

**2024/0413**

Mr Paddy Connors

Change of use of land to a mixed use of stationing of caravans for residential purposes and keeping of horses (retrospective)

Land on Northwest side of Barnsley Road, Barnsley Road, Barnsley

### **Description**

The site is former agricultural land, located to the north west side of Barnsley Road to the north east of the village of Brierley and to the south west of the village of Hemsworth. The site is approximately 1.55ha in area and located within the Green Belt. The Site is bound to the west by woodland and to the south by the A628 Barnsley Road, with agricultural land bordering on all sides.

The site currently contains a touring caravan, a static caravan and two stable blocks.



Aerial Photography 2024

### **Planning History**

Enforcement Notice issued 28<sup>th</sup> September 2021

The Enforcement notice stated:-

1.This is a formal notice which is issued by the Council, because it appears that there has been a breach of planning control, under Section 171A(1)(a) of the above Act at the land

described below. It is considered expedient to issue this notice, having regard to the provisions of the development plan and to all other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

## 2. The land affected by the notice

Land on the north-west side of Barnsley Road, Brierley, Barnsley, S72 9LJ ("the Land") and shown edged red on the attached plan marked "EN1".

## 3. The breach of planning control alleged

Without planning permission; the alteration of land levels, the construction of a building, the construction of an access onto a classified road, the erection of metal palisade fencing and the creation of hard surfaces on the Land.

## 4. Reason for issuing this notice

It appears to the Council that the above breach of planning control has occurred within the last four years.

The works being undertaken constitute engineering or other operations under Section 55 of the Town and Country Planning Act 1990, for which planning permission is required. No planning permission has been granted for the operations which have taken place; excavators deposited building waste material on the land and compacting it with heavy rolling machinery. Tarmac surfacing has been brought to site to surface and seal the imported waste material which also alters the profile of the land.

The fence which has been constructed at the Land consists of an inappropriate design which fails to relate to the surrounding rural streetscene in terms of design and character. The design, materials used and height of the fence, results in the fence being a stark and incongruous feature in a section of what was previously, open Green Belt land.

Furthermore, the fence can be easily seen by pedestrians and road users of 'A628' Barnsley Road with its overall height being in excess of the height allowed for boundary treatments which run adjacent to a Highway used by motor vehicles.

The vehicular access that has been constructed at the Land crosses the verge onto a classified road and presents Highway Safety issues, as it is situated on the busy 'A628' Barnsley Road close to Brierley Roundabout.

The safety of other vehicle and pedestrian users is likely to be compromised due to the limited visibility from vehicles emerging from the newly created access onto the busy A628/Barnsley Road. Moreover, vehicles manoeuvring into and out of the access is likely to conflict with free-flowing traffic on the highway, due to the close proximity of Brierley Roundabout to the development., This further compromises highway and pedestrian safety, to the detriment of other highway users.

As outlined in the NPPF, Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The development fails to preserve the openness of the green belt as the extent of the works are visible from surrounding views. It is the view of the Council that the operations harm the site and wider openness of the greenbelt. The Local Planning Authority is not aware of any very special circumstances which would justify the development and therefore the development is considered to be inappropriate.

Overall, the unauthorised engineering works fails to comply with the aims and objectives of policies; GB1 (Protection of Green Belt), Bio1 (Biodiversity & Geodiversity), T4 (Highway Safety) and Poll1 (Pollution) in the Barnsley Local Plan 2019 and Guidance contained in the National Planning policy Framework (NPPF).

The Council consider that planning permission should not be given, because planning conditions could not overcome these objections to the development.

#### 5. What you are required to do

(i) Restore the Land to its original condition, prior to the breach of planning control taking place as described in Paragraph 3 of this notice (ii) Without prejudice to paragraph 5(i) remove all introduced hard surfaces fencing and buildings from the Land (iii) Remove from the Land all materials, plant and equipment associated with the breach of planning control described in Paragraph 3 of this notice

#### 6. Timescales for compliance with the Enforcement Notice

(i) For the requirements specified in part 5 above – THREE MONTHS from the date the Notice takes effect.

#### 7. When this notice takes effect

This notice takes effect on 29th October 2021 unless an appeal is made against it beforehand.

