



## PLANNING STATEMENT AND JUSTIFICATION REPORT

REVISED APPLICATION FOR THE CREATION OF ONE GYPSY PITCH WITH  
ONE RESIDENTIAL STATIC UNIT, TOURING CARAVAN, A UTILITY/DAY  
ROOM TOGETHER WITH A TEMPORARY DAY ROOM, DOG KENNEL AND  
GARDEN SHED, BOUNDARY FENCING, RAISING OF GROUND LEVELS AND  
CONSTRUCTION OF MEANS OF ESCAPE ROUTE (PARTLY  
RETROSPECTIVE)

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

**22<sup>nd</sup> July 2025**



*Photos of the main entrance to the application site, with the  
traveller pitch shown in the far distance*

## Application for Full Planning Permission Town and Country Planning Act 1990

Head of Planning  
Neath Port Talbot County Borough Council  
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Briton Ferry  
Neath  
SA11 2GG

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HAYSTON DEVELOPMENTS & PLANNING LTD is making an application on behalf of Mr J T & Mrs M Roberts & Family.

### 1.0 PREAMBLE

1.1 A previous full planning application (Ref P2022/0966), for the creation of one Gypsy pitch was registered by the local planning authority on 18<sup>th</sup> November 2022. This was refused under delegated powers granted to the Head of Planning by notice dated 27<sup>th</sup> April 2023 on the following reason: -

*'The proposed development is unacceptable in principle given its status as highly vulnerable development within Flood Zones 2 and 3 (Seas and Rivers) for the purposes of Flood Map for Planning. The proposal is therefore contrary to Planning Policy Wales (Edition 11, 2011), Technical Advice Note (TAN) 15: Development and Flood Risk and Planning Policy BE1 of the Neath Port Talbot Local Development Plan.*

*The proposed development would form an unacceptable form of development due to the development comprising a highly vulnerable development within Flood Zone 2 and 3, contrary to Planning Policy Wales (Edition 11, 21), Technical Advice Note (TAN) 15: Development and Flood Risk and Policy BE1 of the Neath Port Talbot Local Development Plan'.*

1.2 A subsequent appeal (Ref CAS-02844-V2X8H8) was dismissed in July 2024 on the same grounds on flooding, particularly as no details of an appropriate escape route were provided. The Inspector did, however, note that *there were no alternative sites available within the County and to be forced off the pitch to live an itinerant lifestyle would be contrary to the Human Rights Act 1998, The Public Sector Equality Duty under the Equality Act 2010 and Article 8 of the European Convention on Human Rights.* This would have a significant impact with dire consequences for the family particularly as the LPA is fully aware there are no alternative pitches available within the county and is still the case in June 2025.

1.3 On the 19<sup>th</sup> February 2025 the authority served an Enforcement Notice, Ref EC2022/0093. The breach of planning control alleged is:- *Without planning permission, unauthorised change of use of the land for residential purposes by way of the creation of one Gypsy pitch with one residential static unit, touring caravan, a day/utility room, dog kennel, garden shed and boundary fencing.*

The requirements of the notice are:

- 1) Cease the use of the land for residential purposes.
- 2) Remove the static caravan, touring caravan, utility/day room, dog kennels, garden shed and all other fixtures, structures associated with the unauthorised use of the land for residential purposes from the land.
- 3) Removal of the boundary fencing.
- 4) Remove the hardstanding and all other fixtures, fittings, paraphernalia and household /miscellaneous items *in associated* ? with the residential use of the land.
- 5) Reinstate the land to its condition prior to the unauthorised development being carried out.

The time period for compliance is 6 months beginning with the day on which this Notice takes effect on 19th of April 2025 unless an appeal is made against it before that date.

The Local Planning Authority considers:-

1. It appears to the Council the above breach of planning control has occurred within the last 4 years.
2. The unauthorised development constitutes an unacceptable form of development in principle given its status as highly vulnerable development within Flood Zones 2 and 3 (Seas and Rivers) for the purposes of the Flood Map for Planning. The development is therefore contrary to Planning Policy Wales (Edition 11, 2021), Technical Advice Note (TAN) 15: Development and Flood Risk, Policy BE1 of the Neath Port Talbot Local Development Plan. **(PPW11 has been replaced by Edition 12 in November 2024)**

1.4 Prior to the Notice taking effect this practice was instructed by the appellants to submit a formal planning appeal under grounds (c), (f) and (g). This appeal was registered by PEDW on 2<sup>nd</sup> May 2025 under reference CAS-04184-SOW/V6 and as of yet has not been determined, however, a decision is expected in the summer of 2025.

1.5 This revised application will address not only the one reason for the refusal and the comments made by the Inspector following the above appeal, but also the applicants need to try and stay on this site and lack of availability of other sites within the county. There are significant new levels of information and justification for the LPA to consider in regard to this site being now suitable, even if it's for a short-term period.

