

Barnet Local Plan EIP – Revised Note on Gypsies, Travellers and Travelling Showpeople

Reason for producing this Note

Day 7 (Tuesday 11th October) at the hearing session's, consideration of Matter 3 – Housing, Inspector Wildgoose requested provision of a note on gypsies, travellers and travelling showpeople.

The Note should consider the following:

- 1. Consider whether wording should be added to reflect negotiations as a means to resolve unauthorized encampments / transit sites / emergency stopping places.**
- 2. Update on London Plan evidence progression with regard to London-wide GTANA and potential timescales for publication of the evidence.**
- 3. Early review wording action needed to final sentence of para 5.19.1. Need to highlight how Council will respond to significant change identified in Barnet by London-wide GTANA and / or any implications arising from the Census 2021 data when available.**
- 4. Look at whether HOU07 and its supporting text should be expanded to cover
 - i. non-PPTS definition households and to clarify how applications for non-PPTS will be dealt with.****
- 5. Consideration of addition of narrative explaining why waterways in Barnet are not appropriate for houseboat provision.**
- 6. Proposed rewording of opening of HOU07 paras 1 and 2 –to ensure positively prepared in terms of identification of need and the approach if planning applications were to come forward.**
- 7. Review criteria (c), (d), (e), (f) and (g) against definition in PPTS – in particular paras 24-28 and clarify approach to planning applications (including considerations such as the lack of existing sites, personal circumstances of the applicant, Green Belt approach/other identified constraints, the approach to the open countryside, and the prioritisation of PDL/brownfield land).**
- 8. Reflect that wording should be more positively prepared.**
- 9. HOU07(c) check against PPTS scale paragraphs. PPTS doesn't necessarily mention character.**
- 10. HOU07(d) clarification of amenity and character considerations. Ensure not inconsistent with other policies for development elsewhere in Local Plan and considers PPTS coexistence.**
- 11. HOU07(e) needs suggested modification to focus upon ensuring suitable local environment for occupiers of the site as well as addressing impacts on neighbours.**
- 12. HOU07(f) reflection on wording of infrastructure connections. On-site facilities should be an option but not mandated if existing infrastructure in place and has capacity to accommodate the development.**
- 13. HOU07(g) amend wording for clarity, consideration of flood-risk vulnerability of caravans reflected in PPTS.**
- 14. Council to consider implications of Court of Appeal judgment (EXAM 37) with regards to Gypsy and Traveller sites.**

Background

The Council has adopted a positive approach to addressing housing needs and delivering the right homes in the right places at the right time. This is expressed in a suite of seven policies that focus on delivering homes in the Borough.

In producing these policies, as well as making further modifications to them, the Council has worked to ensure broad consistency with strategic policies within the London Plan.

Following submission of the Barnet Local Plan in November 2021 the Council in June 2022 produced a table of proposed modifications (EXAM 4). This document was produced after consideration of the Reg 19 soundness representations received, together with subsequent discussions with parties on the drafting of Statements of Common Ground. EXAM 4 does not include any proposed modifications to either policy HOU07 or the supporting text in section 5.19. However, in the light of the discussion at the hearing session and the requests made by Inspector Wildgoose for further clarification, explanation and justification of the matters detailed in this note, the Council now proposes modifications to this policy and its supporting text as set out below.

The following format has been used in this Note to denote further proposed modifications to the submission version of plan as revised by the proposed modifications listed in EXAM 4.

~~Strikethrough text~~ to indicate text proposed for removal.

Underlined text to indicate additional text.

Consideration

1. Consider whether wording should be added to reflect negotiations as a means to resolve unauthorized encampments / transit sites / emergency stopping places

Hitherto, unlike other London boroughs the Council has not obtained injunction orders against persons unknown stopping on public land and/or depositing waste. The Council has generally preferred to use Negotiated Stopping Agreements as a balanced and humane approach for dealing with unauthorised encampments in the Borough. This allows caravans to be sited on suitable specific pieces of ground for an agreed and limited period of time, with the provision of limited services such as water, waste disposal and toilets. Agreements are made between the Council and the (temporary) residents regarding expectations on both sides. Negotiated Stopping is therefore usually the Council's preferred approach for managing unauthorised encampments rather than the rapid eviction of caravans. This approach is reflected in a proposed modification to para 5.19.1B.

