

South Gloucestershire New Local Plan Phase 3

Topic paper:

Meeting the needs of our Gypsy, Traveller and Travelling Showpeople communities

December 2023

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1. Introduction

1.1 The Council is currently preparing a new Local Plan. Once adopted the policies and proposals within the plan will guide development and help to decide on planning applications and other planning related matters during the plan period.

1.2 The purpose of this document is to set out the background and justification for the approach the Council, in its capacity as the local planning authority (LPA) is proposing to the provision of accommodation for its Gypsy, Traveller and Travelling Showpeople communities, as set out in the [Local Plan Phase 3 consultation document \(December 2023\)](#). While much of the background and context set out below relates to the accommodation needs of Gypsies/ Travellers, for the most part we propose a similar approach to provision for our Travelling Showpeople community.

1.3 It starts by setting out the background and context with regard to national planning policy, inequalities and the relevant statute. It then goes on to explain the Council's proposed approach to meeting the need for accommodation, and the reasons we consider this approach to be 'sound', in line with the requirements of national planning policy (NPPF para 35).

[Gypsy/ Traveller provision- policy and legislative background](#)

1.4 The Gypsy and Traveller Accommodation Assessment (GTAA), which can be found at Appendix A, contains a comprehensive summary of the planning policy context relevant to Gypsy and Traveller needs and accommodation. The below provides a high-level summary of the relevant policies and the assessment of need.

1.5 Since 1994, national planning policy has required local planning authorities to assess the accommodation needs of Gypsies and Travellers in their areas, and identify land to meet these needs through their development plans (now referred to as Local Plans).

1.6 In 2016, the Housing and Planning Act (section 124) introduced duty in the Housing Act 1985 for Councils to consider the needs of people residing in or resorting to their district in respect of caravan sites and houseboats (which includes Romany Gypsies, Irish Travellers and Travelling Showpeople).

1.7 In 2015, Planning Policy for Traveller Sites (PPTS) was published, and is to be read in conjunction with the National Planning Policy Framework (NPPF). PPTS sets out that 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.

1.8 To this end, local planning authorities should (inter alia):

- make their own assessment of need for the purposes of planning.
- develop fair and effective strategies to meet need through the identification of land for sites.

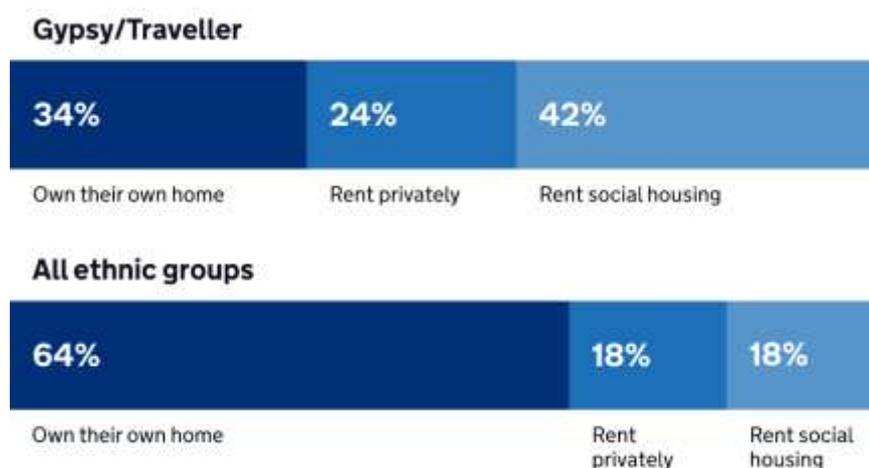
- set out fair, realistic and inclusive policies.

As such PPTS requires local planning authorities to identify land to meet the accommodation needs of its Gypsy, Traveller and Travelling Showpeople communities in the same way that it identifies land for 'mainstream' or traditional housing.

Social context

1.9 Further to the legislative and policy requirements set out above, it is important to put Gypsy and Traveller provision into a social context. There is a widespread acceptance that Gypsies and Travellers are amongst the most marginalised groups in the country with disproportionate health and education outcomes. For instance, life expectancies for Romany Gypsies and Irish Travellers are between 10 and 25 years shorter than the general population. A lack of secure accommodation underpins the inequalities that these groups experience.

