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ADDITIONAL CIRCULATION



To: All Members of the Council

Town House,
ABERDEEN, 16 August 2013

COUNCIL MEETING

The undernoted items are circulated in connection with the meeting of the **COUNCIL** to be held here in the Town House on **WEDNESDAY, 21 AUGUST 2013 at 10.30am.**

JANE G. MACEACHRAN
HEAD OF LEGAL AND DEMOCRATIC SERVICES

BUSINESS

GENERAL BUSINESS

- 8(h) Update on the Establishment of Short-term Halting Sites for Gypsies/Travellers - Report by Director of Housing and Environment (Pages 1 - 30)
- 8(i) Update on a Proposed Byelaw Regarding Camping in Designated Areas - Report by Director of Housing and Environment (Pages 31 - 50)

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ABERDEEN CITY COUNCIL

COMMITTEE Council

DATE 21 August 2013

DIRECTOR Pete Leonard

TITLE OF REPORT Update on the establishment of Short-term Halting Sites for Gypsies/Travellers

REPORT NUMBER:H&E/12/102

1. PURPOSE OF REPORT

This report provides Council on the outcomes of the work of the Stakeholder Group, the feedback from the respective Community Councils and information gathered from the consultation exercise adopted.

2. RECOMMENDATION(S)

- (a) Instruct Officers to progress the establishment of a Short-term Halting Site at Howes Road.
- (b) Instruct Officers to prepare a detailed design together with cost estimates for construction and ongoing operational costs.
- (c) Instruct Officers to prepare a Planning Application including details of costings (Capital and Revenue) for establishing the site.
- (d) Approve the process for consultation as set out in the report acknowledging that strong views and opinions are likely to be part of the process
- (e) Note that Officers continue to conduct property searches with a view of establishing further sites within the city.

3. FINANCIAL IMPLICATIONS

So far this financial year, The Gypsy Traveller Liaison Officer/Site Manager has handled 54 encampments. These consist of 20 on Council owned land and 34 on privately owned. Approximate clean up and legal costs amount to £73,381 – this does not include the costs incurred at private land. Staff time and associated resources is not so tangible however. None of these costs are currently built into budgets but are currently being met from budgets held by Housing & Environment on a reactive basis.

There will be some costs in establishing any site (e.g. ground condition, water supply and screening) but we anticipate that the running costs would be less than that of the current clear up costs. A financial study will be developed once design, construction and operating costs have been fully ascertained.

4. OTHER IMPLICATIONS

Legal - Whilst there is no statutory duty placed upon Aberdeen City Council to specifically have Halting Sites within the City, we have a duty to respond to the needs of Gypsies/Travellers who come into the local authority area. Officers are currently investigating the potential to utilise Bye-Laws legislation to prevent unauthorised encampments on sensitive areas of the City which have been subject to ongoing and persistent pressure and form part of our existing Good Neighbour Code.

Equalities – A Full EHRIA (Equalities & Human Rights Impact Assessment) has been completed and is appended to this report.

5. BACKGROUND/MAIN ISSUES

Background

Aberdeen City Council's Policy and Strategy Committee, at its meeting on 29 November 2005, agreed in principle to the development of short-term halting sites for Gypsies/Travellers.

Although Council agreed on 15 August 2007 to approve a list of 9 potential sites and embarked on an extensive consultation process it was clear that each local community held strong views on these proposals hence why it proved extremely difficult to identify sites that had any level of acceptance within communities.

Consequently, the Council's Policy & Strategy Committee on 2 December 2008 instructed officers to stand down all current searches and consultations, to continue examining how best to manage informal encampments and for officers to prepare details for upgrading the Clinterty site to include potential short term provision.

Despite a review of Council Policy which included a re-writing of the Good Neighbour Code, upgrading the Clinterty site – including the creation of 4 Short-term plots, Aberdeen continues to experience Unauthorised Encampments on an unprecedented scale. These encampments invariably generate high profile attention and considerable controversy as to the rights of the settled community and the rights of Gypsies/Travellers. The camp sizes have grown over the last 4 years and we now require sites which are suitable for a large family group.

On 6 March 2013, Council considered a further report on the resurrection of this theme and the following decisions were agreed;

1) approve the potential sites at (i) Blackdog; (ii) Howes Road; (iii) Scotstown Road recycling centre; and (iv) the former Council depot at Springhill Road, and remit to officers to consult the affected Community Councils and report back to the Council meeting in August 2013 with the outcome of these discussions;

(2) instruct officers to establish a stakeholder working group for the purpose of using a scoring matrix to examine the viability and feasibility of each site option and report back to the August Council meeting with the results from this process; and

(3) Note the joint working that was continuing with Aberdeenshire Council.

Stakeholder Group

Short-term Halting Site - Stakeholder Group

Council considered a paper on 6 March 2013 and instructed officers to establish a stakeholder group to examine the viability of each of the site options that members decided upon. These are;

- Former Depot Springhill Road
- Howes Road
- Scotstown Road Recycling Centre
- Blackdog

Membership

To ensure that this is a thorough, robust process with maximum integrity, the Community Council Forum identified 5 representatives. A further 2 Community Councillor's were nominated to ensure representation in each of the potential areas. The finalised group was represented as follows;

Community Council's, Housing, Planning, Asset Management, Roads, Equalities Team, Police Scotland, Grampian Regional Equality Council

Remit

Although the Council has previously used an established scoring matrix to determine past sites, the Council acknowledged the negative feedback from communities in respect of the integrity of the assessment process. The stakeholder approach ensured that the group could undertake the following tasks;

Review the Existing Matrix
Expand/Develop criteria
Consideration of weighting system
Complete Scoring
Agreeing a set of rules and a management regime for the sites.

Process

The Group first met on 5 June 2013 for a 1 hour introductory meeting which outlined the remit from Council and the expected outputs of the group. There have been a further 6 weekly meetings comprising of 2 hourly slots and the group reached their recommendations and deliberations at their final meeting for this stage on 31 July 2013.

The group has developed a revised version of the scoring matrix which expands upon the previous 17 criteria with a 35 criteria model which includes a weighting system. The group also undertook site visits to each of the options with the exception of the Blackdog site.

Conclusion

The Stakeholder approach was very task focused but the group has great potential. In the short term they have devised a revised matrix with weighting options and have assessed each of the sites following their respective visits. Next steps for this group would include agreeing a set of rules and a management regime for sites and potentially in the longer term participating in the process for the identification of a second permanent site within Aberdeen. With any site identified the need for robust site management at the preferred option as well as sufficient screening to alleviate against any operational difficulties.

N.B

The Blackdog site did not feature within the work of the Stakeholder Group as the initial site which was identified was ruled out due to environmental risks with the remaining option within the area featuring with the Aberdeenshire Council Local Development Plan for new build development with provision for a Gypsies/Traveller Halting Site. Our Asset Management Team has made contact with the agents for the landowner to note the Council's interest in acquisition.

Objective	Scotstown Recycling	Howes Road	Springhill Road Depot
Site Constraints			
Size of Site?			
Is the land in a SEPA flood map area?			
Is the land on the Contaminated Land Register?			
Local Development Plan Issue?			
Adequate space for parking, turning and servicing on site?			
Is there adequate and safe access?			
Site Characteristics			
Allows capacity for growth?			
Reasonably flat?			
Hard Standing?			
Readily available e.g. public ownership/willing landowner/vacant possession?			
Free from potential hazards? (Rivers/Pylons/Pipelines)			
Previously developed land?			
Adequate security arrangements (Privacy, screening, landscaping)			
Highway Issues			
Specific site access?			
Safe pedestrian access?			
Access for emergency vehicles?			
Access to public transport?			
Core path network?			
Infrastructure			
Access to water?			
Access to electricity?			
Access to drainage?			
Access to sewerage?			
Access to lighting?			
Waste Disposal?			
Local Services			
Access to schools (capacity available)			
Access to Primary health care (capacity available)			
Access to Council owned community facilities			
Access to Food shops			
Potential Environmental Impacts			
International/National/Locally designated sites			
Protected trees/woodland			
Compatibility with landscaping?			
Greenspace network implications?			
Amenity Areas			
Effect on the amenity of neighbouring properties e.g. Proximity & overlooking?			
Acceptable to Gypsies/Travellers?			
Is the site located in acceptable surroundings away from industrial sites/motorways/rivers?			
TOTAL SCORE			

Consultation with Community Councils

At the time of writing this report, meetings have taken place with Mastrick, Bridge of Don and Northfield Community Councils.

