

## Matters Arising Changes Schedule – Joint Local Development Plan

The following concerns arise from *Gypsy and Traveller Accommodation* (7.4.84 – 7.4.104)

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1. Para 7.4.93 indicates that there will be 4 pitches on the *land at Penhesgyn, Penmynedd*. It omits to state that (i) this is next to the 'tip' (the County Council altered the signage on the A5205 a few months ago from *tip* to *recycling centre*) and that its access will require the compulsory purchase of adjoining agricultural land; or (ii) that a January 2016 report, *Identifying suitable sites for the Gypsy and Traveller community* stated that a permanent site **with four pitches...should have capacity for growth for some additional pitches**; or even that (iii) the Assistant Chief Executive stated *There haven't been any children living at the unauthorised encampment in the layby on Pentraeth Road for many years. The need to be in close proximity to a school was not therefore a factor in selecting a permanent residential site...We have been clear throughout the consultation process that we were consulting on a site specifically for the individuals living on Pentraeth Road...set out in paragraph 2.2.1 of the consultation document...We do not anticipate a growth in the number of households at the site in Penhesgyn.<sup>1</sup>*
  2. The alterations within 7.4.100 appear to soften the selection criteria, that is, **Where possible, the site will be in reasonable proximity to local services and facilities**. In the *Consultation on Gypsy and Traveller sites in Anglesey 11 February – 11 March 2016*, the Penhesgyn site is awarded an *accessibility* score of 2 (*Not possible to access through re-cycling centre on grounds of safety and security issue. New access road would be required over private land*), and an *amenities* score of 2 (*Shops and other facilities are located in Pentraeth and Menai Bridge. GP surgery at Menai Bridge*). The County Council robustly defended its scoring system when challenged but did not explain the absence of a pavement along Penhesgyn Road which did not feature in the *summary of factors relevant to score*, and yet this factor was present in the consideration of the Gaerwen smallholding site. The same 11 Feb – 11 March 2016 consultation document states that **Local amenities and facilities such as shops and schools should be close by. It is considered that the proximity of local amenities is more important when considering the location of residential sites than Temporary Stopping Places** (emphasis added). In correspondence (29 June 2016) to Albert Owen MP, the Leader of the Council states of travellers at the current, tolerated site, *There are no children living within these [four] households...there is therefore no requirement to be near a school*. This assertion presupposes that the site would be limited solely to the current households and that these are static. It is contrary to the aims of the legislation in establishing permanent sites for all Gypsies and Travellers who may require the future use of the site. Also, it is inconsistent with the claim that the site **should have capacity for growth for some additional pitches**.

<sup>1</sup> Letter of 31 August 2016

3. A further alteration concerns the insertion of the phrase **where appropriate**. That is, *Where appropriate, the standards and design of the development demonstrate that due regard has been given to...and the Welsh Government Good Practice Guide in Designing Gypsy and Traveller sites.*<sup>2</sup> Who or which agency is charged to determine appropriateness? The Leader of the Council advised Albert Owen that the Good Practice Guide is “a guidance document and not a statutory duty.” Thus the Leader of the Council does not concede that there is a requirement to “act under” non-statutory guidance, because the document states that its aim is *to consolidate standards which the settled community can expect to experience*. In addition, although *in most cases the direct comparison is made to other types of mobile home sites but in some instances it is more appropriate to draw comparisons with social housing provision*. However, the table in para 7.4.100 states *Proposals for new, permanent residential or transit pitches or temporary stopping places for Gypsies and Travellers and extensions to existing authorised sites for Gypsies and Travellers will be granted on land that would not otherwise be released for residential development*. We would be concerned if appropriateness was to be established by: the Chief Executive who advised attendees at a public meeting in June 2016 to visit the traveller site in Leeds to see a successful example of community integration. We would have similar concerns if appropriateness was determined by the Leader of the Council who at the same meeting invited attendees to identify another potential site – echoing the divisive approach which had identified the Penhesgyn site when it was nominated at a public meeting in Llandegfan on 22 January 2016. Similarly we would be concerned if appropriateness was to be determined by the Assistant Chief Executive who stated in August 2016 that *Penhesgyn was deemed to be the most suitable, taking into account the scoring, the comments received from other public sector organisations, the comments received during the public consultation which included discussions with the New Age Travellers...We do not agree that the Penhesgyn site is unsuitable*. We would be concerned if the Joint Planning Policy Unit established appropriateness since it determined that one of the *advantages* of the *Land at Penhesgyn is Not many houses close to site.*<sup>3</sup> This is remote from the aspirations of Wales’ *Community Cohesion: National Development Plan 2016-17* (March 2016).
4. At Hearing Session 13 on 30 September 2016, the point was made that there was no alternative to the Penhesgyn site should this site be deemed unsuitable. The County Council’s Press Release of 31 May 2016 states, *Executive approves permanent travellers’ site at Penhesgyn... It will however, still first need to undertake further investigative work to confirm the suitability and deliverability of the site from a highway safety and health impact perspective. Evidence gathered suggested that*

