

BARNSLEY METROPOLITAN BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY Mr Paddy Connors

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

**LPA REF: 2024/0413
INSPECTORATE REF: APP/R4408/W/24/3357259**

1. INTRODUCTION

- 1.1 This appeal is against the decision of Barnsley Metropolitan Borough Council to refuse planning permission for the change of use of land to a mixed use of stationing of caravans for residential purposes and keeping of horses (retrospective) at Land on Northwest side of Barnsley Road, Brierley, Barnsley, S72 9LJ.
- 1.2 The application was refused for the following reasons:

REASON FOR REFUSAL 1 -The proposed change of use of the land and stationing caravans and associated outbuilding 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.

REASON FOR REFUSAL 2 - The site is 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 Local Plan Policy GT1.

REASON FOR REFUSAL 3 -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

2. SITE LOCATION AND DESCRIPTION

- 2.1 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.

3. PLANNING HISTORY

- 3.1 There are no other relevant planning applications for this site.
- 3.2 Enforcement Notice issued 28th 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

The Council laid the charge of 'non-compliance with the Enforcement Notice' (with the offence period being between 30th January 2022 and 22nd March 2023) with the Magistrates Court on 27th March 2023.

On 27th November 2023 the trial of Mr Paddy Connors took place at Barnsley Magistrates Court. The magistrates found Mr Connors guilty of the offence and he was fined £200 and ordered to pay costs of £1,080, with the amount to be paid in full within 28 days.

4. PLANNING POLICY CONTEXT

Local Plan Policy

- 4.1 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.

- 4.2 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.

- 4.3 Local plan policies relevant to the refusal include:

GB1 Protection of Green Belt
GB3 Changes of use in the Green Belt
D1 High Quality Design and Place Making
GT1 Sites for Travellers and Travelling Showpeople

- 4.4 Local plan policies relevant to the suggested conditions include:

T4 New Development and Transport Safety
BIO1 Biodiversity and Geodiversity

National Policies – NPPF (December 2024)

- 4.5 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.

- 4.6 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 61 - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it

is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community.

Para 62 - To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning practice guidance. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

Para 63 - Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing (including Social Rent); families with children; looked after children²⁶; older people (including those who require retirement housing, housing with-care and care homes); students; people with disabilities; service families; travellers; people who rent their homes and people wishing to commission or build their own homes .

Para 131 - The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

Para 142 - The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Para 143 - Green Belt serves five purposes: a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Para 144 - The general extent of Green Belts across the country is already established. New Green Belts should only be established in exceptional circumstances, for example when planning for larger scale development such as new settlements or major urban extensions. Any proposals for new Green Belts should be set out in strategic policies, which should: a) demonstrate why normal planning and development management policies would not be adequate; b) set out whether any major changes in circumstances have made the adoption of this exceptional measure necessary; c) show what the consequences of the proposal would be for sustainable development; d) demonstrate the necessity for the Green Belt and its consistency with strategic policies for adjoining areas; and e) show how the Green Belt would meet the other objectives of the Framework.

Para 145 - Once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified through the preparation or updating of plans. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been

established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.

Para 146 - Exceptional circumstances in this context include, but are not limited to, instances where an authority cannot meet its identified need for homes, commercial or other development through other means. If that is the case, authorities should review Green Belt boundaries in accordance with the policies in this Framework and propose alterations to meet these needs in full, unless the review provides clear evidence that doing so would fundamentally undermine the purposes (taken together) of the remaining Green Belt, when considered across the area of the plan.

Para 147 - Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph and whether the strategy: a) makes as much use as possible of suitable brownfield sites and underutilised land; b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and c) has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.

Para 148 - Where it is necessary to release Green Belt land for development, plans should give priority to previously developed land, then consider grey belt which is not previously developed, and then other Green Belt locations. However, when drawing up or reviewing Green Belt boundaries, the need to promote sustainable patterns of development should determine whether a site's location is appropriate with particular reference to paragraphs 110 and 115 of this Framework. Strategic policy-making authorities should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary.