As part of the information gathering exercise and to ensure each of the Community Council's contributed to the overall decision making rationale, the following questions were posed.

1. What each Community Council thinks of the proposals – opportunity to raise concerns and issues and/or alternative solutions.
2. That if the outcome of the process is that a particular site in their area is chosen, what mitigating actions would they as essential/desirable in terms of wider consultation, site design and management regime.

Although each Community Council remains dissatisfied with the location of their respective local option, the meetings held were both constructive and positive and there was an overwhelming consensus that each Community Council obtained a greater understanding of the pressures and challenges the Council is facing in dealing with unauthorised encampments but they felt that the process would be eased with a better informed community who has the opportunity to contribute to the consultation process on a wider scale. Common themes emerging from the discussions with the Community Council's have been assembled into a Question & Answer format and will be shared with them.

Why should we make provision for Gypsy/Traveller Sites in Aberdeen?

Current legislation states that local authorities are responsible for providing sufficient space for Gypsies/Travellers as identified in the Craighforth report 2009 and the Council's Housing Needs Assessments.

Why have the sites been shortlisted?

This was the remit from Council on 1 March 2013 on the basis of the sites available at that time.

Why can't Gypsies/Travellers not use the permanent site at Clinterty?

The site is full with an active waiting list.

We aren't satisfied with the location of the site within our area. How can we feed into this process?

Viability and suitability of each site will be considered as part of the Stakeholder Group review. There are existing consultation feedback opportunities afforded to you.

Can I have a say on the plans?

An on-line e-mail process is in place and also there is the opportunity for feedback by way of letter submission. In recognising the desire for wider consultation, this will take place in a structured format where Community Councils, wider community and businesses can contribute to the process as well as part of any impending Planning Application

When will the site be developed?

Should we have a preferred location agreed at Council then a Planning Application would be submitted. Allowing for all the processes, an approximate start date would be Summer-Autumn time 2014.

What will the site look like?

The site will have basic facilities with hard standing, hook-up points and access to water. Bins and toilets would be provided and screening would need to be considered.

Who is going to pay?

The Council. We are already contributing financially as part of the challenges being faced in handling the unauthorised encampments but recognise that the status quo is not sustainable. Benchmarking information on charging regimes is inconsistent as well as length of stay and this is an opportunity for the Stakeholder Group to develop in the next phase of their work.

Robust site management is key. What are the Council's plans?

The Council acknowledges that this is a critical factor and we would need to review staffing resources to ensure that comprehensive management regimes are in place for any site.

Do Gypsies/Travellers pay tax?

Gypsies/Travellers living on permanent sites are subject to all the same taxes and bills (Rent, Council Tax, water rates, electricity usage) as people living in settled communities.

Will crime increase?

There is no evidence to support claims that levels of crime will increase wherever a site is located. There are examples around the country where Council's have reduced the stress, disturbance and expenditure on unauthorised encampments by established both permanent and short term halting facilities.

In acknowledging that we feel the site in question is unsuitable, how can we work with you in examining alternatives?

The Council is committed to keeping communication lines open with communities and this offer of continued engagement is welcomed.

Consultation Feedback

Although the remit from Council was clear, there was an opportunity for communities and businesses to submit their views and opinions on each of the sites using an e-mail feedback facility. This idea derived from feedback from the stakeholder group and some elected members as the Community Council consultation was with office bearers at this stage. The results of this exercise are as follows;

Total number of submissions = 578

Bridge of Don	Mastrick	Northfield
577	0	1

Option Appraisal and Recommended Site

Using the revised matrix with weighting options, the Stakeholder Group visited each of the sites with the exception of Blackdog – see previous note for explanation.

At this juncture it was decided by the group to assess the degree to which the Matrix arrangement/ procedure was fit for purpose. A number of trial applications/ assessments were performed on a number of sites. A wide spectrum of sites were considered, including established legitimate sites to sites that were particularly unsuitable, for instance that had been used as illegal encampments situated on private ground.

It became clear that the system was effective at identifying a potential good site, however, a significant weakness became apparent. Even with the applied weighting, essential parameters with very poor scores could be diluted amongst a high number of significantly less important parameters. Subsequently the importance of certain essential parameters was not being adequately reflected in final score for sites that were obviously poor.

Taken to an extreme example, consider a potential site that was perfect in every single respect, except that the total available area was one meter square. Such a site would score 96%, but in fact the simple practicalities of the site would be that it was useless and wholly unsuitable for the target application.

The solution arrived at by the Stakeholder Groups is as follows:

Final Score = Accumulated Parameter Score x Essential Parameter Factor

The scoring system is as follows;

Score – 0-10 ranging from 0 = totally unacceptable and 10 = ideal

Weighting – 1-5 ranging from 1 = Irrelevant and 5 = essential
 Weighted score – Score x Weighting

Given the robustness of the test runs, the matrix was applied to each of the site options visited. The results are as follows;

	Scotstown Road Recycling Centre	Score (0-10)	Weight (0-5)	Weighted Score	Comment
	Site Constraints				
1	**Size of Site?	2	5	10	The shape of the site does not lend itself to the provision. Maximum 6 caravans.
2	Is the land in a SEPA flood map area?	10	5	50	No flood risk.
3	Is the land on the Contaminated Land Register?		0	0	
4	**Local Development Plan Issue?	5	5	25	Contrary to LDP, but previous use
5	Adequate space for parking, turning and servicing on site?	1	5	5	The size and shape of the site makes this difficult.
6	**Is there adequate and safe access?	0	5	0	The site is inappropriate in terms of access.
	Site Characteristics				
7	Allows capacity for growth?	0	3	0	No room at all.
8	Reasonably flat?	4	3	12	The site is on two levels, but there are flat sections
9	Hard Standing?	10	3	30	Yes
10	Readily available e.g. public ownership/willing landowner/vacant possession?	2	4	8	It is in Council ownership, but not in vacant possession. The timing of the relocation of the recycling centre is unknown.
11	Free from potential hazards? (pylons, etc)	4	3	12	There is fast moving traffic along Scotstown Road and there is a hazard.
12	Previously developed land?	10	3	30	
13	Adequate security arrangements (Privacy, screening, landscaping)	10	4	40	Good screening on all sides.
	Highway Issues				
14	Specific site access? (is there sharing of access)	4	3	12	The access is not adequate and there would be improvements required.
15	**Safe pedestrian access?	0	5	0	Totally inadequate.
16	**Access for emergency vehicles?	2	5	10	
17	Access to public transport?	3	2	6	500-600m from the site, but access to this will be difficult.
18	Impact on core path network?	10	3	30	No affect on core path network

