

## LOCAL PLAN EXAMINATION HEARINGS: DAY 4 - MATTER 6

### TECHNICAL NOTE: POLICY HS8 - MEETING the NEEDS of GYPSIES and TRAVELLERS and TRAVELLING SHOWPEOPLE

Task No.	Task	Proposed Modification	Status	Notes
25	Policy HS8 criterion i - not currently clear regarding need. Policy wording needs to be amended to reflect the upper figure of 7 to make it a usable DM policy and avoid confusion. Paragraph 16.61 should be consistent with Policy HS8.	Main	Complete	
26	Policy HS8 criterion iii - make sure policy wording is consistent in terms of requirements between traveller sites and other housing sites to ensure equality (what is meant by 'minimal impact').	Minor	Complete	Modification is for clarity and consistency purposes and not a fundamental change in policy
27	Policy HS8 criterion viii – clarify what is meant by 'easily accessible' and justify any differences between the traveller and settled populations.	Minor	Complete	Modification is for clarity and consistency purposes and not a fundamental change in policy
28	Policy HS8 criterion ix – ensure consistency with Policy HE1. Possibly cross reference the requirements of HE1 in order to ensure consistency.	Minor	Complete	Modification is for clarity and consistency purposes and not a fundamental change in policy
29	Policy HS8 criterion xi - implement modification suggested by the Environment Agency as included in Council's Hearing Statement regarding reference to relevant flood zones.	Main	Complete	
30	Policy HS8 criterion xiv - clarify approach. What are the locational criteria? Is this an appropriate approach to traveller sites?	Minor	Complete	Modification is for clarity and consistency purposes and not a fundamental change in policy
N/A	Policy HS8 criterion v – Consider whether this issue is covered under Policy EN3 and does not need to be repeated under Policy HS8.	Minor	Complete	Query raised by Inspector for Council's consideration.

#### **TASK 25: POLICY HS8 CRITERION i- NOT CURRENTLY CLEAR REGARDING NEED. POLICY WORDING NEEDS TO BE AMENDED TO REFLECT THE UPPER FIGURE OF 7 TO MAKE IT A USABLE DM POLICY AND AVOID CONFUSION. PARAGRAPH 16.61 SHOULD BE CONSISTENT WITH POLICY HS8.**

##### **Background**

1.1 Criterion i of Policy HS8 requires any applications for sites to be assessed in accordance with *".....the level of local provision and need for sites"*

1.2 Clarity is required about the level of need to make Policy HS8 a usable policy and avoid confusion. This has arisen as the Government amended the definition of gypsies and travellers to exclude those living in bricks and mortar as the 2015 Calderdale Gypsy, Traveller and Travelling Show Person Accommodation Assessment (EV31) was being completed. The Study determined that there was a need for 7 pitches but the definitional change meant that this could be interpreted as zero depending on the particular circumstances of those seeking accommodation. Additionally, given the date of the Study there is now a need to refresh the evidence. At the stage one hearings the Inspector explored the Council's decision to prepare a separate DPD on Gypsies and Travellers following Local Plan adoption, as set out in the Council's Local Development Scheme. Should the Inspector agree with this approach, an update of the Study would be undertaken prior to commencement of work on the DPD and would both inform this document and also criterion i of Policy HS8.

## Reasoning behind Proposed Modification(s)

1.3 Paragraphs 16.61 and 16.62 of the reasoned justification to Policy HS8 require amending to make it clear that the currently determined level of need is for 7 pitches. However, mention should also be made as to the circumstances of those seeking accommodation with reference to the current definition of need as set out in Annex 1 to “Planning Policy for Traveller Sites” (DCLG, 2015). Additionally, the fact that a refresh of the evidence is to be undertaken needs to be signposted. These amendments result in a consequential amendment to paragraph 16.65 to avoid duplication regarding reference to the fact a DPD for gypsies and travellers is to be prepared.

