

South Derbyshire Local Plan Part 2

Representations in Response to the Issues and Options Consultation

On behalf of Wilson Bowden Developments Ltd. and Barratts Redrow PLC in relation to Infinity Garden Village

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1. Introduction

- 1.1. These representations have been submitted by Pegasus Group on behalf of Wilson Bowden Developments Ltd. and Barratt Redrow PLC, in response to the Local Plan Part 2 Issues and Options Consultation.
- 1.2. These representations are made in relation to our client's land interests within the Infinity Garden Village proposals – see Site Location Plan at Appendix 1.
- 1.3. The Government announced its support for Infinity Garden Village on 2 January 2017, which straddles South Derbyshire District Council (SDDC) and Derby City Council (DCC) administrative areas. Infinity Garden Village sits within the area known as the South Derby Growth Zone (SDGZ).
- 1.4. The SDGZ is a strategic initiative that received £49.6m from the UK Government's Levelling Up Fund (LUF) to unlock land along the A50 corridor for large scale mixed used developments including the residential and employment development associated with Infinity Garden Village. This funding is predicated on the uplift of additional homes and jobs being created in and adjoining the existing allocations in South Derbyshire District Council and Derby City Council. It is this additional land that Wilson Bowden Developments and Barratt Redrow have a legal interest in and that these representations are based upon.
- 1.5. Wilson Bowden Developments Ltd. and Barratt Redrow PLC have previously engaged in the preparation of the plan, by making a submission to the Strategic Housing and Employment Land Availability Assessment (SHELAA) Call for Sites. The site was found to be potentially available, achievable, and suitable. Representations have also been submitted to the emerging Part 1 Local Plan.
- 1.6. The site comprises predominately agricultural land. The area within South Derbyshire District Council extends to approximately 185ha. This includes the land associated with the existing Policy E4 allocation alongside the potential to accommodate an approximate additional 47ha of employment land and 95ha for residential development, local centre, primary school and open space.
- 1.7. The site offers an opportunity to deliver up to 2,000 new additional homes and up to 47 ha of additional employment land for new jobs in the area. It would also provide a range of other benefits including:
 - Critical contributions to the provision of a new South Derby Integrated Transport Link and A50 Link Road;
 - 2 Form Entry Primary School;
 - Local Centre;
 - Sports facilities and play areas for all ages;
 - Community Hall;
 - A range of green and blue infrastructure improvements (including community orchards/allotments);

- A mix of housing types including significant affordable housing provision;
- Excellent walking and cycling routes into the city; and
- Public transport links including frequent bus links connecting to other employment areas including the city centre and Infinity Park.

- 1.8. The strategic scale of the development and the Garden Village status of the site will provide greater opportunities to deliver healthy, sustainable and viable development, which is comprehensively planned to meet the day to days needs of residents with excellent links to the city.
- 1.9. It will benefit from the existing infrastructure of the main urban area whilst contributing to the delivery of new and improved infrastructure such as a new secondary school, junction improvements on the A50, community hall, community orchards/allotments, health centre and sports facilities for the benefit of both new and existing residents as well the provision of a variety of jobs.
- 1.10. The strategic scale and comprehensive planning of the Garden Village provides an opportunity to make biodiversity net gains, extend the benefits of the City's Green Wedges through the development with the provision of green infrastructure such as parkland, wetlands, allotments and community orchards and ensure sustainable drainage systems create blue infrastructure as part of the scheme, making it a development which benefits the environment as well as the residents of the area.
- 1.11. The site is being promoted by Wilson Bowden Developments Ltd. and Barratt Redrow PLC, leading commercial developer and housebuilder in the East Midlands, with a strong track record of delivery.
- 1.12. Barratt Redrow is the nation's leading housebuilder both in terms of scale and quality (our HBF 5 Star customer rating, the only major housebuilder to have achieved this for the thirteenth consecutive year). Infinity Garden Village will contain diversity of product from our two housing brands Barratt and David Wilson together with employment delivered by our commercial division Wilson Bowden. We are one of very few developers with both commercial and residential expertise.
- 1.13. Our clients wish to make comments on the scope, housing needs and strategy, providing the right homes, economy, tackling the climate change emergency and built and natural environment sections of the Issues and Option consultation. The response form in Section 2 sets out our client's comments.

