not allow themselves to be influenced by other considerations unless they really are relevant to planning."

In this case the Council has published such correspondence, the letter of objection submitted by Mr John Phillip. **I request that this letter is removed from the Council's web site without delay.**

I am seeking advice on the content of this letter.

Yours sincerely,

A Seath

Alan Seath DipTP MRTPI

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Date: 24 October 2016

Ms. S Porter,
Planning Officer,
Planning and Place,
Angus Council,
County Buildings,
Market Street,
Forfar,
DD8 3LG

Our ref: AS/044
Your Ref: 16/00738/FULL

Dear Ms. Porter

Subject: Change of Use of Vacant Land to allow siting of a Chalet and two Touring Caravans. Erection of Amenity Block and Boundary Wall. Formation of Car Parking, Alteration of Ground Levels and Associated Infrastructure.

With reference to your email and our discussions on Friday 7 October I write to provide information in reply to the four points that you listed as follows:

- 1. What type of materials have been imported for the hardcore parking area and how much of this was imported?**
- 2. Is it just the chalet which would be connected to the drainage infrastructure and services?**
- 3. Does the chalet have an axel?**
- 4. Provide additional details in relation to the drainage infrastructure already installed/proposed?**

1. I enclose details of the type and volumes of materials imported onto the site.

2. The chalet is the only structure that will be connected to the drainage infrastructure.

3. The issue of whether the units have or do not have an axel is irrelevant. Reference has to be made to the Caravan Sites and Control of Development Act 1960 [1960's Act]. The definition of a caravan refers to:

"any structure designed or adapted for human habitation which is capable of being moved from one place to another, whether by being towed or by being transported on a motor vehicle or trailer, and any other motor vehicle so designed or adapted".

This is subject to certain exceptions i.e. units of not more than two sections, constructed or designed to be assembled on site by means of bolts, clamps or other devices and not exceeding 60 feet in length, 20 feet in width and 10 feet in height,

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are included.

So it follows that any structure falling outside these portability and dimensional criteria, or having a sufficient degree of permanence such as through adaptations to physically attach it to the ground, will involve operational development.

In this case the caravans and chalet are capable of being de-constructed and transported. They have arrived from the supplier in this form all in accordance with the 1960's Act.

In conclusion, the chalet and caravans are not operational development as they fall within the definition of a "caravan" as defined in the "Caravan Sites and Control of Development Act 1960", as supplemented by the "Caravan Sites Act 1968". The units are residential and temporary nature.

My understanding is that the operator of this "caravan site" will be required to obtain a "site license" from the Council.

4. The drainage connection is by means of a pipe attached to the main drain.

I trust this is to your satisfaction. If you require more information please contact me.

Yours sincerely,

A Seath

Alan Seath DipTP MRTPI

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EXTRA DIVISION, INNER HOUSE, COURT OF SESSION

[2015] CSIH 20
XA132/13

Lord Eassie
Lady Smith
Lady Clark of Calton

OPINION OF THE COURT

delivered by LORD EASSIE

in the appeal

by

MILLER HOMES LIMITED

Appellants;

against

THE SCOTTISH MINISTERS

Respondents:

Act: Thomson QC, Burnett; Shepherd & Wedderburn
Alt: Wilson QC, Mackenzie; Scottish Government Legal Directorate
10 March 2015

Introduction

[1] This is an appeal under section 239 of the Town and Country Planning (Scotland) Act 1997 – “the 1997 Act” - against a decision of a reporter appointed by the Scottish Ministers to determine an appeal to them under section 47 of the 1997 Act against the refusal of the local planning authority to grant an application for planning permission. The reporter dismissed the appeal and refused the planning permission which was sought.

[2] The application which was made by the appellants to the local planning authority – East Lothian Council – was for planning permission in principle for “residential development with landscaping, road improvements and associated works” at Ferrygate Farm, North Berwick. The site lies immediately to the west of North Berwick. It lies to the south of Dirleton Road. On its eastern side it is bounded by a residential development forming part of North Berwick and by woodland. To the south and west the site is bounded by farmland. Its superficial extent is 10.29 hectares. The site is in agricultural use, the land being “prime” agricultural land. It is bisected by a roadway known as Gasworks Lane which runs roughly north – south thus dividing the site into an eastern and a western sector, the latter being larger than the former.