	Infrastructure				
19	Access to water?	10	3	30	
20	Access to electricity?	10	2	20	
21	Access to drainage?	10	2	20	
22	Access to sewerage?	10	2	20	
23	Access to lighting?	10	2	20	
24	Waste Disposal?	10	2	20	
	Local Services				
25	Access to schools (capacity available)	7	4	28	Capacity at present, but education review may alter this.
26	Access to Primary health care (capacity available)	8	5	40	Close to Scotstwon Medical Centre and at Jesmond.
27	Access to Council owned community facilities	10	3	30	Bridge of Don Academy, Jesmond Centre.
28	Access to Food shops	8	2	16	Asda and Tesco
	Potential Environmental Impacts				
29	Is there an impact on international, national or local designated sites or species?	3	5	15	
30	Protected trees/woodland/designated areas?	7	4	28	
31	Compatibility with landscape?	9	4	36	
32	Greenspace network implications?	7	5	35	
	Amenity Areas				
33	Effect on the amenity of neighbouring properties e.g. Proximity and overlooking?	5	5	25	
34	Acceptable to Gypsies/Travellers?	8	5	40	Gypsy/Travellers like going to the BoD area and there has been a history of encampments in BoD.
35	Is the site located in acceptable surroundings away from industrial sites/motorways/rivers?	8	4	32	There is only a busy road.
	Total			735	
	Factor (calculated using five essential criteria identified by **)			0	$= ((1 \times 4 \times 6 \times 15 \times 16)^{1/5}) / 10$
	Overall Rank			0	$= \text{Factor} \times \text{Total}$

	Howes Road	Score (1-10)	Weight (0-5)	Weighted Score	Comment
	Site Constraints				
1	**Size of Site?	8	5	40	10 pitches
2	Is the land in a SEPA flood map area?	10	5	50	No flooding
3	Is the land on the Contaminated Land Register?		0	0	
4	**Local Development Plan Issue?	7	5	35	Part of a residential allocation
5	Adequate space for parking, turning and servicing on site?	10	5	50	
6	**Is there adequate and safe access?	10	5	50	
	Site Characteristics				
7	Allows capacity for growth?	5	3	15	Land surrounding is currently unoccupied and there is the potential to expand outwith the boundaries of this site.
8	Reasonably flat?	10	3	30	
9	Hard Standing?	10	3	30	
10	Readily available e.g. public ownership/willing landowner/vacant possession?	10	4	40	Site is in public ownership
11	Free from potential hazards? (pylons, etc)	10	3	30	
12	Previously developed land?	10	3	30	
13	Adequate security arrangements (Privacy, screening, landscaping)	2	4	8	
	Highway Issues				
14	Specific site access? (is there sharing of access)	8	3	24	
15	**Safe pedestrian access?	10	5	50	
16	**Access for emergency vehicles?	10	5	50	
17	Access to public transport?	10	2	20	
18	Impact on core path network?	8	3	24	
	Infrastructure				
19	Access to water?	9	3	27	
20	Access to electricity?	9	2	18	
21	Access to drainage?	9	2	18	
22	Access to sewerage?	9	2	18	
23	Access to lighting?	9	2	18	
24	Waste Disposal?	9	2	18	

	Local Services				
25	Access to schools (capacity available)	10	4	40	Capacity at Westpark and at Northfield Academy.
26	Access to Primary health care (capacity available)	10	5	50	
27	Access to Council owned community facilities	10	3	30	Sheddocksley Sports Centre
28	Access to Food shops	9	2	18	
	Potential Environmental Impacts				
29	Is there an impact on international, national or local designated sites or species?	10	5	50	
30	Protected trees/woodland/designated areas?	10	4	40	No affect on trees.
31	Compatibility with landscape?	2	4	8	
32	Greenspace network implications?	10	5	50	
	Amenity Areas				
33	Effect on the amenity of neighbouring properties e.g. Proximity and overlooking?	6	5	30	
34	Acceptable to Gypsies/Travellers?	4	5	20	There has been a group on this site, but there have been conflicts between the communities on this site.
35	Is the site located in acceptable surroundings away from industrial sites/motorways/rivers?	10	4	40	
	Total			1069	
	Factor (calculated using five essential criteria identified by **)			0.89	$= ((1 \times 4 \times 6 \times 15 \times 16)^{1/5}) / 10$
	Overall Rank			951	= Factor x Total

	Springhill Road	Score (1-10)	Weight (0-5)	Weighted Score	Comment
Site Constraints					
1	**Size of Site?	6	5	30	Space for 7 pitches, but the presence of a building would cause problems.
2	Is the land in a SEPA flood map area?	10	5	50	No.
3	Is the land on the Contaminated Land Register?		0	0	
4	**Local Development Plan Issue?	5	5	25	Urban Greenspace and the proposal would be a departure, but there is a non-conforming use.
5	Adequate space for parking, turning and servicing on site?	3	5	15	There would be limited remaining space on this site.
6	**Is there adequate and safe access?	4	5	20	
Site Characteristics					
7	Allows capacity for growth?	8	3	24	Demolition of building will create additional space
8	Reasonably flat?	10	3	30	
9	Hard Standing?	10	3	30	
10	Readily available e.g. public ownership/willing landowner/vacant possession?	10	4	40	
11	Free from potential hazards? (pylons, etc)	5	3	15	The building is a hazard as is Springhill Road
12	Previously developed land?	10	3	30	
13	Adequate security arrangements (Privacy, screening, landscaping)	1	4	4	Highly visible in the surrounding area.
Highway Issues					
14	Specific site access? (is there sharing of access)	5	3	15	
15	**Safe pedestrian access?	10	5	50	Good adopted footpath links
16	**Access for emergency vehicles?	10	5	50	Easy access from various locations.
17	Access to public transport?	10	2	20	
18	Impact on core path network?	2	3	6	Impact on adjacent core paths
Infrastructure					
19	Access to water?	9	3	27	
20	Access to electricity?	9	2	18	
21	Access to drainage?	9	2	18	
22	Access to sewerage?	9	2	18	

23	Access to lighting?	9	2	18	
24	Waste Disposal?	9	2	18	
Local Services					
25	Access to schools (capacity available)	10	4	40	Capacity at Westpark and at Northfield Academy.
26	Access to Primary health care (capacity available)	10	5	50	
27	Access to Council owned community facilities	10	3	30	
28	Access to Food shops	10	2	20	
Potential Environmental Impacts					
29	Is there an impact on international, national or local designated sites or species?	10	5	50	
30	Protected trees/woodland/designated areas?	10	4	40	
31	Compatibility with landscape?	1	4	4	
32	Greenspace network implications?	7	5	35	
Amenity Areas					
33	Effect on the amenity of neighbouring properties e.g. Proximity and overlooking?	2	5	10	
34	Acceptable to Gypsies/Travellers?	7	5	35	Expression of interest, but no historic encampments in this area.
35	Is the site located in acceptable surroundings away from industrial sites/motorways/rivers?	9	4	36	
Total				921	
Factor (calculated using five essential criteria identified by **)				0.65	= $((1 \times 4 \times 6 \times 15 \times 16)^{1/5}) / 10$
Overall Rank				599	= Factor x Total

The Howes Road site scored higher than any of the other two sites evaluated. This site scored particularly higher under the Site Characteristics criterion as it is reasonably flat, has existing hard standing (although there are areas of growth underfoot), and is readily available. The site is served by an existing footpath on the North side of Howes Road and a pavement exists on the South side up to the existing bus terminus. This provides good links to the local community facilities, Health and Schooling – of which there are many with sufficient capacity and neighbourhood shops, again which serve the area well. Junction visibility in and out of the site is good given its location.

The Howes Road site also scored higher under the Site Constraints criterion, particularly given its size as it is felt it could accommodate 10 pitches, and given its previous use, there would be adequate space for parking, turning and servicing on site. In terms of the Planning aspects to this site, again, this site scored higher than any of the other two. The site is identified for development in the Local Development Plan, site OP45. This is an allocation for housing and within the site a Gypsy Traveller Site could be acceptable, providing it does not prejudice the full delivery of the housing. This location would be a gateway to the development and to be acceptable there would be a need to minimise the visual impact of the development.