1.10 Furthermore, 2011 census data indicates that many within the Gypsy and Traveller communities need socially provided accommodation:



For this reason, one of the aims of PPTS is to consider the needs of those Gypsies and Travellers who require social provision.

1.11 Putting this into the context of the Council's legal responsibilities, the Public Sector Equality Duty (Equality Act 2010) requires public authorities in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

These are sometimes referred to as the three aims or arms of the general equality duty.

1.12 The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

1.13 Romany Gypsies and Irish and Scottish Travellers are recognised ethnic minorities for the purpose of the Public Sector Equality Duty. Given that the inequalities faced by these communities are often underpinned by a lack of secure accommodation, having due regard could be considered to include identifying land to meet the communities' needs.

1.14 Furthermore, given that a larger proportion of Gypsies and Travellers than the general population require socially provided accommodation it is important that the Council considers the role it could potentially play, and through working with partners, identify opportunities for those who cannot afford to provide for themselves.

History of unmet need

1.15 There has historically been a persistent level of unmet need for accommodation for Gypsies, Travellers and Travelling Showpeople in South Gloucestershire. Through preparing various Local Plans, previous attempts to address the accommodation needs of these communities through bringing forward sites have not borne fruit and no land has been allocated to meet the needs of our communities through the Local Plan process. Aside from the two socially provided, Council-owned sites in South Gloucestershire, all sites have been provided privately through the development management process.

1.16 In 2006 the Council was directed by the Secretary of State (SoS) to amend its Local Development Scheme to include a Gypsy & Traveller Development Plan Document (DPD). The SoS, via the formal Direction, was explicit in stating that there is a clear and immediate need to bring forward a specific Gypsy and Traveller DPD containing site allocations. A deadline of March 2008 was given for the submission of this document. The Ministerial Direction has never been withdrawn and adds weight to the case for making provision.

1.17 Furthermore, recent planning appeals have been unequivocal on this issue. An example being an appeal on a site located within both the Green Belt and Flood Zone 3b, where the Inspector found that:

49...There is no strategy to address outstanding need through the development plan process that can be given any weight at present, and there is a history of policy failure in this regard, the Council having been directed by the Secretary of State to make significant improvement to supply and delivery. Save for the criteria for assessing windfall sites and the objective to safeguard existing authorised pitches at specified sites, CS Policy CS21 is out of date.

50. Further, the Council has not been able to point to any suitable and available alternative sites for the appellants within the District or the wider area, and it has acknowledged that it is likely that many, if not most, new sites that will have to be found will be in what is currently Green Belt.

51. These are all matters to which I accord substantial weight in favour of the appeals.

1.18 As it stands, the Council is unable to demonstrate it is meeting the requirements of national policy (set largely through PPTS). The implications of this position are that the needs of our communities, many of whom are also ethnic minorities, are not being met. It also means that the Council's ability to defend against development proposals in inappropriate locations (through both the application and appeals process) is significantly reduced.

1.19 Given the context set out above, the time has come for a step change in the way the Council wants to plan for the needs of its Gypsy, Traveller and Travelling Showpeople communities. In order to do this, the approach to the assessment of need and meeting the need is set out below.

2. Assessment of need

2.1. The Council, in its capacity as the local planning authority (LPA) is required to make an assessment of 'travellers' accommodation needs for the purposes of planning. To this end, Opinion Research Services (ORS) were appointed to undertake an update of our evidence base, the Gypsy and Traveller Accommodation Assessment (GTAA). The primary objective of doing so was to provide a robust updated assessment of current and future need for Gypsy, Traveller and Travelling Showpeople accommodation in South Gloucestershire. The GTAA 2023 report is provided for reference in full at Appendix A.