Para 149 - When defining Green Belt boundaries, plans should: a) ensure consistency with the development plan's strategy for meeting identified requirements for sustainable development; b) not include land which it is unnecessary to keep permanently open; c) where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period; d) make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development; e) be able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period; and 44 f) define boundaries clearly, using physical features that are readily recognisable and likely to be permanent.

Para 150 - If it is necessary to restrict development in a village primarily because of the important contribution which the open character of the village makes to the openness of the Green Belt, the village should be included in the Green Belt. If, however, the character of the village needs to be protected for other reasons, other means should be used, such as

conservation area or normal development management policies, and the village should be excluded from the Green Belt.

Para 151 - Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land. Where Green Belt land is released for development through plan preparation or review, the 'Golden Rules' in paragraph 156 below should apply.

Para 153 - When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness⁵⁵. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. '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 - Development in the Green Belt is inappropriate unless one of the following exceptions applies:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and g) limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
- h) Other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it.

These are: i. mineral extraction; ii. engineering operations; iii. local transport infrastructure which can demonstrate a requirement for a Green Belt location; iv. the re-use of buildings provided that the buildings are of permanent and substantial construction; v. material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and vi. development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

Para 155 - The development of homes, commercial and other development in the Green Belt should also 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 area of the plan; b. There is a demonstrable unmet need for the type of development proposed⁵⁶; c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below.

Para 156 - Where major development involving the provision of housing is proposed on land released from the Green Belt through plan preparation or review⁵⁸, or on sites in the Green Belt subject to a planning application⁵⁹, the following contributions ('Golden Rules') should be made: a. affordable housing which reflects either: (i) development plan policies produced in accordance with paragraphs 67-68 of this Framework; or (ii) until such policies are in place, the policy set out in paragraph 157 below; b. necessary improvements to local or national infrastructure; and c. the provision of new, or improvements to existing, green spaces that are accessible to the public. New residents should be able to access good quality green spaces within a short walk of their home, whether through onsite provision or through access to offsite spaces.

Para 157 - Before development plan policies for affordable housing are updated in line with paragraphs 67-68 of this Framework, the affordable housing contribution required to satisfy the Golden Rules is 15 percentage points above the highest existing affordable housing requirement which would otherwise apply to the development, subject to a cap of 50%⁶⁰. In the absence of a pre-existing requirement for affordable housing, a 50% affordable housing contribution should apply by default. The use of site-specific viability assessment for land within or released from the Green Belt should be subject to the approach set out in national planning practice guidance on viability.

Para 158 - A development which complies with the Golden Rules should be given significant weight in favour of the grant of permission.

4.7 Planning Policy for Traveller Sites (December 2024) This document sets out the Government's planning policy for traveller sites and should be read in conjunction with the NPPF.

4.8 Policy E: Traveller sites in Green Belt

16. 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 unless the exceptions set out in Chapter 13 of the National Planning Policy Framework apply.

17. 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 plan-making 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.

4.9 Policy H: Determining planning applications for traveller sites

23.Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

24.Applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and this planning policy for traveller sites.

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

- a) the existing level of local provision and need for sites;
- b) the availability (or lack) of alternative accommodation for the applicants;
- c) other personal circumstances of the applicant
- d) 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;
- e) that they should determine applications for sites from any travellers and not just those with local connections

26.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 plan⁹. 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

27.When considering applications, local planning authorities should attach weight to the following matters:

- a) effective use of previously developed (brownfield), untidy or derelict land;
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children; and
- d) 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.

