



**London Borough of Hillingdon
Local Plan Examination**

**Response from Opinion Research Services (ORS) to
Representations Received from Heine Planning Consultancy**

August 2018

Background

1. My name is Steve Jarman and I have been a Senior Research Executive for Opinion Research Services (ORS) since May 2013. Previous to that I had over eighteen years' experience in Local Government at both a senior and managerial level. This covered all aspects of consultation, engagement, research and information, and policy development, across the full range of local government and other public sector services. Formerly as manager of Cardiff Council's own in-house research consultancy I had responsibility for developing and implementing a wide range of consultation and community engagement initiatives. I have extensive experience of project managing large-scale strategic and sensitive consultation exercises, the implementation of qualitative and quantitative research methods, evidence based policy development, and data analysis and interpretation.
2. I have a BSc in City and Regional Planning from Cardiff University (1994), a Post Graduate Diploma in Town Planning from Cardiff University (1996), and a Post Graduate Certificate in Sustainable Leadership from the University of Wales Institute Cardiff (2010).
3. I now lead on the Gypsy and Traveller Accommodation Assessment Portfolio for ORS. Since changes to Planning Policy for Traveller Sites (PPTS) in 2015, ORS are working on or have completed studies for a large number of local authorities across the UK including , the majority (9) local authorities in Hampshire (including Hart), Oxfordshire (5 local authorities), the majority (7) local authorities in Surrey, Dorset (7 local authorities), the majority (8) local authorities in Hertfordshire, Buckinghamshire (4 local authorities), Cambridgeshire Region (7 local authorities), Gloucestershire (6 local authorities), Leicestershire (8 local authorities), Northamptonshire (7 local authorities), Essex Region (14 local authorities), Cheshire (4 local authorities) and 20 London Boroughs (including Hillingdon). We have also completed or are currently working on approximately 20 single local authority GTAAs, making ORS the largest providers of such studies in the country.
4. I am instructed by Hillingdon London Borough Council to assist at the Local Plan Examination. This response deals specifically with the representations made by Heine Planning Consultancy on the methodology and the outcomes of the Hillingdon Gypsy and Traveller Accommodation Assessment (GTAA) that was completed by ORS and published in November 2017.
5. The Hillingdon GTAA sought to understand the current and future accommodation needs of the Gypsy, Traveller and Travelling Showpeople population in the district through a combination of desk-based research, stakeholder interviews and engagement with members of the travelling community living on all known sites and yards. A total of 35 interviews were completed with Gypsies, Travellers and Travelling Showpeople. In addition, a total of 30 telephone interviews were completed with Officers from the Council and with Officers from neighbouring local authorities.
6. The GTAA is a robust and comprehensive evidence-based assessment of the current and future need for accommodation for Travellers in the study area who meet the current planning definition of a Gypsy, Traveller or Travelling Showperson. It also includes an estimate of current and future accommodation need for those Gypsies, Travellers and Travelling Showpeople who were not able to be interviewed who *may* meet the current planning definition.
7. It is not now a requirement for a GTAA to include an assessment of need for households that do not meet the current planning definition. The report however does provide an assessment of need for these households to enable the Council to address their accommodation through other means and through

separate Local Plan Policies. This approach is supported in the revised version of the National Planning Policy Framework (NPPF) that was published in July 2018.

8. Paragraph 60 of the revised NPPF sets out that in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment conducted using the standard method in national planning guidance. Paragraph 61 then states that (emphasis added) *'Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, **travellers**, people who rent their homes and people wishing to commission or build their own homes'*. The footnote to this section states that *'Planning Policy for Traveller Sites sets out how travellers' housing needs should be assessed for those covered by the definition in Annex 1 of that document.'*
9. ORS would also note that since August 2015 the ORS GTAA methodology has been repeatedly assessed as robust, as demonstrated by the Local Plan Inspector for the Cheltenham, Gloucester and Tewkesbury Joint Core Strategy who, following hearings in April 2016 and July 2017, concluded in her final Examination Report October 2017 (**Appendix 1**):

'The methodology behind this assessment incorporates a full demographic study of all occupied pitches, a comprehensive effort to undertake interviews with Gypsy and Traveller households, and consideration of the implications of the new national policy. I am satisfied that the GTAA provides a robust and credible evidence base and I accept its findings.'

