

## **Nuneaton & Bedworth Gypsy and Traveller Site Allocations DPD**

### **Inspectors Matters, Issues and Questions**

**Inspector: Thomas Hatfield BA (Hons) MA MRTPI**

**Programme Officer: Helen Wilson**

### **Nuneaton and Bedworth Borough Council's response to Inspectors MIQ's**

Reference: PINS/W3710/429/5

These matters, issues and questions and response relate to the hearing sessions of the Examination of the Nuneaton & Bedworth Gypsy and Traveller Site Allocations Development Plan Document (DPD).

#### **Matter 1 – Compliance with statutory procedures and legal matters**

##### **Issue 1: Duty to co operate**

1.1 Has the DPD been prepared in accordance with the duty to co-operate imposed by Section 33A of the Planning & Compulsory Purchase Act 2004 (as amended)?

##### *Response*

- 1.1(i) Nuneaton and Bedworth Borough Council (NBBC) considers that it has fully engaged with the Duty to Cooperate, and this is set out in the submitted Duty to Co-operate Statement June 2022 (CD 2.4) in accordance with Section 33A of the Planning and Compulsory Purchase Act 2004 (as amended) and meets paragraphs 24 to 26 of the NPPF 2021.
- 1.1(ii) The four neighbouring Local Authorities were contacted in September 2020 to investigate whether there was any interest in doing a combined Gypsy, Traveller and Travelling Showpeople Accommodation Assessment. Two responded to advise they had no interest and two failed to respond. No Local Authority requested that NBBC assisted them in their needs. (See appendix A of CD 2.4).
- 1.1(iii) Subsequently, the most appropriate way forward at the time was for NBBC to update its evidence base independently and to focus on meeting its own needs whilst not relying on neighbouring authorities to assist. Each Local Authority was contacted with a questionnaire by the Council's Consultant in 2021 (CD 2.6).
- 1.1(iv) Consultations were sent out by email (in accordance with the Council's Statement of Community (SCI) 2020 (CD 2.11) to those bodies provided in appendix A, C, D, E and F of the SCI and other databases. This included statutory consultation bodies (including adjacent Local Authorities and Warwickshire County Council), general consultation bodies, residents and businesses. This was at the Regulation 18 (Issues and Options) stage; Regulation 19 stage; as well as the Regulation 20 stage notifying them of the details of the hearing. The representations at each stage were considered to formulate the DPD. Feedback received from neighbouring Authorities is set out in

paragraphs 5.22 to and 5.26 of the Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2021 Update (GTAA) (CD 1.6).

- 1.1(v) An informal consultation stage was also carried out with key stakeholders including the adjacent Local Authorities and WCC in November 2021. None of the adjoining Local Authorities chose to respond.
- 1.1(vi) NBBC is a non-constituent member of the West Midlands Combined Authority; as well as being part of a number of groups including the Coventry and Warwickshire Local Enterprise Partnership (CWLEP); Coventry, Warwickshire and Hinckley & Bosworth Joint Committee for Economic Growth and Prosperity; Coventry; Warwickshire Chief Executives/Managers; Planning and Duty to Cooperate Group and Coventry, Solihull and Warwickshire Association of Planning Officers (CSWAPO). Officers therefore attend regular meetings with these partnerships and the emerging Gypsy and Traveller DPD was discussed at these meetings.
- 1.1(vii) North Warwickshire Borough Council responded to the publication version of the DPD and welcomed the publication of the DPD and provision of pitches. However, they did have concerns that no transit pitches were indicated. (This will be addressed later in 2.10 and 2.11). They also had concerns that assumptions were made for the use of sites within this adjacent Local Authority which is not the case and is referred to later in 2.10.

## **Issue 2: Sustainability Appraisal (SA)**

1.2 Has the DPD's formulation been based on a sound process of SA in accordance with the regulations and relevant guidance, including the testing and/or consideration of reasonable alternatives for all policies in the DPD?

### *Response*

- 1.2(i) The approach to undertaking the Sustainability Appraisal (SA) was based on the Government's Planning Practice Guidance to ensure compliance with the requirements of the Planning and Compulsory Purchase Act 2004 and the Environmental Assessment of Plans and Programmes Regulations (2004). The SA process is considered to be legally compliant and the SA Report, which documents the process (CD1.2) includes all the information required by the regulations.
- 1.2(ii) The SA was undertaken alongside the differing phases of the DPD preparation, with appropriate updates made where considered necessary.
- 1.2(iii) The SA Report November 2021 (reference CD 1.2) paragraph 2.1 (page 6) explains the background and paragraph 3.2 – 3.5 (pages 11 – 12); chapter 4 (pages 13 – 16) and 5.2 – 5.6 (pages 17 – 18) of the document identifies the methodology and sustainability issues and problems. This reflects the findings of the 'scoping' stage of SA, which drew information from an original document completed in 2015 as well as emerging appraisals carried out for the scoping reports for the Borough Plan (2016) and Town Centres Area Action plan. A scoping report was prepared, covering updates

to the policy context and baseline information, and amendments were made to the SA Framework to reflect any changes to key issues and monitoring frameworks.

