

TOWN AND COUNTRY PLANNING ACT 1990

**APPEAL (1) BY MR BILLY JOE SAUNDERS AGAINST AN ENFORCEMENT NOTICE
ISSUED BY BROXBOURNE BOROUGH COUNCIL ALLEGING
WITHOUT PLANNING PERMISSION, THE CHANGE OF USE OF THE LAND TO A
RESIDENTIAL CARAVAN SITE BY THE STATIONING CARAVANS AND MOBILE HOMES
ON THE LAND ALONG WITH ASSOCIATED OPERATIONAL DEVELOPMENT**

**APPEAL (2) BY MR BILLY JOE SAUNDERS AGAINST A REFUSAL BY BROXBOURNE
BOROUGH COUNCIL OF AN APPLICATION FOR THE USE OF LAND FOR THE
STATIONING OF CARAVANS FOR RESIDENTIAL PURPOSES, TOGETHER WITH THE
FORMATION OF HARDSTANDING AND UTILITY/DAY ROOM ANCILLARY TO THAT USE
AND THE USE OF LAND FOR THE KEEPING OF HORSES AND THE ERECTION OF A
STABLE**

PINS REF: APP/W1905/C/23/3334117 & APP/W1905/W/23/3327012

GPS Ref: 23_1287

LPA REF: ENF/23/0033 & 07/23/0119/F

**ASSESSMENT OF THE NEED FOR
GYPSY AND TRAVELLER PITCHES IN THE BOROUGH OF BROXBOURNE
ON BEHALF OF THE APPELLANT
GREEN PLANNING STUDIO LTD**

Preliminary Issues

1. This assessment is produced by Green Planning Studio Ltd (“**GPS**”) and considers the “Gypsy Traveller Accommodation Assessment Final Report”, published by Opinion Research Services (“**ORS**”) in April 2017, (“**the GTAA**”) (Appendix C1).
2. To produce this assessment GPS sought confirmation from Broxbourne Borough Council (“**the Council**”) of the most up to date gypsy and traveller accommodation assessment (Appendix C23). No response has been received.
3. If it comes to light that there is a further GTAA, the Appellant will need to be given opportunity to respond to such and a costs application will follow.

Outdated GTAA

4. Local Authorities are required to demonstrate a five-year supply in relation to their Gypsy, Travellers and Travelling show people pitches. Paragraph 76 of the NPPF provides sets out the requirement on Council's to:

“...identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing ...”

5. Footnote 41 makes it clear that the requirement also applies to gypsy and traveller pitches.

“For the avoidance of doubt, a five-year supply of deliverable sites for travellers – as defined in Annex 1 to Planning Policy for Traveller Sites – should be assessed separately, in line with the policy in that document”

6. The Planning Policy for Traveller Sites at paragraph 10 provides:

“Local planning authorities should, in producing their Local Plan:

a) identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years’ worth of sites against their locally set targets”

7. It is clear that the Council are in breach of their duties, the most recent GTAA is dated April 2017; by the time of this inquiry it will be seven years old. The evidence base is out of date and as such the Council cannot demonstrate a five-year supply of gypsy and traveller pitches.

PPTS Definition

8. The GTAA is based on the now outdated 2015 PPTS definition and contended that only the need for those meeting that definition plus 10% of “unknown households” ought to be met.

9. In December 2023 the definition of gypsy and traveller in the PPTS was changed; reverting back to the definition used in 2012.

10. Following the change in the PPTS definition, it is anticipated to be common ground that the need for all Travellers will need to be met by the Council. On ORS’ figures this is a total need of 37 pitches between 2017 and 2033.

11. However, it is clear upon review of the GTAA that there are various errors therein that will have resulted in an underestimation of the need in the Borough and the lack of and need for gypsy and traveller pitches is worse than the Council figures portray.

12. In fact, this was acknowledged in the Inspector's report for the Local Examination at paragraph 252:

"It is quite possible, for a number of reasons, that the GTAA conclusions about the number of existing (and future) households that meet the definition are underestimates. These relate to the nature of the questions asked, and the reluctance of some respondents to reveal details of the family's working and travelling arrangements"

13. This assessment seeks to identify those errors.

Statutory Framework

14. The House and Planning Act 2016 at section 124 sets out:

Assessment of accommodation needs

(1) *In section 8 of the Housing Act 1985 (periodical review of housing needs), after subsection (2) insert—*

“(3) In the case of a local housing authority in England, the duty under subsection (1) includes a duty to consider the needs of people residing in or resorting to their district with respect to the provision of—

(a) sites on which caravans can be stationed, or

(b) places on inland waterways where houseboats can be moored.

(4) *In subsection (3)—*

“caravan” has the meaning given by section 29 of the Caravan Sites and Control of Development Act 1960;

“houseboat” means a boat or similar structure designed or adapted for use as a place to live.”

(2) *In the Housing Act 2004 omit sections 225 and 226 (accommodation needs of gypsies and travellers).**[GPS emphasis]***

15. All gypsies and travellers living in caravans fall within this section and Local Authorities are required to consider their accommodation needs.
16. Whilst the Housing and Planning Act 2016 has repealed s225 and s226 of the Housing Act 2004 which referred specifically to the need to carry out an assessment of the accommodation needs of gypsies and travellers, in practice there is no difference.
17. There remains a duty to assess and consider the accommodation needs of gypsies and travellers, and this would cover all gypsies and travellers who wish to reside in caravans as opposed to bricks and mortar housing.
18. Gypsies and travellers often have a cultural aversion to bricks and mortar and therefore require culturally suitable accommodation. This is a relevant protected characteristic under the Equality Act 2010.