2.2 ORS have also prepared consistent and comparable needs assessments for the other West of England LPAs.

National policy implications

2.3 In August 2015, the Government published revised planning guidance in ['Planning Policy for Traveller Sites' \(PPTS\)](#). The most significant amendment was a change to the definition of Gypsy and Travellers and Travelling Showpeople ('travellers'). The new definition effectively regards those who have ceased to travel on a permanent basis as falling outside of the definition of what it means, for the purposes of planning, to be a Gypsy/Traveller or Travelling Showperson. The revised definition (from Annex 1) 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, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- *whether they previously led a nomadic habit of life*
- *the reasons for ceasing their nomadic habit of life*
- *whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.”*

2.4 This change to national policy resulted in the Council update its Gypsy and Traveller evidence base (the GTAA) in progressing its Local Plan. Opinion Research Services (ORS), who also prepared the South Gloucestershire & Bristol GTAA 2013, were appointed to undertake a refresh of the GTAA in 2016 and the study was published in 2018.

2.5 Owing to the change to policy described above, and a lack of national guidance as to how the definition should be applied, ORS break the need identified down into three components:

- those who meet the definition,
- those who do not meet the definition, and
- those who may meet the definition (unknown).

2.6 At the time at which the previous GTAA was published, the Council set out its views on how it proposed to apply the definition, as this is a policy response at the discretion of the local planning authority.

“... reliance on a definition based only on those who travel (or have ceased to travel temporarily) for work purposes and in doing so stay away from their usual place of residence would place an over-reliance on the economic aspects of travelling as the determinant of constituting a Gypsy and Traveller. Moreover, this would not include those who commute to work daily or those who travel for purposes other than work such as visiting horse fairs and visiting friend or relatives.

As a result, this would exclude consideration of important social/ cultural elements associated with the ‘nomadic habit of life’. Consequently, applying such an approach would have significant implications for the Council, both in terms of the way it carries out its planning functions (policy, development management and enforcement) and its responsibilities under the Equality Act 2010.

“... basing an assessment of need on economic considerations alone does not fully address the Council’s responsibilities in terms of its planning and equality duties. As these groups have a legal right to ‘culturally appropriate accommodation, in practice the degree to which Gypsy and Travellers are still considered to travel should not, from the Council’s perspective, be taken as determining the actual level of demonstrable need in South Gloucestershire.”

This approach was commended in a report by the Equalities and Human Rights Commission report on [the revised planning definition’s impact on assessing accommodation needs](#).

2.7 In 2022 the Court of Appeal handed down judgment in *Lisa Smith v The Secretary of State for Levelling Up, Housing & Communities* [2022] EWCA Civ 1391. The case was a challenge to a specific appeal decision and concerned whether the planning definition of Gypsies and Travellers contained in Annex 1 of the PPTS (2015) is discriminatory against Travellers who are settled and who no longer travel for work. The Court of Appeal allowed the appeal and quashed the Inspectors decision from 2018 and referred the case back to The Secretary of State for redetermination. Whilst the judgement was specific to the claimant, it has wider application specifically to local plans.

2.8 The Council considers that the judgement referred to above only strengthens the position set out previously, that it is appropriate to plan for all of the needs identified through its evidence base. To seek to only meet the needs of those who meet the definition in PPTS (2015) would in itself be discriminatory. There are recent examples where local plan Inspectors appear to have taken this view also.

2.9 For completeness, the definition of Travelling Showpeople provided by national policy is:

Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily or permanently, but excludes Gypsies and Travellers..."

2.10 Owing to the similarities with the definition of Gypsies/ Travellers, the Council considers it appropriate to take the same approach to the needs of Travelling Showpeople.

Level of need in South Gloucestershire

2.11 Need for Gypsy/ Traveller provision is expressed in terms of a number of pitches, while need for Travelling Showpeople is expressed in number of plots. There is no official definition of what constitutes a 'pitch' or a 'plot', but consider these terms as set out below:

A 'pitch' is a unit of accommodation occupied by a single family of gypsies or travellers. It typically comprises two or more touring caravans with an amenity block or a more permanent structure such as a static caravan that does not move from the site.

A 'plot' is a unit of accommodation occupied by a single family of showpeople. It can be similar to a traveller pitch but can also be a conventional bricks and mortar dwelling. However, a show person's plot will also normally include space to store and maintain equipment used for the business such as fairground rides or hot food trailers.

