

**City of York Local Plan Examination
Phase 2 Hearings**

**Matter 4: Spatial Strategy and Site Selection Process and
Matter 7: Approach to Setting Green Belt Boundaries**

Hearing Statement by York Travellers Trust (YTT) v.2, March 2022

Introduction

1. This statement covers both Matters 4 and 7. It should be read with and builds on our earlier representations on Policy SS2, Policy H5 and paras 5.37 – 5.39 & Table 5.3 through the Regulation 19 Consultation, February 2018, on the Proposed Modifications Consultation, July 2019, and through the Phase 1 Matter 3 Hearings.
2. York Travellers Trust (YTT) is concerned that Gypsy and Traveller planning issues do not figure explicitly in the Matters, Issues and Questions for Phase 2 of the Examination Hearings. Nor do they figure in the matters and issues identified for the Phase 3 and 4 Hearings.
3. This concerns the Trust. We have participated proactively in the development of the Local Plan from the earliest stages. We did this because we believed the Plan represented a once in a generation opportunity to address the acute accommodation shortage and deprivation experienced by York's long established and significant Traveller community.
4. While the size of the population involved and the potential land needs are relatively small, we believe that in the York context these are strategic issues. On that basis we are using the Matter 4 and Matter 7 sessions to articulate our core concerns with the emerging plan.
5. Gypsy people are deeply disadvantaged. See for example the Report of the House of Commons Women's and Equalities Committee, Tackling Inequalities faced by Gypsy, Roma and Traveller communities, April 2019 <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/360/full-report.html>. As well as being unsound, adopting a plan which does not address the needs of Gypsies and Travellers risks being contrary to the Public Sector Equality Duty and to be indirectly discriminatory.
6. There is another reason why equality arguments mean it is important that Traveller issues are properly considered at the examination. National policy expects the level of need and the soundness of the policies to be tested through local plan examinations. In practice this rarely happens because Traveller families and local Gypsy & Traveller groups do not have the

resources to engage in lengthy local plan processes. Individual Traveller applicants will pay for site specific planning applications and appeals, but very rarely to fund work on local plans. YTT has made the necessary commitment of resources and we would ask the Inspectors treat it as something of a test case of the adequacy of the local plan system to deliver for Gypsy people.

4.6 Are the broad locations for new development the most appropriate locations when considered against all reasonable alternatives?

7. The Plan does not make any allocations for Gypsy or Traveller permanent and residential needs. Instead, it suggests the required provision will be delivered through a combination of 3 pitches for those Gypsies and Travellers it accepts meet the Planning Policy for Traveller Sites (PPfTS) definition within the existing social rented sites and by negotiations on the basis of Policy H5 b) with the owners / developers of the Strategic Allocations to provide 44 pitches for those Travellers it claims fall outside the definition. YTT's case is that this is unsound for the following reasons:
 - Firstly, the claimed need for 3 and 44 pitches are based on the GTAA Update, ORS June 2017, which underestimated need and is out of date;
 - Secondly, the GTAA was unable to differentiate between definition and non-definition Gypsies and Travellers effectively and in practice a much higher proportion of households are likely to meet the definition than ORS claim;
 - Thirdly, Policy H5 b) as currently drafted is unworkable and is highly unlikely to result in any pitches being delivered;
 - Fourthly, apart from the 3 additional pitches on existing sites proposed under Policy H5 a) the Plan fails to make any allocations;

- Fifthly, defining the inner Green Belt boundary while failing to make any allocations will make it extremely difficult to make any provision for Gypsies and Travellers both during the plan period and in the longer term.

8. The Local Plan's approach does not reflect NPPF para 7, which states

'The purpose of the planning system is to contribute to the achievement of sustainable development',

Nor does it reflect the fact that one of the three overarching objectives of the planning system is the social objective:

'to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being', NPPF para 8 b.

Para 8b makes clear that providing sufficient homes is central to the social objective of sustainable development, but that it is not just about providing homes, but also about how having sufficient, secure homes is fundamental in enabling health, social and cultural well-being. The York Local Plan completely fails in that regard.