5. JUSTIFICATION FOR THE REASONS FOR REFUSAL

REASON FOR REFUSAL 1

- 5.1 The proposed change of use of the land and stationing of caravans and associated outbuilding 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.
- 5.2 The first reason for refusal relates to the principle of development in the Green Belt. Inappropriate development in the Green Belt is, by definition, harmful and should not be

approved unless very special circumstances can be demonstrated that clearly outweigh both harm to the Green Belt by reason of inappropriateness and any other harm.

- 5.3 Following the issuing of the decision, the NPPF has been revised. The NPPF (December 2024) states that 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. '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.'
- 5.4 It is accepted that in terms of the stable block and equestrian use, Paragraph 154(b) of the NPPF states that: the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport, outdoor recreation, as long as the facilities preserve the openness of the Green Belt 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.
- 5.5 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 154 of the NPPF. Paragraph 155 however states that 'The development of homes, commercial and other development in the Green Belt should also 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 area of the plan;
 - b. There is a demonstrable unmet need for the type of development proposed;
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
 - d. Where applicable the development proposed meets the 'Golden Rules' requirements.
- 5.6 Therefore it has now been assessed whether the proposal would be considered 'Grey Belt' and does it meet the requirements of paragraph 155.

Grey Belt Assessment

- 5.7 For the purposes of plan-making and decision-making, 'grey belt' is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. 'Grey belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.
- 5.8 In line with the NPPF definition of previously developed land (PDL), the land is not considered to be Previously Developed Land as it has not been lawfully developed. Previously

developed land: Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

However it is acknowledged that land does not have to be previously developed to constitute Grey Belt.

Assessment of the site as 'or any other land' and does it strongly contribute to any of purposes (a), (b), or (d) in paragraph 143.

- 5.9 a) to check the unrestricted sprawl of large built-up areas:

Whilst the area is free from (lawful) development, it is not adjacent or near to a large built up area. The site lies between two villages

- 5.10 b) to prevent neighbouring towns merging into one another:

The site is located within general area CUD6 of Barnsley's Green Belt Review (2014), prepared to support the Local Plan. Whilst the Green Belt Review concludes that the general area forms part of an essential gap, it is an essential gap between two villages and it is unlikely that release of this Green Belt land would result in a perceived reduction in this separation

- 5.11 d) to preserve the setting and special character of historic towns:

Whilst the general area plays a fundamental role in preserving the setting and character of the conservation area of Brierley and the historic assets within it, Brierley is a village, so cannot be considered a historic town.

- 5.12 The site would therefore be considered as 'Grey Belt.'

Paragraph 155 Assessment

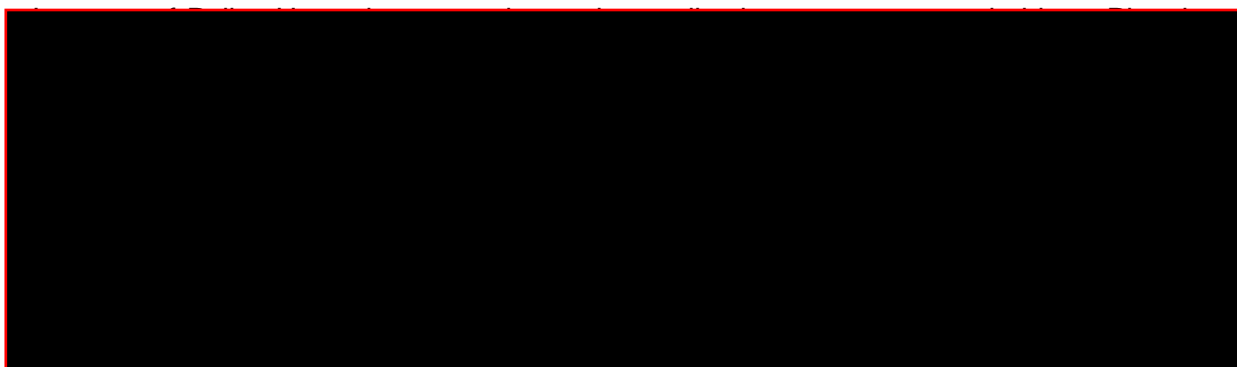
- 5.13 a) The site is considered Grey Belt, and the development of this site would not fundamentally undermine the purposes of the remaining Green Belt.
- 5.14 b) The Council consider there is not a demonstrable unmet need for the type of development. The Council has published a report entitled 'Barnsley Gypsy and Traveller Five Year 'Deliverable' Land Supply Report April 2024 – March 2029.