[3] By reason of changes in the relevant statutory development plan it is necessary to note some of the chronology of the making of the application and the appeal process. The application for planning permission in principle was submitted to the local planning authority on 24 August 2012. The officials of the authority submitted their report to the relevant committee of East Lothian Council on 9 April 2013. The committee met on 23 April 2013 and their written decision refusing the application was issued on the following day, 24 April 2014. At that point in time the statutory development plan consisted of (a) the Edinburgh and Lothians Structure Plan 2015, which had been approved by Scottish Ministers on 17 June 2004 and which had become operative on 21 June 2004; and (b) the East Lothian Local Plan 2008, which had been adopted by East Lothian Council on 28 October 2008. Five of the six reasons for which the local planning authority refused the application on 24 April 2014 were based on provisions in the Edinburgh and Lothians Structure Plan 2015. The sixth reason was couched in terms which referred to a policy set out in the local plan.

[4] Faced with the refusal of their application the appellants appealed to the Scottish Ministers and lodged their appeal statement with the directorate for planning and environmental appeals on 18 June 2013. It addressed the reasons for refusal in terms of the Structure Plan and the East Lothian Local Plan. However, on 27 June 2013 the Edinburgh and Lothians Structure Plan 2015 ceased to have effect. It was replaced by “SESplan” – the Strategic Development Plan for Southeast Scotland, drawn up by the SESplan Strategic Development Planning Authority^[1]. Consequently the five reasons for refusal which had been based on the Edinburgh and Lothians Structure Plan 2015 fell away. In their appeal statement the appellants sought, to an extent, to anticipate the provisions of the SESplan. A feature of the SESplan was that it did not identify any detail of housing land needs. Instead, it relegated that detail to the provision – at some future date – of “supplementary guidance”. The appellants

therefore essayed an estimation of housing land requirement over a five year supply period. The appellants identified a shortfall in the five year housing land supply for the whole of the SESplan area of land for the construction of some 22,176 homes. Subject to one minor, immaterial correction in the figures, the local planning authority did not take issue with that estimation of the five year requirement for the SESplan area.

[5] A further matter which arose after the local planning authority had issued its refusal was that the appellants stated in their appeal statement^[2] that, for what they described as legal reasons, they could not obtain the access necessary to provide services into the area of the site that lay to the east of Gasworks Lane. By reason of that difficulty in the provision of services, the appellants indicated that the section lying to the east of Gasworks Lane would be developed to create additional open space or parkland. Whereas documents which had accompanied the application envisaged that 140 houses might be constructed on the site, the appellants then current intention was to proceed to construct 129 dwellings on the sector to the west of Gasworks Lane.

The reporter's decision

[6] After certain preliminary matters and a description of the site and the proposals, the reporter, in his decision letter, adverted first to certain aspects of the East Lothian Local Plan. He wrote:

“10. In East Lothian Local Plan 2008, the proposed development is not on one of the sites that are identified for new housing at North Berwick. The appeal site is within the area defined as countryside. The appeal proposal is not a kind of development that is permissible in the countryside in terms of the first paragraph of local plan policy DC1. For these reasons, I find that the proposal is contrary to the local plan.

11. Conflict with the local plan does not necessarily mean that the proposed development must be rejected. The local plan requires review because it is now five years old. In addition, the structure plan in force in 2008 has now been superseded by SESplan, which provides new strategic guidance for development planning in East Lothian.

12. The Appellant says that the appeal site, in local plan terms, is countryside only because the plan is not up to date. I do not accept this contention. I find it possible that a review of the local plan might result in the appeal site being allocated for residential development but, as shown later in this decision notice, allocating the site for residential development is not an inevitable outcome of a review.”

[7] The reporter next considered locational aspects of the SESplan strategy. At paragraph 17 he concluded that the appeal site “is not a sustainable location, in that housing development on it would increase the number of

relatively lengthy daily journeys to and from work made by car by North Berwick residents". He then considered the second of the three principle sections of the SESplan, namely "The Spatial Strategy". He sets out the following from the SESplan:

"18. The SESplan Spatial Strategy (paragraph 18) includes the following.

The Strategic Development Plan Spatial Strategy.....builds on existing committed development, focusing further development along preferred corridors optimising connectivity and access to services and jobs.

.....further development will be focussed in thirteen Strategic Development Areas acting as the primary locations for growth and investment."

North Berwick is not one of the areas within East Lothian identified as a "strategic development area". Having referred to paragraph 22 of the SESplan, which states that where possible new housing development is to be focussed on brownfield and across the strategic development areas the reporter found:

"21. I find that the strategic development area element of SESplan indicates that North Berwick is not a priority location in the search for additional land for new housing development."

A little later the reporter concludes:

"26. My conclusion is that locational aspects of the SESplan strategy do not identify North Berwick as a place for significant additional new housing development."

