

TOWN AND COUNTRY PLANNING ACT 1990

**APPEAL BY PATRICK CASEY AGAINST THE REFUSAL BY
BARNET LONDON BOROUGH COUNCIL OF PLANNING
APPLICATION 23/3816/FUL FOR 'A MATERIAL CHANGE OF USE
FOR THE STATIONING OF CARAVANS FOR RESIDENTIAL USE
WITH HARDSTANDING AND DAYROOMS ANCILLARY TO THAT
USE.'**

**LAND ON THE NORTH WEST SIDE OF MAYS LANE, ARKLEY,
BARNET, EN5 2AH**

GPS REFERENCE: 23_1285

LPA REFERENCE: 23/3816/FUL

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

Preliminary Issues

1. There are a number of preliminary issues to be considered.

Age of the GTAA

2. This assessment is made in response to the West London Alliance Gypsy, Traveller and Travelling Showpeople Accommodation Assessment by Opinion Research Services (ORS), dated October 2018 (“**the GTAA**”) (appendix C1).
3. The Council published an Update on Gypsy, Traveller and Travelling Showpeople Assessment 2018 dated July 2021 (“**the GTAA Update**”) (appendix C2) which is considered further below. The GTAA update does not constitute a further survey, nor did it constitute wholesale review of the GTAA. Instead, it seeks to supplement the conclusions of the GTAA in response to criticisms raised during the local plan review. As such the GTAA is the main assessment to be considered herein.
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. The GTAA is dated October 2018. The Inquiry in this matter is likely to take place in 2025. By the time of the inquiry, the GTAA will be almost seven years old. The Council is clearly in breach of the above duties. The evidence base is out of date and on that basis alone the Council cannot demonstrate a five-year supply of gypsy and traveller pitches.
8. The Greater London Authority (“GLA”) in 2022 commissioned RRR Consultancy Ltd to undertake a London-wide Gypsy and Traveller Accommodation Needs Assessment (“GTANA”). The Barnet Local Plan EIP – Revised Note on Gypsies, Travellers and Travelling Showpeople (Appendix C4) detailed that a final report was anticipated to be provided by Summer 2023. GPS are not aware of any such publication and have sought confirmation from the GLA as to the anticipated date of publication. No response has yet been received. If the GLA’s GTANA is published prior to the inquiry in this matter, the Appellant will need the opportunity to amend this assessment.
9. The Inspector, in his interim report on the examination of the local plan review, acknowledges that a further review of the local plan will be required following the publication of the GTANA, demonstrating further that the GTAA is not considered to be up to date.

“The listed changes to the policy set out above, will require, and a commitment that the preparation and publication of findings of a London-wide Gypsy and Traveller accommodation needs assessment, taking account of the 2021 Census, will inform the committed early review of the Plan.”

Conclusions of the GTAA

10. For the avoidance of doubt the GTAA is only considered in so far as it relates to the London Borough of Barnet, as opposed to all local authorities assessed therein.
11. The GTAA identified no gypsy and traveller households in Barnet (those meeting the PPTS definition, not meeting or unknowns) and as such the GTAA identifies no need for the Council to address.
12. Notwithstanding, the clear errors made by the GTAA, which are considered below in detail. In concluding that there were no gypsy and traveller households and thus there was no need for pitches Opinion Research Service (“ORS”) have left themselves and the Council no room for error. If just one household is identified the robustness of the GTAA’s conclusions will be undermined and ought not be relied upon.
13. Put succinctly, if the Inspector accepts that just one household existed in Barnet as a the base date, this establishes a need as against which there is no supply and the Inspector would have to conclude that a five year supply could not be demonstrated.
14. Indeed the 2021 census (Appendix C3) identifies that 0.26% of the population of Barnet identified as a gypsy and traveller. Based on an estimated population of 389,300 (Appendix C3) this equates to 1012.18 none of whom have been identified or allowed for in the GTAA. The figure of 1012.18 is likely to be a minimum given that not all gypsies and travellers will have engaged with the 2021 Census or identified themselves as such.
15. Whilst the 2021 Census postdates the base date, it is clear from previous GTAA’s and the 2011 Census that there was a gypsy population prior to the base date and that the 1012.18 individuals referred to above did not all move to the area post 2018. If this had occurred, the Council would be aware of such an influx and the GTAA Update would not doubt have made referenced to such.