## 2.0 THE REVISED APPLICATION

- **Proposal:** A revised application to use the land for the creation of one Gypsy pitch with one residential static caravan, touring caravan, a utility/day room and erection of boundary fence, raising ground levels, temporary day room and storage shed (partly in retrospect) and creation of pedestrian means of escape.
- **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 12, 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 linked to update in 2025 Flood Risk Area Development, LDP Policy SC1 and GT1 and GT2, BE1 and TR3, The adopted 2022 GTANA, the Human Rights Act 1998, The Public Sector Equality Duty under the Equality Act 2010 and Article 8 of the European Convention on Human Rights. The Well-being of Future Generations (Wales) Act 2015, Welsh Government Guidance for those supporting Gypsy and Traveller Communities: Covid Virus (10<sup>th</sup> June 2020). The Welsh Parliament, Local Government and Housing Committee – Follow up Inquiry into the provision of sites for Gypsy, Roma and Travellers (Feb) 2025, TAN 15: Development and Flood Risk (2025) and linked in Circular 002/2025.

### 3.0 DOCUMENTS SUBMITTED

3.1 The following documents support this planning application-

- **Planning Statement and Justification Report** (this document) **Application Form** and associated certificates of ownership
- **Drawing 01** - Location Plan and block plans at Scale A3 @ 1:2500 and 1:500.
- **Drawing 02a** – Proposed Site Plan at Scale A3 @ 1:250
- **Drawing 03** – Existing Temporary Day Room Plan Scale A3 @ 1:50 & 1:100
- **Drawing 04** – Proposed Day/Utility Room Floor Plan and Elevations Plan Scale A3 @ 1:50 and 1:100
- **Drawing 5 and 6** – Photo Montage Sheets
- **Drawing 07** -Site plan showing current ground levels.
- **Drawing 08** -Site plan showing previous ground levels.
- **Drawing 09** - Photo montage of 43"Water Main
- **Drawing 10** – Location Plan showing a Pedestrian Emergency Route for a 1 In 100-year Flood Event.
- **Drawing 11** - Photo Montage of Informal Landscape Area owned by Local Authority.
- **Drawing 12** – Hardstanding area already used as informal play area by applicants.
- **Appendix A** - The applicant's personal details and Gypsy Status **(MARKED PRIVATE & CONFIDENTIAL)**
- **Appendix B** – Flood Consequences Assessment Report Revision B (April 2025) and Floor Response Plan May 2025) prepared by Francis Sant Ltd Hydrologists.
- **Appendix C** – Three relevant Planning Appeal decisions (CAS-02030-S8W8X4 -Vale Road, Rhyl July 2014), (APP/H0520/W/23/3334636 – Huntingdonshire, May 2024) and (CAS-04165-K8D459- St Florence, Pembrokeshire June 2025)
- **Appendix D** - Proposed Green Infrastructure Statement
- **Appendix E** - Updated letter of support from Travelling Ahead: Gypsy, Roma and Traveller Advice & Advocacy Service dated 29<sup>th</sup> May 2025
- **Planning Fee:** £460-00.

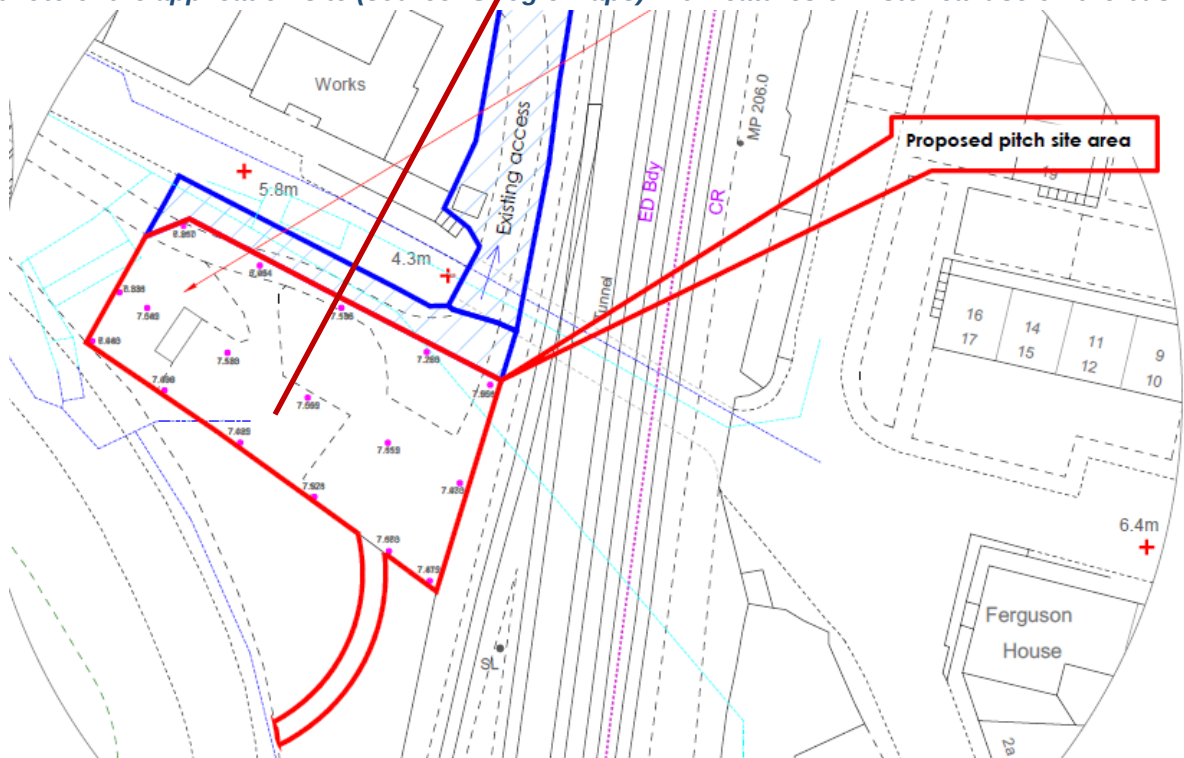
1.2 This report is prepared in accordance with the requirements of Policies contained within the *Local Development Plan for Neath and Port Talbot* and the *Welsh Government Development Management Manual* (05<sup>th</sup> May 2017).

