



Habitats Regulations Assessment of the City of York Local Plan – Consultation on All Proposed Main Modifications to Policy H5 ‘Gypsies and Travellers’

July 2024

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Client Name: York City Council
Document Reference: H5 Main Mods HRAv2.0
Project Number: 20240401

Quality Assurance – Approval Status

| Issue | Date | Prepared and checked by | Issued by |
|-------|-----------|-------------------------|----------------|
| V1.0 | July 2024 | Bernie Fleming | Bernie Fleming |

Comments

Report for submission (v1.0)



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1. Introduction

- 1.1. The City of York Council (the Council) formally submitted its Local Plan (the Plan [CD001](#)) in May 2018. It was accompanied by a Habitats Regulations Assessment ([CD012](#), April 2018, HRA) which was replaced in Feb 2019 ([EX/CYC/14c](#)) and revised in October 2020 ([EX/CYC/45](#) and [45a](#),¹ “the 2020 HRA”). Planned Hearings for the Examination in Public have now concluded.
- 1.2. The 2020 HRA, which took into account the first phase of proposed modifications to the submitted Plan (June 2019, [EX/CYC/20](#)), concluded that adverse effects on the integrity of European sites in the area could be ruled out if certain modifications were made to the Plan.
- 1.3. In addition, the Council has submitted a comprehensive range of other proposed modifications to satisfy the wishes of the Inspectors during the Examination (phases 1-4). Consultation on these modifications was undertaken in Spring 2023² supported by an HRA Addendum ([EX/CYC/128d](#) and [EX/CYC/128e](#)). A further phase of hearing concluded in March 2024 culminating in further proposed modifications to Policy H5.
- 1.4. The proposed modifications to the wording of Policy H5 and its supporting text are listed in Appendix A.

¹ Waterman (2020). Habitats Regulations Assessment of the City of York Council Local Plan. October 2020.

² <https://www.york.gov.uk/planning-policy/local-plan-proposed-main-modifications-consultation-february-2023/4>

2. Assessment

- 2.1. This document assesses the implications of the proposed modifications of Policy H5 in terms of the outcome of the 2020 HRA. This document should be read alongside the 2020 HRA ([EX/CYC/45](#)), the submitted Plan (CD001) and both the full Schedule of Main Modifications ([EX/CYC/128](#)) and the Policy Map Modifications ([EX/CYC128a](#)). It should also be read alongside the bespoke HRA carried out to assess the proposed modifications that provide for a new secondary school in the garden village of Elvington (policy ST15a) and the removal of Policies H59 and ST35 undertaken as part of the wider assessment of the proposed modifications ([EX/CYC/128d](#) and [EX/CYC/128e](#)).
- 2.2. The requirements of the Conservation of Habitats and Species Regulations 2017 (as amended), and the authorities, have been set out previously ([EX/CYC/45](#)). They are not repeated here save to underline the high threshold imposed by the need to show that there is no adverse impact on the integrity of the designated site recently emphasised by the Court of Appeal at para. 9 of *Wyatt* [2022] EWCA Civ 983 ([EX/CYC/95](#)).
- 2.3. The assessment of each proposed modification is presented in Appendix A in a row that has been added below each proposed modification headed 'HRA Assessment'.
- 2.4. Simply, this was able to conclude that none of the proposed modifications would have any negative implications for the findings of the 2020 HRA as they will not result in any meaningful or potentially harmful changes to the proposed quantum or location of development.
- 2.5. Consequently, adverse effects on the integrity of the European sites in the area can be ruled out and there is no need for any further assessment.

3. Conclusion

- 3.1. For the purposes of Regulation 105 of the Habitats Regulations, an objective scientific assessment of the implications of the proposed modifications on the European sites potentially at risk has been carried out using the best scientific knowledge in the field and in view of the sites' conservation objectives. It considered the manner in which the modifications were to be implemented and any conditions and restrictions to avoid, reduce or cancel any potentially harmful effects before reaching its conclusion.
- 3.2. On the basis of the evidence available, it is considered that the outcomes of the HRAs of the Local Plan and the Main Modification carried out in 2020 and 2023, respectively, remain valid, and the Council can ascertain, beyond reasonable scientific doubt, that adverse effects on the integrity of all European sites will be avoided (alone or in-combination).
- 3.3. Importantly, although this document has been prepared to help the Council discharge its duties under the Habitats Regulations, the Council is the competent authority, and it must decide whether to accept this report or otherwise.

