

ANGUS COUNCIL

SPECIAL CIVIC LICENSING COMMITTEE – 5 SEPTEMBER 2024

**RENEWAL APPLICATION – RESIDENTIAL CARAVAN SITE
NURSERY PARK CARAVAN SITE, BRECHIN**

REPORT BY DIRECTOR OF LEGAL, GOVERNANCE & CHANGE

1. ABSTRACT

The purpose of this report is to present a renewal application for a residential caravan site licence under the Caravan Sites and Control of Development Act 1960 which requires to be determined by the Committee.

2. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICIES

ECONOMY

- An inclusive and sustainable economy.

PEOPLE

- We will work collaboratively for and with our citizens to keep them safe in resilient communities.

PLACE

- Safe, secure, vibrant and sustainable communities.

3. RECOMMENDATIONS

It is recommended that the Committee consider and determine an application for renewal of a caravan site licence in terms of the Caravan Sites and Control of Development Act 1960, in terms of one of the following options: -

- (i) to grant the application;
- (ii) to grant the application subject to amended and/or additional conditions any additional conditions;
- (iii) to determine that the Committee is considering refusing the application; in which case notice must be given to the applicant stating that: -
 - a) the licensing authority is considering refusing the application and its reasons for doing so; and
 - b) the applicant has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).

4. BACKGROUND

- 4.1. This Committee, at its meeting on 6 April 2017 considered a Report in relation to changes in respect of the licensing of residential caravan sites (Report 446/17 refers). This report described the changes to the Caravan Sites and Control of Development Act 1960 (“the 1960 Act”) requiring operators wishing to have residential accommodation on a site to apply for a licence. One change implemented in particular was the requirement that applicants for residential site licences must be considered fit and proper persons to be granted a site licence.
- 4.2. An application has been received for the renewal of licence AC/06/2019, a residential caravan site licence, from Michael Delaney in respect of Nursery Park Caravan Site, Brechin. The maximum number of caravans proposed to be stationed at any one time for the purposes of residential use is 14. The application and site plan of the Park is attached as **APPENDIX 1** to this Report.
- 4.3. The Environmental Health and Consumer Protection Service, Building Standards, Housing and Development Standards Services of the Council were consulted on the application. Comments have been received from all consultees and are detailed in **APPENDIX 2** to this Report.
- 4.4. A site licence AC/06/2019 was first issued to Mr Ian McIntosh and subsequently transferred at Committee to Mr Michael Delaney in respect of Nursery Park Caravan Site, Brechin on 6 August 2024. A copy of this licence is attached at **APPENDIX 3** to this Report.

5. LEGAL IMPLICATIONS

- 5.1 Part 1A of the Caravan Sites of Control of Development Act 1960 regulates the licensing of caravan sites with permanent residents. Section 32D of the 1960 Act provides that a local authority must renew a Part 1A site licence if—
 - (a) the applicant is, when the Part 1A site licence is issued, entitled to the benefit of planning permission for the use of the land as a relevant permanent site otherwise than by a development order, and
 - (b) the authority is satisfied—
 - (i) that the applicant is a fit and proper person to hold a site licence;
 - (ii) in the case where an applicant is not a natural person, that the individual who holds the most senior position within the management structure of the relevant partnership, company or body is a fit and proper person in relation to a site licence;
 - (iii) that any person to be appointed by the applicant to manage the site is a fit and proper person to do so; and
 - (iv) in the case where a person to be appointed by the applicant to manage the site is not a natural person, that any individual who is to be directly concerned with the management of the site on behalf of that manager is a fit and proper person to do so.
- 5.2 Section 32D of the 1960 Act provides that before refusing to issue or renew a Part 1A site licence, the authority must give to the applicant a notice stating that—
 - (a) it is considering refusing the application and its reasons for doing so; and

- (b) the applicant has the right to make written representations to the authority before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).