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

## 2.0 THE APPLICATION SITE AND PLANNING BACKGROUND



*Aerial photo of the application site (source: Google Maps) with features of historical use on the business yard*



*Scan of Drawing 01 showing the block plan and extensive railway lines to east*

2.1 The rectangular level parcel of land in the client's ownership extends to 0.2381ha whilst the application site extends to 0.074ha together with an additional area of 62m<sup>2</sup> for the proposed escape route, 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 southeastern 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 northwestern corner.

2.2 The site was historically used as a business yard in association with the adjacent railway although the former buildings have been demolished, the 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 tipped material, rubble, undergrowth, self-setting 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 195m<sup>2</sup> 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 23<sup>rd</sup> April 2021 and, although works did not commence, the permission remains extant today.

### **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 & E. 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 2014, 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 a poor sanitary condition and was shared by many families.

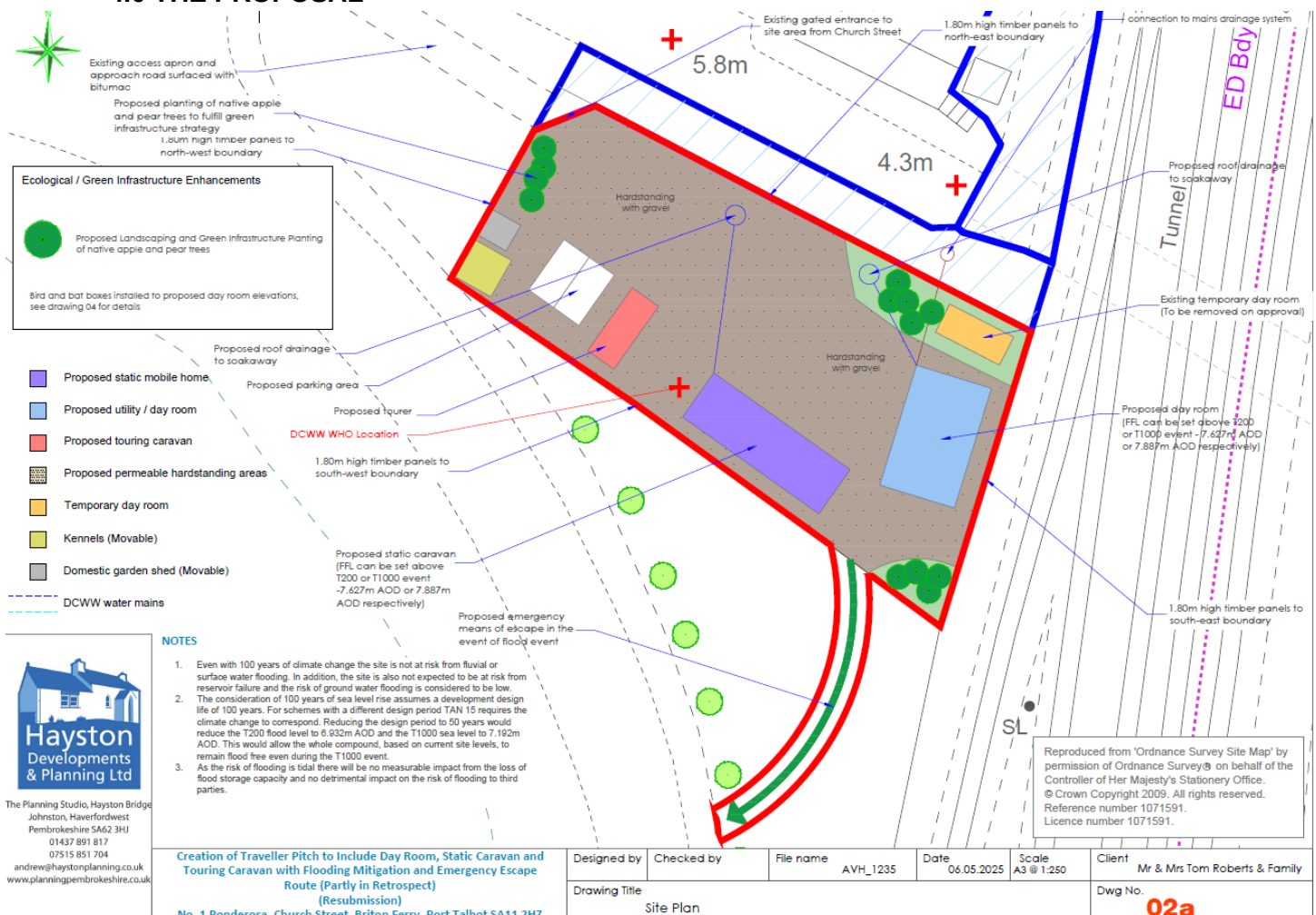
3.4 The majority of the residents on the site were related resulting in many feuds with 'new-comers' creating an unsafe atmosphere with both the applicants being constantly verbally and physically abused. It came to a point in 2018 that the couple had to separate due to this unsafe, unhygienic and unhealthy 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, and 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 & E**. There are no alternative available private or public pitches available within the county to accommodate the family's needs. Three of the children are now settled in nearby primary schools.

