



The Planning Inspectorate

Report to the Council of the London Borough of Newham

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an Inspector appointed by the Secretary of State for Communities and Local Government

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the London Borough of Newham Local Plan, Gypsy and Traveller Accommodation Development Plan Document

The Plan was submitted for examination on 21 September 2016

The examination hearings were held on 18 and 19 January 2017

File Ref: PINS/G5750/429/9

Abbreviations used in this report

AA	Appropriate Assessment
DtC	Duty to Co-operate
DSPDPD	Detailed Sites and Policies Development Plan Document
GTAA	The Newham Gypsy and Traveller Accommodation Assessment
GTADPD	London Borough of Newham's Local Plan Gypsy and Traveller Accommodation Development Plan Document
HMA	Housing Market Area
HRA	Habitats Regulations Assessment
LDS	Local Development Scheme
LGTU	London Gypsy and Traveller Unit
LPCS	Local Plan Core Strategy
MM	Main Modification
NPPF	National Planning Policy Framework
OAN	Objectively assessed need
PPTS	Planning Policy for Traveller Sites
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SHMA	Strategic Housing Market Assessment

Non-Technical Summary

This report concludes that the London Borough of Newham's Local Plan Gypsy and Traveller Accommodation Development Plan Document provides an appropriate basis for the planning of the Borough, provided that a number of main modifications [MMs] are made to it. The Council of the London Borough of Newham has specifically requested me to recommend any MMs necessary to enable the Plan to be adopted.

All the MMs were proposed by the Council, and were subject to public consultation over a 6 week period. I have recommended their inclusion in the GTADPD after considering all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- Amending the text of Policy H8 to clarify that need can be demonstrated by a needs assessment or evidence of personal circumstances in relation to the definition of gypsy, travellers and travelling showpeople in national policy;
- Setting out a clear explanation on this matter in the reasoned justification
- Amending Policy H8 to reflect the suitability of sites for caravans in respect of flood risk and explaining vulnerable uses in relation to flood risk in the Reasoned Justification;
- Amending Policy H8 to make clear that it is the relevant parts of related Local Plan Core Strategy (LPCS) Policies that apply with regard to infrastructure requirements, and explaining which infrastructure requirements are applicable and how they are to be secured and managed in the Reasoned Justification;
- Amending the text of Policy H8 to make clear which of the criteria of LPCS Policies INF2 and INF8 are applicable; and
- Including representatives of the gypsy, traveller and travelling showpeople community as a stakeholder in the implementation and monitoring of the Local Plan

Introduction

1. This report contains my assessment of the GTADPD in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the GTADPD's preparation has complied with the DtC. It then considers whether the GTADPD is sound and whether it is compliant with the legal requirements. The NPPF (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The basis for my examination is the submission draft of the London Borough of Newham's Local Plan GTADPD which was published for consultation in September 2016.

Main Modifications

3. In accordance with section 20(7C) of the 2004 Act, the Council requested that I should recommend any MMs necessary to rectify matters that make the GTADPD unsound/not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2**, **MM3** etc, and are set out in full in the attached Appendix.
4. Following the examination hearings, the Council prepared a schedule of proposed MMs. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report.

Assessment of Duty to Co-operate

5. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the GTADPD's preparation.
6. The Council has consulted and actively engaged with neighbouring authorities and other DtC bodies in the preparation of the GTADPD. As part of the evidence base for the Newham GTAA February 2016, interviews were held with planning officers from the neighbouring Boroughs of Barking and Dagenham, Hackney, Tower Hamlets, Waltham Forest, Greenwich and the London Legacy Development Corporation. While the neighbouring Borough of Redbridge did not respond to the invitation to take part, the level of involvement demonstrates that there was an awareness of cross boundary issues during the early preparation of the Plan.
7. Tower Hamlets subsequently produced its own GTAA in August 2016 which sets out a similar level of collaborative working. Nevertheless, Newham has focused on meeting its own needs and is not relying on neighbouring authorities to assist, neither has it been asked to assist in meeting the gypsy and traveller accommodation needs of any neighbouring authorities. The GTADPD is based on a strategy that seeks to meet OAN, including unmet need

from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development. The strategy seeks to achieve this end although there is currently no expectation that Newham should provide additional pitches to meet the requirements of neighbouring authorities.

