

Garioch Area Committee Report – 29 November 2016 (abridged)

Reference No: APP/2016/1061

Full Planning Permission for Part Retrospective Formation of 7 Pitch Caravan Park for Gypsies/Travellers, (each Pitch comprising Permanent Mobile Home Stance/Chalet Stance, Ancillary/Touring Stances, Utility Building, Parking and Associated Infrastructure); Landscaped Bunds and Access Road at Site at Quarry Wood, Kemnay

Applicant: Mr and Mrs George Stewart Agent: Alan Seath Planning Consultancy

Grid Ref: E:371633 N:816292

Ward No. and Name: W10 – West Garioch Application

Type: Full Planning Permission

Representations: 47 (42 object / 5 support)

Consultations: 17 Relevant Proposals

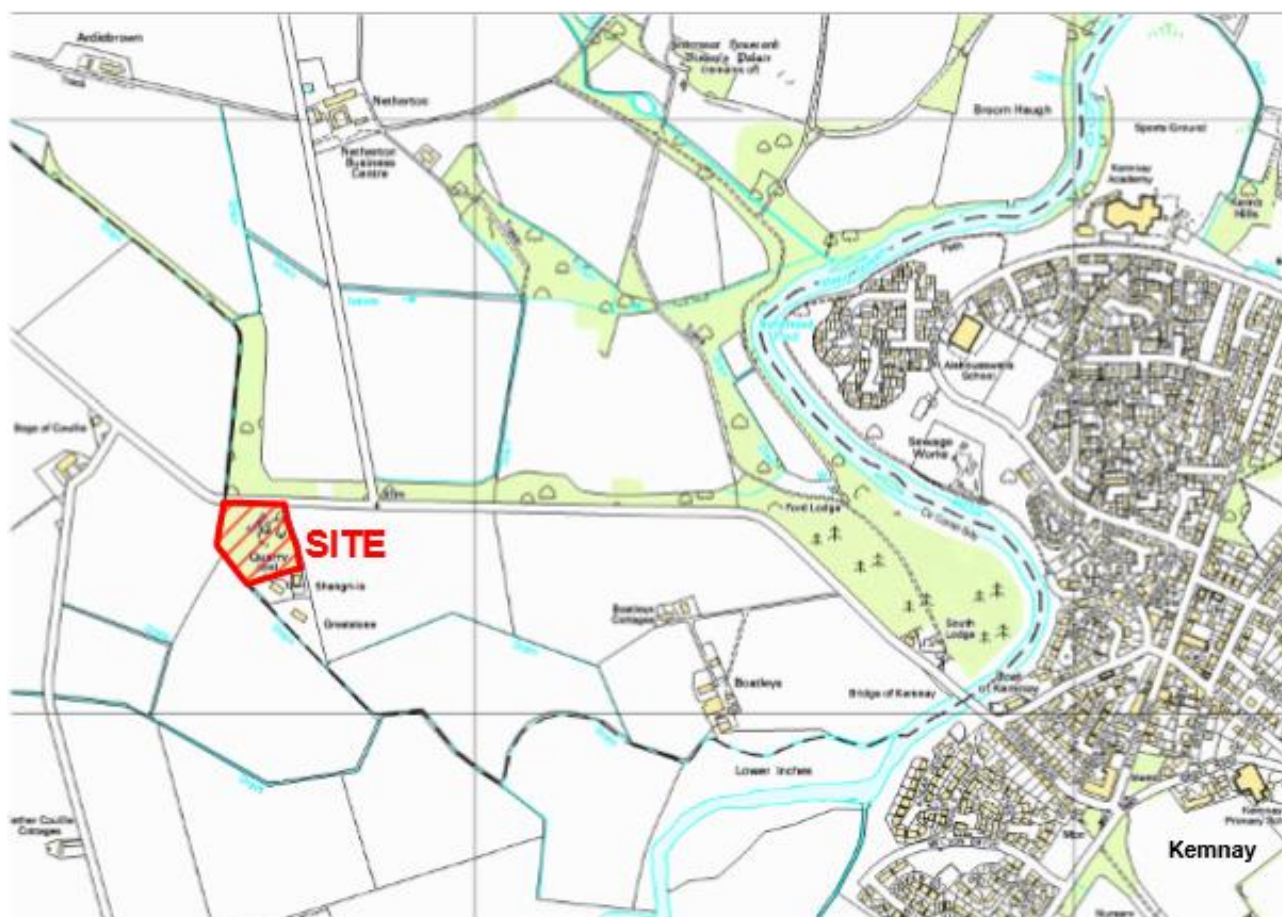
Map Countryside,

Rural Housing Market Area (RHMA)

Designations: Central Wooded Estates

Complies with Development Plans: No

Main Recommendation: Provide a view to Full Council



1. Reason for Report

1.1 This report relates to a retrospective planning application which in the opinion of the Director of Infrastructure Services, after consultation with leaders of the political groups on the Council (and any representative of the Independents) and the Chief Executive, is considered to be of regional or national significance and therefore in accordance with paragraph A17 of the Council's Scheme of Delegation requires to be determined by Full Council. As is the normal procedure with such applications a view is being sought from the Area Committee in advance of determination by the Council.

2. Background and Proposal

2.1 Full planning permission (part retrospective) is sought for the Formation of a Seven Pitch Caravan Park for Gypsies/Travellers, (each Pitch comprising Permanent Mobile Home Stance/Chalet Stance, Ancillary/Touring Stances, Utility Building, Parking and Associated Infrastructure); Landscaped Bunds and Access Road.

2.2 The proposal includes formation of an access, leading to a largely cleared area with seven pitches. For the avoidance of doubt, each pitch is proposed as a distinct area separated by low bunds and / or landscaping and would comprise a principal mobile home / chalet stance with space for two or more touring caravan stances, an amenity block, bin storage and parking. At the time of writing, a significant number of trees have been felled within the site and a track down through the centre of the site formed. Pitch 1 is fully formed with principal chalet, utility block and 2-3 touring caravans, Pitches 2 & 3 are scraped and surfaced with surrounding bunds formed, Pitch 4 is largely complete with principal chalet and utility block in place and Pitches 5, 6 & 7 are in a less developed but still semi-cleared state and a touring caravan was occupied on Pitch 5. The applicant is occupying Pitch 1 and another resident is occupying the principal chalet at Pitch 4. The Planning Service has been advised that the applicant's daughter has recently moved on to Pitch 5 after being made homeless in Aberdeen. Services in the form of electricity hook ups and water stand pipes have been installed for the pitches and it is understood that the foul drainage proposed for the site has also been installed.

2.3 The application site extends to approximately 1.3ha and is 1.3km from Kemnay to the south-east and 2.4km from Blairdaff to the north-west. The classified Kemnay to Blairdaff road forms the northern boundary of the site, an access track serving three properties lies to the immediate east, the properties themselves (Birchwood, Karneilian and Greatstone) to the south and open agricultural land to the west and south-west beyond a small watercourse / ditch. The site, which occupies a former quarry that ceased use many years ago and had become wooded and vegetated, is within the Rural Housing Market Area and the Central Wooded Estates Landscape Character Area.

2.4 Access is taken from the public road to the north via a short section of a track shared with the three properties. The site slopes gently from the north / northeast down to the south / south-west, a fall of approximately 4m across the site. A landscape buffer of approximately 15-25m has been left between the developed area within the site and the access track and a narrower 5-8m buffer to the neighbouring properties to the south. Many of the trees around the north, west and south-western boundaries have also been retained. Due to the change in levels and some excavation that has taken place, the areas of hardstanding that have been formed are at a considerably lower level than the adjacent dwellings. A steeply sloping bund has also been formed along the southern boundary. From the neighbouring properties this reaches approximately 1.0-1.5m in height and from the application site is considerably higher, approximately 3.0-3.5m in height due to the change in ground levels. A scheme of compensatory planting has been proposed.

