

York Local Plan Examination

**Proposed Main Modifications
Consultation July 2024**



September 2024.

prolegomenon

The planning system for Gypsies and Travellers is as complex as it is brutal.

While the criminal law both constructs and sanctions nomadism as homelessness on the one hand – so that permanent sites are effectively legally *mandated*, property and planning law strictly limits and conditions access to and use of land on the other, to make them extremely difficult to secure.

Since the statutory obligations on Councils to build Traveller sites were removed in 1994;¹ Government policy has been geared almost entirely towards private provision. In the context of a chronic shortage of appropriate sites for Gypsies and Travellers, ordinary families are left to fend for themselves in the planning system in order to secure authorised, sustainable homes. But there are no mortgages available to buy suitable land without planning permission to live on it; still less to pay for the fees and surveys and reports involved in obtaining it. For those households with a need for private residential sites; access to suitable accommodation almost always depends on an ability to front-load the *entire* costs incurred in the planning process, and subject themselves to detailed and aggressive public scrutiny in a process of ‘participatory democracy’ in which their personal and family circumstances, their cultural identity and their particular vulnerabilities will be opened to public debate.

There are very few specialist planning consultants in the UK for this kind of residential development. Even for those households who are able to access professional advice, the process is long, and arduous and extremely stressful, and families might spend many thousands of pounds over several years, fighting complex administrative battles, with no certainty until the final Appeal Decision is given which way it will go. The perpetual precarity of home. Nationally, locally and in so many families and communities all over the country, personally; it is wholly unsustainable.

Gypsy and Traveller households and communities in the UK are multiple and diverse, and are represented across the breadth of the socio-economic spectrum, with a wide range of social and cultural needs and priorities. Government policy towards ‘self-build’ development of Traveller Sites reflects (at least in part) the fact that the people who are best placed to deliver the most sustainable Traveller Sites will be those who intend to live on them.

If provision for Gypsies and Travellers through Policy H5(b) is understood, in policy terms, as a species of affordable housing – to be dealt with under the general policies in NPPF; then the framework already embedded and functioning within the mainstream planning system may be readily adapted to meet the specific needs of the Gypsy and Traveller Community, by ensuring as far as possible that the groups; households and families who want and need to develop Traveller Sites have the resources and the support they need to do so.

If Policy H5 is implemented in a paradigm in which Traveller Sites are imagined as *solutions*; it could be capable of supporting and sustaining **transformational change** in this crucial area of land use planning.

It’s in the interpretation.

¹ Under the Criminal Justice and Public Order Act 1994

1. introduction

1.1. These non-duly made representations have been hard-won, late on, under challenging circumstances, to respond to the Main Modifications Consultation on Policy H5 in the Examination of the York Local Plan.

1.2. They build on and should be read alongside previous submissions to the Examination [REDACTED] [REDACTED] since the Council published its paper 'Provision for Gypsies and Travellers and Travelling Showpeople' (ex-cyc-121a) in December 2022. These include, in particular, the March 2023 Consultation Response submitted by MH Planning on behalf of York Travellers Trust; 'Annex A', submitted in December 2023; and the YTT Hearing Statement for the Phase 5 Hearing.

1.3. I do not underestimate the very significant level of cost and inconvenience that has been caused to all parties involved in, or reliant on the adoption of the Local Plan over the past 2 years. In that context, I have been grateful for (and profoundly relieved at) the Inspectors recognition that the matters at issue here were and are of sufficient importance to justify significant further delays to an already painfully drawn-out process; and the detailed and sensitive attention that has been given to provision for Gypsy and Traveller sites in the final phase of the Examination.

1.4. As Professor Caroline Hunter, Chair of Trustees for York Travellers Trust has put it:

'The issues at stake here are central to the broader advocacy and support work that YTT was set up to do, to assist the Gypsy and Traveller communities of York - not only to gain access to the same freedoms and opportunities afforded to other citizens of the City, but to recognise and start to heal from the complex and often self-perpetuating consequences of having systematically been denied them.'

'Our experience in York correlates exactly with the findings of decades of academic and community research in the field. The critical and transformative work that YTT needs and wants to do with our clients to empower them to access opportunities in all other areas of their lives depends, first, on the safety, quality and security of their homes. The need to address the appalling state of the provision for families in York did not become urgent through the Local Plan Examination. It has been urgent for decades.'

1.5. When the Council's Main Modifications document (ex-cyc-121a) was published in December 2022; it became clear that the withdrawal of the policy provision for affordable Traveller sites under GB2 had, as was only to be expected, left the Plan without a *rolling supply* of sites. Negotiations under Policy H5(b) had thus far failed to secure any pitch on any strategic site and had, as a consequence, already exposed the policy failure which would direct all future development to the existing Council site at Osbaldwick.

1.6. The recent (though belated) commitments to desperately needed improvements must, of course, be welcomed (albeit with appropriate scepticism). However, as the Council itself submits, the powers that are granted to it in relation to the Local Plan are not intended to be exercised for the purposes of redefining or enforcing the Council's obligations as a *Housing Authority*; but to contribute to the achievement of the Government's broader national objectives as a *Local Planning Authority*, by implementing policies that take local circumstances into account, to create a positive framework to promote and facilitate sustainable development.

1.7. The Council contends that it is not only *acceptable* to condemn Gypsies and Travellers to residential conditions that would be considered unacceptable for other communities in the Local Plan, but that it is in fact *required* by national policy. I disagree.²

² See Document 1 - Emails July 2024

1.8. There is no safeguard available within the scope of the Local Plan or, indeed, any other of the Councils public functions that is capable of mitigating or avoiding the clearly foreseeable harms that will be the consequences of the Policy failure that appears inevitable here. In the context of irrefutable evidence from the Council's own officers on its Examination website to that effect; it has been profoundly and indescribably offensive to be forced to expend very significant time and resources unpicking the Councils elaborate and detailed, though wholly inconsistent and woefully inadequate justification for its position.

1.9. Having first been introduced to the York Local Plan Examination and the issues at the heart of this consultation in 2018, I have joined colleagues at YTT and MH Planning in discussions with Planning Officers throughout the course of the Examination.

1.10. Michael Hargreaves wrote, on behalf of YTT in their Hearing Statement for the Phase 3 Hearings in July 2022, that 'YTT's first meeting with the planners on the Local Plan was in 2013': and noted then that:

*'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.'*³

1.11. My position on the soundness of the Local Plan has not changed since June 2019, when it became clear to me [REDACTED] that Policy H5(b) could only function effectively if it was understood and implemented as a policy for affordable housing, under NPPF. I [REDACTED] in January 2023, at the meeting of the Local Plan Working Group in advance of the consultation on the December 2022 document (ex-cyc-121a).

1.12. Then, as now, I was clear that the Council is not required to demonstrate the acceptability of the consequences of policy failure, but the soundness of the policy.

2. The Proposed Modifications

2.1. Paragraph 182 NPPF (2012) indicates that in order to be found 'sound', the Local Plan must be:

1. Positively Prepared: based on a strategy which seeks to meet objectively assessed development and infrastructure requirements;

2. Justified: the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence;

3. Effective: deliverable over its period based on effective joint working on cross-boundary strategic priorities; and

4. Consistent with national policy: enabling the delivery of sustainable development.

2.2. Taking into account the modifications that are under consultation (albeit, possibly, with some minor amendments), Policy H5, and the Plan as a whole, could be said to be 'sound.'

2.3. However, as discussed throughout this document, the effective implementation of one modification in particular is crucial to the effectiveness of the rest of the Policy, and the soundness of the Plan as a whole.

2.4. If the Policy provision for local Gypsy and Traveller households with a need for affordable accommodation (Policy H5(b)) is understood and implemented as a species of affordable housing

³ MH Planning; Matter 9 Hearing Statement July 2022 - <https://www.york.gov.uk/downloads/file/8284/hs-p3-m9-g-t-6-york-travellers-trust>

under general policies in the NPPF; hurdles to the delivery of Traveller Sites that have raised serious questions about the effectiveness of the Plan during the Examination period may finally be overcome, and put behind us.

2.5 Proposed Modifications

Policy H5 and the Local Plan as a whole is capable of meeting its primary objective – of promoting sustainable development. But the soundness of the Local Plan is dependent entirely on a simple, but effective, paradigm shift.

2.6. Despite its clear recognition throughout the documents to the Examination that the households whose needs are to be provided for under the Local Plan are primarily those with a local connection, with a need for affordable accommodation, who do not meet the definition in Annex 1 to PPTS, we have not, yet, been able to bring this about.

2.7. I am hopeful that clear guidance from the Inspectors in the forthcoming Report, alongside any relevant modifications that are considered necessary, will resolve the outstanding issues.

2.8. MM.5.25

2.9. The modifications contained in MM 5.25 relate directly to parts (b) and (c) of Policy H5, and address the need to demonstrate a ‘rolling supply’ of suitable sites throughout the lifetime of the Plan.

2.10. The content and intention of the modifications in MM5.25 are necessary but for the reasons given below, they are not sufficient. In the absence of clear guidance as to the appropriate *interpretation* of the Policy to assist developers and decision makers, it cannot be effective. As discussed below, this will not only result in the failure to the Plan to deliver the sustainable homes that are required, it is liable to cause inter-community conflict, and breaches of the Councils obligations under the Equality Act 2010.

2.11. MM 5.23

2.12. ‘Safeguarding existing supply’

The first part of the text in Policy H5 states that:

‘Proposals which fail to protect existing Gypsy and Traveller sites or involve a loss of required or equivalent alternative provision can be made.

2.13. ██████████ YTT in its Phase 5 Hearing Statement;⁴ the policy direction to ‘safeguard existing supply’ of pitches requires a qualitative as well as a quantitative analysis, or in fact, a synthesis of the two.

2.14. The Councils’ Document of December 2022⁵ focussed the attention of the Examination on the unacceptable environmental conditions suffered by the residents of the Councils’ site at Osbaldwick.

2.15. We have seen (and articulated) the extent to which planning permissions⁶ that have been granted by the Council for the intensification of industrial uses on adjacent sites has compounded and exacerbated conditions that have already created a deeply unsatisfactory and inhospitable residential environment. Ultimately, these issues raised sufficient cause for concern to lead Inspectors to request a site visit in March 2024.

⁴ Phase 5 Hearing Statement; York Travellers Trust; March 2024 Paragraphs 26-39

⁵ *Provision for Gypsies and Travellers*’ ex-cyc-121a

⁶ See paragraphs 5.9; ‘Annex A’; ref: 07/01243/FUL; and 07/01243/FUL; Section 8 YTT Consultation

2.16. In their email of the 8th May 2024, the Inspectors issued the following conclusions:

'On the basis of what we saw at the site visit, we have significant misgivings about the proposed expansion of the site at Outgang Lane, Osbaldwick. The access to the existing site, an unmade road, with a potholed surface, and no pavements, or lighting, is not safe. Moreover, the relationship of the existing accommodation with the adjoining waste processing site is such that living conditions for residents leave a lot to be desired. Adding more accommodation, without meaningful mitigation, would simply serve to increase the number of people who have to suffer these unsatisfactory conditions. The suggested forward funding of improvements to the access to, and facilities at, the existing site would go some way towards addressing these problems, but we are of the firm view that there need to be more safeguards in Policy H5 to ensure that the expansion of the site offers reasonable living conditions for residents.'

2.17. The effectiveness of the provisions contained in Policy H5(a) will be wholly contingent on the approach that is taken to the *'early site search,'* and other commitments that are contained at 5.40.a.

2.18. To summarise; in its activities towards delivering sites, paragraph 5.40a requires the Council to ***collaborate with the Gypsy and Traveller community*** to carry out an ***'early site search within the terms of PPTS'***, and to ensure that current and future residents are not exposed to unsatisfactory living conditions. Steps should also be taken to improve existing facilities.

2.19. As set out below, and in previous representations, including orally at the Phase 5 Hearing, any search for suitable land to deliver the pitches that are anticipated to come through Policy H5(b), that is carried out *within the terms of PPTS* will necessarily recognise that **the Policies within PPTS should not be applied.**

2.20. Instead, the Policy must be understood and implemented as intended, as derived from Paragraph 50 NPPF:

'● where they have identified that affordable housing is needed, [Councils should] set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time;'

applying Paragraph 89 NPPF to allow for *'limited affordable housing [in the Green Belt] for local community needs under policies set out in the Local Plan.'*

2.21. Previous experience has confirmed that without this amendment to the terms of the search, it **cannot be expected to deliver land.**

2.22. Policy H5(a)

2.23. The question as to whether policy provision relates to PPTS or non-PPTS defined need has pervaded the Local Plan from the start of the process. I have pointed out previously that the Councils allocations policy for its Traveller Sites does not require that applicants meet the PPTS definition. Many of the families living on the sites will likely want access to the new pitches there for their families to grow. The limitation imposed on pitches coming through H5(a) to PPTS-defined households is not *justified* and not *effective*. I recognise that the limitation is derived from the Councils need to identify allocations for the first 5-years worth of need, however, it serves no purpose beyond that, and is in fact counter-productive to meeting need effectively.

2.24. In its Document of December 2022, the Council stated that *‘the PPTS and the National Planning Policy Framework (“the NPPF”) remain government policy and the requirements of both have been applied in a way that is consistent with Lisa Smith.’* It confirmed *‘the plan’s strategic approach to meeting all identified Traveller needs.’* It seems clear that the Council has not understood the relevance of the definitional issue. In this context, it may be inappropriate to make this distinction (and create this limitation) in Policy H5(a).

2.25. ‘Benchmarking’ approach

2.26. Paragraph 5.40a of the Explanatory Text to Policy H5 (part of M.M.5.25) Sets out a number of commitments:

‘The Council is committed to investing in each of its owned and managed traveller sites to ensure that current and future residents are not exposed to unsatisfactory living conditions and that steps are taken to improve existing facilities.’

In addition to this, following adoption of the plan the Council will undertake an early site search within the terms of PPTS and assess any options that emerge as potential alternatives sites to the further expansion of its sites at Osbaldwick and Clifton.

Options will need to be considered in the context of the masterplan process required by part A of Policy H5. The masterplan outputs will form a benchmark against which options shall be assessed.

This work will be undertaken as part of a comprehensive package of actions developed and progressed in collaboration with the gypsy and traveller community to ensure that existing inequalities are properly addressed.’

2.27. Some of the points raised in previous submissions⁷ are worth repeating in full in the context of proposals to implement a ‘benchmarking system’ in which potential sites coming forward will be assessed against the outcomes of the ‘masterplan process’ for the expansion of existing sites as required by Policy H5(a).

2.28. Specifically, in March 2023, ██████████

‘2.6. The consequences of the history of extremely poor provision for Traveller sites in York has played a significant role in the social and economic exclusion of these communities. Those members of the community able to finance the acquisition and development of their own sites have been driven from the City.

2.7. This has led to the situation in York where the only experience people have of Traveller Sites is of those that are provided by the Council. This has resulted in an incomplete and narrow view of Traveller sites which has become embedded in the institutional culture of the Council, and the broader social culture of the City.

2.8. The Council’s vision of the future for Traveller Sites, as expressed in Policy H5, is built on, and reflects, the appalling choices in terms of land use planning made in the past. This can only perpetuate the social, political and cultural exclusion of Gypsies and Travellers for generations to come.’

2.29. The Councils concurrent commitments to *ensure that existing inequalities are properly addressed* and to use the masterplan outputs as a *benchmark against which options shall be assessed* in the ‘early site search’ are directly incompatible.

⁷ See YTT Consultation Response; March 2023; paragraphs 2.6 – 2.8

2.30. One of the perennial insults in the Councils analysis, over the course of the Examination, has been in its reliance on the historic inequalities experienced by Gypsy and Traveller people in the City that are the direct consequence of the inappropriate location of the Osbaldwick Site, to justify the assumption (and to reinforce it in long term Land Use Policy) that the same unsatisfactory conditions must be acceptable for future Gypsy and Traveller Households also.

2.31. The Masterplan process – particularly at the Osbaldwick site - is required to ensure that sites that are in extremely poor condition are not permitted to deteriorate further through ill-planned and inappropriate expansions. The use of the outcomes of this process as a ‘benchmark’ against which to assess options that come forward through the ‘*early site search*’ is directly incompatible with the Council’s commitment to work ‘*in collaboration with the Gypsy and Traveller community to ensure that existing inequalities are properly addressed.*’

2.32. Instead, the Council should implement practical and effective methods of working ‘*with the communities affected*’ to achieve effective design and delivery mechanisms for sustainable new homes, and should conduct its ‘*early site search*’ against *this* benchmark.

2.33. Learning and experience gleaned from this process should then (or simultaneously) be applied in the master planning process for the expansion of existing sites. We should implement policy that allows us to learn and grow through processes involved in the creation of *positive solutions*, rather than the mitigation of previous harms to generate opportunities for meaningful, sustainable change.

2.33. The Clifton Masterplan

2.34. It is understood that at least part of the existing site at Water Lane will need to be redeveloped to accommodate the 6 new pitches that are intended to be delivered there, and that a number of pitches may need to ‘de-cant’ to an alternative site while the works are carried out.

