

**Item 1**                      **10/00252/OUTMAJ**

**Case Officer**            **Caron Taylor**

**Ward**                        **Eccleston And Mawdesley**

**Proposal**                    **Outline application for the erection of an activity centre building for therapy and recreation. The erection of free standing lodges (11 No) for the provision of holidays, short breaks, respite for brain injured/disabled children and young people and their siblings. The erection of a unit for the rehabilitation of children and young people with acquired brain injuries. Relocation of the wheel chair park and associated infrastructure works including:- car parking and roadways, servicing, drainage and landscaping**

**Location**                    **The Legacy Rainbow House Salt Pit Lane Mawdesley Ormskirk**

**Applicant**                    **The Legacy - Rainbow House**

**Consultation expiry: 23 June 2010**

**Application expiry: 30 June 2010**

**Proposal**

1. This application is an outline application for the erection of an activity centre building for therapy and recreation, the erection of free standing lodges (11 No) for the provision of holidays, short breaks, respite for brain injured/disabled children and young people and their siblings. It also includes the erection of a unit for the rehabilitation of children and young people with acquired brain injuries, relocation of the existing wheel chair park and associated infrastructure works including car parking and roadways, servicing, drainage and landscaping

**Recommendation**

2. It is recommended that the application is refused on the grounds that the proposal is inappropriate development in the Green Belt. It is not considered that case put forward by the applicant outweighs the total harm (in terms of inappropriateness and any other harm) to the Green Belt to justify permitting the proposal.

**Main Issues**

3. The main issues for consideration in respect of this planning application are:
  - Principle of the development
  - Any other harm to the Green Belt
  - Access and parking
  - Impact on neighbour amenity
  - Landscaping and trees

**History**

4. In 1995 a Certificate of Lawfulness was granted for existing industrial buildings at the site.

5. In 2001 (ref: 01/00440/FUL) an application for the erection of stables, formation of exercise area, paddock and associated works was permitted.
6. In 2004 (ref: 04/00165/FUL) an application to demolish the existing building and erect four industrial units (one Class B2, three Class B8) was refused due to the additional size of the proposed building from what existed on the site and that no very special circumstances existed.
7. A further application in 2004 (ref: 04/00781/FUL) for industrial units overcame these issues and was permitted. Although it was judged to be inappropriate development it was considered there were other material considerations that constituted very special circumstances to outweigh the presumption against it, notably the extant permission for the industrial buildings).
8. In 2006 an application was permitted (ref: 06/00023/FUL) for the re-development of industrial site and erection of a Conductive Education Centre for disabled children.
9. In 2009 (ref: 09/00266/FUL) an application for the formation of a play area with wheelchair access and external alterations to former stable building was permitted.

## **Representations**

10. 44 letters of objection have been received to the application. Some letters praise the work of the applicant to date but feel they cannot support further expansion of the site. The reasons for objection can be summarised as:
  - The proposal is in the Green Belt and contrary to policy – it is inappropriate;
  - It will create a precedent in the Green Belt;
  - No objection to facilities but need to be in the right location and this is not it;
  - There are no exceptional circumstances for allowing it;
  - The scale of the proposal is too large for the rural setting and out of keeping with the current development of the area;
  - Impact on neighbouring residents;
  - Increase in noise from the site, as there will be people on site 24 hours a day;
  - There will be light pollution in the countryside as the proposals will be in use until 10pm;
  - Increase in traffic to the site, which is on a dangerous junction with a 60mph limit, narrow footpaths, the proposal will increase the possibility of accidents;
  - Parking at the site will be inadequate, vehicles park on Salt Pit Lane from the present site and when events have been held in the past the police have had to attend. The staffing is proposed to increase from 41 to 111 employees;
  - The traffic figures are underestimates based on their experience of the current operation;
  - It will block views of the open countryside;
  - The site has never been a haulage depot;
  - It will take many years for landscaping to mitigate the development;
  - There are no shops nearby and public transport is sparse;
  - It will be a burden on utility services;
  - A children's nursery providing day care for able bodied children runs from the site, so the special circumstances must be questioned;
  - If some of the facilities proposed are used by other organisations this will increase traffic further;
  - The proposal will spoil the current peaceful surroundings and enjoyment by residents;
  - Wildlife habitats will be destroyed. The surveys submitted are not up to date;
  - The proposal is unnecessary;