Next Steps

Consultation

In recognising that a better informed audience can have a greater understanding of the issues involved with this process and to explain the rationale behind the group's recommendations, the Council is committed to future detailed consultation with the specific community affected by the chosen site. It is proposed to consult further with;

Elected members in the multi-member ward affected
Planning and Asset Management
Gypsies/Travellers
Local communities and businesses

It is planned to use the Stakeholder Group to develop structured events so that most robust and thorough consultation can be realised. The consultation will include understanding concerns, mitigating concerns where possible through design (e.g. screening, roads access) or through management approach – supervision, CCTV, Police/City Warden patrols (following the Community Safety Hub focus), regular management meetings with local community. Although the consultation is intended to inform the community of its development it is not the opportunity to reject a site.

Planning

The development of short term halting sites requires planning permission. The precise nature of the process will be dependent on the location of the site and the nature or relevance of the objections to it. An established and separate consultation is required for this and once a site is chosen, we will be able to be more specific about what planning issues there are and what the correct process is.

Costs

A further report to the appropriate Council committee will bring forward costs appropriate to site and to identify the capacity of the site. The costs will be Capital to establish the site and Revenue to run the run the sites but Officers will also seek and source external funding opportunities.

6. IMPACT

Public – this report will generate significant public interest given the previous attempts to address this contentious issue.

7. BACKGROUND PAPERS

Policy & Strategy 29 November 2005
Council 15 August 2007
Council 21 November 2007
Area Committee South 29 November 2007
Area Committee South 21 February 2008
Area Committee North 23 September 2008
Policy & Strategy 7 October 2008
Policy & Strategy 2 December 2008
Council 1 March 2013
Council 1 May 2013

8. REPORT AUTHOR DETAILS

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Equality and Human Rights Impact Assessment:	
Policy / Project / Function:	Proposal for short-term halting sites
Date of Assessment:	1 August 2013
Assessment Pre-screening Rating: (See Completion Notes)	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"><input type="checkbox"/> Red</div> <div style="text-align: center;"><input type="checkbox"/> Red Amber</div> <div style="text-align: center;"><input type="checkbox"/> Amber</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Green</div> </div>
Reason for that decision	Green as this is likely to attract considerable media and public interest
Type of Assessment Performed: Please Tick ✓	Systematic Policy Assessment ✓ <input type="checkbox"/> Consultation <input type="checkbox"/> Meeting <input type="checkbox"/> Other <input type="checkbox"/>
Please list any other policies that are related to or referred to as part of this assessment	Management of Unauthorised Gypsy/ Traveller Encampments
Who does the policy, project or function affect ? Please Tick ✓	Employees <input type="checkbox"/> Service Users ✓ <input type="checkbox"/> Applicants <input type="checkbox"/> Members of the Public ✓ <input type="checkbox"/> Other (List Below) <input type="checkbox"/> Local residents and

	businesses
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Equality and Human Rights Impact Assessment:

<p>What are the aims and intended effects of this policy, project or function?</p>	<p>Redressing disadvantage by increasing accommodation provision for Gypsy/Travellers visiting the City to help meet clearly identified needs of Gypsy/ Traveller families.</p> <p>Better managed situation with unauthorised encampments</p> <p>Improved Community relationships</p> <p>Improved service and access to services for Gypsy/Travellers</p>
<p>What Equality Data is available relating to the use or implementation of this policy, project or function ? (See Completion notes)</p>	<p>We have limited intelligence on the Gypsies/Travellers that have been using the unauthorised encampments this year.</p>
<p>List the outcomes from any consultation e.g. with employees, service users, Unions or members of the public that has taken place in the development or implementation of this policy, project or function</p>	<p>The Stakeholders Group has included community representatives, whose views have helped shape and inform this proposal.</p> <p>Best Practice Research of UK Councils who are further ahead.</p> <p>Concept of short-term halting sites has been included within the recommendations of Scottish Government and Parliament Publications.</p> <p>There have been several consultations with Gypsies/ Travellers since 2001, which have identified the need for short-term halting sites.</p>

<p>Financial Assessment</p> <p>If applicable, state any relevant cost implications (e.g. expenses, returns or savings) as a direct result of implementing this policy, project or function</p>	<p>Costs (£)</p> <p>Implementation <input style="width: 100px; height: 20px;" type="text" value="£"/></p> <p>Projected Returns <input style="width: 100px; height: 20px;" type="text" value="£"/></p> <p>Projected Savings <input style="width: 100px; height: 20px;" type="text" value="£"/></p> <p>Costs for delivery of this have still to be developed. This year, the Council has spent £73,381 on clear up and legal costs for unauthorised encampments.</p>
<p>How does this proposal contribute to the public sector equality duty: to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations?</p>	
<p>With the proposed halting site, there will be space for accommodating Gypsy/ Traveller families with minimal service provision, who otherwise if there are no short-term halting sites and the Clinterty site is full, are effectively homeless. There will be a management framework with clear guidelines and operating principles, which reflect the rights, responsibilities and expectations, so that the halting sites benefit both Gypsies/Travellers and the settled community.</p> <p>Therefore this is a positive step which contributes to the public sector equality duty.</p>	

How does this proposal link to the Council's Equality Outcomes?

Equality Outcome 5: Effective customer service that is aware of the differences and requirements of different groups

Equality Outcome 19: Improved awareness, knowledge and understanding of diversity and equality

Equality Outcome 16: Accommodation which meets the needs, culture and lifestyle of Gypsy/ Travellers normally resident in and visiting, the city of Aberdeen.

Equality Impact Assessment Test:

What impact will implementing this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	Neutral Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
Age (People of all ages)				
Disability (Mental, Physical, Sensory and Carers of disabled)				
Gender Reassignment				
Marital Status (Married and Civil Partnerships)				
Pregnancy and Maternity				

Equality Impact Assessment Test:

What impact will implementing this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010*?

Protected Characteristic:	Neutral Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a <i>Genuine Determining Reason</i> exists
<p>Race (All Racial Groups including Gypsy/Travellers)</p>		√		<p>Redressing disadvantage by increasing accommodation provision for Gypsy/Travellers visiting the City to help meet clearly identified needs of Gypsy/ Traveller families.</p> <p>Better managed situation with unauthorised encampments</p> <p>Improved Community relationships between Settled community and the Gypsy/Traveller community.</p> <p>Improved service and access to services for Gypsy/Travellers</p>

Religion or Belief or Non-belief				
Sex (Women and men)				
Sexual Orientation (Heterosexual, Lesbian, Gay and Bisexual)				

Human Rights Impact Assessment Test:

Does this proposal have the potential to impact on an individual's Human Rights?

Yes ✓

No

<p>Evidence of impact and , if applicable, justification where the impact is proportionate</p>	
<p>Article 3: <i>Right not to be subjected to torture, inhumane or degrading treatment or punishment</i></p>	
<p>Article 6 <i>Right to a fair and public hearing</i></p>	
<p>Article 8 <i>Right to respect for private and family life, home and correspondence</i></p>	<p>Right to respect for the way of life (both local community & Gypsy/Travellers)</p>
<p>Article 10 <i>Freedom of expression</i></p>	
<p>Other article not listed above</p>	<p>Article 1 – Peaceful enjoyment of property (both residents and businesses) Article 2 – Right to education of Gypsy/Travellers Article 11 – Freedom of Association Article 14 – Ensure Gypsy/Travellers are not the subject of Racial Harassment</p>

Assessment Summary and Sign Off

Overall Assessment Rating:

(See Completion Notes)

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Red	Red Amber	Amber	Green

Reason for that decision

Green as this will have a positive impact for Gypsy/ Travellers

This Equality and Human Rights Impact Assessment was completed by:

(Name and Service)

Martin Smith
Housing Manager
Housing and Environment

Action Planning:

As a result of performing this assessment, what actions are proposed to remove or reduce any risks of adverse outcomes identified on employees, service users or other people who share characteristics protected by *The Equality Act 2010*?

