

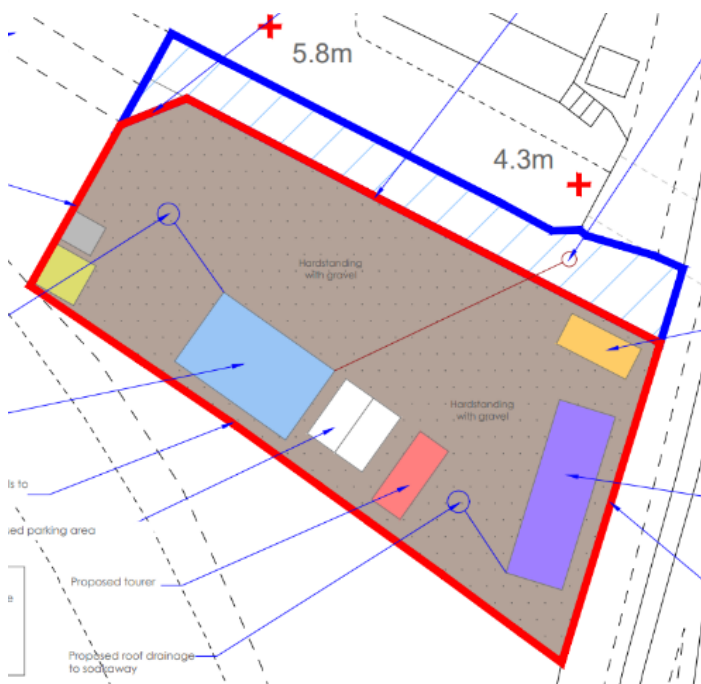


PLANNING STATEMENT AND JUSTIFICATION REPORT

CREATION OF ONE GYPSY PITCH WITH ONE RESIDENTIAL
STATIC UNIT, TOURING CARAVAN, A UTILITY/DAY ROOM AND
BOUNDARY FENCING (PARTLY RETROSPECTIVE)

No 1 PONDEROSA, CHURCH STREET, BRITON FERRY, PORT
TALBOT, SA11 2HZ.

15th November 2022



*Scan of the proposed site plan Drawing 02a
and photos of the site*



Application for Full Planning Permission Town and Country Planning Act 1990

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HAYSTON DEVELOPMENTS & PLANNING LTD is making an application on behalf of Mr J T & Mrs M Roberts for the following planning permission:

- **Proposal:** The use of land for the creation of one Gypsy pitch with one residential static caravan, touring caravan, a utility/day room and erection of boundary fence, temporary day room and storage shed (partly in retrospect).
- **Site location:** Land at No 1 Ponderosa, Church Street, Briton Ferry, Port Talbot, SA11 2HZ
- **Type of Planning Permission:** Full
- **National and Local Planning Policy & Guidance:** Planning Policy Wales Edition 11, Circular 005/2018 (Planning for Gypsy, Traveller and Showpeople Sites) June 2018, Gypsy and Traveller Accommodation Needs Assessment (November 2019) The Housing (Wales) Act 2014, Designing Gypsy Traveller Sites Guidance May 2015, the Senedd's Local Government and Housing Committee publication '*Welsh Government and Local Authorities Failing Traveller Communities*' August 2022. LDP Policy SC1 and GT1 and GT2, BE1 and TR3. The Well-being of Future Generations (Wales) Act 2015, recent Welsh Government Guidance for those supporting Gypsy and Traveller Communities: Covid Virus (10th June 2020)

1.0 INTRODUCTION

1.1 The following documents support this planning application-

- **Planning Statement and Justification Report** (this document) **Application Form** and associated certificate of ownership
- **Drawing 01a** - Location Plan and block plans at Scale A3 @ 1:1250 and 1:500.
- **Drawing 02a** – Proposed Site Plan at Scale A3 @ 1:250
- **Drawing 03a** – Existing Temporary Day Room Plan Scale A3 @ 1:50 & 1:100
- **Drawing 04a** – Proposed Day/Utility Room Floor Plan and Elevations Plan Scale A3 @ 1:50 and 1:100
- **Drawing 5a 7 6a** – Photo Montage Sheets
- **Appendix A** - The applicant's persona; details and Gypsy Status **(PRIVATE & CONFIDENTIAL)**

- **Appendix B** - Appeal decision (APP/Y1138/3222285) for two pitches on land at Riverside Stables, Tyn Yr Heol Access Road, Pen y Bryn, Pyle (Ref App/Y6930/A/17/3188952 and 3188919 - August 2018
- **Planning Fee:** £460-00

1.2 This report is prepared in accordance with the requirements of Policies contained within the *Local Development Plan for Neath and Port Talbot* and the *Welsh Government Development Management Manual* (05th May 2017).

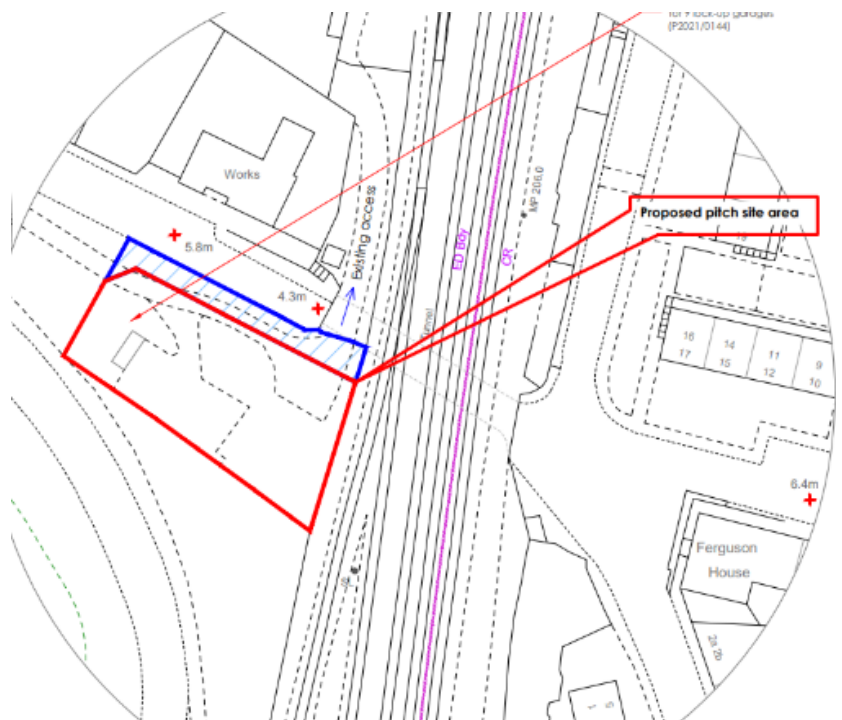
PLEASE NOTE APPENDIX A IS MARKED AS PRIVATE AND CONFIDENTIAL AND NOT FOR THE PUBLIC DOMAIN. IF THIS REPORT IS MADE AVAILABLE ON THE WEBSITE THIS INFORMATION SHOULD BE REDACTED



