



**EXAMINATION OF THE CITY OF YORK LOCAL PLAN
2017-2033**

Provision for Gypsies and Travellers and Travelling Showpeople

December 2022

CITY OF YORK COUNCIL LOCAL PLAN

1. Introduction

- 1.1 This note provides a response to correspondence from the Inspectors dated 16th November which stated as follows:

“We need to ask whether the Council needs to revisit, modify, or update the GTAA (EX/CYC/88) in the light of the recent *Lisa Smith* judgment?

Notwithstanding the response to that question, there may be a need to adjust draft Policy SS1 (as proposed to be modified in EX/CYC/111) to accord with the terms of the judgment, with particular reference to those that meet, and those that do not meet, the ‘definition’.

Further, there are some additional observations we would make about Policy H5 (as proposed to be modified in EX/CYC/111). First, H5 a) which deals with the provision of 10 extra pitches on existing local authority sites ought to make clear when those additional pitches will be provided. Second, H5 b) which refers to 30 pitches to be provided as part of the strategic allocations gives no indication of when those pitches might come forward, and (in detail terms) where. In short, it would be helpful if the Council could provide a trajectory for the provision of the 40 additional pitches, identifying the number of pitches each site will provide, and when that provision is expected to take place. We need to see a satisfactory rolling supply of pitches over the Plan period.”

2. *Lisa Smith v Secretary of State for Levelling Up, Housing & Communities and Others* [2022] EWCA Civ 1391 (‘the Judgment’)

- 2.1 The key points of the judgment for the purposes of this Note are as follows:
- i. The judgment is fact specific and resulted only in the quashing of the relevant decision letter, not in any remedy concerning the Planning Policy for Traveller Sites (PPTS): see [6], [49] and [134].
 - ii. Only a narrow part of the definition of Gypsy and Traveller was engaged: those who had stopped travelling because of age/disability – see [75].
 - iii. As to future application of the definition, see [139]:

“The consequences of this outcome for future decision-making on applications for planning permission and appeals in which the relevant exclusion is engaged will inevitably depend on the particular circumstances of the case in hand. In every such case it will be for the decision-maker – whether a local planning authority or an inspector – to assess when striking the planning balance what weight should be given, as material considerations, to the relevant exclusion and to such

justification for its discriminatory effect as obtains at the time, and also to undertake such assessment as may be required under Article 8 of the Convention. As is always so, the result of that process of decision-making will emerge from the facts and circumstances of the individual case.”

- 2.2 The Gypsy and Traveller Accommodation Needs Assessment, 2022 (“the GTAA”) (EX/CYC/88) considers the needs of **all** Travellers. It reports needs separately, as required by the Planning Policy for Traveller Sites, 2015 (“PPTS”) (Annex 1, planning definition of a Traveller). The assessment also identifies needs for those who do not meet the PPTS definition. These findings are presented in figure 12, reproduced below:

Delivery Status	Gypsy & Traveller Policy	Housing Policy	TOTAL
Meet Planning Definition ¹⁷	15	-	15
Do Not Meet Planning Definition ¹⁸	-	25	25
TOTAL	15	25	40

Figure 1: Need for Gypsy and Traveller households broken down by Local Plan Policy Type (Figure 12 in the GTAA, 2022)

- 2.3 The GTAA clearly set out that the total need for Travellers in York is for 40 pitches. **The level of need was not reduced because of the exclusion for those who had stopped travelling because of age/disability.** Accordingly, the concern in **Lisa Smith** does not arise.
- 2.4 The PPTS and the National Planning Policy Framework (“the NPPF”) remain government policy and the requirements of both have been applied in a way that is consistent with **Lisa Smith**. The Council does not, therefore, consider it necessary to review the assessment of Traveller site needs further, nor propose further modifications to Policy SS1 (as presented in EX/CYC/111) which confirms the plan’s strategic approach to meeting **all** identified Traveller needs.