- Events in the past have caused damage to grass verges, litter, inadequate parking and damage to property and the proposed sports hall will be used to hold more of them;
- There is a vacant hotel/leisure facility less than 1m away;
- There are concerns about what would happen in the long-term if The Legacy relocated;
- Allowing this application could pave the way for further extension in the future;
- Staff and visitors to the site will not use local facilities/add to the local economy;
- How would the Council ensure that the lodges are only used for disabled children?;
- There is no functional reason for the buildings to be located at this site;
- It would be a commercial venture – not in keeping with the original nature of the site as a charity;
- Refuse at the site is unsightly at present and blows around;

11. **Mawdesley Parish Council** –state they have consulted widely throughout the Parish via a well attended Public Meeting and the canvassing of opinion amongst more than sixty households. Based upon these consultations and its own deliberations, Mawdesley Parish Council wish to object to the application on the following grounds:-

- Inappropriate use in the Green Belt;
- Other harm to the Green Belt would be caused by the scale of the development, particularly the sports hall but also the commercial use to which the development would be put, increasing traffic, noise and pollution which would detract from the peace and quiet normally associated with the Green Belt and disturb the natural habitat;
- A substantial increase in the volume of traffic along both Bluestone Lane and Salt Pit Lane – the latter being an essentially single-track country road flanked by deep ditches on either side;
- A diminution of the visual and open aspects of the Green Belt from nearby vantage points provided by public footpaths and country lanes;
- The creation of an area of light pollution at night which would have an adverse impact even if it were to be managed to a low level;
- The absolute need for such a facility in the proposed site is questionable and in any event, the Parish Council do not consider that the need is sufficient to outweigh the harm which would be caused to the Green Belt;
- The adverse effect that the higher numbers of nursery and pre-school children would have upon the viability of existing nursery and pre-school facilities in the Village;
- The total area of the site as contained within the red line shown on the plans provides scope for future enlargement.

The Parish Council understands that Green Belt policy carries significant weight in terms of the principle of the development and that the other harmful factors noted above are to be weighed in addition. The Council does not believe that the special circumstances argued by the applicant outweigh the totality of the harm which would be caused to the Green Belt should this development be permitted to go ahead.

## Consultations

12. **Chorley Planning Policy** – DC1 of the Local Plan is relevant as the site lies within the Green Belt. The proposal does not accord with the exceptions listed in Policy DC1 therefore it is considered inappropriate development in the Green Belt and the applicant must demonstrate very special circumstances. PPG2 states that very special circumstances to justify inappropriate development in the Green Belt must demonstrate that any harm is clearly outweighed by other considerations. This application should be

treated as a departure from the development plan and be referred to the Secretary of State.