9. Nor does it reflect Planning Policy for Traveller Sites (PPfTS) which is completely consistent with the NPPF, including with reference to its emphasis on providing a sufficient number and range of homes for Gypsies and Travellers. The Government's aims in respect of Traveller sites include:

- PPfTS para 4b: *'to ensure that LPAs, working collaboratively develop fair and effective strategies to meet need through the identification of land for sites';*
- 4f: *'to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites',*

- 4h *‘to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply’;*
- 4j *‘to enable provision of suitable accommodation from which Travellers can access education, health, welfare and employment infrastructure’.*

Again, the Plan fails in this regard, and this represents a profound failure of policy, which means the plan cannot be sound.

10. YTT’s initial concerns about the robustness of the 2017 GTAA are at paras 3-6 of our February 2018 response to the Reg 19 Consultation on Paras 5.37 – 5.39 and Table 5.3. We would now make the following additional points:

- We are aware of a number of families with strong York connections who have acquired or are looking for sites outside York who have effectively been driven out of the city because of the non-availability of sites within the city boundaries;
- According to the most recent January 2020 caravan count 100% of the authorised pitches in York are on social rented sites. This is very different from the national position where 67% of caravans on authorised sites were on private sites and 33% on social rented sites;
- We are aware of a caravan and camping club site in the City on which some Travellers households have been living for a substantial period;¹
- ORS’s surveys tend to focus on the most easily identifiable authorised sites. They are less good at identifying need from people who are nomadic, less secure or are keeping their heads down to avoid enforcement action or discrimination by neighbours;
- These factors suggest a significant level of hidden or suppressed need, particularly for private pitches;

¹ We are not sure if this is the 18 pitch transit site which is referred to at para 6.38 of the 2017 GTAA, but not identified in the List of Sites at Appendix E.

- PPfTS para 7b) requires LPAs to prepare **and maintain** an up-to-date understanding of accommodation needs. The field-work for the June 2017 GTAA was carried out between February 2016 and May 2017, so is up to 5 years old, and we are not aware it has not been reviewed.
11. YTT's concerns about the robustness of ORS's approach to determining whether households meet the definition is at paras 7-10 of our Reg 19 Consultation response on Paras 5.37 – 5.39 and Table 5.3. We would now make the following additional points:
- The definition of Gypsy and Traveller for planning purposes was changed in the August 2015 edition of PPTS. That change presented significant methodological challenges for carrying out needs assessments. As noted at para 8 of our Reg 19 response ORS changed their initial question F3, which attempted to identify which households met the new definition;
 - The change in question F3 has had a significant impact on ORS's findings. Instead of an average 10% of households meeting the definition, after the change in the question they found 25% did ², and more recently have increased their average figure to 30% ³;
 - As noted at para 8 of our Reg 19 response, it is not clear at what stage of the York field work the question was changed, and we suspect much of the field work was done before the change;
 - In response to concerns about the robustness of the 2017 Buckinghamshire GTAA, which was another pre-change in the question ORS GTAAA, the Vale of Aylesbury Local Plan (VALP) took the approach of accepting provision was needed for those whom ORS found met the definition, those they found did not and those where it was not known.

² Gypsy and Traveller sites: the revised planning definition's impact on assessing accommodation needs, Equality and Human Rights Commission, September 2019 section 2.6

³ Appeal decision 3230531, March 2020 para 37.

The Inspector who examined the Local Plan supported this approach, concluding at para 257 of his report:

‘The definition of gypsies and travellers changed for planning purposes in the updated Planning Policy for Traveller Sites published in 2015. There remains uncertainty how the new definition should be applied. VALP applies a cautious approach to the large proportion of people whose status is unclear and makes provision which includes them. In the absence of certainty, I consider that such a cautious approach is sound.’

We support this approach and would advocate its application in York.

