

REPORT TO: Planning Committee

MEETING DATE: Tuesday 3 September 2013

BY: Depute Chief Executive
(Partnership and Services for Communities)

SUBJECT: Application for Planning Permission for Consideration

Note - this application was called off the Scheme of Delegation List by Councillors McMillan (1) and Trotter (2) for the following reasons: (1) Given the comments in the report "...given the absence of specific planning policy relating to the provision of gypsy/traveller sites in the development plan..." I would like the Committee and the Community to have an opportunity to explore the Council's strategy in relation to this issue and the identification of "...suitable locations for meeting the needs of Gypsies and Travellers..." and (2) to have this application discussed before the full Committee.

Application No. **13/00105/P**

Proposal Change of use of agricultural land and part change of use of yard (class 4 use) for use as 2 individual permanent Gypsy Traveller pitches (3 caravans per pitch), alterations and part-change of use of building in class 4 use to shower/toilet facility, siting of 2 utility units, formation of raised decking/hardstanding areas, erection of fencing and gates (part retrospective)

Location **8A West Garleton Holdings
Haddington
East Lothian
EH41 3SJ**

Applicant Mr Eddie Grey and Family

Per Forbes R-S Marr Architect and Town Planning Consultant

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

This application relates to the site of 8A West Garleton Holdings, which occupies a countryside location to the north of Haddington. The site is on the west side of the A6137 public road to the north of a covered reservoir. The application site comprises a building and land in Class 4 business use and an adjacent area of agricultural land, together measuring some 1180 square metres in area.

Planning permission is sought for:

- (i) the change of use of the agricultural land of the site and for the part change of use of the land in Class 4 business use for use as 2 individual permanent gypsy/traveller pitches (3 caravans per pitch);
- (ii) alterations to and the part change of use of the building in class 4 business use to use as a shower/toilet facility;
- (iii) the siting of 2 utility units;
- (iv) the formation of raised decking/hardstanding areas; and
- (v) the erection of fencing and gates.

Planning permission is sought part retrospectively as the agricultural land and part of the land in Class 4 business use have both been changed in use to 2 individual permanent Gypsy Traveller pitches (2 caravans on 1 of the pitches), the alterations to and the part change of use of the building in class 4 business use to use as a shower/toilet facility have been carried out and commenced, there are caravans on one of the pitches, 1 utility unit has been sited and some fencing has been erected.

The land of the application site slopes gently downwards in a northerly direction. It is enclosed on its east side by high roadside boundary hedging and trees, which boundary enclosure extends along other parts of the west side of the A6137 public road to the north and south of the application site. Adjacent to the north boundary of the site is the banked slope of the raised covered reservoir. Some 30m to the north of the north boundary of the site is an existing tree belt. To the west are agricultural fields.

In a supporting statement received with the application it is stated that the applicants are self-declared gypsy/travellers. They seek planning permission to establish this site as a permanent pitch stating there is no safe, secure, suitable, equitable alternative authorised site in East Lothian. Moreover the applicant is able to operate their business from the existing authorised yard and building in class 4 business use at the site. The site also has good connections to Haddington, hospitals, schools, colleges and community services, with the applicant's children attending East Lothian schools and the applicants themselves being registered with an East Lothian surgery.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Plan 2008.

Policy 1B (The Spatial Strategy: Development Principles) of the approved South East Scotland Strategic Development Plan (SESplan) and Policies DC1 (Development in the Countryside and Undeveloped Coast), DP2 (Design) T2 (General Transport Impact) and DP22 (Private Parking) of the adopted East Lothian Local Plan 2008 are relevant to the determination of the application.

Also material to the determination of the application is the Scottish Government's policy on housing given in Scottish Planning Policy: February 2010.

A total of 91 written representations have been received in respect of this planning application. Of these, 22 make objection to the development and 69 express support for it. Many of the written objections endorse the grounds of objection submitted by one of

the objectors. All of the written representations of support for the application take the form of a pro forma letter.

The main grounds of objection can be summarised as follows:

- (i) the site is not suitable for such development;
- (ii) the application should be assessed against Policy DC1 of the of the adopted East Lothian Local Plan 2008 as new housing development in the countryside;
- (iii) the use of the site would harmfully impact on the amenity of nearby residential properties;
- (iv) the vehicular access to the site is unsafe;
- (v) national policy does not allow gypsy/traveller sites within the boundary of a settlement;
- (vi) matters of drainage and sewerage; and
- (vii) the authorised use of the existing shed is agricultural and not Class 4 business.

It is not stated in any of the written objections what national policy is being referred to.

Matters of drainage and sewerage are dealt with through legislation other than planning legislation.

Through an investigation of the use of the site by the Council's planning enforcement service it was established the authorised use of the existing shed is as Class 4 business use.