2.5 The application is supported by a range of information including:

- Planning Policy Statement prepared by Alan Seath Planning Consultancy, dated 17 April 2016
- Tree Survey prepared by BNTW, dated April 2016

- Ground Assessment and Drainage Recommendation Report prepared by S.A. McGregor, dated 17 May 2016; and further information submitted to SEPA by letter dated 10 October 2016
- Plan of Compensatory Planting

Following receipt of representations and consultation responses, the agent also submitted further correspondence on matters raised in some of these documents.

2.6 A minor variation was made to the application site boundary following discussions between the neighbouring landowner and the applicant's agent. This recognised that the western boundary of the site and extent of landownership was the midpoint of the ditch / burn and not the field boundary as previously shown. No additional period for public comment was required as a result of this amendment. A further change to the position of the principal chalets on pitches 6 & 7 was made at the request of the Planning Service.

2.7 There is a planning history to the site. An application for full planning permission for the erection of three leisure lodges and enhanced external landscaping (APP/2012/2152) was granted on 29 April 2013. Following this decision, all relevant suspensive conditions were purified and a lawful start to the development is deemed to have commenced.

2.8 The application site has been subject to enforcement action. Following receipt of a complaint regarding the number of trees felled and development on the site a visit was carried out by Planning Enforcement. As development had been carried out which did not meet with the agreed planning permission under APP/2012/2152, a Temporary Stop Notice was served on 10 March 2016. A Planning Contravention Notice was also issued on 14 March 2016 to confirm land ownership and the intended use of the site. An interim interdict was also sought to ensure no further development outwith the agreed permission took place and SEPA was made aware of the position.

2.9 The owner's agent made contact and a meeting was held on 21 March 2016 where the Planning Service was advised that it was the owner's intention to submit a planning application for the development underway. On 23 March 2016 the Sheriff granted an Interim Interdict and this was served the same day. This interdict prohibited any further families from moving onto site and any development outwith the permission held. The interim interdict was then extended until the 27 April 2016. On this date the Sheriff then granted a full interdict.

2.10 In addition to the Temporary Stop Notice, interim and full interdict, Planning Enforcement also issued an Enforcement Notice on 1 April 2016. This Notice had a 28 day appeal period which expired on 28 April 2016. The notice therefore took effect on 29 April 2016 and requires the owners to:

(a) To remove all mobile homes and touring caravans, modular amenity block, associated infrastructure and vehicles from the said land. (b) Remove culvert, created to the South West of the site and reinstate to an open field ditch in depth and size as per the adjacent field ditch. (c) Remove areas of hardcore from within said land other than those approved under APP/2012/2152 Approved Site Layout Plan LO (--) 04 drawing. Copy attached to schedule. (d) Remove bunds from the land and re-instate to original levels as before engineering operations began. Remaining topsoil from within the site to be spread across site. (e) Standard size trees of the same species as those removed should be planted in same position and numbers as identified to be retained on approved plan APP/2012/2152 LO (--) 04 and tree survey plan QW01 within areas of unauthorised tree removal and meet with British Standards of support and protection from vermin. (f) Remove bund and debris by hand up to a radius of 1.5 metres from the trunk of all protected trees as identified on approved plan APP/2012/2152 LO (--) 04 and tree survey plan QW01.

2.11 This notice required works to be completed within four months of the notice taking effect. However, due to submission of a valid planning application the Enforcement Notice has been suspended until a decision on this planning application has been reached and any appeal concluded.

3. Representations

3.1 A total of 47 valid representations (42 objections / 5 in support) have been received as defined in the Scheme of Delegation. This does not include multiple representations from the same household which equate to 51 letters in total. All issues raised have been considered. The letters raise the following material issues:

Objections

- Proposal does not respect previous permission granted
- Work commenced without planning permission
- Applicant has no respect for procedures and is breaking the law
- Retrospective planning permission is not acceptable
- Site is subject to enforcement and this has been breached
- Site not identified for caravans / travellers site
- Traveller sites should be under local authority control
- If granted, site likely to be extended
- Need has not been established
- No indication how site will be managed
- Chalets / caravans are a poor standard of accommodation
- Visual impact of development
- Number of caravans likely to increase
- Concerns about over-development of the site
- Site unsuitable due to proximity to residential homes
- Loss of privacy and amenity for nearest residents
- Impact on quality of life for nearby residents
- Noise and disruption will significantly increase due to numbers
- Detrimental impact on neighbourhood and Kemnay
- Amount of tree felling will impact on wildlife, amenity and local character
- Impact on ancient woodland / protected trees
- Site should be returned to previous condition
- Gypsy / traveller site is out of character with the area
- Effect on listed building and conservation area
- Impact on site and protected species from work undertaken
- Impact on badgers, ospreys, squirrels, bats and other wildlife
- Applicant has piped the ditch
- Concerned about site being a 'base for employment'
- Employment use will generate traffic on minor road
- Proposal is contrary to a number of LDP policies
- There is no justification for a departure from policy
- The principle of residential development has not been established
- Insufficient parking within the site
- Impact on local services; health, education, social work
- Lack of environmental assessment undertaken
- No attempt at consultation has been undertaken
- Negative impact on tourism in the area
- Noise and light pollution
- Hazardous materials and contaminated land concerns
- Contamination of watercourse
- Water supply
- Waste disposal

Support

- There are no facilities / accommodation for the travelling community
- There is a need for permanent sites and Council does not address this
- Development will prevent illegal sites in City and Shire
- Site is ideal, well-screened and hidden from public view
- Travellers have developed the site and will save council tax payers money
- Site will be privately owned and well managed
- Site will be kept clean and tidy
- Travellers should be given a chance to be part of the community
 - Site provides chance for children to settle and be educated
- Site provides access to education and medical facilities
- Neighbours had no problem with work done
- Against the prejudice and discrimination shown to gypsy / travellers

Non-material issues

- Some land not in applicant's ownership
- Devalue properties • Personal safety and security
- Number of pets and impact on farm animals
- Behaviour of travelling community • Previous impacts from unauthorised encampments
- Regular bonfires have been lit at the site
- Are residents paying Council Tax?

4. Consultations

Internal

4.1 Education and Children's Services (Education and Learning) highlight that this proposal is not on an allocated site, but do not object to the application and advise that it is able to support the application as there is capacity at both Kemnay Primary School and Kemnay Academy.

4.2 Infrastructure Services (Area Manager Marr) was consulted on the application as the western site boundary is also the administrative boundary between Garioch and Marr. As none of the site lies within the Marr area, the number of representations from Marr residents are a small proportion of the overall number received, the planning report will cover all points raised and Marr Members will get an opportunity to discuss the application at Full Council, it was agreed no separate report to Marr Area Committee was necessary.

4.3 Infrastructure Services (Contaminated Land) advise that as issues regarding the presence of waste at the site will be pursued by SEPA under waste management regulations, it would not be appropriate to request any further investigation via the planning process.

4.4 Infrastructure Services (Environmental Health) advise that the site would require to be licensed as per The Caravan and Control of Development Act 1960. It is further suggested that the plans submitted appear to meet licence requirements.

4.5 Infrastructure Services (Flood and Coastal Protection) has indicated that it is generally satisfied with the measures proposed to deal with surface water drainage and the level of flood risk. The removal of the culvert required by SEPA is reiterated along with a condition required to install and maintain the private drainage systems proposed. An observation about insurance and flood risk is made.