16. Further, the Council themselves have recently acknowledged that there are likely to be gypsies and travellers in need in the area, undermining the GTAA conclusions further, in the Barnet Local Plan EIP – Revised Note on Gypsies, Travellers and Travelling Showpeople (Appendix C4) stating:

“The Council acknowledges that households in Barnet who do, and who do not meet, the PPTS definition may be identified by the London wide GTANA.”

PPTS Definition

17. Notwithstanding that no households were identified it is important to note that the 2018 GTAA is based on the definition now outdated 2015 PPTS definition.
18. It is important to note that the GTAA Update states at paragraphs 2.1.2 & 2.1.3 that:

“2.1.2 There was support from LB Enfield for the general approach taken by Barnet subject to ongoing conversations and discussions surrounding need. LB Haringey highlighted the Mayor of London’s draft 2017 London Plan definition for Gypsies and Travellers which is different from the Government’s definition which is the one that underpins this GTAA. The Mayor’s definition of Gypsies and Travellers has been removed from the final London Plan, published in March 2021.

2.1.3 The Mayor of London’s response did not challenge the definition of Gypsies and Travellers that underpins this GTAA. He noted the assessment found no demand for pitches and highlighted that 2011 census data suggests there is a small population of gypsies and travellers in Barnet. The Mayor also would welcome a proactive approach for any sites that come forward that could help address need arising in the West Alliance boroughs.”

19. At paragraph 3.1.3 of the GTAA Update it states:

“The GTAA (2018) did suggest that it would be likely that the application of the draft London Plan planning definition would significantly increase levels of need arising from gypsies, travellers and travelling showpeople. However, as that definition has now been removed by the Inspector, it is considered reasonable for Barnet to continue to apply the currently accepted definition as set out in the PPTS (2015).”

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

Statutory Framework

21. The Housing 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]*

22. All gypsies and travellers living in caravans fall within this section and Local Authorities are required to consider their accommodation needs.

23. 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.

24. 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.
25. 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.
26. 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

27. 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*

28. 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.”

29. This definition is a reversion to the that provided in the 2012 PPTS and is understood to be as a result of the Court of Appeal judgement in the case of **Lisa Smith v Secretary of State** (Appendix C5).

30. 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.

31. 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)*

32. 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.*

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

34. *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.)”

35. This includes 'born' Gypsies and Travellers as well as 'elective' Travellers as New Age Travellers.
36. 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.
37. 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.
38. 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.”

39. 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”.

40. 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?

41. 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 C6).
42. 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...”
43. 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.
44. 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.
45. 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

46. It is a matter of common sense that the consideration of need goes beyond the need within a district and includes need in the sub-region / region and nationally.
47. 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.
48. 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.
49. Outside of the GTAA/GTNAs and LPA 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

50. 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

51. Census information is an important source of information.
52. The 2021 Census data (Appendix C3) has now been published and is considered below.
53. The following points should be noted about the 2021 census data.
54. 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'.
55. It is likely to have significantly under-recorded 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.
56. 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.
57. 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).

58. It is highly improbable that that many caravans would house that few people. It is more likely that the caravan-based population is around 4 times the level found in the census.
59. 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.
60. 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.
61. What the Census information does do however is provide a statistically robust sample which assists in two key areas.
62. Firstly, the population age profile. This assists in considerations of future growth rates.
63. 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

65. The ODPM/DCLG gypsy count identified approximately 24,925 caravans on gypsy and traveller sites in January 2023 in England and approximately 25,220 caravans in July 2023 in England.
66. 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.
67. Given that the caravan counts are almost always an underestimation; these figures represent a clear need for gypsy and traveller sites nationally.
68. 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).
69. 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 Needs

Need for Gypsy and Traveller Sites in Barnet

70. The West London Alliance Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (“GTAA”) was published in October 2018 (Appendix C1) with an update dated July 2021. The base date for this study was January 2018.