2.35. It would make sense to carry out the master planning for the site at Clifton in tandem with provision of some pitches off-site, to ensure that sufficient space is available to make meaningful and sustainable improvements to facilities in the process. The ‘early site search’ should be conducted, at least in part, with this in mind. This may provide an excellent opportunity for the Council to work with community members to start to develop a plan for future delivery, including appropriate tenure and management arrangements.

2.36. Osbaldwick Site – Master Plan

2.37. It remains my firm view that no additional pitches should be delivered at the Osbaldwick Site unless and until very significant improvements have been made to current conditions *and* existing site residents *specifically want further pitches on the site.*

2.38. The Modifications that were requested by the Inspectors in May seemed to me (perhaps naively) to be onerous enough, and the parallel adjustments to the ‘early site search’ positive enough, that no further development should be necessary or even contemplated at the Site. It is clear that the Council has understood this differently.

2.39. I have spent many hours over the course of the last couple of years, with others, thinking about how the Osbaldwick Site might be made acceptable *for the current residents*. This should be the priority at the site. I support the expansion of the Green Belt boundary around the perimeter of the Site, to create sufficient space to make meaningful design interventions, and strongly support the use of appropriate landscaping tools, including bunding and shelter belts where possible. The Council has already made commitments to this end, and these must be honoured. As above, at the Clifton Site, my view is that a

fully cohesive, longer-term Master Plan should be designed for the site, in parallel with one or more new sites elsewhere.

2.40. The site at Osbaldwick is desperately in need of very significant investment and improvements, but these should be implemented regardless as to whether further pitches are intended to be delivered. In fact, given the manifestly inappropriate location of the Site, within a continuously expanding industrial estate, it would have been reasonable to count all 18 existing pitches there as part of the accommodation need over the lifetime of the Plan.

2.41. Whilst it may well be that some current residents will prefer to stay on an improved site, in the location that they are familiar with and settled in, it seems likely that adjacent land will continue to develop in the same way it has done over decades, increasingly compounding and exacerbating the issues there.

2.42. An example can be found at Application Ref: 23/02030/FULM, which is currently being determined. The application is for ‘*Up to 104no. containerised battery storage units, arranged in rows;*’ with all of the associated cooling fans and hazards, on a site directly adjoining the residential caravan site. If it is allowed to proceed, life on the Traveller site will inevitably become considerably more uncomfortable. Likely, for some residents, unbearable. Without detailed and sensitive attention to the particular vulnerability of residential caravans to environmental factors around them, Planning Officers are likely to continue to make irreversible decisions that intensify the industrial uses to either side of the site.

2.43. Whilst contemporary examples suggest that Officers may simply uncritically accept the findings of Reports commissioned by Applicants; to show that ‘*nearby residential receptors will not be affected*’ the residents of the Site remain extremely vulnerable. (Document 11).

2.44. Clearly, on the basis of the environmental conditions that are already prevalent at the site, which are a result of surrounding uses, it is inappropriate to expand *either* the Traveller Site, *or* the Industrial Estate around it. It is imperative that Council planners and Officers plan sufficiently ahead of time to resolve these incompatible land uses.

3. The Problem

3.0. The central issues that persist to obstruct the delivery of appropriate accommodation for Gypsies and Travellers through Policy H5, and the Local Plan more generally, are very largely attributable to a combination between the extremely tight boundaries of the Green Belt, which are being defined in detail for the first time; and the misapplication of PPTS, to exclude households who do not meet the definition in Annex 1 from access to provision under NPPF policy - in particular, Policy GB2.

3.1. ‘*The Government attaches great importance to Green Belts.*’⁸ As the Council points out, in its Document of 14th August 2024; the position in national policy is clear (to the time of writing at least). Policy E PPTS confirms that ‘*Traveller sites (temporary or permanent) in the Green Belt*’, (like almost all other kinds of residential development) *are inappropriate development*’ and should not be approved, except in ‘*very special circumstances*. This is not in dispute.

3.2. However, Paragraph 79 NPPF (2012)⁹ also confirms that ‘the purpose of the planning system is to contribute to the achievement of sustainable development;’ and that ‘*plans and decisions need to take*

⁸ Paragraph 79 NPPF 2012

⁹ also Policy B PPTS

*local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas.*¹⁰

3.3. Paragraph 84 NPPF indicates that: *‘when drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development...’* and it is made clear at Paragraph 85 that *‘when defining boundaries, local planning authorities should,’* amongst other things: *‘ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development.’*¹¹

3.5. Having misdirected itself that it should meet the accommodation need of *all* Gypsy and Traveller households with a cultural need for a Caravan Site through provisions contained in PPTS: *whether or not they meet the definition in Annex I*, the Council appears to have elevated the (admittedly strict) limitation contained in Policy E PPTS to the status of a mandatory and inflexible overarching policy *objective*, and employed an instrumentalist approach to the interpretation to *all other relevant policy and legal authority* that is designed specifically to conform to it.

4.0. Defining the Green Belt

4.1. The obligations retained by the Council under saved policies in the Yorkshire and Humber Regional Spatial Strategy require that:

*‘The detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city’;*¹²

4.2. and that:

Plans, strategies, investment decisions and programmes for the York sub area should:

1. In the City of York LDF, define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York city centre and the inner boundary in line with policy YH9C.

2. Protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

4.3. The City of York has historically experienced significant challenges in meeting these aims.

4.4. In June 2020, after the Phase 1 Hearings, Inspectors gave detailed guidance to the Council as to the proper interpretation of National Green Belt policy. Noting that *‘the level of complexity and intricacy of the methodology used’* in the Councils approach to the Green Belt made it difficult to understand, they identified a particular issue in the Councils apparently *‘erroneous conflation of ‘shapers,’* such as *‘promoting sustainable development’* with Green Belt purposes, and the consequent misuse of the delineation of the Green Belt to meet illegitimate aims. Acknowledging that these were no doubt *‘important factors to be taken into account in the plan making process,’* the Inspectors expressed *‘serious concerns’* that the misuse of the Green Belt Boundaries to address them had resulted in *‘intrinsic flaws embedded in the methodology.’*

4.5. The Phase 1 Hearing Statement, prepared by Michael Hargreaves on behalf of YTT in November 2019, had articulated the consequences of the problem clearly:

¹⁰ Paragraph 80 NPPF 2012

¹¹ Paragraph 85 NPPF 2012

¹² **POLICY YH9C: Green belt**

‘There is a significant risk that the proposed Green Belt boundaries are too tight to meet identified development needs contrary to Policy 35a) of the NPPF and paragraphs 9 and 10 of Planning Policy for Traveller Sites.’

4.6. The Inspectors indicated that the Council would need, realistically:

- a) *to convincingly explain to us how we have misunderstood the methodology and that it adequately justifies the proposed Green Belt boundaries;*
- b) *to demonstrate that, notwithstanding the methodological flaws, the Green Belt boundaries proposed are justified and reasonable; or to*
- c) *withdraw the Local Plan from examination.*

4.7. As is detailed at paragraphs 1.8 – 1.17 of ‘Annex A’, the Council declined the Inspectors invitation to withdraw the Plan from Examination in December 2020, and put forward a number of amendments – to demonstrate, in accordance with ‘option (b)’ that the boundaries proposed were ‘justified and reasonable.’

4.8 These included, in relation to the matter of Gypsy and Traveller Sites, explicit confirmation, in what is now Policy GB2, that the rural exception site policy provided to support the delivery of small scale, affordable housing developments should be read to include affordable Traveller Sites for local households who do not meet the PPTS definition.

4.9 The Examination proceeded on this basis.

5.0 Planning Policy for Traveller Sites/ Rural Exception Site Policies

5.1 Planning Policy for Traveller Sites behaves somewhat differently in York to how it does in most LPA areas elsewhere around the country, due to the very tight boundaries of the Green Belt.

5.2. In setting out the conditions and circumstances in which a specific group of people, as defined in Annex 1, may make use of land for residential purposes where others may not; PPTS is similar in effect to a ‘*rural exception site policy.*’ Designed to facilitate the particular ‘nomadic habit of life’ of Gypsies and Travellers, it takes the specific spatial and environmental needs and requirements of that lifestyle into account to guide development towards the most sustainable locations. National policy recognises that whilst Traveller Sites should be well-related to existing settlements, to facilitate reasonable access to health and education services, they are very often likely to need to be outside of settlement limits, in countryside, and on land that would not be appropriate for general housing.

5.3. In other words, in guiding policy making (and implementation) for Traveller Sites in the great majority of other Local Authority Areas, particularly where there are large areas of non-Green Belt land outside of development boundaries – PPTS can ordinarily be expected (in theory) to provide a *benefit* for Gypsy and Traveller households in accessing appropriate land, in appropriate locations, to mitigate the *disbenefit* caused to their minority interests by the need for broader spatial and environmental regulatory control.

5.4. For this reason, permissions granted under PPTS are ordinarily conditioned to limit the residential occupation of sites to those meeting the Annex 1 Definition – so the establishment of a lawful residential use of land for Traveller Sites cannot be misused to subvert the planning system, by creating a pathway for other, inappropriate forms of residential development to become established in the future.

5.5. Where Local Planning Areas have particular local circumstances that necessitate very extensive (and consequently very prohibitive) Green Belt designations; paragraphs 89 and 90 of NPPF provide for the use of rural exception site policies in Local Plans, to mitigate the disproportionate impact on

the viability and deliverability of particular kinds of developments – for all social groups and uses. These include, at paragraph 89; *‘limited affordable housing for local community needs.’* These specified uses are *‘not inappropriate,’* so sites that are developed under these policies remain within, and under the policy protection of the Green Belt.

5.6. Again, it is indicated in NPPF that planning conditions must ensure that the legitimate policy objectives by which both the Green Belt boundaries and the exceptional use of land within it are necessitated and justified will be effectively achieved.

5.7. The terms ‘Affordable housing’ and ‘Rural exception sites’ are defined in the Glossary to NPPF as below:

‘Affordable housing:

Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.’

Rural exception sites:

Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. Small numbers of market homes may be allowed at the local authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.’

5.8. The Government’s Planning Practice Guidance on rural exception sites indicates that *‘strategic policy-making authorities will need to consider the extent to which the identified needs of specific groups can be addressed in the area’* and will need to take into account, amongst other things, *‘the anticipated deliverability of different forms of provision, having regard to viability.’* It is made explicit that *‘Authorities must also consider the implications of their duties under the Equality Act 2010, including the Public Sector Equality Duty.’*

5.9. It goes on to state that *‘rural exception sites can come forward in any rural location’ including the Green Belt, and that they ‘should seek to address the affordable housing needs of local communities. They can be used to deliver any form of affordable housing, [...], provided this is supported by appropriate evidence of local need’...*

5.10. Policy GB2 of the Draft Local Plan implements the provisions in paragraph 89 NPPF, explaining that:

‘Exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection’ and that in certain circumstances, set out in the Policy, ‘the development of limited affordable housing on exception sites in the Green Belt is not inappropriate.’

5.11. In effect; where the limitations on development that are imposed by the extensive use of Green Belt designations have been properly justified with reference to the clear policy objectives they are intended to serve; Paragraph 89 NPPF supports the use of criteria-based policy that can respond effectively to the *‘very special circumstances’* that arise as a consequence. Achieving the objectives of Sustainable Development in this context requires that the needs of certain groups are considered and *safeguarded within and as a part of the protected landscape*. Where there is a need for *‘affordable housing for local community needs’* that cannot otherwise be met, it is incumbent on the Council to consider all reasonable options available to meet it.

5.12. In the absence of allocations of suitable, available land for Traveller Sites in the Plan, the inclusion of culturally appropriate accommodation for Gypsies and Travellers with a local connection, and a need for affordable accommodation in Policy GB2, which deals with exception sites for affordable housing in the Green Belt, was the only mechanism by which the Policy in H5(b) and H5(c) could ever have been expected to function. Introduced by the Council as a direct response to serious concerns raised by Inspectors about the ability of the Plan to deliver a rolling supply of sites; it was restated and agreed with Inspectors; released for public consultation; and published over months or years in the Councils submissions. No further work was requested of the Council in relation to Policy H5 throughout that time.

5.13. The Council itself took issue with its own practical, lawful, policy-compliant solution to a specific problem that had been raised by Inspectors as a serious threat to the Plan's progress; and in November 2022 the question arose again:

'We need to see a satisfactory rolling supply of pitches over the Plan period.'

5.14. The document that was published in December 2022; *'Provision for Gypsies and Travellers and Travelling Showpeople'*¹³ revealed the inherent weakness in Policy H5.

5.15. Following a series of communications between August and December 2023; Inspectors wrote to the Council again to request an accompanied visit to the site at Osbaldwick, which has been shown to be the only land that will come forward through Local Plan policies for Traveller Pitches; and to arrange a further Hearing.

6. The Hearing

6.1. The Phase 5 Hearing was held on 6th March 2024, following an accompanied visit to the Osbaldwick Site on the 5th.

6.2. In the days leading up to the Hearing, the Council submitted several documents to the Examination, including a Report to the Executive, entitled *'Delivering additional Gypsy and Traveller Accommodation and improving existing facilities'* in which it set out a *'forward funding approach for the delivery of additional pitches by the council with investment supplemented by S106 funds when received and any grant funding opportunities.'* The estimated costs of *'additional pitch provision and improvements'* was around £5.25m.

6.3. At Appendix 2 to its Hearing Statement, it contained further suggested amendments to Policy H5, as follows:

'5.37 Planning Policy for Traveller Sites (2023) revised the definition for Travellers which states that households that do not travel and have not ever travelled for work purposes fall outside the planning definition of a Traveller. In light of the revised definition, the Council updated its evidence base that informed the City of York Gypsy and Travellers Accommodation Assessment (2022)

5.40a The Council is committed to investing in each of its owned and managed Traveller sites to ensure that current and future residents are not exposed to unsatisfactory living conditions. Following adoption of the plan the Council will undertake an early site search within the terms of PPTS and assess any options that emerge as potential alternative sites. This work will be undertaken as part of a comprehensive package of actions developed and progressed in collaboration with the Gypsy and Traveller community to ensure that existing inequalities are properly addressed.'

6.4. As is clear from their email of the 8th May, the Inspectors had come away from the site visit on the 5th March with the firm view that *'living conditions for residents leave a lot to be desired.'* During

¹³ <https://www.york.gov.uk/downloads/file/8695/ex-cyc-121a-provision-of-gypsy-and-traveller-etc>

discussions the following day, it became clear that despite its expressed acknowledgement that conditions on the site at Osboldwick are manifestly unacceptable; the Council nevertheless sought to persuade the Examination that plans for its expansion are ‘sound’ on the bases that:

1. Given the City’s long and difficult history with the process, any further delay to the adoption of the Plan to avoid clearly foreseeable harm to a tiny community of Gypsy and Traveller people would cause disproportionate harm to the public interest; and

2. there was no other lawful alternative.

6.5. When the Inspector guided the discussion away from the question of making the unacceptable tolerable to the question of making the policy viable, raising the question of ‘*rural exception site policy*’ himself; and a consensus began to emerge among all other parties; the Council redoubled its position.

6.6. During the course of discussion, ██████████ submitted Policy H3, from the Guildford Local Plan, to the Hearing. It provides, very simply, exactly the policy provision that we would like to see here:

‘POLICY H3: Rural exception homes

(1) Small scale affordable housing developments in the Green Belt, which can include pitches for Gypsies and Travellers not meeting the Planning Policy for Traveller Sites definition of a Gypsy or Traveller, will be permitted to meet identified local affordable housing needs provided that:

a) the site adjoins or is closely related to, and in safe and reasonable walking distance of a rural settlement, and

b) the number, size and tenure of homes would be appropriate to meet, or to contribute to meeting, the identified affordable housing needs of the local community, and

c) the affordable homes are all secured in perpetuity.’

6.7. The Council’s response was very revealing. Whilst most, if not all other parties had come to the Hearing with the intention of finding a way to make the Policy for Gypsy and Traveller sites functional; the Council had come to defend its case that the delivery of appropriate sites *was manifestly impossible* and to show instead that the foreseeable harms caused to Gypsy and Traveller people must therefore be considered acceptable.

6.8. David Elvin KC submitted the case of ‘*Kingston*’ to the Hearing after a momentary glance at the case summary, departing immediately from its facts to assert, without reliance on any other named authority, that Gypsy and Traveller sites are inappropriate development in the Green Belt, *whether they are delivered under PPTS policies or not*, and that the ‘Guildford Policy’ had been ‘overturned.’

6.9. Document 1 ██████████ ██████████ explain how and why ‘*Kingston*’ cannot be relied upon to disregard or delegitimise the ‘Guildford Policy.’ The Council’s document of the 23rd August, as published on the website, provides its response.

6.10. It is clear that the Council has taken a position which requires it to prove that there is no reasonable alternative to the Plans it has submitted, regardless of the inapplicability and/or inaccuracy of the legal and policy provisions it employs to do so.

7. The Decision

7.1. It is clear that the approach to the interpretation and implementation of the definition of ‘Gypsies and Travellers,’ in Policy H5 (and consequently, to ‘Traveller Sites’), is directly related to its capacity to meet its own objectives, and the objectives of sustainable development in the Local Plan.