- 1.2(iv) The objectives, criteria and indicators (known as the SA Framework) are shown on table 4 of the document (pages 19 – 22). As described above, these were identified through a process of scoping, with updates made at appropriate stages of plan development.
- 1.2(v) The SA Regulations require that a draft Plan should be appraised alongside the consideration of reasonable alternatives. In this respect, the Council identified a series of strategic options for both the number and location of gypsy and traveller pitches. The appraisal was undertaken consistently with each option being treated the same in the appraisal. The findings are set out within the SA Report (CD1.2), and rationale is provided as to why the preferred approaches have been pursued (see para 7.25). In addition, the SA Framework was used to assess the proposed site allocations (CD 5.2). It is not necessary to appraise options for every Plan policy, only those which are strategic and that are considered to be reasonable.
- 1.2(vi) The SA appraises the draft Plan considered 'as a whole', with consideration given to allocated sites and any supporting policies. The focus of the appraisal was to identify significant effects. Throughout this process, recommendations have been made to help mitigate any negative effects and enhance the positives.
- 1.2(vii) The SA (CD 1.2) paragraphs 8.48 and 8.49 (pages 52 and 53) concluded that there are no significant negative effects as a result of the proposed site allocations or DPD Policies; with the majority of effects predicted to be neutral. Some minor negative effects were identified, mainly related to accessibility of the sites. However, this was balanced with the positive effects in relation to the efficiency of land use, and particularly with the significant positive effects for housing and equality.
- 1.2(viii) The SA Report (CD1.2) was consulted upon with the Environment Agency, Historic England and Natural England but was also made available to other consultees such as the Coal Authority and for the public to comment upon.
- 1.2(ix) The Coal Authority responded at the Publication stage requesting that the sites were tested against their GIS data to assess the development risk of the allocations. This was carried out and checked by the Coal Authority who simply confirmed that their standard informative note would be required for GTSA 1, 2 and 4.
- 1.2(x) The Environment Agency considered that the SA was acceptable as long as the potential for water pollution from non-mains foul drainage was mitigated to ensure a neutral impact on the water environment. A Minor Modification has therefore been suggested to the Inspector to include guidance for foul drainage for proposed Policy GT3 for sites GTSA1, GTSA2 and GTSA3 and to Policy GT4 for site GTSA4 to ensure appropriate foul drainage methods are considered for new pitches.
- 1.2(xi) Historic England stated they were pleased that some of their comments in relation to the SA Scoping Report were taken on board and they were content with the assessment that: 'Overall, neutral effects were predicted'. They considered that the documents were positively prepared, justified, effective and consistent with national

policy in relation to the historic environment and that the Plan was therefore subsequently considered sound. Natural England considered that the documents did not pose any likely risk or opportunity in relation to their statutory purpose, and therefore did not wish to comment.

1.2(xii) The Council's SA consultants (AECOM) were consulted on the responses, and they considered that:

- Historic England - broadly supportive.
- Environment Agency – the response (about foul water), was that this could mean that the scores for water could be changed from neutral to 'uncertain minor negative' in the SA Report. However, this could be done through Minor Modifications if required and that the Minor Modification referring to water quality as mentioned above would in any case bring the score back to 'neutral'.

1.2(xiii) The SA Report demonstrates that the SA Process is legally compliant, as well as illustrating that the DPD is sound in terms of 'sustainability' with the Minor Modifications suggested.

### **Issue 3: Habitat Regulations Assessment (HRA)**

1.3 Has the HRA been undertaken in accordance with the Regulations and is it robust?

#### *Response*

- 1.3(i) It is viewed that the Habitats Regulations' requirements have been met which is evidenced in the Habitats Regulations Assessment (HRA) and that the HRA is robust and meets the legal requirements.
- 1.3(ii) The HRA December 2021 (CD 1.3) looked at identifying any aspects of the DPD that would cause adverse effects on the integrity of European sites (Special Areas of Conservation (SACs), Special Protection Areas (SPAs), candidate Special Areas of Conservation (cSACs), potential Special Protection Areas (pSPAs) and, as a matter of Government policy, Ramsar sites), either alone or in combination with other plans and projects. It also investigates appropriate policy mechanisms for delivering mitigation where such effects were identified.
- 1.3(iii) Pages 7 and 8 of the HRA provides the methodology and the document also considered the Local Plans of the neighbouring Authorities.
- 1.3(iv) The document assessed the individual Policies of the DPD and chapter 5 of the document provides the conclusions that the site allocations would have no likely significant effect on either Ensors Pool SAC or the River Mease SAC.
- 1.3(v) There were no comments on the HRA at the Publication stage (Natural England indicated they did not wish to comment on it) and it is therefore considered that the HRA does not require any changes within the modifications.

#### Issue 4: Other legal and procedural requirements

1.4 Has the DPD been prepared in accordance with the Council's Local Development Scheme?

##### *Response*

- 1.4(i) The Local Development Scheme (LDS) was revised in December 2021 and approved by Cabinet at its meeting on the 8<sup>th</sup> December 2021 and subsequently the Minutes were approved by Full Council in February 2022. The LDS includes the programme for preparing the Gypsy and Traveller DPD. The dates for this specific DPD did not change from the previous LDS.
- 1.4(ii) The phases of the DPD have complied with the LDS timescales although the documents were submitted to the Secretary of State a month early e.g., in June rather than the stated July 2022. This was discussed with PINS at the time who considered this was not problematic.
- 1.4(iii) As the LDS dates require changing, these amendments have been approved by the Borough Plan Committee (on the 14<sup>th</sup> October 2022). The proposed amendments will then be considered by Cabinet and Full Council (as required by the LDS) in November and December 2022.
- 1.4(iv) The LDS requires that the Issues and Options stage and Publication stage is agreed by Cabinet. This was carried out on the 26<sup>th</sup> May 2021 and 12<sup>th</sup> January 2022 respectively. The LDS states that in order to submit to the Secretary of State both the Cabinet and Full Council have to approve the submission. This was approved by Cabinet on the 25<sup>th</sup> May 2022 and by Full Council on the 13<sup>th</sup> July 2022.
- 1.4(v) It is consequently considered that the DPD has been prepared in accordance with the Council's LDS requirements.

1.5 Has the DPD been prepared in accordance with the Council's Statement of Community Involvement at the relevant time and met the minimum consultation requirements in The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)?

##### *Response*

- 1.5(i) The Council has consulted with statutory consultees, non-statutory consultees and the local community at the various formal stages of the DPD preparation and given the required 8 weeks as set out in the Council's Statement of Community Involvement (SCI). The consultation also included specific interested parties such as consultation with individuals such as the Police Gypsy and Traveller Liaison Officer.
- 1.5(ii) The proposals were made available and publicised in a number of different ways in accordance with the regulations and responses have been accepted using a variety of means including written representations and those sent electronically. The publication has included press releases on the Council's web site as well as a number of press publications in newspapers, online and social media. The documents were made available online and at the Town Hall Nuneaton.