19. The Equality Act 2010 imposes a public sector equality duty under s149:

Public Sector Equality Duty

- (1) *A public authority must, in the exercise of its functions, have due regard to the need to—*
- (a) *eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - (b) ***advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;***
 - (c) *foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

[GPS emphasis]

Planning Policy

20. Planning Policy for Traveller Sites (“the PPTS”) which was first published in 2012, subsequently revised in August 2015 and most recently December 2023 states:

The Government’s overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

To help achieve this, Government’s aims in respect of traveller sites are:

a. that local planning authorities should make their own assessment of need for the purposes of planning

21. The definition of gypsies and travellers within the PPTS 2023 has been amended and is as follows:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

22. This definition is a reversion to the that provided in the 2012 PPTS and is result of the Court of Appeal judgement in the case of **Lisa Smith v Secretary of State** (Appendix C2).

23. The prior definition of a gypsy and traveller as set down in the PPTS 2015 had the effect that a gypsy and traveller who has permanently stopped travelling for work either due to a disability, long term health condition or age will not fall within that definition; they are excluded. In **Lisa Smith** the Court of Appeal held that this exclusion indirectly discriminates against elderly and disabled gypsy and travellers pursuant to both the European Convention on Human Rights and Section 19 of the Equality Act 2010. The Court of Appeal considered the rationale for the exclusion and concluded that the resultant discrimination had no legitimate aim and could not be justified.

24. The Court of Appeal held at paragraph 121:

*“Finally, the factors identified by the judge as outweighing the indirect discrimination apply to everyone, including those who are not Gypsies and Travellers. So they could not in principle justify the discriminatory effect of the relevant exclusion on elderly or disabled Gypsies or Travellers. As Mr Willers submitted (in paragraph 73 of his skeleton argument), **the fact that elderly and disabled Gypsies and Travellers, who are no longer travelling because of their age or disability, have to rely on general planning policy is inherently the disadvantage. It is not logically capable of justifying that disadvantage.**” (GPS emphasis added)*

25. The reversion to the PPTS 2012 definition, expressly including “*persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or **permanently,**” (GPS emphasis) is a clear indication that the PPTS 2015 definition was discriminatory and that any Council in providing allocations and/or provisions for gypsy and traveller pitches are engaging in a discriminatory practice.*

26. Case law has tested the meaning of the term ‘nomadic’ as well as other travelling characteristics.

27. *R v South Hams District Council* (1994) defined gypsies as:

“persons who wander or travel for the purpose of making or seeking their livelihood (not persons who travel from place to place without any connection between their movements and their means of livelihood.)”

28. This includes ‘born’ Gypsies and Travellers as well as ‘elective’ Travellers as New Age Travellers.

29. In *Maidstone BC v Secretary of State for the Environment and Dunn* (2006), it was held that a Romany Gypsy who bred horses and travelled to horse fairs at Appleby, Stow-in-the-Wold and the New Forest, where he bought and sold horses, and who remained away from his permanent site for up to two months of the year, at least partly in connection with

this traditional Gypsy activity, was entitled to be accorded Gypsy status.

30. Assessments of gypsy and traveller accommodation have always taken a realistic and practical approach in including all gypsy and traveller sites and the revision to the definition in the 2023 PPTS is supportive of this approach.
31. Within the revised NPPF 2023 published, paragraph 61 states:

“To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area (see paragraph 67 below). There may be exceptional circumstances, including relating to the particular demographic characteristics of an area which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.”

32. Paragraph 63 of NPPF 2023 provides further clarification to paragraph 61, and includes gypsy and traveller need within the national policy framework:

“Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) travellers”.

33. This provides clarification that the accommodation needs should be met for all gypsies and travellers, whether they meet the definition or not.

How do you determine if someone meets the definition?

35. The PPTS 2023 definition refers to 'persons of a nomadic habit of life'. The leading case in this respect is the Court of Appeal case of **Wrexham County Borough Council v National Assembly of Wales and Others [2003] All ER (D) 246 (Jun)** (Appendix C3).
36. Lord Justice Auld held at paragraph 57(2) states, in so far as is relevant:

"... Whether applicants for planning permission are of a "nomadic way of life" as a matter of planning law and policy is a functional test to be applied to their way of life at the time of the determination. Are they at that time following such a habit of life in the sense of a pattern and/or a rhythm of full-time or seasonal or other periodic travelling? The fact that they may have a permanent base from which they set out on, and to which they return from, their periodic travelling may not deprive them of nomadic status..."
37. The GTAA was based on the now outdated 2015 PPTS definition and contended that the only the need for those meeting that definition plus 10% of "unknown households" ought to be met
38. Following the change in the PPTS definition, it is anticipated to be common ground that the need for all Travellers will need to be met by the Council.
39. GPS's assessment of the GTAA will not seek to split gypsies and travellers up into those that do and those that do not meet the PPTS 2015 definition this being now outdated. This is the only practical way that any Council and any decision maker can lawfully proceed as acknowledged by the recent change in the PPTS 2023.

Local, regional and national Need

40. It is a matter of commonsense that the consideration of need goes beyond the need within a district, and includes need in the sub-region / region and nationally.
41. The Planning Policy for Traveller Sites (PPTS) is designed to increase the number of authorised Gypsy sites (see paragraph 4, criteria f). This is consistent with the previous Circular 01/06 at paragraphs 3 and 12c.
42. Paragraph 7c of the PPTS sets out that a robust evidence base must be used to establish accommodation needs. This is again consistent with the previous Circular 01/06.
43. Outside of the GTAA/GTNAs and Council records of permissions/appeals there are two other sources of information that can assist and can be considered. These are:
 - The DCLG Caravan Count (collected biannually)
 - The 2021 Census

The DCLG Caravan Count

44. The ODPM/DCLG Gypsy count figures are almost universally an underestimation of the number of caravans and also need in any district for the following reasons:
- a. The figures do not include hidden need: i.e., those in bricks and mortar houses who have had to live in a house due to lack of provision and would prefer to live in a caravan.
 - b. The methodology used by councils to count caravans varies considerably, e.g. In some cases, caravans are excluded or included in the 'with permission' column when they don't have permission in certain circumstances.
 - c. The figures do not take account of overcrowding within caravans.
 - d. On authorised sites the figure is often that of the permitted capacity rather than the actual number which can exceed this through doubling up.
 - e. People living in caravans in the gardens of houses or in commercial yards or staying on lawful holiday permission touring sites are not recorded.

