

	<h1>Report</h1>	<p>Agenda Item</p> <h1>12</h1>
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Report to: **Planning Committee**  
Date of Meeting: **23 February 2010**  
Report by: **Executive Director (Enterprise Resources)**

Application No CL/09/0533  
Planning Proposal: Change Of Use From Storage/Breakers Yard To Private Gypsy/Traveller Family Pitch Together With The Erection Of Ancillary Amenity Unit And Boundary Fencing (Retrospective)

## 1 Summary Application Information

- Application Type : Detailed Planning Application
- Applicant : Billy Lee
- Location : Tileworks Cottage  
Waterlands Road  
Law

## 2 Recommendation(s)

### 2.1 The Committee is asked to approve the following recommendation(s):-

- (1) Grant Detailed Planning Permission (Subject to conditions – Based on the Conditions Listed)

### 2.2 Other Actions/Notes

- (1) The Planning Committee has delegated powers to determine the application

## 3 Other Information

- ◆ Applicant's Agent: None
- ◆ Council Area/Ward: 01 Clydesdale West
- ◆ Policy Reference(s): **South Lanarkshire Local Plan (Adopted)**  
Policy STRAT3: The Green Belt and Urban Settlements in the Green Belt  
Policy RES4: Housing for Particular Needs  
Policy ENV34: Development in the Countryside  
Policy DM1: Development Management  
Policy ENV4: Protection of the Natural and Built Environment Policy

- ◆ Representation(s):
  - ▶ 9 Objection Letters
  - ▶ 0 Support Letter
  - ▶ 0 Comments Letter
- ◆ Consultation(s):

Environmental Services

Scottish Water

Roads and Transportation Services (South Division)

S.E.P.A. (West Region)

Carluke Community Council

# **Planning Application Report**

## **1 Application Site**

- 1.1 The application site consists of the dwellinghouse known as Tileworks Cottage and its surrounding curtilage situated at the end of Waterlands Road in Law. The dwelling on the site is a traditional single storey cottage. The land immediately to the rear and the land adjacent to the cottage consists of a gravel and hardstanding area. A 1.8 metre high timber fence encloses the majority of the site with the entrance being enclosed by a decorative wrought iron gate. A mature hedge runs along the eastern boundary of the dwelling. The land to the north-west, north-east and south-east consists of agricultural land with the farmer's field access track running along the eastern boundary. The west coast railway line is situated just over 50 metres to the south-west of the site. Waterlands Road and a dwellinghouse known as Navarac are situated to the south-west of the site. The hard-surfaced public Waterlands Road terminates approximately 70 metres to the south-east of the site and joins onto the track (Old Wishaw Road) which stretches down towards Carluke, ultimately meeting Luggie Road in Carluke. This track is designated as a right of way.

## **2 Proposal(s)**

- 2.1 The applicant seeks planning permission to change the use of the yard area adjacent to the dwellinghouse from a storage/breakers yard to private gypsy/traveller family pitch together with the erection of an ancillary amenity unit and boundary fencing.
- 2.2 Committee will note that this is a retrospective application. In October 2009 this Service received a complaint that gypsy/travellers were occupying the yard at Tileworks Cottage and that they had started to extend the yard area into the adjacent agricultural field to the north west of the site. The Council's Planning Enforcement Officer contacted the applicants and advised them to cease work on the extension of the yard area and that a planning application would be required for the current use of the land as a gypsy/traveller pitch. At that time, the site contained two residential caravans, two touring caravans and an amenity block containing toilet and washing facilities. An indicative layout drawing originally submitted by the applicant showed the positioning of 4 residential caravans, two tourer caravans, an amenity unit, space for two visiting caravans and 3 car parking spaces. The applicant has subsequently amended the plans to show only those units that were situated on the site at the time the breach was discovered together with 3 car parking spaces.
- 2.3 Two statements have been submitted by the applicant in support of the application. In the first statement the applicant explains that they are a gypsy/traveller family who for 20 years stayed on an official Travellers site in Shaws Road in Larkhall. In 1997 they applied for planning permission for a family pitch on land at the edge of the nearby industrial area on Shaws Road. They received planning permission and stayed there until 2001. For personal reasons, the family left the Larkhall site and they looked for another pitch without success and had to stay in a house that they had purchased in Law village. They emphasise it is important that they are based in this area as their young son currently attends the local primary school. They advise that nearly 2 years ago they had the chance to buy the application site, not realising that planning permission would be needed as it had for many years been used for the storage, dismantling and repair of trailers, burger vans and portacabins. When they bought the site in 2007, they spent considerable time and effort tidying up the site left behind by the previous owner. The applicant further advises that he and his wife along with their 4 children have occupied the site since then. He goes on to advise that during the summer months his sister and her family have always stopped

