

**City of York Local Plan Examination  
Phase 3 Hearings**

**Matter 9: Gypsies and Travellers and Travelling Show-People**

**Hearing Statement by York Travellers Trust (YTT), July 2022**

## Introduction

1. 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>.
2. Even among Gypsy people, York's Traveller Community is notably deprived. Compared with the national position where two-thirds of caravans are now on private sites, York is distinctive in that nearly all provision is on three local authority sites. For whatever reasons, York Travellers have been unable to acquire and obtain planning permission for private sites in the countryside around the city, which nationally has been the source of nearly all additional provision over the last 30 years. More entrepreneurial Gypsy people claim they have been driven out of York. There is also a notably high number of ethnic Gypsies living in social housing.
3. 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.
4. There is another reason why equality arguments mean it is important Traveller issues are properly considered at this 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 rarely to fund local plan work. The consequence is that plans are adopted based on flawed needs assessments and with inadequate site provision targets.
5. YTT wanted to avoid this happening in York. Given that the plan provided a once in a generation opportunity to make better provision it put substantial resources into engaging proactively throughout the lengthy process. YTT's first meeting with the planners on the Local Plan was in 2013. From this

early stage the Equality and Human Rights Commission encouraged YTT to engage, and in October 2016 demonstrated its support by sending an officer to accompany YTT to a meeting with the planners.

6. Over the years the officers working on the plan have changed. YTT's responses to the various consultations and iterations of the plan, show we have been making the same points again and again, without those messages being heard or acted on:

- questions about the soundness of the work by the consultants commissioned to produce a sequence of needs assessments;
- doubts about the deliverability of Policy H5;
- the need to think through what types of sites are needed, in what locations, and an effective site development strategy;
- the need to allocate sites.

7. The Local Plan Inspectors twice, in December 2019 and in May 2022, stressed to the Council the need to work co-operatively with YTT, but this simply has not happened.

### **9.1 Have the needs of Gypsies and Travellers and Travelling Show-People been properly assessed?**

8. YTT's position is that the 2017 GTAA was unsound because of under-estimating needs and because of its inability to distinguish between nomadic and non-nomadic Travellers, see paras 10 and 11 of our Matters 4 and 7 hearing statement.

9. In recent months the Council has commissioned an updated needs assessment, which has been carried out without any involvement of YTT.

10. On 27 May we received an email asking whether we would be available for a phone conversation '*about emerging work on York's GTAA*'. Michael Hargreaves was approached by Mr Jarman of ORS suggesting 30 May, which we couldn't make. Mr Jarman wasn't available for the rest of the week, and we heard nothing else. We learnt an hour before a postponed

meeting with Council officers on 4 July that the Council had commissioned a review of the GTAA, which was made available to us on 5 July.

11. The failure to engage YTT is contrary to the guidance at para 7 PPfTS, including the requirement:

*'In assembling the evidence base ... to pay particular attention to early and effective community engagement with both settled and Traveller communities (including discussing Travellers' accommodation needs with Travellers themselves, their representative bodies and local support groups)', para 7a.*

12. One of the reasons why YTT should have been involved is our detailed knowledge of the Traveller community in York, and that detailed local knowledge is presumably a reason Government policy requires such involvement.

13. Para 1.3 of the 2022 GTAA indicates that a proportion of the interviews with Travellers were *'proxy interviews'* by *'other family members, site residents or site managers'*. We would ask the Council to explain at the examination how many of the 62 interviews were actually proxy interviews, and, of those, how many were by family members, site residents and site managers. If interviews had taken place with site residents YTT staff would have expected to hear about it. The fact we heard nothing leads us to suspect that much of the information was actually provided by site managers. This puts a question mark against the robustness of the results.

14. There are a number of other weaknesses with the GTAA, some of which could have been avoided if YTT had been involved. They include:

- Figure 6 shows that the survey was limited to the 3 local authority sites.
- 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 or insecure, moving from place to place, staying with relations, settled on unidentified sites and keeping their heads down to avoid enforcement action or discrimination by

neighbours. Such households are a significant component of those seeking planning permission for sites;

- The failure to identify need from York's substantial housed Gypsy and Traveller community. This is not surprising given the limited efforts to identify and interview such people, paras 3.17 – 3.19. As we pointed in the 5<sup>th</sup> bullet to para 6 of our Reg 19 representation on Paras 5.37 – 5.39 and Table 5.3, the 2013 GTAA identified a need for 12 pitches from housed Travellers and our July 2016 survey, included as Annex 3 to the Reg 19 representation interviewed 11 occupants of housing. Six were overcrowded, nine indicated they would move to a pitch if they had the opportunity;
- The lack of reference to the caravan club site at Naburn, which we understand is occupied by Traveller households, at least in the winter;<sup>1</sup>
- We have been approached by a number of people, including people on the Naburn site, asking for help to identify sites for them to develop. If land was available for private site development it would lead to net in-migration, reversing the out migration of recent decades.