2.12 Through taking the approach described above, the Gypsy and Traveller Accommodation Assessment gives the following level of need (which has been updated to take account of planning permissions granted since the GTAA was undertaken):

- 124 new pitches for Gypsies/ Travellers in the period 2022-2042; split between 81 private pitches and 43 socially provided pitches and,
- 65 new plots for Travelling Showpeople in the period 2022-2042.

2.13 At this stage, the Council considers the figures set out above to represent the level of demonstrable need for Gypsy/Traveller pitches and Travelling Showpeople plots which it should plan for. Details in relation to how the Council proposes to plan for these needs are set out below.

3. Approach to meeting needs

3.1 In seeking to meet the needs of our Gypsy/ Traveller and Travelling Showpeople communities, it is important that we investigate all potential sources of land available to us at this stage. With the above in mind, the approach we have taken to date is to investigate the potential:

- for intensification on existing authorised sites;
- suitability of land submitted through previous Call for Sites;
- suitability of land owned by the Council for allocation;
- suitability of land owned by the Gypsy/ Traveller and Travelling Showpeople communities for allocation.

Intensification of use

3.2 In line with the approach we have taken previously, in the first instance we are investigating the potential for appropriate intensification of use on existing, authorised sites to accommodate 'family growth'. Based on previous experience, it is anticipated that a significant number of pitches/ plots could be delivered through intensification on existing sites, without the need to alter the sites' boundaries.

3.3 We consider that intensification of use on existing, authorised sites is an important component of our strategy for meeting the needs of our communities. With this in mind, through the Phase 3 Local Plan consultation period we are seeking to engage with our Gypsy, Traveller and Travelling Showpeople communities, with a view to investigating whether potential exists for intensification on other sites in South Gloucestershire.

Land submitted through previous Call for Sites

3.4 The purpose of the 'call for sites' is to provide an opportunity for people to identify sites they think may have the potential for development (for housing and economic purposes) through the new Local Plan. To date, we have invited the submission of sites to be considered through the Housing and Economic Land Availability Assessment (HELAA) process for their suitability for potential allocation through the Plan. As part of this exercise, the number of sites submitted specifically for consideration as Gypsy/ Traveller / Travelling Showpeople use was very limited. It is considered likely that a limited number of new pitches/ plots could be delivered through the sites submitted previously.

3.5 We are keen to understand whether there are other sites that may potentially be available for this use. For this reason, we are re-opening the call for sites as part of the Phase 3 Local Plan consultation. Details of this, including how to submit land for consideration, can be found on the [Call for Sites page](#).

Potential new sites for allocation – Council-owned land

3.6 We are keen to investigate all potential sources of land available to us, and are undertaking a review of the Council's land holdings in order to identify whether any potential exists for new sites to be delivered from this source. In order to do so, we have undertaken an initial, high-level sift, based on general locational

considerations and size thresholds, to remove parcels of land that we consider are unlikely to be appropriate for Gypsy, Traveller or Travelling Showpeople use.

3.7 The suitability of areas of land identified through this source will be determined using the site assessment methodology. It will also be important to consider the most appropriate use (either Gypsy/ Traveller or Travelling Showpeople) for these sites in the round alongside the other potentially suitable sites we may identify through the sources described below. Once this has been done, we will be able to determine the potential capacity of each site, and the contribution that land identified from this source can make to meeting our needs will be determined using the site assessment methodology.

3.8 Any sites identified through our review of the Council's land holdings will be considered for their potential suitability for social rent provision, and opportunities to work with prospective delivery partners will be investigated as appropriate.

Potential new sites for allocation – Gypsy, Traveller, Travelling Showpeople community promoted land

3.9 Through engagement with our Gypsy, Traveller, Travelling Showpeople community, we will work to understand whether there is land in individuals'/ families' ownership where potential exists for new sites to be delivered (as opposed to intensification on existing sites).

3.10 As set out above, the suitability of areas of land identified through this source will be determined using the site assessment methodology. Once this has been done, we will be able to determine the potential capacity of each site, and the contribution that land identified from this source can make to meeting our needs will be determined using the site assessment methodology.