5.3 Section 5(1) of the 1960 Act provides, that a site licence issued by a local authority in respect of any land may be so issued subject to such conditions as the authority may think it necessary or desirable to impose on the occupier of the land in the interests of persons dwelling thereon in caravans, or of any other class of persons, or of the public at large. In additions, section 5(6) of the 1960 Act provides that the Scottish Ministers may from time to time specify for the purposes of this section model standards with respect to the layout of, and the provision of facilities, services and equipment for, caravan sites or particular types of caravan site; and in deciding what (if any) conditions to attach to a site licence, a local authority shall have regard to any standards so specified. The Scottish Ministers issued Model Standards in relation to Mobile Home Sites with Permanent Residents in December 2018. This document can be found at:

<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2018/12/model-standards-residential-mobile-home-site-licences/documents/00543527-pdf/00543527-pdf/govscot%3Adocument/00543527.pdf>

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications for the Council arising from this report.

7. RISK MANAGEMENT

7.1 There are no risks to the Council arising from this Report.

8. ENVIRONMENTAL IMPLICATIONS

8.1 There are no direct environmental implications for the Council arising from the recommendations of this Report.

9. EQUALITY IMPACT ASSESSMENT, HUMAN RIGHTS AND FAIRER SCOTLAND DUTY

9.1 In dealing with the application, the Committee will have regard to any human rights and/or equalities issues in relation to the applicant and any objectors.

10. CHILDRENS RIGHTS AND WELLBEING IMPACT ASSESSMENTS

10.1 A Childrens Rights and Wellbeing Impact Assessment has been undertaken and a full assessment is not required as the "General Principles" do not apply to this proposal.

11. NOTIFICATION

11.1 The applicant has been notified of the terms of this Report. They have also been advised of their entitlement to attend the meeting should they wish.

REPORT AUTHOR: Stuart McQueen, Team Leader – Legal Team 1

EMAIL DETAILS: LEGDEM@angus.gov.uk

List of Appendices:-

Appendix 1 - Application and Site Plan

Appendix 2 - Comments from Consultees

Appendix 3 - Copy Site Licence

ANGUS COUNCILCARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960FIRST RENEWAL APPLICATION FOR A RELEVANT PERMANENT CARAVAN SITE LICENCE

<p>1. Full name of Applicant/s (including maiden name and any other names used, if applicable)</p> <p>If the Applicant is a Company or a Charity, provide the full name of the most senior person in the management structure</p> <p>Company/Charity registration number</p>	<p>Michael Anthony Delaney</p>
<p>2. For those individuals named in (1) All postal addresses for the last 5 years</p> <p>Date of Birth [REDACTED]</p> <p>Telephone Number/Mobile Number [REDACTED]</p> <p>E-mail Address [REDACTED]</p>	<p>[REDACTED] March 2016 to March 2023</p> <p>[REDACTED] April 2023 to Sep 2023</p> <p>Nursury Lane Caravan Park Sep 2023 - Jan 2024</p> <p>[REDACTED] Jan 2024 to May 2024</p> <p>Nursury Lane Caravan Park May 2024 to Now</p>
<p>3. Specify the address for the land in respect of which the application is made</p>	<p>Nursury Lane Caravan Park</p> <p>Nursury Lane Brechin DD9 7EY</p>
<p>4. State the Applicant's interest in the land (e.g. owner or tenant) and give particulars of lease or tenancy (if any)</p>	<p>Owner</p>
<p>5. Provide the name, location and a description of the site for which the site licence is required</p> <p>Please use a separate sheet or plan, if required</p>	<p>Nursury Lane Caravan Park</p> <p>Nursury Lane</p> <p>Brechin DD9 7EY</p>

<p>6. Provide the correspondence address in relation to management of the site</p> <p>Telephone number/E-mail address</p>	<p>[REDACTED]</p> <p>Same as above</p> <p>[REDACTED]</p>
<p>7. Specify the full name of the person or persons appointed to manage the site (including maiden name and any other names used, if applicable)</p> <p>If the Site Manager is a Company or a Charity, provide the full name of the individual who is to be directly concerned with the management of the site on behalf of that Site Manager.</p>	<p>Michael Anthony Delaney</p>
<p>8. For those individuals named in (7) All postal addresses for the last 5 years</p> <p>Date of Birth [REDACTED]</p> <p>Telephone Number/Mobile Number [REDACTED]</p> <p>E-mail Address [REDACTED]</p>	<p>Same as above.</p>