4.6 Infrastructure Services (Housing Strategy – Equalities) advise that a target within the Local Housing Strategy (2012-17) is for the Council to provide a gypsy / traveller site every two years; to date none have been developed. Four sites identified in the Aberdeenshire Local Development Plan 2012 (and also the 2016

LDP) are unlikely to be developed in the short-term and there is need for more immediate provision. Provision in the form of small family owned sites and larger sites to accommodate varying groups sizes is recommended, with the most recent scale envisaged to be 6-8 pitches rising to 15 pitch sites.

The Aberdeenshire Gypsy / Traveller Site Provision Strategy (2014) focusses on Council sites, but there is a recognition that private sites should also be considered to meet the accommodation needs from the travelling community wishing to reside and travel through Aberdeenshire. There is a need in 'central' Aberdeenshire that the granting of this application, along with four transit pitches at the Clinterty, Aberdeen will help to meet.

The proposed site is considered to meet the requirement of "reasonable access to employment, education, community facilities and the main road network" required by SG SHN3: Gypsies / Travellers.

4.7 Infrastructure Services (Natural Environment) initially stated that the application was not acceptable. It highlights the strong presumption against removal of woodland on the Ancient Woodland Inventory and as an absolute minimum, a requirement for compensatory planting. Concern is raised about the threat to some remaining trees and need for recommendations on their future management / replacement along with a Tree Protection Plan. The proposal is considered contrary to SG Safeguarding 3.

The woodland habitat has been damaged to the point where it can no longer provide habitat for bats, badgers and red squirrels. The relationship with the adjacent burn is unclear and buffer strip guidelines need to be followed. The proposal is considered contrary to SG Natural Environment 2.

The site is within the locally designated Designed Landscape of Fetternear and bounds the most southerly element of the landscape.

Following receipt of a scheme of proposed compensatory planning and comments from Forestry Commission Scotland, a condition was proposed to ensure this planting takes place at the correct time and would be maintained.

4.8 Infrastructure Services (Planning Policy) advise that the proposal is contrary to a number of local development plan policies and it objects to the application. In particular, the proposal is considered not to comply with SG RD1 as it fails to meet any of the criteria in this policy and no supporting information has made an exceptional case. The statement that the previous planning permission established a residential use for the site is disputed.

In terms of SG SHN3, it is considered that the development will have an adverse impact on landscape, woodland and the nature conservation value of the site. It is further highlighted that health service provision is under pressure in Kemnay. The scale of the proposal as a 'small site' is questioned along with the resulting impact on the environment, character and amenity of the surrounding area.

The matter of 'need' is explored with reference to the Local Housing Strategy (2012-17) and Housing Need and Demand Assessment. Overall, it is concluded that the proposal fails to meet criteria a), b) and d) of this policy. It is acknowledged in a follow-up comment that Policy 7 and SG SHN3 is the key policy that needs to be met in order to attract support.

4.9 Infrastructure Services (Roads Development) does not object subject to a number of standard conditions.

4.10 Infrastructure Services (Waste) highlight the bin provision required for mobile homes and requirement for kerbside recycling. Following discussions with the Planning Service it was agreed that provision of a bin store near the site entrance to accommodate three 1100 litre bins and surfacing of the first section of the access into the site would be acceptable.

4.11 Forestry Commission Scotland was not formally consulted by the Planning Service. However, in response to the assertion that the site comprised ‘ancient woodland’, the agent approached FCS. Correspondence received has confirmed that the area is covered by an ancient woodland designation of long established plantation origin (LEPO). It is Category 2 on a scale of 1-3 of biological interest, with 1 being the highest.

Whilst there is a preference to protect and expand ancient woodland, where there is limited biological interest there is some scope to allow development. In this situation, allowing development may be deemed appropriate if compensatory planting is offered to ensure there is no net loss of woodland.

With regard to the possibility of restoration, many of the trees and much of the soil structure has already been disturbed or removed by the excavation of original ground levels for the consented development at this site in 2012. More recently this has been extended to the extent now seeking retrospective approval. All these works makes restoration of ancient woodland at the site difficult, but not impossible. The presence of some undisturbed areas on the site and the existence of LEPO woodland on the opposite site of the public road all provide seed sources for possible restoration. However any restoration effort could only revert the woodland back to that post 2012 approval, which would not restore the whole woodland character.

In terms of the compensatory planting proposed at Butterywells, Potterton, it has been stated that planting would normally require to be a minimum width of 15m to be considered woodland, however as the majority of the planting is adjacent to existing woodland the proposal is considered acceptable to prevent a net loss of woodland as a result of the development.

4.12 NHS Grampian has not responded at the time of writing.

4.13 North East Scotland Biological Records (NESBReC) has identified the application site as a habitat for red squirrels.

4.14 Scottish Environment Protection Agency (SEPA) initially objected to the application (11 July 2016) on flood risk grounds and sought additional information on this matter and proposals for disposal of waste water drainage.

Following receipt of a flood risk assessment and additional information, the consultation response dated 30 August 2016 maintained these objections and highlighted issues related to culverting the watercourse and the storage of large amounts of wood waste that were raised in representations.

A site visit took place on 12 September 2016 and following discussions with the engineer, a final consultation response dated 21 October was received. This removed the objection on flood risk grounds subject to a condition being applied to any approval that secured the removal of the culvert that has been installed. Clarification about the package plants to deal with foul drainage are considered acceptable.

In terms of the waste disposed of on the site, this has been done without the necessary exemptions and soil and stone waste will have to be removed from the site or an exemption applied for. The matter of wood on site has been clarified for the benefit of the applicant and again, exemption certificates may be necessary.

4.15 Scottish Gas Networks has no objection to the proposal as it has been confirmed that the closest point to the nearest pipeline is 61m.

4.16 Scottish Water has not responded at the time of writing.

4.17 Kemnay Community Council objects to the application. The response (refer to Appendix 1) suggests that the proposal is contrary to SG SHN3 as the site has not been identified in the LDP, a newly arising need has not been proven, the site would detract from the character and appearance of the area and would significantly detract from the amenity currently enjoyed by residents of the three neighbouring dwellinghouses.

Further, it highlights that the proposal does not conform to the previous permission and fails to satisfy layout, siting and design requirements by being effectively a caravan site, reducing residential amenity and through significant tree removal. It also raises concerns about the unknown nature of the employment that may take place at the site.

5. Relevant Planning Policies

5.1 Scottish Planning Policy

The aim of the Scottish Planning Policies is to ensure that development and changes in land use occur in suitable locations and are sustainable. The planning system must also provide protection from inappropriate development. Its 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.

Development and conservation are not mutually exclusive objectives; the aim is to resolve conflicts between the objectives set out above and to manage change. 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.

5.2 Aberdeen City and Shire Strategic Development Plan 2014

The purpose of this Strategic Development Plan is to set a clear direction for the future development of the North East. It promotes a spatial strategy. All parts of the Strategic Development Plan area will fall within either a strategic growth area or a local growth and diversification area. Some areas are also identified as regeneration priority areas. There are also general objectives identified. In summary, these cover promoting economic growth, promoting sustainable economic development which will reduce carbon dioxide production, adapt to the effects of climate change and limit the amount of nonrenewable resources used, encouraging population growth, maintaining and improving the region's built, natural and cultural assets, promoting sustainable communities and improving accessibility in developments.

Para. 4.36 of the SDP states that it is important that new development meets the needs of the whole community, including the specific needs of Gypsies / Travellers.