7.2. The Councils approach to the interpretation of the PPTS definition as it relates to the Policy has been discussed at some length in previous submissions. It has become ever-clearer over the weeks since the Phase 5 Hearing that the error from which the Councils contemporary analysis, and by extension the policy failure proceeds is in its understanding that it is required to provide allocations and policy to meet the accommodation needs only of those Gypsy and Traveller households who meet the definition in Annex 1 PPTS. In this analysis, the additional pitches that are intended to be provided under the Policy are conceived of uncritically, in terms of a quantitative *benefit* that has been extended to Gypsy and Traveller people, as a voluntarily act of good will on the part of the Council.

7.3. The Council assumes that the accommodation needs of the community may be provided for under PPTS policies or *not at all*, and by that reasoning, disregards the applicability of policies under NPPF that would, and should, bring forward a ‘rolling supply’ of suitable sites for Gypsies and Travellers – specifically, such as is provided under Policy GB2. In doing so, it has failed to consider reasonable alternatives and is not justified or effective, and is not sound.

7.4. [REDACTED];¹⁴ in order to function effectively, Policy H5(b) must be understood and implemented as a species of ‘affordable housing’ in general housing policy – as provided for under provisions set out in the NPPF. It is *based on* and can be *effective only* via those policies. It is clear from previous iterations and proposed modifications of the draft policy that the Council once understood the policy justification for the inclusion of Traveller Sites within the scope of Policy GB2¹⁵ in exactly these terms.¹⁶

7.5. A range of issues that have arisen persistently to prevent Policy H5(b) from delivering pitches may be resolved (at least in theory) by a simple and eminently rational adjustment to the interpretive approach.

7.6. Crucially; the ‘early site search’ that is mandated under Paragraph 5.40a can only be capable of delivering land for sites if it is conducted within the terms of PPTS. The Master planning process envisioned in the modifications proposed in MM5.23 **must proceed from this understanding.** T

7.7. If the changes are ‘*necessary*’ to make the Plan sound, then it follows that they must be effective.

8. Policy H5(b) as Housing Policy.

8.1. The Inspectors Decision begins by confirming that:

‘The changes to Policies H5 and H6 suggested by the Council to deal with the revised definition in the PPTS, and other matters, are necessary to bring the Plan into line with national policy and make it sound.’

8.2. The Councils’ assessment of the ratio between those who do and those who do not meet the PPTS definition has not changed significantly throughout the process of the Examination. Whilst there was a significant reduction in the total need assessed between the GTAA 2014 and the GTANA 2016, when the PPTS definition was revised; any *re-distribution* of numbers *within* the table has been inconsequential in terms of the soundness of the policy. As the Inspectors have noted, the GTANA is not an ‘*exact science*’ and will inevitably only represent a ‘*snapshot in time.*’

8.3. The change that the Council has suggested in relation to the PPTS definition, which is ‘*necessary to bring the plan into line with national policy and make it sound*’ is in the Councils’ statement of its understanding of the meaning and effect of the PPTS definition in planning policy, rather than the

¹⁴ Since 6th June 2019, [REDACTED] see Section 3 YTT Consultation March 2023 See also Document 1.

¹⁵ See paragraphs 6.6–6.9 YTT Consultation Response March 2023

¹⁶ The evidence is in Policy SS1 (as above) and in the text of proposed modifications.

content of the policy itself, and the related commitment to an ‘early site search within the terms of PPTS.’ It is qualitative rather than quantitative.

8.4. Paragraph 5.37 of the Explanatory Text states that:

*‘Planning Policy for Traveller Sites (2015 **2023**) revised the definition for Travellers which states that households that do not **travel and have not ever travelled** for work purposes fall outside the planning definition of a Traveller....’¹⁷*

8.5. In making explicit its understanding as to which households do, and which do not fall within ‘the planning definition’; the Council has given a clear direction, within the text of the Policy, as to the proper interpretation of Policy H5(b).

8.6. In their email of November 2022, which followed the Decision in ‘Lisa Smith’ Inspectors asked:

‘whether the Council needs to revisit, modify, or update the GTAA (EX/CYC/88) in the light of the recent Lisa Smith judgment? Notwithstanding the response to that question, there may be a need to adjust draft Policy SS1 (as proposed to be modified in EX/CYC/111) to accord with the terms of the judgment, with particular reference to those that meet, and those that do not meet, the ‘definition’’

8.7. The Council responded (in summary) that:

*2.3 The GTAA clearly set out that the total need for Travellers in York is for 40 pitches. **The level of need was not reduced because of the exclusion for those who had stopped travelling because of age/disability.** Accordingly, the concern in Lisa Smith does not arise...*

8.8. Policy SS1 of the Draft Local Plan sets out the strategy for delivering ‘Sustainable Growth for York’. In setting out accommodation need and identifying sources of supply of sites over the Plan period; it makes a specific distinction between households who do and who do not meet the definition in PPTS.

*8.9. It is made explicit that the ‘total Target (requirement)’*to be met under housing policy over the Plan Period ‘includes housing requirement for Gypsies and Travellers who do not meet the Planning definition.’*

8.10. Part of the Plan’s strategic policy to facilitate the release of sufficient land, in suitable locations, to ensure that the Plan is able to promote sustainable development over the Plan period, is directed toward:

‘opportunities for rural exception sites, these small scale developments provide affordable homes in locations where new homes would not usually be appropriate.’

8.11. When the Annex 1 definition was amended in December 2023, the Council stated that:

1.1.3 The amendment effectively puts the Traveller definition back to that set out in the 2012 version of the PPTS by reintroducing into the definition those who have ceased to travel permanently due to education, ill health, or old age. It remains the case, however, that to meet the definition households must have previously travelled for work or seeking work, regardless of whether travelling has ceased on a temporary or permanent basis. Additionally, where travelling has ceased for reasons other than those specified, those households do not meet the definition.

8.12. It went on to note that:

¹⁷ This statement is not entirely accurate in terms of the implications of the recent changes – in fact the ‘planning definition of a Traveller’ has never included those who do not and have never led a nomadic habit of life.

'The revised definition and the findings referred to above do not give rise to any need to amend the structure of Policy H5, which safeguards existing sites and supports new pitch provision in three parts: within Existing Local Authority Sites; within Strategic Allocations; and planning Applications.'¹⁸

8.13. The Council was asked to revisit and consider both the GTAA **and Policy SS1**. The adjustment that the Inspectors question leads to, in relation to Policy SS1, 'to accord with the terms of the judgment' in 'Lisa Smith', must be *qualitative*, rather than quantitative, and concerned with the rationale for the break in the linkage between policies H5(b) and GB2, that were announced in the Councils oral submissions at the Phase 3 Hearings. It is not the structure of Policy H5 that requires amendment but its *interpretation*.

9. Duty to assess housing need

9.1. PPTS and NPPF require Councils to:

'use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decision'; and

'use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework.'

9.2. As has been discussed in previous submissions to the examination, the statutory duty on Councils to make assessments of Housing Need in their areas is contained in s8 of the Housing Act 1985. Section 8(3)¹⁹ deals specifically with the duty to consider the needs of people residing in or resorting to their district with respect to the provision of residential caravan sites, and residential moorings:

9.3. The people whose needs should be assessed under s8 are those who 'reside in or resort frequently to the area, who do or who might live in caravans or houseboats, and who may need sites where they may station or moor their homes. There is no reference to the protected characteristic of 'Race' in the legislation since the duty was imported into the Act via s124 of the Housing and Planning Act 2016, to replace the previous duty, under s225 of the Housing Act 2004, which had required Housing Authorities to assess the accommodation needs of 'Gypsies and Travellers'.

9.4. As was reported in a [Research Report](#) published by the EHRC in September 2019:

'There is a lack of specific guidance to support a consistent approach across LPAs and reduce shortcomings in assessments such as those identified by this research. Previously, section 225 of the Housing Act 2004 required housing authorities to have regard to government guidance when carrying out GTAAs and preparing local plans to meet Gypsies' and Travellers' needs. The guidance issued under section 226 of the Act set out in detail the matters that a GTAA should cover and provided advice on ensuring a high quality assessment (DCLG, 2007). But this guidance was withdrawn in December 2016 following the repeal of sections 225 and 226 by the Housing and Planning Act 2016. And as yet, no replacement guidance has been published. Instead, the needs of all people who require caravan sites are to be considered as part of a general housing needs assessment, while only those Gypsies and Travellers who meet the definition will have their needs assessed under PPTS 2015.'

¹⁸ 1.1.4.Hearing Statement <https://www.york.gov.uk/downloads/file/9498/hs-p5-m1-q1-1-1-cyc>

¹⁹ (as amended by the Housing and Planning Act 2016)

9.5. The Duty in s8 is reflected in Paragraph 159 of the NPPF 2012²⁰. which requires that

159. Local planning authorities should have a clear understanding of housing needs in their area. They should [...] ‘prepare a Strategic Housing Market Assessment to assess their full housing needs’ to address the need for ‘all types of housing, including affordable housing and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);

9.6. Footnote 34 of NPPF 2012 states that: ‘The planning policy for Traveller Sites sets out how Travellers’ accommodation needs **should also** be assessed.’ PPTS confirms, at Paragraph 1, that it ‘should be read in conjunction with the National Planning Policy Framework’.

9.7. Taking together the requirement in Paragraph 159 and footnote 24 NPPF 2012, it is clear that access to provision that is delivered through the Policy Framework in PPTS is supplementary to, rather than separate from access to the Policy Framework in NPPF.

12. Gypsies and Irish Travellers are distinct ethnic groups and all the duties on public bodies under Race Relations legislation apply. The accommodation needs of all Gypsies and Travellers, including the above groups as well as new travellers and travelling showpeople, should be identified, understood and addressed through the planning framework and housing strategy on the same basis as other sectors of the community. Only in this way can the needs of each sector of the community be understood and appropriate allocation of resources ensured. This will help to ensure that future planning and investment decisions are based on well informed and accurate data, that they gain acceptance from local communities, and are defensible if challenged²¹.

9.8. While the assessment under s8 of the Housing Act 1985 should not be limited to the needs of any particular group within either of the two categories, it is clear that different groups within those categories may well have different, and specific, needs, that warrant not only particular and additional legal protection, but positive and proactive policy support. As is set out at section 4 in the Judgment in ‘Lisa Smith’;

80. In my judgment, the Secretary of State was plainly justified in drawing a distinction between the specific land-use needs of those seeking to lead a nomadic lifestyle and those seeking a more settled existence. The former throws up particular challenges both for applicants and planning authorities, and the Secretary of State was entitled to devise a specific policy focusing on that issue which did not also seek to address the cultural needs of those Gypsies and Travellers now seeking a permanent home. The critical consideration is that PPTS 2015 does not stand alone. While the policy deals specifically with the housing needs of Gypsies and Travellers who follow a nomadic habit of life, it is part of a patchwork of provisions. As I have already identified:

80.1 paragraphs 59 and 61 of the NPPF require planning authorities to address the needs of Gypsies and Travellers irrespective of whether they meet the PPTS definition;

80.2 the specific accommodation requirements of permanently settled Gypsies who seek planning permission in order to maintain their cultural identity as Gypsies are “material considerations” which must be taken into account pursuant to s.70(2)(c) of the 1990 Act; and

80.3 other personal circumstances of Gypsy applicants can properly be taken into account as part of the material considerations: Basildon, at [33]-[34], Ouseley J.²²

²⁰ York Local Plan is being Examined under NPPF 2012

²¹ Guidance under s226 Housing Act 2004.

²² ‘Lisa Smith’

9.9. What is required to meet the objectives of sustainable development, is policy that is sufficiently flexible to meet a range of different needs equally, rather than policy that proceeds from a belief that it must treat equal needs *differently*.

10. Examples of the Councils current understanding in Practice.

10.1. Whilst the inappropriate interpretation of national policy will lead to the failure to deliver sites, it is also liable result, in the process, in manifestly harmful and inappropriate consequences.

10.2. When Inspectors Berkley and Griffiths wrote to the Council in December 2023, to request a further Hearing in the Local Plan Examination in relation to Gypsy and Traveller Site provision, they explained, in part, that:

‘... the approach taken to draft Policy H5 in the Council’s recent handling of application ref.21/02283/FULM (part of SS18) has been drawn to our attention. The allocation allows for two pitches to be provided on this site but, as we understand the situation, the Council’s decision means that no pitches will be provided on it. It is recognised that the intention is to use the financial contribution sought as a means of securing provision off-site, but the question is firstly, where, and secondly, when? We are concerned about the effect this will have on the overall supply and delivery of pitches required to meet the identified need. It also raises questions about the effectiveness of the policy relating to the draft allocation, and others like it proposed for other allocations in the Plan.

10.3. We need not rehearse our doubts about the effectiveness of Policy H5(b), as currently drafted, in full again here²³, but it will be useful to reconsider the Inspectors questions and some of the points we have raised previously in the light of 2 planning applications that are currently in progress with the Council.

10.4. The first, ‘ST4’(15/00166/FULM) lends itself very well to the task of illustrating the difficulties with implementing Policy H5(b) in practice as it is being applied by the Council. The second, relating to ‘ST9’ (23/00160/OUTM) gives an indication of (just some) of the issues, opportunities and costs that will inevitably arise in the planning process until this is properly understood. Both examples indicate the urgent need for guidance as to the proper interpretation of the policy.

11. Unenforceability – s106 - application (ref: 15/00166/FULM)

11.1. The recent decision of the Planning Committee on 1st August 2024; which granted permission on ‘Land Adj. Hull Road and Grimston Bar (ST4)’ for the development known as ‘ST4’ in the Draft Local plan provides a practical example by which to consider various issues related to the enforceability of the Policy to *require* that pitches are delivered ‘onsite’ through s106 Obligations.

11.2. This application (ref: 15/00166/FULM), was anticipated at paragraph 4.4. of the Council’s document of December 2022 ‘Provision for Gypsies and Travellers and Travelling Showpeople’ as follows:

‘application pending with onsite delivery of 2 pitches being negotiated, but off-site contribution included for worst case purposes.’

11.3. Given the serious questions that have been raised by Inspectors about the effectiveness of Policy H5(b), and its ability to bring forward appropriate sites, this application – which has been under discussion and subject to determination *during the process of the Consultation* - was a crucial opportunity to demonstrate that it can function effectively.

11.4. Instead, bewilderingly, the Planning Committee was advised that:

²³ section 4 of our Consultation response in March 2023

'3.9 In relation to policy H5 the weight of the policy remains limited on the basis of ongoing Inspector scrutiny and consultation on modifications dealing specifically with gypsy and traveller provision. Given this, it would be unreasonable to insist that the applicant provides all the information expected of policy H5.'

11.5. Proposals for the Hull Road Site 'ST4' were first submitted to the Council on the 28th January 2015. Various reports, surveys, and consultations were submitted between 2017 and November 2021, and in January 2022, an internal consultation from the Forward Planning Team stated (among other things) that:

'Gypsies and Travellers (Policy H5) – meeting the future housing needs of Gypsies and Travellers is a key aspect in the delivery of strategic housing sites. The application does not yet address Gypsy and Traveller housing need. To meet the policy requirements of H5 within strategic allocations of 100-499 dwellings, 2 pitches should be provided on site, or through the provision of alternative, suitable land. Commuted sum payments will only be considered where on/off site delivery is proven unviable.'

11.6. An email from the agent to the Planning Officer refers to a 'design review' meeting the following month, in February 2022, and expresses an intention on behalf of the Applicants to submit a revised application. The bulk of the documents for this were finally submitted in early May 2023 along with an amended Planning Statement and an email setting out how various of the other matters raised previously had been dealt with:

'The planning statement has been updated to address comments from Forward Planning, relating to healthcare facilities (Policy HW5), built sports facilities (Policy HW3), self and custom build (Policy H4), M4(3) provision (policy H9), cultural wellbeing (Policy D3) and childcare provision (Policy HW4).'

11.7. On the 26th July 2023, the Agent wrote to the Officer again to advise that:

'I have instructed Walker Morris LLP to prepare a draft S106 Agreement, which will include the heads of terms for the [...] Gypsy and Traveller pitch contributions (which I would be happy to discuss in more detail in a separate meeting).'

11.8. The Officer responded the following day, on the 27th July 2023, setting out the Policy Requirements explicitly again:

'The modifications to Policy H5 require residential development proposals on strategic sites such as yours to provide a number of pitches within the site or provide alternative land that meets the criteria set out in part c) of this policy to accommodate the required number of pitches. Commuted sum payments to contribute to development of pitches elsewhere will only be considered where it is demonstrated that on site delivery is not achievable due to site constraints and that there are no suitable and available alternative sites for the required number of pitches that can be secured by the developer. I note from your email that you are proposing a commuted sum, please could you provide the written justification that demonstrates that on site delivery is not achievable due to site constraints and that there are no suitable and available alternative sites for the required number of pitches.'

11.9. There is no evidence on file that the requirements of Policy H5(b) were discussed further thereafter. Until, 9 and a half years after the application was submitted, YTT received a consultation in relation to this application for the first time on the 13th July 2024 –over two and a half years after the issue of Gypsy and Traveller pitches was first raised by the Forward Planning Team.