## Proposed Modification(s)

- **Policy HS8:** No change is proposed to Policy HS8 criterion i as this matter is dealt with in the reasoned justification enabling the Policy to remain relevant as the evidence of need is updated

- **New Paragraph 16.1a**

For the purpose of criterion i of Policy HS8 the starting point is that need is equivalent to 7 pitches as determined in the Study but the accommodation circumstances of those seeking pitches will also be taken into account at the time of a planning application in order that the decisions complies with the current definition of need as set out in Annex 1 to “Planning Policy for Traveller Sites” (DCLG, 2015). In its Local Development Scheme the Council states its intention to bring forward a Development Plan Document (DPD) upon adoption of the Local Plan in order to address the needs of Gypsies and Travellers and Travelling Showpeople. As part of the preparation of this document evidence of need will be refreshed in order to ensure that the DPD is based on the most up-to-date evidence and employing the most recent definition of gypsies and travellers. Provision will be made for an allocation(s) if such a requirement is supported by the evidence on need. This evidence, including any further updates, will also be used to determine planning applications against criterion i of Policy HS8.

- **Paragraph 16.62**

The Study also examined the need for transit accommodation based on data relating to unauthorised encampments. Analysis of this data indicates that new transit provision of six transit pitches be made with particular consideration to the Brighouse, Elland and Halifax areas since it is these areas that have experienced the highest levels of unauthorised encampment activity. The study did not consider that the current level of activity will alter significantly over future years beyond 2018/19. Whilst the assumption is that each transit pitch would accommodate one caravan, established practice within the Travelling community means that pitches could accommodate up to two vans if the pitch is being occupied by the same household or member of a family group. However, the need for transit pitches is not well supported by survey findings that show that three quarters of respondents felt that there was not a need for new transit pitches across the study area. The Study also recommended consideration be given as to whether the most appropriate type of provision would be a conventional formal transit site or a form of authorised ‘stopover’ or negotiated stopping provision. As with provision for permanent sites, as set out above, when assessing any planning applications for transit sites against criterion i of Policy HS8 the most recent evidence will be used.

- **Paragraph 16.65**

~~Whilst Policy HS8 sets out how planning applications for sites to accommodate Gypsies and Travellers and Travelling Showpeople will be assessed, this Local Plan does not include any further provision to meet their needs and a separate Development Plan Document (DPD) will be brought forward upon adoption of the Local Plan to address this issue.~~

**TASK 26: POLICY HS8 CRITERION iii - MAKE SURE POLICY WORDING IS CONSISTENT IN TERMS OF REQUIREMENTS BETWEEN TRAVELLER SITES AND OTHER HOUSING SITES TO ENSURE EQUALITY (WHAT IS MEANT BY 'MINIMAL IMPACT').**

**Background**

- 1.1 Criterion iii of Policy HS8 states: "...the site will have minimal impact upon the environment and the surrounding areas, particularly nearby residential areas"
- 1.2 As drafted the wording of the criterion potentially raises an equality issue as it is inconsistent with criterion vi of Policy HS1 (Non Allocated Sites) which seeks to avoid any unacceptable harm to amenity and the environment. Additionally the term 'minimal impact' should be more clearly defined.

**Reasoning behind Proposed Modification(s)**

- 1.3 In order to ensure consistency with Policy HS1 (Non Allocated Sites) the wording of the criterion is amended to reflect the approach in Policy HS1 criterion vi.
- 1.4 Minimal impact means that there should be no unacceptable environmental, amenity, traffic, safety, or other problems as a result of the proposal, particularly in relation to surrounding areas including nearby residential areas. However, in order to ensure consistency with Policy HS1 reference to 'minimal impact' is deleted.

**Proposed Modification(s)**

- **Criterion iii:** The development creates no unacceptable environmental, amenity, traffic, safety or other problems; ~~the site will have minimal impact upon the environment and the surrounding areas, particularly nearby residential areas;~~
  - As reference to 'minimal impact' has been deleted no modifications to the reasoned justification are required.
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**TASK 27: POLICY HS8 CRITERION viii - CLARIFY WHAT IS MEANT BY 'EASILY ACCESSIBLE' AND JUSTIFY ANY DIFFERENCES BETWEEN THE TRAVELLER AND SETTLED POPULATIONS.**

**Background**

- 1.1 Criterion viii of Policy HS8 states: "... *Schools and other community facilities including health services are easily accessible from the site*"
- 1.2 The reasoned justification needs to make clear what is meant by the phrase 'easily accessible' and whether this differs from such requirements in relation to the settled population. If this is the case the justification for this difference between the settled and travelling population needs to be explained otherwise there will be potential equality implications for the Local Plan.

