

Application Number **11/18/0473**

Full Application **Change of use to create a family caravan site to provide 4 no pitches and 4 no day rooms to provide settled Gypsy and Traveller family accommodation and support the agricultural use of the land. (Part retrospective)**

Address **Smith Acres, Back Lane, Baxenden, Accrington BB5 2RE**

Determination by: **10th April 2019**

Applicant: **Mr J Smith**

Agent: **Mr Mike Carr**

The application has been brought to Planning Committee at the request of the Chief Planning and Transportation Officer.

Application Site

The site comprises a rectangular area of land 45m wide by 75m in length that is connected to Back Lane by an access track that is approximately 60m in length. The site occupies an area of 4010sqm comprising an area of hardstanding and the access. The land slopes gently to the south and lies within a larger agricultural area that occupies 5.3ha in total.

The site is located in open countryside south east of the built-up area of Baxenden. It is accessed from Back Lane, a narrow lane, and extends eastwards away from Back Lane. The area is predominantly agricultural in nature and situated between a number of poultry sheds to the south east and Baxenden Cricket Club to the west. The site is located in Green Belt. The location of the site is illustrated in Fig 1 below.

There is a tree subject to a Tree Preservation Order at the entrance of the site.

Between 2010 and present day the area of hardstanding that is shown on the site has increased significantly, a lot of the area being changed since 2015 (source Google maps). No planning permission has been applied for to increase this area of hardstanding.

The site is located 300m from the closest bus stop on Manchester road, 400m to the clinic, 423m to the pharmacy, 212m to the closest public house, 570m to local shops (butcher, baker and take away and 475m, to the church and primary school.

Proposal

Part retrospective planning permission is sought for the change of use of the land to create a family caravan site to provide 4no pitches and 4 no days rooms to provide accommodation for four families. The applicant and his family moved onto the site in December 2018 and

have occupied 3no pitches, with a larger touring caravan currently in place of the proposed static caravan/chalet. It is noted that the applicant had previously received planning permission for two agricultural buildings.

The proposal includes 4 no pitches. On each pitch there would be sited a large static caravan/chalet measuring 15m (length)x 4m (width) x 3.12m (ridge height) with timber cladding finish to elevations, 4no day rooms measuring 5m (length) x 3.3m (width) x 3.3m (ridge height) on concrete bases, also with timber cladding finish, space for 2no cars and 1no touring caravan. The proposed static caravan/chalet falls within the statutory definition of a caravan (as defined by Section 29 (1) of the Caravan Sites and Control of Development Act 1960).

There has also been some planting of trees undertaken on the North and South boundary of the site, children's play equipment has been brought onto the site and also some dog kennels. Other machinery lies around the site, some which is agricultural and some which is used for the applicant's Arboricultural business (which is not being considered as part of this planning application). The site is connected to electricity and also has the benefit of a bio-gester which has been installed just outside the red edge (without the benefit of planning permission).

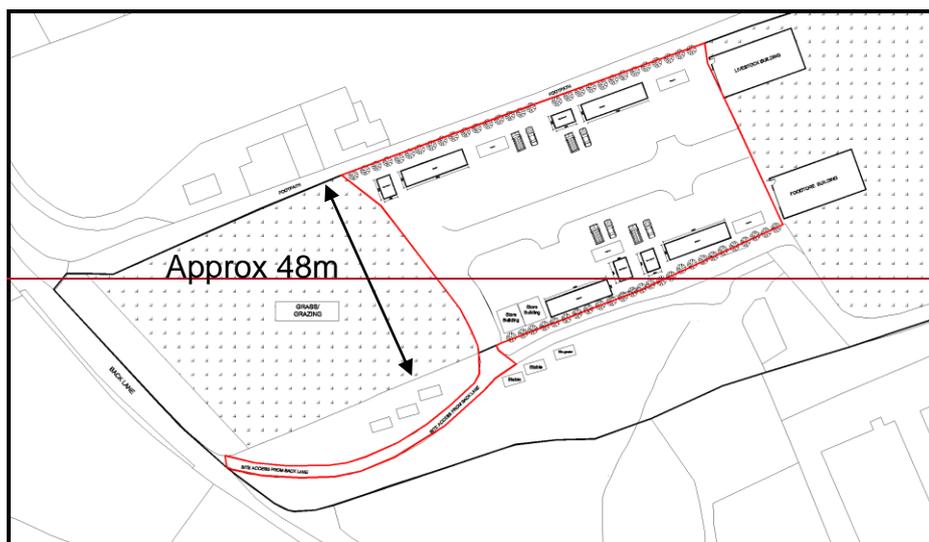


Fig 1. Plan illustrating the site and the proposed layout of pitches. Extract from submitted plans.

Consultations

Public consultation: Public consultation was undertaken and 269 letters of objection have been received. These have been grouped to provide a clearer understanding of the issues raised:

Personal Issues relating to the lifestyle of the applicant:

- Question whether the family live a nomadic lifestyle
- The elderly and infirm people mentioned in the application cannot work the land
- The applicant is already resident in Hyndburn

- No electricity gas or electric to the site
- The applicants are moving due to altercations with other families- do not want this to follow them to Baxenden.

Green Belt Issues:

- Site is Green Belt
- No exceptional circumstances to allow this on Green Belt
- If it is approved it opens up other greenbelt land for development
- Building on Green Belt does nothing for the people of Baxenden such as affordable housing
- Application will set a precedent for Green Belt development locally and nationally

Amenity Issues:

- Planning application misses provision for waste and recycling and could result in litter/fly tipping from the resident if no provision is made
- Destroys the countryside/Out of keeping with the rural character of the countryside/
The caravans would detract from the beauty
- Noise will disrupt the community
- Overlooking, loss of privacy and over shadowing
- Smells from the chicken farm

Agricultural Issues:

- Question whether the horses are for agricultural use
- Site was purchased for agricultural use only
- It doesn't take 4 families to look after that amount of animals
- Do they have veterinary certificates for animals?
- No animals are seen on site
- No evidence of sheep dog trials

Highway Issues:

- Safety of children crossing for primary school
- Poor access/dangerous junction
- Traffic problems would be caused
- Horse drawn carriages will cause traffic issues on the highway
- The answer to Q 9 in the app forms says parking is not relevant to the application, this is incorrect as lots of parking is on the site
- People won't use the footpath anymore as it runs adjacent to the site and there are large dogs

Environmental Issues:

- Likely to have a negative impact on the environment
- Caravans would detract from the wildlife
- Pollution
- Impact on the landscape when viewing for the cricket club
- The hard core used is from the Conservative Club and includes Asbestos as such the Environment Agency should be involved.