3. Supply of pitches over the plan period on existing sites

- 3.1 Policy H5 (as proposed to be modified in EX/CYC/111) identifies three existing gypsy and traveller sites, which are owned and operated by CYC. In order to meet the five-year requirement for additional pitch needs identified in the GTAA, part A of Policy H5 states that 10 pitches will be provided on these Council owned sites. The Council is proposing that pitches will be provided across the existing sites at Clifton and Osbaldwick, and this is reflected in the trajectory of pitch provision [annex 1].
- 3.2 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. The expansion of both sites would meet best practice standards of pitch size (between 200m² and 500m²) with sufficient land remaining available for supporting infrastructure such as utility blocks or children's play areas. Should it be necessary to do so, the sites are also capable of being split into two.
- 3.3 It is recognised that, for clarity, the location of the additional pitches should be specified in the policy and a further modification to Policy H5 is therefore proposed:

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.**

4. Supply of pitches over the plan period on strategic allocations

- 4.1 Part B of Policy H5 directs the provision of 30 additional pitches to allocated strategic sites and permits, in exceptional circumstances, off-site delivery via financial contributions. It is the Council's strong intention to deliver new pitches as part of the development of strategic sites in accordance with the proposed modification which specifically prioritises this form of delivery.
- 4.2 The modification originally proposed (PM 66 in EX/CYC/58) has been reviewed and it is considered that alternative wording would further strengthen the policy approach. Along with this modification (presented below), replacement text at paragraph 5.42 is also proposed to make clear the way in which schemes will be assessed.

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/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.

Traveller Pitch Trajectory

4.3 The trajectory below demonstrates a rolling supply of pitch provision delivered through development of strategic sites, which is broadly aligned with the needs identified across the plan period (and five years beyond) as set out in the 2022 GTAA (EX/CYC/88). Sites with extant planning permission granted without need to provide new pitches in accordance with Policy H5 have been excluded from the trajectory. There is no evidence to suggest the permissions will not be implemented and it is, therefore, assumed that development of the sites will not contribute to pitch supply within the plan period.

	2022 -27 (0-5)	2027-32 (6-10)	2032-33 (11)	2033-37 (12-15)	2037-38 (16)	total	Including undetermined need
Non Definition	13	4	6	1	0	24	25
Definition	9	3	2	0	0	14	15
CYC Clifton	6						
CYC Osbaldwick	4						
ST1B		2					
ST4 (off-site)	2						
ST5 (off-site)	2	1	1	1	1		
ST7		3					
ST8 (off-site)	3						
ST9		3					
ST14		4					
ST15		6					
ST33 (off-site)	2						
ST36				3			
Total	19	19	1	3	1		

Figure 2: Trajectory of new Traveller pitch provision

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

- York Central (ST5) – phased contributions, equivalent of 6 pitches agreed via Section 106 agreement.
- Monks Cross (ST8) – contribution equivalent of 3 pitches agreed, awaiting appeal determination.
- Station Yard Wheldarke (ST33) - application pending, off site contribution for 2 pitches being negotiated.

- Land Adj. Hull Road and Grimston Bar (ST4) - application pending with on-site delivery of 2 pitches being negotiated, but off-site contribution included for worst case purposes.

4.5 Consequently, it is likely that 13 pitches will need to be provided on alternative sites. It is within this context that the Council has reviewed its proposed modification to the Green Belt boundary around the site at Osbaldwick (PM 84 in EX/CYC/58).

Osbaldwick Green Belt Boundary

4.6 The submitted version of the Local Plan located the designated traveller site at Osbaldwick 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. This modification to the Green Belt significantly reduces the site's capability to expand and in recognition of the assumptions identified in paragraph 4.3, it has been appropriate to reconsider the approach.