APPENDICES

A. Schedule of Main Modifications and Assessment

Schedule of Proposed Main Modifications to Policy H5 (May 2024)

To aid readability, the policy wording and explanatory text are shown in full overleaf, with deletions indicated by ~~strikethrough~~ and new text underlined. The modifications are also colour coded to make clear the following:

- Black text / no highlight – Wording as submitted in Local Plan (draft), May 2018
- Yellow highlighted text – Main Modifications proposed and consulted on, January 2023
- Green highlighted text – Additional main modifications, recommended February 2024
- Blue highlighted text – Additional main modifications, recommended May 2024

| Modification Ref | Policy H5: Gypsies and Travellers |
|------------------|---|
| MM5.23 | <p data-bbox="391 987 770 1021">Safeguarding Existing Supply</p> <p data-bbox="391 1037 1390 1160">Proposals which fail to protect existing Gypsy and Traveller sites or involve a loss of pitches/plots will not be permitted unless it can be demonstrated that they are no longer required or equivalent alternative provision can be made. Existing Gypsy and Traveller sites are shown on the proposals <u>Policies</u> Map, and are listed below:</p> <ul data-bbox="427 1207 798 1310" style="list-style-type: none"> - James Street, Layerthorpe - Water Lane, Clifton; and, - Outgang Lane, Osbaldwick <p data-bbox="391 1373 659 1406">Meeting Future Need</p> <p data-bbox="391 1422 1422 1480">In order to meet the accommodation needs of Gypsies and Travellers, provision will be made in the following ways:</p> <p data-bbox="391 1543 959 1576"><u>a) Within Existing Local Authority Sites</u></p> <p data-bbox="391 1592 1401 1684">In order to meet the need of Gypsies and Travellers that meet the planning definition, 10 <u>3</u> additional pitches will be provided-identified within the existing three Local Authority sites <u>at</u>:</p> <ul data-bbox="467 1731 834 1800" style="list-style-type: none"> - Water Lane, Clifton; and - Outgang Lane, Osbaldwick <p data-bbox="391 1861 1422 2045">The development of further pitches at Water Lane, Clifton is subject to the production and approval of a Masterplan that demonstrates how the principles set out in part C (below) are to be addressed on the site. The provision of all new pitches on the site must be in accordance with the approved Masterplan. No further accommodation is to be occupied at the site until such a Masterplan has been submitted and approved and the measures it identifies have been carried out.</p> |

The development of further pitches at Outgang Lane, Osbaldwick is subject to the production and approval of a Masterplan that demonstrates how the principles set out in part C (below) are to be addressed on the site. The Masterplan must also:

- Identify measures to improve the access arrangements to the site to ensure it is brought up to an acceptable standard, with the carriageway properly surfaced, and pavements and street-lighting provided. This should involve a link from the north of the site to the new road that will connect Strategic Site ST7 (Land East of Metcalfe Lane) to Murton Way.
- Provide details of the significant landscaping belt and/or other measures required to lessen the environmental impact of the adjacent waste processing site.

No further accommodation is to be occupied at Outgang Lane, Osbaldwick until such a Masterplan has been submitted and approved, and all necessary access, landscaping and other measures it identifies have been carried out.

b) Within Strategic Allocations

In order to meet the need of those 28 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.

Committed 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 committed 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

HRA assessment

Proposed modification MM5.23 cannot lead directly to changes in the location or quantum of development and so does not represent a credible threat to any European sites.

Likely significant effects can be ruled out, alone or in-combination and, therefore, the conclusion of previous HRAs remain unchanged.

| | |
|---|---|
| <p>MM5.24</p> | <p><u>c) Planning Applications</u></p> <p>In addition to the above allocated sites, development for Gypsy and Traveller sites will be permitted where proposals:</p> <ul style="list-style-type: none"> i. do not conflict with the objective of conserving and enhance York’s historic and natural environment. This includes the city’s character and setting and internationally, nationally and locally significant nature conservation sites, green corridors and areas with an important recreation function; ii. ensure accessibility to public transport and services; iii. are suitable in terms of vehicular access and road safety including internal space for adequate parking and turning; iv. ensure that development does not have an undue impact on the residential amenity of current residents and future occupiers, including leading to unacceptable levels of congestion, pollution and air quality; and v. appropriately manage flood risk. <p>In addition, proposals will be expected to:</p> <ul style="list-style-type: none"> vi. provide adequate provision for storage, recreation space, amenity provision and utility services; vii. ensure that the size and density of pitches/plots are in accordance with have regard to best practice guidance; viii. incorporate appropriate landscape proposals to have a positive influence on the quality and amenity of the development; ix. ensure that residents living nearby are not unduly affected by noise, disturbance or overlooking; and x. ensure future occupiers would not be subject to significant adverse environmental impacts. <p>Any permission granted for a Gypsy and Traveller development will be subject to a condition limiting occupation to Gypsies and Travellers, as appropriate.</p> |
| <p>HRA assessment</p> <p>Proposed modification MM5.24 cannot lead directly to changes in the location or quantum of development and so does not represent a credible threat to any European sites.</p> <p>Likely significant effects can be ruled out, alone or in-combination and, therefore, the conclusion of previous HRAs remain unchanged.</p> | |
| <p>MM5.25</p> | <p>Explanation</p> <p>5.36 Key evidence including the Equality and Human Rights Commission report Inequalities Experienced by Gypsy and Traveller Communities (2009) suggests that today Gypsies and Travellers are the most marginalised and disadvantaged of all minority groups nationally, suffering the greatest inequalities across a range of indicators.</p> |