Dated: 28 September 2021

### **Proposed Development**

The application proposes the change of use of land to a mixed use of stationing of caravans for residential purposes and keeping of horses. The site currently contains a touring caravan, a static caravan and two stable blocks. The application is retrospective.

No details have been provided in terms of when the applicant's moved onto the site. A personal circumstances statement which has been submitted as a confidential document indicates that the site is occupied with a family that includes school age children. A planning statement has been submitted in support of the application.

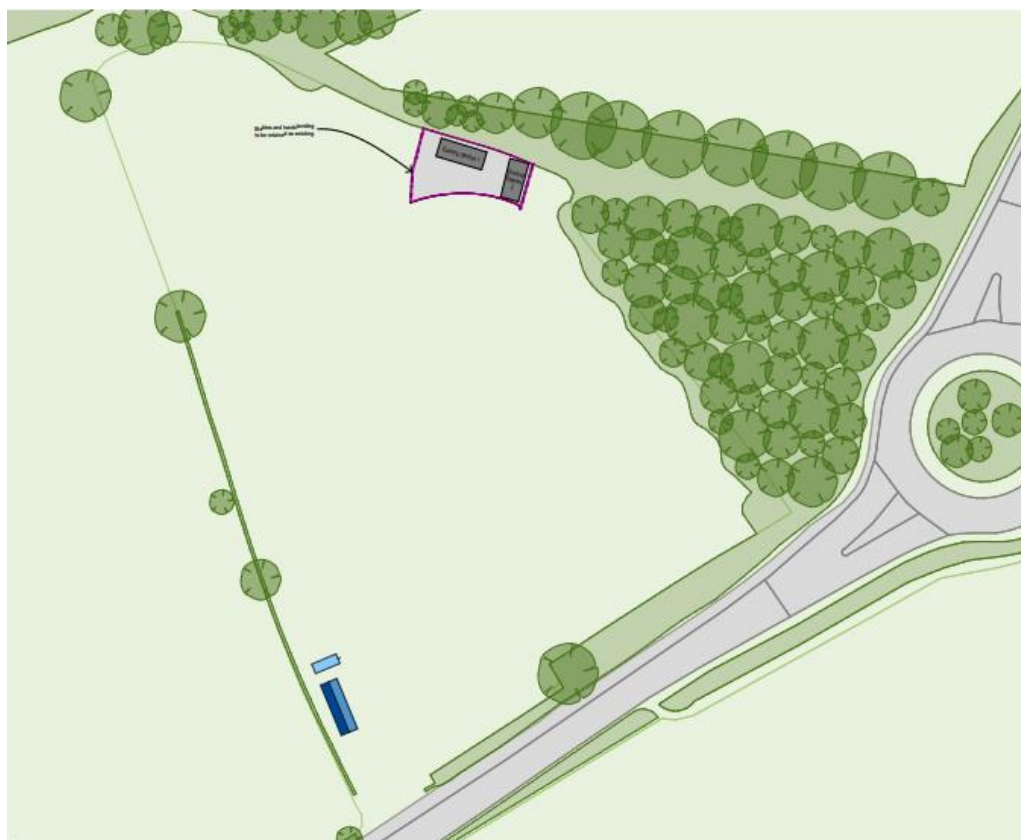
Floor plans and elevations have not been provided for the mobile homes. The agent states that there is no requirement, either Nationally or Locally, to provide floor plans and elevations for caravans (which includes mobile homes, which are caravans under the definitions within the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968).

In Appeal Ref: CAS-02451-R4Q2V0, Simon Doherty of Deluxe Mobile Homes Ltd v Flintshire County Council (attached) the Inspector stated:

*“As the application is for a change of use for the siting of mobile homes / static caravans rather than for operational development, it is not reasonable to require the applicant to submit elevations of potential units. The units sited could be subject to change at any time. In relation to dimensions, the same principle applies, although the caravans would have to meet size and other requirements set out in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. This gives the LPA a set of maximum dimensions they can assume for the units which could be sited if planning permission were to be granted.”*



Green Planning Studio	
Client: Paddy Connors	
Project: 23_1301 Land NW of Brierley Roundabout - Land Use	
Scale: 1:1250	Date: 03/03/2024
Case No: 23_1301	Owner: P01
Case No: 23_1301-003	Project: P01
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## Policy Context

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making. The Local Plan was adopted in January 2019 and is also now accompanied by seven masterplan frameworks which apply to the largest site allocations (housing, employment and mixed-use sites). In addition, the Council has adopted a series of Supplementary Planning Documents and Neighbourhood Plans which provide supporting guidance and specific local policies and are a material consideration in the decision-making process.