- 1.5(iii) Appendix A, C, D, E and F of the SCI provide details of the duty to cooperate and specific consultation bodies. The consultee data base is provided within the Examination documents (CD. 5.3).
- 1.5(iv) As required by the Council's SCI and Regulations; consultation was carried out at the Regulation 18 and Regulation 19 stage. Statutory consultees were also notified at other stages, such as when the proposed sites were identified and also following consultation at the Regulation 19 stage where it was considered necessary to clarify points raised in the Publication stage.
- 1.5(v) Consultees were given the option of either responding in writing, or by email and a standard format response document was also available.
- 1.5(vi) In addition to the above required consultation, drop in events for the public were carried out for the Gypsy DPD (as well as for other work requiring consultation) over 12 events between 23<sup>rd</sup> June 2021 and 29<sup>th</sup> July 2021.
- 1.5(vii) The consultant arc<sup>4</sup> made use of questionnaires and face to face meetings with the Gypsy, Traveller and Showpeople communities in order to assess the level of needs and identify sites as part of the Gypsy and Traveller Accommodation Assessment (GTAA) work.
- 1.5(viii) It is considered that the DPD has been prepared in accordance with the Council's Statement of Community (SCI) 2020 (CD 2.11) and has in fact exceeded the requirements in some matters.

## Matter 2 - Strategic issues and the assessment of need

### Issue 1: Overarching strategic issues

2.1 Is the plan period for the DPD the same as for the adopted Borough Local Plan?  
Is the plan period clearly set out in the DPD?

#### *Response*

- 2.1(i) The current adopted Local Plan known as the 'Borough Plan' runs from 2011 to 2031 but was only adopted in 2019. However, the Local Plan is currently being reviewed with the Preferred Options stage carried out in June and July 2022. The original intention was that the Gypsy and Traveller DPD would follow the same dates as the new Local Plan. Due to delays with the evidence base including the delay of the Publication of the sub regional HEDNA, the time frames for adoption of the new Borough Plan have slipped and is now predicted to be adopted in 2024 and will cover until 2039.
- 2.1(ii) The current proposed plan period for the DPD is set out in Strategic Policy GT1 – Overall Need (page 8) of the proposed Gypsy and Traveller Site Allocations DPD Publication consultation draft shows the plan period of 2021 to 2036 or 2022 to 2037. It is therefore suggested that the dates are from 2022 to 2037. Whilst this is not in line with the current or proposed Borough Plan, it is expected that for an interim period the Policy on need in the DPD will have to take precedence over that in the adopted Borough Plan. This is referred to in paragraph 3.3 of the DPD. It is considered that if the Inspector is minded, the DPD should be amended to show the dates on the front of the document when adopted.
- 2.1(iii) It is proposed that in line with the NPPF 2021 paragraph 33, the Gypsy and Traveller Assessment will need to be reviewed at least every five years and this could then trigger a review of the DPD in the event that needs are found to be different than the DPD. This is referred to in paragraphs 1.6 and 3.9 of the DPD; bearing this in mind the period of the DPD can then be extended to cover the new adopted Local Plan.

2.2 Is it proposed to remove site allocations from the Green Belt? If so would this approach be consistent with Policy DS7 of the Borough Plan (as required by Regulation 8[4] of the 2012 Regulations)? If not, is it effective and justified to create a situation where 'very special circumstances' are required in order to develop/intensify allocations at application stage and would this potentially hamper deliverability of sites?

#### *Response*

- 2.2(i) GTSA1 (Sunrise Cottage) and GTSA2 (The Old Nursery) and the Warwickshire County Council site at The Griff Hollows (which is also included within the DPD) are within Green Belt.
- 2.2(ii) The NPPF refers to changes to the Green Belt as only acceptable in exceptional circumstances. It is considered that the purposes of the Green Belt still need to be considered for these sites and therefore no changes are proposed to the Green Belt boundary to accommodate the sites.

- 2.2(iii) It is within this context, that the sites have been assessed against Green Belt policies to ensure that national and local Policy (DS7 - Green Belt Borough Plan 2011 – 2031) are met. The assessment has been carried out in the Council's document titled 'Site Assessments and the Green Belt' (CD 2.2).
- 2.2(iv) Land values in the urban area tend to prohibit Gypsy and Traveller sites being viable in the urban area. Crucially, the sites put forward are available and considered to be deliverable. The identification of sites in the Green Belt is therefore the most appropriate strategy in principle, when considered against the lack of any reasonable alternatives. Their continued use as Gypsy and Traveller sites is to be safeguarded through the DPD.
- 2.2(v) It is appreciated that merely identifying a site will not remove the need to demonstrate very special circumstances and as required in Local Plan Policy DS7. The NPPF paragraph 147 refers to inappropriate development should not be approved in Green Belt except in very special circumstances, NPPF paragraph 148 refers to harm having to be outweighed by other considerations. Therefore, these considerations have been carried out within the Council's supporting 'Site Assessments and the Green Belt' (CD 2.2) document.

#### Sunrise Cottage

- 2.2(vi) In relation to the impact on openness in the Green Belt, Sunrise Cottage is an existing developed site, and it is not intended to extend the curtilage of the site. This site has similar development to one side and apiary buildings on the other and a hedgerow to the rear. It is therefore considered that intensifying the site within the existing boundary would comply with the NPPF paragraph 149 tranche (g) as already developed land and would not have any greater impact on the Green Belt than the existing development and would provide extra affordable housing for the Gypsy community. In relation to the NPPF paragraph 138, it is considered that the sites intensification would not impact the first four key purposes of the Green Belt (tranches a-d). It is recognised that it would not assist in urban regeneration of derelict or urban land (tranche (e)). However, this type of use would not necessarily be able to be delivered (due to cost of the land in urban areas and separation requirements between the settled community and Gypsy and Travellers). It is also considered that the intensification of the site would comply with the limited infilling stated within the Borough Plan Green Belt Policy DS7.

#### The Old Nursery

- 2.2(vii) In reference to The Old Nursery site this was a previously developed site which included some buildings, one which has been converted to a bungalow. The site is between existing ribbon development with hedgerows which are intended to be retained. Therefore, it is considered that the development would comply with the NPPF paragraph 149 tranche (g) as already developed land and would not have any greater impact on the Green Belt than the existing development character of the immediate area. The site would also provide affordable housing for the Gypsy community. In relation to the NPPF paragraph 138 it is considered that the sites intensification would not impact the first four key purposes of the Green Belt (tranches a-d). It is recognised that it would not assist in urban regeneration of derelict or urban land (tranche (e)) as this type of use would not necessarily be able to be delivered (due to cost of the land in urban areas and separation requirements between the settled community and



Gypsy and Travellers). It is also considered that the intensification of the site would comply with the limited infilling stated within the Borough Plan Green Belt Policy DS7.