and spent time with them whilst travelling, this being a tradition within the travelling community. They also note that this part of Law has a history of use by gypsy/travellers and they have family photos of time spent in the area during the fruit-picking season.

- 2.4 A second statement was subsequently submitted by the applicant after the application was subject to an article in the local press. In this statement the applicant seeks to clarify a number of points. He advises that the community appear to have the wrong impression of the applicant and he emphasises that they are not seeking to create a large gypsy transport site. It is at this point that the applicant changed the plans by removing one of the residential caravans, one tourer, and the space for two visiting vans. He confirms that he is renovating the Tileworks Cottage on the site and wishes to secure the use of the land for the residential caravans during this process.

### **3 Background**

#### **3.1 Local Plan Background**

- 3.1.1 The application site is located outwith the settlement boundary of Law in an area zoned as greenbelt land, Policy STRAT3: The Green Belt and Urban Settlements in the Green Belt of the adopted South Lanarkshire Local Plan is therefore relevant. Given that the proposal is for a gypsy/traveller site, Policy RES4: Housing for Particular Needs should be taken into account. Policies DM1: Development Management, ENV4: Protection of the Natural and Built Environment Policy and ENV34: Development in the Countryside are also relevant.

#### **3.2 Government Advice/Policy**

- 3.2.1 The Scottish Planning Policy document published by the Scottish Government on 4 February this year stresses the importance of 'mixed communities' encouraging the provision of a range of housing types, catering for all sections of the community at a local level. It states that development plans should address the specific housing needs of particular sections of the community such as gypsies and travellers. It recognises that such communities have specific housing needs, often requiring sites for caravans and mobile homes, further advises that Local Authorities will consider the needs of all gypsies and travellers for appropriate accommodation within the housing need and demand assessment and take these into account in preparing their local housing strategies. It states that planning authorities should make provision for such communities as are in their area already. In addition planning authorities should identify suitable locations for sites for gypsies and travellers and set out policies for dealing with planning applications for small privately-owned sites.
- 3.2.2 In terms of Rural Development, the SPP states that rural Scotland needs to become more confident and forward looking both accepting change and benefiting from it, providing for people who want to continue to live and work there and welcoming newcomers. The countryside should be able to absorb more people content to live and able to work there.
- 3.2.3 On the section on Green Belts, the SPP states that green belt designation should be used to direct development to suitable locations and not simply prevent development from happening. It goes on to state that new development in the green belt must be of a suitable scale and form for the location. Many uses will only be appropriate when the intensity is low and any built elements are ancillary to the main use, small scale and of high quality design. Where a proposed use would not normally be consistent with green belt designation, exceptionally it may still be considered appropriate, either as a national priority or to meet an established need, and only if no other suitable site is available.

3.2.4 Other existing policy framework for assessing and meeting the accommodation needs of gypsies and travellers includes:

- **Secretary of State's Advisory Committee on Scotland's Travelling People, Guidance Notes on Site Provision for Travelling People (Scottish Executive, 1997)**

This document states that 'applications for planning permission from Travellers in respect of private sites, should be sympathetically considered'. This document also notes there is no perfect location for gypsy/traveller sites and that compromises will be necessary. It then sets out criteria which should be addressed when applications for sites are being considered. In summary the role of small privately owned sites in meeting the need for pitches has been recognised and encouraged.

- **Advisory Committee on Scotland's Travelling People, Nine Term Report 1989-1999 (Scottish Executive, 2000)**

The recommendations of this report were adopted by the Scottish Executive in November 2000 as the policy and guidance basis upon which provision should be made to accommodate travellers' needs in any given local authority area. These place a duty on local authorities to identify, assess and resolve the needs of travellers and to adopt explicit arrangements to provide for permanent and transit pitches to limit 'moving on' to situations which only create 'unacceptable problems'

### 3.3 **Planning Background**

3.3.1 There are no relevant, recent planning applications for this site.

## 4 **Consultations**

4.1 **Carluke Community Council** – no response to date.