Other potential sources of supply

3.11 As set out above, it is important that we investigate all potential sources of land available to us at this stage. With this in mind, there may be sites that have been submitted as part of the HELAA process which do not form part of the emerging preferred strategy for homes and jobs, and which could potentially be taken forward for Gypsy, Traveller or Travelling Showpeople use. This part of our emerging strategy is being considered.

3.12 As set out above, through this consultation we are opening a Call for Sites for land to be considered for its potential for allocation to contribute to meeting our need for pitches and plots. Details of this, including how to submit land for consideration, can be found on the [Call for Sites page](#).

Contribution from strategic development sites

3.13 Our view is that the options identified above are the most likely to be successful in identifying potential new sites to meet the needs of our Gypsy, Traveller and Travelling Showpeople communities. However, given the high level of need, we are also keen to explore the potential for provision to be made through the planning and delivery of the strategic allocations proposed through the new Local Plan.

Anything else?

3.14 If there are any other sources of land that could potentially (and realistically) be brought forward to contribute to meeting the needs of these communities, we would welcome any suggestions.

4. Assessment of sites (methodology*)

4.1 The following draft site assessment methodology has been developed having regard national policy and guidance, and to best practice, set in the local context of a high level of demonstrable need.

Stage 1: sift of identified land

4.2 Once land has been identified from the sources detailed above (and any others suggested through consultation), the following methodology (subject to any changes suggested through consultation etc) will be applied.

Site size

4.3 The HELAA methodology uses a minimum size threshold of 5 dwellings or 0.25 ha (housing development) and 500 sq.m. floorspace (economic uses). It is more problematic to arrive at an appropriate minimum size for a Gypsy/ Traveller site. PPTS does not provide any guidance and the now withdrawn 'Designing Gypsy and Traveller Sites Good Practice Guide' (DCLG, 2008) also declines to offer any suggestions on a minimum area, instead stating that:

“There is no one ideal size of site or number of pitches although experience of site managers and residents alike suggest that a maximum of 15 pitches is conducive to providing a comfortable environment which is easy to manage. However, smaller sites of 3-4 pitches can also be successful, particularly where designed for one extended family.”

4.4 The guidance adds that a pitch should be able to accommodate “two touring caravans, two parking spaces and private amenities.” In accordance with the 2008 guidance, it is often suggested that 0.2 ha be used as a minimum size threshold as this can accommodate about 4 pitches and in those examples, any sites below this size threshold would not be considered for assessment.

4.5 However, such is the need for pitches within South Gloucestershire, we consider that sites potentially capable of accommodating a single residential pitch should be considered at this stage. With this in mind, sites of over 0.05ha will be considered initially.

4.6 In 2010, the Showmen’s Guild of Great Britain prepared a document ‘Travelling Showpeople’s sites: a planning focus – model standard package). This document was intended to provide guidelines to Travelling Showpeople and Local Planning Authorities when considering the needs of Travelling Showpeople. This document recommended that the minimum size of a plot is 0.5ha and should include space for residential accommodation and equipment storage.

General approach to location

4.7 Planning Policy for Traveller Sites explicitly accepts that sites will be found in rural location. It also gives a wider construction of sustainability which takes into account factors beyond proximity to services. It is considered that the level of need

and the nature of South Gloucestershire means that no site should be discounted due to location.

N.B. Not all of the sites identified at Stage 1 will necessarily be appropriate for allocation.

Stage 2: Site assessment

4.8 Stage 2 involves the detailed assessment of the sites identified. This will involve estimating the development potential of the identified sites, as well as their suitability, availability and achievability, including whether constraints can be overcome.

2a: Desk-based assessment of constraints (GIS)

4.9 Stage 2a would comprise an initial desktop filtering exercise using GIS data to sieve out those sites that are subject to fundamental 'showstopper' constraints.

4.10 It is considered appropriate that the starting point for this assessment should mirror as far as possible the Council's Housing and Economic Land Availability Assessment (HELAA).

4.11 NPPG (Paragraph 014) makes clear that when taking into account national policy and designations, there may be some sites and broad locations which are clearly not suitable. A number of major constraints which are considered to be 'showstoppers' have been identified based on policy and good practice in alignment with the WECA and UA SHLAA and HELAA methodologies.