2021 Census information

45. Census data is an important source of information.
46. The 2021 Census data (Appendix C5) has now been published and is considered below.
47. Appendix C6 is based on the 2011 census data, however, GPS are not aware of an updated version this report yet having been published.
48. The following points should be noted about the 2021 census data.
49. The 2021 census recorded 71,440 people in households in England and Wales who completed the census who chose to identify themselves as 'Gypsy or Irish Traveller'.
50. The 2021 Census is likely to significantly under-record the number of gypsies and travellers in the UK. This is likely to have occurred due to a number of factors which fall into two categories. Firstly, entire households not being recorded at all. This would be the result of:
 - The transient nature of the population. This is more likely to be a bigger issue in the caravan-based population.
 - The cultural distrust of authority.
 - Low levels of literacy.
51. Secondly it is likely many gypsy and traveller households who completed the census will have not declared they are gypsy and travellers. This will be due to a fear of (not obviously likely in practice) neighbours finding out their backgrounds. This problem is more likely to occur with those in bricks and mortar.
52. This can clearly be shown, in that the Census found approximately 14,915 people living in caravans in England and Wales and 13,975 in just England. However, the July 2021 caravan count (which will not have recorded all caravans lived in by gypsies and travellers) found 24,203 caravans across England (the respective figure for England and Wales not

being provided).

53. It is highly improbable that that many caravans would house that few people. It is more likely that that the caravan-based population is around 4 times the level found in the census.
54. This is backed up by analysis of the first tranche of GTAA's carried out by the Irish Traveller Movement in Britain in their August 2013 report 'Gypsy and Traveller population in England and the 2011 census' which found an estimated population of 119,193. These figures come with the caveat that the GTAA's are likely to underestimate the number of households (and therefore population) living in caravans and significantly underestimate the bricks and mortar population.
55. GPS believe that the 2021 Census is likely to record no more than one third of the gypsy and traveller population in England and Wales.
56. What the Census information does do however is provide a statistically robust sample which assists in two key areas.
57. Firstly, the population age profile. This assists in considerations of future growth rates.
58. Secondly the ratio between gypsies and travellers in bricks and mortar (78.4%) and caravans (21.6%). This assists in considering likely number of households in bricks and mortar when considering the net movement of households between bricks and mortar and caravans.

National need for gypsy and traveller sites

57. The ODPM/DCLG gypsy count identified approximately 24,925 travellers in caravans in January 2023 in England and approximately 25,220 travellers in caravans in July 2023 in England.
58. The July 2023 count 3,531 caravans were recorded on unauthorised developments on land owned by travellers and 611 caravans were recorded on unauthorised developments on land not owned by travellers.
59. Given that the caravan counts are almost always an underestimation; these figures represent a clear need for gypsy and traveller sites nationally.
60. Despite this, the Government approach towards gypsies and travellers remains negative, with the Planning Resource observing that a recent consultation is focused upon stronger enforcement, rather than site supply (Appendix C7).
61. Given that the caravan counts are almost always an underestimation; these figures represent a clear need for gypsy and traveller sites nationally.

Part two: Assessment of Gypsy and Traveller Need for gypsy and traveller sites in

Broxbourne Borough

62. This assessment considers the GTAA ", published by ORS in April 2017 (Appendix C1).
63. The base date of the assessment is March 2017 (paragraph 1.7).
64. The January and July 2017 caravan counts (the counts closest to the cited base date) for Broxbourne Borough (Appendix C4) show 110 and 112 caravans respectively with 65 on unauthorised sites.

Table 1: Count of Traveller Caravans July 2017: Last Six Counts

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ONS Code	Local authority	Year	Month	Authorised sites (with planning permission)				Unauthorised sites (without planning permission)				Total All Caravans
				Socially Rented Caravans ¹	Private Caravans		All Private Caravans	No. of Caravans on Sites on Travellers' own land		No. of Caravans on Sites on land not owned by Travellers		
					Temporary Planning Permission	Permanent Planning Permission		"Tolerated"	"Not tolerated"	"Tolerated"	"Not tolerated"	
E0700095	Broxbourne	2015	January	30	0	15	15	0	45	0	0	90
			July	0	0	15	15	0	42	0	0	57
		2016	January	28	0	15	15	0	65	0	0	108
			July	30	0	16	16	0	68	0	0	114
		2017	January	30	0	15	15	0	65	0	0	110
			July	31	0	16	16	0	65	0	0	112

65. Figure 5 of the GTAA sets out the households identified; totalling 39 households.

Figure 5 – Planning status of households in Broxbourne

Site Status	Meets Planning Definition	Unknown	Does Not Meet Planning Definition
Gypsies and Travellers			
Public Sites	1	2	11
Private Sites	1	8	3
Lawful Pitches	2	2	1
Unauthorised Sites	5	2	1
Sub-Total	9	14	16
Travelling Showpeople			
Private Yards	12	0	0
Sub-Total	12	0	0
TOTAL	21	14	16

66. Figure 1 of the GTAA sets out the additional need for households from 2017 - 2033; totalling 37 households.

Figure 1– Additional need for Gypsy and Traveller households in Broxbourne (2017-2033)

Status	Total
Meet Planning Definition	22
Unknown	0-5
Do not meet Planning Definition	10

67. However, paragraph 1.15 of the GTAA acknowledges that the need for Unknown households could in fact be 13. This discrepancy is not explained.

