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## Appeal Decision

Hearing held on 7 May 2025

Site visit made on 7 May 2025

**by Helen Hockenhull BA (Hons) B.PI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 June 2025

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**Appeal Ref: APP/R4408/W/24/3357259**

**Land on Northwest side of Barnsley Road, Barnsley Road, Brierley, Barnsley, S72 9LJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Paddy Connors against the decision of Barnsley Metropolitan Borough Council.
  - The application Ref is 2024/0413.
  - The development proposed is the change of use of land to a mixed use of stationing of caravans for residential purposes and keeping of horses.
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### Decision

1. The appeal is allowed, and planning permission is granted for the change of use of land to a mixed use of stationing caravans for residential purposes and keeping of horses on land north west side of Barnsley Road, Barnsley Road, Brierley, Barnsley S72 9LJ in accordance with the terms of the application, Ref 2024/0413, dated 8 May 2024, the plans submitted with it and subject to the conditions in the attached schedule.

### Applications for costs

2. An application for costs was made by Mr Connors against Barnsley MBC. This application is the subject of a separate Decision.

### Preliminary Matters

3. Immediately after the appeal was submitted, the National Planning Policy Framework (the Framework) was revised. A revised Planning Policy for Traveller Sites (PPTS) was published at the same time. I accepted further comments from the appellant on the implications of these changes as, unlike the Council, they had not been able to address these in their Statement of Case.
4. I am aware that the development on the site has been the subject of enforcement action, and the Council have issued an injunction. I am advised that the trial is on hold pending the outcome of this appeal.
5. There is agreement between the parties that the proposed development does not include the gates and wall at the site access. If this appeal is allowed, the appellant intends to apply for permission for these elements separately. The change of use of the land has already taken place, therefore the appeal is retrospective. I have considered the case on this basis.

## Main Issues

6. The main issues in this case are :

- the effect of the proposal on the character and appearance of the area;
- whether the proposal forms inappropriate development in the Green Belt having regard to the Framework and other relevant development plan policies.

## Reasons

### *Character and appearance*

7. As I have explained above, the entrance gates and wall to the site are not before me as they are not included in the appeal proposal. Having regard to the nature of the appeal proposal, it is therefore only necessary to consider the impact of the proposed siting of the residential caravans on the character and appearance of the area.
8. The site is well screened by existing hedgerow and vegetation along the A628, Barnsley Road. Views of the roof of the static caravan can be achieved when heading south west away from the roundabout to the north east. In the other direction, a gap in the hedgerow affords a glimpsed view. I acknowledge that in the winter months the view of the caravans may be a little more prominent, though caravans are not an uncommon feature of a rural landscape.
9. It is only when standing at the site entrance that the caravans are more clearly seen. This could be further reduced by the provision of supplementary planting which could be the subject of a planning condition should the appeal be allowed. On this basis, given the nature and scale of development as well as existing vegetation, I conclude that the proposal would not cause unacceptable harm to the character and appearance of the area.

### *Inappropriate development*

10. The site lies in the Green Belt. At paragraph 153, the Framework states that inappropriate development is harmful to the Green Belt, and it should not be approved except in very special circumstances. Paragraph 155 explains that development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where all the following apply:
- a) the development would utilise grey belt land and would not fundamentally undermine the purposes, (taken together) of the remaining Green Belt across the plan;
  - b) there is a demonstrable unmet need for the type of development proposed;
  - c) the development would be in a sustainable location;
  - d) where applicable, the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.
11. The PPTS is clear in paragraph 18 that part d), the Golden Rules, do not apply to traveller sites.

12. Policy E of the PPTS says Gypsy and Traveller site proposals are inappropriate development in the Green Belt unless they accord with paragraph 155 or any other exception as set out in chapter 13 of the Framework.
13. The appeal proposes the change of use of land for residential purposes and the keeping of horses. It is agreed between the parties that the use of land for grazing horses and the provision of appropriate facilities in connection with that use ie stabling, does not form inappropriate development in the Green Belt in accordance with paragraph 154 of the Framework. I concur with this view. I therefore consider the change of use to residential purposes below.