4.12 Where a site or broad location is wholly affected by a major constraint(s), it will be discounted at this stage. Where a site or broad location is partially affected by a major constraint(s), the unaffected part of the site or broad location will be taken forward (provided it meets the site size thresholds). This approach reflects national policy (NPPF footnote 7) and guidance by allowing the HELAA to focus on those sites and locations with reasonable potential.

4.13 The following designations are considered major constraints:

- Ancient Woodland
- Common Land
- Flood Zone 3b
- Health and Safety Executive Inner Zones
- International ecological sites (SAC/SPA/RAMSAR/SSSI)
- Local Nature Reserves
- Open Access Land
- Mineral Safeguarded Sites
- National Nature Reserves
- Nationally Registered Parks and Gardens
- National Trust Inalienable Land
- Registered Battlefields
- Regionally Important Geological Sites
- Scheduled Monuments

- Sites already developed with no prospect of intensification or redevelopment (professional judgment)
- Working mineral sites

4.14 It is noted that the development of Gypsy/ Traveller sites within Flood Zone 3b is generally not considered appropriate, owing to the level of vulnerability of this land use. Notwithstanding this, a recent appeal decision allowed development of a site in an area of high flood risk, on the basis that suitable mitigation could be delivered. With this in mind, owing to the level of need identified in South Gloucestershire it is considered appropriate at this stage to not remove such sites from further investigation.

4.15 Consideration of additional constraints identified in footnote 7 of the NPPF, such as Green Belt, Cotswold Area of Outstanding Natural Beauty (AONB) and other site-specific constraints will be undertaken as part of the Stage 2b assessment set out below.

2b: Consideration of other non-absolute constraints

4.16 The purpose of this stage is to undertake a more detailed assessment of the remaining sites against a wide range of environmental, economic and social criteria.

4.17 As part of the assessment process, the potential impact on landscape, historic assets ecological designations, utilities, education, health facilities also need to be considered. This assessment will be undertaken by the Council's specialist officers.

4.18 In order to assess the potential for this land use, a qualitative approach when analysing sites will be taken. All sites not excluded will automatically be taken forward to the next stage of the site selection process.

4.19 This approach ensures the site assessment follows a consistent approach with the existing site selection methodologies while further sifting sites that could meet the specific needs of the Gypsy and Traveller community. Proposed criteria will include assessing Gypsy and Traveller sites for:

- Existing land use. While there are benefits associated with a cleared site and the issues of conversion or demolition of buildings on site, which may impact on the viability and deliverability of Gypsy and Traveller sites, owing to the level of need, it is considered appropriate to not discount sites with existing structures on site at this stage.
- The environment for occupiers, including but not exclusive of, noise, odour, adjacent uses to the site i.e. industrial uses.
- Site access for vehicles (i.e. caravans) specific to the Gypsy and Traveller community needs to the highway.
- Site access will be considered in terms of whether direct access already exists onto either a residential road or a more significant road. Some sites may have no direct access, but it would be possible to create one and some sites have no direct access, and it may be judged not possible to create one. Sites with constrained access were also identified as this reduces their potential suitability. Access has to be sufficient for vehicles towing caravans.

- Site access for pedestrians to the highway.
- The existing users near the sites and to avoid unacceptable impact to the surrounding community, both residential and business users.
- Access to local facilities and services, including health, education and shopping facilities.

4.20 Sites which make it through Stage 2 will then be subject to Sustainability Appraisal and Habitats Regulation Assessment (HRA).

Stage 3: Sustainability Appraisal (SA)

4.21 Sustainability Appraisal (SA) is a systematic process that must be carried out during the preparation of the Local Plan and is a key part of the evidence base of the Local Plan. The role of the SA is to promote sustainable development through better integration of sustainability considerations into Plan preparation and adoption. The SA is an integral part of good plan-making and should not be a separate activity. It is an iterative process that identifies and reports on the likely significant effects of a plan or strategy and the extent to which implementation of the plan or strategy will contribute toward sustainable development.