#### WCC Griff Hollows

- 2.2(viii) Whilst the WCC Griff Hollows site is in Green Belt there are no proposed amendments, or new pitches proposed, nor any new planning applications expected.
- 2.2(ix) To conclude, it is considered that the character of these sites will not contradict Green Belt Policies. The two sites that are to receive extra development e.g., Sunrise Cottage and The Old Nursery have previously been developed and will not provide any greater impact to the Green Belt than the existing situation. Therefore, they are compliant with paragraph 148 of the NPPF and the first four key purposes of the Green Belt within paragraphs 138 of the NPPF with reasoning why they could not be expected to comply with the fifth key purpose of paragraph 138. It is also considered that they comply with the limited infilling of Green Belt stated within the Borough Plan Green Belt Policy DS7. Therefore, it is the Council's consideration that the sites do not need to be removed from the Green Belt.

### **Issue 2: Vision and objectives and the spatial strategy**

2.3 Have the vision and objectives set out in the DPD been positively prepared? Are they justified and consistent with national policy and the adopted Borough Plan?

#### *Response*

- 2.3(i) The Gypsy and Traveller DPD vision and objectives state:

#### *“Vision*

*2.1 The vision was contained within the Issues and Options consultation draft of the DPD. Since that document the vision has been amended so that reference to the environment is made thereby linking the vision more to objective 3.*

*2.2 The vision for this DPD is for the needs of the travelling community in and visiting the borough to be provided with sufficient pitches so that they can live, work, and rest in the borough. Pitches will be well located and integrated into the environment and the local community thereby providing good access to essential services.*

#### *Objectives*

*2.3 The following objectives will help achieve the vision for the DPD. Three objectives were consulted upon and although no issues were raised by consultation responses on the content of the objectives, objective 3 has been amended. The intent of the objective remains the same, but the terminology has been changed so that it aligns better with the language used in the adopted Borough Plan.*

Objective 1 - to provide sufficient pitches for the needs of the travelling community.

Objective 2 - to provide provision in sustainable locations with good access to local services.

Objective 3 - to provide provision in such a way that the local environment is protected and, where appropriate, enhanced.

*These objectives are interrelated and in combination they will contribute to realising the vision for the DPD”.*

- 2.3 (ii) It is considered that the DPD vision mirrors the vision of the adopted Borough Plan 2011 – 2031 which states:

*Vision*

*4.1 By 2031, Nuneaton and Bedworth Borough will be a place where there are opportunities for sustainable economic growth with diverse job prospects, healthy and safe communities, and an integrated infrastructure network. Businesses will want to invest in the borough as a result of the outcomes of policies in the Plan, which will include creating an attractive environment.*

- 2.3(iii) Objective 5 of the existing adopted Borough Plan meets with the first objective of the Gypsy and Traveller DPD as it includes:

*4.5 To provide the size, type and mix of housing that meets the specific needs of the borough. In particular:*

- Affordable housing of different tenures to meet identified housing need.*
- Adequate provision to meet the identified needs of Gypsies and Travellers.*

- 2.3(iv) Objective 6 of the adopted Borough Plan is set within the Gypsy and Traveller DPD in section 2.2 as it refers to ensuring development being well located and providing integrated communities and providing access to essential services. The Borough Plan 4.7 states:

*4.7 To create healthy, safe and strong communities by:*

- Creating well planned and integrated communities that foster cohesion and accessibility for all.*

It is considered that the proposed pitch locations meet with this objective.

- 2.3(v) Objective 7 of the Borough Plan states:

*4.8 To ensure that new development enhances and improves the natural environment, which includes biodiversity, geodiversity and landscape. This will have secondary benefits of improving the quality and appearance of the existing urban area. In particular:*

This objective is reflected in objective 3 of the Gypsy and Traveller DPD.

- 2.3(vi) The vision for the emerging Borough Plan is:

*Vision*

*4.1 By 2039, Nuneaton and Bedworth Borough will be a place of sustainable economic growth with diverse job prospects with healthy and safe communities offering housing for all and supported by an integrated infrastructure network. The environment of the Borough will be improved through greater sustainable transport options, more/improved open spaces and leisure facilities, increased tree planting and reduced pollution levels, whilst conserving and enhancing the historic environment.*

It is considered that this meets the vision in 2.2 of the Gypsy and Traveller DPD. Objective 4 of the emerging Borough Plan refers to suitable housing for all. Similarly objective 7 of the emerging Plan refers to sustaining and enhancing the natural environment as reflected in objective 3 of the Gypsy and Traveller DPD. This is to ensure that new planning applications for the proposed sites consider the environment in a positive way when being assessed.

- 2.3(vii) The first objective of the Gypsy and Traveller DPD refers to the provision of sufficient pitches for the need; however, it refrains from providing a quantum figure as this will need to be reassessed over time.
- 2.3(viii) The second objective refers to the provision of sustainable locations for pitches with access to local services. Winter Oaks and the retained Showperson sites are considered to be sustainable. Though the main transport to essential services for The Old Nursery and Sunrise Cottage is likely to be by car; these two sites are within or near proximity to existing Gypsy communities and family or friendship groups may consider the sharing of transport trips; thereby providing better access to essential services. In addition, the sites are considered 'sustainable' in other ways as they provide an affordable provision and make use of existing brownfield sites and provide opportunities for integration of families.
- 2.3(ix) The Council considers that the vision and objectives within the DPD have therefore been positively prepared and are justified and consistent with national policy and the adopted and emerging Borough Plan.

2.4 Regulation 8(4) of 2012 Regulations states that plan policies must be consistent with the adopted development plan unless a policy is intended to supersede another adopted policy (Regulation 8[5]). Is the proposed relationship between emerging Policy GT2 and Policy H3 of the adopted Borough Plan consistent with these requirements? Should Policy GT2 be modified to either conform with or wholly supersede adopted Policy H3?