Negotiated Stopping is usually the Council's preferred approach for managing unauthorised encampments rather than the rapid eviction of caravans. This allows caravans to be sited on suitable specific pieces of ground for an agreed and limited period of time, with the provision of limited services such as water, waste disposal and toilets.

2. Update on London Plan evidence progression with regard to London-wide GTANA and potential timescales for publication of the evidence.

The GLA in 2022 commissioned RRR Consultancy Ltd to undertake a London-wide Gypsy and Traveller Accommodation Needs Assessment (GTANA). The study will determine the accommodation needs of the Gypsy, Traveller and Roma (GRT) communities residing on sites and yards, and in conventional accommodation, for the period 2022-2032. The GLA expect to have a final report from RRR by Summer 2023.

3. Early review wording action needed to final sentence of para 5.19.1. Need to highlight how Council will respond to significant change identified in Barnet by London-wide GTANA and / or any implications arising from the Census 2021 data when available.

The Council is committed to an early review of the Local Plan and this, subject to a proposed modification, is signaled in the Plan's Introduction. As part of the review the Council will take into account changing circumstances affecting the Borough, or any relevant changes in national policy.

The Council is working with the Mayor of London on the London-wide assessment for the accommodation needs of Gypsies and Travellers (GTANA) and awaits publication of the final report in 2023.

The 2021 Census included a 'Gypsy or Irish Traveller' category, and a new 'Roma' category. The Council awaits the results of the 2021 Census in identifying the number of households in Barnet that are Gypsy or Irish Traveller or Roma.

The Council will, in reviewing the Local Plan, take into account new information on the Gypsy, Irish Traveller and Roma community in Barnet. It will also reflect on the Council's new Housing Strategy and any need to provide culturally appropriate accommodation for those households that do not meet the planning definition of gypsy and traveller households. This is signalled by the following proposed modification

Delete last sentence of para 5.19.1

~~*The Council will work with the Mayor on a London-wide Gypsy and Traveller accommodation needs assessment.*~~

New para 5.19.1C

The Council is working with the Mayor on the production of a London-wide Gypsy and Traveller accommodation needs assessment (GATANA). The final report of the Londonwide GATANA, as will demographic data from the 2021 Census on Gypsy, Irish Traveller and Roma households in Barnet, will inform the early review of the Local Plan.

4. Look at whether HOU07 and its supporting text should be expanded to cover non-PPTS definition households and to clarify how applications for non-PPTS will be dealt with

National planning policy on meeting Gypsy and Traveller needs has undergone a series of radical changes over the last decade, the most recent being a change in definitions as reflected in the Government's Planning Policy for Traveller Sites 2015 (PTTS). The identified needs for those persons who meet the definitions are set out in Annex 1 of the PTTS. Allowance needs to be made for persons whose circumstances are uncertain but are likely to meet the definitions; any assessments that are made need to demonstrate an understanding of the needs of those who do not meet them. In this regard, Policy HOU07 sets out criteria against which applications for Gypsy and Traveller accommodation on unallocated sites can be assessed. However, in the light of the recent Court of Appeal Judgment (EXAM 37), the Council acknowledges that

there is also a need to consider applications for caravan accommodation made by persons who might culturally identify as Gypsies and Travellers, but who do not meet the Planning Policy for Traveller Sites definitions.

The Council acknowledges that households in Barnet who do, and who do not meet, the PPTS definition may be identified by the London wide GTANA. The Council may consider providing culturally appropriate accommodation for those households that do not meet the PPTS definition. The need for culturally appropriate accommodation would be addressed through the Council's Housing Strategy and partnership working at a sub-regional or regional level. Where provision of culturally appropriate accommodation is not possible, the need for accommodation will be addressed through the plan-making process. Therefore it will be a matter for the review of the Local Plan.