13. In their opinion the applicant does not demonstrate that the harm caused to the Green Belt would be outweighed by other considerations. They argue that Policy DC5 of the Local Plan should be applied to this application as this policy accepts inappropriate development in the Green Belt to meet a particular social need and they consider the proposed development to be equally deserving. Affordable housing is listed as an exception to Green Belt policy in PPG2 whereas the proposed use is not, therefore this policy cannot be applied to the application.
14. **Lancashire County Council (Highways)** - Do not object to the proposal. They consider a new access is achievable in to the site and the location as suggested in the indicative plan shown in the Transport Assessment is acceptable. This should provide a visibility splay of 4.5m X 215 metres with a 6metre radius. They would expect a 2.4metre height clearance between the verge and the underside of the tree crown within this splay. In respect of the present access near to the Blue Stone Lane junction, they would realistically expect a 4.5m X 90 m visibility splay from a single access point again with a 6metre radii and all adjacent hedges to be trimmed and maintained to a height of no more than 900mm.
15. **Urban Design** – States that although this is only an outline application, scale is indicated within the scheme and is due to the location, a major consideration. In terms of design the suggested approach for the ‘therapy’ buildings is for an agricultural style as befits this largely agricultural location. The style chosen for the holiday/respice accommodation is for single-storey, small scale timber lodges.
16. In terms of response to context the adoption of an agricultural building style using natural facing materials such as timber together with some elements of render is appropriate, and probably the least intrusive route to take. However the scale of some of the buildings, despite the use of trees for screening, is excessive, particularly in the case of the sports rehabilitation block. No elevation details are provided for this unit, however given the extent of the proposed floor plan the perceived mass of the resultant building it is a cause for concern because of the visual intrusion within the landscape that it will create.
17. The use of small scale lodge or log-cabin style buildings for the holiday/respice accommodation to be finished in natural materials is an honest approach – the buildings are what they are: holiday lodges set in an attractive, peaceful, rural setting. The fact that these are small scale and finished in natural, muted colours will again help them to site more comfortably with their setting.
18. In summary, whilst the design principles adopted are acceptable there is more work required to minimise the impact of the development upon its setting. The main concern remains the unacceptable impact of parts of the development, namely the sports rehabilitation block, upon the location. Unless and until these concerns can be addressed, the application is in their view unacceptable.
19. **Chorley Environmental Protection** – Request condition regarding ground contamination.
20. **Environment Agency** – No objection subject to conditions/informatives.

21. **Lancashire County Council Ecology** – ask for further information in relation to great crested newts and bats, which will be added to the addendum. Subject to this being received they suggest conditions to be applied.

22. **Arboricultural Officer** – Has no objections to the application. The supplied tree survey is a good quality and covers the site well. Walking around and looking at the trees and the proposed building locations there was some concern due to the proximity of the big Hydrotherapy unit to the protected copse, but the proposal for piling the ground instead of strip foundations has reduced these concerns. The proposed entrance at the south end of the site will need the removal of a couple of the non-protected trees, but nothing too major as the existing gateway in the hedgerow will be used. The new entrance and car parking at the top of the site is a little close to the trees, but if hand dug and porous tarmac is used, there should be no problems.

23. **Lancashire County Council – Inclusion and Disability Support Services** – state that the County Council is aware of the services provided by Ms Mawdsley and her team at the Rainbow Legacy. The services are highly regarded by the families who attend the centre. The Rainbow Legacy provides 2 main services;

- As a private provider of nursery education. The County Council supports 4 children currently under the Enhanced Early Years Action Plus scheme.
- As a provider of holidays and short breaks for brain injured and disabled young people and their siblings. They are not aware that the County Council currently supports any children in this service.

However the organisation is also providing a number of 'short breaks' to Children with Disabilities under the Aiming High for Disabled Children initiative, using monies provided by the County Council. These short breaks are based within the centre and make use of the excellent facilities available. No doubt the proposed work will further enhance the provision. They state they are not in a position to comment on the future demand for the services the Rainbow Legacy provides, although experience suggests that demand will continue to grow. They also state that they cannot comment on the County Council's future intentions regarding purchasing places; places are purchased on an individual basis following an assessment of need and a decision about which is the most appropriate provider. With regard to the current planning application, as is normal practice, the County Council adopts a neutral approach and does not have a view whether or not the proposed development should be allowed in the Green Belt.

## **Assessment**

### Principle of the development

24. The application site is in the Green Belt. Planning Policy Guidance note 2: Green Belts (PPG2) is national government policy which specifies what is inappropriate development in the Green Belt. The proposed development is inappropriate in terms of PPG2 and the applicant acknowledges this.