10. The overall approach used by ORS was also considered at a Local Plan Examination in Maldon, Essex, in January 2017, and the Inspectors Report published on 29 June 2017 (**Appendix 2**) included the following comments:

143. The methodology of the new GTAA incorporates both a desk-based review and a survey of travelling communities. The former has drawn on a range of data including from the census, site records and caravan counts. The survey has been undertaken through face-to-face interviews with travellers. Rather than sample interviews, the general approach has been to attempt to interview all travellers in the district – those occupying pitches and those living in bricks-and-mortar accommodation. To that end, visits were made between January and September 2016, during the 'non-travelling season', avoiding July and August and days of known national or local events. Those undertaking the fieldwork have re-visited households multiple times when householders were either not present or not available to be interviewed at the time of calling. All of this is appropriate and, on the face of it, it appears that all reasonable endeavours have been undertaken to capture fully the views of the travelling community in the district.

11. More recently the Inspector for the East Hertfordshire Local Plan also found the approach taken by ORS to assess the needs for Travellers sound. In her report published on 9th July 2018 (**Appendix 3**) she concluded:

37. The need of the travelling community has been carefully and robustly assessed and locations to meet identified needs have been allocated for the plan period. Policy HOU9 sets out the need for 5 permanent pitches for Gypsies and Travellers and 9 plots for Travelling Showpeople across the plan period and where they will be provided. It is justified by a range of studies undertaken in accordance with national Planning Policy for Traveller Sites (PPTS). For Gypsies and Travellers this would be met by the expansion of an existing site and within the larger proposed site allocations at East of Welwyn Garden City (EWEL1) and in the Gilston Area (GA1). For Travelling Showpeople, accommodation needs are met on the allocation East of Stevenage (EOS1), at the North and East of Ware (WARE2) and in the Gilston Area (GA1). The assessment and approach for site allocation accords with PPTS. The location of the sites within larger allocations is sought through the masterplanning process required by criteria in the policies. The provision would meet the need of the travelling community over the plan period and is justified.
38. In summary, subject to the MMs referred to, the approach to the provision of housing is comprehensive, positively prepared, appropriate to the needs of the area and consistent with national policy.

Key Issues to Address

12. The representation from Heine Planning Consultancy sets out several issues in relation to the GTAA. The main purpose of this statement is to respond to these issues and to demonstrate that the GTAA is a robust and credible evidence base that can be used to support Local Plan Policies in Hillingdon that address the needs of Gypsies, Travellers and Travelling Showpeople. As such this statement will address the following points raised by Heine Planning Consultancy in relation to the methodological approach taken to complete the GTAA:

- » The revised Planning Definition of a Traveller.
- » Transit provision.
- » Need in the wider area.
- » The London Plan 2017.

The Revised Planning Definition of a Gypsy, Traveller and Travelling Showperson

13. The first set of issues raised by Heine Planning Consultancy relate to the revised planning definition of a Traveller. In summary the Statement claims that ORS maintain that trips to horse fairs do not count as work; and that in the absence of any guidance from the Government adopt an assessment of planning status that is not shared by others including PINS.
14. The new version of PPTS that was published in August 2015 contained a revised definition of a Gypsy, Traveller and Travelling Showperson for planning purposes. In addition, the previous housing definition set out in the Housing Act (2004) was repealed by the Housing and Planning Act (2016) through the removal of paragraphs 225 and 226 of that Act.
15. Therefore, the only current definition of Gypsies, Travellers and Travelling Showpeople for the purposes of the planning system and the assessment of housing need is that which is found in Annex 1 of PPTS (2015). Only those households that meet the planning definition and those households who may meet the planning definition (households where an interview was not possible) now have to have their housing needs assessed through the GTAA process. Whilst in April 2017 permission was given for a Judicial Review of the change in definition, this has not yet been concluded. It remains the case therefore that need assessments for the Travelling Community must be undertaken in accordance with the planning definition contained within PPTS (2015).
16. A GTAA now only needs to formally assess the needs of households that meet, or may meet, the planning definition of a Traveller. However, ORS acknowledge that there are still current and future housing needs arising from those households that do not meet the planning definition so our GTAA's include advice on how local authorities should seek to address these needs through alternative planning mechanisms.
17. One of the most important questions that GTAA's will need to address in terms of applying the planning definition is *what constitutes travelling?* This has been determined through case law that has tested the meaning of the term '*nomadic*'.
18. **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.)*" This includes 'born' Gypsies and Travellers as well as 'elective' Travellers such as New Age Travellers.
19. 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.
20. In **Greenwich LBC v Powell (1989)**, Lord Bridge of Harwich stated that a person could be a statutory Gypsy if he led a nomadic way of life *only seasonally*.
21. The definition was widened further by the decision in **R v Shropshire CC ex p Bungay (1990)**. The case concerned a Gypsy family that had not travelled for some 15 years in order to care for its elderly and infirm parents. An aggrieved resident living in the area of the family's recently approved Gypsy site sought judicial review of the local authority's decision to accept that the family had retained their Gypsy status even though they had not travelled for some considerable time. Dismissing the claim, the judge held that a person could remain a Gypsy even if he or she did not travel, provided that their nomadism was held in abeyance and not abandoned.