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 Showpeople 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



Scan of Drawing 02a showing the proposed site plan and new means of emerging egress

4.1 The application comprises of several components the details of which are shown on drawings 02a, 03, 04, 07, 08 and 10 together with the photo montage sheets 05 and 06 and is summarised below:

- a) To retain and re-site the existing static residential caravan parallel with the south -eastern boundary.
- b) A pitched roof day/utility room is proposed adjacent to the south eastern 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 50m<sup>2</sup> and a height of 2.4m to the eaves and 3.8m to the ridge.
- c) To retain a temporary container adjacent to the proposed parking area which is currently used as a day room. This will be removed on completion of the above day/utility room.
- d) To retain a small timber storage shed and dog kennels.
- e) To retain the 1.8m high timber overlapping fence around the perimeter of the site for privacy and security purposes.
- f) The long-established vehicular access point in the north western corner will be retained and has been enhanced with new tarmac and gate.
- g) Space for the parking of a touring caravan, two parking spaces and a turning area adjacent to the temporary day room will be provided.
- h) 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
- i) Provide net biodiversity gain to a brownfield site via a Green Infrastructure Statement
- j) It is proposed to provide an emergency means of escape route from the static caravan in a southerly direction across land in the ownership of the Council. Officers of the Authority have offered an informal opinion that this would be acceptable in principle and so the emerging egress is part of the application with a Certificate B served.

## **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 referred to in Paragraph 3.4 above.

5.2 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 (Gypsy and Traveller

Accommodation Needs Assessment - GTANA) of not only Gypsies and Traveller's but Travelling Showpeople residing in any county and make provision accordingly on either public or private sites. The Housing Wales Act 2014 also places a duty on local authorities to assess the need for the provision of sites for mobile homes in their area and, where that need is identified in a GTANA, a local authority must exercise its powers under S56 of the Mobile Homes (Wales) Act 2013 to provide those sites.

5.3 Circular 005/2018 advises that where a need for additional pitches has been identified through a GTANA a sequential test needs to be undertaken to assess the availability of suitable sites within or adjacent to existing settlements. 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*. This application site is located within the settlement boundary of Briton Ferry.

5.4 Paragraph 4.2.36 of PPW ED 12 states that *'Local authorities are required to assess the accommodation needs of Gypsy and Traveller families, together with Travelling Show People, and to allocate sites to meet the identified need. Where a GTANA identifies an unmet need a planning authority should allocate sufficient sites in their development plan to ensure that the identified pitch requirements for residential and/or transit use can be met'*.

## **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 and 2022 (GTAA).

### **THE GYPSY AND TRAVELLER ACCOMMODATION ASSESSMENT**

6.2 Sections 101 to 103 of the Housing (Wales) Act 2014 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 GTANA 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 high 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 GTANA and is the most up to date national policy guidance.

6.5 The latest GTANA was carried out in 2021 and accepted by the Welsh Government in 2022, identified no further pitches were required in the short term and 10 pitches in the long term. Potential opportunities to meet the identified need will be considered and assessed as part of the NPT RLDP 2021 to 2036. This replacement LDP is at an early stage and is unlikely to be formally adopted for some time. The GTANA stated there are three authorised public sites within the County, two at Wharf Road, Briton Ferry and one at Cae Garw, Margam. The Giants Wharf Road site is full, in poor condition and in an area likely to suffer from flooding at high tides. Cae Garw is noted for its poor living conditions with much violence between families. This latest GTANA does not identify where any additional pitches will be located or whether they will be public or private sites brought forward by the Gypsy community.

6.6 The GTANA report refers to Policy SP6 (Gypsies and Travellers) of the current LDP where provision will be made for 20 Gypsy and Traveller pitches through the allocation of a site and providing a framework to assess proposals for additional Gypsy and Traveller pitches through

Policy GT 1 and GT 2. How the figure of 20 additional pitches is arrived at is somewhat confusing considering paragraph 6.5 above.

6.7 The supporting text in the GTANA 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 need at no cost to the public purse..

6.8 Considering 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 in 2022. A more recent Senedd report was released in February 2025 stating the situation has not improved for most LPAs in Wales, which is extremely disappointing (See **Appendix E** on formal opinion from Travelling Ahead).

## 7.0 CURRENT POLICY

### Policy GT1- Gypsy and Traveller Site

7.1 This policy only refers to the Cae Garw site in Margam. As explained above this Council run facility is neithersafe or appropriate for the needs of the applicant and his family and similar issues have been encountered on the Giants Wharf site. This was 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 was allowed as the applicant's welfare was given considerable weight by the Inspector despite the site lying within the countryside.

7.2 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.