25. PPG2 states that there is a general presumption against inappropriate development and such development should not be approved, except in very special circumstances. Inappropriate development is, by definition harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

26. Although it has been established that the development is inappropriate in terms of PPG2, it must also be considered what other harm to the Green Belt, if any (in addition to the in-principle harm arising from the fact of inappropriateness), is caused by it. Harm in this context relates to the purposes of including land in the Green Belt, of which there are five:
- To check the unrestricted sprawl of large built-up areas;
  - To prevent neighbouring towns from merging into one another;
  - To assist in safeguarding the countryside from encroachment;
  - To preserve the setting and special character of historic towns;
  - To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
27. In terms of this application it is the third purpose that is most at risk, especially as PPG2 states that the most important attribute of Green Belts is their openness. Although the application is only made in outline, scale (covering the height, width and length of each building) is applied for. The proposal involves:
28. Sports therapy rehabilitation unit and adjoining hydrotherapy pool  
The largest building with a vaulted ceiling to allow for playing recreational sports, with a traditional sloping roof (as it does not need to meet Sport England's standard for competitions), to a maximum ridge height of 8m with an eaves height of 4.5. The other part of the building including the pool will be single storey.
29. Acquired brain injury unit (with covered walkway to existing building)  
Single-storey with ridge height of 4.75m and an eaves height of 3.25m.
30. 11 accommodation lodges (10 plus one night-staff lodge)  
Traditional chalet type buildings that will a maximum height of 4m.
31. A Landscape and Visual Impact Assessment accompanies the application. Policy DC9 of the Local Plan states development in rural areas should respect building styles, features and materials that are distinctive of the Landscape Character Areas identified in the Lancashire Landscape Strategy. The Landscape and Visual Impact Assessment concludes in terms of impact on the landscape, that because of the loss of agricultural land to new buildings and facilities within the Green Belt and given the recognition of such pressure in the Lancashire Landscape Strategy, the impact on landscape character to the northern part of the site is deemed to be moderate/adverse during construction and when the site becomes operational. As the proposed planting develops this impact is reduced to a slight negative. The proposed habitat creation and enhancement in the southern half of the site will improve the landscape making a positive contribution.
32. In term of Green Belt it is therefore considered that the proposed buildings will cause harm in respect of the purposes of including land in the Green Belt in that it will impact on the openness of the Green Belt and compromise the purposes of including land within it.
33. As it has been established that the proposal is inappropriate in the Green Belt planning permission should not be granted unless the applicant can establish very special circumstances that outweigh the presumption against it. In determining whether permission should be granted on this basis, the harm caused by it being inappropriate development in the Green Belt added to any other harm, as established above, must be outweighed by very special circumstances.

### Applicants Case for Very Special Circumstances

34. Any material consideration can be considered to weigh in favour of a development. A judgment must then be made as to whether they are very special and secondly whether they are sufficient to outweigh the harm. In this case the applicants have made a case for the need for the facilities and to expand the existing facilities on the site rather than relocate or look at a split site scenario. They draw on a number of Government reports to support their case.
35. The applicant advises that there is an absence of detailed data about the number of children who have Special Educational Needs (SEN), what needs they are or where they live, partly because of the multiplicity of variables in terms of the range of disabilities and their severity. There is no multi agency database in all local areas. The report on Parliamentary Hearings on services for disabled children (October 2006) stated the need for improvements in services for all disabled children and their families and recorded the struggle facing many families with disabled children to access even a basic level of services and support. The report also noted that there an increasing number of children requiring rehabilitation following acquiring brain injury. The Legacy has many pupils who have this affliction. Disabled children and their parents need focused assistance in specialist places. The report also called for a spectrum of educational provision to be available in every local area, to ensure that all disabled children can attend a school or provision that meets their needs. The Legacy is helping to meet that need now but wishes to meet those needs more comprehensively by improving the range of facilities on site.
36. On the subject of short breaks the report recommended that families with disabled children should have a statutory minimum entitlement to short break services and goes on to call for local authorities to target funding at providing a flexible menu of short-term breaks, as a proven preventative measure to further costs later. Ultimately it states that help and support with disabilities is a right, not a 'charity' to enable them to lead the same lives as all other citizens.
37. Aiming Higher For Disabled Children Better Support for Families (HM Treasury and Department of Education and Skills) May 2007 noted that the Government believes that disabled children should be considered 'both a local and national priority' and that local authorities have a general duty to safeguard and promote the welfare of children in their area who are in need... to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs. This obligation comes from The Children's Act 1989 under which disabled children are defined as 'Children in Need'. The report also points out that the public sector has to be proactive in ensuring that disabled people are treated fairly and included in all aspects of policy development (a requirement of The Disability Equality Duty 2005). It also draws attention to the requirements of the Childcare Act 2006 which requires local authorities to have particular regard to the needs of disabled children as part of their new duties to assess the childcare needs of families and secure sufficient childcare to children up to and including age 14.