11.10. [REDACTED]. (See Document 2 – YTT Consultation)

11.11. The Forward Planning Team provided further comments that day, to the effect that:

3.9 In relation to policy H5 the weight of the policy remains limited on the basis of ongoing Inspector scrutiny and consultation on modifications dealing specifically with Gypsy and Traveller provision. Given this, it would be unreasonable to insist that the applicant provides all the information expected of policy H5.’ (Document 3)

11.12. On the 26th July, the Committee Report was published, reproducing these conclusions.

Between the 26th July and the 1st August, several further submissions were made in relation to this issue, including an email from the Agent, in which he stated that he had *‘asked for clarity from officers on how to define ‘available’ and ‘suitable’ in Policy H5’* in September 2023, *‘but no response was received.’* (See Document 4)

11.13. Responding, presumably, to our Objection, which had stated in part that:

‘With relation to the development at ST4, the Document [ex-cyc-121a] stated that this application was ‘pending with onsite delivery of 2 pitches being negotiated, but off-site contribution included for worst case purposes.’

The Council had in fact provided the justification to settle for ‘worst case purposes’ itself in the same document, which identified that the pitches could be delivered on land at Osbaldwick.

Following the site visit and the recent Hearing, we now know that the pitches expected to come through ST4 cannot be delivered at Osbaldwick...’

The Agent for the development went on to note that:

‘Clearly this site search was undertaken 10 months ago and prior to Main Modifications to Policy H5, which now proposes further pitches and masterplans for Water Lane, Clifton and Outgang Lane, Osbaldwick.’ (See Document 4)

11.14. The Strategic Planning Team provided two further, more detailed submissions, in which it acknowledged that:

‘a request for this information was made in July 2023 to justify the offsite financial contribution offered via S106 agreement. However, to our knowledge, no evidence has been submitted in response and the scheme is not, therefore, wholly consistent with the provisions of part b in Policy H5.’

11.15. Nevertheless, it maintained its previous conclusions:

‘Given the current consultation of the modifications to Policy H5 it can be afforded only limited weight in the decision making process,’

stating finally that:

Notwithstanding that the commuted sum is not the Council’s preference, the financial obligation is considered to meet the 3 tests required by the CIL 122 regulations (as reflected in recent appeal decisions)⁴. (Document 5)²⁵

11.16. In summary, the Committee Report concluded that:

²⁴ ST4 objection July

²⁵ See also paragraphs 4.3.14 – 4.3.14 YTT Consultation Response March 2023.

'When taking into account the date of submission of the application and the current weighting for policy H5, a financial contribution is acceptable in this instance and meets the aim of policy H5 of the Draft Local Plan (2018).'

11.17. There are a number of serious flaws with the Councils approach.

11.18. In the context described above, when the Council has expressed a clear commitment to go to almost *any lengths* to see the Draft Local Plan to adoption, it has been difficult to resolve the cognitive dissonance in its reasoning in this case, which goes to the very heart of the issues that are under scrutiny.

11.19. Contemporaneous evidence on file shows that the same Officers and Teams who advised in July 2024 that it would have been 'unreasonable' to impose Policy H5(b) on the development, had in fact called the agents' attention to its requirements several times from January 2022 - well before other significant alterations, amendments, negotiations and consultations in the application were made and conducted. The Councils inference, in that context, that its failure to *even attempt* to implement Policy H5(b) effectively, so that it could reliably deliver the relevant pitches can be **justified** by our unresolved doubts that it is able to do so, is unpersuasive, and frankly, offensive.

11.20. Although they were invited to reduce the weight they gave to the policy in light of the ongoing consultation, the Planning Committee was not advised that no further changes are proposed or requested to the text of Policy H5(b). The question at issue relates to its interpretation, rather than its content, so careful attention as to how that should be made would have been reasonable and appropriate. To the extent that the Council *was* justified in limiting the weight that is given to Policy H5(b); it should be applied equally to the *whole* policy, rather than, as the Council contends, to disrupt the balance of the components within it.

11.21. More pertinently though, in the absence of up-to date policies in the Local Plan, weight falls on policies in NPPF. It is clear that Policy H5(b) is based on paragraph 50 NPPF(2012), and 64 of NPPF 2023, the latter of which states that:

64. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:

a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and

b) the agreed approach contributes to the objective of creating mixed and balanced communities.

11.22. There are no unresolved objections to Policy H10, for Affordable Housing, which was accorded significant weight.

11.23. Whilst the agents notes about the 'site search' indicate that it is impossible, the Council has accepted the commuted sums, with ***no indication as to where the pitches will come forward***. Claw-back clauses and trigger points mean that if the Council is not able to show where it's going to spend the funds negotiated, it is unlikely to receive them, but the money has been accepted by the Council **on the basis that** there is nowhere to spend it.

11.24. The debate about whether sufficient 'robust justification' has been made *for the failure to deliver pitches on site* is, ultimately, a red herring. The applicants comments in relation to the hopelessness of the required 'site search' - not only in terms of the absence of policy to support it but also the contractual complexities anticipated by developers in relation to dealing with third parties reveal a deeper, and more pervasive set of issues.

11.25. As the Leader of the Council put it herself in 2022:

“The council has these policies and yet often they are not worth the paper they are written on. [...] this has become the norm in York and the local planning authority in the council is putting up almost no fight whatsoever”. (See Document 6)

11.26. Contrary to the narrative presented in the very late submissions of the Forward Planning Team and the Officer Report, the evidence on file suggests that the Council did not find that it was *unreasonable* to require the proposals to comply with Policy H5 but that it was *impossible* to do so. Without any policy framework to support it, or any mechanism for the delivery of pitches, the Policy is unenforceable.

11.27. Although it is clear that Developers are free to enter into s106 Agreements to deliver benefits that do not meet the requirements in regulation 122 of the CIL Regulations, or Paragraph 204 NPPF (2012), i.e. that they are:

- ‘● *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development;’*

11.28. It is also clear that since imposition of an Obligation that does not meet those requirements cannot lawfully constitute a reason either to grant, or to refuse a Planning Permission; the Policy is unenforceable in the form in which it is currently implemented. The Council cannot risk the loss of the commuted sum payment altogether at Appeal by refusing permissions on the basis that the Pitches are not planned to be provided on-site.

12. Application ‘ST9’; ref: 23/00160/OUTM:

12.1. As we have started to see in another, more recent (application), and reflecting experiences in other LPA areas, the Councils ill-founded and un-justified commitment to forcing developers who do not want to build pitches, to build sites for people who don’t want to live on them, will only cause more harm.

12.2. Whilst YTT received the Consultation for ST4 less than 2 weeks before the Committee Report was published, after the application had been under determination for 9 and a half years; we learned of the application for ST9 via York Press, which carried the headline: ‘*Haxby North scheme now includes Traveller pitches*’ on the 26th July 2024.

12.3. Any reader who followed the story through to the York Council planning website that day was able to download, digest and discuss numerous examples of unambiguously and unacceptably discriminatory comments, as accepted by the Council, and published on its website without redaction. (See Documents 7)

12.4. The Council could not have provided clearer, more powerful evidence of the level of harm this Policy is capable of causing if it is not treated sensitively and appropriately than it did by publishing, and thereby validating, legitimising, and emboldening, these kinds of racist and inflammatory comments. (See Document 8). [REDACTED] they were taken down on the 30th July.

12.5. [REDACTED] to request that we be consulted on applications relating to Policy H5, and to restate our views that:

On the question of the ownership/allocation of the pitches, you have said that they are intended for sale on the ‘open market.’ If this is the case, how does the Council propose to safeguard the pitches for sale to Gypsy and Traveller families please? What is to stop house-buyers pooling resources to buy the allocated land for their own use, for example?

Our view is that the s106 Obligations that are intended to secure the commitment to provide pitches under Policy H5 can only properly be imposed if the pitches are understood as a species of ‘affordable housing’. This is consistent with Case Law (see ‘Wenman [2015] EWHC 925 (Admin)) and with the CIL Regulations (See also excerpts from Planning Appeal at Boroughbridge Road). I have also attached part of the Report of Planning Inspector Paul Griffiths for the Mid-Devon Local Plan Review, in 2020. Mr Griffiths is currently Examining the York Local Plan, and led the recent Phase 5 Hearing. It may be useful for the Council to consider his comments and reasoning in relation to a similar policy elsewhere.

In terms of whether the pitches are intended for ‘defined’ or ‘non-defined’ households, and with reference to Table 2 in the Councils’ Hearing Statement for Phase 5 of the Local Plan Examination, it looks like 10 of the 11 pitches that are required for the former are intended to be delivered on existing Council Sites under Policy H5(a), so it seems reasonable to deal with the pitches proposed here under general housing policy on that basis.

As Mr Griffiths has noted in the attached Report,²⁶ Policy H5 can only function effectively if there is a clear mechanism for delivery incorporated into the permission and s106 obligations. We would be very keen to see a clear commitment to achieving this in these proposals. I am more than happy to meet with yourself and the Applicant to discuss this in more detail if that would be helpful.’

12.6. We were referred to the Council’s Document of the 13th August, uploaded by the Council to the Examination Website on the 23rd August 2024, in relation to these points.²⁷ It is clear that unless and until the Council is able to provide a viable delivery mechanism for the Sites coming through Policy H5(b), it can only be expected to continue to fail. In the words of Inspector Griffiths:

‘...to be effective, the Plan needs to avoid building in hurdles to delivery. As such the Plan needs to make it possible for developers of the major housing allocations to provide accommodation for Gypsies and Travellers and Travelling Show-People off-site, and alongside that, for windfall sites for the travelling community to come forward in the countryside.’²⁸

12.7. ██████████ Inspector Griffiths Report; an Excerpt from the BoroughBridge Road Appeal, and ██████████ communications with the Planning Officer to the consultation ██████████ ██████████. Despite other comments having been published on the website in the meantime, and a number of chasing emails, the Council has declined to make these comments public.

13. Opportunities in NPPF

13.1. Much hot air has been created during the past two years of the Examination, on arguments around the question of whether and if so, why, Policy H5(b) can be forced to function, unnaturally, in the form it is proposed. But it has been wasted. The most effective policy for the sustainable development of culturally appropriate homes for Gypsies and Travellers will be one that creates real opportunities for people who want and need to develop sites to do so, and which has sufficient flexibility to meet a diversity of need as it emerges and presents.

13.2. The unnatural relationship between the numbers of houses planned for and pitches required of each strategic site may function in theory as a mechanism for the equal distribution of a *burden*, but as discussed in previous submissions; there has been no consideration of its suitability in terms of meeting the intended need.

²⁶ Document 11

²⁷ <https://www.york.gov.uk/downloads/file/9709/ex-cyc-136-cyc-response-to-ytt-13-august-2024>

²⁸ Mid Devon Report – Document 11

13.3. The clearly foreseeable major contractual contingencies, delays and obstacles to delivery that are implicit in the use of ‘trigger points;’ and the clear market disincentives for developers in actually meeting their obligations on site, have only caused the Council to reinforce its commitments to force delivery by procedural threat and escalating conflict. The use of force to try to impose the *idea* of Traveller sites on communities and developments inappropriately is liable to have manifestly counter-productive and inflammatory results.

13.4. Policies under NPPF contain all of the tools and resources that are necessary to create effective mechanisms for the sustainable delivery of Traveller Sites. Reflecting on the way that the Government policy toward private provision has played out on the ground over decades, and mindful of the multiple traumas, costs, and personal challenges faced by families in the planning system; the Examination has revealed very clearly the inequality that is inherent in a system that defines Gypsies and Travellers by their *difference*.

13.5. The households whose accommodation need is at issue in this discussion are local families, very many with long family histories in York, who have need of suitable, affordable, homes.

13.6. Self-build housing is already well established in the Local Plan policies. Applicants can register their interest on a detailed application form, to be triaged and taken into account by a designated Officer, whose role is to identify and make available suitable land for self-build projects. Self-Build housing can be delivered as affordable housing, so policies that require its delivery through s106 agreements available, and enforceable. Whilst Gypsies and Travellers are compelled to front-load all of the risk and cost of the planning system, and subject themselves and their families to a level of scrutiny that is not imposed on any other group; to navigate, understand and commission reports and surveys and spend sleepless nights waiting to sit at planning committees to listen to their lives and homes in the hands and minds of strangers; a designated Officer has been legislated for and recruited, and an administrative system implemented that is designed to arrange absolutely all of the land acquisition and planning issues for house-dwelling self-builders.

13.7. Contributions for Traveller Pitches should come through the general s106 contributions, and should be made available through a mechanism that is appropriate to their intended use. The inaccuracies and issues with GTANAs are perennial, and as the Inspectors have said, they represent only a ‘*snapshot in time*’.

13.8. Given that facilities are provided for households to register their need themselves, and a delivery mechanism implemented to ensure that the appropriate financial and administrative support is provided to households who want or need to meet their need themselves to do so; it is difficult to justify the imposition of a policy that specifically and explicitly excludes comparable households with comparable need from the same provision on the basis that they are Gypsies and Travellers.

Documents List

Document 1 – Emails July 2024.

Document 2 – YTT Consultation

Document 3 – Comments from Forward Planning Team; ref: 15/00166/FULM

Document 4 – ‘Request for Clarity’; ref: 15/00166/FULM

Document 5 – Further submissions Strategic Planning Team; ref: 15/00166/FULM

Document 6 – Labour News Website

Document 7 – Comments published on the Planning Portal.

Document 8 – YTT Consultation Response Battery Storage Plant: 23/02030/FULM

Document 9 – Site Layout Plan: 23/02030/FULM

Document 10– Environmental Health Consultation; 23/02030/FULM

Document 11 – Excerpt from Mid Devon Report 2020.



Gypsy and Traveller site Provision - Local Plan

29 August 2024 at 14:18

----- Forwarded message -----

From: [REDACTED]
Date: Mon, 8 Jul 2024 at 13:52
Subject: Meeting next week
To: Cooke, Alison(City Development) <Alison.Cooke2@york.gov.uk>, Bartle, Laura <Laura.Bartle@york.gov.uk>, Violet Cannon <violet@ytt.org.uk>, Jones, Michael <Michael.Jones@york.gov.uk>

Thanks Alison,

That's helpful. Just so we are aware - have the modifications been finalised at this stage?

I know the Council has been quite keen to work with us on the SPD, so I think a discussion along those lines might be productive at this stage, and should give us a good opportunity to establish some common ground. I'm sure we'll be more than happy to confirm the extent of that for the inspectors during the final consultation. I am certainly looking forward to working with YTT and Jen and yourselves to make sure we all get the best outcomes we can.

We won't want to discuss upgrades to existing sites beyond policy issues tomorrow, really, although it would be useful at least to make sure everyone is clear that the s106 money cannot be used to Masterplan or build the 10 new PPTS pitches at Clifton and/or Osbaldwick, obviously, or to fund improvements to existing facilities there. It looks like the Council was expecting to use £1.95m of the s106 money to repay the loan used to build the 10 PPTS pitches at Clifton and Osbaldwick? I've copied Michael Jones in here as he was joint author - could we confirm that this is not correct now please?

This leaves the Council with £3.3m to do the Master-planning and redevelopment on both of those sites. I think we are agreed that the Site at Clifton would need to be redesigned to make the space (probably also split into two separate sites), so will probably have to build more than the 6 required there.

As I say, I don't think we will want to discuss the programme for site improvements post-adoption tomorrow - we will need to focus on the s106 Policy (H5(b) in the light of the Inspectors Decision, which confirmed that this must be dealt with under general housing policy for the plan to be sound - in the same way the plan deals with moorings for houseboats. I assume these would constitute affordable housing as far as GB2 is concerned?

I'm sure we'll discuss this further tomorrow - confirmation on the point underlined above would be helpful today if possible please, as I need to update YTT Trustees.

Many thanks

----- Forwarded message -----

From: [REDACTED]
Date: Fri, 12 Jul 2024 at 17:31
Subject: Gypsy and Traveller site Provision - Local Plan
To: Cooke, Alison(City Development) <Alison.Cooke2@york.gov.uk>, <Cathryn.moore@york.gov.uk>
Cc: Carole Crookes <york@iposolutions.online>

Dear Alison and Cathryn,

Thank you both for the meeting on Tuesday. On reflection, a meeting of that size (and under time pressure) is probably not the best environment to discuss and understand some of the trickier legal and planning policy issues.

It seemed to me that we might all benefit from a more focused and much smaller meeting to discuss some of the central issues in the policy. I have set out my reasoning below, and would appreciate if you could both consider it carefully and get back to me as soon as you are able to, to arrange a face to face meeting to discuss this in more detail.

The two main issues that emerged from our meeting (for me) were the impact of the Kingston Case on the Guildford policy, and the question about PPTS and non-PPTS need.

With regard to the first of those issues, the '*Kingston*' case, which David Elvin put forward at the Hearing to suggest that the Guildford Policy has been 'overturned' related to paragraph 150 of the NPPF 2021 (attached). Laura said on Tuesday that the case did not mention and was not about PPTS, but, as I said, that's incorrect. The Council in '*Kingston*' challenged the Decision of a Planning Inspector to allow a change of use of land to a use for a Traveller Site under paragraph 50(e) NPPF. Paragraph 150 of the 2019 NPPF (which would relate to paragraph 90 of the NPPF 2012) provides that *Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.* These include at paragraph 150(e): *'material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds);'* The Appeal Inspector had found that since the proposal was a change of use which would preserve the openness of the Green Belt and not conflict with the purposes of including land within it, the applicant did not need to demonstrate 'very special circumstances', and the permission should be granted.