[8] The reporter thereafter reviews the local plan strategy and at paragraphs 29 and 30 of his decision he states:

"29. As already mentioned, the local plan requires replacement. This does not mean that the plan no longer has any merit. It appears to me that much of the strategy in paragraphs 1.25 and 1.26 of the plan accords with strategy in SESplan, and adds some weight to my conclusion that North Berwick is not identified as a location to which significant additional new housing is to be directed.

30. This conclusion does not necessarily mean that the appeal should be dismissed. As pointed out by the Appellant, SESplan strategy also addresses the need to ensure that there is an adequate supply of land for new housing, and consideration must be given to this."

[9] In the next section of his decision letter the reporter considers the matter of land supply for housing. As we have already mentioned, both the appellants and the local planning authority were essentially at one concerning the shortfall in the five year land supply within the SESplan area. At paragraph 41 the reporter

observes that he finds nothing in the submissions to suggest that the effective land supply in East Lothian was adequate or that East Lothian was exempt from accommodating housing needs generated by the city of Edinburgh. At paragraph 42 he concludes:

“42. My conclusion is that there is a clear need to bring forward more land for new housing in East Lothian to achieve and maintain a five-year supply of such land.”

[10] Under the heading “Addressing the shortfall”, the reporter then states: “43. The Appellant says that SESplan provides support for granting planning permission for sites such as the appeal site in the event of a shortfall in housing land supply - in this respect, policy 7 is the key policy.

44. In SESplan, policy 7 is headed “maintaining a five-year housing land supply” and reads as follows.

Sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years’ effective housing land supply, subject to satisfying each of the following criteria:

- a. the development will be in keeping with the character of the settlement and local area;
- b. the development will not undermine green belt objectives;
- and
- c. any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

45. I find that policy 7 has four criteria: need for extra land to maintain a five-year supply and the three listed criteria. If all the criteria are met, permission may be granted.”

In order to put the reference by the reporter to Policy 7 having four criteria in a fuller context, we think it helpful to set out paragraph 116 and Policy 6 of the SESplan:

“116 LPAs may consider it appropriate to support new housing development on greenfield land outwith the thirteen identified SDAs, either when allocating land in LDPs, or in granting planning permission to maintain a five years’ effective housing land supply. In these circumstances, as set out in Policy 7, they should ensure protection for the character of existing settlements, should not undermine green belt objectives, and should avoid diverting investment in infrastructure from

other priorities.

**POLICY 6
HOUSING LAND FLEXIBILITY**

Each planning authority in the SESplan area shall maintain a five years' effective housing land supply at all times. The scale of this supply shall derive from the housing requirements for each Local Development Plan area identified through the supplementary guidance provided for by Policy 5. For this purpose planning authorities may grant planning permission for the earlier development of sites which are allocated or phased for a later period in the Local Development Plan.

[11] Having identified four criteria, the reporter then proceeds to consider how each may or may not be satisfied. We do not think it necessary to enter into the detail of that examination. At paragraph 71 of his decision the reporter expresses his conclusion thus:

“71. My conclusion is that the proposed development meets all of the criteria in policy 7 of SESplan. This means that permission for the proposed development may be granted, but it does not mean that permission must be granted. In deciding whether permission should be granted, all relevant provisions of the development plan and other material considerations must be taken into account.”

Broadly speaking what follows thereafter in the reporter's decision letter are his reasons for reaching the decision to refuse the appeal. Although the reporter considered a number of considerations, in essence there were two grounds or considerations which militated against allowing the appeal and granting the outline permission which was sought.

[12] The first of those reasons or considerations may by way of shorthand be referred to as the prime agricultural land issue. The reporter's reasons are based upon paragraph 5(d) of Policy DC1 of the East Lothian Local Plan. At paragraph 74 to 77 of his decision letter the reporter writes:

“74. The Council does find conflict between the proposed development and the local plan policy for prime agricultural land. The Council's sixth reason for refusal of planning permission says that the proposed development would result in the loss of prime agricultural land and that this would be contrary to part 5 of local plan policy DC1 and contrary to *Scottish Planning Policy*. Loss of top-grade agricultural land is also a ground of objection in the representations.

75. The Appellant says that North Berwick is constrained on all sides by countryside. So far as the Appellant is aware, most, if not all, of this is

prime agricultural land. If housing requirements are to be met in East Lothian, it is inevitable that prime agricultural land will have to be used. Provision of adequate housing is a key objective of strategic and national policy: protection of prime agricultural land is a lesser priority.

76. I note that the local plan policy says that proposed development must minimise the loss of prime agricultural land. This is not the same as saying that there must be no loss of prime land. Rather, if prime land has to be developed, the amount of such land taken out of agricultural use must be the least possible.