4.22 In line with the stages of the HELAA, sites that are carried forward from Stage 2 will be subject to SA. This is to ensure that sites which are deemed 'reasonable alternatives' are considered against the IIA objectives to determine their sustainability. Sites will be considered against the objectives included in the SA Scoping Report, and subsequently updated following consideration of representations received at previous stages of plan preparation. These objectives can be viewed in the [Local Plan Phase 3 Sustainability Appraisal](#).

4.23 The Sustainability Appraisal seeks to identify likely significant effect of development at each of the sites. In addition, and where possible it will also seek to identify ways in which the harmful effects of development may potentially be avoided or mitigated. Where appropriate potential adverse effect and suitable types of mitigation measures will be given consideration.

4.24 Sites that are taken forward for potential allocation will be informed by the overall outcomes of SA in addition to other evidence that emerges through or outside of the site assessment process. As with the approach taken for sites for other land uses, a summary of the SA for each site will be included in the site assessment sheet to ensure the selection of the most appropriate sites for inclusion in the emerging Local Plan.

Stage 4: Habitats Regulation Assessment (HRA)

4.25 The requirement to undertake HRA of development plans was confirmed by the amendments to the Habitats Regulations published for England and Wales in 2007¹; the currently applicable version is the Habitats Regulations 2017 (as amended)².

4.26 HRA refers to the assessment of the potential effects of a development plan on one or more European sites, including Special Protection Areas (SPAs) and Special Areas of Conservation (SACs). These were classified under European Union

(EU) legislation but, since 1st January 2021, are protected in the UK by the Habitats Regulations 2017 (as amended). Although the EU Directives from which the UK's Habitats Regulations originally derived are no longer binding, the Regulations still make reference to the lists of habitats and species that the sites were designated for, which are listed in annexes to the EU Directives

4.27 The HRA is a separate process focused on avoiding impacts to internationally designated biodiversity sites. Although there is no formal requirement to 'scope', a scoping report was prepared and has been shared with Natural England.

Stage 5: Deliverability

4.28 The purpose of this stage is to consider whether sites are or are not deliverable and the timescales and phasing of delivery. The starting point will be the assessment of achievability contained within the HELAA with supplementary criteria specifically applied to assess suitability for the allocation as a Gypsy/ Traveller site.

- Land ownership (e.g. private site put forward for Gypsy and Traveller use)
- Site infrastructure and delivery issues (e.g. mitigation measures required to meet specific site requirements such as utilities)
- Barriers to delivery (e.g. the site has been identified as a suitable site allocation for housing, employment, retail, infrastructure and other mixed use)
- Delivery approaches
- Site capacity taking into account constraints and other relevant factors (e.g. that sites are likely to be delivered within the timeframes of the Plan Period)

4.29 At this stage considerations will be given to the deliverability of the site with a high-level assessment of whether development is viable and to give an indication of whether there is a reasonable prospect of a site being delivered and when, a key requirement of national planning policy.

5. Updated policy approach

5.1 As well as the search for specific sites, through the Local Plan, the Council aims to increase the provision and availability of pitches by updating the criteria-based policies in relation to Gypsies and Traveller and Travelling Showpeople. We also propose an updated approach to safeguarding sites, which involves removing existing authorised sites from the Green Belt.

5.2 The criteria-based policies are designed to facilitate site development whilst ensuring that sites are built that provide a high quality of life for those living upon them. This includes an acknowledgement that there is not location in SG that is unsustainable for sites. With regard to the Green Belt, the policy wording takes into account the constrained nature of South Gloucestershire, a significant proportion of which is within the Green Belt or the urban area. Paragraph 16 of PPTS states:

Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

5.3 When considering how to interpret this paragraph, the relevant case law is *Doncaster MBC v Secretary of State for Communities and Local Government [SSCLG] & AB [2016]6* where it was held at paragraph 72:

The new policy PPTS does not prevent a decision maker, be they he, she or it, being an Inspector or a local planning authority, from giving whatever weight they consider they should to a consideration which is material. The PPTS does not prevent it by its terms. If a decision maker could not rely on either [unmet need and personal circumstances] to establish the very special circumstances required, the words in the PPTS would be surplusage. Further, a decision maker is not bound to apply a policy, provided he or she gives reasons for not doing so, as is long settled legal principle. What the PPTS does do is to say to decision makers that the policy regards it as unlikely that unmet need and personal circumstances are to be enough to overcome the hurdle posed by Green Belt policy. It does not say that either or both could not do so.