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:
<p>Short-term halting sites will be managed and therefore should not be compared to unauthorised encampments, which arise on an ad-hoc basis. However, care needs to be taken also to protect the rights of local communities and businesses to respect for their private life and enjoyment of their properties.</p> <p>If the sites are seen not to work effectively, then there could be increased hostility between the Gypsy/ Traveller and settled community, and further reputational damage to the Council</p>	<p>That there is a continued role for the Stakeholder Group in helping to develop a management framework and a communication strategy to raise awareness of the issues around Gypsy/ Travellers and to build better relationships between Gypsy/ Travellers and the settled community.</p>	<p>Martin Smith</p>		



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Completion Notes:	
Assessment Pre-screening Rating:	<p>This section will highlight where there is the obvious potential for a negative impact and subsequent risk of negative media coverage and reputational damage to the council. Therefore a full impact assessment is required, for example around sensitive issues such as marching, Gypsy/ Traveller issues, change to social care provision.</p> <p>It should also be completed to evidence why a full impact assessment was not required, for example, where there is no potential negative impact on people.</p>
Assessment Rating:	<p>After completing this document, rate the overall assessment as follows:</p> <p>Red: As a result of performing this assessment, it is evident that we will discriminate (direct, indirect, unintentional or otherwise against one or more of the nine groups of people who share <i>Protected Characteristics</i>. It is essential that the use of the activity or policy be suspended until further work or assessment is performed and the discrimination is removed.</p> <p>Red Amber: As a result of performing this assessment, it is evident that a risk of negative impact exists to one or more of the nine groups of people who share <i>Protected Characteristics</i>. However, a genuine determining reason may exist that could legitimise or justify the use of this activity or policy and further professional advice should be taken.</p> <p>Amber: As a result of performing this assessment, it is evident that a risk of negative impact exists and this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.</p> <p>Green: As a result of performing this assessment, the policy or activity does not appear to have any adverse impacts on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.</p>
Equality Data:	<p>Equality data is internal or external information that may indicate how the activity or policy being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as ‘<i>Equality Groups</i>’.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <ol style="list-style-type: none"> 1: Application success rates by <i>Equality Groups</i> 2: Complaints by <i>Equality Groups</i> 3: Service usage and withdrawal of services by <i>Equality Groups</i> 4: Grievances or decisions upheld and dismissed by <i>Equality Groups</i>
Genuine Determining Reason	<p>Certain discrimination may be capable of being justified on the grounds that:</p> <ol style="list-style-type: none"> (i) <i>A genuine determining reason exists</i> (ii) <i>The action is proportionate to the legitimate aims of the organisation</i> <p>Where this is identified, it is recommended that professional and legal advice is sought prior to completing an Equality Impact Assessments.</p>
Human Rights	<p>The rights set out in the European Convention on Human Rights, as incorporated into the UK Law by the Human Rights Act 1998.</p>
Legal Status:	<p>This document is designed to assist us in “<i>Identifying and eliminating unlawful Discrimination, Harassment and Victimisation</i>” as required by <i>The Equality Act Public Sector Duty 2011</i>. An Equality Impact Assessment is not, in itself, legally binding and should not be used as a substitute for legal or other professional advice.</p>

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ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	21 August 2013
DIRECTOR	Pete Leonard
TITLE OF REPORT	Update on a Proposed Byelaw regarding Camping in Designated Areas
REPORT NUMBER:	H&E/13/039

1. PURPOSE OF REPORT

This report provides Council with an update on the actions taken since the meeting of 1 May 2013 and seeks agreement on pursuing dialogue with the Scottish Government on the principle of a proposed byelaw to prevent camping on sensitive areas such as public parks.

2. RECOMMENDATION(S)

It is recommended that Council:

- (a) Instruct the Head of Legal and Democratic Services to pursue dialogue with the Scottish Government on the principle of such a byelaw
- (b) Instruct the Director of Housing and Environment to report back in due course on progress.

3. FINANCIAL IMPLICATIONS

There are no immediate financial implications associated with exploring the potential for a byelaw. Should the Council in due course decide to approve a draft byelaw and Scottish Ministers in due course confirm a byelaw then costs of approximately £2,000 would be incurred in placing a press advert in accordance with the Local Government (Scotland) Act 1973 and erecting signage for the identified areas. Costs would be obtained from operational revenue budgets.

4. OTHER IMPLICATIONS

Legal – There is a procedure to be followed for making byelaws, as set out in Appendix I to this Report. This is a two stage process involving wide consultation prior to reaching a decision formally to approve a draft byelaw. Guidance expects early dialogue with the Scottish Government to canvass whether the basic principle of the proposed

byelaw is likely to be supported. There is also a requirement to consult with all stakeholders over a proposed draft.

Equalities and Human Rights issues need to be considered in the context of the Council's public sector equality duty as set out in s149 (1) of the Equality Act 2010.

The Council has a continuing obligation to designate places where Gypsies/Travellers may camp and failure to designate sufficient places may be a consideration for the Scottish Government.

Even if a byelaw is in due course approved by the Scottish Government, this may prove difficult to enforce with regard to payment of fines, particularly when dealing with people without any fixed address.

5. BACKGROUND/MAIN ISSUES

At the Council meeting of 1 May 2013, members considered a report by the Director of Housing and Environment which sought agreement on the principle of attempting to establish a byelaw to prevent camping on sensitive areas in the city, and on suggested draft wording of the offence to be created thereby.

Progress

Since the Council decision in May, the Council Leader has written to the Scottish Government on 29 May 2013 (appendix II) and received a response from the Minister on 25 June 2013 (appendix III).

Members will be aware that there are clear links between the work that the Council is undertaking in respect of identification of short term halting sites for Gypsies/Travellers and the development of a byelaw and the ongoing review that the Equal Opportunities Committee of the Scottish Government is considering

Legal Services have also written to officers at the Scottish Government to commence dialogue on the principle of a byelaw to prevent unauthorised camping. No response has been received to date.

In response to the issues raised by members at the Council meeting on 1 May 2013 officers have done further work in relation to the short term halting site (see separate report on agenda) and on the EIHRA (Equalities and Human Rights Impact Assessment) on a proposed byelaw and that assessment is attached (appendix IV)

The aim of this proposal is to prevent people from camping on the most sensitive, high profile public places, where the adverse visual and other physical consequences of encampments are likely to attract the most attention together with complaints and negative media coverage.

All of our recent experiences with unauthorised encampments have involved Gypsies/Travellers. This is one of series of steps intended to address the issues taking account of the Council's public sector equality duty. It is considered that a byelaw preventing camping in specified places may help foster good relations in that tensions may ease between the settled community and Gypsies/Travellers if the potential negative impact of, and negative media coverage on unauthorised encampments on designated places were to cease. Relationships between Gypsies/Travellers and the settled communities will be significantly improved if there were no unauthorised encampments in these very visible and sensitive areas. Clarity on the legal status of these sites will enable Gypsies/Travellers to make more informed choices about the suitability of sites for unauthorised encampments. Furthermore, there will be no automatic applications for eviction – as all unauthorised encampments outwith these sensitive areas will be (as they are now) treated on their merits and also adherence to the Council's Good Neighbour Code, therefore reducing the overall number of evictions served on Gypsies/Travellers.

The EIHRA process serves to set out to elected members and officers the range of potential impacts, both negative and positive, which may potentially arise as an impact of this proposal. This is our evidence that we have paid due regard to equality as these impacts are taken into account and weighted up as decisions are being made. The EIHRA, through its gathering of research and consultation, highlights issues that the decision-makers may not have considered earlier.