38. The applicant argues that these factors underline that the Council must go out of its way to overcome the plights of disabled children and their families. The Legacy is meeting a need already but needs to do more and on site. They argue the Council has every reason to recognise the special needs of the children and parents as a justification for making an exception to Green Belt policy, which was aimed at restricting development generally. The subject case is a highly specialist one which should not be thwarted by such a general device aimed at other forms of development with no special need.
39. The lack of facilities sufficient to meet the national need is referred to in numerous places in the report. It singles out short breaks as one of the areas of need and a key recommendation of the report is the provision of facilities for those short breaks which are described as a vital service for disabled children. The agent states that there is irrefutable evidence that our client's assertion about the need to meet a national need for the range of facilities proposed is correct and it is infeasible to expect The Legacy to relocate or operate a 'split site' facility. Notwithstanding this the fact that The Legacy is now performing a role within the SEN framework operated by Lancashire County Council proves not just the bona fide nature of the institution but its necessity.

#### Assessment of Very Special Circumstances

40. PPG2 states that in view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to Green Belt when considering any planning application or appeal concerning such development. If very special circumstances are demonstrated it will not create a precedent in the Green Belt. The circumstances to be weighed against Green Belt must also be 'very special', not merely special in the sense of unusual or exceptional.
41. It is considered that there are special circumstances in favour of the proposal in the Green Belt but some elements of the application in isolation may be considered more acceptable than others in terms of the purposes of including land in the Green Belt. The wetland habitat and wildflower meadows will enhance the Green Belt and cause minimum, if no harm, to the purposes of including land within a Green Belt. In terms of the holiday lodges, their positioning within the countryside for the purposes for holidays, short breaks and respite is considered to cause less harm to the Green Belt than other parts of the proposal. In addition their siting in the countryside can be seen as crucial to their aim. It is therefore easier for the need for these elements to outweigh the presumption against them.
42. However the other parts of the proposal are more problematic. The proposed Acquired Brain Injury Unit (with covered walkway to the existing building), Sports Therapy Rehabilitation Unit and adjoined Hydrotherapy Pool as well as being inappropriate, cause more harm to the Green Belt in terms of scale and visual amenity than the other elements of the proposal. This total harm is considered to be significant. Although the Council have carefully considered the arguments put forward by the applicant and their agent in favour of the proposal, it is not considered that these circumstances are so very special or that individually or together they carry a weight sufficient to outweigh the harm the proposal will cause to the Green Belt. Also, although there may be a general need in respect of the provision of spaces to meet the needs of children as described in the supporting statement, the Council does not consider there are very special circumstances for it to be on this site.



### **43. Other matters**

Although scale is the only matter applied for at this outline stage, as is required the parameters of the other matters have been included and will be assessed in principle.

#### Access and Parking

44. In terms of access to the site, Lancashire County Council Highways do not object to the proposal in principle as they consider a new access is achievable into the site, which will form part of any reserved matters application.

45. There is no current policy that specifies a level of car parking for the development. The Regional Spatial Strategy was in preparation, however the new Coalition Government has announced it will abolish it and this it is a material consideration in determining planning applications. However, this guidance had minimum standards for disabled people, rather than the maximums applied to non-disabled spaces. It is therefore considered that a pragmatic approach to parking levels at the site needs to be taken, given the nature of the facilities and that the Council would not wish to see overspill parking on Salt Pit Lane.