- Site will be kept untidy and attract vermin
- After the travellers left Baxenden rec it cost a fortune to clear it up

Other Policy Issues:

- Hyndburn already has suitable provision in the Borough
- No evidence that alternative Brownfield land in Hyndburn has been considered
- The caravans do not meet with the surrounding properties style (design)
- Not in keeping with the heritage of the village
- Over development of the site, loss of land and garden grabbing
- Unsustainable location
- No need for caravans in Baxenden, build nice houses instead
- Additional children who will apply for an already full school
- Adverse effect on neighbouring listed buildings
- Services already overburdened/ Drs over subscribed
- Develop the area as a play park instead to benefit the people of Baxenden
- Contrary to Hyndburn's policies DM15 DM34 AND GN9
- A tree business is being run from the land
- In the long term this will become an industrial area with serious concerns

Other matters including fear of crime:

- If approved I will be forced to leave my home and move out of Baxenden as I would feel unsafe and unlawful activity as a result – rates have gone up since the site has been occupied
- The travellers have a history of gun handling, abuse of animals and altercation.
- Can the council check on the family history of lawlessness
- Residents of Baxenden children won't be able to play out without being under threat
- The application says altercations with other families prevent them from living on other sites, this is not a good sign for Baxenden and how they will integrate
- The development is clearly an exercise for laundering money and proceeds of crime
- A traveller's site wouldn't fit in with the people of Baxenden as it would be disruptive to the village
- The residents will not integrate with villagers and this will cause a divide.

A number of letters have also raised points that are not material to the determination:

- Building has begun on the site which disregards the law
- It's about time the Council listened to rate payers
- Will the residents pay council tax? If not this is tax evasion
- The application includes misleading information (does not indicate what this is)
- Reduction in house prices as a result of a traveller's site in the area
- The owner appeared at residents meetings for the previous agricultural building applications and promised the site would not be a travellers site
- This is the worst thing that could happen to Baxenden (no reasons given)
- The Gypsy traveller culture is not welcome in Baxenden (no reasons given)
- In 12 months' time it will be full of caravans (the application must be treated on its merits)

- The Council is a let-down and they have only put up one sign and not written to neighbours
- The council should take legal advice from someone who is capable of challenging the travelling community
- I wanted to purchase the land and was told it was Green Belt so no building was allowed and so I didn't buy it.
- The Rising Bridge site was not appropriate, this is not appropriate for the same reasons - Note: This was a decision taken by a neighbouring authority in relation to their local plan. No reasons given.

Confirmation of removal of objections:

- 1 no letter received

2 no. 'No objection' letters:

- Everyone has a right to live where they want to and also do what they want with the land they own within reason
- I live on Back Lane and do not object to this going ahead

12no. Support letters:

- the family are a good respectable family and would be an asset to Baxenden
- Grew up with the family and they are a nice bunch of folk, the application is a bonus for the area
- Can't see why they can't build on land which isn't affecting anyone else
- Family are respectful and are not trouble makers, too many people are judging with old fashioned stereo types.
- Honest hardworking family

LCC Highways: No objection to the development subject to the following conditions:

- Construction Traffic Management Method statement
- Any gates to be erected to be set back 10m from Back Lane
- Access and egress to and from Back Lane shall be in forward gear

HBC Environmental Health: No objection to the development subject to the following conditions:

- Restricted hours for construction works and deliveries
- Control of noise/dust/fumes and vibration during construction
- Details of any mechanical ventilation to be agreed

HBC Ecologist: No objection to the development subject to the following conditions:

- Landscaping scheme to be submitted, agreed and implemented.
- Details of how the large static vans will be delivered on site to be agreed as it could impact on the tree at the entrance to the site which is subject to a Tree Preservation Order (TPO).

Police: The Police have confirmed that the application falls outside of the threshold where a Designing Out Crime Officer would provide security advice. Crime prevention advice is provided for 25 dwellings or more.

Lancashire Fire and Rescue: No comments have been received

United Utilities: No comments have been received

Relevant Planning History

11/18/0054 Full: Erection of 2no agricultural buildings (1no for livestock and 1no for food store) Refused

11/18/0206: Erection of 2no agricultural buildings (1no livestock and 1no foodstore) re-submission of planning application 11/18/0054 Approved at Committee

Relevant Policies

Development Plan

Hyndburn Core Strategy

- Policy BD1 The Balanced Development Strategy
- Policy H3 Gypsy and Traveller Provision
- Policy Env2 Natural Environment Enhancement
- Policy Env3 Landscape Character
- Policy Env6 High Quality Design
- Policy Env7 Environmental Amenity
- Policy RA1 Amount and Distribution of Housing in Rural Areas

Note: Although Policy H3 is concerned with Gypsy and Traveller Provision, as far as future need is concerned the policy only identifies sufficient land to meet needs until 2016 and for this reason has limited relevance to the planning application being considered.

Development Management Development Plan Document (DMDPD)

- Policy GC1 Presumption in favour of sustainable development
- Policy DM15 Gypsy and Traveller sites
- Policy DM17 Trees Woodlands and Hedgerows
- Policy DM18 Protection and Enhancement of the Natural Environment
- Policy EM26 Design Quality and Materials
- Policy DM29 Environmental Amenity
- Policy DM31 Waste Management in all New Development
- Policy DM32 Sustainable Transport, Traffic and Highway Safety
- Policy DM34 Development in the Green Belt and Countryside Area

Material considerations

- Planning Policy for Traveller Sites (PPTS) Department for Communities and Local Government 2015
- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Hyndburn Gypsy and Traveller and Travelling Showpeople Accommodation Assessment (GTAA) 2014
- Regulation 18 Consultation Draft of the Core Strategy Review
- DCLG Chief Planner letter dated 31st August 2015 re Green belt protection and unauthorised development

Observations/Background

Planning law requires that planning applications should be determined in accordance with the policies of the development plan unless material considerations indicate otherwise. In Hyndburn the development plan comprises the Hyndburn Core Strategy, the Development Management DPD and the “saved” policies of the 1996 Local Plan.

In addition to the relevant policies of the development plan, there are a number of national planning documents that are material and should be taken into consideration, in particular the Planning Policy for Traveller Sites (PPTS) and National Planning Policy Framework (NPPF). PPTS sets out the approach that Government expects local planning authorities to take when determining planning applications for the development of gypsy and traveller sites. Relevant sections of PPTS are set out in full at Appendix 1 of this report for the information and consideration of Planning Committee.

In determining this planning application it is also important to take into consideration the representations that have been made by local residents and statutory consultees, these are set out and addressed in the relevant section of the report. When considering representations made by members of the public it is important to consider the extent to which the points made are relevant material planning considerations, not the number of representations. Members should omit from consideration those issues set out above that are not material to the merits of the planning application.

In 2018 planning permission was granted for the development of two agricultural buildings on the site to support the applicant’s animals. One of the buildings was to be used for animals and the other for the storage of agricultural equipment. In late December 2018 the applicant and their family moved onto the site in six touring caravans and erected 4no day rooms that are still present, on concrete bases. As well as cars and work-related vehicles, there is also children’s play equipment and dog kennels on the site.

In the light of concerns about the harm that is caused where the development of land is undertaken in advance of obtaining planning permission, the Chief Planner for DCLG issued a statement in August 2015 that introduced a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. In this case officers believe that the applicant was aware that the site was in the Green Belt because two planning applications

for agricultural buildings were submitted for this site by the applicant, prior to them taking the decision to move onto it. The intentional unauthorised development therefore weighs against the proposal.

The planning application for the development was submitted at approximately the same time as the site was occupied. The family that live on the site are a local family that previously occupied a site in Oswaldtwistle that they believed was unsuitable and did not meet their needs; this site is referred to throughout the report as 'The Green'.