Kingston Council challenged the decision on the basis that the Inspector had not properly applied the Policy E, paragraph 16 PPTS. The Appeal was allowed on the basis that :

*(ii) Furthermore, **the court expressed the firm view that residential uses do not fall within the NPPF para.150(e) in any event.** Despite the wording of the paragraph, the court found it was not an open-ended category and one would normally expect a list starting with the words "such as", "to be a list which took its flavour or extent from the examples given".*

This is clearly incorrect. Paragraph 150(d) NPPF 2021 allows 'd) *the re-use of buildings provided that the buildings are of permanent and substantial construction;*' which must also include a re-use of a building as a dwellinghouse.

The test under Paragraph 150 is simply that applications for development in the Green Belt will not be inappropriate providing that they '*preserve its openness and do not conflict with the purposes of including land within it.*'

The Guildford Policy that we submitted was also examined under the 2021 version of NPPF, and does not relate to paragraph 150, but to paragraph 149(f) which provides that '*A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*' f) *limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites);*

The test under Paragraph 149 is considerably less stringent than that under paragraph 150, and makes no reference to the impact of development on the 'openness' or purposes of the Green Belt. The *Kingston* case cannot be applied, either to the Guildford Policy, or to the GB2 policy in the York Local Plan.

In the York Local Plan is GB2. GB2 provides for the development of '*limited affordable housing on exception sites in the Green Belt*', and is supported by paragraph 89 of the 2012 NPPF, which is (as far as is relevant in this context) identical to paragraph 149 NPPF 2021. As I said on Tuesday, the *Kingston* Decision is not relevant to the Guildford Policy, because it deals with a different Paragraph of NPPF, with a different part of the NPPF Policy, and a different set of tests. The Council need only show that there is a need for '*limited affordable housing for local community needs*' in order to set an exception site policy for affordable housing in the Green Belt in line with NPPF. There is no need to show that the developments coming forward under paragraph 149/89 would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it, only that there is a need for affordable housing, and a shortage of affordable land available to provide it.

In 2019, after it became clear that the limitations of the Green Belt in York would leave no land available for Traveller Sites at all, York Council wrote to Inspectors to say that they had included Gypsy and Traveller Site provision in Policy GB2 (at our request) and it was put forward for public consultation twice. The Policy was withdrawn at the Gypsy and Traveller Site Hearing in July 2022, by the Councils Barristers.

The Inspectors request, in November 2022, was that the Council should be able to show a 'rolling supply' of sites throughout the plan period. Following the exclusion of Gypsy and Traveller site accommodation from Policy GB2, it became clear that there was no land available anywhere in the area that would be able to meet the assessed need through Local plan Policies. York Council made the amendments to the Green Belt boundary around the Osbaldwick site, for this reason. The problem is that even if it was ever appropriate to expand that site to the extent required, it is finite in area. Once full, there is still no 'rolling supply' of Land coming through Local Plan policies in the future. So even if the Council is able to solve the allocations problem in the shorter term, there will come a point in the not-too-distant future, when it comes up against exactly the same problem again. By that time, all the s106 money will have been spent, the site will be so large that it is unmanageable, and as a consequence, uninhabitable, and we will still need to solve the same problem we have now - only with far fewer resources, and beginning from a much worse position.

Since we will need to solve this policy problem at some stage anyway, and any pitches provided in the meantime are likely to exacerbate existing problems, and create worse, and more difficult problems for residents and the housing team, I am of the **very firm belief** that it is in absolutely everyone's best interests to invest the resources and time **now, rather than later.**

With regard to the second issue - of the PPTS/non-PPTS need, the point that we have been trying to make, (now confirmed by the Inspectors Decision) is that the vast majority of the need that has been assessed is that of households who have a need for a caravan site due to their (protected) ethnic and cultural status, but **do not meet the definition of a Traveller in Annex 1 PPTS.**

The Council has included these households in the needs assessment **due to their ethnicity and their related need for a particular kind of accommodation.** Since the needs assessment is based exclusively on families who already occupy Council owned (social rented) sites, we know that these are households who have a local connection, and a need for affordable accommodation. Their needs may be met under NPPF policies **regardless of whether or not they meet the PPTS definition.** However, since they **do not meet the PPTS definition, it will be unlawful discrimination to exclude them from NPPF policies (GB2) simply on the basis of their Race.**

The Council's proposal to provide the pitches at Osbaldwick and Clifton means that the question as to whether the provision required can be treated as affordable housing for policy purposes is already settled. The provision on Council sites **is a species of affordable housing.** The case of 'Wenman' confirms that this is lawful - the meaning of 'affordable housing' should be construed broadly to include Traveller sites.

Policy D PPTS provides that:

15. If there is a lack of affordable land to meet local traveller needs, local planning authorities in rural areas, where viable and practical, should consider allocating and releasing sites solely for affordable traveller sites. This may include using a rural exception site policy for traveller sites that should also be used to manage applications. A rural exception site policy enables small sites to be used, specifically for affordable traveller sites, in small rural communities, that would not normally be used for traveller sites. 6 Rural exception sites should only be used for affordable traveller sites in perpetuity. A rural exception site policy should seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection, whilst also ensuring that rural areas continue to develop as sustainable, mixed, inclusive communities

Although, as above, **Policies in PPTS cannot lawfully be relied upon to exclude households who are Ethnic Gypsies and Travellers but do not meet the PPTS definition.**, it is my very firm view that Policy D **can** be used to include rural exception site policies for Traveller Sites in the Green Belt, where they will meet the objectively assessed needs of Local households. The Governments' Planning Practice Guidance on Rural Exception Sites (here - <https://www.gov.uk/guidance/housing-needs-of-different-groups>) states that:

'As set out in the National Planning Policy Framework, rural exception sites can come forward in any rural location. In designated rural areas and areas designated as Green Belt, rural exception sites are the only sort of exception site that can come forward.'

It goes on to confirm that:

*'Rural exception sites should seek to address the affordable housing needs of local communities. **They can be used to deliver any form of affordable housing.***

Clearly, following 'Wenman', and in light of the fact the Council already intends to deliver the sites as a species of affordable housing, it would be nonsensical to exclude households with a local connection and a need for affordable accommodation from the only policy that could properly meet their needs (GB2) simply because one or some of them continue to travel for work. General housing policies under NPPF are available to **all households** who meet the criteria set out there - local connection. Access to PPTS policy is *supplementary* to that provision, rather than distinct from it. The only difference between PPTS and NPPF for this purpose is found in paragraph 24(e) PPTS, which advises Councils *'e) that they should determine applications for sites from any travellers and not just those with local connections.'*

The issue here is that people who have:

- a) A local connection, and
- b) a need for affordable accommodation

are being excluded from the relevant policy **specifically on account of their Race.**

I know the Council genuinely wants to do the right thing by Gypsy and Traveller people in the city. My frustration is not based on the fact that it **won't** do what is necessary to achieve that, but that it does not believe that it **can**. As set out above, the Council not only **can** meet the relevant need under existing draft policy, but it **must**. Not to do so will be unlawful discrimination on the basis of the protected characteristic of race.

I would be very grateful if you (Cathryn, in particular) could carefully consider the arguments above, and explain to me how and why they are incorrect.

Many thanks,



[REDACTED]

From: planning.comments@york.gov.uk
Subject: FW: Planning Application Ref: 15/00166/FULM - Policy H5 Local Plan.
Importance: High

From: [REDACTED]
Sent: Friday, July 19, 2024 4:19 PM
To: Cooke, Alison(City Development)
Subject: Planning Application Ref: 15/00166/FULM - Policy H5 Local Plan.

Hi Alison and Natalie,

Natalie, please process this as a formal OBJECTION to Planning Application Ref: 15/00166/FULM, on behalf of York Travellers Trust and upload it onto the Planning Website as normal. Since it is directly relevant to policies in the emerging Local Plan, upon which consultation commenced yesterday, I have addressed this to you also Alison. I have copied in other Officers and members of the Planning Committee for their information and consideration. I hope that's OK - it saves multiple emails.

The Main Modifications Consultation started yesterday. There is no mention in the consultation documents of where the 13 pitches that are already coming through s106 contributions will be? This was the basis for the Inspectors question in November 2022 about 'rolling supply' I believe - does the text in the December 2022 doc still apply here (i.e. on paper at least, are these expected to go to Osbaldwick)?

I spoke to [REDACTED] the agent for ST4 yesterday. This application was submitted in 2015 and is due to go to committee in the next couple of weeks, so it provides a good opportunity to test the policy while it is consulted on. I have copied in members of the Planning Committee to this email, to set out the basis for our **Objection** against the Application at ST4. I hope we might find a way to resolve this before then though.

In relation to this application - 15/00166/FULM; it looks like the [Forward Planning Team was consulted on the 18th January 2022](#), and in relation to Policy H5, it advised that:

*Gypsies and Travellers (Policy H5) – meeting the future housing needs of Gypsies and Travellers is a key aspect in the delivery of strategic housing sites. The application does not yet address Gypsy and Traveller housing need. To meet the policy requirements of H5 within strategic allocations of 100-499 dwellings, 2 pitches should be provided on site, or through the provision of alternative, suitable land. **Commuted sum payments will only be considered where on/off site delivery is proven unviable.** (emphasis added)*

Paragraph 4.2 of the Forward Planning Team Submission advised that policy H5 should be given 'moderate weight' in planning decisions, and at paragraph 4.4, the applicant was asked to submit further detail to show how provision of 2 pitches for Gypsies and Travellers would be delivered in line with policy H5, so that they could 'better understand how the scheme addresses a number of outstanding planning matters.

There is no evidence on the planning file that the obligation to deliver the 2 pitches at ST4 was considered again by the Planning Officer responsible for deciding the application or the applicant until 26th July 2023, when [REDACTED] stated, in an email that: *'I have instructed Walker Morris LLP to prepare a draft S106 Agreement, which will include the heads of terms for the affordable housing; education contributions, public open space management and gypsy and traveller pitch contributions (which I would be happy to discuss in more detail in a separate meeting).'*

The Planning Officer responded on the 27th July to advise that:

'The modifications to Policy H5 require residential development proposals on strategic sites such as yours to provide a number of pitches within the site or provide alternative land that meets the criteria set out in part c) of this policy to accommodate the required number of pitches. Commuted sum payments to contribute to development of pitches elsewhere will only be considered where it is demonstrated that on site delivery is not achievable due to site constraints and that there are no suitable and available alternative sites for the required number of pitches that can be secured by the developer. I note from your email that you are proposing a commuted sum, please could you provide the written justification that demonstrates that on site delivery is not achievable due to site constraints and that there are no suitable and available alternative sites for the required number of pitches.'

There is no written justification on file to demonstrate that on site delivery is not achievable due to site constraints. There is no evidence that any search for an alternative site has been carried out by the Applicant, and no evidence of any site selection criteria that might have been applied to that task.

I understand [REDACTED] that the Applicant was able to justify its proposal to meet its obligation to deliver pitches via a commuted sum payment, without the need for an alternative site search, with reliance on paragraph 4.4 of the Councils Document - [Provision for Gypsies and Travellers and Travelling Showpeople - December 2022](#) , in which the Forward Planning Team stated that:

'Notwithstanding the policy approach that prioritises provision on allocated sites, there are a few sites for which it has been reasonable to assume that off-site pitch provision will be secured through contributions.'

With relation to the development at ST4, the Document stated that this application was *'pending with onsite delivery of 2 pitches being negotiated, but off-site contribution included for worst case purposes.'*

The Council had in fact provided the justification to settle for *'worst case purposes'* itself in the same document, which identified that the pitches could be delivered on land at Osbaldwick.

Following the site visit and the recent Hearing, we now know that the pitches expected to come through ST4 cannot be delivered at Osbaldwick. However, it is clear from the amendments to the Site Layout Plan for Application 15/00166/FULM that were made in 2023, which removed a large number of houses from the proposals in an area of land in the centre of the Application Site, that it is highly likely that there is sufficient land available to the Applicant to provide the pitches onsite.

In the absence of clear written evidence on the planning file that the Applicant has demonstrated that provision of the pitches onsite is not viable, and alternative land unavailable, the Proposals do not comply with the requirements of Policy H5, and we must OBJECT to the application on that basis.

In order to overcome our objection, we would expect to see clear evidence on the Planning Website that the Applicant has:

1. demonstrated that the provision of pitches on-site is not viable; and

2. demonstrated that no alternative land is available to the developer for their provision,

before the Commuted Sum Payment is accepted. In order to satisfy the second test above, we would expect to see clear site selection criteria against which the Applicant has tested alternative sites before excluding them.

[REDACTED]
and would be grateful for an explanation from the Forward Planning Team about how this Application has been progressed and how it ought to be decided with relation to Policy H5.

Many Thanks,

[REDACTED]

From: planning.comments@york.gov.uk
Subject: FW: Planning Application Ref: 15/00166/FULM - Policy H5 Local Plan.

From: Bartle, Laura <Laura.Bartle@york.gov.uk>
Sent: Friday, July 19, 2024 5:45 PM
To:
Cc:
Subject: RE: Planning Application Ref: 15/00166/FULM - Policy H5 Local Plan.

Hi Natalie,

My comments on the important context and chronology is as follows:

1. Forward planning comments were prepared Jan 2022 ahead of the 3 phases of hearings held between May and September. At this time it was reasonable to assume moderate weight could be afforded to policies in the plan, however we now know that what followed the phased hearing was not a straightforward route to plan adoption.
2. Further scrutiny of the Council's approach to gypsy and traveller provision followed and we submitted additional information in December 2022 – at this point we were expecting outstanding matters on the Persimmon scheme to be resolved and for the application to progress to committee early in 2023. Given the Inspectors' further questioning of Policy H5 and overall approach to gypsy and traveller provision, the weight that could be applied to the policy in a decision making context was reduced to "limited". This is reflected in the work at EX/CYC/121a and the assumption that a financial contribution may be the limit of our negotiations. Note also that the decision on Monks Cross application came on 14 Dec 2022, in which the SoS agreed the financial contribution to pitches.
3. At the time of the officer request on 27 July 2023, the Council had conducted the Main Modifications consultation, published its response and was anticipating receipt of the Inspectors Report in the Autumn. The officer request for information/justification reflects this and the fact that there were other technical matters to be resolved which were not likely to be overcome immediately – i.e. a broad expectation that by the time these technical issues were agreed the Plan would be adopted and full weight afforded to Policy H5.
4. We are now another year on from there and the weight of policy H5 remains limited on the basis of ongoing Inspector scrutiny and consultation on modifications dealing specifically with gypsy and traveller provision. Given this, it

would be unreasonable for us to insist that the applicant provides all the information expected of policy H5.

Laura

Ramadhin, Natalie

To: [REDACTED]
Cc: [REDACTED]
Subject: RE: 15/00166/FULM - Hull Road

From: [REDACTED]
Sent: Monday, July 29, 2024 11:24 AM
To: Ramadhin, Natalie <Natalie.Ramadhin@york.gov.uk>
Cc: [REDACTED]
Subject: RE: 15/00166/FULM - Hull Road

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Natalie

I sent this assessment to Victoria back in September 2023. In that email I asked for clarity from officers on how to define 'available' and 'suitable' in Policy H5 but no response was received. I've summarised this below:

- *We have also considered part 2. of Policy H5 regarding the availability and suitability of off-site land for gypsy and traveller pitches. However, it would be helpful if the definitions of 'available' and 'suitable' can be clarified by the Council. To ensure consistency of meaning between availability/suitability of housing sites and of gypsy/traveller sites, we have used the definition of 'Deliverable' in Annex 2 of the NPPF. As such, Sites which are 'Available' would suggest they are on the market and where a buyer is actively being sought. Sites which are 'Suitable' would have detailed planning permission or be allocated in the adopted Local Plan.*
- *There are currently no gypsy/traveller sites with planning permission or on a draft allocation on the market in York.*
- *New Walk Orchard Park at St. Oswald's Road, Fulford, York, YO10 4PF is currently on the market. This is an already established and recently developed park home estate with 17 pitches. All pitches are currently occupied and there are no vacant pitches. The site falls entirely within the Green Belt. Whilst the site is available, it is clearly not suitable given it has no planning permission for expansion and no ability to create additional pitches.*

Clearly this site search was undertaken 10 months ago and prior to Main Modifications to Policy H5, which now proposes further pitches and masterplans for Water Lane, Clifton and Outgang Lane, Osbaldwick.

No feedback was received from the Council in how to undertake the alternative site searches and so we relied on and carried out the site searches strictly based on the wording in the draft Local Plan and NPPF at the time.

The wording in Policy H5 requires an assessment of sites *on the market* at the time of the application. In this case, there was only one site on the market in Fulford (Green Belt), which was at capacity and with no planning permission for expansion. No other sites were on the market in the City of York which could be considered. In addition to the above, the site on the market in Fulford was not owned or controlled by Persimmon. There was no ability for Persimmon to control the expansion of a third party operator's business.

I'm happy for you to share the above points publicly and with the Chair.