The grounds of support for the application are that:

- (i) the gypsy/traveller use of the site is entirely consistent with Council policy;
- (ii) the Council needs to support the very special accommodation needs of the applicant and his family; and
- (iii) the Scottish Government supports private permanent pitches to meet the needs of Scottish Travellers as they are a recognised ethnic minority.

The Royal Burgh of Haddington and District Community Council, as a consultee on the application object to it on the grounds that, (i) there is future potential to the site to be extended, (ii) the use of the site for gypsy/travellers is not consistent with the provisions of Policy DC1 of the of the adopted East Lothian Local Plan 2008, and (iii) concerns over the use of an existing septic tank.

Any proposed future change of use of the surrounding agricultural land to use as an extension to the land of the application site for gypsy/traveller use would have to be the subject of a future application for planning permission which would be assessed on its own merits.

The Council's Corporate Policy and Performance Team confirm that a 2008 employment tribunal determined that Gypsy Travellers are a distinct ethnic group and therefore protected by equalities legislation in the form of the Equalities Act 2010. There is no

burden of proof on any group so protected. As such any person or household may declare themselves as being gypsy/travellers.

The Corporate Policy and Performance Team further confirm that the Scottish Census 2011 recognised the specific category of gypsy/traveller as a distinct ethnic group covered by law, and which group has been added to the population profile.

It is stated in paragraph 90 of Scottish Planning Policy: February 2010 that Gypsies and Travellers have specific housing needs, often requiring sites for caravans and mobile homes. Given the typically transitory nature of Gypsies and Travellers, provision should be made for those communities which are in an area already and those who may arrive at a later date. Planning authorities should identify suitable locations for meeting the needs of Gypsies and Travellers and set out policies about small privately owned sites. Gypsy and Traveller communities should be involved in decisions about sites for their use.

The development plan does not contain any specific planning policy relating to the provision of gypsy/traveller sites.

Although Policy DC1 of the adopted East Lothian Local Plan 2008 sets out the criteria against which new tourism development and new housing development proposals in the countryside of East Lothian may be acceptable it does not contain any criteria in which to assess the provision of gypsy/traveller sites.

The Council's Policy and Projects Manager confirms that the provision of gypsy/traveller sites should not be treated as representing housing or tourism development and that the policy provisions of Policy DC1 for such development types cannot be applied in this instance. He also advises that it would be appropriate for any such site to be in a countryside settlement rather than within the boundary of a settlement as defined by Policy ENV1 of the adopted East Lothian Local Plan 2008.

Other than the above reference in Scottish Planning Policy: February 2010 there is no specific national planning policy guidance on the issue of gypsy/traveller site provision. In the absence of detailed planning guidance at national level and planning policies at local level recent planning appeal cases have confirmed that the following advice may be accorded weight when assessing such planning proposals:

* The Secretary of State's Advisory Committee on Scotland's Travelling People (ACSTP) 'Guidance Notes on Site Provision for Travelling People': October 1997, and;

* The ACSTP's Ninth and Final Report: 1998-1999 (adopted by the Scottish Executive in November 2000).

The ACSTP 'Guidance Notes on Site Provision for Travelling People': October 1997 states that applications for planning permission in respect of private gypsy/traveller sites should be sympathetically considered, noting that the principle task continues to be the provision of long stay sites. It notes that there is no such thing as the perfect location for gypsy/traveller sites with compromise being necessary to identify suitable locations. In this it sets out criteria which should be addressed when considering proposals for gypsy/traveller sites including, (i) sites being accessible to a main road network, (ii) sites shouldn't be too remote to allow the possibility of social integration, (iii) sites should be suitably screened or have the potential for screening, (iv) the location of sites should offer some prospect for gypsy/travellers to seek work opportunities in the area, (v) sites should be located within reasonable proximity to schools, and (vi) sites should be within reasonable proximity to as broad a range as possible of community facilities.

The ACSTP's Ninth and Final Report: 1998-1999 advises that applications by gypsy/travellers to develop a small site with one or two ancillary buildings should be treated as 'agricultural' as opposed to 'residential' development, in the recognition that the type of accommodation required and the types of vehicles involved are more akin to that form of development. It also advises that caravans are relatively small so a second caravan may be necessary to allow privacy for the elderly, teenagers and young people who still reside with their families and that the caravans of visitors who stay overnight, for a break or during family illness, will need to be accommodated.

The application site is not within a settlement. Nor are the relatively nearby houses of West Garleton designated as a settlement by the East Lothian Local Plan 2008.

The site is accessed from the A6137 public road and as such has easy access and connectivity to the surrounding road network. There are also good public transport links close to the site.