*Response*

- 2.4(i) It was originally the intention that the figures in Policy H3 of the adopted Borough Plan were superseded by the DPD but that Policy H3 was retained as a fallback position. This was so that in the first instance the Gypsy and Traveller DPD would provide the Policies for any new pitches. This was to ensure that any new pitches were considered firstly within the proposed sites provided in the DPD or within permitted area of existing sites and only once these options were exhausted (criteria 2) that any new pitches were considered adjoining existing sites. Again, only once this second option was exhausted would alternative sites be considered where they were sustainable

distances to services and then finally as a last resort any new sites were considered against Policy H3. However, as the Inspector considers that this approach is contrary to Regulation 8(4) of the 2012 Regulations, it is considered that further Minor Modifications are considered by the Inspector to paragraphs 1.2, 4.5, 4.6, 4.7, 4.9, 4.12, 4.20 and appendix 1 of the DPD. (See further recommended changes in appendix A (dated 16.10.22) submitted with the MIQ's). In addition, the amended Minor Modifications to Policy GT2 to incorporate the relevant wording from Policy H3 (also shown within appendix A) so that it supersedes entirely Policy H3 of the existing adopted Local Plan. The emerging Policy H3 will be changed to purely refer to the DPD for Policies relating to Gypsy, Travellers and Showperson pitches and plots.

2.5 Emerging Policy GT2 implies a sequential approach to the development of gypsy and traveller sites. How would this work in practice at application stage? In this regard is the policy clearly written and unambiguous so it is evident how a decision maker should react to development proposals?

*Response*

- 2.5(i) Following the Inspectors comments in 2.4 above, Policy GT2 has been amended to make the sequential approach more concise and unambiguous (See amended recommended Minor Modifications appendix A dated 16.10.22).

2.6 Is Policy GT2 intended to apply only to windfall sites that are not allocated in the DPD? Is the policy wording clear and unambiguous in this regard?

*Response*

- 2.6(i) Criteria 1 refers to the existing allocated sites and any windfall sites that meet this specific criterion. Criterion 2 and 3 of GT2 refers to windfall sites once criteria 1 has been exhausted. It is requested that Minor Modifications are carried out to GT2 in order to make the wording clearer within the Policy.

2.7 Is it clear how a decision maker should assess development proposals against criterion 3 of Policy GT2? Is the accessibility distance of 1.6 km justified and is it likely to be effective?

*Response*

- 2.7(i) The original criteria 3 referring to a distance of 1.6 Kms has now been removed and instead criteria 3(a) now refers to sites having to be closely linked to services. (See Minor Modifications – appendix A 16.10.2022.)

### **Issue 3: Need for gypsy and traveller pitches**

2.8 Is the evidence base supporting the identified need for residential pitches and Travelling Showpeople plots robust, taking into account factors such as existing provision, household growth, migration, hidden need (those in bricks and mortar housing), overcrowding, turnover, and any engagement with the gypsy and traveller community?

### *Response*

- 2.8(i) The needs were calculated using a wide data base.

### *Evidence base*

- 2.8(ii) A key component of the Gypsy and Traveller Accommodation Assessment (GTAA) December 2021 (CD 1.6) evidence base is a survey of households living on pitches and plots. Sites were visited (site observation) and the need was discussed with residents and general information on households living on pitches was obtained. The survey managed to reach out to 46 of the 52 Gypsy and Traveller households living on pitches (an 88.5% response rate) and a survey response from the single Travelling Showperson household living in the Borough was also obtained. The 46 Gypsy and Traveller interviews included 8 from multiple households living on family sites. The level of engagement with Gypsy, Traveller and Travelling Showpeople was therefore very high, with virtually every household participating with the study.
- 2.8(iii) The GTAA also included a review of existing (secondary) data including census data, caravan counts and unauthorised encampment data; and a survey of stakeholders including representatives from neighbouring local authorities.

### *Existing provision*

- 2.8(iv) The 2021 GTAA update provides a comprehensive assessment of the future need for residential plots for Gypsies, Travellers and Travelling Showpeople. Table 4.5 of the GTAA sets out the current supply of Gypsy and Traveller pitches on sites and Travelling Showperson plots of yards.

### *Household growth*

- 2.8(v) The GTAA methodology uses actual demographic data from household surveys to assess the level of short-term (5 year) and longer-term (remainder of plan period need).
- 2.8(vi) Table 6.1 of the GTAA identifies a need from 7 emerging households resulting from household growth; and Table 6.2 sets out growth from 12 households over the period 2026/27 to 2036/37. Although not set out in the GTAA, a total growth of 19 households over the period 2021/22 to 2036/27 (15 years) represents an annual growth rate of around 2.4%.

### *Migration*

- 2.8(vii) As part of the short-term five year need calculation, a detailed analysis of households moving to and planning to move from the borough is carried out. A key driver of need was in-migration of 16 households (table 6.1 row 3g). There was some anticipated outmigration (2 households) (table 6.1 row 4c) resulting in a 5-year net inflow of 14 households.

### *Hidden need (bricks and mortar)*

- 2.8(viii) The 2011 Census suggested there were 16 households living in bricks and mortar accommodation. For households currently in bricks and mortar, based on national arc<sup>4</sup> studies (based on a summary of responses from GTAA's received by arc<sup>4</sup>) it is estimated that 5.3% of households living in bricks and mortar would prefer to live on a

site which would equate to 1 household. A need from 1 household is therefore included within the modelling at 3e.

#### *Overcrowding*

- 2.8(ix) Overcrowding, which also includes a review of concealed households, is assessed through site observation and through the household survey that was carried out as part of the GTAA.
- 2.8(x) Paragraph 3.24 of the GTAA (CD 1.4) comments that:  
'A pitch may accommodate more than one family unit, for instance it could include a family, older children who have formed their own household and other family members. This could lead to potential overcrowding, and this is considered as part of the GTAA household survey.'
- 2.8(xi) According to the household survey, 23.1% of respondents said their pitch was overcrowded. This was reflected in the number of concealed households living on sites (8 were interviewed as part of the GTAA). This has been included within the number of pitches proposed.

#### *Turnover*

- 2.8(xii) Paragraph 6.24 of the GTAA (CD 1.4) states 'Turnover relates to the number of pitches that are expected to become available for occupancy. Analysis only includes expected turnover on public sites as this is referenced in (former) DCLG guidance and more accurate data on changes in pitch occupancy is likely to be available on public sites. Although there is likely to be turnover on private sites, the ability of households to move onto private sites may be more restrictive (for instance the site may be restricted to a particular family) and less likely to be recorded.'
- 2.8(xiii) Paragraph 6.25 of the GTAA (CD 1.4) states 'Household survey data indicates that in the past 5 years to April 2021, 7 households moved onto vacant pitches on the Griff Hollows or an average of 1.4 each year. Based on 20 occupied pitches, this is a turnover rate of 7% each year.'
- 2.8(xiv) As part of the needs modelling, an anticipated minimum turnover of 1.4 pitches each year was assumed (Table 6.4) for the Griff Hollows site.