7.3 This application site is located within the settlement boundary of Briton Ferry. Nevertheless, whether the applicants rely on general need, personal need or both, there is no requirement for them to prove a need to live specifically on a particular site, or that no other site is available. The Court of Appeal held in south Cambridgeshire DC v SSCLG & Brown (2008) EWCA Civ 1010 that:

*“In seeking to determine the availability of alternative sites for residential Gypsy sites. There is no requirement in planning policy, or case law, for an applicant to prove that no other sites are available or that particular needs could not be met from another site. Indeed, such a level of proof would be practically impossible...”*

**7.4 It is evident 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.**

## **8.0 ANALYSIS OF THE CURRENT LDP POLICY**

8.1 The statement on behalf of the applicant is contained in **Appendix A & E** identifies a need for a safe and secure pitch and be within a reasonable distance to essential services such as schools, doctor's surgeries, retail facilities and other family members. As there are no private or public sites available, and unlikely to be available in the near future, the applicant has put forward this site to cater for his families' long-term needs. The provision of private Gypsy sites is recognised in Circular 005/2018 in making a valuable contribution to the overall supply in any particular area.

8.2 In determining the previous application scant regard was taken of the serious personal circumstances of the of applicant's family in that no sites are available across the county, however, should one become available the applicant would have grave concerns regarding the family's safety. Furthermore, The LPA public Giants Wharf site has a higher potential to flood than the current application being close to the sea and at a lower level. Mrs Montana Roberts relinquished her tenancy on the Wharf site in 2022 due to safety issues for her husband and lack of quality facilities.

8.3 In preparing this statement reference is made to recent appeal decisions in which this practice represented Gypsy clients in the South Wales area. In summary the Inspectors considered the main issues relevant to these applications/appeals were:-

- a) The availability of alternative sites across the County.
- b) Whether the site is sustainably located.
- c) The impact the proposed development would have on the character and appearance of the area and amenities on nearby properties.
- d) The effect on Highway safety.
- e) Impact from potential flooding and possible mitigation / circumstances.

f) Whether there are any material planning considerations that would justify granting planning permission, in particular the general need and supply of Gypsy and Traveller sites in the area and the personal circumstances of the applicant.

Further relevant planning appeals in flood zones, both in England and Wales, are discussed later and attached in **Appendix C**. Two of these relate to traveller sites and the other to a barn conversion.

### **Availability of Alternative sites**

8.4 The availability of alternative sites across the County has been addressed in Section 6 above. The Inspectors appeal decision at paragraph 28 of the report *'clearly identified there are currently no suitable vacant pitches in the County Borough. Moreover, even though the long-term need would be met through the allocation of sites within the Replacement LDP, this process is in its early stages and not likely to reach fruition for several years, I consider that there is a shortfall in the provision of available pitches within the County Borough to meet the needs of the Gypsy and Traveller Community'*. On this occasion the applicant has 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. The identified lack of alternative sites warrants substantial weight in the planning balance and complies with criterion 1 of Policy GT 2.

### **Sustainability**

8.5 The application site, by its very nature and location, is sustainably located within the settlement limits of Briton Ferry facilitating access to a range of community and commercial services, schools and alternative modes of transport. All services to the application site are in place. The Officers Delegated report on the original application confirmed the proposal complies with Criterion 2 and 3.

### **Impact on the character and appearance of the surrounding area and residential amenity**

8.6 The application site is a brown field site previously containing a considerable amount of debris from the original demolished buildings and was overgrown with self-set trees and shrubs. The site has no valuable biodiversity habitats or credentials. The applicant has spent a significant amount of time and money clearing the site which has improved the visual impact considerably. These improvements together with the proposed use will have a positive impact on residential amenity or the surrounding environment in compliance with Criterion 4. This was confirmed in the Officers delegated report.

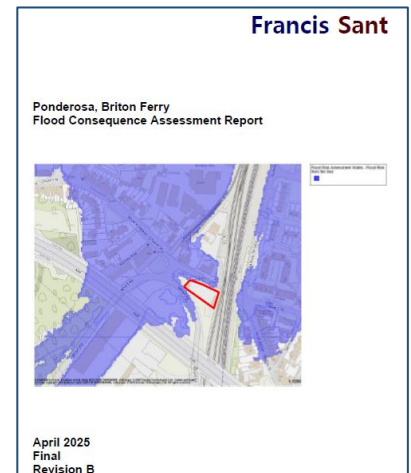
### **Impact on highway safety**

8.7 The site has an established means of access onto the surrounding roads. The traffic generated will be significantly lower than any of the previous historic uses. The application site has been considerably upgraded by providing an improved surface for ample parking and turning. As such, the proposal complies with Criterion 6 of Policy GT 2, BE1 And TR2 subject to conditions as referred to in the Officers delegated report.

## Flood Risk

8.8 **Appendix B** of this statement contains an updated comprehensive Flood Consequences Assessment (FCA) Report (Revision B April 2025) and Floor Response Plan (FRP) May 2025), prepared by Francis Sant Ltd Hydrologists, which considers advice in the recently published TAN 15 in April 2025 and Circular 002/2025 – Guidance on Flood Risk Area Development (31/03/25).