5.3 Aberdeenshire Local Development Plan 2012

Policy 1: Business development SG Bus3: Working from home

Policy 3: Development in the countryside SG Rural development1: Housing and business development in the countryside

Policy 7: Other special housing needs SG SHN3: Gypsies / travellers

Policy 8: Layout, siting and design of new development SG LSD2: Layout, siting and design of new development SG LSD8: Flooding and erosion SG LSD10: Contaminated Land

Policy 9: Developer contributions SG Developer contributions2: Access to new development SG Developer contributions3: Water and waste water drainage infrastructure SG Developer contributions4: Waste management requirements for new development

Policy 11: Natural heritage SG Natural environment2: Protection of the wider biodiversity and geodiversity

Policy 12: Landscape conservation SG Landscape1: Landscape1: Landscape character

Policy 14: Safeguarding of resources and areas of search SG Safeguarding3: Protection and conservation of trees and woodland

5.4 Other Material Considerations

Aberdeenshire Gypsy / Traveller Site Provision Strategy 2014

Aberdeenshire Gypsy / Traveller Stopover Site Development Guidance 2013

Aberdeenshire Local Housing Strategy 2012-2017

The Equality Act 2010 and the Equality Impact Assessment undertaken for this proposal (refer to Appendix 2).

APP/2015/3608 for full planning permission for retrospective change of use of agricultural land to form 10 stance caravan park (permanent halting site for gypsies / travellers) and touring gypsy / travellers site, formation of road and erection of boundary fencing / walls / gates, toilet block, wash room, day room / classroom, pump station and recycling point and land south-west of Eskview Farm, St Cyrus. This application was reported to Kincardine & Mearns Area Committee on 22 March 2016 and was granted by

Aberdeenshire Council on 28 April 2016 subject to notification to Scottish Ministers. At the time of writing, no final determination has been made on this application.

6. Discussion

6.1 The key planning issues in the determination of this application are the principle of this development with reference the primary policy requirement, need and equalities, consideration of the impact on residential amenity, landscape and visual impact, loss of trees and biodiversity and technical matters.

6.2 The proposal is partly retrospective in nature and partly represents unauthorised development that is subject to pending enforcement action. The Planning Service never condones intentional disregard for the planning process and does not do so in this case. However, this fact must not influence consideration of the planning issues or other material considerations presented in this report.

6.3 There can be some confusion in terminology with regard to these proposals. For the purposes of this report the following definitions are used:

- Pitch – an area for siting one or more caravans or a principal chalet
- Stance – a single caravan or principal chalet within a pitch
- Halting / stopover site – a temporary use up to 28 days with basic facilities (not proposed as part of this application)
- Permanent site – provision of pitches with access to an amenity block, refuse facilities etc. and no maximum duration for stays

Principle

6.4 The primary policy in the determination of the principle of the development in this case must be Policy 7 (Other special housing needs) and SG SHN3 (Gypsies / travellers) and not Policy 3 (Development in the countryside) and SG Rural development1 (Housing and business development in the countryside). The reason for this is that whilst SG RD1 speaks in general terms about housing in the countryside, SG SHN3 sets criteria for permanent or temporary halting sites for gypsy / travellers which are specific to this proposal.

6.5 SG Rural development1 supports small-scale development in the countryside under certain criteria. This proposal does not involved previously developed land and does not constitute organic growth or an extension to a cohesive group. As such the application can only be supported as a departure to SG Rural development1.

6.6 SG SHN3 states “we will approve a site to accommodate a permanent or temporary halting site for Gypsies/ Travellers, subject to other policies, if:

- 1) it meets an identified need and is located on a site that has been identified within the plan; OR
- 2) a newly arising need can be proven.

In either case the applicant must also demonstrate that:

- a) the site would not appreciably detract from the character or appearance of the area; AND
- b) the site would not significantly detract from the amenity currently enjoyed by residents in the area; AND
- c) the site can be sympathetically located in a secure environment and provided with essential services (in the case of halting sites: water connection, refuse facilities and portable toilet); AND
- d) the location allows reasonable access to employment, education, community facilities and the main road network; AND
- e) in the case of a site which is not a private site intended solely for private use, it has been demonstrated that the site will be properly managed.”

6.7 The reasoned justification for the SG goes on to indicate that proposals for gypsy / traveller sites should be located on land specifically for that purpose which are identified and allocated within the local development plan. This ensures sites have been scrutinised within the development plan process and provides certainty to gypsies and travellers and settled communities. The policy aims to reduce the number of unauthorised encampments by meeting need identified and considered within the Housing Need and

Demand Assessment and the Local Housing Strategy. It ensures that the policy can meet newly arising need as and when required, and also ensures demand for small privately owned sites can be considered against a relevant policy.

6.8 The SG continues that research by Craigforth (2008), established that there is a need for sites which requires to be addressed. If the halting site provision allocated through the LDP is found to be insufficient, then the need for further halting sites will be apparent and new halting sites will require to be found. They should be judged using the criteria identified in the supplementary guidance. For clarification, developers of private sites for their own use do not have to prove a need, in the same way as any other private housing applicant does not have to prove their need for housing. However, they will have to prove that the development of the site is appropriate and meets the policies of the development plan. Given the particular housing need being addressed and the insignificant number of likely applications for sites, a reasonable approach should be taken when weighting the significance of other policies.

6.9 For clarity, the applicant has stated this is a private site for him and his extended family. Whether this is in fact the case, or will continue to be the case, is largely irrelevant, the site would remain as private with its own management arrangements in place. For this reason, matters related to the management of the site and demonstration of need are not significant material considerations, in the same way as such details would not be requested or considered for any other applicant for a housing proposal. However, the Planning Service considers there to be some merit in considering the context in which provision across Aberdeenshire has and may continue to develop.

6.10 Aberdeenshire Council has a duty through its Local Housing Strategy (LHS) to meet the accommodation needs of all minority ethnic groups, including gypsy / travellers. The target within the LHS is for Aberdeenshire Council to provide at least one site every two years during the lifetime of the LHS; to date Aberdeenshire Council has not delivered any sites. Four sites have been identified in the 2012 local development plan at Thainstone / Crichton and also at Blackdog and Ellon in Formartine and Chapelton in Kincardine and Mearns. The K&M provision is progressing, but it is unlikely any of the sites will be developed in the short term.

6.11 The Aberdeenshire Council Gypsy / Travellers Site Provision Strategy (2014) recommends the provision of a mix of small, family orientated sites as well as larger sites to accommodate groups of varying sizes. Where previously it was considered that sites of 6-8 pitches were best, it is now recommended that sites should ideally range in size from 6-8 pitches to larger sites accommodating up to 15 pitches. These sites should also be a mix of fully serviced and stopover sites. Whilst the Strategy focuses on provision of Council sites, a report to the Gypsy / Traveller Sub-Committee dated 15 June 2016 recommended that provision of private sites should also be considered to meet the needs of travelling community wishing to reside in and travel through Aberdeenshire.

6.12 The decision of Aberdeenshire Council to support the 10 pitch St Cyrus private site on 28 April 2016 (APP/2015/3608) and which now rests with Scottish Ministers would go towards meeting the accommodation needs in South Aberdeenshire. In North Aberdeenshire there is established provision of 20 pitches (40 caravans in total) at the Greenbanks site in Banff. In Central Aberdeenshire there is no formal provision apart from the joint arrangement with Aberdeen City Council over 4 pitches (each able to accommodate three caravans) at Clinterty. Although catering for a different need to stopover / halting sites, this proposal has the potential to contribute to reducing the number of unauthorised encampments in Aberdeenshire, which totalled 259 in the period 2009-2015; 37 (14%) of those were in the Garioch area. In 2016 there have been 59 unauthorised encampments and 10 (17%) have been in Garioch.