12. YTT’s concerns about the soundness of delivering pitches through the strategic sites are at paras 13-15 of our Reg 19 Consultation response on Policy H5. We doubt any provision will be achieved through Policy H5 b) as drafted.
13. Nationally the delivery record on achieving Traveller sites through major sites is extremely poor. While a number of LPAs have sought to provide Traveller sites in this way, in practice very few, if any, such sites have been delivered. Our planning adviser, Michael Hargreaves is not aware of a single pitch in the seven Counties of the East of England plus Buckinghamshire which has been achieved in this way. The reasons include:
 - LPAs see such plan provision as a numbers game – x sites will deliver y pitches each to meet the need;
 - And, certainly in York, it appears this was done without any thought as to how such sites would be developed, managed and financed;
 - The need is for two very different types sites, with very different location, development and management requirements - social rented and small, private sites;
 - Owners / developers of private family sites want them separate housing, preferably on the urban fringe or in the countryside;

There is a dearth of skills in site management, which is one of the reasons many Councils are divesting themselves of sites. York housing department has made it clear it will not take on the management of any additional sites;

- The very high level of prejudice against Gypsies and Travellers, which makes builders and developers strongly resistant to including provision near proposed housing;
- Although there will not be public evidence of this, our understanding is that the inclusion of Traveller sites is likely to make it harder for developers to raise the funds to carry out a development;
- Local councils are ambivalent about providing Traveller sites, and are vulnerable to persuasion that they should not be included.

14. In all the cases we are aware of Traveller proposals were part of significant urban extensions or garden city proposals. In a case where Michael Hargreaves had some direct involvement one of the reasons the developers were willing to offer a site to the LPA, was that they had extensive land-holdings and were able to offer a location some distance from the new housing.
15. York is proposing something much more challenging than provision as part of a major urban extension, which is to deliver pitches through a whole series of strategic sites, some embedded within the urban area. That represents a formidable negotiation and delivery challenge.
16. We are not aware of any work by the Council that attempts to establish the viability of its proposed approach and how it will work. At paras 15, 22 & 24 of our representations on the Reg 19 Consultation relating to Policy H5 YTT asked the Council to lead on work on delivery and suggested there is the need for an agency responsible for delivery.
17. We understand the applicants for the York Central site have agreed a £900k contribution towards new Traveller pitches. We would welcome an

update from the Council about what progress has been made in delivering pitches in regard to that site or to any others.

18. There are objections to H5 b) from a number of land owner & developer interests. To clarify whether the policy is workable, we would invite the Inspectors to explore with development interests both at this stage and at the later stages of the examination in regard to individual major sites how and whether provision is likely to be achieved.
19. H5 b) is much more likely to be effective if developers are able to provide alternative sites perhaps some distance away from their housing development where the new pitches can be developed or can offer funds to be invested on sites which have already been allocated for that purpose. This needs to be done through a site identification process. We indicated how that might be approached at para 23 of our Reg 19 consultation response on Policy H5.
20. Para 23 also brings out the link between the search for sites and the definition of the inner Green Belt boundary. With a single exception, all of the bullet pointed options for identifying site allocations under para 23 involve land which the City Council's current proposals would include within the Green Belt. The exception is in regard to land in Council ownership adjoining the existing Clifton site.

4.11 With regard to the sites proposed for all types of development (i.e. housing and non-housing):

a) How have the sites been identified and selected?

21. As far as the principle that the Strategic housing allocations should include or facilitate Traveller provision, it appears that no thought has been given to the suitability of the different sites to accommodate / facilitate Traveller provision.
22. At paras 16 – 20 of our Reg 19 consultation response on Policy H5 we provide some initial comments on the types of sites that are needed. Those comments suggest some sites, or land adjacent to them, may be more

suitable than others. Here we would reiterate the point that York particularly lacks small, private sites and from the point of view of both Gypsy and housed residents such sites are often best located in semi-rural locations, possibly combined with paddocks for horses.

7.1 This Local Plan will formally define the boundaries of the York Green Belt for the first time. The Council's approach to defining the Green Belt boundaries now proposed is set out in 'Topic Paper TP1 – Approach to Defining York's Green Belt: Addendum' (January 2021) [EX/CYC/59]. In the light for the evidence, in setting the proposed Green Belt boundaries:

f) how do the proposed Green Belt boundaries ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development?