8. The Council prepared a Statement of Consultation (incorporating the Duty to Cooperate) and based on what is set out in that document, I am satisfied that where necessary, the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan, and that the duty to co-operate has therefore been met.

Assessment of Soundness

Main Issues

9. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings I have identified 3 main issues upon which the soundness of the Plan depends. Under these headings my report deals with the main matters of soundness rather than responding to every point raised by representors.

Issue 1 – Whether the GTADPD is based on robust evidence concerning the accommodation needs of the gypsy, traveller and travelling showpeople community over the plan period

10. The purpose of the GTADPD is to ensure that the needs of gypsies, travellers and travelling showpeople within the Borough, assessed against national guidance, are considered and that suitable types of accommodation are provided. The GTADPD makes reference to the Newham GTAA 2016 which was prepared in accordance with the PPTS (2015) to assess the accommodation needs of gypsy, traveller and travelling showpeople in the Borough.
11. The GTAA applied a standard methodology for determining the travelling history and intentions of local gypsy and traveller households, in order to ascertain whether individuals met the Government's definition as set out in the PPTS Annex 1. It was found that none of those interviewed presently travelled for work purposes, nor had any of the interviewees pursued a nomadic lifestyle in the previous twelve months. Furthermore, no-one claimed to have temporarily ceased travelling due to their own or their dependants' requirements based on education, health or age.
12. Twelve months is a reasonable reflection of recent travel activity as it covers the working season and the school year. Whilst some individuals interviewed as part of the study indicated that they had travelled in the past for work purposes, this was many years prior to assuming a settled lifestyle, and none planned to do so in the future beyond trips to visit friends and family. All of the households resident at the Borough's single, existing gypsy/traveller site were interviewed as part of this process.
13. The GTAA acknowledges that gypsy, traveller and travelling showpeople families residing in bricks and mortar housing are often hard to reach. To overcome this, the GTAA attempted to identify as many as possible and to

publicise the research being undertaken. This resulted in the exploration of a number of potential leads, including contacts derived from gypsy/travellers residing in the existing gypsy/traveller site, Council intelligence and data, and the knowledge of other local stakeholders, including the LGTU. The GTAA also found due to limited levels of unauthorised encampments over recent years in the Borough that there was no need to deliver any new transit provision at this time. This situation will be monitored with neighbouring Boroughs during the GTADPD plan period.

14. In preparing the GTADPD, the Council has followed the advice in the PPTS in respect of those gypsy, traveller and travelling showpeople who meet the PPTS Annex 1 definition. The GTAA finding that no planning need for gypsy, traveller or travelling showpeople accommodation exists within the Borough, in terms of the PPTS Annex 1 definition, informed the preparation of the GTADPD. In response, a criteria based policy has been formulated to be utilised in the event that an application(s) comes forward in the future for a pitch(es) or a plot(s) from those who meet the PPTS Annex 1 definition.
15. Those from a gypsy, traveller or travelling showpeople tradition who do not lead a nomadic lifestyle, but are regarded as being part of a protected group for the purposes of the Equality Act (2010) such as Romany Gypsies and Irish Travellers, or fall to be considered under the assessment of caravan and boat-dwelling need as set out in the Housing and Planning Act (2016), are not within the scope of this GTADPD.
16. Nevertheless, the Council has had due regard to the duty under the Human Rights Act 1998 to facilitate the gypsy way of life in relation to ethnic gypsies. Such persons may be able to demonstrate a cultural need for a caravan pitch under other legislation and the Housing and Planning Act (2016) includes a duty for local authorities to consider the needs of people residing in or moving to their district with respect to the provision of pitches/plots on which caravans can be stationed. To that end, the accommodation needs of all gypsy, traveller and travelling showpeople households have been assessed in the SHMA (2016) whether they travel or not and the Council will seek to meet their accommodation needs as part of its OAN through the policies of the LPCS and DSPDPD.
17. In this regard, the GTAA gives an indication of the likely accommodation needs of those gypsy, traveller and travelling showpeople who will come of age during the plan period but do not meet the PPTS definition in terms of being actively involved in a nomadic way of life. It identified 4 children living on the existing gypsy and traveller site in Newham who will be coming of age in the next 5 years. This is a possible growth trend indicator of the likely accommodation needs of gypsy, traveller and travelling showpeople already subsumed within the Council's SHMA 2016, and responds to the requirement to ensure that such needs are addressed in adhering to the Public Sector Equality Duty.
18. However, the figure provided in the GTAA is not a complete picture of such need, as it does not, for example, account for household formation and inward migration. Under the Housing Act (1985), Housing and Planning Act (2016) and the Equality Act (2010) it is the responsibility of the Council in its role as a