2. Response

2.1. Our client's comments are set out below against the relevant questions.

Question 1 – Part 2 or Full Local Plan

Should the Council produce a Local Plan Part 2 Review under the existing planning system, or should a single full Local Plan Review be undertaken under the new system? (please tick one)

- ☒ Produce a Local Plan Part 2 Review under the existing system
- ☐ Produce a single Full Local Plan under the new system
- ☐ Other

2.2. The Council should produce a Local Plan Part 2 Review under the existing planning system, as this option now offers the quickest, most effective route to ensure the development needs of the district are met including the housing requirement and thereby supporting the wider government objective to significantly boost the supply of housing.

2.3. Our representations to the Regulation 18 consultation of the Part 1 Local Plan submitted in December 2022 suggested at the time that one Local Plan should be pursued as the contents of the consultation document provided the foundations for a single local plan to be pursued without any delay to the local plan process. However, this has not been pursued by the Council and given that we are now a further 3 years into the process and there are uncertainties around the implementation of the new planning system, we think it would be now effective for the Council to pursue Local Plan Part 2 under the existing system. This will also ensure there are no delays with the progress of the Local Plan Part 1 process.

Question 6 –Accelerating Housing Delivery on Strategic Allocations

What could the Council do to speed up delivery on strategic allocations? (Please provide details).

2.4. There are at least four matters that we think would help speed up the delivery of strategic sites, particularly Infinity Garden Village, which relate to phasing and housing mix.

2.5. Firstly, as outlined in our representations to the Regulation 18 consultation of the Part 1 Local Plan in December 2024, whilst the primary vehicular access being via a new junction on the A50 and junctions via Infinity Park Way is our client's intention and ultimate aim, the criterion relating to access in the emerging allocation policy STRA1 risks delaying the delivery of homes, employment provision and infrastructure on site should the junction improvements be delayed for reasons beyond our client's control.

2.6. Our clients suggest replacing this criterion with a measurable and clear requirement such as the submission of an access strategy and/or phasing plan to be provided to demonstrate at the application stage how the Site can appropriately come forward in a phased manner, and how there is no reason that a first phase couldn't come forward before the A50 junction is established, subject to the appropriate assessment and testing. This will ensure that smaller parcels of development within the strategic allocation can come forward within a coordinated framework and without prejudice to the wider strategic allocation.

- 2.7. Secondly, having a more flexible market housing mix policy will also help to meet market demand within the strategic allocation during the course of the Local Plan period. Fixing a specific market housing mix will only seek to frustrate the delivery of strategic sites as housebuilders will need to justify any deviation that could cause unnecessary uncertainty and delays.
- 2.8. The housing mix inserted into Policy H20 as part of the Part 1 Local Plan is taken from paragraphs 7.34 to 7.37 of the Derby and South Derbyshire Local Housing Needs Assessment (December 2023) which forms part of the evidence base for the draft Local Plan.
- 2.9. Whilst the Derby and South Derbyshire Local Housing Needs Assessment assesses and advises on housing mix for Derby City and South Derbyshire separately, it does not assess or advise on housing mix at a settlement or sub-area level. As a result, the difference in the need of housing mix between urban centre, urban edge and village locations is not taken into account.
- 2.10. The suggested housing mix is based on averages and does not allow for sufficient flexibility at a sub-area level or during the course of plan period. Our clients consider a percentage range, or provision within the policy which will have regard to the evidence of housing needs at time of the application/s, other evidence of market demand or needs within the local housing sub-area, character and context of the site and development viability and deliverability.
- 2.11. Thirdly, the delivery of Infinity Garden Village requires infrastructure such as A50 J3 junction and link road and potentially a secondary school to support the level of growth within this area. A clear understanding of the funding arrangements and delivery timescales should be outlined within the infrastructure delivery plan to support the delivery of the relevant infrastructure and growth within the South Derby Growth Zone.
- 2.12. Finally, given the potential for cross-boundary applications in the future, the Council should set up a stakeholder forum to ensure that all cross-boundary and other strategic technical matters are considered in the round to help speed up delivery of the site.

Question 9 – Urban Settlement Boundaries

Do you agree that settlement boundaries should be drawn around the urban edge of Derby, Drakelow and Stanton and any new allocations?

☒ Yes ☐ No

- 2.13. Settlement boundaries should be drawn around the urban area including the urban area of Derby and include the land allocated as part of the strategic allocations.
- 2.14. This is particularly important in the context of the emerging National Decision Making Policy on the presumption in favour of sustainable development. Understanding what falls within and outside a settlement will be important for understanding which part of the presumption applies and clarity about this at a local level will avoid unnecessary time and resource in the future.

Question 10 – Principles for Assessing Limits

Do you agree with the principles for assessing the settlement boundaries, as set out in Appendix 1?