The Planning Statement gives details of the animals which are being kept on site. It lists 44no sheep (43 ewes and 1 tup) and 12 horses. At a meeting held with applicant on 5th March 2019, the applicant believed there were 15 sheep on site in lamb and that he had 9 horses on site, with 12 kept elsewhere. He confirmed his flock has reduced since he was living at The Green from 40 sheep to 15. A number of representations have been received in respect of these matters and these are addressed in this report.

When considering planning applications for sites for Gypsies and Travellers it is necessary to consider whether the families occupying the site should be considered to be Gypsies or Travellers in accordance with the definition within the Planning Policy for Traveller sites (PPTS):

'Persons of nomadic habit of life whatever the race or origin, including such persons who on grounds only of their own or their family's dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling Showpeople or circus people travelling together as such'.

Within the planning application, there is some confusion in relation to whether the family meet this definition. This is set out below for information:

The description of development that was initially agreed with the agent was for a *'Change of use to create a family caravan site to provide 4no pitches and 4no days rooms to provide settled accommodation and support the agricultural use of the land'*. There was no mention of Gypsy and Travellers in the description when the application was submitted.

The Planning Statement notes that *'this planning application proposes the formation of a family caravan site to provide 4no pitches and 4no day rooms to provide settled accommodation and to support the family agricultural use of the land'*. Later in the statement it also states *'the applicant and his family are settled travellers who have lived in the Borough for many years'*.

The Planning Statement later explains that the family *'travel as a family and individually, mainly to gypsy horse fairs by horse drawn caravan and modern caravan, mostly in summer months but due to older members of the family they now need somewhere permanent to live'*. This section concludes with the following sentence: *'However, it is also highlighted that whilst the Smith family are of traveller heritage and occupy caravans and static homes as their place of residence, this planning application is not presented as an application for*

Gypsy/ Traveller caravan site, and is an application as described earlier in the statement. This is a family site only, so as to support the family's long term welfare and the lawful use of the agricultural holding'.

Whilst the application is not clear on this matter, following discussion with both the agent and the applicant, on balance Officers accept that the family are Gypsy and Travellers as set out by the definition above. As such Officers have agreed with the agent to amend the description of the planning application to read 'Change of use to create a family caravan site to provide 4 no pitches and 4 no day rooms to provide settled Gypsy and Traveller family accommodation and support the agricultural use of the land. (Part retrospective)'.

Key issues for consideration

In determining this application there are a number of key issues that require consideration:

- 1) Principle of the development
- 2) Openness of the Green Belt
- 3) Very Special Circumstances (VSC)
- 4) Temporary permission
- 5) Other matters raised

1. Principle of development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of applications under the Planning Acts should be in accordance with the Development plan unless material considerations indicate otherwise. In this instance the Development Plan comprises the saved policies of the Hyndburn Core Strategy (CS) and the Development Management Development Plan Document (DMDDP).

- Core Strategy Policy BD1: Balanced Development Strategy

Core Strategy Policy BD1 part c) states: '*Development within the rural area will be limited to that supporting farm diversification and promoting leisure and recreational facilities whilst retaining landscape character*'. The proposed development is not considered to comprise farm diversification or promote leisure and recreational facilities in the Borough.

As such the officers consider proposal does not comply with the provisions of Core Strategy Policy BD1.

Although Policy H3 of the Core Strategy seeks, amongst other things, to identify sufficient land for gypsy and traveller provision through the development of the site at Sankey House Farm, the supporting text explains that this would be for the period up to 2016. The policy does not consider needs beyond this time period and is therefore time expired and should not be attributed weight.

Policy DM 15 of the Development Management DPD is a more detailed policy that sets out criteria against which planning applications will be considered. Policy DM15 is divided into three sections:

Part 1 of this policy states that:

'The Core Strategy identifies sufficient land to meet the needs of Gypsies and Travellers until at least 2018. Sufficient land will be identified, in suitable locations, to meet the needs for the remainder of the Plan period in the Council's Site Allocations Development Plan Document'.

The Council is working towards a new up to date GTAA and accept that this is likely to disclose a need for more pitches within the Borough. The Council is also developing a Site Allocations DPD which will allow sites to be allocated in line with an up to date evidence base. Although the likely shortfall of sites in the local plan is a factor that weighs in favour of the applicant's case, it is not considered that the weight to be attributed to this is sufficient to outweigh the harm arising to the openness of the Green Belt from the unauthorised development.

Part 2 states that:

'All development proposals for traveller sites will be assessed in accordance with 'Planning Policy for Traveller Sites' and will be expected to:

- a. Be located within a reasonable distance from services such as school, bus stops, local shop and health services;*
- b. Be located in accessible locations with good access to public transport provision, and*
- c. Cause no unacceptable harm to:*
 - i) Highway safety*
 - ii) Visual amenity*
 - iii) Residential amenity*
 - iv) The biodiversity or geodiversity of the area*
 - v) The character or appearance of a conservation area, or*
 - vi) Heritage assets and their settings'.*

The provisions of the 'Planning Policy for Traveller Sites' will be discussed later in this section of the report.

Therefore the policy requires the accordance with the PTTS and the provisions provided under points a, b and c. Although later in the report that the provisions of PPTS will be considered, Officers have also assessed points a, b and c for the benefit of the doubt below:

- a. It is accepted that the site lies within reasonable distance of services such as school, bus stops, local shop and health services, although it is noted that the applicant's family will continue to access education and health services in Oswaldtwistle.

- b. It is accepted that the site is located in an accessible location with good access to public transport provision as Manchester Road provides main bus routes into Accrington but also further afield to towns and cities such as Manchester.
- c. The development should not cause unacceptable harm to:

- i) Highway safety:

Other relevant policies which are considered in relation to traffic and highway safety are CS Env7, DMPD DM32 and the relevant provisions of the NPPF. These all have similar aims of this policy and provide the basis of how traffic and highway safety should be assessed.

Objections have been received in relation to traffic and highway safety which are listed in the consultation section of this report.

The site is accessed and egressed through existing access from Back Lane which is a narrow road with one or two crossing points. The applicant will be moving static caravans/chalets onto the site, vans and cars to and from the site on a daily basis and animals will also be transported to and from the site by trailers. The touring caravans will also come on and off site on a seasonal basis as the family travel to and from fairs in the summer months.

The Highways Authority (HA) have considered the proposal and have no objection provided their conditions listed in the consultation section of this report are attached should the planning permission be granted.

Therefore in the absence of an objection from the statutory consultee in relation to highway safety and with the inclusion of their suggested conditions, officers are satisfied that the development is acceptable in this regard and that this element of DMDPD Policy DM15 is satisfied.

- ii) Visual amenity:

Other relevant policies which are considered in relation to visual amenity are CS Env2, CS Env6, CS Env7, DMDPD DM26 and DMDPD DM34 and the provisions of the NPPF and PPTS.

There have been objections received to the proposal which refer to the impact the development would have on the visual amenity of the area. These are listed in the consultation section of the report.

There is also public footpath which runs adjacent to the site and a public vantage point, which is the cricket ground to the north of the site. Therefore views taken of the surrounding areas from these vantage points are important to the consideration of the impact the development would have on visual amenity.

Visual amenity is discussed later on in the report in relation to the impact of the development on the visual amenity element of the openness of the Green belt. It is for the reasons set out in section 3 of the report that it is not considered that the development satisfies this element of DMDPD DM15.