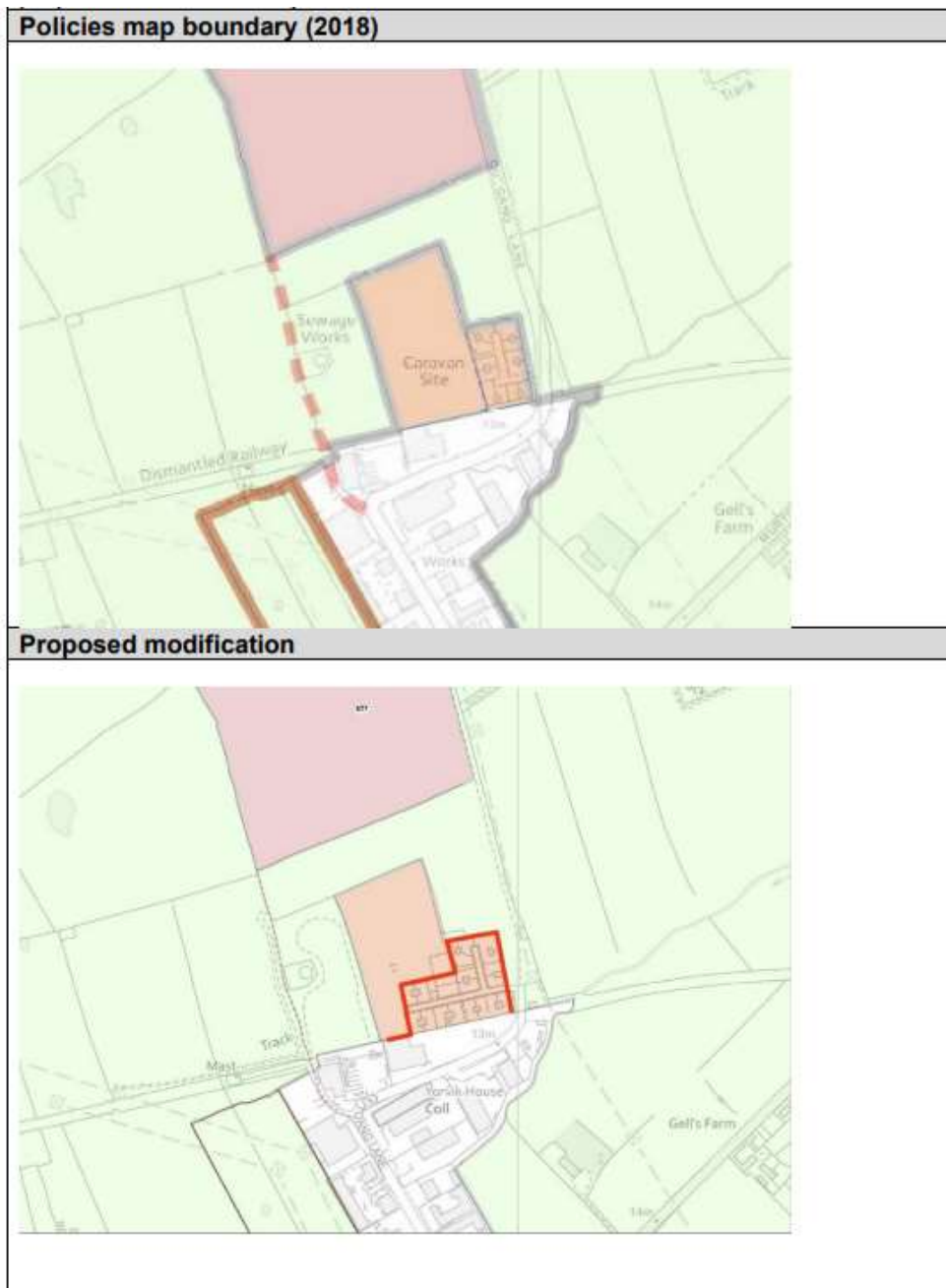


Figure 3: Policy map modification PM 84 in EX/CYC/58

4.7 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. The approved site location plan is reproduced below.



Figure 4: Approved site location plan (application reference 13/02704/GRG3)

4.8 A revised modification based on the above would ensure the Council owned 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.



Figure 5: Proposed policy map modification December 2022 (For illustration purposes only)

Delivery support

- 4.9 To support delivery of all new pitches, a new post is being created in the Council's Housing Delivery team. The post will project manage the delivery of additional pitches on existing sites, liaise with developers regarding delivery on Strategic Sites, and bring forward other development options to meet the need identified in the local plan. This will include land identification, stakeholder engagement, design and planning process (including pre-application), procurement and delivery on site.
- 4.10 The Council is also looking to prepare a Supplementary Planning Document to support implementation of Policy H5. It will provide guidance on the delivery of the additional pitches on existing sites, along with information to guide provision on strategic sites.