Local Housing Authority to assess and consider how to meet the accommodation needs of gypsy, traveller and travelling showpeople who do not lead a nomadic lifestyle.

19. It will be for the Council to respond in due course to the Government's Housing White Paper published on 7 February 2017 and to review its plans in the light of the changes to the NPPF and any regulatory changes that come into effect. In the meantime, any proposals to meet the accommodation needs of gypsy, traveller and travelling showpeople who do not lead a nomadic lifestyle would be assessed against LPCS Policy H3 and formulated in light of overall housing need and awareness of the need to provide for a variety of housing types.
20. Paragraphs 50 and 159 of the NPPF promote the delivery of a wide choice of homes where planning authorities have planned for a mix of different sizes, tenures and types of housing via current and projected needs based trends. The LPCS responds to this in its housing land allocations and the policies guiding the location, mix and quality of accommodation types, including specialist accommodation. The Council proposes that any considerations in relation to culturally-specific housing needs, equalities and human rights, and their relevant weight in planning decisions, would be dealt with as part of the development management process.
21. Nevertheless, the LPCS and the GTADPD can respond to changes in personal circumstances should a return to, or commencement of, a nomadic lifestyle bring an individual(s) within the PPTS definition of a gypsy, traveller or travelling showperson. This would be achieved through a continual process of monitoring and review, subject to a main modification as discussed below, and by criteria aimed at allowing further evidence to be considered in justifying accommodation need. This would ensure that any changes to individual circumstances that would impact upon the existing OAN figure can be adequately addressed.
22. To this end, and to clarify that individuals will not be expected to undertake a full needs assessment but that the evidence submitted should demonstrate a need for accommodation under national policy, a main modification is proposed to criterion 1 of Policy H8 (**MM1**). Without this MM the policy could be seen as onerous and discriminatory, and therefore unsound. With this MM however, I am satisfied that the GTADPD would not result in an adverse impact on protected groups for the purposes of the Public Sector Equality Duty and the Equality Act 2010.

Issue 2 – Whether the Council's strategy for meeting the needs of the gypsy and travelling community in Newham is sound and the policy is consistent with, and positively promotes, the visions, objectives and spatial policies contained in Newham's Local Plan and the London Plan

23. The London Plan 2016 requires a choice of homes to be brought forward across the capital that are affordable and meet the requirements for different sizes and types of dwellings within high quality environments. It is incumbent on each London Borough (in consultation with the Greater London Authority and local communities) to identify and address the range of needs likely to arise within its area.