2.9 Has the same methodology been used in both the 2016 Gypsy and Traveller and Travelling Showperson Accommodation Assessment and the 2021 update?

#### *Response*

- 2.9(i) The methodology was the same (site observation, stakeholder engagement and household surveys). However, the 2021 GTAA (CD 1.4) achieved a higher level of responses from households (31 responses in 2016 compared with 46 in 2021). The 2021 GTAA also included a review of Planning Policy for Traveller Site (PPTS) need.

2.10 What is the justification for not allocating a site for transit pitches? Has any assumption been made about the use of transit pitches in neighbouring local authority areas?

*Response*

- 2.10(i) Appendix B provides a Topic paper on transit provision.
- 2.10(ii) The GTAA (CD 1.4) concluded at para 7.7 states:  
‘There is currently no provision to address transit need but given unauthorised encampment activity, the Council will need to consider appropriate responses. These include transit pitches, stopover places and negotiated stopping arrangements. The Council should work with other Warwickshire local authorities to establish a coordinated response to the delivery of appropriate temporary accommodation options. The need to identify land for negotiated stopping is a priority’.
- 2.10(iii) As a more general point, councils are increasingly adopting flexible negotiated stopping arrangements with Travellers travelling within a local authority area rather than providing dedicated transit site facilities. Leeds City Council have instigated this, and their report (appendix C) confirms that this has been successful and recommendation number 4 within the report states that Leeds will encourage other parts of the country to adopt Leeds City Council ‘s approach.

2.11 If stopover places or negotiated stopping arrangements are to be utilised, how would this work, and which land would be used? What procedures are in place to ensure any such approach is effective?

*Response*

- 2.11(i) Unlawful stop overs within the Borough have reduced considerably in the last couple of years, part of the reasoning for this is that one travelling family has been provided with a permanent pitch within the Borough; two further that regularly camped unlawfully in the Borough have purchased land and established residential pitches outside of the Borough.
- 2.11(ii) Following a number of unlawful encampments, the Council received approval in 2019 for a Court Injunction which forbids known individuals and persons unknown from occupying 141 areas of land within the boundaries of Nuneaton and Bedworth. This Injunction is still in place today.
- 2.11(iii) However, where exceptional circumstances prevail, such as emergency medical needs are evidenced; there is a protocol for the Council to work with individuals to provide an emergency stopover. The Council are currently reviewing Council owned sites to fit this criterion and at least two emergency sites have been identified within the Borough. The Council also has available outside of the Borough; but in relative proximity to it an emergency stopover site owned by Warwickshire County Council at Oldbury Road Nuneaton, and which is shared by the Nuneaton and Bedworth Borough Council NBBC and North Warwickshire Borough Council.
- 2.11(iv) The Council’s Private Sector Housing Manager (currently Sarah Harper) and the Police Liaison Officer (currently Martin Rone-Clarke) are aware of these sites and the Housing Manager and Police Liaison Officer would work together in the provision of

these sites if required. There is a Warwickshire wide protocol for this situation and the working party have regular monthly meetings (see appendix G).

- 2.11(iv) In the event there is a negotiated stopover in the Borough, the Council has a draft stopping agreement which would need to be signed and agreed to; along with a bond of £100 to ensure that the land and any facilities provided by the Council is left in the same condition as prior to the encampment.

2.12 The 2021 update assesses need from a base-date of 2021, whereas Policy H3 of the Borough Plan identifies need from a base date of 2016. How has need arising during the period 2016-21 been accounted for?

*Response*

- 2.12(i) The 2016 GTAA identified no additional need for the period 2016 to 2021 but a surplus of 3 pitches based on demographic evidence at the time. The overall need was for 22 pitches 2021/22 to 2031/32, resulting in a need over the period 2016/17 to 2031/22 of 19 pitches or 1.3 each year.
- 2.12(ii) Given that the 2016 GTAA identified no specific need in the first five years, a pragmatic recommendation is that the 2021 GTAA (CD 1.4) 'resets the clock' and rather than reduce the plan period need by 3 pitches, the need for the plan period is 20 pitches of which 16 is PPTS need and 4 is non-PPTS need (Table ES1 of the GTAA). This is a similar magnitude of need evidenced in the 2016 GTAA of 19 pitches over the period 2016/17 to 2031/32.



## Matter 3 - Site allocations

### Issue 1: Site selection process

3.1 Has a rigorous search been undertaken to identify all potential sources of gypsy and traveller sites?

#### *Response*

- 3.1(i) To support the production of this document the Council ran a call for sites between 17th September 2021 and 22nd October 2021. In addition to this during the GTAA the consultant considered all of the existing or previous sites that had obtained consent and had discussions with the owners of all of the sites that entered into the GTAA survey.
- 3.1(ii) No sites were put forward within the call for sites, but the three sites and others were brought forwards by the site owners as part of discussions during the GTAA process. The sites were then independently assessed by Phil Somers of arc<sup>4</sup> whose specialism is carrying out site assessments of pitches and plots and was carried out to ensure the proposed sites could provide the projected yield.
- 3.1(iii) It was considered that the personal discussions on the sites provided the most successful methodology in providing potential new sites.

3.2 How were proposed intensification opportunities identified? Is their current use as gypsy and traveller sites lawful?

#### *Response*

- 3.2(i) As the call for sites failed to provide any sites, the intensification of the existing sites came about by the site visits during the 2021 GTAA (CD 1.4). Site owners were asked if they were willing to increase the number of pitches within the site and in one instance a new site was brought forwards by one of the site owners.
- 3.2(ii) Both Winter Oak and Sunrise Cottage sites have extant planning permission for pitches. Planning approval, Council reference 031921 provides the existing consent for 4 pitches at Winter Oaks (see appendix D) and 3 pitches were approved for the existing use at Sunnyside under Council reference 036103 (appendix E).

3.3 Taking into account the range of factors considered, has the Council's approach to site selection been robust, and is it justified?

#### *Response*

- 3.3(i) Due to the lack of any sites being brought forwards, the methodology of discussing and agreeing intensification of existing sites and the provision of a further site by a member of the Gypsy community is considered appropriate and deliverable. In addition, the sites have undergone independent assessments by Phil Somers of arc<sup>4</sup> whose specialism is carrying out site assessments of pitches and plots to ensure the

sites can provide the number of pitches without any inconvenience or disadvantages to existing residents within the site.

