

# City of York Local Plan

## Responses to new issues raised through consultation on Main Modifications

August 2023

### Background

- 1.1 The Proposed Main Modifications consultation ran for 6 weeks from 13<sup>th</sup> February to 27<sup>th</sup> March 2023. Full copies of all representations received have been made available to the Inspectors and these will be published on the examination website in due course.
- 1.2 The Council has prepared a separate consultation statement, which incorporates summaries of all duly made representations. It is the case that many of these representations raise issues that were either debated at the hearing sessions or are not specifically related to the modifications. The table below therefore provides the Council's response to matters it considers to be most significant, responding particularly to new issues that have been raised by respondents.

Modification Reference / Policy	Issue	CYC response
MM5.11 and MM5.16 Policy H5: Gypsies and Travellers	The Council's approach to meeting needs of those that meet the definition and do not meet the definition of travellers is inconsistent with national policy and the <i>Lisa Smith</i> judgement.	The Council's response to the Inspectors' request for comment on the implications of <i>Lisa Smith</i> is set out at EX/CYC/121a. It makes clear that the PPTS and the NPPF remain government policy and the requirements of both have been applied in a way that is consistent with <i>Lisa Smith</i> .
MM5.11 and MM5.16 Policy H5: Gypsies and Travellers	That no suitable sites are provided to deliver 5-year need, and that no developable sites are provided thereafter.	The Council's approach to meeting its need for gypsy and traveller provision is set out in its hearing statement and was further explained during the hearing session held 28 <sup>th</sup> July 2022. During the debate it was explained that the Council is of the view that reg. 122 of the Community Infrastructure Levy Regulations 2010 is not a barrier to the approach set out in policy H5. This position has now been confirmed by both the Secretary of State and Inspector in their remarks set out in the Monks Cross (ST8) appeal decision <sup>1</sup> . The 14 December 2022 decision letter confirms that, " <i>the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR12 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework.</i> "

<sup>1</sup> Appeal Ref: APP/C2741/W/21/3282969 Site to the west of the a1237 and south of North Lane, Huntington, York

		<p>Additional information was submitted to the examination in December 2022 to make clear where and when provision will be made over the plan period [EX/CYC/121a]. Further to this, and as part of its ongoing work with the gypsy and traveller community, the Council prepared a position paper for the York Travellers Trust (“YTT”). That paper is submitted with the Trust’s representation to the main modifications consultation and is also included at appendix 1 of this document. It captures the content of the Council’s written and oral submissions made during the examination, including its approach to pitch delivery. No new evidence is presented in the paper, and it reflects the Council’s current position with regards gypsy and traveller planning matters.</p>
<p>MM5.11 Policy H5: Gypsies and Travellers</p>	<p>The suitability of the three Council owned allocations in part a of Policy H5.</p>	<p>The matters were raised to the Inspector during the phase 3 hearing session and the Council addressed these concerns in full.</p> <p>It was explained that no in-principal issues were identified as part of the Council’s assessment of these existing sites and that there was no conflict with the considerations set out in part C of Policy H5.</p> <p>The site at Outgang Lane in Osbaldwick was discussed at length during the hearing. The Council acknowledged the issues raised in regard this site and asserted that these are not matters that the Local Plan has any power to address. Rather, they are and will be addressed by the Council both in respect of the current site and any detailed planning applications that would be necessary for a proposed extension of the site (or indeed the multiple new sites that are proposed as part of the strategic allocations across the City).</p> <p>Notably, since this the issue of dust pollution at Osbaldwick was raised through the Public Local Plan Decision sessions, the Council’s Environmental Health Team has undertaken regulatory visits to the sites it regulates through Environmental Health and attended a joint site visit with the Environment Agency as regulator for the neighbouring industrial estate, with further follow up visits proposed.</p>
<p>Policy H5: Gypsies and Travellers</p>	<p>Failure to assess accommodation needs of boat dwellers</p>	<p>The Council has considered boat dwellers. Information on houseboats in York is provided at appendix 2. The boat dwelling community in York is very small and the Council does not consider it necessary for discrete policies to be included in the Local Plan to address these needs. Should planning permission be sought for additional residential moorings to support permanent houseboat living, applications will be determined against the Plan’s general housing policies and, where appropriate, Green Belt policies (H3: Balancing the Housing Market and GB1: Development in the Green Belt respectively).</p>

		<p>The Council would support expansion of paragraph 5.23 (explanatory text to Policy H3) to incorporate a suitable reference to houseboats to make it clear that these were included within the general housing policies:</p> <p>5.23 Forms of housing covered under this policy include supported housing for young people, individuals with mental or physical health issues, homeless households, <b>houseboats</b>, sheltered housing, residential care, nursing homes and extra care facilities...</p>
<p>Policy H5: Gypsies and Travellers</p>	<p>Approach may breach the Council's obligations under the Human Rights Act 1998 and the Equality Act 2010.</p>	<p>The Council intends to deliver on its duty to provide suitable accommodation for different communities as part of delivering a new Local Plan for the city. The Plan addresses the issue of Gypsy and Traveller provision in policy H5. The policy is supported by evidence and responds to matters raised during earlier consultation stages, including comments from the YTT.</p> <p>The supporting evidence base has been updated through the Examination process, with a Gypsy and Traveller Accommodation Assessment (2022) informing the Examination and the subsequent proposed modifications. The Council remains committed to continuing engagement with the York Traveller Trust and the Gypsy, Roma and Traveller community in York to ensure that future provision is of a suitable design and standard through the production of a Supplementary Planning Document.</p> <p>An equalities assessment forms part of the Council's decision-making process and was submitted to the Examination (CD019). It ensures the relevant issues have been considered and this practice will continue as the Local Plan proceeds to adoption and would also apply to decisions in respect of the adoption of the proposed specific Supplementary Planning Document that will be developed with the Gypsy, Roma and Traveller communities Community.</p>
<p>MM10.6 Policy GB4: 'Exception' Sites for Affordable Housing in the Green Belt</p>	<p>Modifications to Policy GB4 as presented earlier in the Local Plan's examination process should be retained to allow exception sites for affordable gypsy and traveller provision in the Green Belt.</p>	<p>Through its submissions during the hearing session on 28 July, the Council confirmed that it would not be advancing these modifications to Policy GB4, explaining that to do so would be in direct conflict with the PPTS which, at paragraph 16, states that:</p> <p><i>Traveller sites (temporary or permanent) in the Green Belt are inappropriate development.</i></p> <p>The Council corrected the erroneous inclusion of this previously proposed modification in its phase 4 matter 6 hearing statement (EX/HS/P4/M6/GB/1) during the hearing on 15 September 2022.</p>