5.4 As such the approach of specifically citing the constraints in the area and longstanding unmet need in South Gloucestershire is one that the Council regard as being legally sound.

5.5 Further to this, it is proposed to remove all existing sites from the Green Belt. This is for two reasons. First, it will ensure that any intensification within the sites boundaries is in principle acceptable (subject to consideration of detailed issues through the planning application process. Second, as a high proportion of existing sites within the Green Belt are subject to a personal condition, they would not be

able to be part of the general supply and available to other Gypsies/ Travellers or Travelling Showpeople (as appropriate).

5.6 This was a point addressed in a recent appeal decision letter regarding the removal of a personal condition on a Green Belt site:

28. The development would bring the site back into authorised use and secure five pitches to address need and supply on a permanent basis. The point was made that the propensity for decision makers to only grant personal permissions for Gypsy and Traveller sites in the Green Belt in South Gloucestershire has been a key factor in contributing to its longstanding policy failure, given that when the occupants leave or pass on, the sites lose their authorised purpose. I have sympathy with this argument, and it is a consideration of significant weight.

5.7 As such, the Council considers that the approach taken in the proposed policies will in and of itself lead to a greater level of site provision.

5.8 Turning to PPTS paragraph 17 states:

Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional, limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the planmaking process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only.

5.9 The relevant case law on this is Compton PC v Guildford BC [2019] EWHC 3242 (Admin) is relevant. In this case the judge held that:

All that is required is that the circumstances relied on, taken together, rationally fit within the scope of “exceptional circumstances” in this context. The breadth of the phrase and the array of circumstances which may come within it place the judicial emphasis very much more on the rationality of the judgment than on providing a definition or criteria or characteristics for that which the policy-maker has left in deliberately broad terms.

There is a danger of the simple question of whether there are “exceptional circumstances” being judicially over-analysed. This phrase does not require at least more than one individual “exceptional circumstance”. The “exceptional circumstances” can be found in the accumulation or combination of circumstances, of varying natures, which entitle the decision-maker, in the rational exercise of a planning judgment, to say that the circumstances are sufficiently exceptional to warrant altering the Green Belt boundary.

General planning needs, such as ordinary housing, are not precluded from its scope; indeed, meeting such needs is often part of the judgment that “exceptional circumstances” exist; the phrase is not limited to some unusual form of housing, nor to a particular intensity of need...

...The phrase “exceptional circumstances” should be considered as a whole, and in its context, which is to judge whether Green Belt boundaries should be altered in a Local Plan review. It is not necessary to explain why each factor or the combination is itself “exceptional”. It does not mean that they have to be unlikely to recur in a similar fashion elsewhere. It is sufficient reasoning to spell out what those factors are, and to reach the judgment. There is a limit to the extent to which such a judgment can or should be elaborated.

5.10 The same logic is considered applicable to Gypsy and Traveller and Travelling Showpeople sites, given the constraints and levels of need in South Gloucestershire. Again, the Council regards the approach to the Green Belt on this as legally sound.

6. Conclusion

6.1 In terms of need, in its role as the LPA, it is important that the Council plans to meet the needs of the Gypsy/ Traveller and Travelling Showpeople communities in South Gloucestershire. It is also important that the method in which it does so reflects the characteristics of the local 'travelling' community and their 'nomadic habit of life' whilst also providing 'culturally appropriate' accommodation. This will ensure that the Council is also meeting its responsibilities in relation to equalities legislation.

6.2 With the level of demonstrable need in mind, the Council considers that the updated approach proposed is appropriate, set in the context of national policy, guidance and case law. It also considers that this approach will facilitate the delivery of provision through both the Local Plan process and, following adoption, through the Development Management process.

6.3 Taken together, the Council considers the approach proposed is positively prepared, justified, effective and consistent with national policy and compliant with relevant legislative requirements.

Appendix A: Gypsy and Traveller Accommodation Assessment (GTAA)
November 2023