6.13 The agent in the supporting statement makes the case that the applicant and his extended family have long-standing links to Aberdeenshire and have the rights and needs to have accommodation in the area, their place of origin. It further states that the desire is to form homes for the families where they can establish children in local schools and for residents with ongoing serious health issues to settle close to medical facilities. It is claimed that there is an unmet need / demand for site provision in Aberdeenshire.

6.14 This matter is reiterated in the consultation response from Housing Strategy – Equalities, which mentions the difficulties in delivering the identified sites and the need for more immediate site provision. It also highlights that support for the application site would help meet need in Central Aberdeenshire and that the site meets the criteria for allowing reasonable access to employment, education, community facilities and the main road network.

6.15 It is clear that this proposal does not meet the specific requirements of criteria 1) in that it does not meet an identified need and is not located on a site that has been identified within the plan. What is less clear is if a newly arising need can be proven. The origin of the majority of the proposed residents provided in the supporting statement is Aberdeenshire, but it is not clear where they currently live or where their last location was. It is difficult therefore to say with certainty that the need is newly arising as has been pointed out in representations. However, it is the view of the Planning Service that it cannot be denied that there is a need for site provision and a demand for sites. Whether this is due to historic family links, economic circumstances, attractiveness of the area or other factors, the fact remains that developers of private sites for their own use do not have to prove a need, in the same way as any other private housing applicant does not have to prove their need for housing.

6.16 The SG goes on to state that wherever the need arises from, the applicant must also demonstrate that other criteria are met and these are outlined below and form the basis for the rest of the discussion.

a) the site would not appreciably detract from the character or appearance of the area; AND

- b) the site would not significantly detract from the amenity currently enjoyed by residents in the area; AND
- c) the site can be sympathetically located in a secure environment and provided with essential services (in the case of halting sites: water connection, refuse facilities and portable toilet); AND
- d) the location allows reasonable access to employment, education, community facilities and the main road network; AND
- e) in the case of a site which is not a private site intended solely for private use, it has been demonstrated that the site will be properly managed.”

a) Landscape character - the site would not appreciably detract from the character or appearance of the area

6.17 The site occupies a relatively hidden position within a former quarry with a public road to the north, open farmland to the east and west and three dwellinghouses to the south. The topography and remaining landscaping completely obscure the development in views from the east. Outwith the autumn / winter period, the relatively dense foliage and trees form an effective screen in views from the west and from the north views are less obvious due to the angle of view and topography, but some development will be visible. The applicant has confirmed it is the intention to enhance the landscaping to the north and west and this will further contribute to screening the site from public view. If the site was more prominent and no mitigation was possible, then the Planning Service would have greater concern about the development and its impact on the character and appearance of the area.

6.18 The site lies within the Central Wooded Estates Landscape Character Area, which is an area within the agricultural heartland of Aberdeenshire of rolling landform with low hills and wide valleys rising up to the distinctive bulk of Bennachie. A strong woodland structure is associated with numerous estate policies. This landscape experiences significant pressure due to its proximity to Aberdeen, however, abundant woodland can provide local screening and native, broadleaf trees may be used to integrate new development into the landscape and soften the edge of ‘urban’ developments.

6.19 Policy 12: Landscape conservation and SG Landscape1: Landscape1: Landscape character require the scale, location and design of new development to be appropriate to the landscape character of the area and the proposal must not have an adverse impact on key natural or historic features, overall composition or quality of the landscape character or contribute to cumulative impact along with other, recent development. The site has been subject to significant removal of vegetation and this will be covered later in the report, but the opportunity to enhance the site through landscaping can be covered with a condition. With the benefit of such a condition, it is considered that this proposal meets the requirements of Policy 12 and therefore Policy 7 criterion a) and will not appreciably detract from the character or appearance of the area.

b) Residential amenity - the site would not significantly detract from the amenity currently enjoyed by residents in the area

6.20 There are two dwellinghouses immediately south of the application site and a third beyond these; all share an access with this proposal to the public road. To the south-east is ‘Birchwood’ approximately 8-10m from the site boundary and 20-25m from the nearest stance / utility block. ‘Kameilian’ is west of this approximately 9-10m from the site boundary and 18-20m from the nearest stance. Greatstone is to the south of the other two properties, approximately 60-65m from the application site. The dwellinghouses sit at a higher level than the application site, making the two closer properties obvious from within the application site, but the proposed development less visible from the dwelling houses and their curtilage.

6.21 It was noted on the site visit that the orientation of ‘Birchwood’ is to the east and the area of private garden ground to the north of the dwelling nearest the site is relatively restricted and appears to be used for log storage and ancillary domestic purposes, but not as garden ground. The area is enclosed by a 1.8m high fence and glimpses of the site, 1.0-1.5m bund and existing caravans can be seen through the trees and

shrubs. 'Kameilian' primarily faces south-west away from the application site, although it is acknowledged that there is an attractive garden to the north-east and south-west of the dwellinghouse making these spaces more likely to be enjoyed on a more regular basis. There is a mature evergreen hedge of a significant height with a small gap for a gate facing the application site. There are also opportunities to view the rear of the bund from several points within the garden, although views of the development are limited or not at all. There is no shared boundary between the application site and 'Greatstone' and it is therefore considered that there will be no direct impact on this property.

6.22 In considering amenity more broadly, issues raised in the representations include loss of privacy due to proximity to homes, reduction in quality of life, noise, disruption and light pollution. The Planning Service understands where such anxiety comes from, based on actual or perceived experience and media coverage of the gypsy / traveller community. However, in considering amenity it is crucial to make no distinction between gypsy / travellers and the settled community. There is an extant planning permission for three holiday chalets where similar concerns about residential amenity were also considered prior to granting that development. It is not uncommon in other situations where new residents move into a locality that tensions can arise due to the changing circumstances and planning has a limited role beyond assessing material planning considerations. In this case, the scale would differ from the three chalets previously granted but the number of new residents that may occupy the site would be restricted by the number of stances permitted and the licence for the site. It is proposed to restrict the number of principal chalets and caravans on the site to that shown on the submitted plans. No floodlighting is proposed and this can be conditioned to ensure it is not installed without permission. Aside from licensing the site, Environmental Health would also have a role in investigating any noise and light pollution complaints. As in any scenario, more serious anti-social behaviour or criminal allegations are clearly a matter for the Police.