- 2.15. Appendix A proposes to include housing allocations within settlement boundaries – sites which are allocated for housing within the Local Plan Part 1 and 2. The inclusion of allocations and particularly our client's site at Infinity Garden Village is supported. This will ensure the settlement boundaries do not become out of date as soon as allocations come forward and ensures there is transparency on the existing extent of settlements.

Question 19 – Gypsy and Traveller Accommodation

What other sites and/or options should the Council consider for providing Gypsy and Traveller accommodation?

- 2.16. As set out by the York Travellers Trust in a Hearing Statement to the City of York Local Plan Review dated February 2024 (see Appendix 2) and their representations leading up to this point, extensions to existing traveller sites is the preference of the communities who will reside there. When rebutting the relevant policy (Policy H5) and its requirement for developers to provide pitches onsite, at paragraph 62, the York Travellers Trust Hearing Statement states *'Effective policy will create opportunities and resources for those who do want to develop Traveller sites to do so, rather than imposes onerous and unachievable obligations on those who do not'*. Our clients consider this approach is preferential for Gypsy and Traveller communities opposed to the fragmented provision of pitches across the district.
- 2.17. The provision of Gypsy and Traveller sites within strategic allocations is therefore not supported as this is not considered to be the most appropriate way to meet the needs of the Gypsy and Traveller community. There is no evidence provided that this approach of providing pitches as part of a large-scale strategic development is supported by the Gypsy and Traveller community.
- 2.18. In this respect, further review of the potential reasonable alternatives that are likely to better meet the needs of this community is required. Any suitable and available land adjacent to existing Gypsy and Traveller and Travelling showpeople sites should be reviewed for allocation alongside reviewing Council-owned land and undertaking another specific call for site if necessary. Alongside this, the Council should provide an additional criterion within Policy H22 that supports the development of Gypsy and Traveller and Travelling showpeople pitch(s) or plot(s) on land adjacent to existing sites.

Question 20– Gypsy and Traveller Accommodation

Are there any other issues that the Council should consider when meeting the needs of Gypsies and Travellers?

- 2.19. Our representations to the Regulation 18 consultation of the Part 1 Local Plan submitted in December 2022 outlined that there are issues with the proposed way forward to emerging Policy H22.

- 2.20. The evidence base includes the Derby, Derbyshire, Peak District National Park Authority and East Staffordshire Gypsy and Traveller Accommodation Assessment Report (July 2023), which identifies two accommodation needs figures for Gypsy and Travellers. The first based on the Planning Policy for Travellers (DCLG, 2015) definition of Gypsy and Travellers which excludes Gypsies and Travellers who have ceased to travel and the ethnic definition, which includes all households who ethnically identify as Gypsies and Travellers and have ceased to travel.
- 2.21. The Council have opted to use the ethnic definition. Under this definition the evidence base identifies a need for 59 pitches between 2020 and 2040. As a result, Policy H22 states that on strategic sites of over 1000 dwellings, 5 serviced Gypsy and Traveller pitches per 1000 dwellings up to a maximum of 15 pitches are required. The need for such provision is district wide, and it is therefore unclear why a requirement for land provision or indeed financial contribution is only required on sites of over 1,000 dwellings. Our clients consider a financial contribution should be collected on all housing sites, including smaller sites, in accordance with the evidence base.
- 2.22. It does not appear from a review of the evidence base that this provision has been subject to any kind of viability assessments or testing and as a result it is not justified nor evidenced, and it fails the NPPF soundness tests.
- 2.23. In addition to the suggestions made to question 19, it is not clear from the evidence base whether the option for a suitably evidenced and justified developer contributions to be collated to contribute towards the provision of a dedicated and purpose-built Site that meets all the specific requirements of criterion C has been considered.