If this proposal was taken in isolation and the Council was doing nothing else about providing alternative accommodation, then the Council could be at risk of failing to meet its equality duty. However, the Council is committed to Equality Outcome 16, 2013-17 "Accommodation that meets the needs, culture and lifestyle of Gypsies/Travellers normally resident in, and visiting, the city of Aberdeen.

The Council is actively pursuing the provision of a short term halting site with the expected timetable for this to be available for use in approximately 12 months. A stakeholder group of relevant agencies with representatives from the settled and Gypsies/Travellers community is driving this proposal forward. It is recognised that there needs to be wider engagement with Gypsies/Travellers and also with the public and media to raise their awareness of the need to deliver on this proposal.

By linking the bye-law to the development of short term halting sites, the proposal may help to foster good relations by improving relations between Gypsies/ Travellers and the settled community as a result of reduced tensions due to fewer unauthorised encampments.

Frequent negative media coverage is generated by the constant setting up and eviction of unauthorised encampments – each eviction generates a new news story. This has a negative impact in terms of discrimination, harassment and victimisation. One desired outcome of this proposal is to significantly reduce the number of unauthorised encampments in high profile places, which in turn would reduce the incidence of negative media cover.

Similarly, a reduction in the turnover of sites, together with the provision of formal alternatives may present an element of stability for Gypsy/Traveller families. This may provide an opportunity to advance equality in terms of access to services such as education and health.

However, there are no guarantees that these potential benefits may arise.

An alternative outcome may be that the proposal may give rise to an “us and them situation” in two ways. First, it has the potential to polarise views of the general public against the Gypsies/Traveller community. Second, this proposal applies to public land only and offers no solution to private landowners, who may feel aggrieved if there is subsequently an increase in the number of unauthorised encampments moving onto private land from public land as a result of this proposal.

6. IMPACT

Public – this report will generate significant public interest given the previous attempts to address this contentious issue.

Equalities – there are equalities and human rights impacts as set out in the EHRIA attached (Appendix V)

7. BACKGROUND PAPERS

Council report – 1 May 2013

8. REPORT AUTHOR DETAILS

Martin Smith
Housing Manager
martinsmith@aberdeencity.gov.uk
788538

Appendix I

MAKING A BYELAW

Drafting and Consulting

Byelaws must be made in accordance with the procedure set out in S202 of the Local Government (Scotland) Act 1973. In terms of best practice, it is prudent to carry out extensive preparatory work prior to commencing the formal procedure for creating byelaws. This includes determining the legality and scope of the proposed byelaw. An early dialogue with the Scottish Government is also essential in order to canvass whether the basic principle of the proposed byelaw is likely to be supported. It is generally a good idea to submit an early draft to the Scottish Government for comment. This can often be the lengthiest part of the process, however it is generally worthwhile insofar as it provides an opportunity for early reconsideration and adjustment of the extent of the proposed byelaw in order to ensure Scottish Government approval. It is also important to commence consultation with relevant stakeholder groups over the proposed draft.

Once the consultation exercise is complete, the draft byelaw will require to be approved by an appropriate meeting of the Council. Thereafter, it requires to be signed by a Proper Officer of the Council and sealed with the Council's Common Seal in order for it to be authenticated. The byelaws will not take effect unless and until they are confirmed by the Confirming Authority (Scottish Ministers).

Confirming the Byelaw

Byelaw Confirmation Process

At least one month before an application for confirmation of the byelaw is made (to the Scottish Ministers), notice of the intention to apply for confirmation must be published. This must be in a newspaper circulating in the area to which the byelaw is to apply, or in another manner that the Scottish Ministers determine sufficient. This notice must include details of the place where a copy of the byelaw may be inspected and the party to whom objections should be submitted (normally the Scottish Ministers). It should also detail the deadline for submission of objections. Generally, the Council makes a copy available at Council offices such as the Customer Service Centre in Marischal College. Access should be made available to the public during reasonable hours without payment.

Any person may make an objection to the draft byelaw within the one month notice period. Objections must be in writing and must be submitted within the applicable time period.

Once the notice period has expired, the Council may then apply to the Scottish Ministers for confirmation of the byelaw. The Scottish Ministers will assess the subject matter and extent of the byelaw and will give consideration to any objections lodged in response to the notice. The Scottish Ministers may, if they consider it necessary, hold a local inquiry or cause one to be held.

The Scottish Ministers have the power to confirm, modify or refuse the byelaw. Where a byelaw is confirmed then the Scottish Government shall fix the date on which the byelaw will become operational. Upon receipt of the confirmation of the byelaw, the Council is required to publish a further notice advising that the byelaw has been confirmed and the date it comes into operation. As with the original notice, this must be in a newspaper circulating the area the byelaw is to effect.

A register of all byelaws must be kept at the Council offices (usually in the Legal Department) and must be open for inspection by the public.

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Your Ref.
Our Ref. BC/CM/EM
Contact Barney Crockett
Email bcrockett@aberdeencity.gov.uk
Direct Dial 01224 522841
Direct Fax 01224 648940



ABERDEEN
CITY COUNCIL

29 May 2013

Kenny MacAskill MSP
Cabinet Secretary for Justice
The Scottish Government

Aberdeen City Council
Town House
Broad Street
Aberdeen AB10 1FY

Email scottish.ministers@scotland.gsi.gov.uk

Tel 01224 522841
Minicom 01224 522381
DX 529451, Aberdeen 9
www.aberdeencity.gov.uk

Dear Cabinet Secretary

Proposed Byelaw regarding Camping in Designated Places

At its meeting earlier this month Aberdeen City Council considered a report by officers which sought the agreement of the Council on the principle of attempting to establish a Byelaw to prevent camping on sensitive areas in the City such as public parks.

The need to seek a local response as envisaged by a proposed Byelaw is born out of local pressures caused by the unprecedented scale of the number of unauthorised encampments currently being experienced in Aberdeen. Officers are currently working to finalise the wording of the proposed Byelaw offence, but in the meantime as requested by the Council, I am writing to you to seek your support in providing ministerial approval for such a Byelaw.

I would of course be delighted to discuss this issue with you in further detail and I look forward to hearing from you.

Yours sincerely

Councillor Barney Crockett
Council Leader

MEMBER FOR DYCE/BUCKSBURN/DANESTONE



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Minister for Commonwealth Games and Sport
Shona Robison MSP

T: 0845 774 1741
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Councillor Barney Crockett
Aberdeen City Council
Office of the Chief Executive
St. Nicholas House
Broad Street
Aberdeen
AB10 1FY



Your ref: BC/CM/EM
Our ref: 2013/0014061
25 June 2013

Dear Cllr Crockett,

Thank you for your letter of 29 May to the Cabinet Secretary for Justice, Kenny MacAskill MSP regarding the proposed byelaw to prevent camping on sensitive areas of the city. I have ministerial responsibility for the Equality portfolio – other than same sex marriage – therefore your letter has been passed to me to reply.

As you will be aware the Equal Opportunities Committee has recently undertaken a third review of Gypsies/Travellers and published 2 reports, 'Gypsy/Travellers and Care' and 'Where Gypsy/Travellers Live'. We are currently considering how to respond to the recommendations in the Committee's 'Where Gypsy/Travellers Live' and will do so prior to summer recess. A copy of the report can be found at: <http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/61579.aspx>

We will consider carefully any byelaw that is proposed and sent to the Scottish Ministers for confirmation.

I hope you find this response helpful.

Yours sincerely
Shona Robison

Shona Robison

Equality and Human Rights Impact Assessment - the Form

There are separate guidance notes to accompany this form – “Equality and Human Rights Impact Assessment – the Guide.” Please use these guidance notes as you complete this form. Throughout the form, **proposal** should be understood broadly to include the full range of our activities and could refer to a decision, policy, strategy, plan, procedure, report or business case, embracing a range of different actions such as setting budgets, developing high level strategies and organisational practices such as internal restructuring. Essentially everything we do!