The Local Plan review was approved at the full Council meeting held 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering its objectives. This means no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027 or earlier if circumstances, require it.

The site is allocated as Green Belt and a Conservation Area within the Local Plan and therefore the following policies are relevant:

Policy GT1 'Sites for Travellers and Travelling Show people'

Policy D1 'High Quality Design and Place Making'

Policy GD1 'General Development'

Policy T4 'New development and Transport Safety'

Policy Poll1 'Pollution Control and Protection'

Policy BIO1 'Biodiversity and Geodiversity'

Policy GB1 'Protection of Green Belt'

Policy GB3 'Changes of use in the Green Belt'

### NPPF

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraphs of particular relevance to this application include:

Para 7 - The purpose of the planning system is to contribute to the achievement of sustainable development.

Para 11 – Plans and decisions should apply a presumption in favour of sustainable development.

Para 96 - Planning policies and decisions should aim to achieve healthy, inclusive and safe places

Para 115 - Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Para 131 - The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Para 152. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Para 153. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Para 154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.

Para 207. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss

Para 208. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

#### Planning Policy for Traveller Sites

This document sets out the Government's planning policy for traveller sites and should be read in conjunction with the NPPF.

#### Policy E: Traveller sites in the Green Belt

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.

#### Policy H: Determining planning applications for traveller sites

Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- the existing level of local provision and need for sites
- the availability (or lack) of alternative accommodation for the applicants
- other personal circumstances of the applicant
  - that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
  - that they should determine applications for sites from any travellers and not just those with local connections

## **Consultations**

Highways – No objections raised subject to conditions

Drainage – No objections, details to be checked by Building Control

Pollution Control – No objection

Ward Councillors – No comments received

Yorkshire Water – No comments required

Wakefield Council – No comments to make

PROW – There is a Public Footpath (Brierley 36) that runs on land to the North of the proposed development site

## **Representations**

1 objection has been received:-

'Firstly Mr Connor's Father applied for planning permission at his address at Cliff lane Brierley Barnsley his reason for this was it was for his children and this was then granted. Secondly the plot of land is green belt and when Mr Connor moved onto the land he put in a septic tank without any soak away or permission which is an environmental issue . Thirdly there is a court hearing in September which I myself and three other parties have to attend regarding the delivery and of a mobile home which has been sited on the green belt land without planning permission .

Also as green belt there is an issue regarding the palisade fencing which was erected without planning permission and is alien to the environment.

We do not wish to live at the side of a gypsy site who's residents have no respect for the law, environment or planning and continue to do as they please without any regard for anyone else.'

## **Assessment**

### Principle of Development

The NPPF states that Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

In terms of the stable block and equestrian use, Paragraph 155(e) of the NPPF states that: material changes in the use of land (such as changes of use for outdoor sport or recreation) are not inappropriate development provided they preserve its openness and do not conflict with the purposes of including land within it. The material change of use for the keeping of horses is considered to be a change of use of land for outdoor sport or recreation and is therefore not inappropriate development in the Green Belt. It is also agreed that the stable block would amount to the provision of an appropriate facility for outdoor sport/recreation and the siting and size of the stables are acceptable in relation to the size of the paddock.

The NPPF states that the construction of new buildings is inappropriate in the Green Belt. The change of use of the land and stationing of caravans and associated outbuildings/structures

for Gypsy and Travellers sites, are not listed as one of the exceptions in paragraphs 153 and 154 of the NPPF, and as such, the proposal is an inappropriate development within the Green Belt, unless very special circumstances can be demonstrated.

Policy E in Planning Policy for Travellers sites echoes the NPPF and 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'.