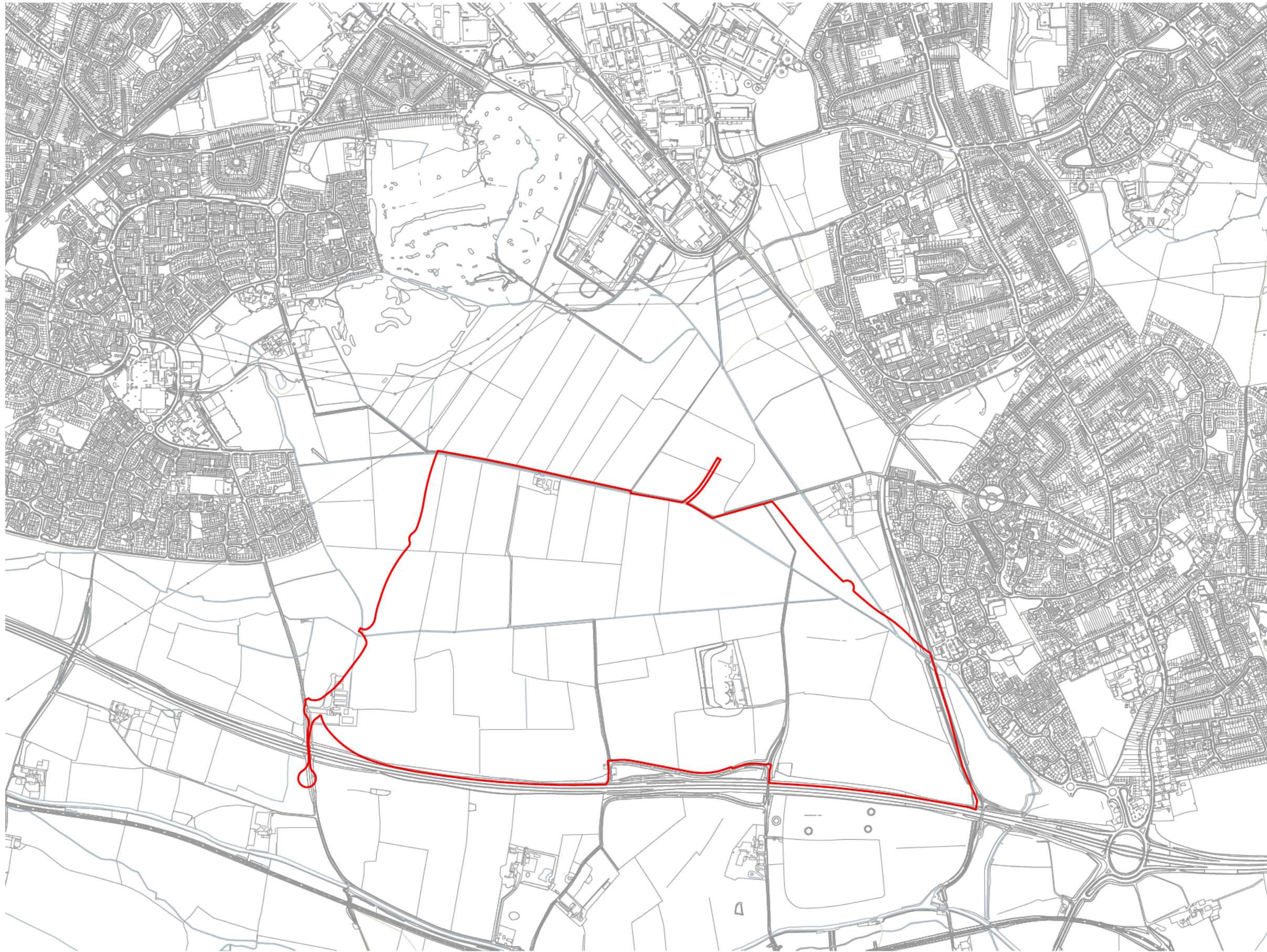
Question 24 – Adoption of Infrastructure

Where there is the potential need for long-term management / maintenance of open space, SUDS or other infrastructure, should the Council introduce a policy requiring these to be adopted by a public authority unless there is clear evidence that this is not feasible.

- 2.24. It should be noted that developers cannot be forced to offer up new open space to a public authority and therefore a policy requiring adoption by a public authority would not be justified or effective. In addition, it would frustrate the delivery of housing and affordable homes.
- 2.25. The guidance already contained within the Council's Planning Obligations SPD is positively framed and sufficient to provide the flexibility for developers to transfer open space to public authorities subject to viability, with the potential to lower levels of commuted sums subject to existing supply of open space; and reduced timescale for commuted sums considered on a case-by-case basis.