68. As above, given the change in the PPTS definition, it is an unsound approach to seek to split the need figures into those who meet the definition and those who do not, it fails to ensure that all those in need of a pitch would be counted and the Council would not be meeting their duty under the Housing and Planning Act 2016.

69. GPS has identified several flaws in the methodology and approach used in the GTAA which will have resulted in an underestimation of the level of need for the pitches in the District. These are considered below.

Survey Data:

70. GPS do not consider the GTAA to be an accurate reflection of need in the Borough.
71. The base date is cited as March 2017 on the basis that fieldwork was completed between February and March 2017.
72. This is a limited fieldwork period. Gypsy and traveller families will often travel for weeks or months at a time and in only conducting interviews during this short period, the GTAA will likely have failed to interview a number of those households.
73. Paragraph 6.2 of the GTAA confirms that *“up to three attempts were made to interview each household”*
74. *‘Up to three visits’* is not quantifiable. Up to 3 visits could mean that no visits were made at all. This is not sufficiently clear and is a statement that features often in ORS GTAA's.
75. It is unclear, both in relation to attempts to pre-arrange an interview and in relation to the attempts to undertake speculative interviews, what time of the day attempts were made to visit sites to undertake interviews.
76. Even if multiple visits were made, there is no indication in the GTAA that appropriate gaps were left between visits to allow for the fact that families may be away travelling which seems unlikely given the short fieldwork window referenced above. Lack of clarity that GTAA provides does not support the confidence that methodology applied was fit for purpose.
77. The inadequacy of the interview technique, lack of greater stakeholder engagement and overreliance on oral information from survey respondents are further criticisms of the ORS and the GTAA and can be found in ***Bennett v Basildon District Council*** (Appendix C8) which states at paragraph 30:

“Mr Jarman explains that the significant reduction in the number of additional pitches is due to the findings of the 2017 GTAA. He says that in preparing the update, greater stakeholder

involvement was unnecessary. Mr Green contends that this is a shortcoming; I concur. In my opinion a greater engagement of the local traveller community might have been secured by the involvement of a community liaison group or representative. It seems to me there is an over reliance on oral information given by respondents who might not actually have appreciated what was being asked of them for what purpose”.

78. By failing to interview all households on the sites, the GTAA has potentially failed to identify additional information as to the actual need from the sites.
79. There is no reference to any criteria upon which this belief that the sites were occupied by Gypsies and Travellers was based. This is clearly an arbitrary approach which could have altered depending on who was visiting the site. These conclusions lack evidential support further undermining not only the GTAA conclusions but also the GTAA’s approach in seeking to split site occupants into three categories as discussed above.
80. The lack of more robust survey data being used as the evidence base for the GTAA is likely to lead to possible shortcomings in the overall accuracy of the conclusions.
81. Assessments carried out by ORS have been discussed in the recent appeal decision **Amer and Others v Mole Valley District Council** (Appendix C9) in which the Inspector stated at paragraph 6;

“The GTAA assessment is inevitably likely to find it more difficult to engage over a relatively short time with the traveller community compared with those working directly with that community over a number of years.”
82. Figure 4 confirms that 25 interviews took place across 44 pitches. On these figures this provides a survey rate of 61.3% which is a poor survey rate. The failure of ORS to interview all pitches undermines the robustness of the GTAA.
83. There is no guarantee that ORS visited every Gypsy/Traveller site in the Borough, and for the ones they did, that the pitch numbers were even correct.

84. These considerations ought to be taken into account moving forward.

DEMAND

85. Figure 3 of the GTAA identifies the “provision” with Broxbourne Borough.

Figure 3 - Total amount of provision in Broxbourne (March 2017)

Category	Sites/Yards	Pitches/Plots
Private with permanent planning permission	2	16
Private lawful pitches	1	5
Private pitches with temporary planning permission	0	0
Public sites (Council and Registered Providers)	1	15
Public transit provision	0	0
Private transit provision	0	0
Unauthorised pitches	1	8
Travelling Showpeople Provision	1	12

Public Sites:

86. Figure 3 of the GTAA identifies one public site with 15 pitches. GPS have not been able to locate the relevant permission; the figure of **15 pitches** is agreed pending the Council's disclosure of such.
87. The GTAA references one vacant pitch at this site. No evidence of this vacancy is offered. Notwithstanding, GPS would expect the Council to be aware of vacancies on their own sites and as such this is accepted.
88. GPS therefore proceed on the basis of **15 authorised Public pitches and 14 authorised households on those pitches** as at the base date.

Private Sites – Permanently authorised

89. Figure 3 of the GTAA identifies 16 permanently authorised pitches on two private sites. Further consideration needs to be given to these sites.

St James Road

90. It is understood that the site referred to as St James Road, is also known as Oakdene. The GTAA includes 8 pitches at this site as at the base date.

91. Planning permission was granted in 1995 for three residential caravans pursuant to reference 7/209/1995 (Appendix C10).

92. In an application to vary the conditions of that permission (reference 07/16/092/F) (which was refused), the officer's report (Appendix C11) states:

"In 2005/2006, requests were submitted to vary condition 2 of this planning permission to allow three additional caravans associated with the family on site. These were allowed."

93. Similarly, for an application in 2018, the officer's report (Appendix C12) states:

"In 2005/2006, requests were submitted to vary condition 2 of planning permission 7/209/1995 which restricted the number of caravans on Oakdene to three, to allow three additional caravans associated with the family on site. These were allowed."