Local Plan Policy GT1 'Sites for Travellers and Travelling Show people' is also of relevance to this application and states that 'Sites will be allocated to meet the shortfall in provision of permanent sites. The following criteria will be used in allocating sites and in determining planning applications: In terms of their broad location sites will:

- Have good access to facilities; and
- Be primarily located within urban areas. In terms of their specific location the sites will: Be in an area of low flood risk;
- Be unaffected by contamination, unless the site can be adequately remediated;
- Have good vehicular and pedestrian access from the highway; Provide a good safe living environment with appropriate standards of residential amenity; and
- Have no other restrictive development constraints.

Self-sought provision will be positively considered where it accords with this policy and other relevant policies in the Local Plan.'

As this is self-sought provision, the application must adhere Policy GT1. The site is clearly located outside of the urban area, away from the adjacent settlements and local facilities, within an area of Green Belt, which is separated from the built up area of Brierley, and is therefore contrary to the above Policy GT1.

Policy H in the Planning Policy for Travellers sites provides guidance for determining planning applications for traveller sites, which includes the provision of sites in the area and personal circumstances of the applicant. The application is accompanied by a Planning Statement and statement of personal circumstances. It briefly sets out the personal circumstances of the applicant and their family.

The applicant has a roofing business and the work is client orientated, therefore there is no fixed place of work or requirement to reside close to a place of work. The statement also states that the applicant is usually away travelling for much of the time from around April/May until September during the year. The applicant indicates that there are no health issues to consider.

The statement details that the children attend a local primary academy school but does not detail how local the school is. The applicant has stressed the importance of having their own pitch, as a settled base for their family and their children's education and the family have moved to this site as they have nowhere else to go. Over the past 5 years the family has been living along the roadside, staying in laybys or in fields and it states that there are no suitable transit sites in the area. The statement concludes that should the application be refused, the intended occupants have advised that their alternative accommodation options are very limited to none. The applicant does not feel comfortable living in a house and want to continue living in a caravan.

The supporting statement states that there are no alternative available sites for the applicant to move to, but it does not provide measures or sufficient evidence in terms of the lengths the family have gone to in order to actively find alternative accommodation/sites. The statement



also outlines the unmet need within the borough, however, Policy E in Planning Policy for Travellers states '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'. As stated above it is not clear where the children have previously or currently attend school, and no justification has been submitted that there is a requirement for the family to live in this particular Green Belt location.

In addition to the above, the applicant states that the grant of permission would enable the proposed site occupants to reside on the same site as their animals allowing them to provide enhanced levels of care, however there is no requirement for owners of horses to reside on the land that horses are kept, and within the countryside it is not the case that horses require constant supervision and there are a number of isolated stable blocks within the borough, therefore this is not considered to amount to very special circumstances.

Planning Guidance states that Local planning authorities should very strictly limit new traveller site development in open countryside, that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure. The proposal is contrary to Local Plan Policy GB3 'Changes of Use in the Green Belt' and national planning guidance as the development would 'have an adverse effect on the visual amenity of the area and would not 'preserve the openness of the Green Belt'. The development, including the mobile homes, hardstanding, and large walls and gates, undoubtedly has a more urbanising appearance. By placing structures and areas of hardstanding on an area of previously undeveloped Green Belt, this has a significant detrimental impact on the openness of the Green Belt.

As outlined above, the very special circumstances outlined within the submission clearly do not outweigh harm and proposed harm to the Green Belt so as to establish very special circumstances, therefore, the development is inappropriate development and contrary to Local Plan Policies GB1 and GB3, the NPPF and Planning Policy for Travellers.

### 5 year Deliverable Land Supply

The Council has published a report entitled 'Barnsley Gypsy and Traveller Five Year 'Deliverable' Land Supply Report April 2024 – March 2029.

Paragraph 10 of PPTS states that local planning authorities (LPAs) should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets. PPTS defines a traveller for planning purposes (PPTS, Annex 1: Glossary).

The report concludes that, taking into account total need and supply figures starting at 2015 when the Gypsy and Traveller Needs Assessment was carried out, there is a surplus capacity of eight pitches. This is from a total requirement of 81 pitches and a total supply of 89 pitches (58 pitches supplied up to 2015, 12 pitches developed between 2015-2024 and 19 pitch capacity on Local Plan allocations).