6.23 In summary, the Planning Service must consider the relationship between the existing dwellinghouses and the application site and any mitigation that is in place to minimise any potential conflict between the two uses. The change from a wooded former quarry to holiday chalets or this proposed development will clearly result in additional noise and activity that existing residents will be aware of, however, it is the significance of this that must be considered. Environmental Health has not raised any concerns about residential amenity and the Planning Service considers for the reasons above that the proposal is unlikely to have any significantly greater impact on existing residents than may arise from holiday chalets, dwellinghouses or any other proposal appropriate to the countryside setting and additional landscaping mitigation that can be controlled by condition will reduce this further.

c) Servicing - the site can be sympathetically located in a secure environment and provided with essential services

6.24 As outlined above, the proposed development is generally well sited and screened. With the incorporation of additional appropriate landscaping the site will be largely obscured from public view. The boundaries of the site are well defined by ditches, fields, the public road and domestic curtilage and therefore represent a 'secure environment' that can be managed effectively. In terms of services, the site is already connected with electricity and public water supply connections. Provision has been made on the site for foul and surface drainage with supporting information provided on the drainage solutions in place. These have been assessed by SEPA and the Flooding & Coastal Protection Unit and found to be satisfactory. It is therefore considered that the proposal meets this criteria.

d) Location - the location allows reasonable access to employment, education, community facilities and the main road network

6.25 The application site is 1.3km west of Kemnay and connected by the classified Kemnay to Blairdaff road which is a rural road with no footpath but appears popular with residents and walkers from the adjacent Fetternear Estate. Connectivity for walking and cycling to Kemnay are therefore acceptable with access taken over the River Don into the village centre and the services and facilities available there. From Kemnay there is good access to the A96 via Kintore or north-east to Inverurie or south-east to Westhill. Part of the supporting information from the applicant is that access to education and health facilities is important for

some of the residents. Education advise that it does not object to the application as there is capacity at both Kemnay Primary School and Kemnay Academy. A response from NHS Grampian is awaited at the time of writing. The response from Housing Strategy – Equalities states that the site meets the requirements of this criteria and the Planning Service agrees with this.

e) Management - in the case of a site which is not a private site intended solely for private use, it has been demonstrated that the site will be properly managed

6.26 As previously highlighted, this will be run as a private site. Despite some comments in the representations that all gypsy / traveller sites should be in public ownership, delivery of such sites has not progressed as fast as envisaged. In addition, it is accepted in the Aberdeenshire Gypsy / Traveller Site Provision Strategy (2014) that private sites will have a role to play in providing capacity. As such, there is no requirement to demonstrate that the site will be properly managed.

6.27 In conclusion, the Planning Service has fully considered Policy 7 (Other special housing needs) and the criteria in SG SHN3 (Gypsies / travellers) and considers that the proposals comply with all relevant requirements.

Layout, siting and design

6.28 The specifics and merits of the site have already been considered. Moving within the site, an access has been formed in the position of the access granted under APP/2012/2152 and this provides a compacted hardcore surface down into the centre of the site from where the seven pitches are accessed. To the east of access track are pitches 1-3 separated by low bunds and benefitting from the changing topography and peripheral landscaping that remains. Each pitch will accommodate a principal chalet (large mobile home) fixed as found on residential or holiday parks, a blockwork utility building and space for 2-3 touring caravans. Other ancillary domestic features such as dog kennels are on site.

6.29 The Planning Service considers the layout to be an effective use of the space available and the buffer to the public road and existing dwellinghouses welcome; although these would benefit from additional landscaping. The matter of tree loss will be covered separately, but the Planning Service sought to move the development away from the western boundary and maximise the tree retention and therefore visual mitigation this provides. An amended plan was received that altered the layout within pitches 6 & 7 to achieve this. Overall it is considered that having accepted the principle of the use of the site for gypsy / travellers, that the layout and design are appropriate and in accordance with Policy 8 and SG LSD2 (Layout, siting and design of new development).

Working from home

6.30 The application includes reference to the site being a work base and this has raised some concerns in the representations. It is understood that the applicant has a landscape company and that other unspecified small businesses may operate from the site. Again, it is important not to make a distinction between this site and similar situations in the settled community where small businesses are based alongside homes and vehicles are kept overnight. As this is a private, permanent site it would not be expected that it would suffer the same fate as some unauthorised encampments with material left behind when the users have moved on.

6.31 There is provision for home based employment in Policy 1 (Business development) and SG Bus3 (Working from home). Although designed for more traditional dwellinghouses and neighbourhoods, criteria 1) states that we will approve home based employment, subject to other policies, if it does not cause significant loss of amenity to neighbouring properties through noise, traffic movements or other nuisance. From the description of the business involved this will not be the case, but the Planning Service would be obliged to investigate any complaint from another pitch or any of the existing dwellinghouses if this arose and establish if any separate permission is necessary.

Trees and Ancient Woodland

6.32 Prior to unauthorised work commencing on the site the former quarry was an attractive and diverse wooded area that would have been a habitat for many species, some of which are protected. Minimising the impact on the woodland and this habitat was a fundamental consideration in the determination of the previous application for three holiday chalets and the approved scheme of tree removal submitted to satisfy the condition on this application shows approximately 30 trees to be felled to accommodate the development (1 B class and the others all C class) and some others for safety reasons. Root protection measures were identified and trees of importance safeguarded. Impact on badgers, bats and squirrels was also assessed and mitigation agreed where necessary.

6.33 Policy 14 (Safeguarding of resources and areas of search) and SG Safeguarding³ (Protection and conservation of trees and woodland) states that we would only approve development that would cause the loss of or serious damage to trees or woodlands if:

1) it would achieve significant and clearly defined public benefits that outweigh any potential loss; AND 2) when required, an evaluation of the biodiversity and amenity value of the woodland and habitat, including current and future benefits of the existing woodland, has been undertaken; AND 3) the minimum damage occurs to existing trees and woodland as a result of the development, and there is no unnecessary fragmentation of existing or potential woodland networks; AND 4) the impact of the removal of any trees and the effect on the character or amenity of the area is mitigated by appropriate compensatory planting to an agreed standard.

6.34 For this proposal, the first the Planning Service was aware were complaints about the extent of tree felling within the site and a considerable amount had been felled before enforcement action could be taken. The tree survey submitted in support of the application indicates that 1 B class, 30 C class and 90 U class trees were to be removed under the previous application. The U class trees were all proposed for felling as part of tree management rather than directly associated with the development. It also states that 67 additional trees, excluding the 90 U class trees, were lost in the strong winter winds of 2015 and were removed on safety grounds. Whilst trees remain around the edge of the site the centre of the site claims to have been cleared as a result of this wind damage. The Planning Service is somewhat sceptical about some of the content in the report and the extent of wind-damage resulting in tree removal in the central part of the site when many of these specimens were proposed to be protected and retained. However, now removal has taken place there is nothing that can be done to confirm the status of these trees, many of which were not surveyed for the previous application as they were not under threat.

6.35 The initial tree survey was not considered to be sufficient and at the request of the Planning Service a second tree survey was provided for the current application. This confirms that of the 300 trees previously surveyed, 1 A class, 16 B class, 54 C class and all 92 U class trees have been felled. An additional 22 trees have also been surveyed and recommendations made for those.

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What the survey cannot do is provide any certainty about the extent and class of trees that have been removed within much of the site.

6.36 The issue of 'ancient woodland' is raised in the Planning Policy response and letters of representation. Comments were sought from the Environment Team and Forestry Commission Scotland (FCS) on this matter. This confirmed that the woodland on the application site is Ancient Woodland (long established plantation origin (LEPO) category 2b), i.e. known to be wooded for at least 140 years. This woodland was not included in the last Native Woodland Survey of Scotland as less than 50% of the trees present were non-native. This may indicate therefore that the area was of lower biological interest than other sites and there is more flexibility to allow removal. FCS concluded that allowing development may be deemed appropriate if compensatory planting is offered to ensure no net loss of woodland.

6.37 Some representations have called for the restoration of the woodland and the Enforcement Notice also requires this. The views of FCS were also sought on restoration and it was suggested that many of the trees and much of the soil structure has already been disturbed, removed or compacted by the excavation of the original ground levels and these works make restoration of ancient woodland at the site difficult, but not impossible. However, any restoration effort could only revert the woodland back to that post 2012 approval, which would not restore the whole woodland character. Re-planting is also an option within parts of the site and the tree survey suggests the planting of 150 native hardwood trees and 450 native shrubs. The applicant also has an agreement in place for compensatory planting of 350 trees at a site near Potterton, Aberdeenshire.