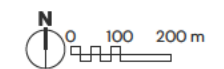


Appendix 1 – Site Location Plan



KEY:

 Site Boundary (219.1 ha)



Infinity Garden Village – Site Boundary Plan





Appendix 2 – York Travellers Trust Hearing Statement (February 2024)

York Travellers Trust

Hearing Statement

Matter 1 - Provision for Gypsies and Travellers

February 2024

A. Introduction

1. This Hearing Statement builds on and should be read alongside previous submissions on behalf of York Travellers Trust ('YTT'), including our response to the Main Modifications Consultation ('MMC')¹ in March 2023 and 'Annex A'.² Reference is made to further hearing statements and consultation responses as appropriate.
2. Without relevant and effective modifications to overcome the known constraints of the draft Green Belt, the Local Plan will fail to meet the overarching objectives of sustainable development and is not sound.
3. The Councils search for suitable sites has been undermined by the inappropriate application of the 'exceptional circumstances' test to the task of defining the Green Belt boundaries for the first time. The Plan makes no suitable allocations, and provides no 'rolling supply.'
4. We will propose policy modifications to guide a new 'site selection process' to identify sufficient land to meet need for the first 5 years of the plan, and sustainably thereafter.
5. Subject to these modifications and the agreement of a clear timetable for the identification of land, we would invite the Inspectors to provide a partial report, indicating that the Plan is sound as far as its wider Policies are concerned and to recommend that they are given significant weight in planning decisions, pending the adoption of the Plan when specific allocations for Traveller sites have been made.

B. YTT's Answers to the Inspectors' Questions

Q1.1 How does the recent change to the planning definition of 'Gypsies and Travellers' affect the structure and precise wording of draft Policy H5?

6. The Council declined to update the GTANA following *Lisa Smith*³ on the basis that the Local Plan would treat those Gypsies and Travellers who do and those who do not meet the PPTS definition in the same way.⁴ The total assessed need for these groups over the first 5 years of the Plan was for 23 pitches. Land was removed from the Green Belt to ensure sufficient space was available to deliver 17 of those pitches at Osbaldwick.
7. In the context of serious questions about the suitability of that site for expansion, the Council now seeks to rely on the PPTS (2015) definition to discharge its obligations toward those who have ceased travelling permanently for reasons of old age; ill health, or education, and thereby reduce the number of allocations required in the first 5 years of the Plan to 10.⁵

¹ <https://www.york.gov.uk/downloads/file/8992/60-mh-planning-obo-york-travellers-trust-redacted>

² <https://www.york.gov.uk/downloads/file/9375/ex-oth-39a-ytt-response-annex-a>

³ December 2022 Doc – response to November letter.

⁴ See paragraphs 7.1 – 7.8 of Annex A.

⁵ Paragraph 2.22 CYC October 2023.

8. The change to the definition in Annex 1 of PPTS (2023) means that the Local Plan must provide a strategy to meet all of the need assessed under the GTANA without discrimination in order to be sound.

9. This requires the Council to identify specific allocations for the first 5 years (equating to at least 26.5 pitches) and a ‘rolling supply’ of land to meet all assessed throughout the Plan period thereafter.

10. The distinction in Policy H5 between those who do and those who do not meet the PPTS definition is contrary to national policy and is discriminatory. It should be deleted.

11. Policy H5(a), which deals with allocations, must identify specific, deliverable sites to provide at least 26.5 pitches.

12. Policy H5(b) must be modified to ensure that provision may be made effectively, and at appropriate times.

Q.1.2 Does draft Policy H5, and the Plan as a whole, make adequate provision for the future needs of Gypsies and Travellers?

13. No.

14. We have discussed the GTANA (2022) in previous submissions, and will not rehearse our analysis here, other than to confirm our view that Policies SS1 and H5 are based on a significant underestimation of need. An updated needs assessment is required as a matter of urgency.

15. Regardless of the robustness of the GTANA, draft Policy H5 and the Local Plan as a whole fail to make adequate provision for the future needs of Gypsies and Travellers on the Councils own terms.

16. Without specific allocations and relevant policy modifications to overcome the known constraints of the Green Belt, the Plan is incapable of delivering sustainable sites.

17. All parties have been aware of the need to develop an appropriate exception site policy for Traveller sites for some years.⁶⁷ The evidence base confirms that if the Local Plan is to deliver Traveller sites at all, it is inevitable that they will come forward from land which is currently designated Green Belt.⁸

18. The Council’s recognition of the ‘very special circumstances’ that exist across York is expressed clearly in its own planning decision on the expansion of Osbaldwick:

⁶ Consultation response on Green Belt; Inspectors’ letter.

⁷ See paragraphs 5.3-6.15 of the MM consultation. We set out part of the history of this issue at paragraphs 1.8 – 1.17 of Annex A.

‘the shortfall in the number of currently-available pitches, the requirement to identify suitable sites and the difficulty in finding suitable sites within the settlement limit constitute very special circumstances that outweigh harm to the green belt. The principle of extending the site as proposed is therefore acceptable.’⁹

19. The purpose of planning policy is to contribute to the achievement of sustainable development. To this end, PPTS requires that *‘planning authorities should ensure that Traveller sites are sustainable economically, socially and environmentally’¹⁰* by implementing *‘fair, realistic and inclusive policies’¹¹* which take local circumstances into account¹² to guide development toward the most sustainable locations.