<p>MM5.17 Policy H7: Student Housing</p>	<p><b>Nomination agreements (criterion iia)</b></p> <p>Considered by many respondents to be unnecessary to make the plan sound and not required given criterion i of the policy demands applicants demonstrate need for PBSA. The principle would see the financial risk transfer from the developer to the university. Alternative policy approaches that require that rent is negotiated between developer and university considered more appropriate.</p>	<p>The principle of a nomination agreement arose during the hearing discussion on 14<sup>th</sup> July in the context of PBSA affordability. The policy approach, adopted in the London Plan, was identified as an appropriate means of ensuring development that purports to meet a specific need goes on to meet it upon completion and occupation of the accommodation.</p> <p>The Council acknowledged (in agreement with the higher education providers at the examination) that higher education providers are better placed to know what student needs are in respect of affordability and that it would be prudent for the terms of a nomination agreement to be resolved directly between the provider and developer. The principle was preferred over a form of policy that requires “affordable” student accommodation to be delivered, which would likely be difficult to implement given the difficulty of defining “affordability” in student terms.</p> <p>Reference is made in the representations to a review from the Russell Group Student Union on the Student Cost of Living, which points towards universities being open only to the most privileged. This serves to illustrate the issue raised during the hearing around affordability and further justifies the nomination agreement approach.</p> <p>The Vice Chancellor in his submission to the hearing referred to the University of York’s existing nomination agreement with a developer and its ongoing discussions to secure two others. At the hearing he supported this aspect of the proposed policy. It is unclear therefore why concern is now raised regarding the ‘transfer of risk’ and if and to what extent its existing contract agreements would frustrate further agreements being entered into.</p>
<p>MM5.17 Policy H7: Student Housing</p>	<p><b>Restriction to full time students (criterion iv)</b></p> <p>Changes to semesters requires accommodation to be available all year. The requirement is unduly restrictive, and limits use by those in part time education and out-of-term letting.</p>	<p>The Council acknowledges that course formats are changing, with students benefiting from greater flexibility in the way they access education. However, within the context of PBSA provision it is important that it meets a specific and unmet housing need. Those engaged in part time education are, by its nature, likely to be in a form of employment and subject to different housing requirements which should be met through the general needs housing market. As explained during the hearings, the loss of what would otherwise be housing available to meet housing needs generally requires a clear justification and it is not considered that those in part-time education would provide that justification except perhaps on a limited basis.</p> <p>To that end, the nomination agreement would not preclude the accommodation from being used out of term provided it was principally catering for full-time students. This could be addressed through the management strategy to be secured through the permission. To aid clarity on</p>

		<p>this matter, the Council would welcome an additional modification to replace paragraph 5.46 with the following:</p> <p><b>5.46 Planning permission will also be conditioned to ensure the accommodation is occupied by full-time students and will allow for the management plan to address, on a short term basis only, any non full-time student occupation.</b></p>
<p>MM5.17 Policy H7: Student Housing</p>	<p><b>Affordable housing contribution</b></p> <p>Several responses challenge the rationale for affordable housing contribution on PBSA sites and contend that the requirement is not consistent with NPPF. Many consider that the associated cost will be recouped via higher rental charges, which will impact on students' cost of living. It is also suggested that available headroom should be retained to contribute to affordability of student housing.</p>	<p>It was explained in the hearing that, under the transitional arrangements, the principle of securing affordable housing contributions from PBSA development was compliant with national policy and guidance at the time of the plan's submission. It was at the request of the Inspectors that the potential was explored as a means of increasing the amount of affordable housing over the plan period.</p> <p>The Council explained that financial contributions to affordable housing from schemes off-campus would be further investigated, recognising that it should not apply to proposals on campus and only to sites where the land could otherwise be used for market housing (which would ordinarily incorporate a form of contribution secured through s.106).</p> <p>A note outlining the Council's findings on whether off-site financial contributions to affordable housing could be secured from PBSA was submitted to the examination library in August 2022 [EX/CYC/107/3]. This note includes extensive viability evidence to support the contribution requirement proposed in MM5.17 and demonstrates that it can be achieved without impacting on development viability on sites not owned by one of the Universities. The contribution should therefore have no direct bearing on rental charges. A detailed response to the challenges made to the viability evidence is provided at appendix 3.</p> <p>It is explained above that the principal of the nomination agreement arises at least in part from the difficulty of defining "affordable student housing" and provides an appropriate means of controlling escalating rents in response to the affordability concerns raised through the examination. Nothing in the responses to MM5.17 provide compelling evidence that the two policy requirements (which meet two different objectives) cannot operate together.</p>
<p>MM9.6 Policy GI2a: Strensall Common Special Area of Conservation (SAC)</p>	<p>Comments from Avison Young obo DIO noting that the policy is no longer required following the deletion of site allocations ST35 and H59</p>	<p>The submission fails to acknowledge that the policy also covers any windfall development within the exclusion zone and should therefore be retained as proposed. Requirement for this is demonstrated within the HRA.</p>
<p>MM3.47-MM3.58</p>	<p>Comments from Quod obo LDP suggest the modifications fail to identify</p>	<p>These are included within the Schedule of Additional Modifications (ref: AM3.18, AM3.19, AM3.20)</p>

Policy SS13: Land West of Elvington Lane	changes agreed to paras. 3.62, 3.65, 3.66 in the SoCG	
Various	A number of respondents, including York Civic Trust and Natural England refer to deleted references to SPDs.	The Council is preparing a paper for Executive to consider the content and priority of SPDs. As these SPDs will be providing further guidance on the implementation and operation of the policies, the deletion of references to SPDs within the Plan does not affect its soundness.