**Response:** Noted.

4.2 **Scottish Water** – offer no objections.

**Response:** Noted.

4.3 **Environmental Services** – they recommend various conditions and informatives which should be attached to any consent granted in relation to noise, health and safety, refuse storage, floodlighting, and contaminated land. They also advise that the site will require a licence in terms of the Caravan Sites Legislation which they administer.

**Response:** Noted. An informative has been attached in respect of the licence. I do not consider there is a requirement to attach the conditions in relation to noise due to the small scale nature of the proposal and the fact that it is for use by a family. Floodlighting is not proposed but a condition will be attached to ensure further details are submitted in the event it is proposed at a later date.

4.4 **Roads & Transportation Services** – offer no objections and note that the available visibility splay exceeds the standard requirement.

**Response:** Noted.

4.5 **SEPA** – offer no objections. They confirm that Tileworks Cottage has a consent under their Legislation for sewage effluent discharge and that SEPA's Environmental Protection and Improvement team have no concerns regards pollution of the water environment. They have further advised that if a new tank was installed after April

2006, the existing consent for the site may need to be amended to meet the current regulations.

**Response:** Noted. An informative has been attached advising the applicant that contact should be made with SEPA to resolve the issue.

## **5 Representation(s)**

5.1 Following statutory neighbour notification and advertisement of the proposal in the local press as Development Potentially contrary to the Development Plan and Non-Notification of Neighbours, 7 letters of objection were received. Neighbours were re-notified and the application re-advertised in the local press following the submission of amended plans, and in response two further letters of objection were received from the same individual. The content of the letters is summarised as follows:

- (a) **The proposed use of the site is not in keeping with the local residential area, and the site is located in a greenbelt. In addition the proximity of the site affects our quality of life.**

**Response:** The assessment of the proposal against Green Belt policy is fully addressed in section 6.0 Assessment and Conclusions. The site is well contained and in a tidy condition and I do not consider that it impacts significantly on the objectors quality of life. The previous use of the site and its visual appearance potentially would have caused more of an impact than the proposed use.

- (b) **There are insufficient facilities/amenities i.e. toilets, showers, laundry facilities and bins to support what is being proposed for the number of caravans and their occupants. On bin collection days there are 4/6 bins overflowing causing concern regarding smell and vermin.**

**Response:** I consider that the existing facilities are acceptable. A visit to the site revealed none of the situation described. For the scale of development now proposed, which is basically similar to that of a standard sized family. The issue of refuse is covered by Environmental Services legislation, however a condition would be attached, requiring specific details to be approved by the Council.

- (c) **The South Lanarkshire area is well served with official and private travellers sites therefore there is no need for this development.**

**Response:** This matter will be fully addressed in section 6.0 Assessment and Conclusions. I consider that there is a lack of sites for the travelling community and this has been demonstrated by the findings of an accommodation needs assessment report in the West of Scotland which was carried out by Craigforth (June 2007).

- (d) **The applicant has lived in a house in Law village for a period of 8 years. Objector asks where his relatives have stayed when visiting during this time?**

**Response:** The applicant has confirmed that his family did stay in a house at Braefoot Crescent in Law when searching for a family pitch, however he has confirmed that they no longer reside there. The issue of visiting family to that property is not relevant to the assessment of this application.

- (e) **The proposal would increase the level of vehicle movements to and from the proposed site at all times of the day and night. Also concerns that the road itself is not suitable for the vehicles and lack of footpath on part of Waterlands Road causes concern over pedestrian safety. There are also concerns that there is a lack of parking facilities at the site.**

**Response:** There is no indication that this proposal would significantly increase vehicle movements and in any case would be likely to be significantly lower than that generated by the previous use. Appropriate conditions are proposed to limit the number of caravans on the site. The Roads Service have offered no objections to the proposal, and specifically state that the access visibility exceeds their standards. In addition I consider there is adequate space for vehicle parking.