94. Notably, no reference for these variations of conditions is provided in either of these reports and GPS can locate no such applications on the Council's website. GPS will accept this increase in pitches, pending disclosure of the relevant permissions. In the event that the permissions are not disclosed, GPS will seek to amend their figures, removing three authorised pitches and households, and increasing the number of unauthorised household (below) by three.

95. In any event this provides only six authorised pitches as at the base date, as opposed to

the eight claimed in the GTAA.

96. In fact, the Officer's Report for the application in 2018 states:

"There are six caravans within the site that have planning permission for use as residential units, one that is in residential use, that is the subject of a separate Certificate of Lawfulness application, and two that are vacant pending renovation."

97. The two caravans referred to therein as vacant pending renovation were unauthorised and formed the subject of that application. This application post-dated the GTAA. The Council and ORS are therefore inconsistent on how many pitches they consider have permission at this site.

98. Further in the Inspectors' report on the local plan (Appendix C13) it was confirmed that there were only 6 caravans permitted at the site (paragraph 249).

99. There is no evidence before GPS of the additional two pitches and indeed the Council's own evidence rejects such. Pending disclosure of the 2005/2006 permissions, GPS work on the basis of six authorised pitches at this site. As above, this will be reduced if those permissions are not disclosed.

100. The GTAA, at Figure 4 also states that there were four vacant pitches on the site. As we know from above the pitch numbers are incorrect, further two vacant caravans on the site were in fact unauthorised pending renovation. These are discounted without further consideration.

101. In relation to the two other alleged vacancies, there is no threshold set out by with ORS determine a pitch to be "vacant", or whether the occupants are away travelling. A pitch can be vacant for a period of time, whilst a family might be away travelling for example, but not indefinitely. For instance, it is far from unknown for Irish traveller families to spend several months in Germany and other central European countries seeking work, or to travel to Ireland for months at a time. When families are away for long periods of time, they often

remove as much as they can from a site so it isn't vandalised or stolen in their absence. GPS now unless evidence indicates to the contrary, treat 50% of all vacant pitches on private sites as being the permanent base for a household; those pitches considered 'vacant' are then treated as components of supply.

102. The subsequent applications at this site for further pitches shortly after the base date is a clear indication that there were no vacancies on authorised pitches at this site.

103. GPS therefore reject the alleged vacancies of six occupied pitches, and conclude this is a six pitch site occupied by five households at the base date.

Hertford Road

104. GTAA includes 8 pitches at this site as at the base date.

105. GPS have identified permission for six pitches pursuant to the following:

a. APP/W1905/C/02/1099133 – dated 3rd May 2003 - Two residential caravans
(Appendix C14)

b. APP/W1905/A/88/110532 – dated 31st July 1989 – Two residential caravans
(Appendix C15)

c. Reference 7/773-89 – dated 27th September 1989 - two permanent mobile homes.
(Appendix C16)

106. It is unclear to what permission the remaining two pitches relate and ORS/the Council will need to disclose such. Pending which GPS allow for six authorised pitches and households at this site. The remaining two households will be treated as unauthorised pending further disclosure.

107. GPS therefore proceed on the basis of **12 permanently authorised private pitches and 11 households occupying those pitches** as at the base date.

Lawful Pitches

108. The GTAA includes five “lawful pitches”. No definition is provided of what is meant by a lawful pitch. However, paragraph 4.6 of the GTAA states:

“In addition there are a number of pitches on an extended site at Wharf Road. For pitches that are occupied by Gypsies and Travellers there are 5 with Certificate of Lawful development”.

It is therefore assumed that these are the pitches lawful pitches referred to.

109. It is unclear what pitches on the site these CLEUD’s relate to and confirmation is required to allow further investigation.

110. Whilst it is not disputed that the occupation of these pitches is lawful there will be no condition on those certificates of lawfulness which limit the occupation to gypsy and travellers. As such there is guarantee that these sites can continue to be occupied by gypsies and travellers once the current occupiers vacate them and it is thus questionable whether they should as such be considered supply. For the purposes of this assessment GPS will not remove the sites occupied by gypsies and travellers at the base date as they could theoretically remain on those sites for their lifetime. However, any post base date grants of CLEUDS will not be taken account for the above reasons. Further, it has to be noted that if the Inspector considered the sites occupied by gypsy and travellers as at the base date should be removed from the supply, an adjustment of the below figures will be required.

Unauthorised Pitches

111. An unauthorised pitch is a household that is currently living on a site (either which they own or with permission of the owner) without planning permission. This is different from unauthorised encampments which arise when a household is living on a site that they do not own without planning permission and without permission of the landowner.

112. Figure 4 of the GTAA identifies 8 households, these relate to the unauthorised site at Wharf Road.
113. Paragraph 5.9 of the GTAA confirms that there were 77 plots on this site. The GTAA at paragraph 5.9 is unclear on how many plots were occupied by gypsy and travellers “*some of the plots are occupied by Gypsies and Travellers*”. Despite this at Figure 4 of the GTAA, 8 unauthorised households are identified.
114. It is unclear how these figures have been identified whether ORS conducted interviews on all 77 plots or whether this is based on secondary knowledge. The GTAA lacks clarity in this regard undermining its robustness.
115. The GTAA does not provide sufficient information to allow further investigation of this site and the conclusions in relation to unauthorised households. However, it is GPS’ position that there is likely to be more than 8 households fitting this category at this site.

Hertford Road

116. In addition, for the reasons set out above, pending disclosure from the Council GPS treat two households as unauthorised.
117. GPS therefore proceed on the basis of **10 unauthorised households** but consider this figure is in reality significantly higher.