20. Adequacy of provision is defined in terms of the availability of a range of site types and tenures in sustainable locations, with sufficient access to health, educational and social services and facilities.¹³

21. National policy requires that: *‘When drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development’* and *‘ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development.’¹⁴*

22. Instead, the Council appears to have misapplied the ‘exceptional circumstances’ test to define the inner Green Belt boundaries for the first time, effectively screening out vast swathes of the area from the search for sustainable sites.¹⁵

23. The Council’s proposals of December 2022 brought into relief the manifest failure of the Plan to provide policies that are capable of bringing forward the required land to meet the future needs of Gypsies and Travellers; and the compound harm that would impact on current and future generations as a result.

24. Even if the Osbaldwick site was fit for expansion of the scale proposed over the next 5 years (which we reject); the policy failure that has left no other option for the delivery of sites will persist.

25. The *only* land that this Plan will make available over the whole Plan period is at the site at Osbaldwick.¹⁶

⁹ Committee Report - https://planningaccess.york.gov.uk/online-applications/files/B44D2584D587A0FCA83DDA07EF203981/pdf/13_02704_GRG3-MAIN_COMMITTEE_REPORT_24.10.13.-1452191.pdf

¹⁰ PPTS paragraph 13.

¹¹ PPTS Paragraph 4(g)

¹² Paragraph 10 NPPF

¹³ Paragraph 4 PPTS

¹⁴ paragraphs 84 and 85 NPPF, respectively

¹⁵ Including the policies under which planning officers negotiate s106 obligations.

¹⁶ See paragraphs in MMC section 8 discrimination.

26. In order to achieve the objectives of sustainable development and make provision for sufficient land to develop Traveller sites to meet a range of socio-economic need, the Local Plan will need to include effective policy which reflects and adapts to the particular characteristics of the area to guide development towards the most sustainable locations.

27. The principle of sustainable development proceeds from a recognition that the ability of future generations to meet their own needs is contingent on the needs of the present being met. Ensuring that children are able to access education, health and social services and facilities from secure homes is fundamental to ensuring that they are able to meet their needs in the future. These requirements are reflected in national and international human rights law and are embedded in Policy B PPTS. In any decision where Article 8 ECHR Rights are engaged, the best interests of the children should be a primary consideration.

28.. The first part of Policy H5 is concerned with '*safeguarding existing supply*' and indicates that proposals which '*fail to protect existing Gypsy and Traveller sites will not be permitted.*'

29. The Council concedes in its evidence that the existing provision is not fit for purpose.¹⁷ In light of the clear warnings of officers that its expansion will exacerbate existing issues and worsen conditions for existing residents,¹⁸ any decision to facilitate that expansion will be directly contrary to the objectives of the policy.

30. Suggested amendments to the Policies will be submitted with this statement. We would welcome a request from the Inspectors to provide further written submissions to finalise proposals after the Hearing.

Q 1.3 Are the existing local authority sites, and specifically the site at Outgang Lane, Osbaldwick, suitable for the further expansion expected?

31. No. As above, the scale of expansion 'expected' will depend on the (in)ability of the rest of the Local Plan to deliver appropriate sites.

32. As Policy H5 is currently drafted, it is reasonable to expect the expansion of the Osbaldwick site by up to 17 pitches *during the first 5 years of the Plan period*, (and/or a commensurate under-provision), and the continuous expansion of the site throughout the lifetime of the Plan.

33. We set out our views on the proposed expansion of the Osbaldwick site in previous submissions: in particular, section 8 of MMC response and throughout Annex A.

34. The current Labour Administration made representations in support of YTT's submissions, opposing the proposals to increase the number of pitches on existing sites, and citing the need to keep sites '*small and manageable*' to ensure good living conditions.¹⁹

¹⁷ See Emails; also - Balswick 2014 Tom Brittain email // 2023 Louise Waltham Email

¹⁸ See Emails; also - Osbaldwick 2014 Tom Brittain email// 2023 Louise Waltham Email

¹⁹ Labour Response to Main Modifications Consultation, March 2023 - <https://www.york.gov.uk/downloads/file/9027/886-york-labour-party-redacted>

35. Evidence provided following FoI requests and discussed in Annex A demonstrates very clearly that senior leaders of the Council and officers responsible for the management of the Osbaldwick site also share our serious concerns.