77. In the present case, the appeal site extends to some 10 hectares. It was originally envisaged that 140 houses would be built on the site. For legal reasons, it is now envisaged that 111 houses would be built. This suggests to me that 111 houses could be built on a site of less than 10 hectares, if the site were free of constraints. For this reason, I find that the proposed development does not minimise loss of prime agricultural land and so infringes local plan policy.”

[13] The second principal matter or consideration prompting the refusal of the appeal is based largely on the spatial strategy of the SESplan, which directs housing development to sustainable locations and, in particular, brownfield sites or within the 13 strategic development areas.

[14] Paragraphs 80 and 85 effectively set out the conclusions of the reporter on why the appeal should be refused for these two reasons:

“80. The proposal infringes local plan policy regarding prime agricultural land. I find that this is significant, especially as the policy accords with paragraph 97 of *Scottish Planning Policy*, which refers to minimising loss of prime agricultural land.

...

85. I find that spatial aspects of development plan policy are firmly against the proposed development, while the local infrastructure and housing land supply aspects lend considerable support to the proposed development. My conclusions are that, in the particular circumstances of the present appeal, the spatial aspects carry considerably more weight than the infrastructure and land supply aspects and that the proposed development is contrary to the development plan.”

The prime agricultural land issue

[15] As already indicated, the reporter decided to refuse the appeal on the ground that the proposal infringed subparagraph (d) of paragraph 5 of Policy DC1 in the East Lothian Local Plan in respect that the development would not minimise the loss of prime agricultural land.

[16] Policy DC1 – headed “Development in the countryside and undeveloped coast” – is a lengthy statement of policy but we think it necessary to set it out in full:

“COUNTRYSIDE AND UNDEVELOPED COAST

Development, including changes of use, will be acceptable in principle within the countryside and undeveloped coast where it is directly related to agriculture, horticulture, forestry and countryside recreation. Other business use will also be acceptable where it is of an appropriate scale and character for its proposed location in the countryside, it can be suitably serviced and accessed and there are no significant traffic or other environmental impacts. Development will also be acceptable in principle in the following circumstances:

1 New Build

(a) Leisure, tourism or infrastructure proposals, provided they have a clear operational requirement for a countryside location that cannot reasonably be accommodated within an existing urban or allocated area or, in the case of a proposed development within the undeveloped coast, that cannot be accommodated elsewhere and any potentially detrimental impact is outweighed by its social and economic benefits;

(b) In the case of a new house, where the Council is satisfied that it is a direct operational requirement of an agricultural, horticultural, forestry or other employment use, and no appropriate existing building is available;

(c) In the case of an employment, tourism or leisure use, an element of new build housing may be acceptable as enabling development where the Council is satisfied that (i) the wider public benefits of securing the primary use outweigh the normal policy presumption against new build housing in the countryside, and (ii) the enabling development is essential, it is the minimum necessary to achieve the primary use and it is not a substitute for normal development funding, including borrowing. Enabling development may also be acceptable where it will fund the restoration of a listed building or other significant feature of the built or natural environment, the retention of which is desirable. Any enabling development must not harm the setting of the listed building or other feature and meet the test of (c)(i) and (ii) above. The Council will obtain independent advice on (c)(ii) above. Where housing is acceptable on the grounds of enabling development it will not require to provide affordable housing.

2 Change of Use/Restoration of a Building

Consistent with the acceptable changes of use being the same as for

new build uses (Part 1 above), the following requirements must be met:

(a) The building stands substantially intact (normally to at least wallhead height) and requires no significant demolition. In order to be satisfied that the existing structure is suitable for the change of use or the conversion, without significant demolition, the Council must be provided with credible evidence of the building's structural stability at the time of the planning application, and

(b) The existing building is physically suitable for the proposed use and any extensions or alterations are compatible with and do not harm any significant architectural or historic features of the building and are in keeping with its size, form, scale, proportion, massing and architectural character;

(c) In the case of a farm steading conversion, a limited amount of new build may be acceptable where (i) it reinstates a part of the original steading group demolished or altered by later development alien to its character and appearance, where there is clear physical and/or historic evidence of the original form, or (ii) it is a logical extension to an existing part of the steading that would provide a completeness to the steading's overall composition that is in keeping with its scale, form and character, and (iii) in all cases, the materials used on the exterior of the new buildings are sympathetic with those of the existing buildings proposed for conversion;

(d) In the case of a change of use of a building to a house or houses, the existing building is worthy of retention by virtue of its architectural or historic character;

(e) In the case of the change of use of agricultural buildings to housing, the change of use must involve the whole building group, and (in the case of a change of use to garden ground, any well-defined settlement boundary or landscaped edge must not be prejudiced, the area of the change of use must be small in scale and the terms of Policy DC1 Part 5 must be met).