Photos from Drawing 06a

2.0 THE APPLICATION SITE AND PLANNING BACKGROUND

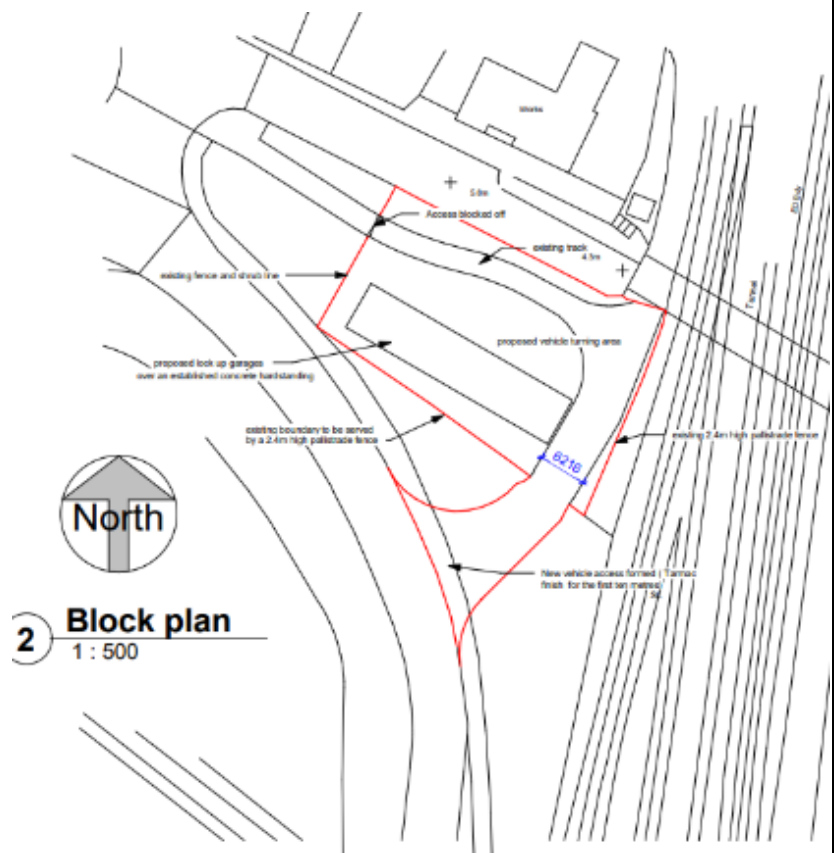
2.1 The rectangular level parcel of land in the client's ownership extends to 0.087ha whilst the application site extends to 0.074ha situated at the south easterly end of Church Street and lies within the settlement boundary of Briton Ferry. It is located immediately adjacent to the foot of the railway embankment along the south eastern boundary and north of the raised Old Briton Ferry viaduct. The area surrounding Church Street comprises of a mixture of terraced housing, industrial buildings that include a vehicle repair shop, a scrap metal facility, a fitness gym and an electrical wholesalers' facility. There is an existing surfaced access off Church Street with a gated entrance in the north western corner.



Scan of Drawing 01a showing the location plan

2.2 The site was historically used as a yard in association with the adjacent railway although the former buildings have been removed, land was surfaced in hardcore and has remained vacant for a number of years. The site, which falls within the definition of previously developed land, was purchased by the applicants in March 2022 and was subsequently cleared of undergrowth, self-set shrubs and saplings.

2.3 The most recent planning application was (Ref P2021/0144) for a development of a block of 9 lock up garages. The building had a floor area of 195m² with a monopitch roof varying in height from 2.7m to 3.3m finished in cement render under a coloured coated profile metal sheet roof and metal roller shutter doors. This application was approved on 23rd April 2021 and, although works did not commence, the permission remains extant.