22. That point was revisited in the case of **Hearne v National Assembly for Wales (1999)**, where a traditional Gypsy was held not to be a Gypsy for the purposes of planning law as he had stated that he intended to abandon his nomadic habit of life, lived in a permanent dwelling and was taking a course that led to permanent employment.
23. **Wrexham County Borough Council v National Assembly of Wales and Others (2003)** determined that households and individuals could continue to lead a nomadic way of life with a permanent base from which they set out from and return to.
24. The implication of these rulings in terms of applying the planning definition is that **it will only include those who travel (or have ceased to travel temporarily) for work purposes and in doing so stay away from their usual place of residence**. It can include those who have a permanent site or place of residence, but that it will not include those who travel for purposes other than work – such as *visiting* horse fairs and visiting friends or relatives. It will not cover those who commute to work daily from a permanent place of residence. It will also be the case that a household where some family members travel for nomadic purposes on a regular basis, but where other family members stay at home to look after children in education, or other dependents with health problems etc. the household unit would be defined as travelling under the planning definition.
25. Households will also fall under the planning definition if they can provide information that they have ceased to travel temporarily as a result of their own or their family's or dependants' educational or health needs or old age. In order to have ceased to travel temporarily these households will need to provide information that they have travelled for work in the past. In addition, households may also have to provide information that they plan to travel again for work in the future.
26. Responding to claims in the Statement from Heine Planning that the approach taken by ORS is not shared by others including PINS I include some extracts from recent Appeal Decision Notices and would also refer several Local Plans where the ORS approach to completing GTAAs has been found to be sound including Cheltenham, Cotswold, East Hertfordshire, Gloucester, Maldon, Newham and Tewkesbury.
27. This approach was endorsed by a Planning Inspector in a Decision Notice for an appeal in East Hertfordshire (Appeal Ref: APP/J1915/W/16/3145267) that was issued in December 2016 (**Appendix 4**). A summary can be seen below:

Case law, including the R v South Hams District Council ex parte Gibb (1994) judgment referred to me at the hearing, despite its reference to 'purposive activities including work' also refers to a connection between the travelling and the means of livelihood, that is, an economic purpose. In this regard, there is no economic purpose... This situation is no different from that of many landlords and property investors or indeed anyone travelling to work in a fixed, pre-arranged location. In this regard there is not an essential connection between wandering and work... Whilst there does appear to be some connection between the travel and the work in this regard, it seems to me that these periods of travel for economic purposes are very short, amounting to an extremely small proportion of his time and income. Furthermore, the work is not carried out in a nomadic manner because it seems likely that it is done by appointment... I conclude, therefore, that XX does not meet the definition of a gypsy and traveller in terms of planning policy because there is insufficient evidence that he is currently a person of a nomadic habit of life.

28. This was further reinforced in a more recent Decision Notice for an appeal in King’s Lynn and West Norfolk (Ref: APP/V2635/W/17/3180533) that was issued in February 2018 (**Appendix 5**) that stated:

As discussed during the hearing, although the PPTS does not spell this [the planning definition] out, it has been established in case law (R v South Hams DC 1994) that the nomadism must have an economic purpose. In other words gypsies and travellers wander or travel for the purposes of making or seeking their livelihood.

29. Another endorsement of the approach taken by ORS was in another Decision Notice for an appeal in King’s Lynn and West Norfolk (Ref: APP/V2635/C/17/3183033) that was issued in August 2018 (**Appendix 6**) that stated:

Additionally, long established case law (R vs South Hams DC 1994) sets out that gypsy and travellers nomadism must be for economic purpose or seeking their livelihood. Such Travelling does not have to be a major or primary source of income, and could be seasonal, but it should be more than a hobby.

30. It has been contended at several recent planning appeals that ORS are not appropriately qualified to make any assessment of Traveller households against the planning definition. It has also been claimed that a lower number of households meeting the planning definition has led to a lower figure of need. ORS contend that we are probably one of the most qualified consultancies in the country to apply the planning definition. Since the changes to the planning definition of a Traveller in PPTS (2015) ORS have completed over 3,500 interviews with Gypsies and Travellers and have asked a consistent set of questions about travelling patterns.

31. The household survey included a structured section of questions to record information about the travelling characteristics of household members. This included questions on the following key issues:

- » Whether any household members have travelled in the past 12 months.
- » Whether household members have ever travelled.
- » The main reasons for travelling, including probing to determine whether visits to fairs included any form of economic purpose. (the current question used by ORS can be found below).