3 Mineral Extraction

The operation must be consistent with the minerals policies of the local plan.

4 In the case of new build housing

(a) Where satisfied that a new house is justified by an operational requirement, it will be a requirement that the applicant and, where

different, the landowner enter into a Section 75 Agreement with the Planning Authority (i) to tie the proposed house to the business for which it is justified and (ii) to restrict the occupancy of the house to a person solely or mainly employed, or last employed, in that specific business, and their dependents.

(b) Where a business or agricultural use that is not yet established seeks to justify an operational requirement for an associated house, the Council will either grant temporary planning permission for temporary accommodation, or condition any consent such that, in both cases, permanent accommodation will only be permitted once the Council is satisfied that the agricultural or business use is established and that permanent accommodation is justified. In such situations the requirement for the above Section 75 Agreement will then apply.

(c) Applications must be accompanied by a statement justifying the direct operational requirement for the house. The Council may take independent advice as to this requirement.

5 In all cases

(a) Having regard to its nature and scale, new development must be integrated into the landscape, reflect its character and quality of place, and be compatible with its surroundings;

(b) New development must be sited so as to minimise visual intrusion and landscape impact within the open countryside or undeveloped coast, for example, by locating as part of an existing group of buildings, woodland or other well-contained setting, and by respecting and making use of the setting provided by landform or existing landscape features;

(c) The proposal must have no significant adverse impact on nearby uses;

(d) The proposed development must minimise the loss of prime agricultural land;

(e) Account must be taken of the design policy framework contained in the local plan (refer to Chapter 13);

(f) Suitable access and infrastructure is or can be made available;

(g) Where an existing building is demolished, any proposals for a replacement building will be treated as new build and considered as such against Policy DC1.”

[17] It is also important to note that in paragraph 79 of his decision the reporter says:

“79. The appeal proposal is contrary to the first paragraph of local plan policy DC1. The local plan requires review because of its age and because there is new strategic guidance in the form of SESplan. For these reasons, I attach only limited weight to the conflict with the first paragraph of policy DC1.”

[18] Counsel for the appellants criticised the reasoning offered by the reporter in this branch of his decision. In brief summary, counsel submitted that since the reporter had concluded, in paragraph 79 of his decision, that he could attach little weight to the first paragraph of Policy DC1 of the East Lothian Local Plan, it was illogical and irrational for the reporter then to give crucial weight to subparagraph (c) of paragraph 5 of that policy. Further, the reporter failed to appreciate that Policy DC1 in the local plan was based upon, and conformed to, Policy ENV3[3] of the Edinburgh and Lothian Structure Plan 2015. The SESplan noticeably omitted any such policy. In particular, the SESplan contained no provision requiring avoidance of the loss of prime agricultural land. The reporter’s reliance on paragraph 97 of *Scottish Planning Policy* was misplaced; that document was not a development control tool but an indicator for strategic planning.

[19] For her part counsel for the respondent submitted, in summary, that while the SESplan contained no equivalent of Policy ENV3 of the former structure plan, that did not invalidate the East Lothian Local Plan. The policy of protecting prime agricultural land from loss by development remained in the other policy documents, including paragraph 97 of *Scottish Planning Policy*. It was possible to construe the reporter’s decision to the effect that, since the opening paragraph of DC1 had in his view less weight, the proposed development came within a wider category of exceptions or acceptable development but would yet require to satisfy paragraph 5(d). And since the appellants could not build houses on the land to the east of Gasworks Lane, granting consent for the whole site, when the intention was only to build 111 houses (on the western sector) would not minimise the loss of prime agricultural land.

[20] In considering the competing contentions on this branch of the case we find it convenient to begin by considering the proper construction or interpretation of Policy DC1 of the East Lothian Local Plan. The policy has, in our view, to be read as a whole. The structure of the policy is that the opening (unnumbered) paragraph sets out the general acceptance of development, including changes of use, which is directly related to agriculture, horticulture, forestry and countryside recreation. Other business use – seemingly not other forms of development – will be acceptable subject to certain conditions, broadly speaking appropriateness to a rural location. Thereafter follow five numbered paragraphs. The first numbered paragraph concerns “new build” – and it may be noted that new housing is subject to its being an operational requirement of an agricultural, horticultural, forestry or other employment use. Numbered paragraph 2 is concerned with change of use or restoration of an existing building; and paragraph no 3 relates to mineral extraction. Paragraph n^o 4 is