71. The January 2018 caravan count (the closest to the cited base date) for Barnet has a total of three unauthorised caravans (appendix C8).

72. Despite this the GTAA identified zero households in Barnet; at paragraph 4.7 of the GTAA stating:

“In Barnet, at the baseline date for this study, there were no Gypsy and Traveller sites or Travelling Showpeople yards identified.”

73. The GTAA update at paragraph 5.1.1 states:

“The Council considers that the 2018 GTAA and Update provides a credible evidence base to support policies in the Local Plan and the provision of new Gypsy and Traveller Pitches and Travelling Showpeople plots up to 2041 with a split to 2033 as required by the PPTS.”

74. As a result, no allowance is made for any need in the Borough.

Barnet

^{1.18} There were no Gypsy or Traveller households identified in Barnet so there is no current or future need for additional pitches over the London Plan period to 2041.

Figure 1 – Additional need for Gypsy and Traveller households in Barnet 2016-2041

Status	Total
Meet Planning Definition	0
Unknown	0
Do not meet Planning Definition	0

75. As above, it is inconceivable that there would be no gypsy and traveller households in the Borough, if GPS finds evidence of even one household at the base date, then the Council's figures will be proven incorrect.
76. 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 Borough. These are considered below.

Survey Data:

77. The GTAA states that the base date of the assessment is January 2018. However, there are no details of when the research into the area was undertaken and why this base date is appropriate.
78. It is also unclear over what period of time the fieldwork was conducted and whether this was a sufficient period of time. Irrespective of the fact that no gypsy and travellers in caravans were identified, ORS were also to survey those living in bricks and mortar. The GTAA sets out below what methods that involved, including adverts etc and that the onus was on the occupants of the bricks and mortar to contact ORS. It is unclear how long or how often those adverts ran for and where they were made available. Given that within the GTAA, ORS identifies 0 households living in bricks and mortar this would suggest that the methods employed were insufficient.
79. In relation to unauthorised pitches and encampments it is unclear what investigations were taken other than relying on information provided by the Council, who have a vested interest in these figures being lower. For example, the GTAA Update references enforcement reports (which would have been obtained from the Council) and the Council's Community Safety Team.
80. The GTAA Update does not state that further surveys were carried out and investigations made with the public. Given that the GTAA Update was necessitated due

to public consultation on the Local Plan, this is surprising. Further the full data provided by the Council to inform this Update is not enclosed in the GTAA preventing further scrutiny.

81. It is telling that the GTAA Update, produced by Arc 4, does not state that the conclusions therein are that of Arc 4 but instead are that of the Council.

*“**The Council** considers that the 2018 GTAA and Update provides a credible evidence base to support policies in the Local Plan and the provision of new Gypsy and Traveller pitches and Travelling Showpeople plots up to 2041 with a split to 2033 as required by the PPTS.” (GPS emphasis added)*

82. This is unsurprising given the differing approaches Arc 4 and ORS have historically taken to the PPTS 2015 definition and need arising from bricks and mortar in their respective assessments.

83. The deficiencies in the methodology of the GTAA have prevented the robust baseline of need in the Borough from being identified. This in turn impacts on GPS’ ability to scrutinise that base line and data. However, it is clear that there are numerous errors in the GTAA and that if just one of which could result in a gypsy and traveller household being identified this would impact the base line conclusions, future growth and the overall five-year supply figure. If the Inspector accepts that just one household existed in Barnet as at the base date, this establishes a need as against which there is no supply.

84. This is demonstrated below, where two unauthorised households are identified, which then results in a need for four households once hidden need and emerging growth is considered. However, it is GPS position that this is an absolute minimum and the level of need in the Borough is likely to be significantly higher.