8.9 The FCA indicates that part of the site, although not all, is located within a Flood Zone 3. This area is located in the westerly half of the application site where the temporary day room and shed are located together with a parking area with a ground level of at least 7.267m AOD. The remaining easterly part is located on land, which is on higher ground, with a ground level of 7.958m AOD, following the applicant's actions to import material. The westerly area could potentially be at risk during a 1 in 200-year tidal event or a 1 in 100 fluvial event taking 100 years of climate change into consideration.



8.10 The prime objective of the Flood Consequences Assessment is to develop an appreciation of:

- The risk and consequences of flooding on the development; and
- The risk and consequences (i.e. the overall impacts) of the development on flood risk elsewhere.

It is noted that no new highly vulnerable development, **on greenfield land**, should be permitted in Zone 3, regardless of the conclusion of any Flood Consequences Assessments. In addition, Welsh Ministers must be notified of any such proposal a planning authority intends to approve. **In this instance, however, the proposals are located on a developed site within a settlement of Briton Ferry** and its surrounded by housing and business uses.

The assessment should consider a range of potential flooding scenarios including a 1 in 1000-year event with an allowance for climate change in line with current Welsh Government guidance.

It is noted that the Flood Map for Planning allows for 100 years of climate change. Where a new development has a shorter lifetime, it is reasonable that the flood consequences assessment focusses on potential risks during the development's expected lifetime, which in this case is likely to be much less than 30-50 years, due to it being a caravan / mobile home.

This assessment will help the planning authority determine whether the risk and consequences of flooding are acceptable and can be managed over the lifetime of development. The assessment will also establish whether appropriate measures can be incorporated into the design to ensure that the risk to life, damage to property and disruption to people, over its lifetime, are minimised and that there is no increase in the risk of flooding elsewhere.

8.11 The National Strategy recognises that many communities are located in areas at higher risk from flooding. TAN 15, however, recognises that these communities must be allowed to adapt, change, and regenerate in the knowledge of what the science is showing. Nevertheless, development and redevelopment should be avoided where there is a risk of being impacted by coastal erosion over the lifetime of the development. The Flood Maps for Planning are based on the Flood Risk Assessment Maps plus 100 years of climate change. The maps adopt the precautionary principle and are based on the best-known information available at the time. However, a detailed examination of a site can refine an area's risk of flooding.

8.12 The Flood Map for Planning, which takes climate change into consideration (100 years), shows that the site is not at risk of flooding from a river (the Afon Nedd), located 550m to the west. This site is also not at risk from the sea, which is over 3km away to the north, or from a minor water course. The author of this assessment is not aware of any past or current proposals to provide tidal or fluvial protection measures within 1.5 km of the application site. Page 10 and 11 of the FCA refers to predicted Tide Levels and Extreme Tide Elevation (mAOD) and predicted Tide Levels With Sea Level Rise. They range from 6.932 AOD for the T200, 50-year sea level rise to T 1000 to 7.192 or T1000Precautionary level of 7.582m AOD over the same time period.

8.13 Considering the above, advice in TAN 15 suggests ground levels be raised to 7.627m AOD for the T200 event and 7.817m for the T1000 event. As the source of any potential flooding a reasonable flood warning period is likely allowing the site to be evacuated if necessary. It is interesting to note that reference is made in page 11 to new residential dwellings being highly vulnerable development. Static residential caravans are somewhat different as they can be quickly moved off site by simply disconnecting water and electricity connections and making good. Potential foul water backflow can be prevented by the installation, at construction time, of a non-return valve on the sewer connection.

8.14 The linked Flood Response Plan report contains details of the proposed evacuation route from the caravan and day/utility room should be an exceptional event. Drawing 02 details a proposed route from the easterly side of the site, across higher ground, in a southerly direction to Brunel Way. This land is in the County Council's ownership and, following discussions with the Estates Officer, there is in principle support to grant the applicant a right of way across this land subject to a formal agreement. On this particular point, during the informal appeal hearing following the original refusal, the Inspector was unable to consider this evacuation route as a full assessment had not been undertaken and, its location was outside the original planning unit.

8.15 In summary the Hydrologist considers the application site is far less vulnerable from flooding than the existing Local Authority Public traveller at nearby 'Giants Wharf' site and is not at risk of flooding from fluvial or surface water flooding. With regards to potential tidal flooding, the ground level rises implemented by the applicant are sufficient to ensure that the higher-level part of the site remains flood free during the T200 event and manageable during a T1000 sea level event. The proposed evacuation route will provide a safe means of exit in times of an exceptional event. An offer has been made to look at a more precautionary approach, where planning permission could be limited to 30-50 years (and a personal consent).

This is well over the life of a caravan and importantly is a timescale within which the site should be less vulnerable to predicted sea level rises (i.e. a T1000 sea level event risk)



Creation of Traveller Pitch to Include Day Room, Static Caravan and Touring Caravan with Flooding Mitigation and Emergency Escape Route (Partly in Retrospect) (Resubmission)  
No. 1 Ponderosa, Church Street, Briton Ferry, Port Talbot SA11 2HZ

Designed by AVH\_1235 Date 13.01.2025 Scale A3 @ As Shown Client Mr & Mrs Tom Roberts & Family  
Drawing Title Location and Block Plans - Potential Pedestrian Emergency Route for 1in1000 Year Flood Event Dwg No. 10

Scan of Drawing 10 showing the proposed pedestrian emergency route



#### Photo Sheet Notes

Recent photographs taken in June 2024

The LPA land currently has a pedestrian link to appeal site and is informally used as a play area for appellant family.