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<sup>2</sup> The title of this 2015 guidance is incorrect in the Changes Schedule and in the Composite Version

<sup>3</sup> Report to the Partnership and Regeneration Scrutiny Committee, 31 May 2016

*these matters can be resolved...We remain committed to working with the local residents living near Penhesgyn and the new age travellers to support community cohesion as well as mutual understanding and respect...Feedback from residents and communities around the proposed sites will be vital in helping the County Council reach an informed final decision. On 31 May 2016, there was no alternative to Penhesgyn as a permanent site necessitating the prompt on 30 September 2016. The note arising from the Hearing states: With regard to the proposed allocation at Penhesgyn, part of the land is in Council ownership and part in private ownership. The Council will need to acquire some of the private land to form a vehicular access that will comply with highway requirements. The Isle of Anglesey Council intend to undertake detailed technical assessments regarding access proposals and health impact assessments to support the proposed planning application. Whilst there are some matters associated with the site that will need to be addressed, the Council is of the view that these can be adequately addressed through appropriate design and management at the planning application stage. The Housing Services intend to be in a position to progress to the planning application stage in 2017, and thereafter apply for Welsh Government grant aid (para 3.34). This suggests that the Council perceived no need to identify an alternative, permanent site.*

5. The 30 September 2016 Hearing Session 13 notes that, *The sites identified are considered to be suitably located to meet the needs of gypsies and travellers identified in the GTANA 2016 (para 3.17). However, a 2003 study found that 50 percent of sites were on contaminated land, with 12 percent near tips. The Equality and Human Rights Commission confirmed such unsatisfactory conditions in 2009.*<sup>4</sup>

*...the location of sites can be poor (for instance, under motorways or next to sewage works...(page iv)*

*... Despite greater health need, Gypsies and Travellers use mainstream health services less than other members of the population...the isolation of sites can create problems (p52)*

*... Those on poorly equipped and located public sites, often remote from public facilities will experience both geographical and attitudinal barriers to integration with the local sedentary community... The highly problematic accommodation situation of Gypsies and Travellers will therefore continue to fuel conflict and to undermine the development of cohesion (p183)*

*... all Gypsies and Travellers are likely to experience far-reaching inequality, prejudice, discrimination and racism from politicians, the media, the public, and from services that should be designed (in partnership with communities) to meet their needs (p253)*

*... there is also a strand of evidence throughout the report of Gypsies and Travellers being resigned to the experience of discrimination and of low quality of life, health and well-being. Acceptance of second or third-class status is itself an indicator of the*

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<sup>4</sup> Living off Tips, Private Eye, 24 February – 9 March 2017, No. 1438

*strength and persistence of inequality over generations, which it is the responsibility of mainstream institutions to address (p255-256).<sup>5</sup>*

*...Sites have been criticised for their size and design, but particularly for their location and environment – for example, remote from services, next to industrial areas, major roads, railways or refuse tips...(p45)<sup>6</sup>*

Topic Paper 18: *Identifying Gypsy and Traveller Sites* (February 2015) states that *if a location is considered inappropriate for residential use then it should not be considered appropriate for a Gypsy or Traveller site*. Having pointed out to the County Council that there is an empty house immediately next to the Penhesgyn site (albeit obscured by one of the 10+ industrial scale skips) which was refurbished at council tax payers' expense, its response was that it is *surplus to requirements* - even though the campaigning group *Homes for Wales* states that 12,000 new homes are needed each year in Wales. A more honest response would have been, *Who would want to live there?*

Natural Resources Wales (9 March 2016) states of the Penhesgyn site *Certain types of proposed development...may have an inherent risk of pollution of potable water supplies e.g. underground storage of hazardous substances, sub water table storage of pollutants, landfill sites and non-mains foul drainage systems...*

The selection of Penhesgyn for inclusion in the JLDP as a possible allocation to meet the accommodation needs of Gypsy Travellers in May 2016, was to be subject to the outcome of the further investigations...from a highway safety and health impact perspective. It was noted that *The proximity of the Council's Recycling Centre could detract from the proposed residents' enjoyment of this site...Concerns have been received about the air quality in the vicinity of the Penhesgyn Recycling Centre making the site unsuitable...the Council commissioned consultants to undertake an air quality assessment screening...the report concluded that the concentrations of airborne particulate matter and Nitrogen dioxide concentrations in the area are well below the air quality objective limit...also reviewed bioaerosol data collected since 2014...The report highlighted an exceedance of bioaerosol levels in June 2015 but none in December 2015...recommended that monitoring is continued...the significant reduction...can be explained by changes to working practice in dealing with green waste.*