Concealed Households

118. Concealed households are adult individuals or couples or families living within the accommodation of another family, usually but not exclusively a related household.
119. Accurately identifying these concealed households is important as they are in immediate need of a pitch of their own and they also form part of the total of the families at the base date of the assessment from which future family growth is calculated.

120. Oral evidence given by an ORS representative in another appeal suggest that they have relied upon the definition used by The Office for National Statistics which defines a concealed household as 'one family living in a multi-family household in addition to the primary family, such as a young couple living with parents'. However, this definition does not allow for single persons to be concealed households unless they are a lone parent. ORS have excluded single adults from other GTAA's they have done. GPS believe to exclude all single adults is an error for example as in the circumstances of a separating couple where one adult moves into a parent's caravan temporarily is clearly creating a new additional family unit.
121. The GTAA aggregate considerations over doubling-up/concealed/and overcrowded households and do not make material attempts to distinguish the three considerations.
122. Doubled-up households are different to concealed households, and it is erroneous to consider all three together. However, in the absence of any survey data, it is impossible for GPS to scrutinise and separate this information any further.
123. The GTAA identifies 5 households who are concealed/doubled-up/overcrowded within the current need. Unhelpfully the GTAA does not identify where those households were located, which does not allow for further scrutiny.
124. Given the conclusions in relation to St James Road, and the subsequent application for two further caravans in close proximity to the base date, the presence of concealed households at this site as at the base date was likely. It is unclear if this has been taken into account by the GTAA.
125. Notwithstanding, the criticisms of the survey figure 4 confirms that 25 interviews took place across 44 pitches from which 5 concealed households were identified. Therefore in 25% of interviews a concealed or doubled up household was identified.
126. On these figures this provides a survey rate of 61.3% which is a poor survey rate. The

failure of ORS to interview all pitches undermines the robustness of the GTAA.

127. Extrapolating 25% across the total number of pitches as identified by the Council (44) suggests that if all households had been interviewed, **11 concealed/doubled – up/overcrowded households** would have been identified.

128. The failure to properly consider and assess concealed, overcrowded and doubled up households is a significant failing of the GTAA and one which will have resulted in an underestimation in the level of need in the area. Without further evidence or consideration, GPS is not in a position to calculate the number of concealed households at the base date and so for the purposes of this statement only adopt the figure of **11 households**.

Doubling up

129. Doubling up is where a pitch intended for one family is also occupied by one or more additional families occupying their own caravans, usually touring caravans. Doubling up is the most common way that gypsy and traveller families without permanent bases manage to exist. Often, they can only stay on a site for a few weeks or months and their occupation is often in breach of conditions attached to the planning permission for that pitch. Each family doubled up is in immediate need of a pitch of their own and they also form part of the total of the families at the base date of the assessment from which future family growth is calculated.
130. In GPS's experience many young gypsies and travellers travel around doubling up on friends and families' pitches, on both privately and council owned sites. In our opinion it is therefore highly improbable that there is not any doubling up occurring within the district.
131. As above the GTAA aggregate considerations over doubling-up/concealed/and overcrowded households and do not make material attempts to distinguish the three considerations.

Conclusion on households living in caravans as at the base date

132. Adjusting the figures for the sites considered there was a need for at least 51 households at the base date from those living in caravans. This is broken down into the following components households:

- On public authorised pitches 15
- On private authorised pitches 11
- On “Lawful pitches” 5
- Unauthorised pitches 10
- Concealed households 11

133. The actual number of households and the actual level of need in the District is likely to be higher.

Hidden Need

134. Hidden need takes the form of households living in bricks and mortar accommodation for whom living in bricks and mortar is an inappropriate form of housing due to a cultural aversion to bricks and mortar. As a consequence, they need to move back to a pitch and out of bricks and mortar.

135. Households living in hidden need can also contain concealed households who are also in hidden need.

136. Some households emerge from bricks and mortar. This is where a child becoming an adult wants to adopt their cultural lifestyle even if their parents are happy living in bricks and mortar.

137. The GTAA identifies no households living in bricks and mortar which is unsurprising given that no interviews with those living in bricks and mortar were interviewed.

92. Paragraph 3.16 of the GTAA states:

“As a rule, the assessment does not make any assumptions on the overall needs from household in bricks and mortar based on the outcomes of any interviews that are completed as in our experience this leads to a significant over-estimate of the number of households wishing to move to a site or a yard. We work on the assumption that all those wishing to move will make their views known to us based on the wide range of publicity we will put in place. Thus we are seeking to shift the burden of responsibility on to those living in bricks and mortar through demonstrating rigorous efforts to make them aware of the study....”

93. The approach of requiring those households in bricks and mortar to actively identify themselves to the Council is wholly unreasonable. Given that ORS have been tasked with identifying those in need in the area, the onus must be on them to do so. Further, the study period (which it is assumed is the same period as the fieldwork) was a relatively short period during which time families could have been away travelling in any event.

138. GPS believes that the lack of research into and failure to engage fully with potential households living in bricks and mortar will have led to an underestimation in the level of need.

139. It should be noted that ORS have previously attracted criticism for their failure to engage appropriately with Bricks and Mortar occupants. This was considered within appeal decision APP/C/16/31523763 **Bennett v Basildon District Council** (Appendix C8) where the Inspector concluded:

“To me, the level of engagement with bricks-and-mortar households represents a deficiency that casts some doubt over the 2017 GTAA’s findings in need”

140. GPS uses a multiplier of 3.62 times the number of households in caravans, to establish an approximation for the number of gypsy and traveller households in housing. We use this figure as the 2021 census indicates that for every gypsy and traveller living in a caravan in the UK, 3.62 will be living in bricks and mortar.