Demand

Authorised Sites

85. No authorised sites are identified in the GTAA. GPS do not have evidence to dispute this position.

Unauthorised Households

86. 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.
87. The GTAA identified zero unauthorised sites at the base date. In not allowing for any unauthorised pitches or sites, the GTAA leaves no room for error. If only 1 pitch or household is identified, the conclusion and robustness of the GTAA is immediately undermined.
88. The January 2018 caravan count for Barnet (the same as the base date) identifies a total of three caravans, all of which were on unauthorised sites. Despite this no allowance is made in either the GTAA or the GTAA Update.
89. The GTAA Update addresses unauthorised encampments and clearly states that there were no unauthorised encampments in January 2018 as shown by the below table extracted from the GTAA Update:

	2018	2019	2020
January	-	3	1
February	-	0	1
March	-	1	1
April	1	0	0
May	5	3	0
June	3	8	3
July	0	3	-
August	10	7	-
September	4	9	-
October	14	8	-
November	7	6	-
December	3	3	-
Total	47	51	3

90. The above table also fails to account for five caravans shown on the July 2018 caravan count for Barnet, all of which were unauthorised (appendix C8), casting doubt on the Council's data.
91. In the absence of any explanation the 2018 January caravan counts are indicative of unauthorised pitches as at the base date. Working on a ratio of two caravans to one pitch, this would equate to **two unauthorised pitches.**
92. GPS are of the view that this is likely to be the absolute minimum of unauthorised pitches there would have been in the area as at the base date.
93. The Council within the Barnet Local Plan EIP – Revised Note on Gypsies, Travellers and Travelling Showpeople (Appendix C4) reference use of negotiated stopping agreements to avoid formal enforcement or injunctive action for unauthorised encampments. The note states:

“This allows caravans to be sited on suitable specific pieces of ground for an agreed and limited period of time”

94. However, it is unclear what is meant by a limited period of time for example, a limited period of time could theoretically be a year or two years. ORS typically treat encampments as anything less than three months in duration. However, it is unclear if the Council are of the same view. Clearly, if a negotiated stopping agreement is in place in excess of such a period this could be indicative of a need for a pitch which ought to have been considered in the GTAA. The Council are requested to confirm if there were any negotiated stopping agreements in place as at the base date or during the fieldwork, and if so the agreed timescales.
95. Pending disclosure of which GPS proceed on the basis of **two unauthorised pitches.** Although GPS are of the view that this is likely to be the absolute minimum of unauthorised pitches there would have been in the area as at the base date.

Concealed Households

96. Concealed households are adult individuals or couples or families living within the accommodation of another family, usually but not exclusively a related household.
97. 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.
98. Any three generations of families living on one pitch should be considered as concealed households. Even if they do not wish to move at the point of the interview, they may change their mind at any point in the future and it is likely that they do not consider it realistic that there is any alternative.
99. The GTAA aggregate considerations over doubling-up/concealed/and overcrowded households and do not make material attempts to distinguish the three considerations.

100. Doubled-up households are different to concealed households, and it is erroneous to consider all three together.

101. Unsurprisingly at Figure 68 the GTAA finds 0 concealed households.

102. The failure to properly consider and assess concealed, overcrowded and doubled up households is a significant failing of the GTAA. However, without the GTAA identifying any gypsy and travellers in the area it is not possible for GPS to consider this head of need further.

Doubled up households

103. 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.
104. 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.

Conclusion on households living in caravans as at the base date

91. Adjusting the figures for the sites considered there was a need for at least two households at the base date from those living in caravans.

92. Given the deficiencies in the GTAA which have prevented further investigation by GPS, the actual number of households and the actual level of need in the Borough is likely to be higher.

Hidden Need

105. 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. Consequently, they need to move back to a pitch and out of bricks and mortar.

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

107. 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.

108. However, within the GTAA, ORS identifies 0 households living in bricks and mortar. The GTAA states at paragraph 7.21 that:

“Following efforts that were made it was not possible to interview any households living in bricks and mortar.”

109. Furthermore, it is clear from the GTAA, that the onus is on the occupants to make themselves known to ORS opposed to the other way around.

“Through this approach ORS endeavoured to do everything within our means to give households living in bricks and mortar the opportunity to make their views known.”

110. 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. The GTAA does not make any further attempt to calculate for those in Bricks and Mortar.