Pedestrian gate can be added on appellant land and ownership and ownership for emergency egress in extreme flood event (Rare event)

The LPA had approached appellant as to whether they wished to lease the land as local authority had no use for the land.

This emergency pedestrian gate can be conditioned in flood mitigation measures along with :-

- 1) Agreement on level of finished floor of caravan and dayroom
- 2) Anchoring of caravan
- 3) Standard flooding measures
- 4) Link to NRW emergency flood line
- 5) Emergency egress available in perpetuity



Access already in place for escape route

#### Photo Sheet Notes

Recent photographs taken in June 2024

The LPA land currently has a pedestrian link to appeal site and is informally used as a play area for appellant family.

Pedestrian gate can be added on appellant land and ownership and ownership for emergency egress in extreme flood event (Rare event)

The LPA had approached appellant as to whether they wished to lease the land as local authority had no use for the land.

This emergency pedestrian gate can be conditioned in flood mitigation measures along with :-

- 1) Agreement on level of finished floor of caravan and dayroom
- 2) Anchoring of caravan
- 3) Standard flooding measures
- 4) Link to NRW emergency flood line
- 5) Emergency egress available in perpetuity



**Scan of Drawings 11a and 12a showing the landscaped area owned by the LPA and the hardstanding area already used as informal play area by the applicants. Notes are indicated in regard to the emergency pedestrian gate and its inclusion in flood mitigation measures**

8.16 **Appendix C** contains two relevant allowed Planning Appeal decisions (CAS-02030-S8W8X4 -Vale Road, Rhyl July 2014), and (APP/H0520/W/23/3334636 – Chatteris Road, Somersham, Huntingdon, May 2024 for traveller pitches. These were both in the flood zones and obviously whilst have different characteristics, the analysis undertaken by the Inspector is very relevant.

### 1. CAS-02030-S8W8X4 (Appeal to PEDW / WALES) -Vale Road, Rhyl

This 2024 decision related to an application to change the use of land to form a residential traveller site for 6 static caravans. One of the main issues addressed by the Inspector was *'Whether the proposal would comply with planning policy to steer highly vulnerable development away from areas at the highest risk of flooding'*. In determining the appeal, the Inspector considered the proposal would not meet local or national planning policy guidance which emphasises the need to take a precautionary approach and directs development away from areas of highest risk. However, the personal circumstances advanced in support of the proposal including interference with the private life of the family and their respective children, safeguarded under Article 8 of the European Convention on Human Rights, which includes consideration of the best interests of the children. Given the accepted lack of alternative provision, dismissing the appeal is likely to condemn the children to a roadside existence. The children's best interests would be served by a settled family base and access to education and other necessary services. The inspector considered this element carried substantial weight in favour of allowing the appeal. Despite the potential risk from potential flooding, the Inspector concluded the impact on the lives of the family and, in particular, the children, the lack of an available alternative sites outweighed this risk to a significant degree. Permission was granted as living on a roadside was far more dangerous than a flood zone. This approach is welcomed and the site was in a worse floodzone (Flood Zone 3)

## 2. Chatteris Road, Somersham, Huntingdon (England Appeal)

This 2024 decision related to the proposed change of use of land to provide four additional Gypsy pitches and two of the issues were whether the development would be at risk from flooding and whether alternative sites are available.

It was established the site lies within Flood Zone 3a but outside of the extent of the Fenland Breach and therefore not considered to be at risk of flooding in the event of a breach of the Ouse Washes flood defences. Nevertheless, the additional permanent residential use is classified as highly vulnerable. During the appeal hearing it was established the appellants have an unmet need for pitches which cannot be met by current authorised sites or any alternative sites either within the borough or neighbouring sites. The Inspector attached significant weight to this consideration. Other personal factors were addressed including the age of the appellants and the need to have a settled base to gain access to specialist medical facilities.

On balance the Inspector concluded the potential risk from flooding was outweighed by the lack of alternative sites and the need for a settled base for the families. On this occasion a temporary five-year permission was granted based on the likelihood that sites will be identified by the LPA in the short term.

These two appeal decisions have a significant bearing of the submitted application in Briton Ferry. Whilst different, both these appeals concluded that flood risk was outweighed by the essential need for the family to live together. Alternative to living on a roadside, as this was deemed far more dangerous.

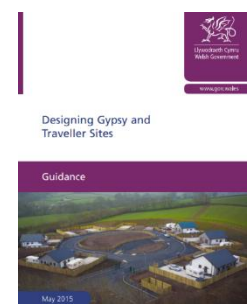
**The LPA need to consider options of personal and / or temporary periods and there is no other pitch deemed safe and large enough to go and live in within the area.**

## 3. Barn Conversion to dwelling in a C2 Zone – St Florence, Pembrokeshire (CAS-04165-K8D459)

Whilst this allowed appeal is not for a traveller / gypsy site its proposal is for the conversion of a stone outbuilding to a residential dwelling. There are a number of material planning considerations identified versus the threat of life and a suitable means of escape. Therefore, whilst it was vulnerable development (which is not encouraged) with the new TAN 15 a conditional approval was granted.