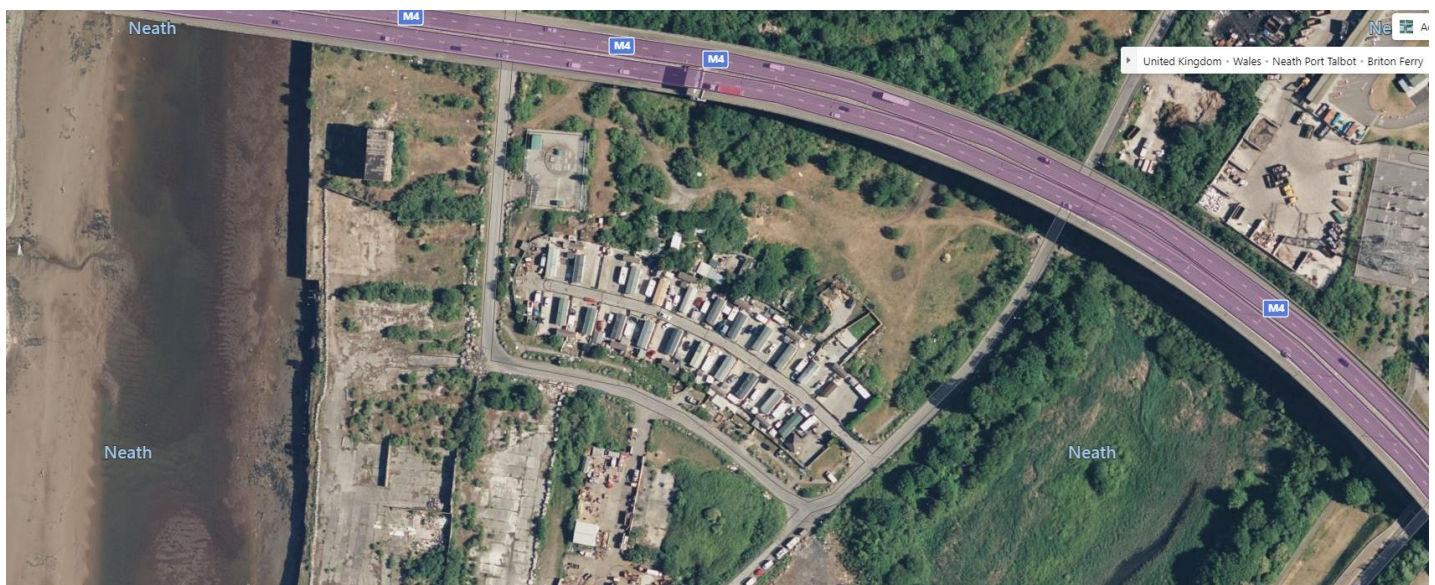
Above – scan of approved block plan

3.0 THE FAMILY MEMBER DETAILS AND GYPSY STATUS

3.1 A private and confidential report on the applicant and his family's personal details and Gypsy status is contained in **Appendix A. Under the General Data Protection Act 2018 these details should not be available for publication or public scrutiny.**

3.2 In summary, the report confirms the applicants belong to a long-established Welsh Romani family with strong family connections in South Wales. They have enjoyed a traditional Gypsy lifestyle living in caravans for the majority of their lives residing on numerous authorised and unauthorised sites.

3.3 When they married in 2015, they secured a pitch on the Giants Wharf Council run facility in Briton Ferry. This pitch comprised of a static residential caravan and parking for a touring caravan and a vehicle. This pitch did not have a day/utility room and therefore they had to use a communal facility that was in poor sanitary condition and is shared by many families.



Aerial photo of nearby The Giants Wharf Council Traveller Site (source; bing Maps)

3.4 The majority of the residents on the site were related resulting in many feuds with 'new-comers' creating an unsafe atmosphere with both the applicants being constantly verbally and physically abused. It came to a point in 2018 that the couple had to separate due to this unsafe, unhygienic and unhealthy environment. Mrs Roberts and the two children at that time reluctantly remained on this site but does stay with her parents at the weekend where the living conditions were becoming cramped. Mr Roberts moved back to Pembrokeshire but they did meet at weekends.

3.5 The couple now have four children and in the interests of their health and welfare and to reconcile their marriage they have been searching for a site for some time. The reasons why the application site was purchased are fully explained in **Appendix A**. There are no alternative available private or public pitches available within the county to accommodate the family's needs.

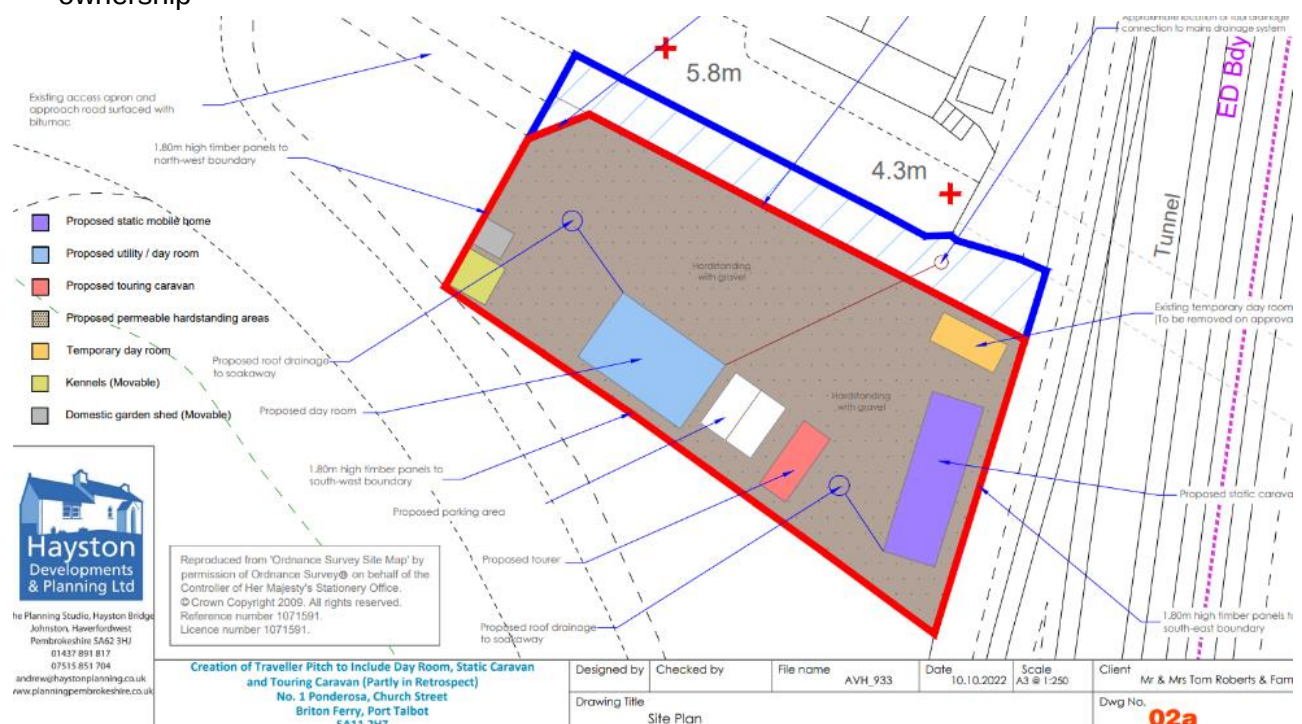
3.4 The family's lifestyle falls within the definition of Gypsies in paragraph 2 of the Welsh Assembly Government Circular 005/2018 - Planning for Gypsy, Traveller and Show people Sites. They are:

- a) *Persons of a nomadic habit of life whatever their race or origin, including -*
 (i) *“Persons who, on grounds only of their own or families or dependent’s educational or health needs or old age, have ceased to travel temporarily or permanently, and*
 (ii) *Members of an organised group of travelling show people or circus people (whether or not travelling together as such); and*
 b) *All other persons with a cultural tradition of nomadism or of living in a mobile home.*

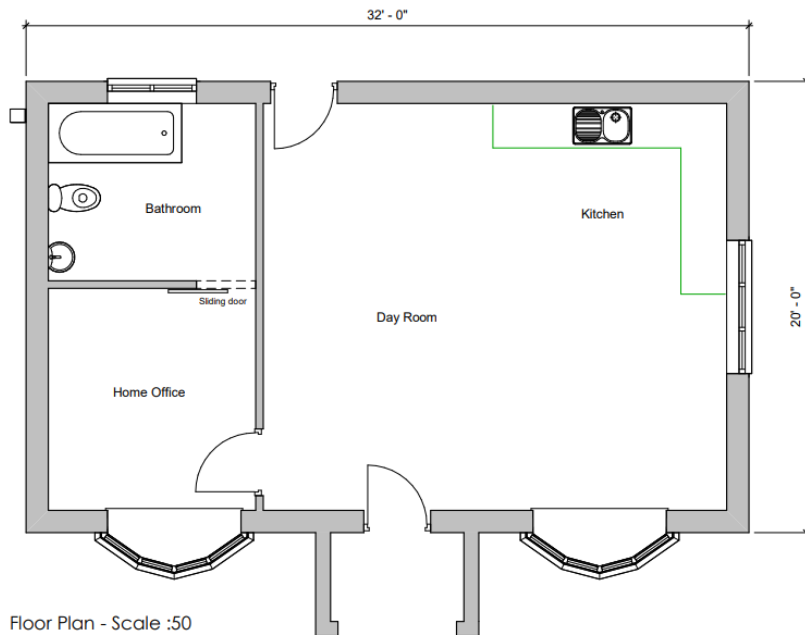
4.0 THE PROPOSAL

4.1 The application comprises of several components the details of which are shown on drawings 02a, 03a, 04a, and the photo montage sheets 05a and 06a and is summarised below:

- To retain the siting of a static residential caravan immediately adjacent to the foot of the railway embankment along the south eastern boundary.
- A pitched roof day/utility room is proposed adjacent to the south western boundary. It will be constructed of smooth rendered concrete blocks under a black/blue natural slate roof. It will have a gross floor area of 50m² and a height of 2.4m to the eaves and 3.8m to the ridge.
- To retain a temporary container adjacent to the static caravan which is currently used as a day room. This will be removed on completion of the above day/utility room.
- To retain a small timber storage shed and dog kennels located in the south western corner close to the existing access.
- To retain the 1.8m high timber overlapping fence around the perimeter of the site for privacy and security purposes.
- The long-established vehicular access point in the north western corner will be retained.
- Space for the parking of a touring caravan and two parking spaces adjacent to the proposed day/utility room will be provided.
- The caravan and day/utility room will be provided with soakaways for rainwater and foul water will be disposed via an existing gravity fed foul water public sewer within land in the client’s ownership



Client
Mr & Mrs Tom Roberts & Family



Floor Plan - Scale :50



EXTERNAL FINISHES

1. Roof Covering	Blue/black natural slate
2. Walls	Smooth render - painted
3. Rain Water Goods	Black uPVC Half Round Guttering with Circular Downpipes
4. Doors / Windows	Profiled uPVC - Grey in colour



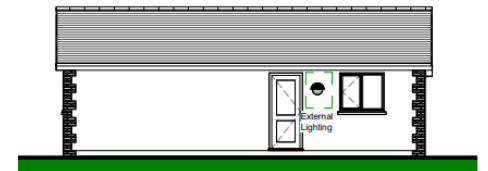
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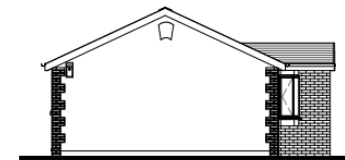
South Elevation - Scale 1:100



North Elevation - Scale 1:100



East Elevation - Scale 1:100



West Elevation - Scale 1:100

Scan of Drawing 04a showing the proposed floor plan and elevations of the utility / day room

5.0 NATIONAL PLANNING CONTEXT

5.1 National advice on Gypsy and Travellers is contained in Circular 005/2018 published in June 2018 and Paragraph 2 refers to Section 108 of the Housing (Wales) Act 2014 where Gypsies and Travellers are defined as:

- a) *Persons of a nomadic habit of life, whatever their race or origin, including -*
- (i) *"Persons who, on grounds only of their own or families or dependent's educational or health needs or old age, have ceased to travel temporarily or permanently, and*
 - (ii) *Members of an organised group of travelling show people or circus people (whether or not travelling together as such); and*
- b) *All other persons with a cultural tradition of nomadism or of living in a mobile home.*

Section 101 of this Act also placed a duty upon local authorities to ensure that the accommodation needs of Gypsies, Travellers and Showpeople are accurately assessed and the identified need for pitches is met. This requirement is also contained in the Circular requiring Local Authorities to assess the accommodation needs (GTANA) of Gypsies and Traveller's, Showpeople and persons who have a cultural tradition of nomadism living in mobile homes in any county and make provision on either public or private sites.

5.2 Circular 005/2018 advises that where a need for additional pitches has been identified through a GTAA a sequential test needs to be undertaken to assess the availability of suitable sites within or adjacent to existing settlements (paragraph 38). However, this does not preclude consideration of other sites away from existing settlements being put forward by members of the gypsy community as paragraph 39 states *'Sites in the countryside, away from existing settlements, can be considered for Gypsy and Traveller sites if there is a lack of suitable sustainable locations within or adjacent to existing settlement boundaries. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. Over rigid application of national or development plan policies that seek a reduction in car borne travel in order to effectively block proposals for any Gypsy and Traveller Site in a countryside location would be inappropriate. Sites should be considered in context and in relation to the local infrastructure, population size and density to ensure they are in proportion to local settled communities'*.