In being only some 1.6 kilometres north of Haddington and with good transport links to other towns and villages in East Lothian, as well as Edinburgh, the site allows the possibility of social integration, offers prospects for gypsy/travellers to seek work opportunities in the area and is located within reasonable proximity to schools and community facilities. Indeed the applicants' supporting statement recognises this with the applicants' children attending East Lothian schools and the applicants themselves being registered with an East Lothian surgery.

By being enclosed on its east side by high roadside boundary hedging which extends along other parts of the west side of the A6137 public road to the north of the application site, having the banked slope of the raised covered reservoir on its south side and with a tree belt some 30m to the north of it, the site is well contained within its landscape setting. It is mostly hidden from public views from the A6137 public road. Moreover the application drawings show an intention to undertake extensive tree and hedge planting at the site which would further integrate it into its countryside setting.

It is proposed that each gypsy/traveller pitch have one principle caravan with the opportunity of siting an additional 2 caravans, which the applicant states would be for additional accommodation and visitor accommodation if necessary. There would also be a utility unit for each pitch on the site as well as the opportunity for the part use of the existing building for gypsy/traveller use. The ACSTP's Ninth and Final Report: 1998-1999 recognises these necessities in the development of small gypsy/traveller sites.

In all of the above, and given the absence of specific planning policy relating to the provision of gypsy/traveller sites in the development plan, the use of the site as 2 individual permanent gypsy/traveller pitches is considered consistent with the recommendations for site selection and criteria as set out in The Secretary of State's Advisory Committee on Scotland's Travelling People (ACSTP) 'Guidance Notes on Site Provision for Travelling People': October 1997 and the ACSTP's Ninth and Final Report: 1998-1999 and thus in such circumstance can be supported, consistent with Scottish Planning Policy: February 2010. However to reflect the specialised nature of the proposal a condition should be imposed on a grant of planning permission to restrict occupation of each pitch to a single declared gypsy/traveller household.

The site is well contained and screened within its landscape setting, which would be enhanced by the proposed planting meaning public views of the site are extremely limited. Thus the existing and proposed caravans, the alterations to and the part change of use of the building in class 4 business use to use as a shower/toilet facility, the existing

and proposed 2 utility units, the proposed raised decking/hardstanding areas and the erection of fencing and gates that would facilitate the use of the land as 2 individual permanent gypsy/traveller pitches would be contained and would not harmfully impact on their countryside environment. In their location, neither individually nor cumulatively do they or would they appear harmfully prominent, intrusive, exposed or incongruous in their landscape setting.

The Council's Policy & Projects Manager is supportive of the landscape planting proposed by the applicant and additionally recommends that 3 more trees be planted and advises on species of hedging to be incorporated into the hedge planting. These matters can be made a condition of the grant of planning permission.

Subject to the requirement for the above mentioned landscape recommendations, on these design and landscape considerations the proposals are consistent with Policy 1B of the approved South East Scotland Strategic Development Plan (SESplan), Policies DC1 Part 5, DP2 and DP14 of the adopted East Lothian Local Plan 2008.

The Council's Transportation service raises no objection to the application, satisfied that it can be safely accessed with no resultant consequences for road safety, and that sufficient parking and turning areas are to be provided. Consequently the proposals are consistent with Policy T2 of the adopted East Lothian Local Plan 2008.

The Council's Environmental Protection Manager raises no objection to the application, being satisfied that the site is and can be used without harm to the amenity of the countryside area in which it is located, or to any nearby residential property.

Scottish Water raise no objection to the application, advising that they have capacity to serve the site.

CONDITIONS:

- 1 Each of the two individual permanent gypsy/traveller pitches hereby approved shall only be occupied by a single declared gypsy/traveller household.

Reason:

To restrict the extent of use of the pitches to that applied for and to reflect the specialised nature of the gypsy/traveller site proposal.

- 2 The access arrangements and the parking and turning areas all as hereby approved, shall be laid out as shown on the docketed drawing titled 'PLAN 2 LAYOUT PLAN' and thereafter shall be retained for such uses.

Reason:

In the interests of road safety.

- 3 A scheme of landscape planting shall be carried out, details of which shall be submitted to and approved by the Planning Authority. The scheme shall provide details of: the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, siting, planting distances and a programme of planting. The details shall generally be in accordance with that shown on the docketed 'PLAN 2 LAYOUT PLAN' drawing and shall include 3 trees to be planted on the western boundary of the site adjacent to the approved pitch 2 and a mixed species of hedging containing evergreen species to give year round screening. The scheme shall include indications of all existing trees and hedgerows on the land.

All planting comprised in the approved details of landscaping shall be carried out in the next planting and seeding season following the grant of this planning permission. In the event that any trees or plants are removed or become seriously damaged or diseased within a period of 5 years following planting they shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.