24. The Spatial Vision for Newham up to 2027 is set out within the LPCS, adopted January 2012. The LPCS comprises a number of spatial and core policies set across five major themes that are then continued by the policies of the DSPDPD. Under the theme of *Homes*, the LPCS sets out to build sustainable communities containing a balanced mix of house types, sizes and tenures with LPCS Policies H1 and H3 being broad criteria-based policies for all types of housing accommodation need. The GTADPD will add a further policy to the 'homes' theme in relation to gypsy, traveller and travelling showpeople accommodation.
25. GTADPD Policy H8 is aimed at addressing the accommodation needs of gypsies, travellers and travelling showpeople, by making provision for their nomadic lifestyle in accordance with the Council's spatial vision. The Policy will stand alongside the LPCS and DSPDPD Policies which seek high quality design, access to infrastructure provision and a balance between competing housing needs.
26. As set out above, the Newham GTAA 2016 found no requirement for sites to accommodate gypsies, travellers and travelling showpeople, as none met the PPTS definition within the Borough. That being the case, it is the Council's intention that as an integral part of the Borough's Local Plan, the GTADPD will be subject to a robust monitoring and review process. In addition, the Newham GTAA 2016 will be subject to a periodic review process in its own right in common with other strategic evidence bases such as the SHMA.
27. This will follow Government guidance on the matter and will take account of overall review timescales and monitoring information such as evidence of any changes in the travelling habits of gypsies, travellers and travelling showpeople within the Outer North East London Strategic Housing Market Assessment Region. Such data may of itself require a review of the plan if not initially part of such a review.
28. A MM has been put forward by the Council in this regard. It introduces a commitment to ongoing engagement with internal and external stakeholders, including representatives of the local gypsy, traveller and travelling showpeople community, to inform the review of the evidence base and assessment of whether that evidence base and associated policy remain up to date (**MM9**). This is necessary to ensure the effectiveness of the plan.
29. Against this background, the strategy for meeting the accommodation needs of gypsies, travellers and travelling showpeople is soundly based and is consistent with, and positively promotes, the visions, objectives and spatial policies contained in Newham's Local Plan and the London Plan.

Issue 3 – Whether Policy H8 is clear, justified and consistent with national policy and whether it will be effective

30. In common with GTADPD Policy H8, LPCS Policy H3 and DSPDPD Policy H5 apply needs tests against specialist housing, including proving local need for nightly hostel accommodation provision under H5. Applicants are required by Policy H5 to provide robust information to demonstrate that two thirds of their bed spaces would be used to satisfy local need which is independently verified

by specialist commissioners within the Council's Housing and Social Services departments.

31. In respect of gypsy, traveller and travelling showpeople need, GTADPD Policy H8 seeks verifiable evidence so that a comparison may be made with the methodology used in the Council's planning policy needs assessment. This will serve to address the provision of mainstream and specialist housing need in a proportionate manner. The GTADPD acknowledges that it is the Council's responsibility to ensure an up-to-date evidence base is in place to enable the policy to respond to amendments to national policy and changed circumstances in respect of gypsy, traveller and travelling showpeople accommodation needs that was not anticipated by the Council's accommodation assessment.
32. The Council however, proposes a MM in relation to the information that is necessary to establish evidence of accommodation needs under criterion 1 of Policy H8 to clarify when a full needs assessment would be sought and what is meant by the term "existing provision" (**MM2**). This is necessary to make clear what is required under the policy and ensure that it is sound.
33. In accordance with adopted Policy SP8 of the DSPDPD, all proposals within the Borough are expected to achieve neighbourliness throughout the lifetime of the development. The policy provides a set of criteria by which to assess the environmental, social and design impacts of all schemes, seeking to ensure that the amenity of existing and future residents of both the site and its surrounding area is not negatively impacted and to spread the benefits of regeneration and development beyond the site's boundaries as part of broader convergence and place-making aims.
34. In cross-referencing Policy H8 to other Local Plan Policies, no more onerous a requirement is placed upon any proposed gypsy, traveller and travelling showpeople accommodation than would be placed upon any other housing proposal, by the existing policy framework. All proposals would be expected to bring forward policy compliant schemes that consider the provision of green space across the Borough (both for residents of that site and beyond) and that encourage the use of sustainable transport, in line with the broader objectives of the Local Plan and the London Plan.
35. This does not preclude for example, the use of motor vehicles to tow caravans or carry out a business. However, it encourages where possible that journeys should be made by sustainable transport modes. Equally, if a proposal involves the loss of green infrastructure, this would be a consideration in its acceptability to be weighed against any proposed mitigation and the implications of not providing for evidenced housing need.
36. The Council proposes MMs to explain how the residential use of a site as a caravan pitch(es)/plot(s), as opposed to mainstream housing, would be considered in relation to matters such as flood risk and Metropolitan Open Land designation. This will clarify the difference with site suitability between the siting of a caravan(s) on a site compared to other forms of housing, particularly in relation to flood risk (**MM3 and MM4**). Furthermore, the Council proposes MMs to clarify that criterion 3 relates to infrastructure sufficiency/provision in respect of making a site suitable for residential use so