5.3 Welsh Government and local authorities failing Traveller communities

Published 10/08/2022

The Senedd's Local Government and Housing Committee is calling for immediate action after their new report illustrated wide-ranging failures by the Welsh Government and local authorities in providing adequate sites for Gypsy, Roma and Traveller communities.

The Committee's report found that many sites are situated in inappropriate areas, such as at the side of dangerous roads or far away from services and amenities, with no facilities for children or the elderly. Despite previous commitments made by the Welsh Government to improve the situation, this has not translated into any meaningful changes for families.

Poor facilities

Many Traveller sites are over-subscribed and, according to **Gypsies and Travellers Wales**, there are individuals who have been on the waiting list for a local authority plot for over 20 years. In addition to this, many plots are poorly maintained, with problems reported to councils taking a long time to repair.

The Committee heard evidence of shared facilities which had not been refurbished in decades, a lack of facilities such as play areas for children, blocked drains, rat infestations and mouldy bathrooms.

More sites needed

Decisions to expand or create new traveller sites, as well as their general maintenance, are made by local authorities. But the Committee insist that the Welsh Government are also failing to hold local authorities to account and are content to place responsibility for the lack of progress solely on councils.

As well as ensuring that councils have the necessary resources, a key recommendation in the report calls for the Welsh Government to set out how and when it will use its powers to ensure that councils are delivering on their duties in finding appropriate sites for Travellers.

Racism

The Committee found that a lack of political will is a significant reason for the inadequate number of sites for Gypsy, Roma and Traveller communities in Wales, and that widespread racism and prejudice - including from councillors – was often a determining factor.

Academic, Martin Gallagher, giving evidence to the Committee, said: *“I’ve delivered training to different political parties that are on these planning boards, and they’ve flat out told me to my face directly that they couldn’t support Gypsy, Roma and Traveller people in any campaigns, because they would lose their voters.”*

This was supported by **Travelling Ahead**, an organisation supporting nomadic people, who told the Committee that “some of the things that have gone on locally and regionally would not be acceptable if that was about any other group, or any other group of citizens or any other ethnic minority.”

The Committee strongly recommends that awareness-raising and training is provided on Gypsy, Roma and Traveller culture to all local authority and community councillors in Wales and urges the Welsh Government to evaluate the programme to ensure its effectiveness in changing attitudes. It also warns that this prejudice is widespread across Wales and that there is considerable work to be done in tackling discriminatory attitudes at all levels of society.

John Griffiths MS, Chair of the Local Government and Housing Committee, said; “The situation facing Gypsy, Roma and Traveller communities in Wales is very concerning and the Committee is united on what the Welsh Government and local authorities need to do next.

“Many sites are in completely inappropriate areas next to A-roads with uneven paths and blocked drains. Some people are stuck on multiple year waiting lists with no end in sight.

“The Welsh Government must make sure that local authorities have the resources to tackle these issues, but they must also hold them to account when things do not improve. It is clear that anti-Traveller prejudice on a local level, and throughout society, is still quite prevalent and that tackling this should be a priority.

“The Committee is urging both the Welsh Government and local authorities to act on our recommendations with urgency or members of Gypsy, Roma and Traveller communities will continue to be treated like second class citizens in Wales.”

5.4 It is evident that the above report is highly critical of both the National and Local Governments in Wales who are not doing enough to support the Gypsy, Roma and Traveller community in the provision of public sites or in supporting planning applications for appropriately located pitches where a need has been identified. Disturbingly, the report identified racism and prejudice against members of these communities is rife when planning applications are determined.

National and Welsh Government Advice on Covid 19 (Issued on 10th June 2020)

5.5 A material consideration is the global pandemic, COVID-19 which had an immediate (and will have a long-term impact) to how we live. Obviously, groups of people living together (i.e. residential homes and Gypsies and Traveller sites) are more vulnerable and have already been disproportionately affected. There is no doubt that the provision of future public sites and existing sites require considerable attention by authorities, especially as many existing sites are overcrowded. It therefore goes without saying that the need for lower density pitches (with adequate modern living accommodation and utilities) will be required more than ever.

Because of the above the Government has produced guidance on mitigating the impacts on gypsy /traveller communities. This is obviously being updated as needed and you will have the latest versions. The letter by Lord Greenhalgh, former Communities Minister, wrote to local authority chief executives to highlight this situation indicated *"Social-distancing or self-isolation may be particularly challenging for members of these communities due to often confined and communal households, and restricted living conditions on many sites. In addition, we know that some families lack basic amenities including running water, adequate sanitation, and refuse disposal facilities, all of which are essential to limit the spread of the virus and keeping people safe....."*.

In respect to this particular private site, where such sites are available (and do not cause any planning harm) it is considered they clearly need to be supported. This site provides a safe home for one family close to schools and places of work to enable them to continue their cultural way of living. Whilst it is appreciated that the Authority is attempting to deliver public traveller sites in LDP Policy GT1 and GT2 however, the COVID pandemic has clearly changed the outlook in respect of what densities are acceptable in terms of social distancing measures and the need to avoid shared sanitary facilities. As such, there has to be a move away from high density sites to smaller, family run developments.

6.0 CURRENT LDP PLANNING POLICY

6.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning application decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In this case the statutory development plan is the Neath and Port Talbot Local Development Plan adopted in January 2016 to cover the period 2011 to 2026. As the applicant's lifestyle falls within the definition of Gypsies and Travellers in Welsh Assembly Government Circular 30/2007 - Planning for Gypsy and Traveller Caravan Sites and Section 108 of the Wales Housing Act, the relevant policies are Policy GT1 and GT2 – Gypsy and Traveller sites. Also, of relevance is the Gypsy and Traveller Accommodation Assessment 2016 (GTAA).