FOR OFFICE USE ONLY

Date, Amount and Receipt Number	Date Passed to Consullees	Date Observations Received	
		Police.....	
		Planning.....	
Date of Decision	Decision	Expiry Date	Licence Number and Date of Issue

<p>9. Has the Applicant/s held a site licence which has been revoked at any time in the last three years?</p>	<p>YES/NO</p>
<p>10. State the maximum number of caravans proposed to be stationed at any one time for the purposes of residential use</p>	<p>17 Applicant confirmed this to be 14 not 17</p>
<p>11. Has planning permission for the site been obtained from the planning authority?</p>	<p>YES/NO</p>
<p>12. Provide a layout plan of the site to a scale approved by the local authority showing the boundaries of the site, the positions of caravan standings and (where appropriate):-</p> <ul style="list-style-type: none"> - Roads and footpaths (showing in particular the form/construction of any new access to the site) - Toilet blocks showing sanitary facilities, wash hand basins, baths, showers and laundry facilities - Stores and other buildings - Foul and surface water drainage - Water supply - Recreation space - Fire precautions - Car parking space - Planting of trees and bushes for amenity purposes - Site lighting 	

13. State below whether the Applicant/s, the most senior person in the management structure for the Applicant, the person/s appointed to manage the site and/or the individual directly concerned with the management of the site if a Company or Charity, has an unspent conviction in respect of:

1. fraud or other dishonesty, involving violence, involving drugs, involving firearms or a sexual offence within the meaning of section 210A(10) of the Criminal Procedure (Scotland) Act 1995
2. practising unlawful discrimination on the grounds of any of the protected characteristics in Part 2 of the Equality Act 2010
3. a contravention of any provision of the law relating to caravans, the law relating to housing, landlord and tenant law
4. having committed a breach of an agreement to which the Mobile Homes Act 1983 applies
5. a contravention of a direction made under section 37 of the Gas Act 1986 (maximum prices for reselling gas)
6. a contravention of a direction under section 44 of the Electricity Act 1989 (maximum prices for reselling electricity)
7. a contravention of a charges scheme made under 29A of the Water Industry (Scotland) Act 2002 (charges scheme) as it applied to the person by virtue of section 30(1) of that Act (maximum charges for services provided with help of Scottish Water)
8. engaging in antisocial behaviour within the meaning of section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004
9. breaching the conditions of a site licence issued under Part 1 or Part 1A of this Act

(continue on separate sheet if necessary):-

Date	Court		Sentence/Fine
	None confirmed via email		

14. State below whether the Applicant/s, the most senior person in the management structure for the Applicant, the person/s appointed to manage the site and/or the individual directly concerned with the management of the site if a Company or Charity, has any other unspent convictions not referred to in question 13.

(continue on separate sheet if necessary):-

Date	Court		Sentence/Fine
	None confirmed via email		

In terms of considering whether or not the Applicant/s, the most senior person in the management structure for the Applicant, the person appointed to manage the site or the individual directly concerned with the management of the site if a Company or Charity, is a fit and proper person, consideration may also be given to the following:

1. material relating to the failure by a person to provide information which that person is required to give to the local authority in accordance with Part 1A of the Caravan Sites and Control of Development Act 1960
2. material relating to a complaint made by a person of which the local authority is aware about antisocial behaviour within the meaning of section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004 on the relevant permanent site
3. material of which the local authority is aware as a result of any other function carried out by the authority to be relevant to the question of whether the person is a fit and proper person

DECLARATIONS:-

1. Angus Council is under a duty to protect the public funds it administers. As a result, the information you have provided or the information provided about you by a third party will be passed to the Council's Revenues and Benefits Service to check whether you have outstanding debts with the Council in relation to such matters as Council tax and non-domestic rates. The Council may also share information about you with other Departments of the Council and with other bodies auditing or administering public funds for the prevention of crime and the detection of fraud, such as Government departments and other local authorities.

The information you have provided on this Application form, and from supporting documentary evidence where applicable, will be used by Angus council (the "data controller") for the purposes of the General Data Protection Regulation and the Data Protection Act 2018 in order to process your application.