concerned with special conditions – largely section 75 agreements for new build housing. Paragraph n° 5 is headed “in all cases” and there then follow seven subparagraphs of which subparagraph (d) refers to minimising the loss of agricultural land. In our opinion it is evident from the structure of Policy DC1 that the particular matters listed in the subparagraphs of paragraph n° 5 only arise for consideration if the proposed development satisfies either the requirements of the opening, unnumbered paragraph, or one of paragraphs n°s 1, 2 or 3. Not only is paragraph n° 5 headed “In all cases”, which in our view looks in retrospect to the preceding provisions within the policy, but the very nature of the matters catalogued in the subparagraphs are such that they arise as subsidiary matters on the assumption that the development has otherwise passed through one of the gateways set out earlier within the Policy DC1.

[21] The reporter recognised[4] that the appeal proposal did not meet the requirements of the opening paragraph of Policy DC1. It was no doubt unnecessary for him to say that it could not come within the criteria in paragraphs n°s 1, 2 or 3 of Policy DC1 since evidently it did not. In those circumstances it is our view that one simply does not get to an examination of the subsidiary matters in paragraph n° 5 of Policy DC1. However the reporter treats one of those subsidiary matters as if it were a separate free-standing provision in its own right.

[22] In our view, the reporter appears thus to have misconstrued Policy DC1 and that misinterpretation appears to us also to be the source of the irrationality of which the appellants complain. Having resolved, in paragraph 79 of his decision that, for the reasons which he gives, only limited weight might be attributed to the opening paragraph of DC1 it was not open to the reporter then to give to subparagraph (d) of paragraph 5 of Policy DC1 a weight or autonomy divorced from the rest of that policy.

[23] At one point in her submissions we understood counsel for the Scottish Ministers to suggest that the reporter may have decided that the appeal proposal did pass through some modified gateway, thereby opening up the terms of paragraph n° 5 of Policy DC1. We do not so read the decision; nor, if that were so, would it be right to apply the provisions of paragraph n° 5, which are directed to a particular, limited class of development, to some wider undefined class.

[24] We also think that the misreading of Policy DC1 may be the source of the ambiguity or lack of clarity in the reporter’s decision which was identified in the discussion before us, namely whether the proposed development in its entirety was unacceptable as involving the loss of prime agricultural land; or whether it was simply unacceptable because the appellants had candidly advised that – at least for the present – they could not build houses on the area of the site lying to the east of Gasworks Lane.

[25] In that regard it is to be borne in mind that, as counsel for the appellants pointed out, the application to the local planning authority was for planning permission in principle for “residential development with landscaping, road improvements and associated work”. The documentation accompanying the application which illustrated the construction of 140 dwellings was clearly stated to be indicative. Counsel on both sides were seemingly agreed that a grant of

planning permission in principle would not specify a fixed number of dwellings (or even type of dwellings); and even if it did, a developer might yet choose to build some lower number of houses. The notion of a project minimising the loss of prime agricultural land may be understandable and practical in the case of, say, the construction of one or two houses required for agricultural employment in the sense that either some equally convenient non-prime agricultural land might be available; or the extent of the garden ground proposed for the dwellings might be manifestly excessive. But the notion is difficult to apply in the context of an application such as the present for planning permission in principle for residential development of a substantial site.

[26] In these circumstances we have come to the view that the reporter's conclusion respecting the agricultural land issue is indeed vitiated by an error of law. That conclusion formed an important part of his ultimate decision that the appeal should be refused. We therefore consider that on this issue alone the appeal succeeds and that the decision falls to be quashed.

The SESplan and spacial aspects issue

[27] The other ground upon which the appellants contend that the reporter erred relate, put very broadly, to what is said to be a misinterpretation of the SESplan, leading in turn to the reporter's conclusion that "spatial aspects of development plan policy are firmly against the proposed development" and that those spatial aspects carry considerably more weight than the infrastructure and land supply aspects[5].