Proposed Modification – Para 5.19.1C

The Council acknowledges that households in Barnet who do, and who do not meet, the PPTS definition may be identified by the London wide GTANA. The Council may will consider providing culturally appropriate accommodation for those households that do not meet the PPTS definition. The need for culturally appropriate accommodation would be addressed through the Council's Housing Strategy and partnership working at a sub-regional or regional level. Where provision of culturally appropriate accommodation is not possible, the need for accommodation will be addressed through a review of the Local Plan.

5. Consideration of addition of narrative explaining why waterways in Barnet are not appropriate for houseboat provision

Although the largest expanse of water in the Borough (the Welsh Harp) is a reservoir that feeds the Grand Union Canal. The Welsh Harp covers an area of over 68 hectares and straddles the boundary between the boroughs of Brent and Barnet and is owned by the Canal and River Trust. The reservoir is protected as a Site of Special Scientific Interest and is therefore considered to be unsuitable for houseboats. The Council notes that provision for houseboats on the Welsh Harp has not been highlighted in the recently adopted London Borough of Brent local plan, nor has it been raised as a representation to Barnet's Local Plan by the Canal and River Trust. The waterways of Barnet consist of small rivers, streams and brooks and as a result they are not navigable.

Given the reasons above the Council does not consider that a narrative about Barnet's waterways having potential for houseboats is merited.

6. Proposed rewording of opening of HOU07 paras 1 and 2 –to ensure positively prepared in terms of identification of need and the approach if planning applications were to come forward.

The Council acknowledges that the opening of HOU07 could be considered not to be positively prepared. It therefore suggests the following modification:

Policy HOU07

The Council ~~have identified~~ can demonstrate that there is no objectively assessed need for pitches and plots for Gypsies and Travellers and Travelling Show people households. Any ~~In the event that~~ proposals for such accommodation ~~that~~ do come forward will be the Council will consider them ~~considered~~ on the basis of ensuring:

7. Review criteria (c), (d), (e), (f) and (g) against definition in PPTS – in particular paras 24-28 and clarify approach to planning applications (including considerations such as the lack of existing sites, personal

circumstances of the applicant, Green Belt approach/other identified constraints, the approach to the open countryside, and the prioritisation of PDL/brownfield land).

The Council will consider proposals against the criteria outlined in Policy HOU07. These have been subject to proposed modifications which have been made with due regard to other considerations as set out in PPTS (paras 24 to 28). The Council have sought to reflect PPTS rather than repeat it word for word. Criteria in (c), (d), (e), (f) and (g) have also been assessed with regard to policies in other recently adopted plans in London at London Borough of Brent, London on Borough of Lambeth and London Borough of Southwark.

8. Reflect that wording should be more positively prepared

The Council acknowledges that Section 5.19 could be more positively drafted . It has therefore proposed several modifications as outlined in full below to make policy more effective. Consequential changes to supporting text at para 5.19.1 are also proposed as follows :

5.19.1 The West London Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA) ~~has provides a robust and objective assessment of current and future need for accommodation. The GTAA identified no current or future need in Barnet for pitches and plots for Gypsy and Traveller households as well as Travelling Showpeople. Any applications for new provision should address the criteria in Policy HOU07.~~

5.19.1A Any new proposed gypsy and traveller sites will need to provide a sustainable safe and acceptable potential living environment; which is consistent with the characteristics expected of mainstream housing and ideally forming part of a wider balanced and mixed residential community. An important consideration is that the design and layout of gypsy and travellers' sites, does not have an unduly adverse impact on the local environment, the character of the area and the amenities of both local residents and the future occupiers of the site, facilitating the integration of the site within the surrounding environment. The PPTS sets out at Section 4 guidance on determining planning applications for traveller sites.