that only those parts of the policies cross-referenced (i.e. those relating to infrastructure sufficiency/residential suitability) will be of relevance, and to specify those criteria from LPCS Policies INF2 and INF8, that are applicable to applications under Policy H8 (**MM5, MM7 and MM8**). These MMs are necessary to make clear what the Policy seeks to achieve and prevent it from being onerous or discriminatory in its application, thereby ensuring that it is sound.

37. In addition, management plans are an existing policy requirement in relation to other types of specialist accommodation, as set out in Policy H6 of the DSPDPD, and serve to secure measures such as adequate infrastructure provision and maintenance. The Council proposes MMs to clarify how the amended criterion 3 of Policy H8 affects infrastructure provision in respect of gypsy, traveller and travelling showpeople accommodation and explain that management plans should be proportional to the scale of the development proposed (**MM6**) and to clarify the intention of the policy so as not to prejudice smaller scale applications (**MM10**). As with those above, these MMs are necessary to make clear what the Policy seeks to achieve and prevent it from being onerous or discriminatory in its application, thereby ensuring that it is sound.
38. In this regard, the policy adopts an approach that is comparable to that taken in the Local Plan to general housing provision. It can respond to changing assessments of the accommodation needs of those gypsy, travellers and travelling showpeople who may in future fall within the PPTS definitions in Annex 1 and can deal with applications from private individuals or for affordable pitch/plot provision from the Local Housing Authority or a Registered Social Landlord.

Assessment of Legal Compliance

39. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all subject to the necessary modifications to ensure it complies with national policy.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The London Borough of Newham Local Plan, Gypsy and Traveller Accommodation Development Plan Document has been prepared in accordance with the Council's LDS September/2016.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in July 2015. Consultation on the Local Plan and the MMs has complied with its requirements.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Assessment (HRA)	The Habitats Regulations AA Screening Report September 2016 sets out why AA is not necessary. Natural England support this.

National Policy	The GTADPD complies with national policy except where indicated and MMs are recommended.
2004 Act (as amended) and 2012 Regulations.	The GTADPD complies with the Act and the Regulations.

Overall Conclusion and Recommendation

40. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
41. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix, the London Borough of Newham Local Plan, Gypsy and Traveller Accommodation Development Plan Document satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the NPPF.

Richard McCoy

Inspector

This report is accompanied by an Appendix containing the Main Modifications.

Appendix – Main Modifications

The modifications below are expressed in the conventional form of ~~strikethrough~~ for deletions and underlining for additions of text.