23. The suggested boundaries cannot be reconciled with the need to identify sites for the required accommodation for Gypsies and Travellers. That also means adopting those boundaries would be inconsistent with the requirement of Parra 143 NPPF of being '*able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period*'.

7.3 Overall, is the approach to setting Green Belt boundaries clear, justified and effective and is it consistent with national policy?

24. The suggested boundaries cannot be reconciled with the need to identify sites for the required accommodation for Gypsies and Travellers. That means adopting those boundaries would be inconsistent with the requirement of Parra 143 NPPF of being '*able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period*'.

Conclusions

25. The GTAA is out of date and underestimates needs probably by a significant amount. Policy H5 b) as currently drafted is unworkable and is highly unlikely to result in any pitches being delivered. The Plan fails to make any allocations, apart from the 3 additional pitches on existing sites proposed under Policy H5 a). Defining the inner Green Belt boundary while failing to make any allocations will make it extremely difficult to make any provision for Gypsies and Travellers both during the plan period and, reflecting the permanence of Green Belts, in the longer term.
26. That means the Plan does not meet the four soundness tests:
- It is not positively prepared, based on a strategy which seeks to meet objectively assessed requirements;
 - It is not justified, based on the most appropriate strategy when considered against reasonable alternatives (which would include making a series of appropriate allocations for Traveller needs);
 - It is not effective, in that nothing is likely to be delivered in the plan period; and
 - It is not consistent with national policy, including but not limited to because of failing to reflect the overarching social objective at para 8 b of the NPPF, failing to meet the requirements of PPfTS Policies A and B in respect of making provision for Gypsies and Travellers, and failing to reflect the requirements of Para 143 e) when defining Green Belt boundaries.
27. On that basis we cannot see how the plan as currently drafted can be found sound. We also believe that finding it sound without substantial modification is likely to be contrary to the Public Sector Equality Duty under s.149 of the Equality Act and indirectly discriminatory contrary to s.19 of the Act.
28. To repair the plan would require an updated needs assessment prepared on the basis of early and effective engagement, including with the Traveller community and the identification of a number of site allocations, linked to a strengthening of Policy H5 b). We would also strongly advocate that the Council develops proposals for effective site delivery, including in regard to making land available for private site development by Travellers themselves.

29. It may be that the Plan will be found not to be sound for other, wider reasons. If that is the case, we would ask the Inspectors to also make clear why the plan is unsound in regard to its Gypsy and Traveller policies, and what it requires the Council to do to render it sound.
30. Our planning adviser has been involved in cases where Local Plan Inspectors were concerned about the evidence or provision for Travellers, but concluded the issues were not so problematic as to justify finding the whole plan not sound. In those cases, the Inspectors allowed the plans to be adopted on the basis of limited modifications, while requiring key issues to be addressed through subsequent plan reviews. We are concerned this may also happen in York.
31. The fact that the plan is seeking to confirm the inner Green Belt boundary means such an approach could not be sound in York. We cannot see how the inner Green Belt boundary could be defined when Policy H5 b) is unworkable, no site allocations have been made, and the large majority of the site options the Council would need to consider are included within the Green Belt.
32. This suggests one possible way forward may be to find the plan unsound in regard to the Traveller evidence base, the inadequacy of Policy H5 b), and the lack of allocations, and to allow the plan to be adopted, but without confirming the inner Green Belt boundary. Under such an approach we would respectfully ask the Inspectors to recommend as a matter of urgency that a sound assessment of needs is undertaken, a supply of sites is identified (here see our comments at para 23 of our Reg 19 representations on Policy H5), together with revised proposals for the inner Green Belt boundary that allow for the accommodation of Traveller needs.
33. We also propose that Policy GB4 is modified to allow exception sites for affordable Gypsy and Traveller sites in the Green Belt.

Potential Modifications

34. In the attached Annex, YTT suggests potential textual changes to give effect to the above proposals.