#### *Grey Belt*

14. In order to accord with sub-paragraph 155(a) of the Framework, the proposal would need to utilise grey belt land. This is defined in Annex 2 of the Framework as previously developed or other land that does not strongly contribute to the purposes of Green Belt policy set out in sub-paragraphs 143 (a), (b) or (d) of the Framework.
15. Paragraph 143 a) seeks to check the unrestricted sprawl of large built-up areas. As the appeal site does not sit on the edge of a large built-up area it makes no contribution to this purpose. Paragraph 143 b) seeks to prevent neighbouring towns merging into one another. Again, due to the appeal site's location, it does not strongly contribute to this purpose. Paragraph 143 d) seeks to preserve the setting and special character of historic towns. As the site is not located in the vicinity of a historic town it makes no contribution to this purpose either. The appellant and the Council agree that the appeal site can be regarded as grey belt. Given the above, I concur with this view.

#### *Green Belt purposes*

16. Framework paragraph 155 a) also requires that a development does not fundamentally undermine the purposes (taken together) of the Green Belt across the plan area. I have already assessed the sites contribution to the Green Belt purposes set out in paragraph 143 a), b) and d). Sub paragraph c), seeks that development assists to safeguard the countryside from encroachment, and sub paragraph e) requires development to assist urban regeneration. Having regard to what is being applied for and the scale of the development, encroachment into the countryside would be minimal. In terms of urban regeneration, I have no evidence that urban land would be recycled in the event that the appeal be dismissed. As such the proposal would not affect the ability of the Green Belt across the area of the plan to serve all five Green Belt purposes in a meaningful way. Paragraph 155 a) of the Framework would therefore be met.

#### *Need and supply*

17. The Council's Gypsy and Traveller Accommodation Assessment (GTAA) dates from 2015. It is now ten years old.
18. It is notable that in paragraph 6.23, the GTAA recognises that with the passage of time, its findings will need updating. In particular, turnover and vacancy rates could change, and the document is clear that pitch requirements beyond 2019/20 are indicative only. The GTAA goes on to recommend that the evidence be updated after 5 years. The Council however have not done this and have no current plans to do so. This puts the robustness of this evidence in doubt.

19. A further factor is that since the GTAA was commissioned, the definition of a Gypsy and Traveller has changed following the Lisa Smith judgment in 2022<sup>1</sup>. The revised definition in the recently published PPTS includes 'all persons with a cultural tradition of nomadism or of living in a caravan'. The Council advised that the GTAA takes account of the March 2012 PPTS definition, however there are differences between this definition and the current PPTS. It is not clear that the 2015 GTAA takes account of this wider group. This adds to the uncertainty of the accuracy of the evidence base and brings into question the identified need in the Borough.
20. The Council's Gypsy and Traveller Five Year Deliverable Supply Report April 2024-March 2029 states there is a surplus of 8 pitches in the Borough. Policy GT1 of the Local Plan allocates two sites for Gypsy and Traveller provision, a total of 19 pitches. Neither of these sites have come forward since the adoption of the Plan, 6 years ago. I understand that the site north of Industry Road is in Council ownership. I have no evidence that the Council has made any efforts to bring the site forward and the Council could give no information about any future plans to do so. The allocation at Burntwood Cottages is in private ownership and forms an extension to an existing site. Neither site has planning permission.
21. The PPTS in paragraph 10 states that local planning authorities should update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against their locally set targets, To be deliverable a site should be in a suitable location, and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged.
22. Having regard to the evidence before me, indicating a lack of a realistic prospect of the sites coming forward within the next 5 years, they cannot be considered to be deliverable. The sites cannot therefore contribute to the five-year supply in the Borough. Removing these 19 pitches, turns the surplus identified in the Council's Supply Report into a shortfall.
23. Given the above, I conclude that the 2015 GTAA is out of date, the Council cannot demonstrate a deliverable five-year supply and there is an unmet need in the Borough.
24. The appellant brought my attention to three recent appeal decisions<sup>2</sup> in Barnsley where the respective Inspectors all came to the same conclusions. This reinforces my findings.