In order to process your application, we will share your information in accordance with the Caravan Sites and Control of Development Act 1960, other licensing legislation and with relevant internal services of Angus Council.

The Council may also check information provided by you, or information about you provided by a third party such as NHS Tayside, Scottish Fire and Rescue Service, Scottish Ambulance Service and Police Scotland with other information held by us. We may also get information from those third parties or share your information with them in order to check its accuracy, prevent or detect crime, protect public funds or where required by law.

Please note that you should read this service specific Privacy Notice in conjunction with the Council's Full Privacy Statement which is accessible on the Council's website at:

https://www.angus.gov.uk/council_and_democracy/council_information/information_governance/angus_council_full_privacy

Data Protection Act 2018

The information on this form may be held on an Electronic Register which may be available to members of the public on request.

PLEASE NOTE – IT IS AN OFFENCE TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

- Criminal Law (Consolidation) (Scotland) Act 1995 Section 44(2)(b)

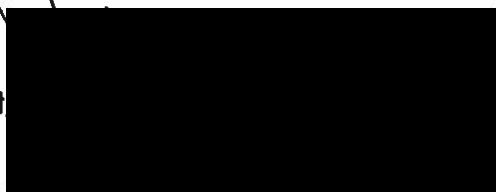
I understand that Angus Council are permitted to accept applications in relation to this licence by means of electronic communication. Applications, objections, representations or notifications can be sent to the Council by email to LawLicensing@angus.gov.uk

I permit Angus Council to give notice and provide reasons in relation to granting, refusing, renewing, changing, altering, varying, suspending and revoking the licence by means of email. I authorise the email address provided by me on this application to be used for this purpose.

2. I declare that the particulars given by me on this form are correct to the best of my knowledge and belief. I authorise the use of all information which I have provided for the above purposes. I hereby make application to Angus Council for the licence applied for.

Date...12-06-24.....

Signature of Applicant.....



NOTES

1. To be lodged with the Licensing Team, Angus Council, Angus House, Orchardbank Business Park, Forfar, DD8 1AN or by emailing LAWLicensing@angus.gov.uk together with the appropriate lodging fee. The application will not be processed without payment of the appropriate fee.
2. Any person who in, or in connection with, the making of this application makes any statement which they know to be false or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £1,000.

Site: Nursery Park
Centred at: 360395,759620
Licence No.: AC/06/2019
Plan Ref No.: AC/06/2019/A v.1

Nursery Park
Caravan Site

Victoria Park
(Football Ground)

0 10 20 30 40 m

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**APPENDIX 2 TO REPORT 262/24
SPECIAL CIVIC LICENSING COMMITTEE – 5 SEPTEMBER 2024**

COMMENTS FROM ENVIRONMENTAL HEALTH AND CONSUMER PROTECTION RECEIVED ON 23 AUGUST 2024

A visit was made to the site on the 22 August 2024 to check compliance with the conditions of the existing licence. The Manager/owner was not present during my visit and therefore no additional paperwork was seen. The following points were noted:

1. Site Plans and Boundaries

Condition 1(v) states that the site plan shall be amended as necessary by the licence holder and supplied to the local authority upon request and whenever there is a material change to the site.

At the time of the inspection there were a total of 12 caravans on the site with two additional hard standings, which would accommodate two additional caravans and the road to the northeast of the site had been altered/extended to accommodate a new layout. The site plan should also show where the LPG storage area is located.

7. Supply & Storage of Gas

Condition 7(i) states that the supply of gas to the site and to each caravan on it and the storage of gas supplies, shall meet current statutory requirements, relevant Standards and Codes of Practice.