15. These factors suggest a significant level of unidentified, hidden or suppressed need, which needs to be factored in if the assessment of need is to be robust. They mean the overall level of need is likely to be higher, perhaps significantly higher, than the 2022 assessment.
16. Given that much of the unidentified need relates to more nomadic, or insecure households we do not agree with the conclusion at para 6.40 about the lack of need for sites. The enactment of the Police, Crime, Sentencing and Courts Act, which introduced more draconian powers against unauthorised encampment makes it more essential there are transit sites in order that people have alternatives to unauthorised encampment.

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<sup>1</sup> We believe this is the 18 pitch transit site referred to at para 6.38 of the 2017 GTAA.

17. As well as ignoring a number of sources of need, for the following reasons we would question whether the assessment of the proportion who meet the definition is robust:

- People's Gypsy status can change through the life cycle;
- In situations where some households meet the definition and others do not, appeal decisions have allowed all members of a family to live on a site;
- The difference between the 2016 GTAA where ORS claimed an average of 10% met the definition and their now claim of 30% shows how sensitive the results are to the questions asked;
- Our doubts about proxy interviews. Gypsy people are reticent to share personal information with non-Gypsies;
- ORS studies are biased towards established sites. We suspect nomadic status is higher among less secure households. If this is correct, factoring in such households will increase the proportion who meet the definition;
- Planning appeals, where agents working with families have the opportunity to present specific evidence of nomadic status, result in much higher proportions being nomadic. In appeals where Michael Hargreaves has been directly involved and the Inspectors arbitrated on Gypsy status, 86% of households met the definition.

18. Two ways forward to address the doubts about the robustness of the GTAA's ability to differentiate between nomadic and non-nomadic households are:

- For the plan to make provision for those assessed to meet and not meet the definition, and for those where the position was unknown, see the 4<sup>th</sup> bullet to para 11 of our Matters 4 and 7 hearing statement, including the Vale of Aylesbury Local Plan inspector's support for this approach;
- To accept the GTAA results in regard to households who were assessed, but not to make an assumption about the nomadic status of non-interviewed households (which we have made the case is a

much more substantial group than ORS suggest, see paras 14 & 15 above).

## **9.2 Does the Plan provide adequately for the needs of Gypsies and Travellers? And**

### **9.3 Will Policy H5 be effective in meeting those needs?**

19. Gypsies and Travellers includes members of two overlapping groups:
  - Persons of nomadic habit of life who meet the PPfTS Annex 1 definition. Paras 2.9 – 2.20 of the 2022 GTAA summarise the meaning of nomadic habit of life based on case law; and
  - Ethnic Gypsies and Travellers with a requirement for caravan accommodation who do not meet the definition, whose needs should be assessed in accordance with s.8 of the Housing Act. <sup>2</sup>
20. The 2022 GTAA effectively assessed the housing needs of Gypsy and Travellers in both groups, both of which, persons of nomadic habit of life and persons needing caravan and houseboat accommodation, are not restricted to ethnic Gypsies and Travellers.
21. The Plan needs to include appropriate policies to ensure the needs of both groups can be met, including by but not limited to making allocations, see PPfTS Policy B and NPPF paras 61, 62 and 68.
22. It is our view that the Plan will fail to deliver adequate, or possibly any accommodation for Gypsies and Travellers. There are a group of reasons for this.
23. Para 75 of the October 2019 Inspector's Decision on the north of Boroughbridge Road appeal 3227359 (Local Plan site ST2) provides a damning judgement on policy H5 b):

*'75. Traveller pitches: The planning agreement also contains an obligation to provide a £300,000 contribution towards the provision of two*

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<sup>2</sup> See the Draft Guidance on the Periodic Review of Housing Needs, Caravans and Houseboats, March 2016.

*off-site gypsy and traveller pitches. This would contribute towards meeting the accommodation needs for 44 gypsy and traveller households that do not meet the planning definition, as defined in emerging Policy H5 of the Local Plan. Nevertheless, there is no indication of where the pitches would be located, when they would be provided and how they would be delivered. Furthermore, such provision is not necessary to make the development acceptable in planning terms, is not directly related to the development and does not fairly and reasonably relate in scale and kind to the development. Consequently, it has not been demonstrated that this obligation is necessary. I therefore do not take it into account in determining this appeal and I accord no weight.'*

24. It appears no thought has been given to the rationale for the H5 b) specific requirements.<sup>3</sup> Local plan proposals which have been found sound with Traveller sites required as part of specific developments eg in Aylesbury Vale and East Hertfordshire relate to major urban extensions, which would accommodate a range of development needs. We are not familiar with any case which has been through examination where the need has been doled out between the development sites. For the reasons at para 13 of our Matters 4 and 7 Hearing Statement delivering through policy H5 b) represents a formidable negotiation challenge.
25. If thought had been given to which sites should help to bring forward Traveller development we suspect it would have suggested a stronger emphasis on fewer larger sites, where the site is part of a more extensive land holding.<sup>4</sup>
26. It appears that no thought has been given to the type of sites that are needed and how they would be developed. We have been raising these issues for some time, see paras 13 – 19 of our Reg 19 representations on Policy H5, although we would now put an even stronger emphasis on the need to facilitate private site development. The Council is now planning to appoint a Gypsy and Traveller Accommodation Officer, who will be charged

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<sup>3</sup> 100-499 dwellings – 2 pitches, 500-999 dwellings 3 pitches etc.