## **Appendix 1**

### Gypsy and Traveller Policy: Position Paper

# **City of York Council Local Plan**

## **Gypsy and Traveller Policy: Position Paper**

### **February 2023**

#### **Background**

It is a requirement of national policy that Local Plans make adequate provision for the needs of Gypsies and Travellers.

In order to understand the needs that were to be incorporated into the City of York Local Plan, a Gypsy and Traveller Accommodation Assessment (GTAA) was prepared in 2017. This work formed the basis of the policy approach set out in the Plan that was submitted to the Planning Inspectorate for examination in 2018.

For several reasons, the Examination period has been protracted and subject to further consultation in 2019 and 2021. It was therefore necessary to review the GTAA in advance of the later phases of hearings scheduled over summer 2022. That work<sup>2</sup> was used to demonstrate that the Plan is supported by an up-to-date evidence base and meets the requirements of, and reflects guidance in, the National Planning Policy Framework (NPPF) and Planning Policy for Traveller Sites 2015 (PPTS).

The findings of the latest GTAA indicate that the plan should support the following:

- 15 new permanent pitches for gypsies and travellers meeting the PPTS definition;
- 4 permanent plots for show people meeting the PPTS definition; and,
- 25 permanent pitches for gypsies and travellers not meeting the definition

#### **Local Plan policy approach to gypsy and traveller pitches**

Work was undertaken as part of the early stages of the Plan's preparation to identify and assess potential sites suitable for new gypsy and traveller pitches. This site selection process did not result in sites being allocated in the Local Plan.

An alternative approach was progressed which sought to deliver the required number of new pitches on the existing Council owned sites and as part of the

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<sup>2</sup>Gypsy and Traveller Accommodation Assessment, July 2022:  
<https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment>

development of allocated strategic residential sites; this is an adopted approach in other LPAs<sup>3</sup>. An audit trail of the approach taken by York is presented at Appendix 1.

The submitted version of the Plan indicated that the Council owned sites would be expanded to provide the pitches required within the first 5 years of the plan period, but the policy did not identify which sites would be subject to expansion or the number of pitches expected on each site. Modifications to the policy (part a of Policy H5) have now been proposed, which identify Clifton and Osbaldwick sites as the locations for additional pitches. This was supported by additional work presented to the Inspectors<sup>4</sup> to satisfy concerns around the deliverability of the 5-year pitch requirement. The Council confirmed that there is capacity at the Clifton site for an additional 6 pitches and sufficient space on the Osbaldwick site to provide at least 4 more pitches.

Local Plan Policy H5 (part a): Proposed Main Modification MM5.11

a) **Within Existing Local Authority Sites**

In order to meet the need of Gypsies and Travellers that meet the planning definition, **10** ~~3~~ additional pitches will be **provided identified** within the existing **three** Local Authority sites **at:**

- **Water Lane, Clifton; and**
- **Outgang Lane, Osbaldwick.**

Part B of Policy H5 directs the provision of 30 additional pitches to allocated strategic sites via proportional contribution to the number of proposed dwellings. The submitted version of the policy offered flexibility in how this could be achieved and effectively gave developers the choice of delivering the pitches on-site, offsite, or through a financial contribution. It was later recognised that developers would likely favour a financial contribution, putting the Council in the position of having to find suitable land for the pitches and reduces the certainty around where pitches will come forward.

Modifications to the policy were initially proposed in April 2021, which sought to prioritise on-site or alternative site provision over a financial contribution. This modification was revised again following the close of hearings in summer 2022 to narrow the scope for financial contributions and give more certainty on where pitches will be located.

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<sup>3</sup> An adopted approach in other Local Plans, including Vale of Aylesbury Local Plan (2013-2033, adopted 2021):

[https://buckinghamshire-gov-uk.s3.amazonaws.com/documents/Aylesbury\\_local\\_plan\\_L46JWaT.pdf](https://buckinghamshire-gov-uk.s3.amazonaws.com/documents/Aylesbury_local_plan_L46JWaT.pdf)  
Guildford Borough Local Plan (2015-2034, adopted 2019):

<https://www.guildford.gov.uk/localplan/2015-2034>

<sup>4</sup> Provision for Gypsies and Travellers and Travelling Showpeople, Dec 2022

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



The policy now sets out the basis for demonstrating that a financial contribution is acceptable where that is the developers' preferred solution. Only where there is clear evidence of site constraints restricting pitch delivery and no alternative site having been found following a robust search process, will a financial contribution be considered acceptable. It is expected that these policy requirements will significantly restrict financial contributions coming forward and will encourage pitch delivery on strategic sites.

Local Plan Policy H5 and supporting text: Proposed Main Modifications MM5.11

**Policy H5: Gypsies and Travellers**

**b) Within Strategic Allocations**

In order to meet the need of those 30 44 Gypsies and Traveller households that do and do not meet the planning definition:

Residential development proposals on strategic sites Applications for larger development sites of 5 ha or more will be required 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

- 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; or
- provide commuted sum payments to contribute towards to development of pitches elsewhere.