- iii) Residential amenity:
Other relevant policies which are considered when looking at the impact of the development on residential amenity are CS Policy Env7 and DMDPD DM 29.

Various concerns have been raised in relation to residential amenity which are listed in the consultation section of this report.

The proposed development is considered sufficiently distant from other nearby residential properties not to impact on residential amenity by virtue of increased noise or disturbance, or overlooking/loss of privacy. Although there would be an increase of traffic accessing and egressing the site via Back Lane, this is not considered sufficient to cause demonstrable harm to local amenity.

Following the consultation with Environmental Health Officers, a suggested list of conditions were received which are detailed in the consultation section of the report.

A concern was raised by officers in relation to the potential of noise and odour which would impact on the residents of this development due to the chicken farm which is located adjacent to the site. This matter was also raised with the Council's Environmental Health Officer and they have confirmed they do not consider that the development would be impacted in this regard due to the distance from the farm. As such this is not considered a matter for which the application should be refused.

Objections have also been made to the scheme in relation to waste management, citing fly tipping as a potential problem. However, the applicant would need to make provision for the management of waste as any development would; as such this is not considered a suitable reason to refuse the planning application.

Therefore with the inclusion of the suggested conditions from the Council's Environmental Health officer, officers are satisfied that the development is acceptable in this regard and that this element of DMDPD Policy DM15 is satisfied.

- iv) The biodiversity or geodiversity of the area:

Other relevant policies which are considered when looking at the impact on biodiversity of a development are CS Env1, CS Env2, DMDPD DM17, DMDPD DM18 and DMDPD DM19

Although the Lancashire Grassland Ecological Network runs through the site, the Council's Ecologist has confirmed that due to the site being an existing area of hardstanding, that there would be no adverse ecological impact as a result of the development. He has suggested conditions which could be included to agree a landscaping scheme suitable for the site. He has also highlighted that the applicant's proposed plans incorporate hedge/tree planting for screening and has requested specifically that only native species should be used and that Leylandii /Laurel/similar is not acceptable.

As such, with the inclusion of the suggest conditions, Officers consider that this element of DMDPD Policy DM15 is satisfied.

- v) The character or appearance of a conservation area, or vi) Heritage assets and their settings.
The site is not located within conservation area or within the setting of a listed building and as such Officers consider that this element of DMDPD Policy DM15 is satisfied.

Whilst the proposed development satisfies the criteria (a. to c.) listed by part 2 of Policy DM15, the policy also requires that "all development proposals for traveller sites will be assessed in accordance with "Planning Policy for Traveller Sites". The extent to which the proposal satisfies PPTS is considered later in this report.

Development Management Development Plan Document Policy DMDPD 34 Development in the Green Belt and Countryside Area.

This policy relates specifically to development located within the Green Belt in Hyndburn. The first part of the policy states that the erection of new buildings in the Green belt will be permitted where:

- a. There is a need for occupation by agricultural or forestry workers; or
- b. The development comprises limited infilling in villages; or
- c. The development involves limited infilling or the redevelopment of a previously developed site and there is no greater impact on the openness of the Green Belt, and the purpose of including land within it, than the existing development; or
- d. The building will replace an existing building with a residential use and would not result in a material increase in the volume of the original building.

The proposed development does not meet any of the criteria a. to d. Although the applicant maintains that the site is previously developed land, NPPF defines previously developed land as "land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. The definition also excludes

land that is or was last occupied by agricultural or forestry buildings. There is no evidence that the site has been occupied by a permanent structure. Rather, the evidence suggests that it is an agricultural holding. The site is not therefore considered to be previously developed land and cannot meet criterion c.

In any event, even if the land was treated as previously developed the proposed development has a greater impact on the openness of the Green Belt than any existing development on the site. The proposed development therefore fails to satisfy the first part of policy DM34.

National Planning Policy Framework advises that planning authorities should regard the construction of new buildings as inappropriate in the Green Belt unless they meet the criteria set out at para 145 of NPPF.

The second part of Policy DM34 sets out more detailed general design criteria that all proposals for new built development in the Green Belt and Countryside should satisfy. Planning proposals for new buildings in the Green Belt would normally be assessed against the more detailed criteria in the event that they are considered appropriate development in the Green Belt. PPTS also maintains that the development of gypsy and traveller sites in the Green Belt is considered inappropriate development. Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances.

The proposed development includes a number of buildings that would not be used for a purpose that would be considered acceptable in the Green Belt. Therefore Officers are satisfied that the development would not accord with the provisions of both the National Planning Policy Framework and Policy DM34 of the Development Management DPD.

Conclusion:

Planning law requires that planning applications should be determined in accordance with the policies of the development plan unless there are material considerations that indicate otherwise. Officers believe that the development is not in accordance with the provisions of Hyndburn's Development Plan as a whole on the grounds that it is considered contrary to CS Policy BD1, DMDPD DM15 and DMDMP DM34 and that substantial weight to this consideration should be given by Members in the planning judgement of this proposal. There is therefore a statutory presumption against the grant of planning permission.

Members should note that it is also necessary to be satisfied that there are no overriding material considerations which outweigh any conflict with the development plan. In this case the material considerations are the National Planning Policy Framework (NPPF) and the Planning Policy for Traveller Sites (PPTS). Each will be considered in turn.

2. Openness of the Green Belt:

Harm to the openness of the Green belt caused by a development is a key consideration when making decision on planning applications for development in the Green Belt as it is the most important attribute of the Green Belt. As such significant weight should be given to the impact of development on the openness of the Green Belt.

National Planning Policy Framework:

Paragraph 133 of the NPPF states clearly that the government attaches great importance to Green Belts and that 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.

Paragraph 143 of the NPPF states that *'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*. It goes on to state in para 144 that *'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'*.

Paragraph 145 and 146 of the NPPF go on to make clear what type of exceptions in relation to built development could be considered appropriate. This development does not fall within any of those exceptions.

As such it is necessary for the applicant to demonstrate that there are Very Special Circumstances to allow this development proceed. In order for very special circumstances to exist, the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal must be clearly outweighed by other considerations.

Planning Policy for Traveller Sites (PPTS)

Policy E of the PPTS is the relevant part of this document for the consideration of this planning application as it deals with the consideration of Gypsy and Traveller sites in Green Belt. It states in paragraph 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. Subject to the best interest of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm the Green Belt and any other harm so as to establish very special circumstances'*.

Before dealing with this principal point, it is necessary to consider any harm to the Green Belt caused by this development, together with any change of use to create a family caravan site to provide 4 no pitches and 4 no day rooms to provide settled Gypsy and Traveller family accommodation and support the agricultural use of the land (Part retrospective), and then to consider whether there are considerations which outweigh this harm in line with the provisions of the PPTS and the NPPF.

Harm caused by the development to the openness of the Green Belt:

Officers consider that the change of use of this land to create a family caravan site for 4no Gypsy and Traveller pitches will have a significant impact on the openness of the Green Belt in this location. This section of the report will set out why this conclusion has been reached.

The starting point in terms of national policy is a presumption that inappropriate development in the Green Belt is, by definition, harmful. Decision makers are told to give substantial weight to this 'definitional' harm.