141. Based on the households identified by GPS living in caravans (at least 51) at the base date of the GTAA; applying a multiplier of 3 would result in 153 households in bricks and mortar.

142. Within many other GTAAs there has been found an equivalent of between 5 – 10% of the base date in hidden need. In the absence of other data therefore, we would use 5%. This would suggest the **immediate net hidden need to be at least 8 households.**

Conclusion on base date figures

143. Green Planning Studio has concluded on the information available to us that there was a need for at least **59 households** at the base date including a need from **8 households** in hidden need.

i. On public authorised pitches	14
ii. On private authorised pitches	11
iii. On “Lawful pitches”	5
iv. Unauthorised pitches	10
v. Concealed households	11
vi. Hidden Need	8

144. Green Planning Studio stresses that the actual number of households and the actual level of need in Wiltshire will inevitably be much higher, given that the GTAA inadequately considers concealed and doubled-up households.

Emerging Need

Growth Rate

146. Growth Rate is the rate at which new family units emerge over time, either as a result of teenage children becoming adults and forming single or two-person family units; a result of family breakdown, i.e., two adult families splitting to form two family units or teenage children becoming adults and moving from bricks and mortar to a pitch. This matters, as it identifies the emerging need going forward from the base date. If the figure is too low then the gap between provision and demand will widen over time.
147. It is not clear from the GTAA whether household growth is considered as a result of teenage children becoming adults and forming family units, and the formation of family units through family breakdown. ORS have failed to consider the latter in previous GTAAs. This may have resulted in an underestimation of emerging need in the district.
148. As well as significant concerns over the immediate unmet need identified at the base date there are also concerns over the figure for family formation.
149. The GTAA uses the following household formation rates:
- Those meeting the PPTS 2015 definition 2.00%
 - Undetermined households – 1.50%
 - Household not meeting the definition – 1.40%

150. ORS apply a 1.5% national growth rate per annum for Gypsies and Travellers . This is then adjusted by ORS using demographic evidence resulting in the above figures.

151. Emerging need is discussed in the GTAA at paragraph 7.12

“Overall, the household growth rate used for the assessment of future needs is informed by local evidence. This demographic evidence is usually used to adjust the ORS national growth rate of 1.50% up or down based on the proportion of those aged under 18 in each local authority (by travelling status).”

152. The GTAA does not specify what “local evidence” has an impact on the growth rate applied.

153. GPS accept that survey data and/or local evidence can be an accurate way of estimating future demand in the immediate future period. However, in order to do so, the survey data must be reliable and robust. GPS’ concerns about the accuracy of the household survey data are set out above. ORS fail to provide the data that has allowed them to reach the above conclusions. Accordingly, GPS are unable to analyse their ORS’ figures in full detail.

154. The GTAA identifies future need from household growth as follows:

Category	Five Year Need from Teenage Children	New household Formation	Total additional households forming
Meet the definition	8	7	15
Undetermined	0	4	4
Do not meet the definition	2	5	7

Totals	10	16	26
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155. The ORS conclusion of a population (not household) growth rate of 1.5% for undetermined households is based on a model relying primarily on two inputs the total fertility rates (TFR) and an average life expectancy, but to more accurately model population growth you also need to know when women have the children on average. E.g., if the average women is having her children between the ages of 20 and 25, this would lead to a significantly higher growth rate than a situation when the average women is having her children between the ages of 25 and 30, as the generations repeat more rapidly. GPS knowledge of gypsy and traveller families across England and Wales is that generally children are being born with the mothers at a fairly young age (typically 18-25). Without a reliable input of generation repeat rate any model is likely to have a fairly low probability of being accurate.

156. For a more accurate figure in regards to household formation rates, the following factors would need to be known or modelled: the overall rate of pairing taking place each year amongst young forming households, the extent of single adult households as opposed

157. to two adult households, the numbers of adults that were dependent, the rate at which family breakdown was occurring and the rate at which where family breakdown has taken place where a new two person household was forming.
158. In practice the actual number of households in the census data will be higher and the newly forming households per annum will also be higher.
159. ORS primarily err in looking at two different statistics (Population Growth Rate and Household Growth Rate) and drawing conclusions from one and trying to apply those conclusions to the other.

Household growth rates

160. The household growth rate is the rate at which the number of households increase. This is a net figure of household formation less household dissolution.
161. This figure is different from population growth rate. This is rate of increase in the size of population.
162. The GTAA conclusions on Household Growth are based on a failure to understand the mathematical difference between the two calculations.
163. GPS argue that to more accurately model population growth you also need to know when women have children on average, as the younger women have children on average would lead to a higher growth rate.
164. ORS erroneously consider that there are the same number of households throughout the entire age demographic defined in the gypsy and traveller population pyramid (i.e., the same number of gypsies and travellers in the older age bracket to those gypsies and travellers in the younger age bracket).

165. The number of households created 50 years ago would be significantly less than those being created now. Given historically high birth rates and the higher number of children being born per gypsy and traveller woman 50 years ago, the difference of a factor of 4 is likely to be broadly justified. It cannot be (and is not) the case that there are the same percentage of gypsies and travellers living aged 70 as there are aged 20.
166. As the proportion of adults in the population increase then the number of households per population increases. When this is changing as in the gypsy and traveller population, the household growth rate will inevitably be higher than the population growth rate.
167. A worked example of household growth rate is set out at Table 1 (Appendix C17). What should be drawn from this is that household growth rates should decrease over time, but as the table shows will not reach 1.5% per annum during any plan period.
168. These are obtained by multiplying each 5-year model figures by a factor of 1.05 to account for the increasing trend towards fewer adults per households, primarily as a function of relationship breakdown.
169. To show the error in the ORS approach within the GTAA – Table 2 (Appendix C18) shows the effect of modelling population growth rates and household growth rates of 1.5%. The result is a significant rise in the number of adults per household, something which is clearly against trend and is unsupported by any evidence.
170. ORS have not disclosed the demographic data upon which they rely to adjust the above rates, which undermines the GTAA. The use of demographic information, obtained through interviews which is then adjusted for those not interviewed, is a valid approach, however, it is reliant on the accuracy of the number of families at the base date, as any other modelling method.
171. GPS use the age data in the 2011 census to provide household growth figures when demographic data is not available. Shortly, and possibly before this appeal is heard, this

will be remodelled using the 2021 Census Data. The GTAA's household growth figures have been checked against this modelling based on the 2011 census data. As a result, GPS conclude that in terms of Household Growth the GTAA figures are robust and are slightly above the national figures suggesting that in Broxbourne is the percentage of gypsies and travellers who are children is slightly higher than the national average.