Ref	Section and page of submitted plan	Main Modification
MM1	Policy H8 Criterion 1 Page 9	<p>Need is adequately demonstrated <u>evidenced</u> through either:</p> <p><u>(i) An up to date, robust needs assessment; or</u> <u>(ii) verifiable evidence about personal circumstances relating to the definitions in national policy</u></p> <p><u>in both cases taking into account how existing provision cannot meet the identified need</u> undertaken using an agreed, quality-assured methodology</p>
MM2	Reasoned Justification Paragraph 6 Page 11	<p>.....First, proposals must be accompanied by robust up to date evidence to establish local need, seeking to ensure, in the context of a shortage of development sites and extensive mainstream housing need and in line with equivalent policies H5 and H3, that specialist accommodation for gypsies and travellers is only provided to meet identified needs <u>that cannot otherwise be met by existing lawful (in Newham, protected by Policy H4) or planned (consented or Local Plan-allocated) provision in Newham or the neighbouring boroughs (the sub-region)</u>. The Council will ensure that an up to date evidence base in relation to gypsy and traveller need is maintained in line with Government guidance. Currently this comprises the GTAA, undertaken using a methodology developed by consultants in accordance with national planning policy and guidance, and evolving case law and Local Plan examination reports, with recognised quality assurance processes. In demonstrating need, should applicants seek to provide further evidence, <u>where a new site incorporating multiple pitches is proposed, robust and verifiable documentation should be prepared in a manner that similarly responds to National planning policy, case law and guidance, taking into account requirements net of existing lawful or planned (consented or Local Plan allocated) provision in the sub-region including appropriate demographic modelling, using a methodology agreed with the LPA. Where applicants seek an individual pitch or pitches to meet a single family group's need, a credible demonstration of personal circumstances relating to national policy definitions and the adequacy of existing lawful provision (including that with consent and allocated in a plan) in the sub-region should be provided.....</u>The methodology should be agreed with the LPA</p>
MM3	Policy H8 Criterion 3 Page 9	The site <u>is located in flood zone 1 or exceptionally in flood zone 2</u> and is otherwise suitable for residential development...
MM4	Reasoned	Secondly, the suitability of the site for use as a gypsy

	justification Paragraph 7 Page 11	and traveller site is an important consideration. Green Belt and Metropolitan Open Land locations will not be acceptable unless very special circumstances exist, as per national and London Plan policy. Moreover caravans are regarded as a 'highly vulnerable use' in national flood risk policy and guidance, <u>meaning they should not be stationed in flood zone 3 and should only be exceptionally located in flood zone 2.</u> In addition, Gypsy-Traveller accommodation as with mainstream housing, requires sites of suitable quality...
MM5	Policy H8 Criterion 3 Page 9	and the <u>associated</u> necessary (primarily physical) infrastructure will be made available as part of the development proposal as per <u>the relevant paragraphs</u> of policies S1, SP2, SP3, H1, SC3, SC5, INF8 and INF3
MM6	Reasoned justification Paragraph 7 Page 11	...gypsy/traveller accommodation as with mainstream housing, requires sites of suitable quality in terms of other things, exposure to noise and other environmental pollutants and availability of supporting on site infrastructure. <u>On site, [primarily physical] infrastructure requirements will range from conventional servicing such as waste management, to (potentially) specialist utility and communal spaces, and accommodation and access for large vehicles. All such needs should be set out and met on site through the proposed design and necessary management plans, demonstrating that they will deliver appropriate housing quality and highway safety, capacity and environmental quality and containing a level of detail proportionate to the scale of development proposed</u>
MM7	Policy H8 Criterion 4 Page 9	INF2: <u>6 & 8</u>
MM8	Policy H8 Criterion 5 Page 9	INF8: <u>1</u> and H1: <u>6</u>
MM9	Reasoned Justification Implementation and Monitoring para 4 Page 12	Monitoring and continuing engagement <u>with internal and external stakeholders including representatives of the local gypsy, traveller and travelling showpeople community</u> will inform the review of the evidence base and assessment of whether that evidence base and associated policy remain up to date
MM10	Reasoned justification Implementation and Monitoring para 1 Page 12	A management plan will set out how features such as communal infrastructure are managed on an ongoing basis so as to maintain neighbourliness within and beyond the site and ensure housing quality and amenity for residents; <u>this should be proportionate to the scale of the development proposed.</u>