#### *Sustainable location*

25. The Framework paragraph 155 c) requires development to be in a sustainable location and footnote 57 states this in the case of Gypsy and Traveller sites, particular reference should be made to paragraph 13 of the PPTS.
26. The appeal site is located approximately 300 metres from the edge of the village of Brierley. There is a lit footpath along Barnsley Road leading into the village. The Council advised at the hearing that Brierley is a lower order settlement defined as a village in the Local Plan. In terms of facilities, it has a Post Office/general store, a Primary School, chip shop, church and village hall. Further primary schools and a

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<sup>1</sup> Lisa Smith v SSLUHC & Ors [2022] EWCA Civ 1391.

<sup>2</sup> APP/R4408/C/23/3336174 Land on the north west side of Shaw Lane, Carleton dated 2 August 2024, APP/R4408/C/24/3344454 Jimboy stables, off Mackey Lane, Brierley dated 22 January 2025 and APP/R4048/C/22/3305546 land west side of Sandybridge Lane, Shafton dated 10 March 2025

secondary school are located in Hemsworth, along with further shops including Tesco, B&M Bargains, Home Bargains, coffee shops and sports facilities, less than 3 km away.

27. There is a bus stop on Barnsley Road about 400m from the site with an hourly bus service between Barnsley and Pontefract. This service also provides access to Hemsworth, where additional shops and services are available.
28. I understand that until recently there was a doctor's surgery in Brierley, but this has now closed and amalgamated with the one in Grimethorpe. The nearest surgeries to the site are South Hiendley and The Grange Medical Centre in Hemsworth, both approximately 2.7km from the appeal site.
29. I acknowledge that Brierley itself has limited facilities, however it does provide for basic everyday needs. I accept there is no longer a doctor's surgery, but options are available in close proximity in nearby villages, in particular Hemsworth, which is less than 3 km away and accessible by public transport. Overall, I am satisfied that the appeal site is located in a sustainable location where options other than the car would be available to occupiers of the site.
30. Turning to the criteria in paragraph 13 of the PPTS, I have no evidence before me that the development would not promote peaceful and integrated co-existence with the local community. Integration very often takes place through the use of local shops and children at school. As I have described above the occupiers of the site are able to access health facilities and the children can attend school. A settled base reduces the need for long-term travelling and the possible environmental damage caused by unauthorized encampment. The site raises no environmental concerns such as through noise or air quality and I have not been made aware that there would be any undue pressure on local infrastructure and services. The site is also not in an area at high risk of flooding. A settled base can also contribute to sustainability reducing the need to travel.
31. In conclusion, I find that the appeal site is in a sustainable location and the proposal would comply with sub paragraph 155 c) of the Framework and the sustainability objectives of paragraph 13 in the PPTS and Policy GT1 of the Barnsley Local Plan.

*Overall conclusion on Green Belt*

32. I have found that the appeal site forms grey belt land, that there is an unmet need for this type of development and that the site is in a sustainable location. The proposal therefore complies with paragraph 155 of the Framework, and it does not form inappropriate development in the Green Belt having regard to the Framework, the PPTS and Local Plan Policy GB1. As such, there is no need to assess the development's effect on openness.
33. The Council's first reason for refusal makes reference to Barnsley Local Plan Policy GB3 which concerns changes of use in the Green Belt. The appellant argues that this policy is not applicable to the development proposed as it relates to the change of use or conversion of buildings. The Council advised that they apply this policy to all changes of use in the Green Belt including changes of use of land. However, the supporting text to the policy clearly states that the aim of the policy is to allow existing buildings to be reused. My reading of the policy is that it relates to the change of use of buildings and not land. I therefore conclude that it is not relevant to the proposal before me.