- 3.3(ii) Statutory consultees have also been consulted in relation to the specific sites and it is considered that there is not likely to be any showstoppers that could prevent the sites coming forwards.

### **Issue 2: Proposed allocations and policy requirements**

Are site allocations GTSA1 – Sunrise Cottage, GTSA2 – The Old Nursery, and GTSA3 – Winter Oak, soundly based? In particular:

#### **3.4 Is the allocation justified and is it supported by the evidence?**

##### *Response*

- 3.4(i) All four sites have been adequately assessed in order to bring them forwards as allocations. The GTAA 2021 (CD 1.4, 1.5 and 1.6) was updated throughout the process to assess the current occupancy of pitches within the Borough. The surveys carried out as part of this document and discussions with the Gypsy community provided details in order to assess the level of need. The sites brought forwards were independently assessed by Phil Somers of arc<sup>4</sup> whose specialism is carrying out site assessments of pitches and plots and was carried out to ensure the proposed sites could provide the projected yield whilst ensuring the sites could comply with fire safety, capacity and ancillary needs. Site assessments were also carried out including in relation to Green Belt acceptability in 'Site Assessments and the Green Belt' (CD 2.2). The sites and Policies were assessed within the Sustainability Appraisal Report (CD 1.2) and the Habitats Regulations Assessment (CD 1.3) which were updated to include the proposed sites.
- 3.4(ii) Technical stakeholders were consulted at a number of stages and prior to the allocating of the sites to ensure that highway safety, flooding, mining and impact to the environment was acceptable. In addition, after the consultation for the Publication document, where necessary these statutory consultees were again consulted in order to clarify and resolve any potential issues (CD 5.10).
- 3.4(iii) It is therefore considered that the allocations are justified and supported by evidence in the making of the DPD.

#### **3.5 Has the availability of the allocation to meet the identified need been robustly assessed? Have statements of common ground been agreed with the site owner confirming their intention to develop/intensify the site to the timescales envisaged?**

##### *Response*

- 3.5(i) The sites have been brought forwards by the site owners who are willing to intensify the sites within the timeframes given. Whilst statements of common ground have not been provided verbal confirmation has been given by the owners. The nature of the

Gypsy ethnicity is that a 'gentleman's handshake' is considered more binding by the community than anything in writing.

3.6 Is it clear whether the allocation would contribute to the Borough's 5 year supply of gypsy and traveller sites?

*Response*

- 3.6(i) It is considered that the required six pitches are likely to come forwards in the next five years from either the intensification of the sites or through the new site proposed. Notwithstanding this, turnover at The Griff Hollows County Council site is also expected to yield seven pitches in the next five years through turnover (based on the past five years of a turnover of 1.4 pitches each year).
- 3.6(ii) The Council will monitor the amount of pitches coming forwards on a yearly basis and the site owners will be contacted each year to discuss the owners' intentions in the next year of bringing the sites forwards. It is the intention that the GTAA will be refreshed within five years of adoption. If the required amount of pitches has not come forwards or more pitches are required, then this will be addressed within the GTAA. The Consultant and Council will further work with the site owners to encourage sites to come forwards or alternatively the provision of new sites will be investigated.
- 3.6(iii) Notwithstanding the above, the DPD still provides a mechanism for windfall sites to come forwards providing the need cannot firstly be met through the allocations.
- 3.6(iv) There has been a recent windfall site approved in June 2022 (Council reference 038515) for three mobile homes and which is an intensification of the Travellers Site at Rosewood, Mile Tree Lane and therefore this will be included within the monitoring figures for 2022.

3.7 Is the provision of 160 metre visibility splays, as required by Policy GT3, achievable within land controlled by the site owner or the public highway?

*Response*

- 3.7(i) In relation to Sunrise Cottage a previous approval reference 036103 in 2019 for the site required 160 metre splays. This condition would not have requested by the Highway Authority if it could not physically be achieved. When informal consultations were sent in relation to the allocation of this site the Highways Authority responded on the 25<sup>th</sup> November 2021 to advise:  
"Visibility to the south is ok however visibility to the North is restricted by overgrown hedgerow at around 80 metres, so as part of any planning application the visibility will need to be improved. Mile Tree Lane has a speed limit of 50mph so visibility splays of 160 metres should be provided, the splay appears to be achievable with some cutting back of the hedgerow."
- 3.7(ii) WCC Highways were asked to check the 160 metres visibility splays for Sunrise Cottage, and whether this was under WCC Highways ownership, and they responded on the 26<sup>th</sup> September 2022 to confirm that:

“According to the highway extent drawing I have; the highway covers the entire area of this splay. So, I would say for this one that the required splay is achievable within the highway.”

3.7(iii) In reference to the Old Nursery, whilst some work may be required to the access, the Highways Authority responded on the 25<sup>th</sup> November 2021 to this allocation to advise: “Visibility splays of 160 metres should be achievable for this access however the splay to the north would need to be measured to 1 metre out from the nearside of the carriageway due to the existing telegraph pole obstructing visibility to the nearside.”

3.7(iv) WCC Highways were asked to check the 160 metres visibility splays for The Old Nursery and whether this was under WCC Highways ownership, and they responded on the 26<sup>th</sup> September 2022 to confirm that: “So, there should not be any trees or hedges that need removing. The splay should be within the highway.”

The above responses are provided in full in appendix F of the MIQ’s.

**3.8 Are other site-specific requirements under Policy GT3, including the modifications proposed by the Council, justified and likely to be effective?**

*Response*

3.8(i) All of the key requirements stated in the proposed Policy are considered justified, necessary, relevant, enforceable, precise and reasonable as required by the six tests of conditions as stated in the NPPG (Paragraph: 003 Reference ID: 21a-003-20190723) and the NPPF paragraphs 55 and 56. Notwithstanding this, any formal planning application would be expected to raise any potential issues with the requirements and any breach could be reassessed and pre-commencement conditions added where necessary.

3.8(ii) The previous planning application for the building conversion at The Old Nursery requested a pre commencement condition for a detailed site investigation to determine the extent of any contamination and this may also be requested for the allocation site. This has therefore been added to the amended Minor Modifications (appendix A of the MIQ’s dated 16.10.22) for GTSA2 – The Old Nursery.