The Assistant Chief Executive notes,<sup>7</sup> *The location in Penhesgyn is in no way a reflection of how the County Council views New Age Travellers...the Council does intend to arrange a Health Impact Assessment, which is used to assess the health impact of a physical development...it will ensure that all health issues have been identified and that a full comprehensive assessment is achieved... there is no landfill beneath the land proposed for the site and any methane gas migration issues posed*

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<sup>5</sup> Cemlyn, S. Greenfields, M., Burnett, S., Matthews, Z. and Whitwell, C. (2009) *Inequalities experienced by Gypsy and Traveller Communities: A Review* Manchester: Equality and Human Rights Commission, Research Report 12

<sup>6</sup> Brown, P. and Niner, P. (2009) *Assessing local authorities progress in meeting the accommodation needs of Gypsy and Traveller communities in England* Manchester: Equality and Human Rights Commission, Research Report 13

<sup>7</sup> 26 July 2016

from around the locality of the site would be addressed as part of the planning process.<sup>8</sup>

Later,<sup>9</sup> the Executive agreed to undertake further studies to confirm the suitability of [the Penhesgyn] site...consideration of a suitable access to the site...health and safety issues (including environmental health considerations relating to proximity of the Recycling Centre and proximity to the land that was previously used as a land-fill site...the site contains a Household Waste Recycling Centre...in vessel composting for green waste and a Transfer Station for residual waste...we will not proceed in developing Penhesgyn as a permanent residential site for those residing at the lay-by on Pentraeth Road if we have any doubts about the safety of the site arising from its proximity to the Recycling Centre and the former land-fill site.

6. We have made several representations to the County Council expressing disbelief that a site next to a former tip and landfill site is even being considered. The juxtaposition of negative images with devalued people gives out a powerful message, irrespective of the claim of the Assistant Chief Executive that it...*is in no way a reflection of how the County Council views New Age Travellers*. Fourteen years after a study condemning the placement of Gypsies and Travellers by tips, Anglesey County Council has identified only Penhesgyn as a permanent site.
7. At unknown expense,<sup>10</sup> Capita have appraised the site and contributed to a *Rapid Health Impact Assessment on Star and Penhesgyn based on a participatory*<sup>11</sup> workshop held on 23 January 2017. The participation did not extend to local residents.<sup>12</sup> This concluded, **Overall both sites are considered to have a positive impact on the health and welfare of gypsies and travellers over the existing provision**. This is not the comprehensive assessment promised, it does not constitute evidence. It merely endorses the County Council's failure to identify another permanent site.
8. Capita's *Preliminary Appraisal Report (PAR) Executive Summary* is unlikely to deter the single-mindedness of the County Council, irrespective of the site having some demerits, namely:  
*...the site is located in a rural location with no access to local amenities or facilities within easy walking distance; access to the site would need to cross the field in private ownership and re-arrangement of the security gate for the Penhesgyn Recycling Centre; the two fields in which the four pitches would be located is steeply sloping and badly drained; a new access road to access the four pitches would be*

<sup>8</sup> See UK citizens typically underestimate the impact of air pollution at a time when 38 out of 43 "air quality zones" breach legal limits for air pollution. See [www.theguardian.com/environment/2017/mar/01/british-people-unaware-pollution-levels-air-breathe-friends-earth](http://www.theguardian.com/environment/2017/mar/01/british-people-unaware-pollution-levels-air-breathe-friends-earth) (accessed 1 March 2017)

<sup>9</sup> 31 August 2016

<sup>10</sup> The cost of the Capita consultancy, the compulsory purchase of private land, the *new access road that will comply with highway requirements, significant drainage and earthworks, the noise attenuation bund, utility connections to potable water and electricity, a septic tank, or the 1.8m close-boarded acoustic timber fence located around the edge of the wood crushing area compound* is not revealed. On 14 February 2017, a council officer stated, "**Cost is important for ratepayers and officers but it is the suitability of the site which is the most important thing here.**"

<sup>11</sup> NB the participants were Capita consultants (commissioned by the County Council), council officers and councillors

<sup>12</sup> Local residents await a promise made by the Chief Executive on 31 May 2016 to materialise, *We remain committed to working with the local residents living near Penhesgyn and the new age travellers to support community cohesion as well as mutual understanding and respect*

required and involve significant drainage and earthworks; earthworks will be required to form a noise attenuation bund along the western boundary ; utility connections to potable water and electricity will be required; sewerage is likely to be managed using a septic tank (para 2.7). However, optimism prevails since the following paragraph notes, *There are no constraints resulting from the general site appraisal that would prevent the site being suitable as a permanent residential site for the traveller community.*

In terms of air quality, *due to the small size of the proposed development and low baseline levels of pollutants, a baseline assessment has been considered sufficient to assess the potential exposure of future users...*(para 2.9). In the light of the known underestimation of concerns about air pollution (see footnote 8), why is “a baseline assessment” sufficient?