STEP 1: Identify essential information

1. Committee Report No.

2. Name of proposal.

3. Officer(s) completing this form.

Name	Designation	Service	Directorate
Martin Smith	Housing Manager	Housing & Environment	

4. Date of Impact Assessment.

5. When is the proposal next due for review?

6. Committee Name.

7. Date the Committee is due to meet.

8. Identify the Lead Council Service and who else is involved in delivering this proposal (for example other Council services or partner agencies).

Housing and Environment, Police Scotland

9. Please summarise this Equality and Human Rights Impact Assessment (EHRIA). This must include any practical actions you intend to take or have taken to reduce, justify or remove any adverse negative impacts. This must also include a summary of how this proposal complies with the public sector equality duty for people with protected characteristics - see Step 2. **Please return to this question after completing the EHRIA.**

An EHRIA was carried out on this proposal, which is intended to avoid anyone camping on sensitive areas (such as public parks). We want to prevent people from camping on the most high profile, public places, where encampments are likely to attract the most attention and complaints and negative media coverage.

This will help foster good relations in that tensions may ease between the settled community and Gypsy/ Travellers if the potential negative impact of, and negative media coverage on, unauthorised encampments on the listed places were to cease.

The EHRIA process serves to set out for elected members and officers the range of potential impacts, both negative and positive, which may potentially arise as an impact of the proposal. This is our evidence that we have paid due regard to equality as these impacts are taken into account and weighed up as decisions are being made. The EHRIA, through its gathering of research and consultation, highlights issues that the decision-makers may not have considered earlier.

If this proposal was taken in isolation and the council was doing nothing else about providing alternative accommodation, then the council could be at risk of failing to meet their equality duty. However, the council is committed to Equality Outcome 16, 2013-17 "Accommodation that meets the needs, culture and lifestyle of Gypsy/ Travellers normally resident in, and visiting, the city of Aberdeen."

The council is actively pursuing the provision of a halting site with the expected timetable for this to be available for use approximately 12 months. A stakeholder group of relevant agencies with representatives from the settled and the Gypsy/Traveller community is driving this proposal forward and has made a recommendation for Council (see separate report). It is recognised that there needs to be wider engagement with Gypsy/Travellers and also with the public and media to raise their awareness of the need to deliver on this proposal.

10. Where will you publish the results of the Equality and Human Rights Impact Assessment? Tick which applies.

Para 9 of EHRIA will be published in committee report in Section 6 “Impact”

Full EHRIA will be attached to the committee report as an appendix

Copied to Equalities Team to publish on the Council website

STEP 2: Outline the aims of the proposal

11. What are the main aims of the proposal?

The proposal is the principle of attempting to establish a byelaw to prevent camping on sensitive areas (such as public parks). Initial draft wording as a basis for further work is as follows:

“Any person who-

(a) sets up, parks, occupies or uses a caravan or camper van,

(b) sleeps outdoors at any time between the hours of 10.00pm and 6.00am, or

(c) sleeps in a vehicle, or occupies a vehicle in circumstances whereby it is reasonable to infer that that person intended to sleep in that vehicle, at any time between those hours,

Within a designated place shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale”.

12. Who will benefit most from the proposal?

The council, the public, council tax payer, the settled community and local businesses in the immediate vicinity if they are being adversely affected by unauthorised encampments.

13. You should assess the impact of your proposal on equality groups and tell us how implementing this proposal will impact on the needs of the public sector equality duty to: eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations.

To comply with the General Duty, Aberdeen City Council must have due regard to all three of these elements.

If the council were to proceed with this bye-law in the absence of doing anything positive and proactive to find suitable, alternative provision of accommodation for Gypsy/Travellers, then this proposal may constitute indirect discrimination as it will potentially impact more negatively on Gypsy/ Travellers than any other group, who we acknowledge do not have adequate stopping places, both locally and nationally.

However, given that the proposal for a bye-law is being linked to the development of short term halting sites, the proposal may help to foster good relations by improving relations between Gypsies/ Travellers and the settled community as a result of reduced tensions due to fewer unauthorised encampments.

Equality and Human Rights Impact Assessment – the Form.

Frequent negative media coverage is generated by the constant setting up and eviction of unauthorised encampments – each eviction generates a new news story. This has a negative impact in terms of discrimination, harassment and victimisation. One desired outcome of this proposal is to significantly reduce the number of unauthorised encampments in high profile places, which in turn would reduce the incidence of negative media cover.

Similarly, a reduction in the turnover of sites, together with the provision of formal alternatives may present an element of stability for Gypsy/Traveller families. This may provide an opportunity to advance equality in terms of access to services such as education and health.

However, there are no guarantees that these potential benefits may arise.

An alternative outcome may be that the proposal may give rise to an “us and them situation” in two ways. First, it has the potential to polarise views of the general public against the Gypsies/Traveller community. Second, this proposal applies to public land only and offers no solution to private landowners, who may feel aggrieved if there is subsequently an increase in the number of unauthorised encampments moving onto private land from public land as a result of this proposal.

STEP 3: Gather and consider evidence

15. What **evidence** is there to identify any potential positive or negative impacts in terms of involvement, consultation, research, officer knowledge and experience, equality monitoring data, user feedback and other? You must consider relevant evidence, including evidence from equality groups.

We know that there is a nationwide and local shortage of official stopping places for Gypsy/Travellers. We have recognised this in developing an Equality Outcome 2013-17 “Accommodation that meets the needs, culture and lifestyle of Gypsy/Travellers normally resident in, and visiting, the city of Aberdeen.”

Any impact on this group should therefore be taken in light of the commitment that has been made and the relevant legislation, i.e. that there should be no less favourable treatment for this group. Overnight camping en route to a destination is fundamental to the practice of Gypsy and Travelling lifestyle.

The lack of site provision has often been cited as the cause of increased tensions between Gypsy/Travellers and the settled community. At the Dialogue Day 2011, there was consensus that in order for relations to improve significantly and sustainably some form of increased site provision would be necessary.

The issues arising from some unauthorised encampments have shown that there must be an improvement in relations between Gypsy/Travellers and the settled community.

The most recent report of the Scottish Parliament Equal Opportunities Committee (March 2013) on “Where Gypsy/Travellers Live” said that

Equality and Human Rights Impact Assessment – the Form.

“The Equal Opportunities Committee is painfully aware of the utter frustration expressed by the Gypsy/Traveller community at numerous published reports making positive recommendations that have frankly been ignored for over a decade. Our report demands urgent action.”

Returning to our newly published Equality Outcomes, the Council has agreed Outcome 7, “Improved opportunities for people with protected characteristics to participate in public life.” Given that this proposal is going to have a direct impact on the Gypsy/Traveller community, then more evidence should be taken from representatives of that community.

Given the short consultation time, it was only possible to take evidence from one family of 4 Gypsy/Travellers. Since the Gypsy/Traveller community is not a homogenous group and families tend to speak for themselves, then further consultation is required. This particular family group was in favour of the proposal, saying that these are public spaces and that they do not think it is appropriate for groups to use these. This was tempered with the point they made that there is nowhere obvious that Gypsy/ Travellers are allowed to go and so they are being reduced to using these kinds of locations.

We have consulted on this proposal previously with members of the Grampian Gypsies/Traveller Inter-Agency Group, which includes Police Scotland, Grampian Regional Equality Council and the two neighbouring local authorities as well as the Council’s Race Equality Officer. Their contribution is set out below:

“The Grampian Gypsy/ Traveller Inter-agency Group does not see how this proposal adds value when there are already clear existing procedures in place for dealing with unauthorised encampments by Gypsy/ Travellers within the council’s policy and Scottish Government (formerly Scottish Executive) guidelines.