- 5.15 Paragraph 10 of PPTS states that local planning authorities 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).
- 5.16 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).
- 5.17 c) The site is clearly detached from the village/built up area and set within the open countryside. The site is not situated in a sustainable location, which is expanded on within the justification for the reason for refusal no.2 within this statement.
- 5.18 d) Paragraph 18 of Planning policy for traveller sites (PPTS) is clear that the Golden Rules, set out in chapter 13 of the NPPF do not apply to traveller sites.

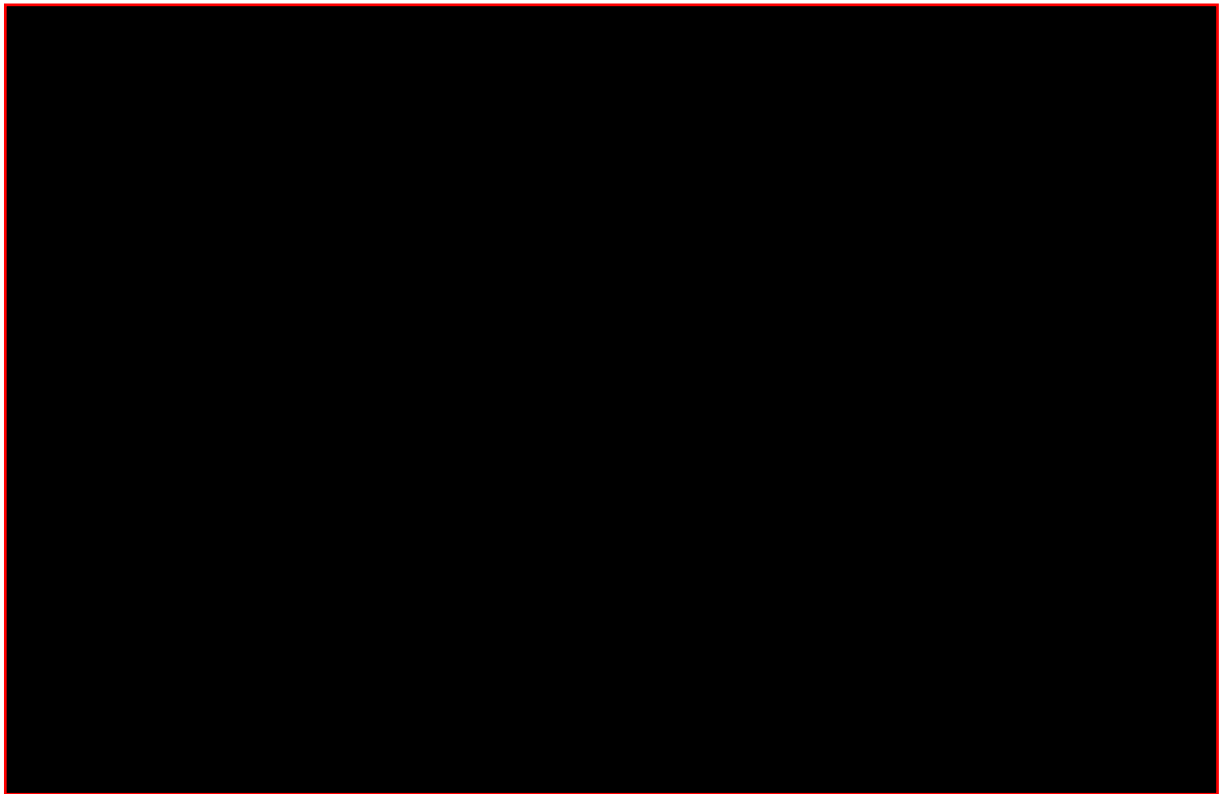
Planning Policy for Travellers Sites Assessment