6.2 THE GYPSY AND TRAVELLER ACCOMMODATION ASSESSMENT

Sections 101 to 103 of the Housing (Wales) Act 2014 which requires local authorities to assess the accommodation needs of Gypsy and Travellers within their area and that where there is an identified need sufficient site(s) should be allocated within the Council's LDP to address that need. Section 108 of the Wales Housing Act 2014 sets out that Gypsies and Travellers – means persons of a nomadic habit of life, whatever their race or origin, including persons who, on grounds only of their own or their family's or dependant's

educational or health needs or old age, have ceased to travel temporarily or permanently, and members of an organised group of travelling show people or circus people (whether or not travelling together as such), and all other persons with a cultural tradition of nomadism or of living in a mobile home.

6.3 Part 3 of the Housing (Wales) Act 2014 required Local Housing Authorities to carry out a new assessment of the accommodation needs of gypsies and travellers residing in or resorting to its area during 2015. The Authority undertook its own assessment, and a final report was published in February 2016. The resultant document, Gypsy and Traveller Accommodation Assessment (GTAA) concluded the county has an established Traveller and Gypsy community of 56 pitches on 3 sites. Following the findings of the previous 2012 GTAA the Local Development Plan (LDP) for the County Borough made further provisions for an extra 11 pitches at the existing Cae Garw site near Margam to accommodate the identified short to medium term need of 4 pitches for the period 2012 – 2017 and 7 pitches for the period 2018 – 2022. Due to the statistical inaccuracies associated with predicting the longer-term needs of the Gypsy and Traveller community, who by their very nature have nomadic lifestyles, it was the Council's view that the remaining need for 9 pitches would be reviewed as part of the LDP's Monitoring Framework and addressed by the Plan's Annual Monitoring Report (AMR) – this was subsequently endorsed by the Inspectors in their binding report.

6.4 Using the Welsh Government guidance 'Undertaking Gypsy and Traveller Accommodation Assessments' the 2016 GTAA was undertaken in-house by the Authority's Housing Strategy and Planning Policy Sections with input from the Estates' section of the Authority to collect the primary data for the study through interviews / questionnaires. The Study identified no need (an oversupply of 3 pitches) in the short term (2016 – 2021) with 4 pitches required on public residential sites towards the end of the LDP period (2022 – 2026). This need takes into account the supply resulting from the 11 pitches that received planning permission in February 2015 and the two pitches on the Briton Ferry site that were brought back into use. The study concluded the need for pitches would be assessed through the Annual Monitoring Report. There is no indication of where the further public pitches will be located, when planning permission will be applied for or whether funding will be available for the delivery of the additional pitches over the plan period. There is a degree of uncertainty about the Council's future intentions to deliver these extra pitches over the plan period or to cater for an unforeseen need arising from the Gypsy community. It should be noted that Circular 005/2018 post-dates both the current LDP and the 2016 GTNA and is the most up to date national policy guidance.

6.5 The Gypsy community is generally self-reliant and reluctant to speak to authority representatives as they are very private persons. They do recognise they represent a small proportion of the overall County population; however, they do have accommodation needs with new family 'households' being created due to the age profile of their community or for family circumstances. From this practice practical knowledge of the Gypsy community in South Wales the population is not neutral in that new 'family households' are formed at a relatively young age with a consequent demand for additional pitches being required. This fact does not appear to be recognised in the GTAA.

6.6 The supporting text in the GTAA suggests there is an aspiration within the Gypsy Traveller community for private sites and the council will work with and support Traveller households to identify and develop viable private sites to address any identified unmet need in accordance with adopted LDP Policy framework. The applicant trusts this will be the case in determining this application which has identified an urgent need for a pitch, demonstrated by the lack of alternative private or public sites in the county and has brought forward this site within the settlement limits of Briton Ferry as a viable solution for their accommodation needs.

6.7 Taking into account the comments made by The Senedd's Local Government and Housing Committee **It is evident that any unmet need for additional pitches will, over the next few years, only be satisfied by the provision of smaller family run private sites brought forward by the gypsy community.** The current proposal is for the applicants to establish the site as their home as they cannot be accommodated on any other private authorised site within the County. The current policy is insufficiently flexible to cater for any unexpected demand for new pitches arising from within the Gypsy community. Significant weight should be given to the lack of alternative sites within the county. It is interesting to note that the County Borough's Housing Department did not respond to the Senedd on the issues raised in the Housing Committee report.

Policy GT1- Gypsy and Traveller Site.

6.8 This policy only makes reference to the Cae Garw site in Margam. As explained in **Appendix A** this Council run facility is neither safe nor appropriate for the needs of the applicants and their family. Similar issues have been encountered on the public site of Giants Wharf site. This is an issue identified as a material consideration in an appeal relating to two pitches on land at Riverside Stables, Tyn Yr Heol Access Road, Pen y Bryn, Pyle in August 2018. The appeal decision is contained in **Appendix B**. The applicant's welfare was given considerable weight considerable when the Inspector allowed in appeal despite the site lying within the countryside.

6.9 In the event of planning applications being submitted by either public or private sector parties, where a need has been identified, Policy GT 2 is criteria-based against which such applications will be assessed.

Policy GT 2 – Proposals for new Gypsy, Traveller and Traveller Sites

Sites and/or pitches to accommodate Gypsies and Travellers residing in, or resorting to, the County Borough will only be permitted where all the following criteria, where relevant, are satisfied:

1. Sites will be allowed outside settlement limits only when it has been demonstrated that there are no suitable sites or pitches available within:

(a) The allocated Gypsy Site at Cae Garw (GT1), or within other existing authorised Gypsy and Traveller sites in Neath Port Talbot; or

(b) Within existing settlement limits.

6.10 Circular 005/2018 advises that where a need for additional pitches has been identified through a GTAA a sequential test needs to be undertaken to assess the availability of suitable sites within or adjacent to existing settlements (paragraph 38). However, this does not preclude consideration of other sites away from existing settlements being put forward by members of the gypsy community. On this occasion the applicants have identified this site being appropriate for their needs as they are fully aware no other public or private sites are available where the family would be safe from abuse and violence.