36. The Council concedes that the suitability of the Osbaldwick site for expansion will depend on the resolution of serious issues²⁰ and continues to rely on the previous PPTS 2015 definition to minimise the extent of the expansion required. Yet even by its own assessment the Osbaldwick site is not ‘deliverable.’

37. To be considered ‘deliverable’, sites should be *‘available now, offer a suitable location for development, and be achievable with a realistic prospect that development will be delivered on the site within 5 years.’*²¹

38. The Council has confirmed for the Examination that the methodology used to exclude both of the sites now proposed for expansion from the site selection processes in 2014 was *‘based on robust and credible evidence that is proportionate’*²²

Significantly, there is no evidence that either site has been assessed against objective site selection criteria since then.

39. Why then, we ask, has the Council opted for expansion of the Osbaldwick site? It may be that the answer lies in a misunderstanding. We note that Mr Ferris told the Executive Committee:²³ *‘the inspectors themselves, [...] required us to specifically identify that there was capacity at Osbaldwick & Clifton to provide the sites we need.’*

Q 1.4 Is the approach of draft Policy H5 to the provision of pitches on strategic sites soundly based?

40. No. We refer the Inspectors to sections 4 to 6 of our MMC response in March 2023 which sets out our position as to the soundness of the Plan in this respect.

41. Policy H5(b) does not *‘seek to meet objectively assessed development and infrastructure requirements,’* but rather the Council’s need to demonstrate a *‘satisfactory rolling supply of pitches over the Plan period’*²⁴ in order to adopt the Plan.

42. There has been no evidence-based assessment of the suitability (or viability)²⁵ of the Policy to meet the accommodation needs of Gypsies and Travellers; and its ‘pro-rata’ approach to

²⁰ 2.22 October 2023 CYC

²¹ Footnote 4 PPTS

²² See Paragraph 8.27 MM Consultation March 2023; paragraph 4.11.10 CYC Hearing Statement: Phase 2: Matter 4.

²³ 26th January 2023 - whilst recommending to the meeting to decide to proceed with MMC. Council transcript on Examination page.

²⁴ November Letter

²⁵ Paul Butler; paragraph 3.1.

pitch distribution suggests that it was devised to delegate, rather than solve the problem. There is no functional relationship between the numbers of pitches required and numbers of houses.

43. As expressed by other respondents to the consultation:

‘The proposed amendments to Policy H5 of the Local Plan seek to place a greater burden on the developers of strategic sites to deliver the Council’s housing requirements for Gypsies and Travellers, on account of the Council being unable to allocate specific sites to meet these needs at this late stage of the Local Plan process.’²⁶

44. YTT maintains that the implementation of policies in the NPPF in the Local Plan to meet locally assessed need for affordable culturally appropriate accommodation for Travellers is consistent with national policy.

45. As confirmed in *Wenman v SSCLG*:²⁷

‘The words "housing applications" in para.49 should not be interpreted narrowly so as to be restricted to applications for planning permission to construct bricks and mortar houses. The NPPF s.6 was intended to cover homes and dwellings in a broad sense..’

46. However, having adopted and implemented policies of NPPF to meet a relevant, objectively assessed need, the Council’s reliance on Policy E PPTS to justify excluding²⁸ this specific kind of provision from access to the GB2 exception site policy, and thereby preventing the policy from meeting its own objectives, is discriminatory.

Q 1.5 Specifically, is the sequential approach to provision of pitches on-site, off-site and the approach to financial contributions in lieu sufficiently robust to ensure that new pitches required to meet needs, come forward at appropriate times?

47. No. Policy H5 cannot bring forward a supply of sites at appropriate times.

48. The Local Plan is required to bring forward at least 26.5 pitches in the first 5 years. The ‘trajectory’ provided at *figure 2*²⁹ presents the Council’s projections for delivery for this element of the need, via s106 contracts associated with major strategic sites.³⁰ It is described as ‘broadly aligned’ with the rolling 5 year need. Closer analysis reveals the uncertainty of the extent of ‘broadly’.

²⁶ Paul Butler MMC for ST7 - <https://www.york.gov.uk/downloads/file/9018/594-paul-butler-planning-obo-landowner-st7-redacted>

²⁷ [2015] EWHC 925 (Admin), 2015 WL 1786081

²⁸ Including primarily so-called ‘non definition Travellers’

²⁹ <https://www.york.gov.uk/downloads/file/8695/ex-cyc-121a-provision-of-gypsy-and-traveller-etc>

³⁰ Paragraph 4.6?? Trajectory December 2022 CYC.