- (f) **Concerns about smoke and smell generated from fires which are regularly lit within the grounds of the site. Also concerns about the fire risk. Objector advises that the Fire Brigade has been to the site allegedly due to the burning of copper. Concern is also raised from a safety point of view about the increased fire risk in the confined area of the site due to the number of caravans/trailers with gas bottles in proximity to road vehicles.**

**Response:** The Council's Environmental Services have confirmed that the site will require a licence and issues of fire safety will be addressed through this. The issue of the burning of fires at this rural location is not a planning consideration but rather covered by Environmental Health legislation.

- (g) **The applicant has installed a new septic tank at the rear of the site for which planning permission has not been sought. In addition electrical installations have been carried out on external fences which the objector does not believe Building Control were notified.**

**Response:** Planning permission is not required for the new septic tank or for the electrical installations. A Building Warrant would be required for the septic tank and the applicant will be advised of this requirement.

- (h) **The applicant keeps 6 dogs on the site which are allowed to run free at certain times of the day causing concern to users of the right of way and nearby residents.**

**Response:** This is not a material planning consideration.

- (i) **Concerns about noise from the site.**

**Response:** I do not consider that the use of the site for a family to reside at would cause any more noise than at any other residential unit.

- (j) **Concerns about safety in that by allowing this site at this location will bring the problems of feuding families which is a regular occurrence within the travelling community.**

**Response:** This is not a material planning consideration.

- (k) **The objector feels that the applicant has misled him regarding the intentions for the site. The applicant had indicated that he was staying in his caravan/trailer while the house was being renovated. The arrival of residential caravans was because he was 'doing them up' to sell on however he has now moved into one of them.**

**Response:** The applicant has confirmed that he does have intentions of renovating the existing cottage at the site. I consider the statements submitted with this retrospective application reflect accurately the applicant's intentions.

- (l) **Concerns that the applicant has made misrepresentations to the Council in his planning application regarding the previous use of the site. The property was not used as a breakers yard.**

**Response:** Anecdotal evidence from local residents and council employees as well as historical photographs indicate that the property was being used as a breakers yard, specifically mobile snack vans. In addition, portable buildings were stored at the site.

- (m) **The applicant and his family have only started to live continually on this site in the last 7 months. The applicants declaration of having owned the site for two years is inaccurate; the actual time span is 20 months as of the date of the application.**

**Response:** Noted. The applicant has owned the site for nearly two years and the early part of this period was used to tidy up the conditions left by the previous owner. It is clear that the site is now used by the family as their permanent residence.

- (n) **Even if the applicant requests a compromise e.g. reducing the number of trailers on the site the objector advises that his grounds of objection still stand.**

**Response:** Noted.

- (o) **In the event that this application is granted with restrictions, the Council will put my family in an awkward position where they may have to complain to the appropriate authorities re breaches of conditions. This may lead to confrontation with our neighbours.**

**Response:** The Council has officers who can carry out monitoring of the use of the site.

- (p) **Although planning has been sought on a private/family level the objector is of the opinion that this is in fact a commercial venture for financial gain.**

**Response:** The application is for a private/family pitch only for the applicant's family and not for financial gain.

- (q) **Objector considers that as the applicant has 3 residential caravans that cannot be towed and that they have lived in and own a house in Law they are not classed as gypsy/travelers.**

**Response:** I am satisfied that the applicant and his family are gypsy/travelers which is confirmed in their statement submitted with this application and their previous occupation of caravans at two separate sites in Larkhall for a considerable time.

- (r) **The objector queries why there would be a requirement for a gypsy/traveller site on completion of the renovation of the property.**

**Response:** The applicant has confirmed that they still wish to have the traditional way of life of gypsy/travellers even if and when the cottage is renovated.

- (s) **The objector makes reference to the applicant stating that he had discussed the application with a member of the planning department when he knows he met with two people from the planning department to discuss gaining planning permission on the 25 November 2009.**

**Response:** As with any planning application the applicant had various discussions with the planning service prior to submitting the application. Two officers did meet with the applicant and his wife on the above date. The meeting was held in order to provide guidance on the requirement of planning consent and the type of application which should be submitted.