### Visual Amenity

Planning Guidance states that Local planning authorities should very strictly limit new traveller site development in open countryside that are away from existing settlements or outside areas allocated in the development plan. When considering applications, local planning authorities should attach weight to the following matters which include, 'not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.'

The site sits outside of the village envelope. The entrance walls and gates which have already been built, are domestic in appearance and relatively imposing, given their size and materials and as such, their appearance is visually jarring and out of context with this location and an 'impression may be given that the site and its occupants are deliberately isolated from the rest of the community. As such, the development of this site for residential purposes would be out of character with its immediate surroundings, contrary to Local Plan Policy D1 and GB1.

### Biodiversity

A Preliminary Ecological Appraisal (PEA) report has been submitted to support the application. The Ecology Officer has been consulted and states that: The report details the habitats on site and the potential of the site to support protected species. Requirement for further survey work to support the planning application is not considered necessary; however, recommendations for precautionary measures have been set out for foraging and commuting bats, amphibians and reptile species. Further recommendations include the provision of insect, bird and bat boxes and a log pile to benefit reptile and amphibian species.

#### *Biodiversity Net Gain Assessment & Statutory Metric*

In line with the Biodiversity Net Gain Planning Practice Guidance, the application is exempt from the biodiversity net gain in that it is retrospective planning application made under section 73A. The requirement for a 10% net gain in biodiversity is therefore unnecessary; however, certain measures as set out within the Preliminary Ecological Appraisal should be implemented on site in the aim of enhancing biodiversity. These include recommendations for the provision of insect, bird and bat boxes and a log pile to benefit reptile and amphibian species. In addition to these measures, the site would benefit from native tree and shrub planting. The Ecology Officer has raised no objections but has recommend the following condition be applied if planning permission is granted:

'A Biodiversity Mitigation Scheme should be submitted to and approved in writing by the local planning authority. This will set out details of proposed landscaping and its management and incorporation of features such as bat, insect and bird boxes, log piles and a sympathetic lighting scheme.'

### Highways

Highways have been consulted as part of the proposal. The Highways Officer has acknowledged that this is a retrospective application and the access is already in place and is in use. Whilst the Highways Officer has not objected to the proposal, they have requested that the following conditions are added to a decision notice should the application be approved.

1. 'Prior to the first occupation of the development hereby permitted, the proposed accesses, driveways, on-site car parking and vehicle turning shall be laid out in accordance with the approved plan. Driveways and vehicle parking areas accessed from the approved streets must be properly consolidated and hard surfaced and drained into the site and subsequently maintained in good working order at all times thereafter for the lifetime of the development.  
Reason: To ensure that there are adequate parking facilities to serve the development which are constructed to an acceptable standard; to ensure adequate provision for the disposal of surface water and to prevent mud/debris from being deposited on the public highway; and to prevent the migration of loose material on to the public highway to the

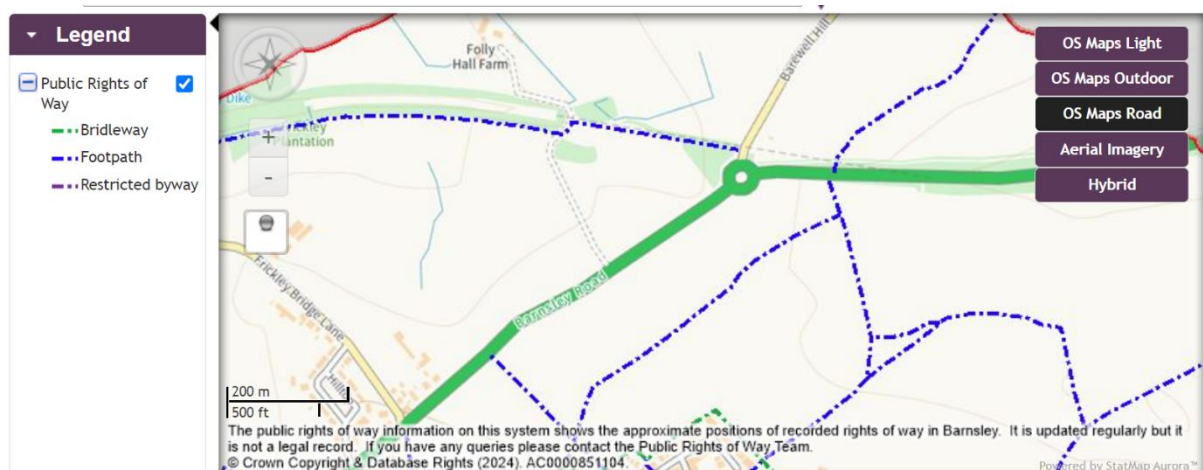
detriment of road safety and in accordance with Local Plan Policy T4 New Development and Transport Safety.'