It is now widely accepted that the harm to openness on the Green Belt has both a spatial element (the volumes and scale of buildings) and a visual element.

The agent has not commented within this application on the level of harm caused to the openness of the Green Belt by the proposed development. However in his summing up of his supporting Very Special Circumstances statement he states:

'the applicants are in agreement with the provisions of paragraph 143 of the NPPF, which identified that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Taking this into account the applicants also agree that the proposed development represents inappropriate development in the Green Belt, as identified in para 16 of the PPTS'.

As such the applicant accepts there is harm to the openness of the Green Belt caused by the development.

- Spatial harm to the consideration of openness

The applicant has moved 3no of the 4no pitches onto the site, although the static/chalet is currently replaced with the larger touring caravan, presumably until planning permission is secured to avoid the extra cost of purchasing these units. The applicant has also constructed 4no of the day rooms, one of which appears bigger than is shown on the submitted plans.

On the submitted existing site layout plan, the applicant has shown a large area of hardstanding (see below- this area has increased significantly in the last 3 years without planning permission). Prior to this is it unsure what was on the site but the applicant has shown a livestock pen and run, 2no store rooms and a tea room on the existing layout. The rest of the area is clear and free of structures. Once the development is implemented in full the volume of new buildings on the site, including the 4no day rooms, the 4no static caravans/chalets and the 4no tourer caravans would be approximately 903m³. This does not include the volume of the dog kennels, cars, vans or equipment or the play houses on the site.

Officers therefore conclude the proposed development would have a significant adverse impact on the spatial element of openness of the Green Belt. Significant weight should be afforded to this when considering the planning judgement.

- Visual harm to the consideration of openness

Prior to the applicant moving onto the site, it was already partly occupied by an area of hardstanding. Google earth imagery shows that between 2016 and 2018 this area of hardstanding has significantly increased. A planning application was not submitted which applied for operational development.

Therefore the area of hard standing already has some harm in terms of the visual aspect of the openness of the Green Belt.

Recent appeal decisions have concluded that there is also a visual harm element to the consideration of the openness of the Green Belt. This is not solely based on the volume of the development but also on the impact it has on the visual consideration of openness.

The site has a Public Right of Way (PROW) which runs adjacent to it and can be seen from key vantage points such as the Cricket club adjacent.

The installation to the caravans, static/chalets, day rooms and other residential paraphernalia such as the kennels, play equipment, cars and vans, and the equipment associated with the Arboricultural business which lies around the site also adds significantly to this impact.

The applicant has constructed 2no agricultural buildings on the field adjacent to the application site, of which one can be used for storage. However only agricultural equipment can be stored in those buildings as there is a condition attached to the planning permission. Provided these buildings are used for agricultural purposes, they cannot be considered to harm the openness of the Green Belt.

The applicant has already undertaken some landscaping around the site, mainly by planting trees along the northern boundary alongside the PROW. However these trees appear to be planted within the PROW and over time they will make the PROW impassable. As such they will have to be removed. A landscaping condition could be attached should the planning permission be granted to ensure that native species are planted and that the landscaping scheme maximises the potential to screen the development. This will also avoid such uniform planting which is uncharacteristic to the area.

Therefore officers conclude that the proposed development would have a moderate adverse impact on the visual element of Green Belt openness. Therefore moderate weight should be attached to this consideration in the planning judgement.

Conclusion:

Officers consider that the proposed development would a significant impact on the spatial consideration of the openness of the Green Belt and a moderate impact on the visual consideration of the openness of the Green Belt, which needs to be clearly outweighed by

other considerations if this development is to be considered acceptable in line with the provisions of the DMDPD DM15, DMDPD DM34, the NPPF and the PPTS. Officers therefore advise members that the weight to be given overall to the impact of the development on the openness of the Green Belt is substantive.

3. Very Special Circumstances (VSC)

As detailed earlier in this report, the NPPF and the PPTS allow very special circumstances (VSC) of development in the Green Belt to be considered as material planning considerations. The applicant has put forward a 'bundle' of considerations which he considers, along with the heritage of the family; outweigh the harm caused to the openness of the Green Belt by the proposed development when considered together.

Members are reminded these VSC need to be considered as a 'bundle', not necessarily individually, as each point doesn't need to constitute a VSC in itself but together could amount to VSC. Therefore in order to approve the application, Members need to be satisfied that the "VSC bundle" clearly outweighs the harm caused to the openness of the Green Belt and other harm. (VSC does not exist unless factors clearly outweigh harm to the Green Belt and any other harm).

i. The requirements of NPPF

The applicant's agent directs Officers to the consideration of paragraph 59, 60 and 61 of the NPPF which deal with housing need and the requirement on the Local Planning Authority to have a 5 year supply of homes. Although it is acknowledged that there is likely to be a lack of supply of available pitches for Gypsy and Travellers in the Borough when the new, up to date GTAA is published, the Council has timetable which allows for that need to be catered for through the Site Allocations DPD. The Development Plan is being developed in line with this timetable and there is confidence that this provision will be made as required once need is firmly established through evidence-based reports.

Officers therefore accept there is an un-met need in the Borough for sites, and as such this is afforded moderate weight in this element of the bundle of VSC circumstances presented by the applicant.

ii. The legal requirements of PPTS

The agent argues that the legal requirements of the PPTS in terms of needing to identify a supply of pitches for the needs of Gypsy and Travellers and highlights the Fir Trees appeal comments from the Inspector in relation to this.

The use of the Fir Trees appeal is outdated. Since this appeal was allowed and the site at Sough Lane was approved, the Council has adopted Policy DM15 which is directly in relation to Gypsy and Traveller sites. As such Officers do not consider that

the Fir Trees appeal decision has any material weight in the consideration of this application.

Officers refer Members to the comments made in i) above in terms of the requirements for a supply and attach moderate weight to this consideration. However overall Officers do not considered that this outweighs the impact of the development on the openness of the Green Belt, or other harm.

iii. Failed Core Strategy Policy H3

The agent asserts that the Fir Trees appeal concluded that Policy H3 has failed and that the weight afforded to Policy H3 is limited as it makes no provision for the accommodation needs of Gypsy and Travellers beyond 2016, that it fails to provide a five year supply of sites and fails to provide criteria against which proposal coming forward can be assessed. It states it also fails to provide for the accommodation needs identified within the 2007 GTAA within the Borough or alternatively through the Duty to Cooperate.

However, the Council is moving towards a new up to date GTAA and accept that this is likely to disclose a need for more pitches within the Borough. The Council is also moving towards a new Site Allocations DPD which will allow for sites to be identified and allocated in line with an up-to-date need.

However as discussed in ii) above, Officers consider that the conclusions drawn in the Fir Trees appeal are not relevant to the consideration of this application as the new DMDPD DM15 policy has since been through the formal adoption process and is valid in the consideration of this application. This policy requires the compliance with the provisions of the PPTS, and as such this is relevant to the consideration of this assertion in the applications VSC. (See para 16 of the PPTS noted in the Openness of the Green Belt section of this report).

As set out in the beginning of this report, Officers believe that although Policy H3 is concerned with Gypsy and Traveller Provision, as far as future need is concerned the policy only identifies sufficient land to meet needs until 2016 and for this reason the policy has limited relevance to the planning application being considered.