- (t) **The Council has a duty of care to me and my family to protect the area in which we live and not allow developments to proceed which will drastically affect our way of life and the location in which we have lived for the last 28 years.**

**Response:** I consider that the Council has carried out its duties appropriately in this case both in dealing with the critical enforcement issues and subsequently in the careful assessment of this application. Section 6.0 Assessment and conclusions of this report sets out our considerations of the nature of the site and its proposed use against local plan policy and government guidance.

- (u) **The objector writes to advise that 10 days ago the caravans/trailers that had been parked over the Christmas/New Year period left the site. At the same time the Lee family moved back to live in the house they own in Law Village. The objector enclosed photographs of the site to substantiate this.**

**Response:** The applicant has been visiting family in England and this is the reason why the tourer caravans have not been on site recently. I consider that this actually shows that the Lees are genuinely gypsy/travelers. The fact that the family still own a dwellinghouse within Law Village and may or may not spend time in it is not a material planning consideration.

These letters have been copied and are available for inspection in the usual manner.

## **6 Assessment and Conclusions**

- 6.1 The applicant seeks planning permission to change the use of the yard area adjacent to the dwellinghouse known as Tileworks Cottage from a storage/breakers yard to private gypsy/traveller family pitch together with the erection of an ancillary amenity unit and boundary fencing. As the application is retrospective the 2 residential trailers, two tourer caravans and an amenity unit proposed in the application already exist on site.
- 6.2 The adopted South Lanarkshire Local Plan does not contain any policies which specifically cover proposals for gypsy/traveller sites, however Policy RES4: Housing for Particular Needs does state that where a need is identified by the Council, the provision of specialist housing will be supported and directed to sites which are convenient to community and transport facilities. The determining issues in relation to this application are therefore whether the proposal complies with the relevant policies in the local plan and whether there are any other material considerations, which in this instance include government guidance and previous decisions on appeals to the Scottish Government and case law.
- 6.3 In land use terms the application site is located in the greenbelt where Policy STRAT3: The Green Belt and Urban Settlements in the Green Belt of the adopted South Lanarkshire Local Plan applies. This policy states that there shall be a general presumption against all development except where it can be shown to be necessary for the furtherance of agriculture, horticulture, forestry, recreation, establishments and institutions standing in extensive grounds or other uses considered by the Council to be appropriate to the Green Belt, or where development forms part of a larger proposal for the rehabilitation or change of use of disused or redundant traditional buildings where this consolidates such groups. The proposed use does not fall within any of the categories listed under Policy STRAT3 as it is not necessary for the furtherance of agriculture, horticulture, forestry or recreation and

does not constitute an establishment or institution. In addition it does not fall under the list of appropriate uses in the countryside listed in the local plan. In view of this I consider the proposal does not comply with Policy STRAT3.

- 6.4 The Council must consider whether there are other material considerations that outweigh this policy in this particular case. Government Guidance relating to this application has been summarised under section 3.2 of this report. The consolidated SPP document states that Local Authorities will consider the needs of all gypsies and travellers for appropriate accommodation and take these into account in preparing their local housing strategies. It states that planning authorities should make provision for such communities as are in their area already. In addition it states that planning authorities should identify suitable locations for sites for gypsies and travellers and set out policies for dealing with planning applications for small privately-owned sites. Also of relevance is other government guidance for assessing and meeting the accommodation needs of gypsies and travellers which includes: Secretary of State's Advisory Committee on Scotland's Travelling People, Guidance Notes on Site Provision for Travelling People (Scottish Executive, 1997) and Advisory Committee on Scotland's Travelling People, Nine Term Report 1989-1999 (Scottish Executive, 2000)
- 6.5 In addition, the Scottish Parliament Equal Opportunities Committee 1<sup>st</sup> Report 2001, Inquiry into Gypsy Travellers and Public Sector Policies stresses the right to and security of a home, which should be defined as including sites which are homes to gypsy travellers. The report notes the difficulties of this community in gaining planning permission for private sites and again states that local planning authorities should be required to identify the needs of gypsy traveller site provision in statutory plans.
- 6.6 The above government policy states that the needs of gypsies and travellers should be taken into account in preparing the Council's Local Housing Strategy. The Council's Local Housing Strategy (April 2004) identified an information gap as to whether Gypsy/Travellers communities have unmet housing and support needs. An accommodation needs assessment of gypsies/travellers in the West of Scotland was carried out by Craigforth (June 2007). The report noted that South Lanarkshire has the largest, most diverse and complex Gypsy/Traveller population in West Central Scotland. The document shows that at the time of the research in 2007, South Lanarkshire Council had two official sites Larkhall (Swinhill) with 22 pitches and East Kilbride (Springbank) which has 6. At the time of the study the occupancy rates of these sites was high (90% at Larkhall and 100% at East Kilbride). The data also showed that there is very low turnover and settled communities at Larkhall and that it is in greatest demand with a waiting list of over 30 applicants. This shows that there is a demand for this type of use in the area and it is important to note that the government considers small privately owned sites have a role in meeting the need for pitches and should be encouraged. The findings from this research have been presented to various forums including the Councils Housing and Technical Resources Management Team and Equal Opportunities Group. An action plan has been prepared and agreed to take forward issues identified by the research. One of the priorities is how to provide a new year round site with a capacity of 10-20 pitches. Work on this has not been progressed and therefore the shortfall in pitches remains. There are also two year round private sites at Shaws Road in Larkhall and at Ravenstruther, with a combined capacity of 48 pitches. Again both sites are operating at capacity.
- 6.7 Case law on this form of development in terms of planning appeal and court decisions is also relevant. On the whole the appeals were upheld and planning