6.38 Taking all of the above into account, the Planning Service considers that the approach to protecting the trees and woodland on the site has not been appropriate and the retrospective approach to confirming this is highly regrettable. It is accepted that a degree of tree loss was negotiated on this site for the previous application, but this retained the most significant specimens and the character of the site as a wooded area and would have created an attractive environment with habitat potential and some biodiversity value. The approach to developing this site appears to have been to treat the trees as an inconvenience and to attempt to justify the removal of as many as possible. Without the ability to assess the status of the removed trees it is impossible to say whether the Planning Service would have agreed to their removal.

6.39 Despite not according fully with Policy 14 (Safeguarding of resources and areas of search) and SG Safeguarding³ (Protection and conservation of trees and woodland), it is considered that the comments of FCS must be noted and with the proposed compensatory planting on and off-site secured by condition, no net loss in woodland will result and this is an acceptable compromise position for this proposal on this site.

Biodiversity and protected species

6.40 The impact on several protected species was raised in representations and in particular badgers, ospreys, squirrels, bats. Under the previous application, surveys to assess the impact on bats and squirrels were considered acceptable and whilst badgers were potentially more affected, a badger survey and report to satisfy the relevant condition was submitted and agreed and it can be confirmed that the necessary mitigation was carried out for badgers. Unfortunately the impact on protected species (bats, birds and squirrels) of the unapproved felling that has been carried out is not known and cannot now be assessed. On this basis it cannot be concluded that the application is contrary to Policy 11 (Natural heritage and SG Natural environment² (Protection of the wider biodiversity and geodiversity)).

Flooding and drainage

6.41 The application site is bounded to the west and south-west by a small burn that SEPA has concluded is a drainage ditch rather than an established watercourse. This ditch was subject to culverting along a short distance of the south-western boundary and a bund was formed between pitch 4 and the ditch. Following two initial objections a meeting took place on site and further information was submitted by the engineer. SEPA concluded that due to the nature of the burn and lower lying fields to the west, it was unlikely the site was at risk of flooding or that flood risk would be exacerbated elsewhere. It was highlighted that culverts have the potential to become blocked and restrict flows and should be avoided where possible. The engineer advised SEPA that the culvert would be removed if required and SEPA has asked that this be a condition of any permission granted and this position is reiterated by Flooding & Coastal Protection, which would satisfy the requirements of Policy 8 (Layout, siting and design of new development) and SG LSD8 (Flooding and erosion). The applicant is aware of this requirement and is agreeable to rectifying this.

6.42 In terms of surface and waste water, a drainage assessment has been submitted and this clarifies that separate package plants will treat surface and waste water prior to discharge. SEPA has confirmed it is satisfied that a drainage solution for the site and individual pitches can be achieved and Flooding & Coastal Protection also accept this subject to a condition to ensure these plants are installed as per the details submitted and are maintained in accordance with a maintenance regime. With the agreement of the

consultees, it is considered that the requirements of Policy 9 (Developer contributions) and SG Developer contributions³ (Water and waste water drainage infrastructure) are met.

Access

6.43 The application site will share the access for the three existing dwellinghouses and join the classified public road from Kemnay to Blairdaff. Roads Development has considered the proposal and does not object subject to standard conditions concerning surfacing, provision of a layby and bin store, visibility splays and on-site parking provision. The application therefore meets the requirements of Policy 9 (Developer contributions) and SG Developer contributions² (Access to new development).

Waste

6.44 Waste management provided a response suggesting that each permanent unit should have a wheeled bin and recycling provision. In further discussions with the Planning Service it was agreed due to access and the number of touring caravans, that a more suitable solution would be to have a bin store nearer the site entrance that could accommodate three 1100lt bins to serve the whole site. These were added to the amended plans and will be conditioned, which will satisfy the requirements of Policy 9 (Developer contributions) and SG Developer contributions⁴ (Waste management requirements for new development).

Contaminated land

6.45 The Council's Scientific Officer within Contaminated Land initially expressed concern about waste materials comprising rubble, bricks, concrete and suspected asbestos being imported to the site and requested an investigation to determine the nature of the materials and risks posed to human health and the wider environment. Following receipt of the final response from SEPA which advised material has to be removed from the site or be covered by the relevant SEPA exemption, Contaminated Land removed their objection. Removal of the material will not be an issue for the Planning Service and nor will the exemption, which will demonstrate the nature of the material deposited if it is to be retained. The proposal is therefore in accordance with Policy 8 (Layout, siting and design of new development) and SG LSD10 (Contaminated Land).

Other matters raised in representations

6.46 The majority of the points submitted in objections have been covered above. Concern has been made about the proposal not respecting the previous permission granted, the work commencing without planning permission and the applicant having no respect for procedures. These may be valid points, but each new application must be considered on its own merits and retrospective planning permission is the only legitimate way to attempt to formalise the situation. Enforcement action must be suspended until such time as the application is determined and any appeal concludes. The point about whether the site could be extended is unlikely as the site has well defined boundaries that cannot be extended and if granted the remaining trees and new landscaping would be expected to be retained in perpetuity as far as practicable. The incursion into open farmland to the east, west or south-west would not be considered appropriate.

6.47 Issues of residential amenity have already been covered and on balance found to be acceptable. Concerns therefore about detrimental impact on the wider area, Kemnay or local tourism are not considered as well-founded. There will be no impact on any listed building or conservation area. There is no statutory obligation on the applicant to undertake consultation, nor any formal pre-application consultation on the basis that a proposal of this scale is considered a 'local development' under Circular 5/2009: Hierarchy of Developments. The Planning Service understands that the applicant did attend a community council meeting and has been active on social media inviting questions.

Conclusion

6.48 Proposals for gypsy / traveller sites often result in a strong response from the local settled community based on negative stereotypes, discrimination and publicity of unauthorised encampments. This proposal has caused an equally robust response from residents and the community council which was likely compounded by the unauthorised work that has been undertaken and need for formal enforcement action to attempt to rectify the situation. However, that must not influence the decision that must be taken on this application; which must be based on the policies contained within the development plan and other material considerations that have been identified.

6.49 Having assessed the proposal against the development plan it is considered that, with the exception of rural development and the treatment of the woodland, the application accords with key policy requirements. In particular, each criterion for gypsy / traveller sites has been met, the layout and design is considered appropriate and potential for using the site as a base for working is acceptable within 'normal' limits. Technical matters around protected species, flooding and drainage, access, waste and contaminated land have all been resolved, or are capable of being conditioned.

6.50 The Equalities Impact Assessment demonstrates that granting this application would have an overall positive impact on the members of the gypsy / traveller community involved and would also have benefits for school age children and all residents, particularly any with disabilities, in terms of improving access to health services.

6.51 The representations received raise a significant amount of material considerations and these have been fully considered throughout the report. In reaching a recommendation, the Planning Service has weighed up these differing perspectives and concluded that the proposal should be supported and a positive view given to Full Council, who will take the final decision on the application.

7. Area Implications

7.1 The Garioch Community Plan 2016-19 has three key priority areas; healthy communities, strong communities and safe communities. The application under consideration has the greatest link to healthy communities where actions include working together to improve the health and wellbeing of communities and to work together to remove inequalities and promote inclusion within communities.

8. Equalities and Financial Implications

8.1 An equality impact assessment has been carried out as part of the development of the proposal set out above. It is appended to this report as Appendix 2 and the following impacts have been identified, which can be mitigated as:

8.2 If the application is refused the gypsy / traveller community at this site will be living with the uncertainty of whether they will be able to use the site in the long term. If the application is refused the applicant can appeal the decision within 3 months. If the refusal is upheld at appeal, the Council would need to consider action to remedy the unauthorised development of the site. If direct action was taken to remove the development, this would displace the residents and remove the provision of a site for use. At present there are no established gypsy / traveller sites within the Garioch area of Aberdeenshire. This would potentially leave the community with nowhere to live and limit access to education, healthcare and other local services.