Appeals are considered on their merits and do not represent case law or policy, although there is a principle of consistency of decision making which should be adhered to. The point that distinguishes this application from the Fir Trees appeal decision is the adoption of the DMDPD DM15 policy.

Therefore Officers attach little weight to the consideration of this element of the VSC bundle.

iv. Compliance with DMDPD Policy DM15

The agent argues also that the proposed development complies with the provisions of Policy DM15. Policy DM15's purpose is for the consideration of new Gypsy and Traveller proposal. It is noted at the start of the policy that:

'All development proposals for traveller sites will be assessed in accordance with 'Planning Policy for Traveller Sites...'

As such it is key that the proposal must meet with this provision. Officers direct Members to the policy section of the report where the compliance with the PPTS is considered; in particular paragraph 16. This demonstrates that that proposal is not in accordance with the PPTS and as a result is not in accordance with DMDPD DM15 as explained earlier in the report.

The policy then goes on to list various considerations to address the suitability of the site and officers accept that these are met in the majority. However point c ii refers to the impact the development would have on visual amenity. Officers do not consider that this element of the policy is met (Members are directed to the Openness of the Green Belt section of the report in relation to the consideration of the impact the development has on visual amenity).

Officers therefore accept that there are various elements of this policy which are met, however visual amenity and compliance with the PPTS are not met and as such extremely limited weight can be attached to this element of the VSC bundle presented by the applicant.

v. Interpretation of weight attached to the failure of policy and lack of provision

The agent refers to Appeals APP/A6055 /W/15/3129221 (Shotwick Green) and APP/A0665/W/16/3161027 (Gethsemane Caravan Park Dunham-on-the Hill) and the Fir Trees Appeal (APP/R2330/A/14/2212033). The thread running through all these appeals in his opinion is that the Councils have failed to take adequate steps to address the need for residential pitches in the past and as such states that weight should be attached to this.

Officers accept there is a lack of provision as detailed under sections i and ii of this report, and as such attach moderate weight to the consideration of this point. However little weight is attached to the failure of policy as covered in points iii and iv of this section of the report.

vi. Alternative site/pitch accommodation

The application states that the draft GTAA will reach similar conclusions to the 2014 report; albeit the shortfall of pitches will be greater and that there is no surplus capacity in the Borough. As such he states that the weight attached to this point should be significant.

The agent has put forward various reasons within the planning application as to why the family needed to leave 'The Green'. The reasons listed are altercations with other families on the site, having outgrown the space available to them and that the site is substandard in terms of living conditions. However he hasn't supported these assertions with evidence, despite being requested to by Officers. As such Officers consider that they cannot rule out the family returning to 'The Green' until convincing evidence is provided as to the reasons why to discount this option. Although at this stage and for the benefit of doubt, Officers accept that the family have left 'The Green' for the reasons they state.

It is accepted that in the 2014 GTAA that 'The Green' has '*no facilities on this site and it was of a poor standard*' but no more recent evidence is available and it is not known whether the pitches at "The Green" remain available or are suitable for the applicant.

It has been accepted that the lack of supply in the local plan weighs in favour of the applicant but when considered in isolation or as part of a bundle of VSC it is not considered that this outweighs the harm arising to the openness of the Green Belt from the unauthorised development.

vii. The current Local Plan process

The agent states the following in his supporting information received 12th March 2019:

- a) There has been a call for sites. None have been promoted through the Local Plan process
- b) The LPA will not be promoting their own land to meet the GTAA shortfall
- c) There is no LPA finding mechanism available to provide public sites in the Borough; In addition the County Council Whinney Hill is up for sale. This will have further negative impact on the provision in the Borough
- d) The new draft GTAA will show a clear under provision, which will include the 4no pitches at Back Lane. It will also show that there is no surplus capacity anywhere on sites in the Borough
- e) The result of the current Local Plan process, if the above factors are taken into account, is that the lawful requirements set out in the NPPF and the PPTS cannot be met in Hyndburn.

However Officers do not agree with these assertions. They are working towards a new up-to-date GTAA which will make clear the need for pitches in the Borough. This then can be allocated within the Site Allocations DPD which is currently being developed. The call for sites opened in 2015, and is still open now, however it is noted this site has not been submitted for consideration.

The Council are in the process of developing the Local Plan for Hyndburn and this will be undertaken in accordance with the relevant requirements and regulations. Consultation will be undertaken on future policy for Gypsies and Travellers but at this

stage it is not possible to comment on what sites may or may not be included. Officers have already accepted that the lack of supply in the local plan weighs in favour of the development but do not believe that any of the points raised above are sufficient to materially increase that weight.

viii. Personal circumstances

The supporting statement submitted with the application discusses the personal circumstances of the family. It highlights the best interests of the children and also the needs of other family members. These will be dealt with in turn in this section of the report:

- Best interests of the children.

Para 16 of the PPTS is clear in its assertion that VSC are unlikely to outweigh the harm to the openness of the Green Belt and any other harm, unless it impacts on the best interests of the children i.e. personal circumstances and unmet need are unlikely to outweigh the harm on their own. As such the best interest of the children is a key factor in considering this planning application, presented as part of the VSC bundle to be considered by the applicant.

The supporting information in the application asserts that the best interests of the children are as follows:

- Remaining on the site will allow them to have a safe and settled environment: it is considered education is critical to the well-being of the children.
- Four of the children attend primary school at St Andrews in Oswaldtwistle and will continue to do so
- The children attend Drs and health services in Oswaldtwistle and they will continue to do so
- If they have to leave the site at some point this will interfere with their human rights with regard to Article 8 of the European Convention on Human Rights.

Specifically the following is noted in the supporting information submitted on 12th March 2019:

'the best interest of the children should be a fundamental consideration for the LPA. It is considered that a safe and settled site would afford them the best opportunity of a stable, secure and happy family life, opportunities for education, ready access to health and other services and opportunities for play and personal development'.
(Statement submitted in support of the application on 12th March 2019).

It is also accepted in that statement that similar benefits would be achieved on another site but that there are no suitable alternatives in the Borough and that a roadside existence would not necessarily prevent all access to education and health

services, although this would lead to prolonged absence of a settled site that would lead to serious disruption to access to education, health and other services for the children.

Officers don't agree that if this application is refused there would be a prolonged absence of a settled site as the Council is working towards allocation of sites within the Site Allocations DPD, once need is established through the new GTAA.

Article 3 of the United Nations Convention on the Rights of the Child (UNCRC) is clear that no other consideration is inherently more significant than the best interests of the children and when considering Article 8 of the Human Rights Act the rights of those of children must be seen as a primary consideration. Therefore Members are reminded that the best interests of the children is key in the consideration of this application and that Article 3 of the UNCRC and Article 8 of Human Rights Act are relevant material considerations here. Therefore it is agreed that it is in the best interests of the children to have a settled place to live, access to education, health services, play and personal development.

There are no specific health needs of the children identified within the application. It is noted that the children will continue to be educated at St Andrews in Oswaldtwistle and will attend Drs Surgeries there for their everyday health needs; the school/Drs is approximately 3 miles from the site. They have not stated that they need to occupy this site in order to have access to the local primary school or health services in Baxenden. It is stated in the submission that a roadside existence would not necessarily prevent all access to education and health services.