- 5.19 Policy E in Planning Policy for Travellers sites echoes the NPPF and states within para 16 that '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 unless the exceptions set out in Chapter 13 of the National Planning Policy Framework apply.'
- 5.20 Policy H in the Planning Policy for Travellers sites provides guidance for determining planning applications for traveller sites. It states that local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
- a) the existing level of local provision and need for sites;
 - b) the availability (or lack) of alternative accommodation for the applicants;
 - c) other personal circumstances of the applicant
 - d) 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;
 - e) that they should determine applications for sites from any travellers and not just those with local connections.

5.21



5.22



- 5.23 The statement also outlines the unmet need within the borough, however, Policy E in Planning Policy for Travellers states 'Traveller sites (temporary or permanent) in the Green Belt are inappropriate development unless the exceptions set out in Chapter 13 of the National Planning Policy Framework apply.' 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 incongruous 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.
- 5.24 The very special circumstances necessary to justify the development have not been demonstrated by the applicant as will be illustrated in the Planning Balance section below. The appellant's personal circumstances are not sufficiently compelling to offset the various harms that would be caused. The applicants have also not supplied sufficient 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 Local Plan, 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, and the proposal is contrary to Local Plan Policies GB1 and GB3, the NPPF and Planning Policy for Travellers.

REASON FOR REFUSAL 2

5.25 The site is 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 Local Plan Policy GT1.

5.26 Local Plan Policy GT1 'Sites for Travellers and Travelling Show people' 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.'

5.27 The second reason for refusal relates to the sustainability of the location and access to facilities. Sustainability and the presumption in favour of sustainable development is a thread that runs through the National Planning Policy Framework. Planning Policy for Travellers sites also 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.' The site is isolated and set away from settlement of Brierley which is classed as a 'village' within the Local Plan. The Local Plan has a settlement hierarchy, Barnsley sub-regional town, Principal Towns and then villages. Villages vary in size but are generally characterised by more limited range of services and public transport compared to Urban Barnsley and the Principal Towns. Brierley as a village, has limited services compared to other more urban areas and the application site is a distance away from these limited facilities. As this is self-sought provision, the application must also 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.

REASON FOR REFUSAL 3

5.28 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

5.29 National planning policy indicates that development which is not well designed should be refused and that significant weight should be given to development that reflects local design policies. Local planning policy (D1) 'High Quality Design and Place Making' indicates that

development is expected to be of high-quality design and will be expected to respect local character.

- 5.30 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.'
- 5.31 As stated within the reason for refusal, the site sits outside of the village envelope and the site currently contains light coloured touring caravan and static caravans which appear incongruous with this Green Belt location. The site also has large 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 with the cumulative impact of the caravans, and domestic style walls and gates would be out of character with its immediate surroundings, contrary to Local Plan Policy D1 and GB1.

PLANNING BALANCE

- 5.32 Given the proposal as a whole is inappropriate development the Appellant needs to establish Very Special Circumstances ('VSC') which is an all-encompassing test whereby all the harms and all the benefits are considered, and a judgment is reached as to whether the harms are clearly outweighed by the benefits. If they are then VSC is established, and permission should be granted. If they are not, then VSC is not established and permission should be refused.
- 5.33 The Council has identified the following harms and sets out the weight to be given to them. For clarity the Council have used the following scale also used by the appellants within their appeal statement:-

Substantial
Considerable
Significant
Moderate
Limited
Negligible

HARM 1 – INAPPROPRIATE DEVELOPMENT BY DEFINITION WITHIN THE GREEN BELT

- 5.34 The proposed development is, by definition, inappropriate within the Green Belt and such harm is automatically afforded substantial weight in the planning balance of the decision-making process. The development, whether on a permanent or temporary basis, causes substantial, demonstrable harm to the Green Belt by reason of its inappropriateness.