The calculations for this policy will be based on the hierarchy below:

- 100 – 499 dwellings – 2 pitches should be provided
- 500 – 999 dwellings – 3 pitches should be provided
- 1000 – 1499 dwellings – 4 pitches should be provided
- 1500 – 1999 dwellings – 5 pitches should be provided
- 2000 or more dwellings – 6 pitches should be provided

5.42 The suitability of the location of any further sites for Gypsies, Travellers or Travelling Showpeople which come forward during the plan period will be determined in accordance with criteria i – v of Policies H5 and H6. These consider the natural and historic environment, access to public transport and services, road access and congestion, flood risk and amenity. The development of the allocated sites and any further sites that come forward during the plan period will be determined in accordance with Policies H5 and H6 criteria vi – x. These consider the provision of storage and recreation space, amenity provision, size and density of pitches/piets, landscaping of the site, amenity of nearby residents and future occupiers of the site.

5.42 The suitability of sites not allocated for Gypsies, Travellers or Travelling Showpeople in this Local Plan will be assessed against the locational principles within criteria i-v of Policies H5 and H6 (Part C) as appropriate. All development proposals (including those forming part of a strategic allocation) will need to demonstrate that the site's design and layout observes the principles within criteria vi-x of Policies H5 and H6, as appropriate.

Where proposals seek to provide a commuted sum in lieu of either on or off-site pitch provision, applications will need to comprehensively demonstrate the following:

1. That the design parameters (vi – x in part C of Policy H6) cannot be satisfactorily achieved through evidence of a site and masterplan appraisal (which should include layout and capacity assessments as well as a demonstration of all reasonable attempts to overcome any site constraints); and
2. That there are no available sites which would be suitable for the number of pitches required. Evidence should include an appraisal of sites on the market at the time of the application with clear justification for their rejection.

Commuted sums will be calculated on the basis that costs are met in full including, where appropriate, land purchase, professional fees, construction and operating costs.



Additionally, in 2021 the Council proposed an amendment to the Policy GB4 (Exception Sites for Affordable Housing) to support the development of affordable pitches in the Green Belt<sup>5</sup>. The Council was unable to pursue this modification following legal advice, which stated that this approach is not in accordance with national Green Belt policy<sup>6</sup> and consequently, the Plan would be found to be unsound.

The PPTS at paragraph 15 (Policy D) refers to potential opportunities for rural exception sites for affordable pitches. However, paragraph 16 (Policy E) makes clear that those provisions cannot apply in Green Belt areas. Paragraph 16 states that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Paragraph 17 continues that if land is to be removed from the Green Belt (to inset a Traveller site) it should be specifically allocated in the development plan as a traveller site only and only through the Plan making process (not in response to a planning application).

Green Belt exceptions under NPPF 2012<sup>7</sup> paragraph 89 relate to the construction of new buildings. A gypsy and traveller site is principally a change of use (although some new buildings may also be added – e.g. utility blocks).

Whilst it is regrettable that the proposed modification to Policy GB4 had to be withdrawn, the Council is satisfied that its approach to meeting the housing need for gypsies and travellers through the retention and expansion of the existing (non-green belt) public sites, in connection with strategic sites (where green belt boundaries are drawn to exclude development sites) and alongside a criteria-based policy, is appropriate and will meet needs over the plan period.

### **Planning Obligations for Off-Site Financial Contributions**

YTT refer to an appeal decision in 2019<sup>8</sup> where the Inspector found that a financial contribution associated with residential development at Millfield Lane did not meet the necessary legal tests. That decision was made at a time when the Local Plan's examination was in the very early stages.

That position has now materially changed and the evidence to support the policy approach has since been developed further. Notably, neither the Secretary of State (SoS) or the Inspector in reaching their conclusions on the appeal at Monks Cross (ST8)<sup>9</sup> found the agreed financial contribution to pitches in this case to be flawed. The 14 December 2022 decision letter confirms that, "*the Secretary of State agrees*

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<sup>5</sup> Proposed Modifications, published for consultation April 2021 [[EX/CYC/58](#)] with responses all submitted to the Examination and summarised in [EX/CYC/65](#).

<sup>6</sup> Planning Policy for Traveller Sites (<https://www.gov.uk/government/publications/planning-policy-for-traveller-sites>)

<sup>7</sup> The Local Plan is being examined under transitional arrangements

<sup>8</sup> Appeal Ref: APP/C2741/W/19/3227359 North of Boroughbridge Road, South of Millfield Lane, York

<sup>9</sup> Appeal Ref: APP/C2741/W/21/3282969 Site to the west of the a1237 and south of North Lane, Huntington, York

*with the Inspector's conclusion for the reasons given in IR12 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework."*

Having considered the matter further and as explained in the Examination, the Council is of the view that reg. 122 of the Community Infrastructure Levy Regulations 2010 is not a barrier to the approach set out in policy H5.

Notwithstanding these conclusions, the Council acknowledges that in the absence of other sites identified for gypsy and traveller provision, coupled with the Green Belt policy restriction, it is necessary for the Local Plan policy to prioritise delivery on-site or on an alternative site as provided by the developer.

The proposed modifications, referred to above, require applicants to demonstrate exceptional circumstances before financial contributions will be entertained. In the first instance, it must be demonstrated that site constraints prevent pitches being delivered.

Except for those strategic sites that have the benefit of planning permission or have applications pending, the remaining strategic sites are at very early stages of design work and have no known physical site constraints that would prohibit delivery of pitches. The Council is actively engaged with developers and landowners on these respective sites and officers are highlighting the policy requirement in discussions to ensure that it is fully understood and incorporated in initial feasibility and masterplanning work. The development of the associated Supplementary Planning Document as recommended to Executive will assist in this regard.

Alternative sites would be supported, but the onus is on the developer to secure a site for the provision of pitches. On that basis the Council does not anticipate additional financial contributions over and above those noted below, but the policy is sufficiently flexible to accommodate them should circumstances change and makes very clear the scope of evidence needed to support that approach.