The report does not make clear how this proposal will work in practice, and, given that there are as yet no identified temporary halting sites within Aberdeen city, it sends out the wrong message to the public and the media. There is a risk that this will raise public expectations that we can provide a faster response to unauthorised encampments as they arise and also a risk that it may confuse the bigger picture around the need to address the local and nationwide shortage of suitable sites. Until very recently some of the sites on the list now deemed unsuitable were up for consideration as potential sites.

Finally, if the council is to be seen as meeting its legal duty to foster good relations between different groups (Equality Act 2010), then the proposal should extend to private land as well as land in public ownership, so that private landowners are offered the same protection and cover as the public authorities.”

STEP 4: Assess likely impacts on people with Protected Characteristics

16. Which, if any, people with protected characteristics and others could be affected positively or negatively by this proposal? Place the symbol in the relevant box.

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Be aware of cross-cutting issues, such as older women with a disability experiencing poverty and isolation.

(Positive +, neutral 0, - negative)

Protected Characteristics					
Age - Younger Older		Disability		Gender Reassignment*	
Marriage or Civil Partnership		Pregnancy and Maternity		Race**	-ve and +ve
Religion or Belief		Sex (gender)***		Sexual orientation****	
Others e.g. poverty	+ve -ve	Settled community Private landowners			

Notes:

* Gender Reassignment includes Transsexual

** Race includes Gypsy/Travellers

*** Sex (gender) i.e. men, women

**** Sexual orientation includes LGB: Lesbian, Gay and Bisexual

17. Please detail the potential positive and/or negative impacts on those with protected characteristics you have highlighted above.

In making the assessment you must consider relevant evidence, including evidence received from individuals and equality groups. Having considered all of these elements, you must take account of the results of such assessments. This requires you to consider taking action to address any issues identified, such as removing or mitigating any negative impacts, where possible, and exploiting any potential for positive impact. If any adverse impact amounts to **unlawful discrimination**, the policy must be amended to avert this. Detail the impacts and describe those affected.

Positive impacts (describe protected characteristics affected)	Negative Impacts (describe protected characteristics affected)
Relationships between Gypsies/ Travellers and the settled communities will be significantly improved if there are no unauthorised encampments in these very visible and sensitive areas.	This may further alienate Gypsies/Travellers and drive them more into the margins of society. The proposal may lead to a hardening of attitudes against Gypsies/Travellers and result in more polarised attitudes and entrenched positions, with the perception of the mainstream society being seen as the

Equality and Human Rights Impact Assessment – the Form.

<p>There will be no automatic applications for eviction - all unauthorised sites outwith these sensitive areas will be (as they are now) treated on their merits and also on adherence to the council's good neighbour code. This has the potential to reduce the overall number of evictions served on Gypsies/Travellers.</p> <p>Clarity on the legal status of these sites will enable Gypsies/Travellers to make more informed choices about the suitability of sites for unauthorised encampments.</p>	<p>“winners” in a win-lose situation, those with most power, influence and voice in society being seen to use it successfully against the least powerful in society.</p> <p>There may be increased tension between Gypsies/ Travellers and private landowners, should Gypsies/ Travellers be displaced onto private land.</p> <p>There is the possibility of private landowners feeling aggrieved as the local authority has the power to protect its land, while offering no protection or succour to private landowners and thereby creating even more hostility towards Gypsies/ Travellers, who may choose to use more private land for their camps, and damaging further the reputation of the council.</p> <p>If evictions are progressed the Gypsies/ Travellers will have no alternative provision. Clinterty Site is full and operates a waiting list.</p> <p>Potential homelessness of Gypsies/Travellers being evicted with children on site adding to stress, more limited access to education and health care through the continual moving on of Gypsies/Traveller families.</p> <p>Clinterty is full and there is no other official site provision. There are already clear guidelines within the Scottish Government (formerly Executive) and the Council’s Policy on Managing Unauthorised Encampments by Gypsies/Travellers and reference is made to the unsuitability of high profile sites and public parks within the council’s policy and Good Neighbour Code.</p>
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STEP 5: Human Rights - Apply the three key assessment tests for compliance assurance

18. Does this proposal/policy/procedure have the potential to interfere with an individual's rights as set out in the Human Rights Act 1998? State which rights might be affected by ticking the appropriate box(es) and saying how. **If you answer "no", go straight to question 22.**

- Article 3 – Right not to be subjected to torture, inhumane or degrading treatment or punishment
- Article 6 – Right to a fair and public hearing
- Article 8 – Right to respect for private and family life, home and correspondence
- Article 10 – freedom of expression
- Other article not listed above

How?

Potential situation of Gypsy/ Travellers being homeless.(Article 8)

Legality

19. Where there is a potential negative impact is there a legal basis in the relevant domestic law?

The right to promote a byelaw for the good rule and government of the whole or part of the area for the prevention or suppression of nuisances.

Legitimate aim

20. Is the aim of the policy identified in Steps 1 and 2 a legitimate aim being served in terms of the relevant equality legislation or the Human Rights Act?

The aim of the proposal to address an ongoing and increasing difficult situation with the intention of improving the situation for both Gypsies/Travellers and the settled community is intended (along with other Council initiatives mentioned) to support eliminating discrimination, harassment and victimisation, advance equality of opportunity and foster good relations which is a legitimate aim and therefore complies with the public sector equality duty.

Proportionality

21. Is the impact of the policy proportionate to the legitimate aim being pursued? Is it the minimum necessary interference to achieve the legitimate aim?

The limiting of the proposal to designated areas only is considered the minimum necessary to achieve the legitimate aim. See paras 13 and 15 above.

STEP 6: Monitor and review

22. How will you monitor the implementation of the proposal? (For example, customer satisfaction questionnaires)

Monitored through feedback given to the Council's Gypsy/ Traveller Liaison Officer during/after eviction.
Media coverage/complaints from public and businesses.

23. How will the results of this impact assessment and any further monitoring be used to develop the proposal?

The Policy on managing unauthorised encampments is reviewed at least annually and takes account of our learning experience and evidence from Gypsy/Travellers, settled community and our partners. The policy would be reviewed in conjunction with this proposed byelaw.

STEP 7 SIGN OFF

The final stage of the EHRIA is formally to sign off the document as being a complete, rigorous and robust assessment.

Person(s) completing the impact assessment.

Name	Date	Signature
Martin Smith	9 August 2013	

Quality check: document has been checked by

Name	Date	Signature
Sandra Bruce	9 August 2013	

Head of Service (Sign-off)

Name	Date	Signature
Donald Urquhart	9 August 2013	

Now –

Please send an electronic copy of your completed EHRIA - without signatures - together with the proposal to:

Equalities Team
Customer Service and Performance
Corporate Governance
Aberdeen City Council
Business Hub 13
Second Floor North

Equality and Human Rights Impact Assessment – the Form.
Marischal College
Broad Street
Aberdeen
AB10 1AB

Telephone 01224 523039 Email sandrab@aberdeencity.gov.uk

Status: This version of this provision is prospective.
Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Equality Act 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)



Equality Act 2010

2010 CHAPTER 15

PART 11

ADVANCEMENT OF EQUALITY

CHAPTER 1

PUBLIC SECTOR EQUALITY DUTY

PROSPECTIVE

149 Public sector equality duty

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

Status: This version of this provision is prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Equality Act 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) tackle prejudice, and
 - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
- (7) The relevant protected characteristics are—
 - age;
 - disability;
 - gender reassignment;
 - pregnancy and maternity;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation.
- (8) A reference to conduct that is prohibited by or under this Act includes a reference to—
 - (a) a breach of an equality clause or rule;
 - (b) a breach of a non-discrimination rule.
- (9) Schedule 18 (exceptions) has effect.