*...it is...likely that levels of particulate matter will not exceed acceptable levels at the site boundary and therefore impacts...are not considered significant. However, dust soiling impacts from the movement of waste vehicles and HGVs associated with the recycling facility are considered potentially high risk (para 2.11). However, The risk assessment for potential dust impacts...concluded the site is deemed to be a low risk site for dust soiling impacts and human health impacts (para 2.12).*

*Impacts on new receptors from Land Fill Gas of the former landfill site are not considered significant. Methane concentrations will be well below flammability levels and will also not have an adverse effect on human health...Mitigation of impacts...is therefore not deemed necessary (para 2.13). Odour levels are not considered significant (para 2.14)...the proposed permanent residential scheme for the traveller community is suitable to be considered for planning permission (2.15)...A noise measurement survey has been undertaken to establish typical ambient noise levels during the day and at night<sup>13</sup> (para 2.16)...noise need not be considered as a determining factor in granting planning permission (para 2.18). However, A scheme of mitigation is...recommended and should include...an earth bund along the south west PRC boundary at a height of 1.5m; in addition, a further 1.8m close-boarded acoustic timber fence should be located around the edge of the wood crushing area compound (para 2.19)...The next stages are to prepare outline designs in accordance with good practice guidelines and for discussions with key stakeholders to ensure that other technical and health and safety requirements are incorporated into the scheme proposals (para 2.26).*

As Private Eye noted, *Siting traveller communities where nobody else wants to live is nothing new...Last week the [Anglesey County] council's executive “noted” Capita's report, which recommends going ahead with the site even though it could be dusty and noisy thanks to the recycling centre. Mitigation to offset the noise has been recommended (bundling and fencing) – but it is hard to see how dust can be contained. It is also steeply sloping and badly drained. But it is still good enough for Travellers, of course!*<sup>14</sup>

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<sup>13</sup> We note that there is no reference to seasonal and weekend noise levels, including traffic, to the noise of building rubble, metal, electronic and glass items being dropped into skips or the latter being emptied, all clearly audible to local residents who live some distance away

<sup>14</sup> Living off tips, Private Eye, 24 February – 9 March 2017, No. 1438

9. Finally, with reference to the *Tests of Soundness*, the plan concerning Penhesgyn does not have regard to national, non-statutory guidance. In terms of the well-being goals of *a healthier Wales, a more equal Wales* and *a Wales of cohesive communities*, the plan for Penhesgyn is wholly outwith the letter and spirit of the Well-being of Future Generations (Wales) Act 2015. The plan does not address the key issues identified by research published in 2003 and 2009 – by the Westminster Labour Government and the Equality and Human Rights Commission respectively. It is not *supported by robust, proportionate and credible evidence*. The County Council has identified a single site and its *Rapid Health Impact Assessment* concludes that the site is ***considered to have a positive impact on the health and welfare of gypsies and travellers over the existing provision***. A more credible comparator would have been with an alternative, permanent site. The *rationale behind the plan* is the failure of the County Council to take action in November 2009 when the High Court determined that the Pentraeth Road layby could not be vacated until another site was identified. This view is shared by Penmynedd Community Council and Cwm Cadnant Community Council, the latter noting during the consultation, *“It continues to feel that this is a rushed job to comply with JDLP requirements, otherwise the local authority faces the possibility of fines being imposed.”* It cannot be claimed that *the vision and strategy* [are] positive and sufficiently aspirational. The only permanent site the County Council has identified is next to the *tip* – regardless of its belated name-change. Thus there are no *‘real’ alternatives*, and Anglesey County Council fails in terms of logic, reason and balance. Is the plan concerning the permanent site *coherent, consistent, clear and focused*? It is certainly consistent and focused and has been since the Penhesgyn site was belatedly identified. Surely the test remains for the County Council to demonstrate its willingness to consider more than a single site – as proposed at Hearing Session 13? In terms of ethics, which regrettably does not feature in the *Tests of soundness*, the plan is shameful and wrong.

Dominic Brooke

Judith Brooke

John Davies

Ruth Eley

Alaw Evans

Owain Evans

Margaret Flynn

Eurwen Foulkes

Iona Foulkes

John Foulkes

Glyngwyn Foukes

Laurie Gane

Gareth Morgan

Haulwen Morgan

Idris Roberts – owner of the agricultural land that would have to be compulsorily purchased

Jane Roberts - owner of the agricultural land that would have to be compulsorily purchased

Guy Williams

Katherine Williams