### **Osballdwick Site**

The Council has calculated that it will, potentially, need to deliver an additional 13 pitches, over and above the commitment to providing 10 pitches for those gypsies and travellers who meet the planning definition. This is the result of:



- Confirmed financial contributions for equivalent pitches that have been secured through S106 agreement on strategic sites with planning permission: York Central, ST5 and Monks Cross, ST8; and,
- Likely financial contributions for equivalent pitches to be secured through S106 agreement on sites where planning applications are pending decision: Land Adjacent to Hull Road, ST4 and Station Yard in Wheldrake, ST33.

The submitted version of the Local Plan identified the existing traveller site at Osballdwick wholly out of the Green Belt. Modifications proposed in April 2021 sought to limit the area excluded from Green Belt to that which had been developed

with traveller pitches. That modification significantly reduces the site's capability to expand and in recognition of the assumptions identified above, it has been reconsidered.

A revised modification is now proposed, which aligns the site's Green Belt along the northern and western boundaries with the site boundary of the scheme approved (under application 13/02704/GRG3) for the expansion of the traveller site.

Policy Map Modification PMM25

<b>Name</b>
PMM25 Osbaldwick Gypsy and Traveller Site (Policies Map North)
<b>Reason</b>
Amendment to the Green Belt boundary to follow the northernmost boundary of the area of the site that benefits from planning permission Note: the extent of the Gypsy and Traveller site designation is unchanged from the submitted Plan.
<b>Policies map boundary (2018)</b>

<b>Proposed modification</b>


A revised modification based on the above would ensure the site at Osbaldwick has capacity to deliver the 4 pitches identified as part of the CYC provision and the likely

additional requirements generated through development of some of the Plan's allocated sites. It is an approach that provides flexibility and secures a requisite level of certainty that future pitch needs can be met.

York Travellers Trust ("YTT") raised concerns that the Osbaldwick site is unsuitable for expansion. The Council addressed all these concerns during the hearing sessions, when matters were raised to the Inspectors.

In response to the inspectors' seeking greater clarity on how many pitches could be provided on each Council owned site, further assessment of the Osbaldwick (and Clifton) site was undertaken. Regard was given to its constraints and the amount of land needed to provide pitches of a size equivalent to those currently on the site. No in-principal issues were identified that conflict with the considerations set out in part C of Policy H5 (Gypsies and Travellers) and it was concluded that the site is capable of being configured as two self-contained sites, and that all policy requirements can be satisfied.

These are, however, detailed design matters that will be advanced as part of the work to support the planning application that is required. As landowner and manager of the site, the Council acknowledges that there are ongoing management challenges on the site. The matter was publicly acknowledged recently by the Council's Corporate Director of Place, recognising that management improvements are fundamental to delivery of the Local Plan objectives.

Furthermore, the Council will ensure all relevant stakeholders are properly engaged as part of its pre-application activity so that the site's design and layout is suitable for both existing and future residents. Existing residents will play a key role in that process and investment in the site offers an opportunity for current issues and conditions to be improved. There is no reason why an acceptable development cannot come forward through subsequent detailed design work - including as part of an application for planning permission.

## Appendix 1

Plan	Policy H5 Gypsies and Travellers	Policy H6 Showpeople	Supporting Evidence
2018 incl Proposed Modifications (Phase 4 onwards)	<p><b>No allocations</b></p> <ul style="list-style-type: none"> <li>● Protecting existing provision:               <ul style="list-style-type: none"> <li>○ James Street</li> <li>○ Water Lane, Clifton</li> <li>○ Outgang Lane, Osbaldwick</li> </ul> </li> <li>● 10 additional pitches within named existing LA sites (Clifton and Osbaldwick)</li> <li>● Larger Strategic sites to contribute provision towards need for 30 pitches for defined and undefined Travellers (cascade policy prioritising on-site or alternative off-site provision with parameters for assessment to justify financial contribution) based on no. of dwellings.</li> <li>● Criteria based policy</li> </ul>	<ul style="list-style-type: none"> <li>● Safeguarding existing supply               <ul style="list-style-type: none"> <li>○ The Stables, Elvington</li> </ul> </li> <li>● Meeting future need               <ul style="list-style-type: none"> <li>○ 4 plots at The Stables, Elvington)</li> </ul> </li> <li>● Potential for yards within employment sites.</li> <li>● Criteria based policy.</li> </ul>	<p>GTAA 2022 (ORS, June 2022) [EX/CYC/88]  <a href="https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment">https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment</a></p> <p>Provision of Gypsy and Traveller Pitches (December 2022) [EX/CYC/121a]  <a href="https://www.york.gov.uk/downloads/file/8695/ex-cyc-121a-provision-of-gypsy-and-traveller-etc">https://www.york.gov.uk/downloads/file/8695/ex-cyc-121a-provision-of-gypsy-and-traveller-etc</a></p>