49. If Policy H5(b) is able to make any significant contribution to the provision of Traveller sites, it will need to secure commuted sum payments and provide policy to make land available for their use.

50. If the policy flaw that thwarted negotiations for the otherwise achievable on-site delivery of 13 pitches so far could have been resolved with the use of '*stronger words*', it is difficult to understand why they were not used sooner; before the Council had been forced back to the position in which it started, with obligations to deliver sites and no way to find land.

51. If revised wording does succeed in persuading developers to agree to deliver pitches on-site to obtain planning permissions, it does not automatically follow that it will be successful in persuading them to develop sites. Planning decisions elsewhere give some indication of the extent of the time and resources that may be expended by developers on creative compliance strategies to avoid building sites.

52. A s106 contract in Basingstoke,³¹ for example, obliges developers to proceed through a sequence of separate planning applications for the design and delivery of 2 Traveller pitches. Timing is linked to the phased delivery of 750 houses and associated infrastructure via trigger points embedded in the otherwise unrelated process. The applicants have obediently submitted 3 separate applications over several years, each of which the LPA was compelled, by policy, to refuse. There is no indication that the pitches will be provided.

53. Consultation responses from house builders, developers, strategic site promoters, throughout the course of the Examination Process in York strongly indicate that they are as keen to avoid any obligation to deliver pitches on their housing developments as those in Basingstoke. We see no reason why they would not deploy similar tactics.

54. For those developers who are able to demonstrate that on-site delivery is unviable due to site constraints, progression through the next stage in the sequence will require nothing more from them than to refer the Council back to over a decade of its own evidence. Alternatively, the Council must concede that it has itself, not conducted a 'robust search process' for land.

Q 1.6 If provision of new pitches as part of the development of the Strategic Sites is to be provided off-site, directly, or through the vehicle of financial contributions, how are these pitches proposed to be provided, where will they be provided, and when?

55. Policy H5(b) is likely to secure commuted sum payments from developers at best, but the Plan as a whole leaves no option for their use other than for the continuous expansion of the site at Osbaldwick.

56. This is unsustainable and unacceptable, and the Plan is not sound.

³¹ https://planning.basingstoke.gov.uk/online-applications/files/51C83C55ACB025E9C337F035B47B42AC/pdf/15_04503_OUT-S106-2912471.pdf

57. Policy modification should recognise that the provision of affordable, culturally appropriate accommodation for Gypsies and Travellers to meet locally assessed need is a legitimate function of national planning policy. The Councils proposals to provide for Gypsies and Travellers through NPPF policies that are designed to deliver affordable housing at scale will only function effectively if they are consistently and equally applied.

Q 1.7 Does the recent change to the planning definition referred to above affect Policy H6 and its supporting text too?

57. YTT recognises that Show People have accommodation needs that are different, in particular ways to the needs of Gypsies and Travellers.

58. To the extent that the policy modifications discussed above are helpful and applicable to the provision of accommodation for Show People, they should be applied to Policy H6.

Conclusion

59. When the last Local Plan was adopted in York in 1954; the first of the Caravan Sites Acts had yet to be passed. Travelling families could still rely on free access to common land and relative peace from regulatory control on their home plots. In the 7 decades that have passed since, generations of Gypsies and Travellers have weathered progressive restrictions on their freedom to continue a nomadic habit of life. The first Local Plan for over 70 years in York will be adopted in the wake of the criminalisation of trespass.

60. Research suggests that many Traveller Sites were established on the margins of towns and cities, by default rather than design. *“So the whole business of how sites came about and where they were, is really nothing to do with proper planning....”*³² Half of the local authority sites studied suffered from environmental problems relating to adjoining land or activities such as major roads, rubbish tips, sewage and industry.

61. The Local Plan process does not require the LPA to provide land for Traveller sites, either of its own or via contracts with third parties. It requires it to implement fair, sustainable policy to ensure that sufficient land is reasonably available at appropriate times to those who need it.

62. Effective policy will create opportunities and resources for those who *do* want to develop Traveller sites to do so, rather than imposes onerous and unachievable obligations on those who do not.

63. Sustainable policy will construct Traveller sites as solutions, rather than problems, giving the young Gypsy and Traveller people living in York today better options for tomorrow.

³² Alice Bloch¹ and Katharine Quarmby; *‘Environmental racism, segregation and discrimination: Gypsy and Traveller sites in Great Britain’*; Critical Social Policy; (2024) available here - <https://journals.sagepub.com/doi/epub/10.1177/02610183241229053>

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