2. Sight lines, having the dimensions 2.4m x 43m, shall be safeguarded at the access junction with Barnsley Road, such that there is no obstruction to visibility at a height exceeding 1m above the nearside channel level of the adjacent highway, in the interest of road safety.
3. Before development commences, details of suitable storage, bin presentation points and access for collection of wastes from the dwellings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.  
Reason: In the interests of road safety in accordance with Local Plan Policy T4 New Development and Transport Safety
4. Any redundant vehicular accesses shall be reinstated as kerb (and footway) prior to the development being brought into use.  
Reason: In the interests of road safety in accordance with Local Plan Policy T4 New Development and Transport Safety.'

### Public Rights of Way

The Public Rights of Way Officer has been consulted as part of the proposal. There is a Public Footpath (Brierley 36) that runs on land to the North of the proposed development site, and public access should remain open and unaffected throughout the works. See below the extract of the digital working copy of the Definitive Map which shows the alignment of the footpath. Additionally there is a DMMO application to upgrade this footpath to a bridleway but this is in its early stages.

Any damage caused to the surface of the PROW during development should be repaired to the same or higher standard as before the commencement of work.



The PROW Officer has requested that if the application is approved it should be subject to the following informative:-

'A Public Right of Way runs alongside the proposed development site (N side). Safe public access on the right of way should remain available whenever possible, with no obstruction of

or encroachment onto the width of the path and no building debris, storage of materials or parked vehicles limiting access at any time.

Appropriate measures should be taken to protect the public, including fencing if necessary where livestock is on site. If safe public access is not possible at any time then a temporary closure should be arranged, providing at least 4 weeks' notice and details of how public access will be managed. For further information contact [publicrightsofway@barnsley.gov.uk](mailto:publicrightsofway@barnsley.gov.uk)

### Green Belt Balance

National planning policy attaches great importance to Green Belts. Therefore when considering any planning application substantial weight should be given to any harm to the Green Belt. The application site is inappropriate development in the Green Belt. In addition, the residential use and associated structures cause a loss of openness and harm to the purposes of including land in the Green Belt.

The PPTS states that 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. The very special circumstances necessary to justify the development have not been demonstrated by the applicant. The appellant's personal circumstances are not sufficiently compelling to offset the various harms that would be caused. The applicants have also not supplied evidence in terms of the active search for alternative sites. Consequently the proposal conflicts with the Green Belt protection aims of the Framework and with Policies GB1 and GB3 of the LP, which seek to resist inappropriate development and changes of use which fail to preserve the openness of the Green Belt. The grant of a temporary permission or permanent planning permission would not therefore be appropriate.

### Conclusion

In terms of the planning balance, the weight given to inappropriate development in the green belt and the other harm outlined, in relation to the impacts on visual amenity, is clearly not outweighed by the justification put forward by the applicant.

The proposed change of use of the land and stationing of caravans and associated outbuilding and hardstanding would constitute inappropriate development, harmful to the character and openness of the Green Belt. No compelling special circumstances have been put forward to outweigh the harm to the Green Belt and, as such, the proposal is contrary to Local Plan Policies GB1 and GB3, the NPPF and Planning Policy for Travellers Sites. In addition the site is clearly located outside of the urban area, away from the adjacent settlements and local facilities, within an area of Green Belt, which is separated from the built up area of Brierley, and is therefore contrary to the above Policy GT1. Furthermore, the entrance walls and gates which have already been built, are domestic in appearance and relatively imposing, given their size and materials and as such, their appearance is visually jarring and out of context with this location and an 'impression may be given that the site and its occupants are deliberately isolated from the rest of the community'. As such, the development of this site for residential purposes would be out of character with its immediate surroundings, contrary to Local Plan Policy D1 and GB1

### **Recommendation**

Refuse