<p>2018 incl Proposed Modifications (Phase 3)</p>	<p><b>No allocations</b></p> <ul style="list-style-type: none"> <li>● Protecting existing provision: <ul style="list-style-type: none"> <li>○ James Street</li> <li>○ Water Lane, Clifton</li> <li>○ Outgang Lane, Osbaldwick</li> </ul> </li> <li>● 10 additional pitches within existing LA sites (above)</li> <li>● Larger Strategic sites to contribute provision towards need for 30 pitches for defined and undefined Travellers (cascade policy prioritising on-site or alternative off-site provision) based on no. of dwellings.</li> <li>● Criteria based policy</li> </ul>	<ul style="list-style-type: none"> <li>● Safeguarding existing supply <ul style="list-style-type: none"> <li>○ The Stables, Elvington</li> </ul> </li> <li>● Meeting future need <ul style="list-style-type: none"> <li>○ 4 plots at The Stables, Elvington)</li> </ul> </li> <li>● Potential for yards within employment sites.</li> <li>● Criteria based policy.</li> </ul>	<p>GTAA 2022 (ORS, June 2022) [EX/CYC/88]  <a href="https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment">https://www.york.gov.uk/downloads/file/8191/ex-cyc-88-gypsy-and-traveller-accommodation-assessment</a></p>
<p>Publication 2018</p>	<p><b>No allocations</b></p> <ul style="list-style-type: none"> <li>● Protecting existing provision: <ul style="list-style-type: none"> <li>○ James Street</li> <li>○ Water Lane, Clifton</li> <li>○ Outgang Lane, Osbaldwick</li> </ul> </li> <li>● 3 additional pitches within existing LA sites (above)</li> <li>● Larger Strategic sites to contribute provision (cascade policy prioritising on-site or alternative off-site provision) based on no. of dwellings.</li> <li>● Criteria based policy</li> </ul>	<ul style="list-style-type: none"> <li>● Safeguarding existing supply <ul style="list-style-type: none"> <li>○ The Stables, Elvington</li> </ul> </li> <li>● Meeting future need <ul style="list-style-type: none"> <li>○ 3 plots at The Stables, Elvington)</li> </ul> </li> <li>● Potential for yards within employment sites.</li> <li>● Criteria based policy.</li> </ul>	<p>2017 GTAA Update (ORS) [SD059]  <a href="https://www.york.gov.uk/downloads/file/1572/sd059-city-of-york-gypsy-and-traveller-accommodation-assessment-update-september-2017-">https://www.york.gov.uk/downloads/file/1572/sd059-city-of-york-gypsy-and-traveller-accommodation-assessment-update-september-2017-</a></p>



Pre-publication 2017 (accompanied by GTAA update 2017)	<b>No allocations</b> As Publication 2018 above	As Publication 2018 above	2017 GTAA Update (ORS) [SD059] <a href="https://www.york.gov.uk/downloads/file/1572/sd059-city-of-york-gypsy-and-traveller-accommodation-assessment-update-september-2017-">https://www.york.gov.uk/downloads/file/1572/sd059-city-of-york-gypsy-and-traveller-accommodation-assessment-update-september-2017-</a>
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## Appendix 2

### Boat dweller considerations

#### Introduction

1. The Council is not aware of any significant boat dwelling community that would warrant detailed treatment through discrete policies in the plans opposed to being considered against the general housing policies of the Plan.
2. The Council has not received any planning applications for permanent residential moorings in the last ten years nor has received any complaints in relation to the unauthorised residential use of existing moorings.


#### Background

3. To help understand issues around the supply of and potential demand for residential houseboats it has engaged with the Canal & River Trust ("CRT") and local marina operators.
4. The CRT is the Navigation Authority only for the River Ouse in York, with responsibilities for maintaining and managing the river for navigation by craft. The CRT do not own the river (with the exception of some water management / navigation features such as Linton and Naburn Lock) and do not own any moorings in York. Whilst the CRT is not responsible for the River Foss, overnight moorings are prohibited on this stretch of its waterway through York.
5. Boaters who want to have their boats on the Ouse (or other waterways) need a licence from the Trust. The type of licence that a boater has can determine where the boat can be moored and what it can be used for. Boats used commercially however require a specific type of licence. However, in licensing terms, there is no difference between people who want to use their boat for recreational purposes and those who want to live on board..
6. As regards moorings, these can fall into a number of functional categories and different ownership arrangements. These include, for example, "long-term/home mooring/mooring base" which are the usual "parking place" for a vessel; a residential mooring (as a person's sole or main residence); a visitor/short stay mooring; and a casual mooring (where boats tie up anywhere alongside the towpath or riverbank, except in areas subject to restrictions). The CRT does not identify moorings on or connected to the network that are used as residential moorings. This reflects how the country's extensive canal network means that those seeking to purchase a houseboat can realistically do so from anywhere and then travel to where they wish to be moored.
7. In terms of the existing use of the River Ouse in York, it is understood that at present there are approximately 400 boats licensed with a registered mooring on the 25km length of the River Ouse through York between Naburn lock and Linton Lock. The

majority of boats are private leisure boats although there are 40 boats with business licenses used commercially. These include the large, skippered passenger boats and small self-drive day hire boats operated by City Cruises in York City Centre.

8. The majority of mooring sites and marina are operated by third party landowners, who have riparian ownership of the river bed adjacent to their land. The majority of mooring sites on this stretch of the river are “on-line” i.e. boats are moored along the bank of the river. There is one large marina, York Marina at Naburn, which offers up to 300 berths in an “off-line” marina basin. See <https://yorkmarina.co.uk/>. Other significant on-line mooring sites of over 20 berths are to be found at Acaster, Bishopthorpe, Fulford and Linton Lock.
9. Details gathered from providers’ websites are set out in Table 1 below. The Council has also contacted site operators directly to find that the moorings are for private leisure boats and, except for the area around Bishopthorpe Boatyard, are not classified as residential. The information collected does not suggest any substantial residential mooring activity.
10. The residential moorings found during the Council’s recent investigation of the Bishopthorpe moorings formed a relatively low percentage of the overall moorings within that area. There are approximately 59 moorings around Bishopthorpe, and the Council’s enforcement team understands that approximately 6-10 households live on boats. It is important to note that the residential use of these boats was not contested during the Enforcement Investigation. The complaints the Council had received related to untidy land issues, engineering works and domestic structures that had been constructed on the riverbank.
11. The residential moorings at Bishopthorpe are the only ones known to the Council.

