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## NORTH AYRSHIRE COUNCIL

24<sup>th</sup> August 2022

### Planning Committee

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<b>Title:</b>	<b>Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997: Site To North Of 4 Greenhead Holding, Stevenston</b>
<b>Purpose:</b>	To seek approval to serve a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring cessation of the use of the land for the siting of a caravan
<b>Recommendation:</b>	That the Committee grants authority for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 requiring cessation of the use of the land for the siting of a caravan

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### 1. Executive Summary

- 1.1 To seek authority to serve an Enforcement Notice requiring cessation of the use of the land for the siting of a caravan at a site to the North of 4 Greenhead Holding, Stevenston, which would include removal of the caravan from the land.
- 1.2 The site is a small agricultural unit, previously known as Hillside Nursery. There is already a caravan on the site which was investigated in 2018 and found to be immune from Planning control by virtue of having been sited for more than 10 years. The caravan was being used for comfort for those working on site and was not lived in. The unit was being used for farming of cattle at that time.
- 1.3 A second caravan was noted to have been placed on site in 2021. The owner of the site has not responded to any requests for information regarding the second caravan. However, it cannot have been placed on site before November 2018. The second caravan is not considered to be required ancillary development for an existing rural business. There is no support under the adopted Local Development Plan (LDP) for the siting of a caravan in this location for residential purposes. The second caravan is considered contrary to the policies of the LDP and there are no material considerations to the contrary.

### 2. Background

- 2.1 The site was previously a market garden, an agricultural use as defined by the Town and Country Planning (Scotland) Act 1997. A complaint was received in 2018 about the possibility of dog breeding taking place on the land. The issue was investigated, and

the land found primarily to be used to house cattle, and therefore remained in agricultural use. It was also noted that a caravan was sited on the land. The then owner and tenant confirmed that a caravan had been in situ for at least 10 years prior to 2018 and was used only for comfort of those working the agricultural unit.

- 2.2 The then owner and tenant were advised in writing in 2018 of the planning situation and confirming that planning permission would be required should the caravan be lived in.
- 2.3 In April 2021, the tenant bought the property and became the owner. The new owner wrote to the Council in May 2021 asking for an address for the caravan with the intention to live in it. The owner was advised by letter that Planning Permission would be required, as previously advised in 2018. The owner was also advised that Planning Permission would be unlikely to be granted for a residential caravan unless there was a site-specific need. As the site was some 250m from the Stevenston it was not clear that such a need existed. No response was received.
- 2.4 In August 2021 a complaint was received that two caravans were on site and that earth works were taking place. The owner was advised by letter to remove one of the caravans within 6 weeks. No response was received.
- 2.5. As no response was received to the previous correspondence and because it was difficult to view the full extent of works from outwith the site, a Planning Contravention Notice (PCN) was issued in January 2022. A PCN is a legal questionnaire which sought more information about the second caravan, its use and the other alleged works at site. Not responding to a PCN is an offence. No response has been received. Further correspondence to the landowner in the summer of 2022 has not elicited a response.
- 2.6 At some point between November 2018 and August 2021 a second caravan has been sited on the land. It has only been in situ for between 1 year and 3 years 9 months. Given the e-mail from the landowner of May 2021, it is likely that the second caravan was sited some time between May 2021 and August 2021 i.e., 1 year ago.
- 2.7 It has not been possible to gain access to the land to confirm the use of the caravan. Therefore, it is not clear if the caravan is being lived in or is being used as ancillary development to the agricultural use. The owner has ignored all opportunities to confirm the use.
- 2.8 The Council's LDP supports housing in the countryside only in exceptional circumstances. The second caravan does not meet these circumstances. A caravan by its nature is not an exceptional design, nor does the siting comprise a sensitive infilling of a gap site or comprise a sympathetic addition to a well-defined group of houses. The caravan may be being used as a housing for a worker engaged in agriculture but there is no evidence to support this point. It is not considered that there is a specific need for such housing on this site given the proximity to the settlement.
- 2.9 The Council's LDP supports ancillary development for existing rural businesses. The site has a lawful agricultural use and there is no evidence of the site not being used for agriculture. A caravan already exists for the comfort of any workers engaged in agriculture on the land. It is not considered that another caravan is required for that purpose. Therefore, it is not considered that the siting of the second caravan is

ancillary development. There are no permitted development rights in respect of siting a caravan on agricultural land.

2.10 Whilst the caravan is not readily visible from outwith the site, the cumulative impact of two caravans is considered to have an adverse impact on the visual appearance of the area. The siting of the caravan is inappropriate development in a rural area and is contrary to Strategic Policy 1: The Countryside Objective and Strategic Policy 2: Placemaking of the LDP.

2.11 Given the above, it is recommended that authority for the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997, as amended, (an "Enforcement Notice") be approved. An Enforcement Notice would require the cessation of the use of the site for the siting of the second caravan and the removal of the caravan itself from the land. The Notice would take effect not less than 35 days from the date on which it is served.

2.12 There is a right of appeal against such a Notice. However, an appeal cannot be made on the grounds that planning permission should be granted. The owner has been given opportunity to provide evidence as to why the caravan may be lawful but has failed to do so. The Council could report those responsible for complying with an Enforcement Notice to the Procurator Fiscal, should its requirements not be met. The Council could also enter the land and undertake direct action to ensure compliance with such a Notice.

### **3. Proposals**

3.1 In the interest of the amenity of the area and to remove inappropriate development from a rural area, development which is contrary to Strategic Policy 1: The Countryside Objective and Strategic Policy 2: Placemaking, that the Committee approve the service of a Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997 to require the following:

- (i) Cessation of the use of the land for the siting of a caravan and the removal of the caravan, as identified in the attached plan, and any associated structures, within 6 weeks of the date of the Notice taking effect.

### **4. Implications/Socio-economic Duty**

#### **Financial**

4.1 Enforcement Notices give the Council the right to carry out direction action, if it sees fit, to seek compliance with any requirements of a Notice, should it not be complied with.

#### **Human Resources**

4.2 None

#### **Legal**

4.3 The proposed Enforcement Notice is in accordance with Statutory Regulations. Non-compliance with such a Notice is an offence and the Council, as Planning Authority, could report such an offence to the Procurator Fiscal.

**Equality/Socio-economic**

4.4 None

**Environmental and Sustainability**

4.5 None

**Key Priorities**

4.6 The proposed Enforcement Notice supports the Council Plan priority – “Vibrant, welcoming and attractive places.”

**Community Wealth Building**

4.7 None.

**5. Consultation**




5.1 None

RUSSELL McCUTCHEON  
Executive Director (Place)

For further information please contact **Iain Davies, Senior Development Management Officer**, on **01294 324 320**.

**Background Papers**

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 LAND REGISTER OF SCOTLAND	Version date	TITLE NUMBER	
	07/05/2021	<b>AYR126596</b>	
	BRITISH NATIONAL GRID EASTING/NORTHING		
226925, 643233		Survey Scale	Print Scale
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