Officers therefore do not consider that this specific site is necessary to gain access to education and Drs, and although they accept a roadside existence may make education more difficult if the family are travelling, it is stated in the application that they have lived in the area for many years and it is unlikely they would take up a permanent travelling lifestyle again, especially due to the health care needs of the other members of the family noted later in this section of the report, especially when a suitable site is allocated in the Site Allocations DPD.

Officers accept that the occupation of a spacious site in a rural area will provide a better standard of amenity for children than a roadside existence. However, there is no reason to believe that children within the family would be denied access to schools, healthcare or play facilities. It is recognised that providing a safe and settled environment is a key consideration and should be afforded significant weight in the planning balance, however, no over-riding health needs or considerations have been forwarded by the applicant that are sufficient to outweigh the harm arising from the Green Belt either independently or cumulatively as part of the bundle of very special circumstances.

- Other family members

Officers acknowledge that there is a health and social impact on adults as a result of having to live a roadside existence. The application notes 2 adult members of the family who are in poor health for different reasons and Officers agree that a roadside existence would be likely to have greater harm to them than the other family members.

However, in accordance with paragraph 16 of the PPTS this harm is unlikely to outweigh the harm caused to the openness of the Green Belt on its own. As part of the VSC bundle it is afforded moderate weight in the planning consideration.

ix. Previously developed land

The agent asserts that this site is partly previously developed land or brownfield land as it is commonly known and he highlights paragraph 117 and 118 of the NPPF in his argument that significant weight should be given to the value of using this land before green field sites.

The NPPF defines previously developed land (PDL) as:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed structure or surface infrastructure. This 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 that land was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape”.

No conclusive evidence has been provided which shows that the land has been occupied by a permanent structure, and the definitions excludes agricultural land in any case, therefore officers do not consider that this land was previously developed land.

Therefore officers consider that the development of this land as previously developed land is afforded no weight in the consideration of the bundle of VSC put forward by the applicant. This is therefore considered a neutral consideration in the planning judgement.

x. Agricultural development

The supporting information asserts that the site is an agricultural holding and the family need to be able to care for the animals and manage the land, as such it is argued that there is significant justification for at least one of the pitches to support this use of the land. This point has been clarified with the agent by email on

26.03.19 and he has confirmed that he asserts the need to be on the land to tend the animal stock is one of agricultural need and as such this is considered in this way.

Within the DMDPD GN 9 there is additional information provided in relation to the justification for agricultural holdings, which is essentially what the agent is arguing here. Paragraph 8a requires that *'new permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:*

- a) *There is a clearly established existing functional need;*
- b) *The need relates to a full time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirements;*
- c) *The unit and the agricultural activity concerned have been established for at least three years, have bene profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;*
- d) *The functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the rea which is suitable ad available for the occupation by the workers concerned, and*
- e) *Other planning requirements e.g. in relation to access, or impact on the countryside, are satisfied'.*

Note: The applicant has also not demonstrated satisfactorily that the applicant's horses are for agricultural purposes, which in turn would have an impact on how an application for an agricultural workers dwelling would be considered. The applicant has also not demonstrated compliance with DMDPD Guidance Note 9 (GN9) within the supporting information.

Officers do not agree that the small number of animals which are to be cared for by the applicant and his family, which have decreased in number since the applicants have left 'The Green', justify the approval of even one of the pitches in terms of agricultural need. In any case the applicant has failed to address these points in terms of the relevant GN8 of the DMDPD and as such it is not considered that the need for at least one pitch to support the animals is sufficiently demonstrated, this is therefore not afforded any weight as an element of the VSC bundle. This is therefore a neutral consideration in the planning judgement.

Conclusion:

The applicant has put forward a bundle of very special circumstances which must be considered in the planning judgement as a whole, not on their own individual merit. The report sets out the weight that Officers attribute to the elements in the VSC bundle and the conclusion is that although moderate weight attached to the unmet need, significant weight attached to the best interests of the children, and moderate attached to the circumstance so two other adult members of the family, the very special circumstances put forward by the applicant do not, overall, clearly outweigh the harm caused to the openness of the Green Belt. Officers therefore conclude the test of very special circumstance is therefore not met.

4. Temporary permission

Local planning authorities have a duty to consider whether or not the addition of planning conditions will make a planning proposal acceptable. Therefore it is necessary for officers to consider whether or not a condition which would restrict the use of the site as a caravan site specifically for this family for a temporary period, whilst another site is identified through the Site Allocations DPD is a reasonable approach.

Officers have approached the agent on this matter to try to ascertain if this is something he would like officers to consider; however he has failed to respond.

Despite this officers need to form a view on this matter and provide the following advice to Members. It is concluded that even if the permission were granted temporarily to enable an alternative site to be found, and even though the area would be cleared as a result of this quicker than if the pitches were allowed permanently, this would still not be acceptable in terms of the significant impact the development would have on the openness of the Green Belt. It is not considered that there is a case for VSC put forward which clearly outweighs the impact of the development on the openness of the Green Belt. As such they concluded that a condition allowing a temporary permission is not acceptable.

5. Other matters raised.

A large number of objections have been received in relation to the developments which are listed in the consultation section of this report. These have been largely addressed within the report, but some matters remain outstanding and are dealt with below. Where matters have been raised which are not considered planning considerations, this has been made clear. These matters should not be considered by Members as part of the planning judgement.

Personal Issues relating to the lifestyle of the applicant

- No electricity gas or electric to the site– not a planning consideration
- The applicants are moving due to altercations with other families- do not want this to follow them to Baxenden- not a planning consideration

Green Belt Issues

- If it is approved it opens up other Green Belt land for development – each planning application is considered on its own merits.
- Building on Green Belt does nothing for the people of Baxenden such as affordable housing- although affordable housing is a requirement in terms of the Local Development Plan- this is not the subject of this planning application, therefore this is not a planning consideration in this instance.
- Application will set a precedent for Green Belt development locally and nationally- each planning application is considered on its own merits

Amenity Issues

- Planning application misses provision for waste and recycling and could result in litter/fly tipping from the resident if no provision is made. The bins wagons would collect from this site as they do any other residential dwelling should planning permission be approved.

Highway Issues

- People won't use the footpath anymore as it runs adjacent to the site and there are large dogs – the footpath shall remain available for use. Any obstruction within the footpath (such as planting) shall have to be dealt with by Lancashire County Council.

Environmental Issues

- The hard core used is from the Conservative Club and includes Asbestos as such the Environment Agency should be involved- Environmental Health has been informed of this comment and they have raised no objection in this regard. They have stated that most hard core such as this is likely to contain some asbestos no matter where it is sourced from.

Other Policy Issues

- Over development of the site, loss of land and garden grabbing- the development of this site in this manner would not be considered overdevelopment of the land or garden grabbing, therefore this is not a planning consideration in this instance.
- Unsustainable location- the location is not considered unsustainable, it is near to buses, shops, Drs, dentist, community facilities and schools
- A tree business is being run from the land – this is not a planning consideration in this application, although the equipment associated with this business is adding to the visual impact of the development and is discussed in full in the Openness of the Green Belt section of this report.