Kind regards



MEMORANDUM

From: Strategic Planning Policy Team

To: Development Services

Ext: 01905 552255

Our Ref: FP9/2024

Date: 1 August 2024

Your Ref: 15/00166/FULM - Hull Road

1. In response to the Local Plan inspectors in December 2022, the Council confirmed [in EX/CYC/121a]:
 - that further modifications to part b of Policy H5 (dealing with provision on strategic sites) would better secure on-site provision and ensure financial contributions could only be agreed in very limited circumstances.
 - That it was negotiating on-site provision as part of the determination of the application on ST4, but included an equivalent financial contribution in its forecasting to calculate the likely maximum number of pitches that would need to be delivered via these payments. Pitches funded through s106 were indicated to be located on the Council's Osbaldwick site.
2. At that time, outstanding matters were being resolved and it was expected that the application on ST4 would progress to committee early in 2023 – ahead of completion of consultation on the latest modifications and Local Plan adoption. Officers therefore anticipated a financial contribution being secured on ST4 in recognition that, should the application progress as expected, the weight of Policy H5 that would apply at the point of determination would be “limited”. Indeed, these calculations were carried forward into the report presented to Members at the March Executive, in which the forward funding of s106 receipts was agreed as part of an overall £5.25m investment.
3. Whilst progress with the application has been protracted, it has now overtaken the process of Local Plan adoption and is presented to members at a time when consultation on main modifications to Policy H5 is ongoing.
4. Notwithstanding the limited weight that can be applied to Policy H5, Strategic Planning Policy considers that this application is not wholly compliant with its requirement to provide two pitches on-site (or on an alternative site), unless satisfactory justified:
 - There is no justification for not designing the pitches into the scheme.
 - The site search undertaken in September 2023 focussed on specific land with existing gypsy and traveller use. It did not consider the appropriateness of any other available land that may have been suitable.
5. The commuted sum offered in lieu of on-site delivery is, however, acceptable in this context of limited policy weight. It is consistent with the approach taken in decisions on other strategic sites where developers have progressed applications ahead of Local Plan adoption.

MEMORANDUM

From: Strategic Planning Policy
To: Natalie Ramadhin; Development Management
Our Ref: FP9/2024
Date: 26th July 2024 **Your Ref:** 15/00166/FULM

1. Proposal and Site

- 1.1 Hybrid planning application comprising full details of residential development of 153 dwellings (C3 use class) and associated infrastructure and outline planning permission for 9 self and custom build plots (with all matters reserved except access).
- 1.2 The site is an emerging strategic allocation in the submitted City of York Local Plan (2018); site ST4 Land adjacent to Hull Road.
- 1.3 The following comments provide an updated position on the policy context within which the application should be determined, further to our response of 18 January 2022 and 19 July 2024.

2. Planning Policy Framework

National Planning Policy

- 2.1 The revised National Planning Policy Framework (NPPF) was published in December 2023 and its planning policies are material to the determination of planning applications.

Development Plan

- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. It also includes a number of 'made' Neighbourhood Plans. The site does not lie within the extent of any made Neighbourhood Plan.
- 2.3 The Publication Draft City of York Local Plan 2018 (the emerging plan) was submitted for examination on 25 May 2018. In accordance with NPPF paragraph 48, the emerging plan policies can be afforded weight according to:
 - a) the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
 - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

- c) the degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF, which includes City of York's emerging Plan).
- 2.4 The evidence base underpinning the emerging plan is also capable of being a material consideration in the determination of planning applications.
- 2.5 The following provides advice in relation to the application of emerging policy, with reference to NPPF para 48, in determining this application.

Status of the emerging Local Plan

- 3.1 Four phases of hearing sessions concluded in September 2022. Consultation on proposed main modifications to the DLP closed in March 2023, and responses have been provided to the Local Plan Inspectors for their consideration.
- 3.2 The Local Plan Inspectors requested a 5th phase of Hearings focused solely on matters relating to gypsy and traveller provision, including the suitability of the expansion of Osbaldwick Traveller site; this took place on 6th March 2024 and consultation is currently underway on main modifications to policy H5 (concluding on 30 August 24)¹. The plan has therefore reached an advanced stage of preparation and the Inspectors' report is anticipated shortly.
- 3.3 In advance of plan adoption, weight may be given to policies in the emerging Plan in accordance with NPPF2023 para 48 (refer to the emerging Local Plan 2018, inclusive of proposed modifications <https://www.york.gov.uk/downloads/file/8762/local-plan-track-changes-modifications-2023>):
- Main Modifications: EXCYC128
<https://www.york.gov.uk/downloads/file/9302/ex-cyc-128-main-modifications-policy-schedule-january-2023>- as shown in
 - Minor Modifications: EXCYC128f
<https://www.york.gov.uk/downloads/file/8754/additional-modifications-schedule>
 - Limited additional proposed modifications, as a result of consultation: EXCYC123c(i) <https://www.york.gov.uk/downloads/file/9175/ex-cyc-123ci-revised-main-modifications-amended->

Evidence Base²

- TP1 Approach to defining Green Belt [EX/CYC/59] and accompanying annexes
- Open Space and Green Infrastructure Update, Sept 2017 and
- Commuted sum payments for open space in new developments – a guide for developers (updated June, 2014)

¹ <https://www.york.gov.uk/LocalPlanConsultation2024>

² References refer to <https://www.york.gov.uk/LocalPlanExaminationLibrary>

- EX/CYC/57 'SUDS Guidance (Aug 2018) and Strategic Flood Risk Assessment (2024) <https://www.york.gov.uk/downloads/file/2703/june-2024-strategic-flood-risk-assessment> .
- EX/CYC/92 Housing Needs Assessment (July 2022)
- EX/CYC/56 – Strategic Housing Land Availability Assessment Update (2021)
- EX/CYC/88 Gypsy and Traveller Needs Assessment and EX/CYC/121a Gypsy and Traveller Addendum

3. Analysis

- 3.1 Proposed main modifications to policy SS8 'Land at Hull Road' (ST4) are set out in MM3.17 <https://www.york.gov.uk/downloads/file/9302/ex-cyc-128-main-modifications-policy-schedule-january-2023->

Additional modifications to policy SS8 are set out in AM3.17 <https://www.york.gov.uk/downloads/file/9301/ex-cyc-128f-schedule-of-additional-modifications>

Green Belt

- 3.2 Policy GB1 – Development in the Green Belt. In line with the decision of the Court in *Wedgewood v City of York Council* [2020] EWHC 780 (Admin), and in advance of the adoption of the emerging Local Plan, decisions on whether to treat land as falling within the Green Belt for development management purposes should take into account the Yorkshire and Humber Regional Spatial Strategy ("RSS") and may have regard to the emerging Local Plan (2018), insofar as can be considered against paragraph 48 of the NPPF (2021). Site specific features must also be considered. The *Wedgewood* judgement explains that regard may be given to the draft Local Plan (April 2005) (DCLP). It is our view that only very little weight should be attached the Green Belt proposals contained within the DCLP and its related evidence, which are superseded by the 2018 Local Plan that is now at an advanced stage of examination.
- 3.3 Evidence informing the proposed detailed boundary in the environs of the site is set out in EX/CYC/59e; refer to our previous comments for further detail.

Other policy requirements

- 3.4 The following further planning policy matters should be addressed in determining the application:
- Residential density – as a general guide, the Plan promotes development densities of at least 40 units/ha in suburban areas, noting that higher densities would be supported where sites are within 400m of high frequency public transport. The proposed mix delivers development equivalent to around 42dph (excluding public open space and associated landscaping). There are unresolved objections to the policy and therefore limited weight should be applied.

- The scheme no longer includes retail provision.
- Housing mix - The current Local Housing Needs Assessment (LHNA) 2022 (EX/CYC/92) estimates projected need across the plan period: broadly, greatest need for market housing is in 2-bed and 3-bed homes, and 1-bed, 2-bed and 3-bed homes in the affordable sector. Overall analysis suggests that the majority of units should be houses rather than flats. Around 67% of the revised scheme are 2 and 3-bed properties, which is welcomed.

(ref drawing no. N81:3133/114(P1) Proposed Self and Custom Build Layout).

Total units	Market homes	Affordable homes
5 x 1-bed	5 houses	14 (2 houses/12 apartments)
39 x 2-bed	38 (26 houses/12 apartments)	20 (14 houses/6 apartments)
66 x 3-bed	40 houses	11 houses
46 x 4-bed	21 houses	4 houses
Self/custom plots	9	

As a whole Policy H3 can only be afforded only limited weight, however the evidence in the LNHA is material and it is consistent with the NPPF to apply its findings to decisions.

- Promoting self and custom house building (Policy H4) – on strategic sites, 5% of dwelling plots should be supplied for sale to self builders or small/custom house builders. The revised scheme makes provision for 9 self-build plots.

The policy is consistent with the NPPF but it attracts limited weight given level of unresolved objection.

- Gypsies and Travellers (Policy H5) – Proposed modifications to policy H5³ clarify the strategic approach to addressing Gypsy and Traveller need, including that commuted sum payments will only be considered where it is demonstrated that on-site delivery is not achievable and that there are no suitable and available alternative sites. It is noted that a request for this information was made in July 2023 to justify the offsite financial contribution offered via S106 agreement. However, to our knowledge, no evidence has been submitted in response and the scheme is not, therefore, wholly consistent with the provisions of part b in Policy H5. Given the current consultation of the modifications to Policy H5 it can be afforded only limited weight in the decision making process.

³ MM5.11 and MM5.12, in proposed modification schedule Feb 2023, now superseded by MM5.23 and MM5.25 in current consultation ending August 30 2024 .

Notwithstanding that the commuted sum is not the Council's preference, the financial obligation is considered to meet the 3 tests required by the CIL 122 regulations (as reflected in recent appeal decisions)⁴.

Refer to officer comments provided 19 July 2024 for further background information in respect of this matter (annex 1).

- Older persons specialist housing (Policy H9) – strategic sites should incorporate the appropriate provision of accommodation types for older persons within their site masterplanning. The revised scheme provides 12 M4(3) (wheelchair user) compliant homes including 4 ground floor apartments suitable for older people or those with mobility impairments.

Limited weight can be attributed to Policy H9.

- Affordable housing is required on this site (Policy H10); we note the scheme seeks to deliver the Plan's target of 30% affordable housing provision on this greenfield site, which is welcomed. A broad mix of homes is provided, the majority of which are 2 and 3 bed houses.

Moderate weight can be attributed to the onsite affordable housing requirement set out in Policy H9,

- New Open space provision (Policy GI6) – The scheme includes the provision of a LEAP (layout and design to be development with CYC) and amenity space (covering an attenuation tank) along with other areas of landscape buffering/verges. All residential development should contribute to the provision of open space for recreation and amenity, guided by evidence base. The Planning Statement describes provision of 0.93ha of green infrastructure, which includes verges and pocket planting. The undeveloped 'site' outside the red line boundary will remain as arable farmland. The applicant should explain how the proposed on site provision and off site contributions comply with the open space standards set out in Local Plan evidence (2014, and 2017 update) and 'Commuted sum payments for open space in new developments – a guide for developers' (2014). The 2014 Open Space and GI study and its 2017 update look at the in-principle provision for strategic sites including ST4, and its relationship with existing provision in the wider area. Generally, Hull Road Ward is deficient in natural and semi-natural open space, and improving appropriate access to Kimberlow Hill could help to address this. The proposed scheme should further contribute to the provision of children and young people's play space, and allotment space, which is also deficient within the Ward.

Moderate weight can be attributed to Policy GI6,

⁴ Appeal ref: APP/C2741/W/21/3282969 in relation to land at Monks Cross (ST8)

Annex 1

From: Bartle, Laura <Laura.Bartle@york.gov.uk>

Sent: Friday, July 19, 2024 5:45 PM

To:

Cc:

Subject: RE: Planning Application Ref: 15/00166/FULM - Policy H5 Local Plan.

Hi Natalie,

My comments on the important context and chronology is as follows:

1. Forward planning comments were prepared Jan 2022 ahead of the 3 phases of hearings held between May and September. At this time it was reasonable to assume moderate weight could be afforded to policies in the plan, however we now know that what followed the phased hearing was not a straightforward route to plan adoption.
2. Further scrutiny of the Council's approach to gypsy and traveller provision followed and we submitted additional information in December 2022 – at this point we were expecting outstanding matters on the Persimmon scheme to be resolved and for the application to progress to committee early in 2023. Given the Inspectors' further questioning of Policy H5 and overall approach to gypsy and traveller provision, the weight that could be applied to the policy in a decision making context was reduced to "limited". This is reflected in the work at EX/CYC/121a and the assumption that a financial contribution may be the limit of our negotiations. Note also that the decision on Monks Cross application came on 14 Dec 2022, in which the SoS agreed the financial contribution to pitches.
3. At the time of the officer request on 27 July 2023, the Council had conducted the Main Modifications consultation, published its response and was anticipating receipt of the Inspectors Report in the Autumn. The officer request for information/justification reflects this and the fact that there were other technical matters to be resolved which were not likely to be overcome immediately – i.e. a broad expectation that by the time these technical issues were agreed the Plan would be adopted and full weight afforded to Policy H5.
4. We are now another year on from there and the weight of policy H5 remains limited on the basis of ongoing Inspector scrutiny and consultation on modifications dealing specifically

with gypsy and traveller provision. Given this, it would be unreasonable for us to insist that the applicant provides all the information expected of policy H5.

Laura



Council must switch position on developer giveaway

9th November, 2022

Labour has said it's time for the local council to stop bending to the will of developers when it comes to affordable housing and other developer contributions.

Planning law requires affordable housing, education funding and open space and sports provision to be factored into new developments. The council has a policy of 20% affordable housing on brownfield site developments, and 30% on greenfield sites.

But **Labour Group Leader, Cllr Claire Douglas**, says developers' ability to get away with far less and sometimes none at all, has got out of control in York.

She said:

"The council has these policies and yet often they are not worth the paper they are written on. A developer can significantly overpay to buy a development site, such as Heworth Gasworks, and then come back to the council and say it can't provide appropriate developer contributions or it won't get enough profit. It begs the question – why should York residents lose the affordable housing for what is essentially a very bad private business decision? Yet this has become the norm in York and the local planning authority in the council is putting up almost no fight whatsoever".

Cllr Douglas addressed last week's Planning Committee meeting to express her frustrations and her view that the council and Planning Authority folding in the face of developers threatening to pull out of developments has got to stop.

York risks losing hundreds of affordable homes on sites like Heworth Gasworks, neighbouring development Icona II on Eboracum Way, the former British Sugar site at Boroughbridge Road, where the affordable housing is expected to be as little as 3%, and has already lost out on sites such as the Roman Quarter where there is expected to be no affordable housing at all.

Cllr Douglas also drew attention to the way some developers are flouting planning conditions, including examples of building higher than permitted, and using more invasive drilling methods than permitted.

"We need a properly resourced planning enforcement department, as well as planning department that is prepared to stand up for York residents. Developers both large and small currently see the council as a pushover, and it is our communities that are suffering as a result", **added Cllr Douglas.**

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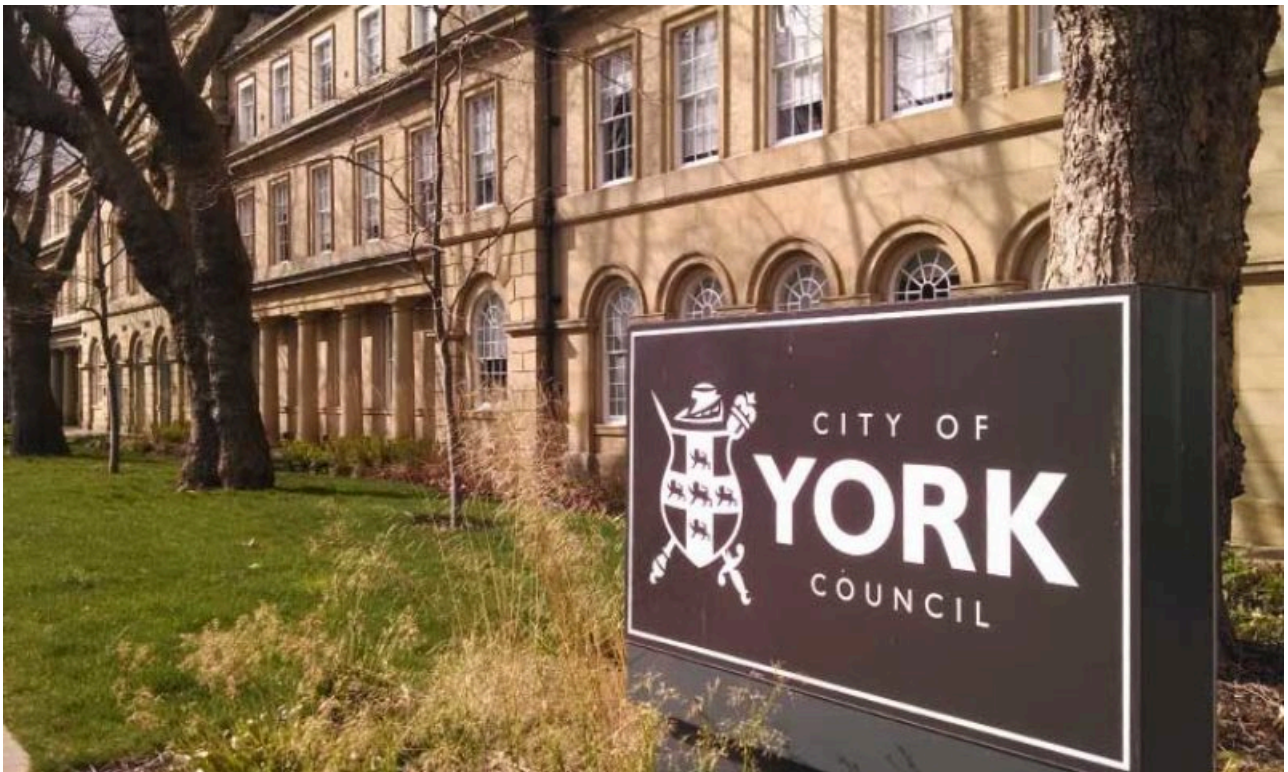
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Council accused of wasting residents money over Local Plan

14th January, 2021



City of York Council West Offices

Labour's spokesperson for the Local Plan on City of York Council has stated her belief that political interference has led to the council mishandling the process. Councillor Claire Douglas stated that the council's unwillingness to progress its Local Plan in accordance with Government guidance is set to delay the process further and add to millions already wasted.