Table 1: Marina and mooring details

<p><b>York Marina</b>  Naburn, York YO19 4RW  <a href="https://yorkmarina.co.uk">https://yorkmarina.co.uk</a></p> 	<p>On Marina mooring application – types of mooring:</p> <ul style="list-style-type: none"> <li>• Annual Mooring</li> <li>• Summer mooring</li> <li>• Winter mooring</li> <li>• Visitor mooring</li> </ul> <p><i>For larger narrowboats and wide beam barges we have a fantastic river frontage with over 250m of floating pontoons. Our pontoons are safe, secure and rise and fall with the varying levels of the river Ouse. All moorings feature 240v electric and free water. In addition, you'll also get full access to all the marinas excellent facilities which you can learn more about <a href="#">here</a>. Whilst we are unable to offer fully residential moorings the marina is open 365 days a year with no access restrictions. All we require is proof of address when you send in your mooring application.</i></p>
<p><b>Acaster Marine</b>  <a href="https://www.acastermarine.co.uk/contact">https://www.acastermarine.co.uk/contact</a></p>	<p><i>Acaster Marine has offices at Acaster Malbis on the River Ouse near to the historic City of York. We offer boat sales and brokerage, boat finance, boat storage and general boatyard activities.</i></p> <p><i>Acaster Malbis slipway site offers river frontage of approximately 800 metres, situated 500 yards upstream of Naburn lock with mooring space, craneage facilities up to 57ft and recently concreted new slipway which is open for self launch to the general public 7 days per week. Our other site, approximately 1 mile outside the village, offers dry storage facilities for up to 100 vessels with electric and water on site.</i></p>
<p><b>The Boatyard, Bishopthorpe marina</b>  The Boatyard, Ferry Ln, Bishopthorpe, York, YO23 2SB  <a href="https://the-boatyard.co.uk/">https://the-boatyard.co.uk/</a></p>	<p><i>Located just south of York, The Boatyard sits in an idyllic riverside location with stunning views of the countryside and Bishopthorpe Palace. Owned by two local families, we strive to be an inclusive destination, with something for the whole family to enjoy. We have a variety of food and drink offerings, day boat/canoe/kayak hire, unique overnight accommodation &amp; camping pitches, tipi hire for events and temporary &amp; permanent moorings. Whether you are coming down for a coffee and cake with a friend or looking to celebrate a special</i></p>

	<i>event with us, at The Boatyard you will be looked after by our dedicated team.</i>
<b>York Motor Yacht Club,</b> The Clubhouse, Fulford Pumping Station, St Oswald's Road, York, YO10 4PF <a href="http://ymyc.co.uk/">http://ymyc.co.uk/</a>	<i>Alongside the riverbank we have both permanent moorings and visitors moorings for our non-mooring members. The moorings all have water and electricity and can provide a safe mooring for Winter if required.</i>
<b>Linton Lock</b> <u>Linton Lock Inn - Home</u>	<i>We have permanent moorings for about 30 boats, depending on the size of boats (<b>NB: there are no residential moorings</b>). Each mooring has electric, water and a car parking space. The marina is secured with CCTV cameras and a locked gate access with a key fob. <b>Charges:</b> £125 per metre, and electric cards The marina itself has been established for circa 50 years with the business under current ownership for 9 years. The business sale is by way of assignment of the existing commercial lease and comprises of a 30 berth marina with chandlery, touring caravan and campsite, public house and restaurant / café. The renewable lease is provided by the Canal &amp; River Trust.</i>

## Conclusion

12. Based on the above material, there is no clear evidence of substantial residential moorings in York.
13. York has not received an application for permission relating to boat dwelling activity in many years. Furthermore, none of the previous representations to the Local Plan have identified sites which are considered to be required or appropriate for further boat dwelling provision.
14. To the extent that any permission is required for subsequent moorings (notwithstanding the separate licence that must be obtained from the Canals Trust), this can be covered by existing policies in the plan including D1: Placemaking and GB1: Development in the Green Belt.

## Appendix 3

### Policy H7 – viability concerns associated with affordable housing financial contribution

Policy H7 Consultation Comments	CYC response
<p>Land value – stated as £8,800 per PBSA bedroom is wholly unrealistic. The actual price of land for PBSA in York is much higher – five to six times that value.</p> <p>Porter PE report that land values are higher in York than in other cities, yet the returns are similar. Those other cities do not have policy requirements for affordable housing contribution to be provided by PBSAs. Adding this requirement to PBSA in York will result in these developments not being viable</p>	<p>Guidance on setting Benchmark Land Values has been followed, which promotes the EUV+ method advocated in PPG on Viability and RICS guidance (2022). The existing commercial use is value based on existing brownfield development, and a premium of 25% is included which is not an uncommon assumption for redevelopment of such uses.</p> <p>The response does not provide details as to how the alternative figure has been derived, and whether it is also based on the EUV+ method set out in guidance or by other sources such as the price paid for land.</p> <p>Although prices being paid for PBSA sites are high, the value of the land is valued on the existing use value and the minimum (bottom) value that a landowner with permission for redeveloping for existing uses should expect. When land is bought at a much higher price than this, such as in York, then the landowner should have enough value to meet the policy requirements for an OSFC towards Affordable Housing.</p>
<p>Build costs – this is stated as £187/ sq. m and is far too low. Build costs are currently, and more realistically, 20% higher than this.</p>	<p>The Porter PE viability assessments rely on the build costs sourced from the latest figures available from BCIS at the time of pre-publication. The RICS BCIS is the largest and is a reliable source of building costs within York. This is recognised in the PPG on viability paragraph 12, which States “Costs include:...build costs based on appropriate data, for example that of the Building Cost Information Service”.</p> <p>The BCIS build costs data that has been used is based on a sample of 57 comparable student accommodation schemes.</p> <p>BCIS costs used in the assessment were based on Q4 2021 data, and it is accepted that build costs may currently be higher should the assessment be carried out today. However, it must also be noted that other development assumptions, such as rental values, are likely to have also changed since the publication date.</p>