<sup>4</sup> That does not mean we support the Traveller provision being made through a few Traveller sites with a large number of pitches. Our preference would be to start small and build up experience at site development with individual sites not accommodating more than perhaps 5 to 6 pitches.

with identifying land for sites and leading on the expansion and development of sites, but it will be too late to inform the Local Plan and this last minute initiative has been taken without YTT involvement.

27. The reference in appeal 3227359 to provision for Travellers not being necessary to make the development acceptable, not directly related, and not related in scale and kind is taken from para 122 of the CIL regulations. Given the apparent lack of consideration of why specific sites should contribute to meeting needs, we would invite the LPA and its Counsel to explain why they are confident the requirements to make provision are consistent with that regulation, and / or how they envisage it can be modified to make it consistent.
28. It would be also helpful for the Council to update the examination on what has been achieved so far in negotiations over the specific sites.
29. Notwithstanding our para 122 CIL regs doubts, it may be that individual applicants may still choose to meet the Policy H5 b) contributions. The Council's lack of consideration as to how implementation will work will not make this easy.
30. A fundamental weakness is the Council's failure to make any allocations.<sup>5</sup> Policy H5 b) is in effect a response to that failure by passing the responsibility on to housing developers. If the plan had made allocations where contributions could be invested, it would reduce the difficulties for the developers in providing pitches within their sites, or of providing alternative land which meet the H5 c) criteria (which will be very difficult given the proposed Green Belt boundary, which puts all non-allocated land in the Green Belt).
31. Land adjacent to the Clifton site possibly excepted, we find it difficult to envisage how allocations could be made at this late stage in the process. We would welcome the City Council's and the Inspector's thoughts on this matter.

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<sup>5</sup> Apart from the H5 a) proposal to identify 3 pitches within the existing local authority sites. Our understanding is that the one opportunity for additional pitches (adjoining rather than within) the local authority sites is on land adjoining the Clifton site, which has capacity for 6 – 8 pitches.

32. One possible way forward builds on the criticism at the examination that the inner boundary has been drawn so as to include land that does not need to be kept permanently open in the Green Belt. If the plan excluded such land, possibly identified as safeguarded land, it would allow the plan to set criteria for the allocation of sites within that land on the basis of PPfTS para 11.
33. While we believe allocations are essential, we welcome the modification to make clear that Policy GB4 exception sites can be for affordable accommodation for Gypsies and Travellers. Such sites are particularly suitable for privately developed sites. They may be relevant both to developers seeking to meet the H5 b) requirements, and to individual Travellers seeking to develop sites.
34. GB4 may provide a way forward for strategic site developers to meet H5 b) requirements and we would propose that the second bullet under H5 b) is modified to add in a reference to GB4 exceptions sites. The sort of model we have in mind is of pitches which are provided with access, fencing, water, electricity and foul drainage, but which the occupants otherwise develop themselves. Such provision is likely to be less onerous for developers than a conventional social rented site.
35. While GB4 may provide a way forward, to be effective it is dependent on the developer or individual Traveller applicant owning or being able to acquire the land. Some site developers may have wider site ownership, which they can make available, but not all will. In regard to private Traveller site developers, the record is that none have been able to acquire and develop sites in York. And proposals are likely to encounter the widespread local opposition and prejudice against Traveller sites, which is a major reason for the failure to allocate sites. GB4 may potentially be helpful, but there is no certainty it will actually bring forward any sites.
36. Accommodation is needed for both definition and non-definition Travellers. We have questioned the robustness of the distinction between the two groups in the 2022 GTAA. Restricting H5 b) and GB4 provision to non-nomadic Gypsies and Travellers is unjustified and will make delivery more

complex. Modifications are required to allow provision under both H5 b) and GB4 to be for both types of Travellers.

## Conclusions

37. The 2022 GTAA underestimates need because of its focus on the established sites and its failure to provide an assessment of needs from other sources. Its attempt to distinguish between nomadic and non-nomadic households is over-rigid and is not robust.
38. Beyond the numbers an even more fundamental weakness is that the plan's proposals for making provision will not work. Rather than allocating sites (which the Council attempted at an earlier stage, but shied away from), the plan seeks to avoid the need to allocate land by requiring each of the major housing sites to make provision. We believe this is highly likely to fail. We struggle to see at this late stage in the process how the required modifications can be made. These include allocations and establishing how the site specific H5 b) are directly related to the development and reasonably related in scale and kind.
39. The 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.

40. Planning Policy for Traveller Sites 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'*.

41. Again, the Plan fails in this regard, and this represents a profound failure of policy, which means the plan's policies for Gypsies and Travellers cannot be sound, and consequently that the plan as a whole is not sound.