**Issue 3: Travelling showpeople site at Spinney Lane/Whittleford Road**

**3.9 Is the safeguarding of this site for use by travelling showpeople justified and supported by the available evidence?**

*Response*

3.9(i) One of the plots on the Showperson’s Yard allocation is currently still in use and it is recognised that this type of site is specific in and provides a different role to Gypsy or Traveller pitches. The plots tend to be larger to house the families work equipment such as fairground rides and wagons to be stored within the site and to allow room to work on this apparatus over the Winter months.

- 3.9(ii) It is recognised that the GTAA currently only indicates that one of the plots in the Yard is used for a household. Nevertheless, the survey (discussions with the owners) indicates that there could potentially be a need for a further plot in the future within the household, which could be accommodated within the retained plots on this site.
- 3.9(iii) Subsequently due to the specialised nature, requirements and what appears to be a rarity (this is the only Yard in Warwickshire), it is considered that safeguarding this Yard is appropriate.
- 3.9(iv) It must be noted that Policy GT4 – Site Safeguarding does state that in the event it can be evidenced in the future that the use is no longer required in Warwickshire or that another site is available in the area, then alternative uses may be permitted.

#### **Issue 4: Supply of pitches over the plan period**

3.10 Will there be at least a 5-year supply of deliverable pitches on adoption of the DPD?

##### *Response*

- 3.10(i) Please refer to the response to 3.6 (i) to (iv) above which provides the methodology proposed if the sites do not come forwards.

3.11 Will there be a supply of specific, developable sites, or broad locations for growth, for years 6 to 10 and years 11-15 of the DPD?

##### *Response*

- 3.11(i) The expected yield for 6 - 10 and 11 - 15 years is four and eight pitches respectively (totalling 12 for a cultural need). It is envisaged that not all the allocated sites will come forwards within the first five years and will therefore provide a phased supply of pitches. Notwithstanding this, the turnover for pitches at The Griff Hollows is anticipated to provide 15 pitches (based on 1.4 pitches per year multiplied by 10 years). Therefore, the turnover could potentially cover the entire need, but this cannot be relied upon which is why the new allocations have also been provided.
- 3.11(ii) It is intended that a further GTAA will be carried out within five years of adoption and a further call for sites or requests for sites can be carried out accordingly if there has been a shortfall delivering the sites.
- 3.11(iii) As stated previously, it is the intention that the DPD does not preclude the possibility of windfall sites coming forwards if they meet national and the local Policies set out in the DPD.

### 3.12 At what rate have windfall sites come forward in recent years?

#### Response

3.12(i) The Annual Monitoring Report shows the following supply of new pitches within the Borough since 2011:

April to April	No. of permanent pitches	Details of approval of permanent pitches	No. of transit pitches
2011/12	1	1 pitch Plot 5 Site 128B003-Parrotts Grove (030602) 2011.  Plus 1 pitch continued use - site 128B002 Parrotts Grove – Half Acre (030675) Continued use as residential caravan site for one gypsy family with 3 caravans, hardstanding and amenity block	
2012/13	4	4 pitches Site 19d001 Winter Oak (031921)	0
2013/14	0		0
2014/15	2	2 pitches Two Trees Farm (033096) superseded later by 035799	0
2015/16	3	3 additional pitches. Bottom Meadow (032595)	0
2016/17	0		0
2017/18	0		0
2018/19	5	5 pitches Two Trees Farm (035799) pitches	0
2019/20	3	3 pitches at Sunrise Cottage (036103)	0
2020/21	0		0
2021/22	0		0
April 2022-date	3	3 mobile homes Rosewood (038515)	0

3.12(ii) Using the above the average provided for a 5-year period between 2011 – 2015 shows seven new permanent pitches were approved as windfall sites. Likewise, between 2016 and 2020 a yield of eleven permanent pitches were provided as windfall pitches. Thus, the average is 1.8 windfall pitches a year. Three permanent pitches have been provided since April 2022. This therefore indicates that there could be a potential for windfall sites to provide the required 11 pitches by 2037 without allocating the specific sites but as this is entirely speculative based on historical data this option would not be considered appropriate.

#### **Matter 4 - Monitoring**

Is the Monitoring Framework set out in section 5 of the DPD effective in delivering the policy requirements during the plan period? In particular:

4.1 Are the proposed indicators and targets appropriate and measurable? Are they clearly time related such that they can be monitored during the plan period rather than at the end of it? Are they clearly expressed as targets rather than objectives? Are any others necessary for monitoring to ensure soundness of the DPD?

#### *Response*

- 4.1(i) The intention is to carry out a new Gypsy, Traveller, and Showpeople Accommodation Assessment (GTAA) within five years of adoption of the DPD.
- 4.1(ii) The intention is that the number of new pitches will be monitored annually within the AMR to ensure the objectives are met. It is recommended that in Chapter 5 under table 3 of the DPD under Policy GT3 - Site Allocations that wording is added to illustrate that the Council contacts the site owners of the proposed sites each year to query the likelihood of the sites coming forwards and identify and respond to any issues the land owners may have at the time. (Minor Modifications appendix A of the MIQ's dated 16.10.22)

4.2 Does the monitoring framework clearly set out what actions will be taken if targets and policies are not being achieved?

#### *Response*

- 4.2(i) The documents state that a new GTAA will be carried out within five years of adoption of the DPD. The modifications (appendix A of the MIQ's dated 16.10.22) to the DPD propose Policy GT2 of the DPD will allow for windfall sites that meet the criteria within the DPD.
- 4.2(ii) It is considered that further Minor Modifications (appendix A of the MIQ's dated 16.10.22) are carried out to paragraph 3.9 and table 3 of the DPD in order to clearly state the actions proposed both yearly and five yearly.

4.3 Is the Monitoring Framework effective in supporting the process of reviewing the DPD to assess whether it will need updating at least once every five years in accordance with paragraph 33 of the National Planning Policy Framework?

#### *Response*

- 4.3(i) It is acknowledged the wording is currently unclear but as stated in 4.2(ii) further Minor Modifications (appendix A dated 16.10.22) have been requested in order to make the intentions of the Council stronger to ensure the needs are regularly monitored and updated where necessary and in order to comply with the five yearly re-evaluation as required by the NPPF.