permission allowed, which reflects the governments stance on the gypsy/traveller community. In one particular decision, Scottish Ministers accepted a reporters finding from a case in 2005 that the Government Guidance described in 3.2 should carry the same status and weight as SPPs. In terms of the Human Rights issue, I also draw the Committee's attention to previous case law, where a group of Gypsy/Traveller families won a ruling that an Inspector dealing with their appeal was right to conclude that the harm which would be done to the gypsies' family life (by expelling them from their own land) outweighed the environmental harm the site would produce in respect of established or emerging development plan policy (First Secretary of State and others v Chichester Borough Council [2004]).

- 6.8 In view of this background, it is clear that small privately-owned sites such as this are a legitimate way of meeting demand for accommodation by the travelling community. The applicant has sought a suitable site for several years without success, a problem re-inforced by existing sites in South Lanarkshire operating at capacity and a lack of alternatives that may become available in the near future. In addition, the objectives of Green Belt policy would not be compromised by the proposal. As a result, I am satisfied that an exception to policy can be justified in this case.
- 6.9 In terms of assessing whether the application site is acceptable, Policy ENV34: Development in the Countryside is relevant. This policy states that development will be permitted where it complies with Policy STRAT3 and it can be demonstrated to the Council's satisfaction that the development conserves the natural environment; respects the existing landscape form with new buildings and structures being designed to complement and enhance the surrounding landscape, avoids dominating or adversely interfering with existing views in and out of the site, avoids the introduction of suburban-style developments into the rural environment and avoids the use of inappropriate urban features such as kerbs, pavements and high levels of external lighting, concrete and artificial building products.
- 6.10 As stated in paragraph 6.3 above, the proposal does not comply with Policy STRAT3 so therefore the proposal does not strictly comply with Policy ENV34, however there is still merit in assessing the proposal against the criteria in this policy. The applicant has confirmed that the use of this site would only be for his immediate family ie his wife and 4 children, and not for the use of the wider gypsy/travelling community. The yard area upon which the caravans are sited lies within the curtilage of the dwellinghouse known as Tileworks Cottage and is a tidy and well-contained site with a 1.8 metre boundary fence enclosing the yard area. The site itself is situated at the end of Waterlands Road, where the public road terminates and the only passing traffic is likely to be pedestrians. The site is not easily seen from wider views due to the location of the property opposite, and the mature hedge along the side and rear boundaries. The yard area is considered a brownfield site. Anecdotal and photographic evidence shows that the yard area was formerly used as a breakers yard where the previous owner worked on old snack vans. The site at this time did not make a positive contribution to the greenbelt area and I consider the site is now in a considerably better condition. Given the small-scale nature of this site, its location at the end of the public road within the curtilage of an existing residential property, and the now tidy condition of the site I consider that the proposal is not at odds with the criteria contained under Policy ENV34.
- 6.11 Policy DM1: Development Management also applies and this policy states that all planning applications will require to take account of the local context and built form and should be compatible with adjacent buildings and surrounding streetscape in terms of scale, massing, design, external materials and impact on amenity. In addition the policy states that the proposal should provide suitable access, parking