The Local Plan, intended to set out how the city will develop over the next 15 years and beyond, has been mired in delays and increased costs for years since Liberal Democrats blocked a Labour Local Plan in 2014.

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"We have a leading Lib Dem councillor responding to Government inspectors saying 'you're wrong – we know best' and ignoring their advice." said Cllr Douglas. "That's the kind of approach that makes you wonder if this council is actually serious about adopting a Local Plan.

"After pulling the council up in December for its unwillingness to provide important supporting evidence, inspectors are now doing it again because the council has failed to follow guidance in publishing the latest information for residents. This highlights both a lack of transparency and a thinly-veiled contempt for residents and for the inspectors we are relying on to examine our Local Plan. It seems a very odd way to carry on to say the least".

Liberal Democrats blocked Labour's Local Plan in 2014 claiming it wasn't the right Plan for York, arguing they would get one adopted upon taking control of the Council. Almost seven years on, adoption of a first Local Plan for York for almost 70 years appears as far away as ever, with Government officials strongly recommending the Council starts the process again because its supporting evidence is now so out of date.

Labour councillor Kallum Taylor is vice chair of the council's Local Plan Working Group Committee. He is seeking a meeting to discuss the problems and see if progress can be made. He says:

"I will be writing to the Local Plan Working Group Chair to request a meeting so that councillors and residents can understand the problems the council is having supplying the Government Inspectors with the information they require. Labour is desperate to get a Local Plan adopted so that we can see carefully planned and anticipated development in our city, and not the planning free-for-all encouraged by the Lib Dem-led council's current approach.

"We need to hear what the barriers are to complying with Government guidance, as this is causing more delays and costing York residents more and more money beyond the £2m spent since 2015. We just need to get this done and stop the costly dithering and blind stubbornness."

Government inspectors have cited decade-old supporting evidence for the proposed Plan as being too out of date to give them confidence a Local Plan can now be approved. They have also expressed dissatisfaction over requests for more information on York's Green Belt having gone unanswered for months by City of York Council.

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OBJECTION to Application Number **23/02030/FULM**

25th April 2024

Dear Natalie,

Thank you for consulting with us on the above application.

The Application Site lies to the south-west of the Council owned and run Traveller Site at Outgang Lane, Osbaldwick; which currently accommodates 18 households, and is allocated for expansion in the Draft Local Plan to provide up to 17 additional pitches.

During the process of the ongoing Local Plan Examination, York Travellers Trust has drawn Inspectors attention to the incompatibility of industrial uses and activities on Land adjacent to the Osbaldwick Site with the residential amenity, health and welfare of site residents. In particular, we have raised serious concerns about dust and noise pollution arising from the waste recycling centre to the west of the site, and to serious safety issues associated with the shared use of the single track access lane to the Traveller Site by Heavy Goods Vehicles associated with those uses. The Council has acknowledged that very significant investment needs to be made to improve the environmental amenity and safety of the Site.

We note that planning permission was granted by the Council in 2022, under ref: 22/02638/FUL *'for the erection of concrete batching plant, 2 no. cement silos, mixing tower, aggregate bins, storage building and batch cabin'* on land to the south-west of the Traveller Site, with an associated increase in daily movements by HGV's in the immediate vicinity of the Site. Neither YTT nor the Council's Housing Team was consulted on this application.

It is clear that the continuing intensification of industrial activities in the vicinity of the Traveller Site is incompatible with the residential amenity, and poses a significant material threat to human health and wellbeing.

We object to this application on that basis.

Policy CC1 of the Draft Local Plan (2018) (Renewable and Low Carbon Energy Generation and Storage) states that:

*'Proposals for renewable and low carbon energy development, including ancillary development, will be permitted where impacts (direct, indirect, individual and cumulative) on the following considerations **are demonstrated to be acceptable:***

ii. local communities and residential amenity resulting from development, construction and operation such as air quality, atmospheric emissions, noise, odour, water pollution and the disposal of waste.'

We note that a Noise Assessment Report has been provided by the Applicant, which indicates that the proposed development would require, amongst other things, the operation of multiple industrial cooling fans throughout its lifetime. It is advanced that these would operate *'without affecting the amenity of the closest residential receptors to the site.'*

It is not clear from the Report that the particular nature of the residential units has been taken into account as a part of the assessment. Caravans are significantly more vulnerable than bricks and mortar development to noise and vibration pollution. Nevertheless, the Council's Public Protection Officer appears to have taken the findings of the Report at face value, and has raised no objections.

The Environment Agency has confirmed that Battery Storage Systems have the potential to pollute the environment, particularly where there is surface and ground water. There have been significant issues with drainage and standing water in the area around the Traveller Site for many years.

The CYC Strategic Planning Team has stated that:

'5.6. The site is in close proximity to the Travellers site at Outgang Lane and a number of other residential properties. The likely effects and issues arising from the scheme on any groups with protected characteristics, as defined by the Equality Act 2010, should be identified and assessed; this will include impacts on residential amenity and human health resulting from emissions, electromagnetic fields, noise, odour, water pollution and disposal of waste.'

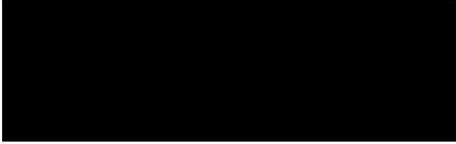
York Travellers Trust appreciates the Council's recognition that the proposed development would have a direct bearing on the health and residential amenity of residents of the Traveller Site, and is pleased to have been notified of the proposals and invited to respond to this consultation. However, we are disappointed to note that the Housing Team, who owns and holds managerial responsibility for the Traveller Site has not been given the same opportunity.

We would expect to see proper consultation with the Council's Housing Team, so that Officers can consider the impact the proposals are likely to have on site residents, and on the Council's ability to manage the Site safely and effectively in the future.

We would also expect to see a detailed independent assessment and a full Environmental Report relating to these issues specifically as a part of this Application; which properly takes into account the cumulative impact of the proposed development with adjacent land uses and activities on the residential amenity of the Traveller Site. We would expect to see a full

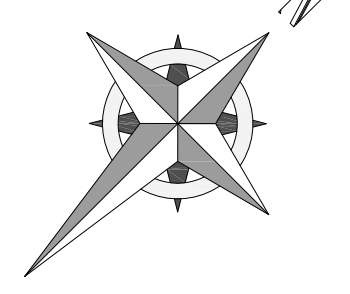
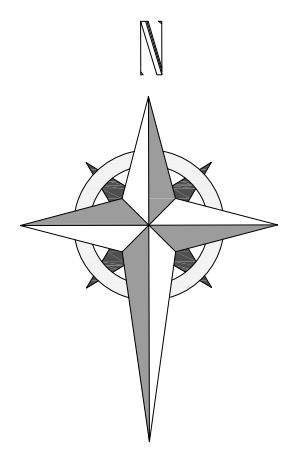
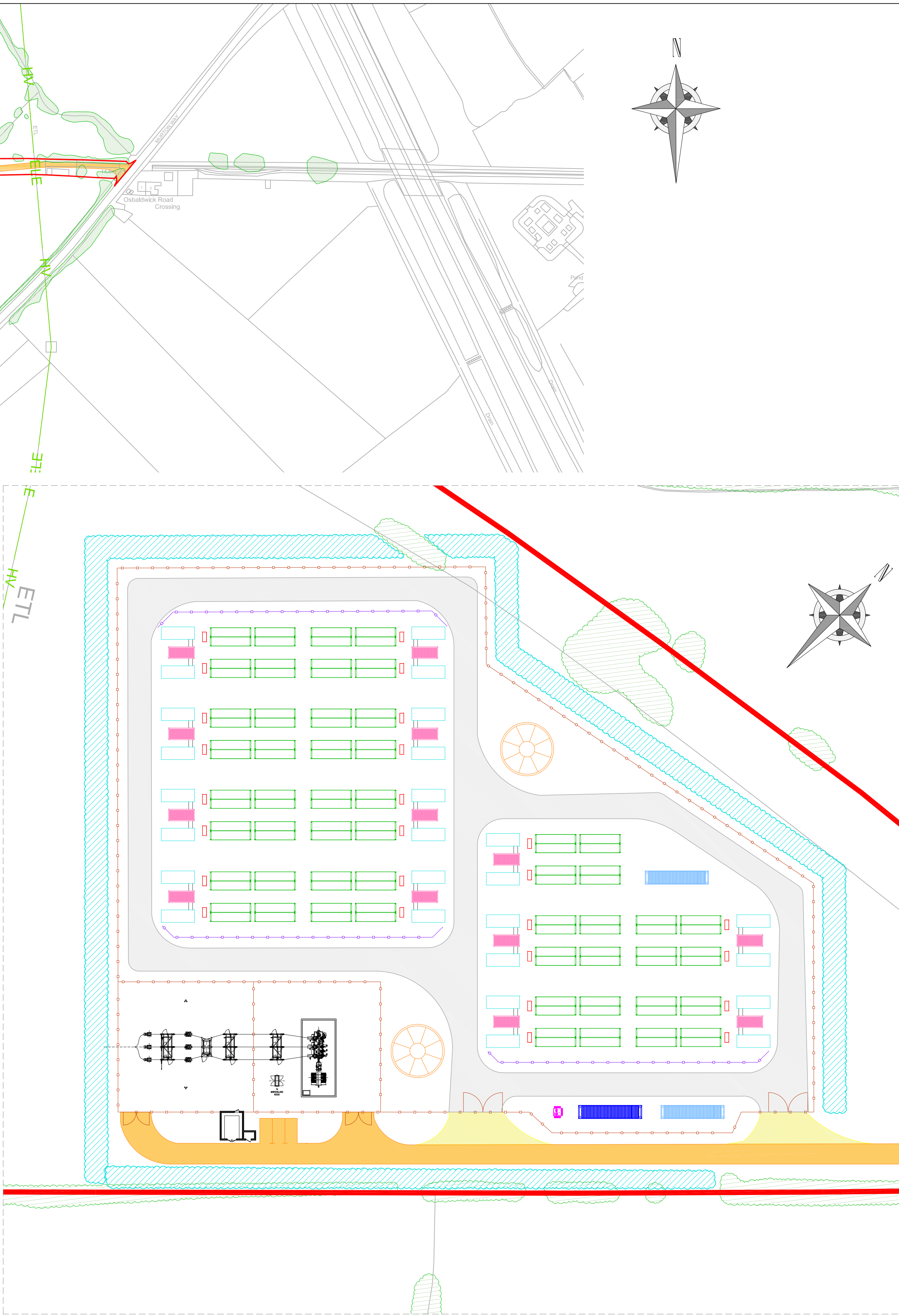
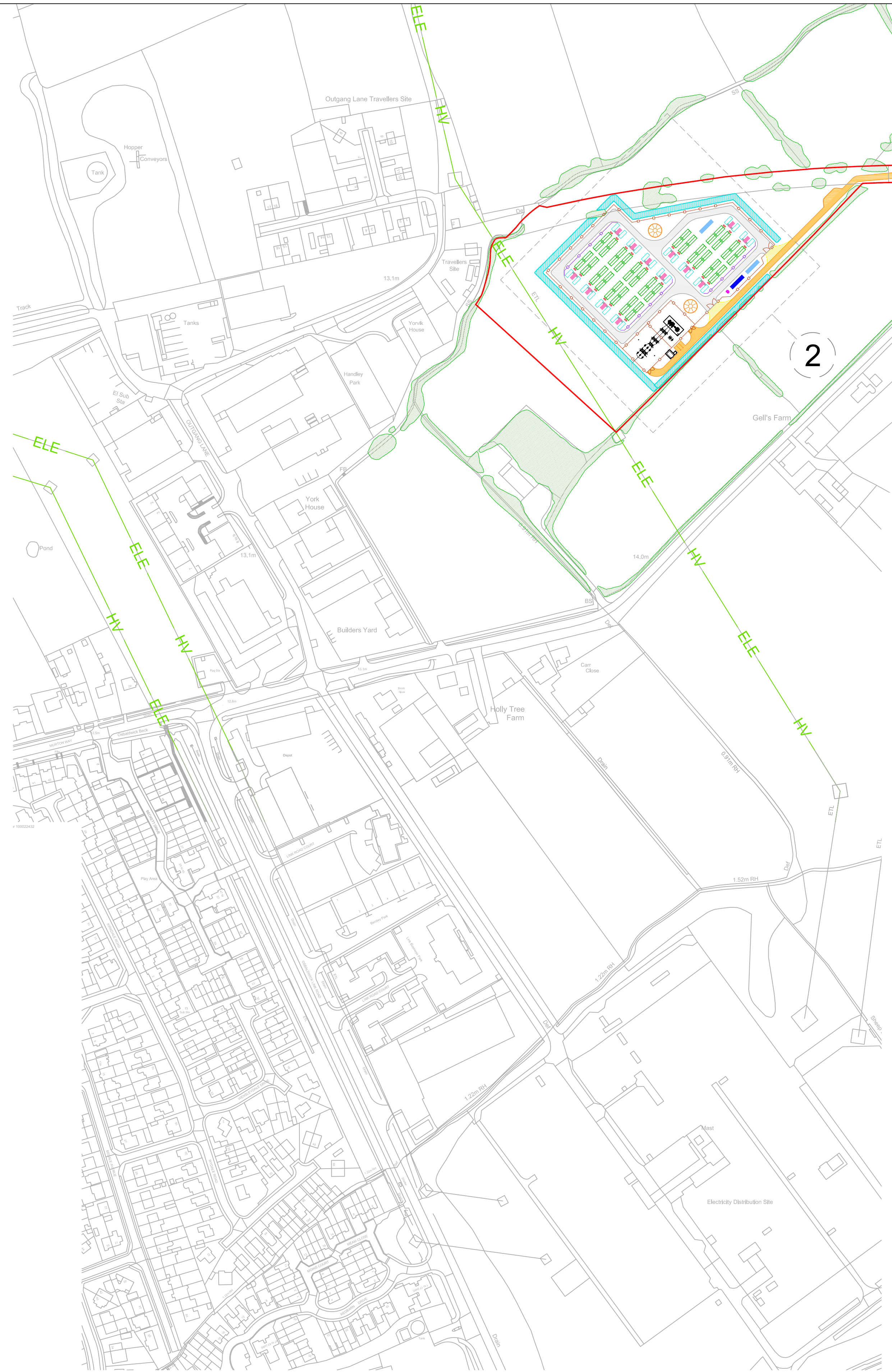
Equality Impact Assessment. We have not been able to find any report or assessment of these kinds on the Application File.

York Travellers Trust OBJECTS to this Application.



Caroline Hunter

Chair of York Travellers Trust



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Revisions:

Revision	Date	Revision Notes	Drawn	Inspected
01	28.06.23	First Issue	JM	DL
02	28.09.23	Revised	RW	DL
03	28.09.23	RLB and access updated	RW	DL
04	28.09.23	Revised	RW	DL
05	06.10.23	Revised	RW	DL
06	10.10.23	Revised - proposed vegetation	RW	DL

- LEGEND:
- PLANNING APPLICATION BOUNDARY
 - MAINTENANCE ACCESS
 - SITE ACCESS
 - DNO ACCESS
 - - - 2.4m PALISADE FENCELINE
 - - - 4.0m ACOUSTIC FENCELINE
 - HV — ELE — HV — EXISTING OH HV CABLE
 - HV — ELE — HV — EXISTING U/G HV CABLE
 - - - HV — ELE — HV — ELE PROPOSED U/G CABLE ROUTE

- SITE INFRASTRUCTURE:
- SECURITY GATE
 - TRANSFORMER & RMU
 - 132kV SUBSTATION
 - CCTV CAMERA
 - AUX TRANSFORMER
 - BESS BATTERY UNIT
 - SCS INVERTER
 - BATTERY INTERFACE CABINET
 - STORAGE CONTAINER
 - CUSTOMER SWITCHGEAR
 - 240,000l WATER TANK
- VEGETATION:
- EXISTING VEGETATION
 - PROPOSED VEGETATION

Project: **Murton Way BESS**
Land at Murton Way, Murton
York, YO19 5UP

Applicant:
Net Zero Fourteen Limited

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Drawn by:
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2D, 3D CAD & BIM SERVICES

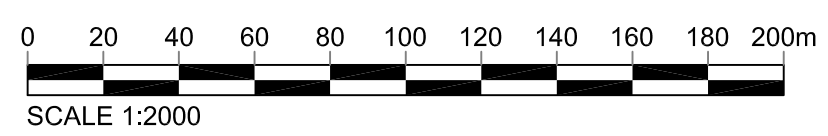
CADmando Design & Drafting Solutions Ltd
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Status:
PLANNING

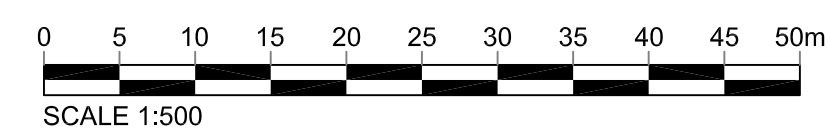
Drawing Title:
Murton Way BESS
Proposed Site Layout Plan

Drawn: JM	Checked: DL	First Issued: 28.06.2023
Project Code: FST007- PL-01		Drawing Number:
Sheet Size: A1	Scale: A:N	Revision: 06

1 MURTON WAY BESS - PROPOSED SITE LAYOUT PLAN
Scale: 1:2000@A1



2 BATTERY SITE
Scale: 1:500@A1



Application Number	23/02030/FULM
Planning Application	Erection of a battery energy storage system with associated infrastructure, site levelling works, access, landscaping and ancillary works
Address	Land lying to the north west of Murton Way, York
Planning Officer	Natalie Ramadhin
Date	24 th December 2023

Public Protection has considered this application in terms of all environmental impacts (noise, light, air quality, contaminated land and dust).