HARM 2 - HARM CAUSED BY LOSS OF OPENNESS TO THE GREEN BELT

- 5.35 In addition to the acknowledged harm to the Green Belt by inappropriateness, there is also significant adverse impact upon openness. The fundamental aim of Green Belt policy is to keep land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
- 5.36 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, large walls and gates, has a more urbanising appearance and 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.
- 5.37 The level of harm caused to openness is significant and the weight given to that harm is substantial.

HARM 3 – HARM BY ENCROACHMENT OF DEVELOPMENT WITHIN THE GREEN BELT

- 5.38 Additional Green Belt harm is caused by encroachment into Green Belt open countryside. To assist in safeguarding the countryside from encroachment is one of the 5 cornerstone purposes of designating land as Green Belt
- 5.39 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence and the development results in encroachment into the open countryside.
- 5.40 The level of harm caused to purposes is significant and the weight given to that harm is substantial.

HARM 4 – UNSUSTAINABLE LOCATION

- 5.41 The site is 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 set within an unsustainable location.
- 5.42 The level of harm due to the site being set within an unsustainable location is and the weight given to that harm is significant and the weight given to that harm is significant.

HARM 5 - HARM TO THE CHARACTER AND APPEARANCE OF THE LANDSCAPE

- 5.43 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 rural surroundings.
- 5.44 The level of harm to the character and appearance of the landscape is moderate and the weight given to that harm is moderate.

- 5.45 Against these harms the Council has considered the material circumstances that the Appellant seeks to justify development.

The appellant has indicated a number of material circumstances to be taken into consideration, some of these points raise the same issues. The weight the Council would give to these considerations is listed below:-

- Need (national, regional, and local) – Limited
- Lack of available, suitable, acceptable, affordable alternative sites – Limited
- Lack of a five-year land supply of gypsy and traveller pitches - Negligible
- Failure of policy – Limited
- Likely location of gypsy and traveller pitches in the Green Belt - Negligible
- Animal welfare - Limited
- Personal circumstances including best interest of children – Substantial

- 5.46 In summary, the Council consider there is not a demonstrable unmet need for the type of development. The applicants have also not supplied sufficient evidence in terms of the active search for alternative sites and has discounted certain sites due to weak reasons. Whilst there are personal circumstances, such as the educational needs and best interests of the children, overall the appellant's personal circumstances are also not sufficiently compelling to offset the various harms that would be caused to the Green Belt.

- 5.47 The change of use of the land and stationing of caravans and associated outbuilding would constitute inappropriate development, harmful to the character and openness of the Green Belt. No compelling very special circumstances have been put forward by the appellant to outweigh the harm to the Green Belt

6 DRAFT CONDITIONS IN THE EVENT THAT THE APPEAL IS ALLOWED

- 6.1 A list of suggested conditions is attached as appendix 1.

APPENDIX 1

Suggested conditions in event the appeal is allowed.

- Within 3 months of the date of the appeal decision, a Biodiversity Mitigation Scheme should be submitted to and approved in writing by the local planning authority. This 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.
Reason: In the interests of Biodiversity in accordance with Local Plan BIO1.
- Within 3 months of the date of the appeal decision, the 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.
- 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.
Reason: In the interest of road safety in accordance with Local Plan Policy T4 New Development and Transport Safety.
- Within 3 months of the date of the appeal decision, details of suitable storage, bin presentation points and access for collection of wastes from the site 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
- Within 3 months of the date of the appeal decision, the redundant vehicular accesses shall be reinstated as kerb (and footway).
Reason: In the interests of road safety in accordance with Local Plan Policy T4 New Development and Transport Safety