**Reasoning behind Proposed Modification(s)**

- 1.3 The intention in Policy HS8 is that sites are located sustainably as is the case with sites for the settled population and therefore equates to criterion i in Policy HS1. This is further defined in the reasoned justification as being within a reasonable distance of local services and facilities such as shops, hospitals, and schools (so that children can attend school on a regular basis). The wording of the criterion should be amended to make the intention behind the policy clearer and consistent with Policy HS1. The phrase 'easily accessible from the site' is deleted as this is no longer required given the inclusion of the phrase 'sustainably located'. The term 'sustainably

located' is defined in the reasoned justification to Policy HS1 (paragraph 16.3) and should be repeated in the reasoned justification for Policy HS8, both for ease of reference and to make it clear that the same provisions apply to both the settled and travelling populations. Given these amendments there no longer remains a need to explain any differences between the settled and travelling populations.

### **Proposed Modification(s)**

- **Criterion viii:** The site is sustainably located with regard to schools and other community facilities including health services are easily accessible from the site;
- **Paragraph 16.63:** "...Sites also need to be located sustainably and therefore within a reasonable distance of local services and facilities such as shops, hospitals and schools (so that children can attend school on a regular basis)." Sites also need to be located sustainably with accessibility to services and facilities by good quality public transport, cycling and walking. For the purpose of Policy HS8, walking distance to public transport is taken as within 400m of a bus stop on a high frequency bus route or 800m of a railway station; access to local services such as convenience shops, post offices, health centres/surgeries and primary schools (so that children can attend school on a regular basis) should be no more than a 15 to 20 minute public transport journey.\* It will be important to consider the individual circumstances of each site, including matters such as topography and the amenity and general safety of any route.

Footnote: \* *Site Allocations Assessments Methodology, CMBC*

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## **TASK 28: POLICY HS8 CRITERION ix - ENSURE CONSISTENCY WITH POLICY HE1. POSSIBLY CROSS REFERENCE THE REQUIREMENTS OF HE1 IN ORDER TO ENSURE CONSISTENCY.**

### **Background**

- 1.1. Criterion ix of Policy HS8 states: "Development of the site preserves or enhances any heritage asset and will not harm those elements which contribute to its significance, including its setting, where this is a material consideration."
- 1.2. There is a need to ensure consistency with Policy HE1 (The Historic Environment) by either using the same wording or cross referencing to Policy HE1. It should be made clear that this is a statutory requirement as set out in the National Planning Policy Framework (and as requested by Historic England).

### **Reasoning behind Proposed Modification(s)**

- 1.3. This criterion is very similar to criterion vii in Policy HS1 and also to Policy HE1 (Historic Environment) which sets out in more detail how the Council will protect, conserve and enhance Calderdale's valuable and diverse historic environment. These requirements are set out in the NPPF 2012 (Section 12) and 2019 (Section 16) and are also requirements of Historic England who support criterion ix in Policy HS8. Historic England consider that the inclusion of this criterion will help to ensure that any developments to meet the needs of gypsies, travellers and travelling showpeople take place in a manner which conserves Calderdale's historic environment. The wording of the criterion is amended to reflect the wording in Policy HS1 and cross referenced to Policy HE1 whilst attention is drawn to this part of the Local Plan in the reasoned justification.