8.3 These negative impacts would be mitigated by granting planning permission for the development or by the grant of planning permission by Scottish Ministers on appeal. In the event of planning permission being refused and any appeal dismissed, the Council could decide not to take enforcement action to rectify the breach of planning control. However, it should be noted that if the Council took this line of action, it would be accepting the retrospective development (contrary to planning policy). The Council would also continue to seek the provision of alternative permanent and temporary halting sites for the use of the gypsy / traveller community in appropriate locations through its Site Provision Strategy and allocations in the Local

Development Plan.

8.4 There are no financial implications directly arising from this report other than an assessment of costs relating to any potential enforcement action taken by the Council in the event that the planning application is refused.

9. Sustainability Implications

9.1 No separate consideration of the current proposal's degree of sustainability is required as the concept is implicit to and wholly integral with the planning process against the policies of which it has been measured.

10. Departures, Notifications and Referrals

10.1 Strategic Development Plan Departures

None

10.2 Local Development Plan Departures

Policy 3: Development in the countryside SG Rural Development1: Housing and business development in the countryside

Policy 14: Safeguarding of resources and areas of search SG Safeguarding3: Protection and conservation of trees and woodland

10.3 The application is a Departure from the valid the Local Development Plan and has been advertised as such. Any representations received have been circulated as part of the agenda and taken into account in recommending a decision. The period for receiving representations has expired.

10.4 The application does not fall within any of the categories contained in the Schedule of the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 and the application is not required to be notified to the Scottish Ministers prior to determination.

11. Recommendation

11.1 That Members provide a view to Aberdeenshire Council for its consideration when determining the application and note that the recommendation of the Planning Service is to GRANT Full Planning

Permission subject to the following conditions:

1. That each pitch identified on approved drawing 04F shall have no more than one principal chalet, two touring caravans and a utility building.

Reason: In order to ensure the approved number of chalets / caravans do not exceed the terms of this notice and to comply with the requirements of the Caravan Licence.

2. That areas of hardstanding and bunding shall be restricted to those indicated on approved drawing 04F and no others shall be formed without an express grant of planning permission from the planning authority.

Reason: In the interests of retaining natural ground and the visual amenity of the area.

3. That notwithstanding the provisions of Class 7 of Schedule 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) no means of enclosure, other than that shown on the approved plans, shall be erected on the site without an express grant of planning permission from the Planning Authority.

Reason: In the interests of the character and appearance of the development.

4. That within three months of the date of this notice, a scheme of a scheme of landscaping works shall be submitted to the Planning Authority. Details of the scheme shall include:

- i. Existing landscape features and vegetation to be retained.
- ii. The location of new trees/shrubs/hedges to include substantially enhanced landscaping:
 - between the application site and the shared boundary with 'Birchwood' and 'Karneilian';
 - in the buffer between the application site and the public road; and
 - along the western boundary.
- iii. A schedule of planting to comprise species, plant sizes and proposed numbers and density.
- iv. A programme for the completion and subsequent maintenance of the proposed landscaping.

All soft and hard landscaping proposals shall be carried out in accordance with the approved scheme and shall be completed within nine months of the date of this notice or such other date as may be agreed in writing with the Planning Authority. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted. Thereafter, all management and maintenance of the landscaped and open space areas shall be implemented, in perpetuity, in accordance with the approved programme.

Reason: To ensure the implementation of a satisfactory scheme of landscaping which will help to integrate the proposed development into the local landscape in the interests of the visual amenity of the area and to ensure that the landscaping is managed and maintained in perpetuity.

5. That the compensatory planting (offsite) shown on approved plan titled BNTW Scotland and dated 22/08/2016 shall be carried out in accordance with the approved scheme and shall be completed during the planting season immediately following the grant of planning permission or as otherwise agreed in writing with the Planning Authority. Any planting which, within a period of 5 years from the completion of the development, in the opinion of the Planning Authority or Forestry Commission Scotland is dying, being severely damaged or becoming seriously diseased, shall be replaced by plants of similar size and species to those originally required to be planted.

Reason: In order to maintain woodland cover in accordance with the aims of local and national planning policies.

6. That within three months of the date of this notice, the culvert formed on the south-west boundary shall be removed in its entirety and the watercourse returned to a width and depth consistent with upstream and downstream sections to the satisfaction of the Planning Authority.

Reason: To retain the open watercourse and prevent changes to the water environment.

7. The proposed development shall be connected to the public water supply as indicated in the submitted application and shall not be connected to a private water supply without the separate express grant of planning permission by the planning authority.

Reason: To ensure the long term sustainability of the development and the safety and welfare of the occupants and visitors to the site.

8. That no further work on pitches 5-7 shall take place unless an updated tree protection plan in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction is submitted and approved in writing by the planning authority. No works shall commence unless details of the protective fencing have been submitted to and agreed in writing by the Planning Authority. No materials, supplies, plant, machinery, soil heaps, changes in ground levels or construction activities shall be permitted within the protected areas without the written consent of the Planning Authority and no fire shall be lit in the position where the flames could extend to within 5 metres of foliage, branches or trunks.

Reason: In order to ensure adequate protection for the trees/hedges on the site during the construction of development, and in the interests of the visual amenity of the area.

9. That the proposed foul and surface water drainage system shall be carried out in accordance with the approved plans and drainage proposal (SA McGregor Drainage Recommendation Report - August 2016) and 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 developers or their successors in accordance with the approved maintenance scheme.

Reason: In order to ensure that adequate drainage facilities are provided, and maintained, in the interests of the amenity of the area.

10. The development shall be served in accordance with the approved drawings and the following details:

a) The maximum gradient of the first 5m of the access must not exceed 1 in 20.

b) Within six months of the date of this notice, the first 10m of access (measured from edge of road or back of footway) to be fully paved.

c) Within six months of the date of this notice, a lay-by measuring 8.0m x 2.5m with 45 degree splays to be formed on frontage of the site and the proposed vehicular access to be taken via this. Construction shall be to a standard appropriate to the location and must be agreed in advance with Roads Development.

d) Prior to the occupancy of the penultimate principal chalet, parking for 14 cars, surfaced in hard standing materials, must be provided within the site.

e) Prior to the occupancy of the penultimate principal chalet, a refuse bin uplift store area shall be constructed (behind any visibility splay) so as to be accessible for bin uplift and shall be secure enough to prevent empty bins from being wind blown. Details must be submitted to Roads Development for approval.

Reason: In order to ensure that the development is served by an appropriate standard of access and associated servicing in the interests of road safety.

11.2 That the Committee agree the reasons for departing from the Aberdeenshire Local Development Plan 2012 is:

That the proposed development is considered an acceptable departure from Policy 3: Development in the countryside and SG Rural development1: Housing and business development in the countryside as the primary policy for determining the acceptability of the principle of the proposal must be Policy 7: Other special housing needs and SG SHN3: Gypsies / Travellers and the relevant criteria of this policy are considered met.

The proposed development is also considered acceptable in terms of Policy 14: Safeguarding of resources and areas of search and SG Safeguarding3: Protection and conservation of trees and woodland, as the proposed compensatory planting on and off-site secured by condition will ensure no net loss of woodland.

Stephen Archer
Director of Infrastructure Services

Author: Bruce Strachan (Senior Planner)
Date: 17/11/2016