[28] In brief summary the argument, as we understood it, was to this effect. The SESplan was structured in three sections, namely "The Vision", "The Spatial Strategy" and "Framework for Delivery". The process within the SESplan was progressive; the first and second of those sections of the plan were directed to the identification of the strategic development areas and the elaboration of local plans. The only section of relevance to the reporter's decision was "Framework for Delivery". Within that section, Policy 6, it was submitted, imposed a duty on every local planning authority to maintain an effective five year housing land supply. Having concluded, in the light of the parties' agreement (absent any supplementary guidance) on the extent of the shortfall in the SESplan area, that there was a clear shortfall in housing land supply in East Lothian, the reporter then required to give effect to Policy 7 of the SESplan. That policy required the grant of planning permission for any greenfield housing development proposal in East Lothian, irrespective whether the site lay within or without a strategic development area, provided only that the proposed development satisfied the three criteria enunciated in the text of Policy 7. Having, in the present case, concluded that those three criteria were satisfied, it was then not open to the reporter to go back to section 2 of the SESplan and give effect to spatial strategy considerations, such as the fact that North Berwick was not within a strategic development area; nor was it open to the reporter to have regard to sustainability considerations, since those had already been taken into account in the exclusion of North Berwick from the status of being a strategic development area.

[29] We are not immediately persuaded that this contention is sound. Apart from the general requirement to have regard to the development plan as a whole, paragraph 7 of SESplan does not appear to support the somewhat formalised or compartmentalised approach to the SESplan for which counsel for the appellants contended. That paragraph says:

“The three sections of the SDP, including the SDP policies, are complementary and should be read in conjunction with each other. Development proposals will be required to be in accordance with all policies in the Plan. SESplan will consider the need for supplementary guidance giving further information or detail on matters where the need for this has been expressly identified in the plan, tied to specific policies.”

We are also conscious that by reason of the procedural course of the case, the reporter was not addressed on the argument now advanced by counsel for the appellants. Since we have come to the conclusion that the first branch of the argument for the appellants succeeds and that the reporter’s decision must be quashed on that account we consider it appropriate to reserve our opinion on the issues raised in the second branch of the case.

[1] Set up in terms of the Planning etc (Scotland) Act 2006.

[2] At paragraph 2.5.

[3] **ENV 3: Development in the Countryside**

Development in the countryside will be allowed where it has an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose, and is compatible with the rural character of the area. Acceptable countryside development will include agriculture, horticulture, forestry and countryside recreation. The following types of development, where justified in local plans, may be allowed in support of rural diversification.

- Tourism or other recreational uses;
- Development that re-uses appropriate redundant rural buildings that make a positive contribution to the landscape;
- Diversification of an appropriate scale and character on agricultural land, including lowland crofting, as a means of supporting and diversifying the rural economy, maintaining communities and services or effecting landscape improvement.

Local plans should require that such development:

- a is well-integrated into the rural landscape;
- b reflects its character and quality of place; and
- c does not result in a significant loss of prime quality agricultural land.

[4] Decision letter paragraph 10.

[5] Decision letter, paragraph 85.



Decision by John H Martin, a Reporter appointed by the Scottish Ministers

- Enforcement notice appeal reference: ENA-120-2007
- Site address: Land 125 metres west of North Mains Croft, Logie, Kirriemuir, Angus
- Appeal by Mr John Townsley against the enforcement notice dated 19 August 2016 served by Angus Council
- The alleged breach of planning control: unauthorised clearance of top soil, formation of earthen bund; deposition of soil, rubble and hard core; digging channels for drainage and services and siting of caravans
- Date of site visit by Reporter: 8 November 2016

Date of appeal decision: 23 November 2016

Decision

I allow the appeal and correct the terms of the notice by deleting the following words from paragraph 5(3) of the notice: *“Remove the rubble, hard core and earthen bund at the site...”* and substitute therefor the following words: *“Remove the rubble and hard core from the site, level the earthen bund...”* I also vary the periods for compliance with the enforcement notice to require, under paragraph 5(1), to remove the caravans from the site on or before 3 August 2017 and, under paragraphs 5(2) and 5(3), to complete the remaining steps on or before 3 September 2017.

Reasoning

1. The appeal against the enforcement notice was made on grounds (f) and (g) as provided for by section 130(1) of the Town and Country Planning (Scotland) Act 1997, namely: (f) that the steps required by the notice are excessive and less onerous steps would remedy the breach and; (g) that the time allowed to comply with the notice is too short.

2. The appeal site, which is understood to have formerly been a market garden, lies in open countryside at the end of a farm track off North Mains Road, Logie, and next to 3 detached houses that lie outwith the development boundary of the town. North Mains Farm and Equestrian Centre opposite the site also takes access off the track. The site is a level, roughly rectangular plot about 165 metres long x 37.5 metres wide bounded on each side by mature conifer trees with a wire fence enclosing the northern end. The whole site has been stripped of its top soil which has been mounded at the back as an earthen bund about 4.0 metres high while the front area, for 35 metres back from the access track, has been



laid with crushed stone on hard core as a hard standing. This has been fenced with a 1.8 metres high close-boarded fence on 3 sides and a rendered block wall with piers across the frontage. The front area forms the appellant's gypsy site on which he has sited a static caravan and two touring caravans to accommodate his family.