111. This is particularly surprising when it was clear to ORS that there were households living in bricks and mortar. The GTAA acknowledged that the 2011 Census identified 57 households.
112. It should also be noted that that the 2008 London Boroughs Gypsy and Traveller Accommodation Needs Assessment (Appendix C9) identified 62 households in bricks and mortar and a resultant need for 13 pitches to meet those with an aversion to doing so and needing to move. No such pitches have been provided. Despite this the GTAA still made no allowance. No explanation for this is provided.
113. 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.
114. 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 C10) 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”*
115. 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 recorded as living in a caravan in the UK, 3.62 are recorded as living in bricks and mortar.
116. Based on the households identified by GPS living in caravans (at least two) at the base date of the GTAA; applying a multiplier of 3.62 would result in seven households in bricks and mortar.

117. Within many other GTAA's 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 one household.

118. Clearly, if additional households are identified as living in caravans as at the base date, which GPS believe should have been, this figure would be higher.

Conclusion on base date figures

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

i. Unauthorised households	2
ii. Hidden Need	1

94. Green Planning Studio stresses that the actual number of households and the actual level of need in Barnet will inevitably be much higher, given that the inadequacies of the GTAA and lack of information therein.

Emerging Need

Growth Rate

119. 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.

120. 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.

121. Addressing future need in the Borough, the GTAA states at paragraph 1.18:

“There were no Gypsy or Traveller households identified in Barnet so there is no current or future need for additional pitches over the London Plan period to 2041.”

122. However, given GPS’ position that there were households in need as at that base date, emerging growth needs to be considered.

123. ORS’ approach to emerging need is discussed in the GTAA at para 7.12 – 7.13:

“6.11 Overall, the household growth rate used for the assessment of future needs has been informed by local evidence for each local authority. This demographic evidence has been used to adjust the 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).”

6.12 In certain circumstances where the numbers of households and children are low it is not appropriate to apply a percentage rate for new household formation. In these cases, a judgement will be made on likely new household formation based on the age and gender of the children. This will be based on the assumption that 50% of likely households to form will stay in the area. This is based on evidence from other GTAAs that ORS have completed across England and Wales.”

124. ORS apply a 1.5% national growth rate per annum for Gypsies and Travellers.

This is generally then adjusted by ORS using demographic or “local” evidence.

125. ORS fail to provide any of the data used by them to arrive at the varying growth rates conclusion, so GPS is unable to examine the appropriateness of the figure in detail.

126. 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.

127. The ORS conclusion of a population (not household) growth rate of 1.5% 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 travellers 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.

128. 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 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.

129. 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.

130. 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 rate

131. 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.

132. This figure is different from population growth rate. This is rate of increase in the size of population.

133. The GTAA conclusions on Household Growth are based on a failure to understand the mathematical difference between the two calculations.

134. 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.

135. 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).

136. 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.

137. 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.

138. A worked example of household growth rate is set out at Table 1 (appendix C11). 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.

139. As a result, GPS recommend the following 5-year household formation rates;

- 2018 – 2023 10.52%
- 2023 – 2028 9.90%
- 2028 – 2031 5.61%

140. 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.

141. To show the error in the ORS approach within the GTAA – Table 2 (Appendix C12) 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.
142. ORS's assumption that there is the same rate of households forming and population growth cannot be correct.
143. 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.
144. 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.
145. Applying the above figures, the number of emerging families in the district based on three households within the district at the base date, would equate to one additional household being formed over the period 2018 – 2031 (rounding up the need for the household would emerge by 2028). GPS' methodology using the 2011 data to calculate household growth rate cannot be modelled beyond 2031.
146. Green Planning Studio stresses that the actual number of households and the actual level of need in Barnet will inevitably be much higher, given that the inadequacies of the GTAA and lack of information therein.

Supply at the base date

147. There was 0 supply at the base date.

Supply since the base date

148. There have been 0 grants of permission since the base date.

Conclusion on need

149. The GTAA is dated October 2018. The Inquiry in this matter is likely to take place in 2025. By the time of the inquiry, the GTAA will be almost eight years old. The Council is clearly in breach of their duties. The evidence base is out of date and on that basis alone the Council cannot demonstrate a five-year supply of gypsy and traveller pitches.