5.19.1B The Council acknowledges that insufficient pitch provision can contribute to a rise in unauthorised encampments, with possible implications for the health and wellbeing of Gypsies, Travellers and Travelling Showpeople, community cohesion and costs for local authorities and public services. Negotiated Stopping is usually the Council's preferred approach for managing unauthorised encampments rather than the rapid eviction of caravans. This allows caravans to be sited on suitable specific pieces of ground for an agreed and limited period of time, with the provision of limited services such as water, waste disposal and toilets. As part of the evidence base the Council has a record of unauthorised encampments and will continue to monitor such incidents. Although on the basis of this rigorous assessment and monitoring of unauthorised encampments there is no known need for accommodation in Barnet, the Government's Planning Policy for Traveller Sites (PPTS) suggests the use of a criteria-based policy for any unknown households that do provide evidence that they meet the PPTS planning definition. This enables the Council to actively plan for Gypsy and Travellers' accommodation needs, ensuring that new sites are well- connected to social infrastructure, health care, education and public transport facilities, and contribute to a wider, inclusive neighbourhood. ~~The Council will work with the Mayor on a London-wide Gypsy and Traveller accommodation needs assessment.~~

5.19.1C The Council is working with the Mayor on the production of a London-wide Gypsy and Traveller accommodation needs assessment (GATANA). The final report of the Londonwide GATANA, as will demographic data from the 2021 Census on Gypsy, Irish Traveller and Roma households in Barnet, will inform the early review of the Local Plan.

9. HOU07(c) check against PPTS scale paragraphs. PPTS does not necessarily mention character.

The Council notes that PPTS (Policy C) makes reference to scale when assessing the suitability of sites in rural or semi-rural settings, and states that local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community. The Council acknowledges that this reference to scale is more appropriate to applications in rural or semi-rural settings.

The Council has reviewed policies on other recently adopted local plans and highlights that impact on character is a consideration in LB Southwark Local Plan (Feb 2022) - Policy P12 –Homes for Traveller and Gypsies and LB Lambeth Local Plan (Sept 2021) - Policy H10 – Gypsy and Traveller Needs.

The Council proposes to delete HOU07(c) and reference to scale. Reference to character is now set out in HOU07(d).

10. HOU07(d) clarification of amenity and character considerations. Ensure not inconsistent with other policies for development elsewhere in Local Plan and considers PPTS coexistence

The Council acknowledges that the consideration of accommodation for gypsies, travellers and travelling showpeople should not be any more onerous than requirements for other forms of residential development. The Council has reviewed policies on other recently adopted local plans and has as a consequence reconsidered the reference to appropriate landscaping and planting at HOU07 (d). This proposed modification reflects LB Lambeth Local Plan (Sept 2021)- Policy H10 – Gypsy and Traveller Needs

The Council proposes to replace HOU07(d) with

The site does not have an unduly adverse impact on the local environment, the character of the area and the amenities of both local residents and the future occupiers of the site, including the potential for noise, traffic movements and other activities likely to be taking place within or in the vicinity of the site.

11. HOU07(e) needs suggested modification to focus upon ensuring suitable local environment for occupiers of the site as well as addressing impacts on neighbours

The Council has reviewed policies on other recently adopted local plans and has therefore reconsidered the reference to appropriate landscaping and planting. This proposed modification reflects LB Lambeth Local Plan (Sept 2021) - Policy H10 – Gypsy and Traveller Needs

The Council proposes to replace HOU07(e) with

The layout of the site, associated facilities and landscaping, including pitches, hard-standings, amenity blocks, parking and turning areas, play spaces and boundary treatments, are well planned to ensure the amenity and healthy lifestyles of site residents and adjoining occupiers and facilitate the integration of the site in such a way as to

positively enhance the environment and increase its openness.

12. HOU07(f) reflection on wording of infrastructure connections. On-site facilities should be an option but not mandated if existing infrastructure in place and has capacity to accommodate the development.

The Council has reviewed policies from other recently adopted local plans and has reconsidered the reference to appropriate facilities. It considers that wording in LB Southwark Local Plan (Feb 2022) - Policy P12 – Homes for Traveller and Gypsies and LB Lambeth Local Plan (Sept 2021) - Policy H10 – Gypsy and Traveller Needs is more concise and effective.

The Council proposes to replace HOU07(f) with

The site has, or will have, a supply of essential services, such as mains gas and electricity, water, sewerage, drainage and waste disposal.

13. HOU07(g) amend wording for clarity, consideration of flood-risk vulnerability of caravans reflected in PPTS.

The Council has reviewed policies on other recently adopted local plans and has as a consequence reconsidered the reference to consideration of flood risk. It considers that wording in LB Southwark Local Plan (Feb 2022) - Policy P12 – Homes for Traveller and Gypsies and LB Lambeth Local Plan (Sept 2021).- Policy H10 – Gypsy and Traveller Needs is more concise and effective.