3. At the site inspection, I saw trailers on the north side of the fence, which I was advised belonged to the appellant, who also showed me the lines of the foul water drain to a submersible pump chamber connected to a manhole at Devonian House, and a buried electricity cable from a nearby overhead supply to a meter cabinet. I also understand that surface water drains to the adjacent ditch have been laid. These works amount to those alleged in the enforcement notice which the appellant has not disputed.

Planning history

4. The lawful use of the site is agriculture, and the submitted photographs suggest that it has lain fallow to grass since at least 2010, although the appellant claims that it was overgrown when he purchased the site. I note from the submissions that he submitted a planning application for "*Change of use of vacant land to form one caravan pitch to include a principal chalet, two touring caravans, amenity block, erection of boundary wall with associated car parking and engineering works.*" Although the application (Ref:16/0073 /FULL) was submitted on 13 September 2016, the relevant planning fee was not paid. However, the council accepts that the fee was submitted on 3 October 2016 and the issue of a reference number suggests that it has been registered as a valid application. The council point out that the application does not include the earthen bund.

The appeal on ground (f)

5. The appellant's case on this ground claims that the steps required by the notice are excessive because of the potential for the site to conform with the development plan and the very strong material considerations submitted in support of the appeal. However, since a ground (a) appeal is no longer available under section 130(1) of the Act, I am unable to consider the planning merits of the case.

6. The appellant has not disputed the engineering operations carried out as specified in the enforcement notice, which were very apparent at the site inspection. While I accept that the caravans, services, rubble and hard core are all removable and the channels can be reinstated, I question whether there is a need to "remove" the earthen bund which is simply a mound of the topsoil stripped from the site that will need to be levelled in order to reinstate the land as required by the notice. I take the appellant's point that the site may not have been in active use when he bought it, but the fact remains that the last lawful use of the land prior to the works being carried out was agriculture, and I have seen no evidence to suggest that this has since been lawfully changed. In fact, the council refer to the appellant stating that he hadn't applied for planning permission because he believed the works to agricultural land would be permitted development. I therefore conclude that the steps required by the notice should be corrected to show that the earthen bund should be "levelled" rather than "removed" and to that extent only the appeal on ground (f) succeeds and I shall correct the notice to that effect.

The appeal on ground (g)

7. The effective date of the enforcement notice was 21 September 2016, so the original requirements would have been for the appellant to remove the caravans by 21 November 2016 and to complete the remaining steps by 21 December 2016.

8. The appellant's case on this ground is that, as there are no suitable alternative gypsy sites in Angus and that there is a current planning application under consideration, the periods for compliance with the notice fall short of what should reasonably be allowed.

9. Turning to the current planning application, which has yet to be determined by the council, I note that the earliest date of registration would have been 3 October 2016, when the planning fee was paid. The council then had 8 weeks to make a decision, which expires on 3 December 2016. If the application is refused, the appellant would then have 3 months from the date of the council's decision to appeal to Scottish Ministers up to 3 March 2017, and the usual 12 weeks consideration period for the appeal would end on 3 June 2017. Bearing in mind that the appellant would have every expectation of being able to remain on the site until the planning appeal has been decided, I consider that the original 2 months for the removal of the caravans and 3 months for completion of the remaining steps should then be added. As a result, I conclude that the periods for compliance with the enforcement notice should be varied to require the appellant to remove the caravans from the site on or before 3 August 2017 and to complete the remaining steps on or before 3 September 2017. To that extent the appeal on ground (g) also succeeds and I shall vary the terms of the notice accordingly.

Other matters

10. I understand that the St Christopher's permanent gypsy site near Montrose is generally full and was shown the only site with capacity available is the Balmuir Wood Gypsy/Traveller site which, with its concrete pitches, bathroom blocks and location next to the busy A90, gave an impression more of a transit site. I have also taken account of all the points raised in the submissions but the availability of gypsy sites, the council's gypsy housing policies, Scottish Planning Policy, the Housing (Scotland) Act 2001 and the appellants rights under the European Convention on Human Rights and the Equalities Act 2010 are all matters to be considered under the planning application and are therefore not before me in this appeal.

Conclusions

11. My overall conclusions are that, under the ground (f) appeal, the enforcement notice should be corrected to show that the earthen bund should be "levelled" rather than "removed" and, under the ground (g) appeal, the periods for compliance with the notice shall be varied to allow time for the current planning application to be determined and any appeal thereon to be decided.

John H Martin

Reporter