and have no adverse implications for public safety and should make appropriate infrastructure provision to serve the development. As stated above the site is in a tidy condition and is well screened. The caravans are sited within the curtilage of an existing property. As such I consider the proposal takes account of the local context and built form (this comprises sporadic housing development with individual houses in similar sized curtilages and containing ancillary buildings) and does not have an adverse impact on countryside amenity. In addition, I am satisfied that there would not be an adverse impact on residential amenity, in particular on the owners of Navarac opposite the site given the scale of development and the visual and physical relationship of the site to other residential properties in the area. The Council's Roads Service have not offered any objections. Scottish Water and SEPA also do not object. It is noted that a new Septic Tank has been installed at the rear of the site, however SEPA have confirmed there is no pollution issues at this location. The installation of the tank would have required a Building Warrant from the Council and as such the applicant will be advised of this requirement so that a warrant can be submitted and this Service will then be able to ensure the tank and any required soakaway comply with the relevant legislation and standards. In view of this I consider the proposal complies with Policy DM1.

- 6.12 Policy ENV4: Protection of the Natural and Built Environment applies specifically to this application due to the proximity of the Right of Way which runs along Waterlands Road and the Old Wishaw Road adjacent to the site. This policy states that development which would affect the right of way will only be permitted where the integrity of the right of way will not be significantly undermined. The site is well-contained and does not encroach onto the right of way, I therefore consider that the proposal complies with Policy ENV4.
- 6.13 To conclude, the policies of the adopted local plan do not give any direct comfort for this use and the proposal is therefore contrary to Policy STRAT3. However, government guidance, planning appeal decisions and case law all demonstrate that this type of use should be supported where the special needs of a particular community can be established; in such cases the planning policy implications can be, and indeed have been, overcome. Clearly, where the principle of this form of development is found acceptable the location of a site for these proposals must be appropriate. I have assessed the proposal against detailed policy guidance forms in ENV34 and DM1 of the adopted Local Plan and found that there would not be an adverse impact on residential amenity, rural character or road safety.
- 6.14 If Committee agree to grant consent, then it would by my intention to only allow a 'personal permission' to the applicant and his dependants and limit the number of caravans to the four already located at the site. Conditions would be attached to the consent to control this. The applicant has indicated that occasionally other members of his family will visit the site for short periods of time. Again, this can be controlled by condition whereby visitors will not be allowed to stay at the site for any more than a 2 month period in any calendar year.
- 6.15 Overall, I consider that in this case a departure from the local plan can be justified for the following reasons:
- (i) The site is located in a rural location where the life and activities of the gypsy/traveller community are traditionally carried out.
  - (ii) There are no infrastructural issues and there would not be a adverse impact on road safety
  - (iii) The site is for the use of one single family and is small-scale in nature

- (iv) The site is considered a brownfield site and the condition of the site now has a more positive impact on the amenity of the countryside than the previous use as a breakers yard.
- (v) The site is self-contained and screened from the wider countryside
- (vi) Government Guidance is that applications for planning permission from Travellers in respect of private sites should be sympathetically considered.

I therefore recommend that planning consent be granted.

## **7.0 Reason for Decision**

7.1 For the reasons set out in 6.15 above.

**Colin McDowall**  
**Executive Director (Enterprise Resources)**

**16 February 2010**

## **Previous References**

- ◆ Bullet point list

## **List of Background Papers**

- ▶ Application Form
- ▶ Application Plans
- ▶ Consultations
 

Scottish Water	24/12/2009
Roads and Transportation Services (South Division)	15/01/2010
Environmental Services	23/12/2009
- ▶ Representations
 

Representation from :	Ms Wright & Mr McIntyre, 2 Strathelgin Law ML8 5LF, DATED 18/01/2010
Representation from :	Robert & Marianne Brown, Waterlands House Waterlands Road, Law, Carluke ML8 5EX, DATED 13/01/2010
Representation from :	William Foster, Navarac Old Wishaw Road, Law, Carluke ML8 5BU, DATED 14/01/2010
Representation from :	Bill Foster, , DATED 10/02/2010
Representation from :	William Foster, Navarac, Old Wishaw Road, Law, Carluke ML8 5BU, DATED 05/02/2010
Representation from :	Gordon MacKay & Nicola Bree, Waterlands Cottage, Waterlands Road, LawML8 5EX, DATED 12/01/2010
Representation from :	Sarah McManus, 9 Waterlands Road, Law