F3 What were the reasons for travelling? INTERVIEWER: Please cross all that apply

Work	Holidays	Visiting family	Fairs	Other
<input type="checkbox"/>				

Details / specify if necessary. If fairs—probe for whether this involves work

- » Where household members travelled to.
- » The times of the year that household members travelled.
- » Where household members stay when they are away travelling.
- » When household members stopped travelling.
- » The reasons why household members stopped travelling.
- » Whether household members intend to travel again in the future.
- » When and the reasons why household members plan to travel again in the future.

32. When the household survey was completed the outcomes from these questions on travelling were used to robustly determine the status of each household against the planning definition in PPTS (2015). Through a combination of responses households need to provide sufficient information to demonstrate that household members travel for work purposes, or for seeking work, and in doing so stay away from their usual place of residence, or that they have ceased to travel temporarily due to education, ill health or old age, and plan to travel again for work purposes, or for seeking work, in the future.
33. Households that need to be formally considered in the GTAA fall under one of 3 classifications that will determine whether their housing needs will need to be addressed in a specific Traveller Policy. Only those households that meet, or may meet, the planning definition will form the components of need to be addressed in a specific Traveller Policy:
- » Households that travel under the planning definition.
 - » Households that have ceased to travel temporarily under the planning definition.
 - » Households where an interview was not possible who *may* fall under the planning definition.
34. In summary, whilst recognising that all the respondents to the Hillingdon GTAA are Gypsies and Travellers in the ethnic sense of those words or are Travelling Showpeople in the cultural sense of those words, there is still a requirement to assess these households against the planning definition of a Traveller for the purposes of identifying a robust evidence base to support the development of Local Plan Policies. The GTAA does assess the needs of households that do not meet the planning definition to support other Local Plan Policies.
35. In direct response to the issues raised by Heine Planning Consultancy in Paragraphs 1.1-1.2 of their representations:
- » Interviewers probe in detail to determine whether households visiting fairs do so for work purposes, or seeking work, or whether the visits are purely social/cultural.
 - » The approach taken by ORS to apply the current planning definition is supported by others including Planning Inspectors at Local Plan Examinations and Planning Appeals and is based on sound case law and advice from various Counsel representing our clients.
36. In addition, in relation to addressing need from households that do not meet the planning definition it is useful to look at the East Hertfordshire Local Plan that was found to be sound in an Inspectors Report that was issued in July 2018. The Local Plan contains *Policy HOU10 New Park Home Sites for Non-Nomadic (i.e. households that do not meet the planning definition of a Traveller) Gypsies and Travellers and Travelling Showpeople*. This sets out that any applications for planning permission for park homes for Gypsies and Travellers and Travelling Showpeople that do not meet the planning definition must be in accordance with the NPPF and PPTS and the Council's Criteria-Based Policy and not under their *Policy HOU9 Gypsies and Travellers and Travelling Showpeople*.

Transit Provision

37. The next issue raised by Heine Planning Consultancy is in relation to how the GTAA addresses potential transit need.
38. The GTAA sets out the approach taken towards transit provision in Paragraphs 7.38-7.48. Following this approach, and the outcomes of recent assessments completed with 19 other London Boroughs, together

with local authorities the surrounding areas of Buckinghamshire, Hertfordshire, Essex, Surrey and Hampshire, the GTAA found no evidence of a need for any permanent or seasonal transit provision in Hillingdon at this time.

39. The recommendations in the GTAA do also acknowledge that the change to the planning definition may lead to an increase in households travelling over time and recommends that the situation regarding transit provision should be regularly reviewed.

The London Plan

40. The next issue raised by Heine Planning Consultancy is in relation to how the GTAA addresses the potential new planning definition of a traveller that was introduced in the draft new London Plan. Unfortunately, the Hillingdon GTAA was completed before the announcement by the London Mayor in August that he was considering a different planning definition of a Traveller to include in the new London Plan, the consultation draft of which was published at the end of November 2017.
41. However, since the completion of the Hillingdon GTAA ORS have completed a GTAA covering the 7 local authorities that make up the West London Alliance, including Hillingdon. This GTAA takes forward need to 2041 in line with the new London Plan period and includes a detailed assessment of the implications of applying the new London Plan planning definition of a Traveller across the 7 local authority areas. This GTAA is due to be published in autumn 2018.

Appendices

Appendix 1 – Cheltenham, Gloucester and Tewkesbury Joint Core Strategy Inspectors Report (October 2017)

Appendix 2 – Maldon Local Plan Inspectors Report (July 2017)

Appendix 3 – East Hertfordshire Local Plan Inspectors Report (July 2018)

Appendix 4 – East Hertfordshire Decision Notice (December 2016)

Appendix 5 – King’s Lynn and West Norfolk Decision Notice (February 2018)

Appendix 6 – King’s Lynn and West Norfolk Decision Notice (August 2018)