All Liquefied Petroleum Gas (LPG) cylinders need to be stored in accordance with Code of Practice 7 “Storage of Full and Empty LPG Cylinders and Cartridges” and all empty gas cylinders must be treated like full cylinders. In particular it should be noted that the general storage information guidance states that:

- It is preferable that all LPG is stored in the open air but where this is not practicable, particularly for cartridges, the quantities stored within the buildings should be restricted to those shown in Table 2 of the code of practice.
- Access to all storage places by unauthorised persons should be prevented and such places should be marked with notices prohibiting smoking and the use of naked flames.
- Refillable LPG cylinders are considered to be full whatever the state of their contents.
- LPG should not be stored in the vicinity of cylinders containing other gases or hazardous substances without specialist advice.
- The position chosen for storage should always be level and concreted, paved or compacted to provide a load-bearing surface. Outdoor storage areas should be slightly graded for drainage of surface water.
- LPG should NEVER be stored below ground level in cellars or basements.
- There should be no openings into buildings, cellars or pits within 2m of an LPG storage area or the separation distance given in Table 1, whichever is greater. If there is an unavoidable opening within 2m, the opening should be securely covered and fitted with a suitable water seal to prevent the entry of vapour.
- The storage area should be kept free from weeds, long grass and accumulations of readily combustible material at all times.

- Cylinder stacks and cylinder areas situated outdoors are unzoned provided they comply with the requirements contained within this leaflet and are now not classified as hazardous places under DSEAR whereas previously they were zone 2.

At the time of the inspection, it was noted that there were several gas cylinders stored within 2 metres of a building with a window and while stored in a designated area it was not secured from unauthorised persons. The site operator needs to familiarise themselves with the full guidance to ensure that the designated LPG storage area complies with Code of Practice 7 "Storage of Full and Empty LPG Cylinders and Cartridges in order to comply with condition 7(i) of the site licence.

14. Notices and Information

Condition 14(i) states that the following information shall be displayed in a prominent place on site;

- The name of the site,
- Details of how to contact the Police, the Fire and Rescue Service, and emergency and local medical services,
- The name, contact address and telephone number of the site licence holder or the site manager (if different from the site licence holder) including their emergency contact details,
- A copy of the Site Rules,
- A copy of the Site Licence,
- A copy of the local flood warning system and evacuation procedure where appropriate.

At the time of the inspection, none of the above information was displayed on the site.

8. Electrical Installations

Condition 8(i) states that the electrical system on the site, including the distribution network and supplies to caravans and site buildings, shall be designed, installed, tested, inspected and maintained in accordance with the provisions of the relevant statutory requirements, particularly the Electricity at Work Regulations 1989 and the Electricity, Safety, Quality and Continuity Regulations 2002, as amended.

Condition 8(ii) states that any work on the electrical distribution network on the site and equipment connected to it shall only be carried out by persons who are competent to do the particular type of work being undertaken. A competent person for electrical work is someone registered with the national Inspection Council for Electrical Installation Contracting (NICEIC), a member firm of the Electrical Contractors' Association of Scotland (SELECT) or a member of the National Association of Professional Inspectors and Testers (NAPIT) or equivalent.

17. Maintenance of Permanent Accommodation let by the Licence Holder

Condition 17(ii) of the site licence requires that the licence holder will ensure that periodic inspection of the electrical and gas installation is carried out at intervals recommended by competent persons.

There was no Electrical Installation Condition Report (EICR) submitted with the application to indicate the last time the electrical installations to the site had been tested. It was also noted on the site that electrical work had recently been completed to each caravan. Where any works are carried out to an electrical installation, it is standard practice for the electrician to issue a minor works certificate, if the EICR is still in date, to certify that they have tested and are happy with the safety of the existing circuit they are adjusting and to demonstrate that the alterations they have made are safe and ready to be used by the customer. It is requested that the site operator needs to provide an existing valid EICR with a minor works certificate, or a new EICR which includes the new electrical works undertaken on the site to show compliance with condition 8(i), 8(ii) and 17(ii) of the site licence.

The above matters require to be rectified in order to comply with the conditions attached to the site Licence.

COMMENTS FROM HOUSING RECEIVED ON 29 JULY 2024

Housing has no objections.

COMMENTS FROM BUILDING STANDARDS RECEIVED ON 30 JULY 2024

I can confirm we are unable to provide any formal response to this consultation without the required information noted below as requested but not yet received:

- Layout Plan
- Risk Assessment
- EICR Report

COMMENTS FROM DEVELOPMENT STANDARDS RECEIVED ON 29 AUGUST 2024

Planning has no objections.