150. The Inspector, in his interim report on the examination of the local plan review, acknowledges that a further review of the local plan will be required following the publication of the GTANA, demonstrating further that the GTAA is not considered to be up to date.

“The listed changes to the policy set out above, will require, and a commitment that the preparation and publication of findings of a London-wide Gypsy and Traveller accommodation needs assessment, taking account of the 2021 Census, will inform the committed early review of the Plan.”

151. The GTAA identified no gypsy and traveller households in Barnet (those meeting the PPTS definition, not meeting or unknowns) and as such the GTAA identifies no need for the Council to address. In reaching this conclusion Opinion Research Service (“ORS”) have left themselves and the Council no room for error. If just one household is identified the robustness of the GTAA’s conclusions will be undermined. Put succinctly, if the Inspector accepts that just one household existed in Barnet as at the base date, this establishes a need as against which there is no supply and the Inspector would have to conclude that a five year supply could not be demonstrated. This is demonstrated above, by the identification of just two unauthorised households.

152. There is sufficient evidence to demonstrate that there was at least three gypsy and traveller households in the borough as at the base date

- The Caravan Counts identify three caravans, which do not correlate with the Council's encampment figures and as such should be treated as an unauthorised pitches.
- The 2021 census (Appendix C3) identifies that 0.26% of the population of Barnet identified as a gypsy and traveller. Based on an estimated population of 389,300 this equates to 1012.18 none of whom have been identified or allowed for in the GTAA. The figure of 1012.18 is likely to be a minimum given that not all gypsies and travellers will have engaged with the 2021 Census or identified themselves as such.
- The 2008 London Boroughs Gypsy and Traveller Accommodation Needs Assessment (Appendix C9) identified 62 households in bricks and mortar and a resultant need for 13 pitches to meet those with an aversion to doing so and needing to move. No such pitches have been provided. There is no evidence that this need has been met and the GTAA has failed to identify that this need no longer exists.
- The Council themselves have recently acknowledged that there are likely to be gypsies and travellers in need in the area in the Barnet Local Plan EIP – Revised Note on Gypsies, Travellers and Travelling Showpeople (Appendix C4).

153. It follows that notwithstanding the lack of any authorised sites, the failure to adequately consider those in bricks and mortar and on unauthorised sites will have resulted in the recorded base date figure being too low impacting the calculation of future family growth being too low such that the Council cannot demonstrate a five year supply of pitches.

154. Based on GPS' figure of three households as at the base date and a supply of 0 pitches. As at the base date there was an immediate need for three pitches.

155. As the Appeal is likely to be heard in 2025, the appropriate five-year period is 2025 – 2030, the number of pitches required by 2030 would be four given the lack of any supply.

156. These figures are however an estimated need and have been arrived at on the information available. GPS anticipate that the need is likely to exceed the figures herein.

Green Planning Studio Limited

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Unit D Lunesdale
Upton Magna Business
Park Shrewsbury SY4
4TT
appeals@gpsltd.co.uk

Appendices C

1. West London Alliance Gypsy, Traveller and Travelling Showpeople Accommodation Assessment by Opinion Research Services (ORS), dated October 2018
2. Update on Gypsy, Traveller and Travelling Showpeople Accommodation Assessment dated July 2021
3. Census data 2021
4. The Barnet Local Plan EIP – Revised Note on Gypsies, Travellers and Travelling Showpeople
5. Court of Appeal Decision **Lisa Smith** v Secretary of State [2022] EWCA Civ 1391
6. **Wrexham County Borough Council v National Assembly of Wales and Others** [2003] ALL ER (D) 246 (Jun)
7. Planning Resource: How has life changed in Barnet: Census 2021
8. ODPM/DCLG Counts for Barnet January 2018
9. London Borough's Gypsy and Traveller Accommodation Needs Assessment dated March 2008
10. Appeal decision: APP/C/16/31523763 *Bennett v Basildon District Council* dated 17th January 2018
11. Table 1- Worked Example of Household Growth Rate.
12. Table 2- Effect of ORS household growth rate modelling.