The Council proposes to replace HOU07(g) with

The site is not located in an area at high risk of flooding.

14. Council to consider implications of Court of Appeal judgment (EXAM 37) with regards to Gypsy and Traveller sites.

The Council notes that the High Court judgment - *Lisa Smith v The Secretary of State for Levelling Up, Housing and Communities* (handed down on 31st October 2022) addressed the circumstances of a specific planning appeal and not a Judicial Review against the PPTS or NPPF. In that case the High Court did not have the powers in a S.288 challenge formally to determine whether the PPTS (2015) was unlawful. The judgment makes this clear:

As we emphasised at the beginning of this judgment, we have not been asked, and under s.288 of the 1990 Act we do not have jurisdiction, to grant a declaration that PPTS 2015, or, in particular, the relevant exclusion, is unlawful. We therefore make it clear, lest there be any doubt, that we do not go beyond our conclusion that in the particular circumstances of this case, Ms Smith's Equality Act 2010 claim, and her Convention claim, based on admitted discrimination, has been made out in her challenge to the inspector's decision on her appeal.

The Council's view is that PPTS (2015) and NPPF (2021) are still the statutory guidance that are in place – including the PPTS Annex 1 planning definition. Barnet's GTAA has considered the needs of all Travellers, including those who do not meet the PPTS definition (see, for example, para 3.25) so it is unlikely that they will need to be revisited. This is on the basis that Barnet's evidence finds no need against the PPTS definition. It also finds no need for gypsy and traveller households against the broader non PPTS definition (as shown at 90). Accordingly, the *Smith* decision does not have any impact on Barnet's approach to meeting the needs of gypsy and travelers given the robust findings

of the GTAA that there is no need in Barnet for either individuals who do or do not meet the PPTS definition. Simply put, the GTAA unequivocally concludes that there is no requirement to allocate land in Barnet.

The Council has committed to an early review of the Local Plan. The Council will, in reviewing Local Plan, take into account new information on the Gypsy, Irish Traveller and Roma community in Barnet.

Proposed Modifications to Policy HOU07

~~The Council have identified can demonstrate that there is no objectively assessed need for pitches and plots for Gypsies and Travellers and Travelling Showpeople households~~

~~Any In the event that proposals for such accommodation that do come forward will be the Council will consider them considered on the basis of ensuring:~~

a) ~~Effective use of previously developed land including c) Close proximity to a main road and safe access to the site with adequate space on site to allow for the manoeuvring of vehicles.~~

b) ~~Reasonable access to local shops and other community facilities, in particular schools and health care.~~

c) ~~Scale of the site is in keeping with local context and character.~~

d) ~~Appropriate landscaping and planting to address impact on amenity and enable integration of the site with the surrounding environment. The site does not have an unduly adverse impact on the local environment, the character of the area and the amenities of both local residents and the future occupiers of the site, including the potential for noise, traffic movements and other activities likely to be taking place within or in the vicinity of the site.~~

e) ~~Any use on the site does not have any unacceptable adverse impacts on neighbouring residents. The layout of the site, associated facilities and landscaping, including pitches, hard-standings, amenity blocks, parking and turning areas, play spaces and boundary treatments, are well planned to ensure the amenity and healthy lifestyles of site residents and adjoining occupiers and facilitate the integration of the site in such a way as to positively enhance the environment and increase its openness.~~

f) ~~The site has, or will have, a supply of essential services, such as mains gas and electricity, water, sewerage, drainage. Appropriate facilities must be provided on-site, including water and waste disposal.~~

g) ~~That flood risk and the impacts of climate change are taken into account when assessing the suitability of sites to ensure that residents on these sites are not highly vulnerable to flooding. The site is not located in an area at high risk of flooding.~~

Conclusion

The Council invites the Inspectors to consider and recommend that the Council makes the additional further modifications set out in this paper recognising that those considered to be Main Modifications will need to be formally consulted upon following the examination hearingsessions.