### **Proposed Modification(s)**

- Criterion ix: Development of the site conserves or enhances any heritage asset and will not harm those elements which contribute to its significance, including its setting, where this is a material consideration, as set out in Policy HE1 (Historic Environment);
  - Paragraph 16.63  
...Other sensitive locations must also be protected as should local amenity and the environment generally. This includes heritage assets and their settings and is a statutory requirement in the National Planning Policy Framework which requires the impact on the historic environment to be evaluated and development preserve or enhance any heritage asset and not harm those elements which contribute to its significance, including its setting, where this is a material consideration.. These requirements are set out in greater detail in Policy HE1 (The Historic Environment) of this Local Plan and is an approach is supported by Historic England. Sites also need to be located sustainably and therefore within a reasonable distance of .....
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### **TASK 29: POLICY HS8 CRITERION XI - IMPLEMENT MODIFICATION SUGGESTED BY THE ENVIRONMENT AGENCY AS INCLUDED IN COUNCIL'S HEARING STATEMENT REGARDING REFERENCE TO RELEVANT FLOOD ZONES.**

#### **Background**

1.1 Criterion xi of Policy HS8 states: "The site is not located in Flood Zone 3"

1.2 The Environment Agency in its representations on the Local Plan considered that the criterion should be amended to reflect the 'highly vulnerable' nature of Gypsies and Travellers and Travelling Showpeople sites. Bullet point xi should include Flood Zone 2, subject to Sequential and Exception Tests. The Council accepts the advice of the Environment Agency and indicated in its response to Matter 6 of the Inspector's Matters, Issues and Question (paragraph 6e3) its intention to amend the criterion accordingly, with which the Inspector agreed.

#### **Reasoning behind Proposed Modification(s)**

1.3 The criterion is amended to reflect the advice of the Environment Agency.

#### **Proposed Modification(s)**

- Criterion xi: The site is not located in Flood Zone 3 and if located in Flood Zone 2 the requirements of the Flood Risk Sequential and Exception Tests are met;
  - No additional text needs to be added to the reasoned justification.
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### **TASK 30: POLICY HS8 CRITERION xiv - CLARIFY APPROACH. WHAT ARE THE LOCATIONAL CRITERIA? IS THIS AN APPROPRIATE APPROACH TO TRAVELLER SITES?**

#### **Background**

1.1 Criterion xiv of Policy HS8 states: "The site complies with the locational criteria for development elsewhere in the Local Plan."

1.2 The meaning of 'locational criteria' requires clarification, especially as the Green Belt is covered under criterion ii of Policy HS8. If Gypsies and Travellers are to be treated differently to the settled population where is this stated in national policy? If there is a distinction between the

settled and travelling population make this clear in a similar way, for example, as the Rural Exceptions Policy does for certain forms of development.

#### **Reasoning behind Proposed Modification(s)**

1.3 Given that the issue of location in terms of the Green Belt is covered under criterion ii and sustainable locations are addressed under the amended criterion viii this additional criterion is superfluous and should be deleted.

#### **Proposed Modification(s)**

- ~~Criterion xiv: The site complies with the locational criteria for development elsewhere in the Local Plan.~~
  - No additional text needs to be added to the reasoned justification.
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### **TASK (NO REF NO.): POLICY HS8 CRITERION V – CONSIDER WHETHER THIS ISSUE IS COVERED UNDER POLICY EN3 AND DOES NOT NEED TO BE REPEATED UNDER POLICY HS8.**

#### **Background**

1.1 Criterion v of Policy HS8 states: “A scheme has been provided to ensure that any historic ground contamination can be managed safely;”

1.2 At the stage 1 hearings the Inspector raised a query for the Council’s consideration as to whether Policy HS8 criterion v repeated Policy EN3 (Environmental Protection) which also addresses the issue of contamination on sites.

#### **Reasoning behind Proposed Modification(s)**

1.3 Having reflected upon the above issue the Council acknowledges that there is duplication between the two policies and criterion v in Policy HS8 is repetitive. However, to make it clear that other policies in the Local Plan will apply, the same requirement to comply with other relevant policies is added to the end of Policy HS8, as is the case with Policy HS1 (criterion ix).

#### **Proposed Modification(s)**

- ~~Criterion v: A scheme has been provided to ensure that any historic ground contamination can be managed safely;~~
- **New criterion:** The site complies with other relevant Local Plan policies
- No consequential changes are required to the reasoned justification.