A number of letters have also raised points that are not material to the determination:

- If approved I will be forced to leave my home and move out of Baxenden as I would feel unsafe and unlawful activity as a result – rates have gone up since the site has been occupied
- The travellers have a history of gun handling, abuse of animals and altercation
- Can the council check on the family history of lawlessness
- Residents of Baxenden children won't be able to play out without being under threat
- The application says altercations with other families prevent them from living on other sites, this is not a good sign for Baxenden and how they will integrate
- The development is clearly an exercise for laundering money and proceeds of crime
- A traveller's site wouldn't fit in with the people of Baxenden as it would be disruptive to the village
- The residents will not integrate with villagers and this will cause a divide.
- Develop the area as a play park instead to benefit the people of Baxenden
- Site will be kept untidy and attract vermin
- After the travellers left Baxenden rec it cost a fortune to clear it up
- Site was purchased for agricultural use only

- Do they have veterinary certificates for animals?
- No evidence of sheep dog trials
- No need for caravans in Baxenden, build nice houses instead
- In the long term this will become an industrial area with serious concerns – this is not a planning consideration
- Building has begun on the site which disregards the law
- It's about time the Council listened to rate payers
- Will the residents pay council tax? If not this is tax evasion
- The application includes misleading information (does not indicate what this is)
- Reduction in house prices as a result of a traveller's site in the area
- The owner appeared at residents meetings for the previous agricultural building applications and promised the site would not be a travellers site
- This is the worst thing that could happen to Baxenden (no reasons given)
- The Gypsy traveller culture is not welcome in Baxenden (no reasons given)
- In 12 months' time it will be full of caravans (the application must be treated on its merits)
- The Council is a let-down and they have only put up one sign and not written to neighbours
- The council should take legal advice from someone who is capable of challenging the travelling community
- I wanted to purchase the land and was told it was Green Belt so no building was allowed and so I didn't buy it.
- The Rising Bridge site was not appropriate, this is not appropriate for the same reasons Note: This was a decision taken by a neighbouring authority in relation to their local plan. No reasons given.

It should be noted that the PTTS does have a provision within it in that one of the Government's aims is *to 'reduce tensions between settled and traveller communities in plan making and planning decision'*. However this is not considered relevant to this planning application as there is no evidence of tensions between the communities currently.

Conclusion:

For the reasons set out in the report, officers consider that the development is contrary to the adopted Local Development Plan, specifically Policy BD1 of the Core Strategy, and policies DM15 and DM34 of the DMDPD. Officers also consider that there has not been a bundle of considerations put forward within the application (including the best interest of the children), which clearly outweigh the significant harm to the openness of the Green Belt in spatial and visual terms. Therefore it is considered that Very Special Circumstances do not exist in this case. As such the proposal is also considered contrary to the provisions of the NPPF and the PPTS. Members are reminded that they are only able to consider planning considerations when making their decision, anything which is not a planning consideration should be discounted.

Recommendations:

- i. That Planning Committee refuse the planning application for the following reason:

The proposal constitutes inappropriate development in the Green Belt. The proposal causes harm to openness of the Green Belt. The considerations in favour of development do not clearly outweigh the harm to the Green Belt and any other harm caused by the proposal. As such, the Very Special Circumstance test has not been met. The proposal is contrary to Policy BD1 of the Hyndburn Core Strategy, Policies DM15 and DM34 of the Development Management Development Plan Document, Guidance Note 9 of the Development Management Development Plan Document and the provisions of the National Planning Policy Framework and the Planning Policy for Traveller Sites.

And, subject to Planning Committee resolving that planning permission is refused;

- ii. That Enforcement Action be commenced to remedy the breach of planning control that has taken place at the site.

Appendix 1. Extract from Planning Policy for Traveller Sites (PPTS) 2015.

Introduction

1. This document sets out the Government's planning policy for traveller¹ sites. It should be read in conjunction with the National Planning Policy Framework. Guidance on the Framework can be found at:
<http://planningguidance.planningportal.gov.uk/>
2. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise². This policy must be taken into account in the preparation of development plans, and is a material consideration in planning decisions. Local planning authorities preparing plans for and taking decisions on traveller sites should also have regard to the policies in the National Planning Policy Framework so far as relevant.
3. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.
4. To help achieve this, Government's aims in respect of traveller sites are:
 - a. that local planning authorities should make their own assessment of need for the purposes of planning
 - b. to ensure that local planning authorities, working collaboratively, develop fair and effective strategies to meet need through the identification of land for sites
 - c. to encourage local planning authorities to plan for sites over a reasonable timescale
 - d. that plan-making and decision-taking should protect Green Belt from inappropriate development
 - e. to promote more private traveller site provision while recognising that there will always be those travellers who cannot provide their own sites
 - f. that plan-making and decision-taking should aim to reduce the number of unauthorised developments and encampments and make enforcement more effective

¹ See Annex 1 for the definition of traveller for the purposes of this statement.

² Sections 19(2)(a) and 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990. In relation to neighbourhood plans, under section 38B and C and paragraph 8(2) of new Schedule 4B to the 2004 Act (inserted by the Localism Act 2011 section 116 and Schedules 9 and 10) the independent examiner will consider whether having regard to national policy is appropriate to make the plan.

- g. for local planning authorities to ensure that their Local Plan includes fair, realistic and inclusive policies
 - h. to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply
 - i. to reduce tensions between settled and traveller communities in plan-making and planning decisions
 - j. to enable provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure
 - k. for local planning authorities to have due regard to the protection of local amenity and local environment
5. To benefit those engaged in planning for traveller sites, specific planning policies for traveller sites are clearly set out in this separate document. The Government intends to review this policy when fair and representative practical results of its implementation are clear.
6. The Government still intends to review in the future whether Planning Policy for Traveller Sites should be incorporated within the wider National Planning Policy Framework. This will be considered as part of any wider review of the Framework.

Decision-taking

Policy H: Determining planning applications for traveller sites

22. Planning law requires that applications for planning permission must be determined in accordance with the development plan³, unless material considerations indicate otherwise⁸.
23. 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.
24. 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

³ Section 38(1) of the Planning and Compulsory Purchase Act 2004: this includes adopted or approved development plan documents i.e. the Local Plan and neighbourhood plans which have been made in relation to the area (and the London Plan). ⁸ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

- 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

However, as paragraph 16 makes clear, 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.

- 25. 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.
- 26. 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
 - 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
- 27. If a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary⁴ planning permission. The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads).
- 28. Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including:

⁴ There is no presumption that a temporary grant of planning permission should be granted permanently. For further guidance please see: <http://planningguidance.planningportal.gov.uk/blog/guidance/use-of-planning-conditions/whatapproach-should-be-taken-to-imposing-conditions/> (paragraph 14)

- a) limiting which parts of a site may be used for any business operations, in order to minimise the visual impact and limit the effect of noise
- b) specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events)
- c) limiting the maximum number of days for which caravans might be permitted to stay on a transit site.

Policy I: Implementation

- 29. The policies in this revised Planning Policy for Traveller Sites apply from the day of publication. This replaces the version published in March 2012.
- 30. The implementation policies set out in the National Planning Policy Framework will apply also to plan-making and decision-taking for traveller sites. In applying those implementation provisions to traveller sites, references in those provisions to policies in the National Planning Policy Framework should, where relevant, be read to include policies in this planning policy for traveller site