46. It is indicated that parking provision on the site will be at a level of 47 spaces, 25 around the school building, 11 near to the sports hall and one for each lodge. The applicant advises that the centre currently employs the equivalent of 37 full time staff which will increase by the equivalent of 5 full time staff. The nature of the centre means that many of the additional staff will have specialist functions and work part time over only a few hours a week. It is therefore considered that parking sufficient to serve the site can be achieved at reserved matters stage if the application is permitted, without having a significant detrimental impact on the Green Belt.

#### 47. Trees and Landscaping

Tree Preservation Order 9 (Mawdesley) 2009 covers many of the trees on the site, notably the woodland area against the west boundary and many of the trees on the east boundary. The Council's Arboricultural Officer has inspected the trees in relation to the application and does not object to the application. Although a new access is indicated on to Salt Pit Lane to serve the lodges, this is only indicative at this stage. However, the Arboricultural Officer advises that this will not result in the removal of any protected trees. It is therefore considered that the proposal would not have an unacceptable impact on trees if it were permitted, subject to appropriate conditions.

48. Although landscaping is not applied for it is considered that a suitable scheme could be implemented at the site if the application were approved, although even when mature the buildings would still have some visually detrimental impact on the Green Belt.

#### 49. Neighbour Amenity

The nearest immediate properties to the proposed development and those most affected by it would be those on Blue Stone Lane, whose rear gardens back onto Salt Pit Lane opposite the site. The rear elevations of these properties face towards the site. It is considered the relationship between these properties and the proposed buildings could be achieved to an acceptable standard at reserved matters stage. The lodges, Sports Therapy and Hydrotherapy buildings would be separated from these properties by a woodland buffer covered by a Tree Preservation Order. The properties closer to the junction with Salt Pit Lane will have a clearer view of the proposed development as there is much less tree coverage, however it is considered a satisfactory relationship can also be achieved at reserved matters stage between these dwellings and the proposed development.

#### Other

50. Public Footpath 56 runs along the southern boundary of the site. This part of the site will become a wildflower meadow. The relationship of the proposal with this footpath is considered acceptable.

51. Although it is noted that representations have been made regarding use of the existing site by non-disabled children and original permission was for the erection of a Conductive Education Centre for disabled children there was no planning condition restricting it solely for use by disabled children, so little weight can be given to this issue.

#### Overall Conclusion

52. The application is in the Green Belt where the proposal is inappropriate development. There is a presumption against such development. The applicant has put forward a case for very special circumstances, however it is not considered that the case put forward would outweigh the harm caused to the Green Belt by reason of its inappropriateness, added to other any other harm to the Green Belt and the application is therefore recommended for refusal.

53. If Committee is minded to approve the application contrary to officer recommendation it must be referred to the Secretary of State (Government Office for the North West) as it is inappropriate development in the Green Belt and has a floor space in excess of 1000m<sup>2</sup>, under The Town and Country Planning (Consultation) (England) Direction 2009.

#### **Planning Policies**

##### National Planning Policies:

PPS1, PPG2, PPS4, PPS7, PPS25. PPG13, PPS21

##### Adopted Chorley Borough Local Plan Review

##### Policies:

DC1, DC9, EP9, EP10, EP18, EP20, EP21A, TR4, LT4

#### **Recommendation: Refusal of Outline Planning Permission**

#### **Reasons**

1. The proposed development would be located within the Green Belt. The proposal is inappropriate development in the Green Belt in accordance with Planning Policy Guidance note 2 and reiterated by Chorley Borough Local Plan Review Policy DC1. The applicant has put forward a case for very special circumstances, however it is not considered that the case put forward by the applicant outweighs the total harm (in terms of inappropriateness and other harm in relation to scale) to the Green Belt to justify permitting the proposal.