## 9.0 OTHER MATERIAL PLANNING CONSIDERATIONS

9.1 The proposed development is small and low level in nature and the layout has been designed in accordance with the Welsh Government document '*Designing Gypsy Traveller Sites Guidance May 2015*' providing ample private amenity space for the applicant's children. The development will have very low impact on the amenity of nearby residents and other adjacent premises.



9.2 The application site has the benefit of an electric and water supply. Foul drainage will be connected to the existing public foul sewer system located adjacent to the application site. Surface water will be disposed via soakaways again subject to porosity tests and SuDS assessment. Household waste will be left at the site entrance for collection by the Local Authority waste disposal service. Household waste will be bagged and placed at the site entrance for collection.

9.3 Gypsies are ethnic minorities who have the protected characteristics of race under S149 (7) of the EQ Act 2010. The applicant and his family do have other or additional protected characteristics that are relevant to the public sector duty (PSSED) in the circumstances the applicant has four young children and their interests would be best served by having a settled base, reasoning that if the application is refused it is extremely likely that there would be no other alternative but for the family to exist at the roadside. The Declaration of the Rights of the Child states that *"the child, by reason of his/her physical and mental immaturity, needs special safeguards and care including appropriate legal protection. As such, their best interests are a consideration that should be given significant weight."* The children would benefit from a settled base in their early life so as to experience consistent health care only available to families with a settled site. In view of the above it is considered significant weight should be afforded to the applicant's four existing children who enjoy a settled and safe life, three of whom attend a local school on a regular basis.

9.4 The Senedd's damning report "Welsh Government and Local Authorities Failing Traveller Community's" (August 2022) and follow up report in February 2025, is very relevant as indicates the lack of delivering public traveller sites, which is sadly continues.

9.5 Article 3 of the United Nations Convention on the Rights of the Child requires that the best interest of the children shall be a primary consideration. It is well established in law that no other factor should inherently carry greater weight in the decision-making process than the best interest of the children. 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 & E**, and the rights to a peaceful and safe family life which amount to 'very special circumstances' within the planning balance.

## 10.0 CONCLUSION

10.1 This application is materially different to the original in that the site is larger and incorporates a precautionary means of escape during an extraordinary event as advocated by the Inspector when determining the previous appeal. Unfortunately, this could not be considered by the Inspector as the route lay outside the original application site.

10.2 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 family are currently residing on this unauthorised site as no alternative private or public sites are available within the county and are unlikely to be within the foreseeable future. Mrs Roberts had no choice but to relinquish

her tenancy on the Giants Wharf site in 2022 for the reasons explained in **Appendix A**. The applicants purchased this site to enable them to continue their Gypsy lifestyle in a safe and secure environment and to allow their children to continue attending school from a permanent and settled base.

10.3 It has been demonstrated that there are no alternative public or private pitches available within the county and are unlikely to be within the foreseeable future. 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 this family home. The current adopted policy is insufficiently flexible to cater for any unexpected demand for new pitches arising from the indigenous Gypsy community. Significant weight should be given to the lack of alternative sites within the county.

10.4 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.

10.5 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 any 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.

10.6 Gypsies are ethnic minorities who have the protected characteristics of race under S149 (7) of the EQ Act 2010, The applicant and his family do have other or additional protected characteristics that are relevant to the public sector duty (PSED) in the circumstances the applicant has four young children and their interests would be best served by having a settled base, reasoning that if the application is refused it is extremely likely that there would be no other alternative but for the family to exist at the roadside. The Declaration of the Rights of the Child states that *"the child, by reason of his/her physical and mental immaturity, needs special safeguards and care including appropriate legal protection. As such, their best interests are a consideration that should be given significant weight."* The children would benefit from a settled base in their early life so as to experience consistent health care only available to families with a settled site. In view of the above it is considered significant weight should be afforded to the applicants' four existing children who enjoy a settled and safe life, three of whom attend a local school on a regular base.

10.7. Article 3 of the United Nations Convention on the Rights of the Child requires that the best interest of the children shall be a primary consideration. It is well established in law that no other factor should inherently carry greater weight in the decision-making process than the best interest of the children. 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 & E**, and the rights to a peaceful and safe family life which amount to 'very special circumstances' within the planning balance.

10.8 The application is accompanied by an updated comprehensive Flood Consequences Assessment together with a Flood Response Plan following the advice in the revised TAN 15 effective from the 1<sup>st</sup> April 2025. In summary the Hydrologist considers the application site is far less vulnerable from flooding than the Giants Wharf site and is not at risk of flooding from fluvial or surface water flooding. With regards to potential tidal flooding, the ground level rises implemented by the applicant are sufficient to ensure that the higher-level part of the site remains flood free during the T200 event and manageable during a T1000 sea level event. The proposed evacuation route will provide a safe means of exit in times of an exceptional event.

10.9 A personal and time limited consent can be agreed, and as shown in three relevant appeal decisions (see **Appendix C**), living on a roadside (especially with 4 children) was considered far more dangerous than living in an area with a T1000 sea level event risk.

The above demonstrates that very special circumstances exist that outweigh any perceived harm to the surrounding area 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