172. Therefore, by 2022 there should have been a minimum of 73 pitches in the Borough and by 2027 there should be a minimum of 78 pitches in the Borough.

	0-5 Years 2017 - 2022	6-10 Years 2022 – 2027	11- 15 Years 2027 - 2032	16-17 Years 2032- 2033
Meeting the Definition	10	2	3	0
Unknown Households	1	1	2	0
Households not meeting the definition	3	2	2	0
Total increase in households	14	5	7	0

Supply at the base date

173. GPS have identified 32 authorised pitches as follows:

i. Public authorised pitches	15
ii. Private authorised pitches	12
iii. "Lawful pitches"	5

Supply since the base date

174. GPS has identified the following grants of permission / certificates of lawful use since the base date:

- i. Land South of Hell Wood - Reference 07/16/0930/O (Appendix C19).
However, it is understood that this is intended to replace the public site referenced in the GTAA which is proposed to be moved for a new link road, and as such will not amount to additional supply.
- ii. St James Road - Reference 07/18/0737/F (Appendix C20). – 2 pitches.
- iii. St James Road – Reference 07/18/0736/LDC (Appendix C21) – 1 pitch.

175. GPS are aware of grants of further certificates of lawful use at the Wharf Road Site. However, as above, that is no condition on those certificates of lawfulness which limit the occupation to gypsy and travellers as shown by two examples at Appendix C22. Further it is clear that this site is occupied by a mixture of gypsy and travellers and non-travellers. It is clear is that there is no guarantee that these sites can continue to be occupied by gypsies and travellers once the current occupiers vacate them. As such they should not be considered as additional supply.

176. Therefore, three additional pitches are taken into account bringing the total number of

permitted pitches to 35.

Conclusions on need

94. The GTAA cannot be considered to be a robust evidence base to inform the Council in their policy making.
95. There are a number of errors identified in the methodology of the GTAA which will have resulted in an underestimation of the level of need for pitches in the District. These include inaccuracies in recording the number of pitches, failing to properly consider households that were doubled up/concealed/overcrowded, the failure to establish consistent and appropriate base dates, and the failure to establish an accurate number of households in bricks and mortar wishing to move to sites. These will have resulted in the recorded base date figure being too low.
96. Based on GPS' figure of 59 households as at the base date and a supply of 32 pitches. As at the base date there was an immediate need for 27 pitches.
97. By 2022 there should have been a minimum of 73 pitches in the Borough and by 2027 there should be a minimum of 78 pitches in the Borough, and a minimum of 85 pitches by 2032.
98. As the Appeals will be heard in 2024, the appropriate five-year supply period is 2024 – 2029. The number of pitches required by 2029 would be 81. Taking into account the 35 pitches identified as supply to date, this would result in a need of 46 additional pitches for the Council to demonstrate a five-year supply.
99. These figures are however an estimated need and have been arrived at on the information available.

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March 2024

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List of Appendices

Appendices C

1. Gypsy and Traveller Accommodation Assessment August 2017 by Opinion Research Services
2. Court of Appeal Decision *Lisa Smith v Secretary of State* [2022] EWCA Civ 1391
3. *Wrexham County Borough Council v National Assembly of Wales and Others* [2003] ALL ER (D) 246 (Jun)
4. ODPM/DCLG Counts of Gypsy Caravans for Broxbourne, January and July 2017
5. 2021 Census data
6. Gypsy and Traveller population in England and the 2011 Census: An Irish Traveller Movement in Britain Report, August 2013
7. Planning Resource – “A government consultation on Gypsies and travellers is too focused on stronger enforcement at the expense of boosting site supply, according to practitioners” 12th April 2018
8. Appeal Decision APP/C/16/31523763 Bennett v Basildon District Council dated 17th January 2018
9. Appeal Decision: APP/C3620/W/18/3205739 River Lane, Leatherhead - *Amer & Others vs Mole Valley District Council* dated February 2020.
10. St James Road Decision Notice 7/209/1995
11. St James Road Officer’s Report 07/16/092/F
12. St James Road Officer’s Report 07/18/0737/F
13. Extract of Inspector’s report on Local Plan
14. Hertford Road Appeal Decision APP/W1905/C/02/1099133 – dated 3rd May 2003
15. Hertford Road Appeal Decision APP/W1905/A/88/110532 – dated 31st July 1989
16. Hertford Road Decision Notice Reference 7/773-89 – dated 27th September 1989
17. Table 1 – GPS worked example of household growth
18. Table 2 – GPS growth rate modelling
19. Land South of Hell Wood – Decision Notice Reference 07/16/0930/O and officer’s report.
20. St James Road - Reference 07/18/0737/F Decision Notice
21. St James Road – Reference 07/18/0736/LDC Decision Notice
22. Decision Notices – Wharf Road references 07/18/0073/LDC and 07/18/0074/LDC
23. Email from GPS to the Council dated 12th March 2024