The applicant has submitted an Inacoustic noise impact assessment dated 10/10/23. This assessment demonstrates that nearby residential receptors will not be affected by noise from the facility as the BS4142 assessment provided demonstrates that the noise levels produced are all below background noise levels. Therefore this department has no objections to this application in terms of noise. I would however recommend that the proposed mitigation measures (4 metre high acoustic fence) is installed and that the fence should have no gaps and be of at least 10kg/m2 density.

Emma Tindall

Environmental Health Officer

City of York Council



The Planning Inspectorate

Report to Mid Devon District Council

by Paul Griffiths BSc(Hons) BArch IHBC
an Inspector appointed by the Secretary of State

Date: 26 June 2020

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Mid Devon Local Plan Review 2013-2033

The Plan was submitted for examination on 31 March 2017

The examination hearings were held on 20 and 21 September 2018, and 14, 15, 19 and 20 February 2019

File Ref: PINS/Y1138/429/12

Non-Technical Summary

This report concludes that the Mid Devon Local Plan Review 2013-2033 (the Plan) provides an appropriate basis for the planning of the District, provided that a number of main modifications (MMs) are made to it. Mid Devon District Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared a schedule of the proposed modifications and carried out sustainability appraisal (SA) of them alongside revisiting the Habitats Regulations Assessment (HRA), and the Equalities Impact Assessment. The MMs were subject to public consultation over a six-week period. In some cases, I have amended their detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- MMs to establish a proper link between the development of housing and related infrastructure and to provide for a trajectory that should ensure a rolling five-year supply of deliverable housing sites;
- A group of MMs necessary to allow the Plan to properly provide for the needs of Gypsies and Travellers and Travelling Show-People;
- MMs to ensure the major development proposed at Junction 27 of the M5 is brought forward in an acceptable way;
- MMs to deal with constraints relating to the allocation under Policy SP2; and
- Various MMs to ensure that development management policies are effective and consistent with national policy.

between 2028/29 and 2032/33. In the 5% buffer scenario, those figures are 6.53 years, 9.10 years and 14.23 years respectively.

83. In any scenario, therefore, the Plan provides for a rolling five-year supply of housing, in accord with national policy, with a significant surplus in later years of the Plan.

Issue 3: Whether the provision in the Plan for Gypsies and Travellers and Travelling Show-People has been approached in a positive and effective manner?

84. The Plan, as submitted, had a number of issues in relation to the provision for Gypsies and Travellers and Travelling Show-People. In the first instance, contrary to Planning Policy for Traveller Sites (PPTS), it fails to provide in full, in specific terms at least, for the need identified in the Plan for 35 pitches for Gypsies and Travellers, and 11 plots for Travelling Show-People, between 2014 and 2034¹³. I appreciate that the District can point to a record of windfall sites for Gypsies and Travellers coming forward. As a consequence, and following the line of pragmatism one is encouraged to take in examining plans, provided the relevant polices make proper provision for these windfall sites to come forward, then the Plan can still function in a positive and effective way.
85. Where allocations have been made, these have been provided as an integral part of major allocations for general and affordable housing. As set out above, in dealing with Issue 2, I see no reason why this linkage need be broken.
86. Nevertheless, to be effective, the Plan needs to avoid building in hurdles to delivery. As such the Plan needs to make it possible for developers of the major housing allocations to provide accommodation for Gypsies and Travellers and Travelling Show-People off-site, and alongside that, for windfall sites for the travelling community to come forward in the countryside.
87. The MMs have been predicated on a preference on the Council's part for provision for Gypsies and Travellers and Travelling Show-People to take place as part of the major allocations for general and affordable housing. On reflection, I am concerned that therein lies a failure to take account of the fact that the Plan will not be meeting the needs of the travelling community in full. To ensure that those needs are properly met, the different forms of provision (through allocation or windfall) must have equal status.
88. Paragraph 2.31, part of the supporting text to Policy S3, must be changed to reflect the changed position. While it is reasonable for the Plan to say that the Council prefers provision as part of the major allocations, the suggestion that provision off-site (or windfalls) will only be accepted where this would provide 'a more favourable outcome' for gypsies and travellers would allow the Council to use its stated preference to block provision on suitable sites elsewhere. This must be changed to 'an acceptable outcome' in order to ensure equal status for on- and off-site provision. With that change, the modification [**MM05 as amended**] would allow the Plan to work effectively.

¹³ Derived from the Gypsy and Traveller Accommodation Assessment

89. Allied to that change, Policy S14 (which deals with development in the countryside) as drafted, makes no accommodation for the needs of Gypsies and Travellers, or Travelling Show-People to be met outside settlements. It must do so in order to allow windfall sites, that the Council will rely on to make up for the shortfall in what has been allocated, to come forward. Changes are required to the policy itself, and the supporting text in paragraph 2.82, to allow for that. This modification **[MM11]** is essential for the Plan to function effectively.
90. Both these modifications defer to Policy DM7 which is the criteria-based development management policy aimed at traveller sites. To form a part of one of the major allocations, meet the 'acceptable' threshold in the supporting text to Policy S3, or square with the requirements of Policy S14, any site would need to accord with all the criteria set out in Policy DM7.
91. As a general approach that is rational. However, Policy DM7 has significant problems in the way it is framed. In particular, it sets out that where development proposals are considered under Policy S14 (referred to above), they are only permissible where the need cannot be met on another suitable site in Mid Devon which has consent or is allocated for Gypsy and Traveller pitches. Again, that would allow alternative provision away from the major allocations, or windfall sites, to be blocked, on the basis that allocations have been made. In a situation where the identified need is not being met in full, that is clearly unacceptable.
92. In response to that, changes are required to the policy itself, and the supporting text. In terms of Policy DM7 itself, the first part sets out criteria that all planning application for pitches and plots (that I take to mean all sites, including those that are part of allocations) must meet. These criteria are reasonable, and it is right that all must be met in order to ensure that sites meet a proper standard.
93. The change to the policy then goes on to deal with provision on allocated sites suggesting that pitches on allocated sites should be provided on-site unless it is demonstrated that off-site provision will achieve a more favourable outcome, taking into account a range of factors. I have no difficulty with the range of factors and that all of them must be considered together, but the 'more favourable outcome' phrase is unacceptable for the reasons set out above. This needs to be amended to 'an acceptable outcome'. Compliance with the range of factors set out would lead to such an outcome.
94. Attendant changes are proposed to the accompanying text in paragraph 4.29. Broadly, the changes follow from the changes to the policy outlined above. Again though, references to 'more favourable' provision need to be amended to read 'acceptable'.
95. A change was also introduced in paragraph 4.29 to suggest that only when provided on-site, will pitches for Gypsies and Travellers be counted against the affordable housing target for the wider allocation concerned. On reflection, I do not consider that justified in the context of the changes in approach necessary to make this aspect of the Plan acceptable. If a housing developer arranges for the pitches for Gypsies and Travellers to be provided off-site, in a way that complies with Policy DM7, as amended, and is tied to the allocation,

then they should properly be included as part of the overall affordable housing target for the allocation. To do otherwise would introduce another potential barrier to meeting the identified need. This part of the amended text must be changed to reflect that.

96. Alongside the others set out above, this modification, suitably amended, **[MM48 as amended]** is necessary to ensure that the approach of the Plan to the provision of accommodation for Gypsies and Travellers, and Travelling Show-People, is positive and effective.

Issue 3: Have the proposals for J27 been properly justified and is the associated policy effective?

97. Policy J27 provides for the allocation of a site of approximately 71 hectares, on the southbound side of the M5 motorway, adjacent to Junction 27, for a major tourism, leisure and retail attraction supported by ancillary roadside services and infrastructure, including a pedestrian bridge over the motorway to link the site with Tiverton Parkway railway station.
98. The proposal derives from something of an evidence base¹⁴ but more importantly, what the Council is seeking to achieve through the allocation is the attraction of more visitors to the District, thereby stimulating economic activity, and the provision of jobs. There is nothing amiss about that. Paragraph 18 of the Framework makes very clear the importance of securing economic growth and creating jobs and prosperity. Moreover, paragraph 154 encourages Local Plans to be aspirational. It goes on to make the point that those aspirations should be realistic but there is ample evidence that a development of the sort envisaged could come to fruition. Against that background, while it is somewhat speculative, and without doubt, ambitious, I do not consider the allocation to lack justification.
99. As outlined above, some of the initial objections from neighbouring authorities were couched in terms of a failure in terms of the DtC. As I have set out, there has been no failure by the Council in that regard. In any event, the concerns initially expressed have developed, and they now relate more to the potential impact of the retail element of the proposed allocation on existing centres, and similar outlet shopping facilities. There has also been concern about potential impact on the Tiverton retail offer.
100. Given the significant scale of what is proposed, and in particular the retail element, located away from an existing centre, one would expect any planning application that followed the allocation to include an impact assessment. However, there is no specific requirement in the policy itself. To make good that omission, I required an MM introducing a new policy criterion to suggest that 'any planning application which includes a designer outlet shopping centre should be accompanied by a full Retail and Leisure Impact Assessment'. On reflection, to ensure proper clarity, that criterion needs to have added '.....Impact Assessment to ensure that any potential adverse impacts identified are addressed and mitigated'. With that addition, the modification **[MM40 as amended]** ensures that the policy is effective, in these terms.

¹⁴ The Mid Devon Tourism Study 2014

138. The March 2015 HRA, read alongside the HRA Addenda of August and December 2016, sets out that an appropriate assessment has been undertaken and that while the Plan may have some negative impact which requires mitigation, that this mitigation has been secured through the Plan, as modified.
139. The Plan includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. In particular, criterion j) of Policy S1 which sets out sustainable development priorities commits the Council to meeting the challenge of climate change by supporting a low carbon future, energy efficiency, increasing the use and supply of renewable and low carbon energy, managing flood risk and conserving natural resources, amongst other things. Moreover, Policy DM2 (as modified) allows for renewable energy schemes to come forward.
140. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.
141. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including the provision of sites to meet the needs of Gypsies and Travellers and Travelling Show-People, amongst other things.

Overall Conclusion and Recommendation

142. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
143. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended MMs set out in the attached Appendix, the Mid Devon District Local Plan Review 2013-2033 satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the Framework.

Paul Griffiths

INSPECTOR

This report is accompanied by an Appendix containing the Main Modifications.

Ref	Page	Policy/ Paragraph	Main Modification
MM03	32	S2: Amount and distribution of development	<i>Amend policy text as follows:</i> "The diverse development needs of the community will be met through the provision of a <u>minimum of approximately 7,860 dwellings and 147,000 square metres of commercial floorspace between 1st April 2013 and 31st March 2033.</u> "
MM04	34	S3: Meeting housing needs	<i>Amend criterion a) as follows:</i> "The diverse needs of Mid Devon will be met through the provision of a <u>minimum of approximately 7,860 dwellings between 1st April 2013 and 31st March 2033.</u> "
MM05	36	Paragraph 2.31	<i>Amend paragraph 2.31 of the supporting text as follows:</i> " <u>....The need for gypsy and traveller pitches will be accommodated by pitches within larger housing sites, for example at Tiverton Eastern Urban Extension, North West Cullompton, East Cullompton and Pedlerspool in Crediton. The Council's preferred approach is for on-site provision as part of larger housing proposals TIV1, CU1, CU7 and CRE5. Provision off-site will only be accepted where it is demonstrated that provision on a different site would achieve an acceptable more favourable outcome for Gypsies and Travellers as described in Policy DM7. Where such an acceptable more favourable outcome can be demonstrated, off-site provision must meet the requirements of Policy DM7, and a mechanism must be put in place to ensure that the pitches are delivered. This will usually be through a s106 agreement requiring the developer to identify and obtain planning permission (which will not be unreasonably withheld by the Council) for the required number and standard of pitches. The pitches will be provided by the development itself or where the land is transferred for a nominal value, by an agreed third party Registered Provider or other agreed private provider, for the sole purpose of occupation and ancillary business by Gypsies and Travellers. The off-site provision of pitches must be provided and made available for occupation before the occupation of a specified proportion of the provision of on-site open market dwellings as part of the larger housing proposal at TIV1, CU1, CU7 or CRE5. Where the off-site provision of pitches generates additional infrastructure needs, developers of the larger housing proposal at TIV1, CU1, CU7 or CRE5 will be expected to contribute fairly towards the cost in accordance with Policies S8 and DM7 of this Plan. The Council is</u>

Ref	Page	Policy/ Paragraph	Main Modification
			<p>b) The proposal will have suitable environmental quality for residents including non-isolating boundary treatments;</p> <p>c) <u>The site will not cause unacceptable landscape or ecological impact and is not located in an area at high risk of flooding;</u></p> <p>d) Occupation will be limited to those who meet the Government's published definition of gypsies and travellers, including travelling showpeople <u>or their dependents;</u> and</p> <p>e) <u>Safe and convenient access to local facilities is provided</u></p> <p>Where development proposals are considered under S13 "Villages", local services can be accessed without the use of a car.</p> <p>Where development proposals are considered under S14, the need cannot be met on another suitable site in Mid Devon which has consent or is allocated for gypsy and traveller pitches.</p> <p>Sites with associated employment or storage elements <u>may will be permitted</u> where there is specific justification and the location, <u>scale, and nature</u> of the proposed development will not have harmful impacts on local amenity or the local environment. Gypsy and traveller accommodation may be included as part of the affordable housing requirement.</p> <p><u>2. Provision on allocated sites</u></p> <p><u>Gypsy and Traveller pitches on allocated sites (sought by Policies TIV1, CU1, CU7 or CRE5) should be provided on site unless it is demonstrated that off-site provision will achieve an acceptable more favourable outcome for Gypsies and Travellers taking into account:</u></p> <ul style="list-style-type: none"> i) <u>Pitch numbers;</u> ii) <u>Site facilities;</u> iii) <u>Accessibility to services, including health and education;</u> iv) <u>Early delivery of serviced pitches or plots which are available for occupation; and</u> v) <u>The provision of an effective mechanism for delivery.</u> <p><u>Such sites must also meet the requirements of part 1 of Policy DM7 above,</u></p> <p><i>Amend supporting text in paragraph 4.29 as follows:</i></p>

Ref	Page	Policy/ Paragraph	Main Modification
			<p>“4.29 There is a need for 35 new pitches for gypsies and travellers for the period 2014-34, and 11 plots for travelling showpeople for the period 2014-34. The majority of this This need is proposed to be met on the largest strategic allocations. The travelling showpeople community is predominately based in one large site at Cullompton, which is at capacity. A need for 11 plots has been identified and the Council is in discussions with a landowner to grant permission for one additional site near to the town which will meet the outstanding requirement. These are to be included within allocated developments at Tiverton Eastern Urban Extension, North West Cullompton, and Pedlerspool in Crediton. Pitches must be provided on-site unless the <u>acceptable more favourable</u> outcome described by Policy DM7 is demonstrated. Any proposals for <u>acceptable more favourable</u> off-site provision must identify and provide serviced sites in accordance with Policy DM7. A clear mechanism to ensure that pitches or plots are delivered in such a way as to achieve an <u>acceptable more favourable</u> outcome for the travelling community must be identified.</p> <p><u>This will usually be through a s106 agreement requiring the developer to identify and obtain planning permission (which will not be unreasonably withheld by the Council) for the required number and standard of pitches. The pitches will be provided by the development itself or where the land is transferred for a nominal value, by an agreed third party Registered Provider or other agreed private provider, for the sole purpose of occupation and ancillary business by Gypsies and Travellers. The off-site provision of pitches must be provided and made available for occupation before the occupation of a specified proportion of the provision of on-site open market dwellings as part of the larger housing proposal at TIV1, CU1, CU7 or CRE5. Where gypsy and traveller pitches are provided on- or off-site on housing allocations, these are to be counted against the affordable housing targets for that site. There are also existing consented sites in Mid Devon. Proposals for gypsy and traveller accommodation will not be permitted in other locations, unless it is demonstrated that the existing consented or allocated sites will not be available to the prospective occupiers in a reasonable timescale.”</u></p>