5.37 Planning Policy for Traveller Sites (2015 2023) introduced a 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 the evidence that informed the City of York Gypsy and Travellers Accommodation Assessment (2022) and the resulting pitch requirements are set out in table 5.3 commissioned consultants to undertake an update of the Gypsy, Traveller, and Showpeople Accommodation Assessment completed in 2013. As part of this update, Gypsy, Traveller and Showpeople households completed a revised survey which could be used to analyse their travel patterns and to conclude whether or not they fall into the revised definition of Travellers.

5.38 Table 5.3 overleaf is taken from the City of York Gypsy and Travellers Accommodation Assessment Update (2017) and summarises the number of households in York which do/do not meet the definition

Table 5.3: Pitch needs for Gypsy and Travellers 2022-2038 Meeting the Revised Definition of a Traveller

| Delivery Status | Pitch Requirements |
|--|--------------------|
| Meet Planning Definition (including undetermined) | 12 |
| Do not meet Planning Definition (including undetermined) | 26 |
| Total | 38 |

| Households in York | GTAA ³ | SHMA ⁴ | Total |
|---|-------------------|-------------------|-----------|
| Households that meet the planning definition (incl. 10% of unknown need) | 3 | 0 | 3 |
| Households that do not meet the planning definition (incl. 90% of unknown need) | 0 | 44 | 44 |
| Total | 3 | 44 | 47 |
| Showpeople households that meet the planning definition | 3 | 0 | 3 |
| Total | 3 | 0 | 3 |

5.39 In accordance with Government guidance set out in the NPPF (2012) and Planning Policy for Traveller Sites (2015), the Council is required to identify a supply of specific, deliverable Gypsy, Traveller and Travelling Showpeople sites sufficient to provide five years' worth of sites against their locally set targets to meet accommodation needs of these groups who meet the revised definition in York.

³ GTAA – Gypsy and Traveller Accommodation Assessment

⁴ SHMA – Strategic Housing Market Assessment

5.40 It is recognised that Gypsies and Travellers and Travelling Showpeople have different needs and that the two different groups should not be located on the same areas of land. Gypsy and Traveller and Travelling Showpeople provision has its own specific terminology. Gypsy and Traveller provision is expressed in 'pitches' on sites whereas Travelling Showpeople provision is expressed as 'plots' on sites often called a 'yard'. Nationally, pitch/plot sizes range from 200 m² to 500 m². An upper measurement of 500 m² has been used in the allocation of sites to allow final design to Sites will be designed to accommodate all of the requirements set out in design guidance, including landscaping, play space and access arrangements. Space haswill also been taken into account for equine grazing which is a much needed provision in York. Final pitch sizes will ultimately be a matter for detailed planning applications to determine.

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 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.

5.41 ~~Three Two~~ plots for Travelling Showpeople ~~have has~~ been identified for the first 5 years of the plan period at The Stables, Elvington, ~~with a further 1 plot in the same yard for the future expansion of the existing family in year 2032~~. The nature of Travelling Showpeople's work, requires level hard standings and covered sheds for the maintenance and storage of large fairground rides. For this reason, applications for yards in existing and allocated employment sites will be supported where the provision will not compromise the employment land supply.

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/plots, 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.

5.43 A condition will be attached to any permission to ensure that the sites remain in use by Gypsies and Travellers or Travelling Showpeople, as appropriate and the number of pitches and plots are retained to ensure a supply to need demand.

Delivery

- Key Delivery Partners: City of York Council, Developers, Housing Charities, Gypsy, Roma, Traveller and Travelling Showpeople stakeholders
- Implementation: Planning applications and strategic site masterplans

HRA assessment

Proposed modification MM5.25 cannot lead directly to changes in the location or quantum of development and so does not represent a credible threat to any European sites.

Likely significant effects can be ruled out, alone or in-combination and, therefore, the conclusion of previous HRAs remain unchanged.