ANALYSIS OF THE CRITERIA IN POLICY GT1 AND GT2

6.11 The GTAA (2016) identified there was no need for any additional pitches in the short term (2016 to 2021) in fact, it concludes there is an oversupply of 3 pitches, with 4 pitches required on public sites between 2022 and 2026. Policy GT 1 indicates that any additional pitches will be accommodated on the council run Cae Garw site where there is already a waiting list for pitches. The Council cannot demonstrate or identify where any unforeseen unmet demand will be located or when they can be delivered as required under the Wales (Housing) Act and Circular 005/2018 which is a significant material consideration in any planning decision for Gypsy accommodation sites at both outweigh Local Policy and the GTAA.

6.12 Policy GT 2 sets out the criteria for assessing such planning applications through the development management process. Criteria 1 states new sites will be allowed outside settlement limits only where it has been demonstrated there are no suitable sites or pitches available within (a) existing authorised sites (Cae Garw) or (b) within existing settlements.

6.13. Mr Roberts has assessed several private sites in Carmarthenshire, Swansea and Bridgend area, but none were available. Last year he visited the Cae Garw site on several occasions and made inquiries with the site warden regarding the availability of pitches. The warden commented that he was unaware of the availability of either public or private sites within the County but advised there may be pitches available on the Cae Garw site. However, Mr Roberts was unlikely to be successful should he formally apply to the Authority primarily as preference is given to families already residing on the site. At that time, he was aware of a number of families living on the site who were not prepared to accept unrelated families which would probably lead to the threat of violence and he would be fearful for his and his wife and family's safety. (These issues were high-lighted in the Inspectors report on the appeal decision (APP/Y1138/3222285) for two pitches on land at Riverside Stables, Tyn Yr Heol Access Road, Pen y Bryn, Pyle (Ref App/Y6930/A/17/3188952 and 3188919 - August 2018 **APPENDIX B**). The actual process for allocating pitches appears to be discriminatory and rather dubious. Such an overcrowded site was also considered unsafe during the current Covid pandemic where many of the facilities are shared with other families.

6.14 Earlier this year, while looking for a suitable site, he came across the application site which was for sale. This site suited Mr Robert's requirements as it was within walking distance of amenities, services, shops, a doctor's surgery and a primary school and close to infrastructure services. The site was previously developed land with a valid planning permission for the erection of 9 lock up garages, and was large enough to accommodate a static caravan and tourer in a private and safe environment, was close to relatives. The property was purchased in March 2022 this year which has allowed the family to be reunited after several years of being forced to live separately.

6.15 Other criteria in GT2 require sites to be in a sustainable location within reasonable distance of community facilities (including education) and transport links including walking and cycling routes. This site meets the requirements of GT2 (2). Criteria (3) requires sites to have connections to utility services nearby. The site has water, electricity and foul water connections and domestic waste will be placed in the appropriate coloured bags and left at the site access for collection by the Authority's waste collection service. The site has been assessed for Council Tax purposes and Mr Roberts has already paid the tax for 2022/23.

6.16 With regards to criteria (4) the area surrounding Church Street comprises of a mixture of terraced housing, industrial buildings that include a vehicle repair shop, a scrap metal facility, a fitness gym and an electrical wholesalers' facility. Planning permission has been granted for the site's redevelopment with a block of 9 lock up garages. The buildings and structures on site are low level in nature and the site is surrounded by 1.8m high fencing. The development will not have any adverse impact on the amenity or character of the immediate surrounding area.

6.17 The site has the capacity to unobtrusively accommodate the proposed pitch which is large enough to locate a low level mobile static residential caravan, parking for private vehicles and a touring caravan and provide safe outdoor play space for the applicant's and private amenity space. The layout and design of the pitch reflects the standard layouts in Welsh Government advise for Gypsy developments "Designing Gypsy and Traveller Sites, May 2015". These facilities allow the applicants to have a settled and tranquil base. Highway and pedestrian safety will not be compromised.

7.0 OTHER MATERIAL PLANNING CONSIDERATIONS

7.1 Article 8 of the European Convention on Human Rights as enshrined in Section 8 and 14 of the Human Rights Act 1998 gives paramount respect and importance to protect private and family life, as well as the public sector duties under the Equality Act 2010. These must be afforded an importance or weight as great as any other material consideration prior to examination of the circumstances of the case. The lack of alternative sites within the current plan period, the personal circumstances of the family, contained in **Appendix A**, and the rights to a peaceful and safe family life have significant weight to overcome the perceived harm the development would have on this well screened rural site which amount to 'very special circumstances' within the planning balance.

7.1 Article 8 of the European Convention on Human Rights as enshrined in the Human Rights Act 1998 gives paramount respect and importance to protect private and family life, as well as the public sector duties under the Equality Act 2010. They must be afforded an importance or weight as great as any other material consideration prior to examination of the circumstances of the case.

7.2 During the last few years the Mr Roberts has carried out a sequential test of other sites in the County, neighbouring Swansea and Carmarthenshire and discovered there are no private or public sites currently available and are unlikely to be in the future. Any private sites, with a potential capacity for either intensification or extension, are reserved for the owner's future generations. It has therefore been demonstrated that there is a lack of a supply of sites to meet the unmet demand for new sites, contrary to the requirements in The Wales Housing Act and Circular 005/2018, resulting in this site being put forward for consideration as there are no alternative sites available. The lack of alternative sites within the current plan period, the personal circumstances of the family, contained in **Appendix A**, have significant weight to overcome the perceived harm the development would have on this well screened rural site.

7.3 The Housing (Wales) Act 2014 placed a new general duty on local authorities to provide such sites where there is evidence of a general need within their area and, where such a need is identified, it has become mandatory for a local authority to make land available for a site. However, the GTAA has not identified a need for additional pitches and, as such, no sites are identified in the LDP. Nevertheless, the applicant has identified a genuine and urgent need for a site capable

of providing a safe and tranquil environment. Consequently, Mr Roberts has no option other than to put this site forward for consideration as he has a genuine immediate accommodation need which cannot be satisfied through any public authority. A bricks and mortar property is not acceptable to enable he and his wife and family to follow a traditional cultural way of life. Significant weight should be given to the lack of any alternative sites within the county.