	The response does not provide any evidence for the alternative figures to be assessed.
Efficiencies – 26.5 sq. m per student bedroom is too low.	<p>The tested evidence for room sizes was derived from local comparables.</p> <p>A circulation space of 35% was also applied, which fed into build costs and did not impact values. Although it is considered appropriate for this type of development, the figure is higher than the 30% used in a similar appraisal for Sheffield City Council<sup>10</sup> and Birmingham City Council<sup>11</sup>. The consultation response does not, however, provide any evidence for to support the challenge.</p>
The requirement for a financial contribution towards delivering affordable housing elsewhere in the city is placing an additional financial burden on private PBSA providers, which will in turn affect the viability of a scheme and the amount PBSA that is likely to come forward, or it could lead to an increase in rental levels.	The viability evidence (EX/CYC/107/3 ) shows that there is a financial headroom within PBSA that is beyond the purchase of land and the required return to a developer.
PBSA is subject to numerous other planning obligations and contributions that can affect viability, including Open space Contributions and Flood Risk contributions. Currently, there is a lack of evidence to suggest that these further contributions have been taken into account when considering how the draft affordable housing contribution will affect the development viability of PBSA.	<p>As demonstrated in paragraphs 25 and 26 of EX/CYC/107/3, a figure of £1,050 per student room rate has been included to allow for planning obligations. Also, the viability tested PBSA typologies include allowances for open space and an allowance for site costs for drainage and other site requirements.</p> <p>Should any specific abnormal requirements that have not been considered in the high-level viability assessment (which is suitable and proportionate for informing the Main Modification) then this can be addressed at the application stage through submission of viability evidence that will inform a need for flexibility within this policy on a specific case basis.</p>
The financial models provided in Appendix 3 of the Technical Note all understate construction and associated costs due to applying an incorrect total build area – in the case of a 350-bed scheme – it is understated by £4,543,349 (excluding any adjustment	This error is noted. The reported internal areas of the tested PBSA typologies in Table 1 of EX/CYC/107/3 are different from the correct sizes that have been tested and are noted in paragraphs 9 and 10. The typographic errors in Table 1 have no significance to the testing or the report findings.

<sup>10</sup> P (2014) Table 4.40.1 'Sheffield CIL Viability Report' [online]. Available at: <https://www.sheffield.gov.uk/sites/default/files/docs/planning-and-development/cil/Viability%20Study%20Report.pdf>.

<sup>11</sup> GVA (2012) Table 22 'CIL Economic Viability Assessment Birmingham City Council' [online] Available at: [https://www.birmingham.gov.uk/downloads/file/1286/cil\\_s07\\_economic\\_viability\\_assessment](https://www.birmingham.gov.uk/downloads/file/1286/cil_s07_economic_viability_assessment)

<p>for inflation given that costs are based on Q4 2021)</p>	
<p>The financial models provided in Appendix 3 of the Technical Note all understate the professional fees that should be applied.</p>	<p>Professional fees are stated to be 10% but are tested at 8%. This is not a significant error since professional fees tend to fall in a range of between 5% to 15% of build costs, depending on the complexity and the size of the build. Since PBSAs are increasingly being built in similar forms with economies of scale, and often modular forms, we do not accept that a professional fee of 8% is unduly understated.</p>
<p>The financial models do not consider the Purchaser's Costs in selling the development to crystallise profit.</p>	<p>PBSAs are often built by developers investing in this product as part of their portfolio, so purchaser costs are very unusual. The viability also allows for a contingency equal to 4% of the build costs, which may be available to cover these rare occurrences for developers building a site as a speculative development for selling on to an investor. As noted in the PPG on Viability, including a contingency rate for Local Plan/CIL high level viability assessment is not required since the assumed cost assumptions could equally rise or fall. The issue raised therefore falls away.</p>
<p>The Construction Cost applied in the model is almost two years out of date.</p>	<p>BCIS reported build costs do fluctuate every month and indeed the costs now are likely to be higher than when the viability study was undertaken. However, rental values of PBSA rooms, are also likely to have increased in this It is impractical to re-run the appraisals each time there is a movement in costs and/or values and the viability work should still be regarded as up to date.</p>
<p>Land Value per hectare for a site in York City Centre is set to an arbitrary level of £1,500,000 and is based on numerous errors in Table 4.</p> <p>Based on an assessment of actual development site transactions in York since 2017 including The Coal Yard, Aubrey House, 15 Foss Islands Road, Fawcett Road and Redeness Street, the open market value per hectare is in fact over £14m.</p>	<p>The representation provides no evidence or explanation to back their statement that there are errors in Table 4. The BLV of £1.5m is based on the evidence set out in Table 4. This is set by dividing the total combined achieved price of the nine reported brownfield site existing uses in the sample by the total combined hectares (i.e., £16,810,000 / 10.75 ha). This gives a weighted average figure of £1,563,708 which is rounded to £1.5m.</p> <p>Where land is bought at a much higher price than this, such as at £14m paid for The Coal Yard in York, then there is likely to be a level of 'hope value' built within this, that guidance requires viability testing ignores. Furthermore, if the landowner can achieve this value for selling land in its current state without permission for alternative uses, then it demonstrates that the landowner will have</p>



	<p>enough additional value to meet the policy requirements for an OSFC towards Affordable Housing.</p>
<p>The proposed obligation for PBSA schemes to contribute to affordable housing currently equates to around £7k/bed. This obligation would necessarily have to be recouped from rental charges.</p>	<p>The Local Plan viability evidence shows that there is a financial headroom within PBSA that is beyond the purchase of land and the required return to a developer. Therefore, there is no reason for the OSFC cost to be passed onto the rental values for these units, which will also have to compete with already built PBSAs in the City of York.</p>
<p>The OSFC for PBSA increases from £5,212 per student bedroom at the time of the work informing the Local Plan modifications to £7,000 per student bedroom at the time of the work informing the draft CIL charging schedule.</p>	<p>The difference reflects the changes in prices for affordable units based on the OSFC. This value will fluctuate regularly, much like rental values of PBSA rooms, which tend to increase over time. However, the CIL work has not updated the likely changes in student rents, for which price points will be established at a later date. It is expected that such value increases will balance such OSFC increases. However, it is impractical to re-run appraisals every time there is a movement in costs and/or values. The work informing the Local Plan modifications is based on the best available evidence at that time, and should be regarded as relevant evidence notwithstanding the separate viability assessment informing the Draft CIL Charging Schedule.</p>