### **Other Matters**

34. An interested party has raised concerns about highway matters. No objection has been made by the Highway Authority and I have no evidence that the access would not be safe or suitable or that highway safety would be compromised. Sight lines at the access can be safeguarded through the imposition of an appropriate condition on any approval.

### **Planning balance**

35. I have found that the appeal proposal would not cause harm to the character and appearance of the area and would not form inappropriate development in the Green Belt. There is therefore no need to consider whether very special circumstances exist, and other considerations including personal circumstances are not necessary to justify the proposal.
36. The proposal complies with the development plan and there are no other material considerations that indicate the development should be determined otherwise than in accordance with it.

### **Conditions**

37. The Council provided a list of draft conditions, and these were discussed at the hearing. I have amended some of them for clarity and in line with the discussions and to ensure that they meet the tests in the Framework and Planning Practice Guidance.
38. I impose condition 1 which restricts the occupation of the site to Gypsies and Travellers, not excluding those who have ceased to travel permanently.
39. Condition 2 is required in the interest of the character and appearance of the area, to control the number of pitches and caravans on the site. Condition 3 is necessary to prevent the site being used for commercial activity other than that associated with the keeping and breeding of horses.
40. As the development has already commenced, it is necessary to impose condition 4. This requires the submission of a scheme of Biodiversity Mitigation, bin storage, access, parking, manoeuvring and sight lines at the access with Barnsley Road. These requirements are necessary in the interests of biodiversity, to safeguard the character and appearance of the area and to ensure highway safety. There is a strict timetable for compliance because permission is being granted retrospectively. The condition will ensure that the development can be enforced against if the requirements are not met.
41. The Council, on behalf of the highway authority, suggested a condition requiring the redundant vehicular accesses to be reinstated as kerb/footway. It is unclear which accesses are being referred to and therefore, I do not impose this condition.

### **Conclusion**

42. For the reasons given above, I conclude that the appeal should be allowed.

*Helen Hockenhull*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT

Michael Rudd	Counsel
Matthew Green	Green Planning Studio Ltd
Paddy Connors	Appellant

### FOR THE LOCAL PLANNING AUTHORITY

Piers Riley Smith	Counsel
Laura Bennett	Spatial Planning Project Manager
Emma Coveney	Senior Planning Policy Officer
Chris Byrne	Planning Enforcement Officer

### INTERESTED PERSONS

Councillor Robin Franklin	Ward Councillor
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## SCHEDULE OF CONDITIONS

1. The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
2. No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than one shall be a static mobile home), shall be stationed on the site at any time.
3. No commercial activities shall take place on the land, or within the buildings, including the storage of materials, other than that associated with the keeping and breeding of horses.
4. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought on to land for the purposes of such use, shall be removed within 3 months of the date of failure to meet any of the following requirements set out in i) to iv) below:
  - i) Within 3 months of the date of this decision a scheme, hereinafter called the Site Development Scheme) shall have been submitted for the written approval of the Local Planning Authority to include :
    - a) A Biodiversity Mitigation Scheme which shall 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.
    - b) Details of suitable storage, bin presentation points and access for the collection of wastes from the site.
    - c) Details of the access, car parking and vehicle turning areas. Driveways and vehicle turning areas must be properly consolidated, hard surfaced and drained.
    - d) The provision of sight lines at the access junction with Barnsley Road with dimensions of 2.4 metres by 43 metres. There shall be no obstruction to visibility exceeding 1 metre in height above the nearside channel of the adjacent highway.
  - ii) If within 11 months of the date of this decision, the Local Planning Authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

iv) The Scheme shall be implemented in full in accordance with the approved details and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.