7.4 In respect of the personal circumstances of the applicants and the lack of alternative private or public pitches available within the county attention reference is made to two appeal decisions relating to similar circumstances for two pitches on land at Riverside Stables, Tyn Yr Heol Access Road, Pen y Bryn, Pyle (Ref App/Y6930/A/17/3188952 and 3188919 - August 2018 **APPENDIX B**).

In determining the appeals, the Inspector examined four main issues: -

1. Whether the principle of the development is justified in its countryside location.
2. The effect of the development on the character and appearance of the area, having particular regard to the designated Special Landscape Area,
3. The impact of the development on the openness of the Green Wedge
4. Whether any identified harm would be clearly outweighed by very exceptional circumstances.

7.5 The Inspector accepted the site's countryside location however, noted that Criterion 2 of Policy GT 2 which allows sites outside settlements when it has been demonstrated that there are no suitable sites or pitches available within the allocated site at Cae Garw or within other existing authorised sites in the County or within settlement limits. Following analysis of the evidence, the Inspector considered, in the best interests of the appellant's family, Cae Garw is not suitable and is already at capacity. It was accepted and well-established through case law that there is no requirement for site proponents to prove non-availability of alternative sites in such cases. The issues raised about Giants Wharf are similar to those at Cae Garw,

7.6 The personal circumstances of the appellants would provide the opportunity for the family to enjoy a peaceful and safe existence and allow the children to receive an education. The Inspector concluded the best interests of the children are a primary consideration and that such matters merit substantial weight in the planning balance. Furthermore, the unavailability of any suitable alternatives amounts to very exceptional circumstances that clearly outweigh any harm that would be caused. The appeal was allowed on a permanent basis for persons belonging to the Gypsy community.

7.7 Circular 005/2018 and 016/2014 advise that, when there is a proven need for new Gypsy accommodation, where there are no readily available sites identified, warrants a permanent planning permission provided the criteria lead LDP policy is met. Temporary permissions create considerable uncertainty resulting in a reluctance to invest in developing a site. Furthermore, the generic condition in respect of occupancy should be imposed as follows – *'The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 2 of Circular 005/20018 'Planning for Gypsy, Traveller and Showpeople Sites'*. The naming of occupants is no longer appropriate as this restricts the freedom of movement within the Gypsy Community.

8.0 CONCLUSION

8.1 The applicant's lifestyle and family traditions fall within the statutory definition of Gypsies as defined in Welsh Assembly Government Circular 005/2018 'Planning for Gypsy, Traveller and Show People sites and Section 108 of the Wales Housing Act. The site was purchased to enable them to continue their Gypsy lifestyle, to move to a safe and secure environment site to enable them to continue receiving welfare and medical attention and to be close to family members.

8.2 The Gypsy and Traveller Accommodation Assessment (GTAA), published in 2016, identified no need (an oversupply of 3 pitches) in the short term (2016 – 2021) with 4 pitches required on public residential sites towards the end of the LDP period (2022 – 2026). This need takes into account the supply resulting from the 11 pitches that received planning permission in February 2015 and the two pitches on the Briton Ferry site that were brought back into use. The study concluded the need for pitches would be assessed through the Annual Monitoring Report. There is no indication of where the further public pitches will be located, when planning permission will be applied for or whether funding will be available for the delivery of the additional pitches over the plan period.

8.3 It has been demonstrated that any unmet need for additional pitches will, over the next few years, only be satisfied by the provision of private sites brought forward by the gypsy community. The current proposal is for the applicant to establish the site as his home as he and his wife cannot be accommodated on any other private authorised site within the County. The current policy is insufficiently flexible to cater for any unexpected demand for new pitches arising from the indigenous Gypsy community. Furthermore, the selection process for suitability to obtain a pitch on the Cae Garw site appears to be discriminatory and rather dubious. Significant weight should be given to the lack of alternative sites within the county.

8.4 To address the unmet need the Council states that applications for Gypsy and Traveller sites will be considered having regard to the outstanding need in accordance with the most recent government guidance. Policy GT 2 is a criteria-based policy against which such applications will be assessed through the development management process. There will be a preference for accommodation needs to be met on allocated sites, which there are none, existing gypsy and traveller sites or on appropriate extensions to those sites or sites within existing settlements.

8.5 The criteria in Policy GT 2 are met in that the development proposed is sustainably located within the settlement limits of Briton Ferry, is low level and small in scale in nature, utilising a previously developed parcel of land without causing harm to the surrounding landscape or any nearby properties. It has an excellent and safe means of access with on-site parking and turning facilities together with all utility services. The site can unobtrusively accommodate the development providing a spacious and safe layout with services available. The scheme details low level development similar, but smaller in scale, to that already has the benefit of planning permission.

8.6 Article 8 of the European Convention on Human Rights as enshrined in Section 8 and 14 of the Human Rights Act 1998 gives paramount respect and importance to protect private and family life, as well as the public sector duties under the Equality Act 2010. These must be afforded an importance or weight as great as any other material consideration prior to examination of the circumstances of the case. The lack of alternative sites within the current plan period, the personal circumstances of the family, contained in **Appendix A**, and the rights to a peaceful and safe family

life have significant weight to overcome the perceived harm the development would have on this well screened rural site which amount to 'very special circumstances' within the planning balance.

8.7 **Appendix A** demonstrates the applicant has carried out a sequential test of other possible sites in the south west Wales area and has been unsuccessful in securing an appropriate pitch. The development of this site would be a considerable benefit in an area where it has clearly proved difficult to find suitable alternative locations for traveller development. The site is in the applicant's ownership and is readily available for immediate use. Circular 005/2018 and 016/2014 advise that, when there is a proven need for new Gypsy accommodation, where there are no readily available sites identified and it is unlikely that the aspirations of the Authority to make such sites available within the foreseeable future warrants a permanent planning permission provided the criteria in LDP Policy GT 2 are met. Temporary permissions create considerable uncertainty for applicants resulting in a reluctance to invest in developing a site.

The above demonstrates that very special circumstances exist that outweigh any perceived harm to the surrounding rural landscape or risk from flooding.

Should you require any further information please do not hesitate to contact Hayston Developments and Planning Ltd.

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Appendices