ML8 5EX, DATED 12/01/2010

Representation from : Mrs Lynn Spence, 7 Waterlands Road, Law, DATED  
11/01/2010

Representation from : Alexander & June McCulloch, Waterlands Farm Steading  
13 Waterlands Road, Law ML8 5EX, DATED 11/01/2010

**Contact for Further Information**

If you would like to inspect the background papers or want further information, please  
contact:-

Gail Rae

(Tel :01555 673205 )

E-mail: [Enterprise.lanark@southlanarkshire.gov.uk](mailto:Enterprise.lanark@southlanarkshire.gov.uk)

**CONDITIONS**

This decision relates to drawing numbers: 1 & 2

- 1
- 2 That this permission shall operate for the benefit of Mr & Mrs Billy Lee and their dependants and for no other person and on the discontinuance of the occupation of the site by the said persons, the hereby approved use shall cease to the satisfaction of the Council as Planning Authority.
- 3 That the total number of caravans that can be sited permanently within the site shall be no more than 4.
- 4 That other than those caravans referred to in condition 3 above, the siting of any additional caravans of any form shall be limited to those occupied by visiting members of the applicant's family. These caravans shall not be sited for a continuous period of longer than 2 month in any one calendar year.
- 5 That no trees within the application site shall be lopped, topped, pollarded or felled, and no shrubs or hedges shall be removed from the application site without the prior written consent of the Council as Planning Authority.
- 6 That within 2 months of the date of this permission, a scheme of landscaping for the area on the southern side of the timber fence running along the south-eastern boundary of the site shall be submitted to the Council as Planning Authority for written approval and it shall include:(a) an indication of all existing trees and hedgerows plus details of those to be retained and measures for their protection in the course of development; (b) details and specification of all trees, shrubs, grass mix, etc.; (c) details of any top-soiling or other treatment to the ground; (d) sections and other necessary details of any mounding, earthworks and hard landscaping; (e) proposals for the initial and future maintenance of the landscaped areas; (f) details of the phasing of these works; and no work shall be undertaken on the site until approval has been given to these details.
- 7 That the approved landscaping scheme shall be completed to the satisfaction of the Council as Planning Authority during the first available planting season following the date of this approval and shall thereafter be maintained and replaced where necessary to the satisfaction of the Council.
- 8 That within 2 months of the date of this permission, details of facilities for the storage of refuse within the site, including design, location, external finishes and access for its uplift, shall be submitted to and approved in writing by the Council as Planning Authority. Thereafter these facilities shall be provided in accordance with the approved scheme or such alternative as may be agreed in writing with the Council as Planning Authority.
- 9 That within 2 months of the date of this permission, all of the parking spaces shown on the approved plans shall be laid out, constructed and thereafter maintained to the specification of the Council as Roads and Planning Authority.
- 10 That notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (or any such order revoking or re-

enacting that order), no development shall take place within the curtilage of the application site other than that expressly authorised by this permission without the submission of a further planning application to the Council as Planning Authority.

## **REASONS**

- 1 For the avoidance of doubt and to specify the drawings upon which the decision was made.
- 2 In the interests of amenity and in order to retain effective planning control.
- 3 In the interests of amenity and in order to retain effective planning control.
- 4 In the interests of amenity and in order to retain effective planning control.
- 5 To ensure the protection and maintenance of the existing trees and other landscape features within the site.
- 6 In the interests of the visual amenity of the area.
- 7 In the interests of amenity.
- 8 To ensure that adequate refuse arrangements are provided that do not prejudice the enjoyment of future occupiers of the development or neighbouring occupiers of their properties, to ensure that a satisfactory external appearance is achieved and to ensure that appropriate access is available to enable refuse collection.
- 9 To ensure the provision of adequate parking facilities within the site.
- 10 In the interests of amenity and in order to retain effective planning control.



For information only

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