

**Item 4a**                      **11/00938/FUL**

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

**Ward**                        **Heath Charnock And Rivington**

**Proposal**                    **Extension of car park to Go Ape (enlargement of car park as built)**

**Location**                   **Go Ape Rivington Lane, Rivington Bolton, Lancashire**

**Applicant**                 **Adventure Forest Ltd**

**Consultation expiry: 9 April 2012**

**Application expiry: 16 December 2011**

### **Proposal**

1. Extension of car park to Go Ape (enlargement of car park as built).
2. Go Ape originally proposed a car park for 45 cars which was approved by permission 08/00553/FUL. This has not been implemented in full as approved as it would have led to the loss of trees on the site.
3. Members will be aware that a report was taken to Development Control committee on 12<sup>th</sup> July 2011 which stated it was not expedient to take enforcement action at that time as Go Ape indicated they were to submit a planning application for a revised car parking layout and a planning application for the raised landing areas (- the latter since submitted and approved). Members will recall that the Head of Planning informed them of progress at a previous committee.
4. Go Ape previously advised the Council that they would under take consultation on the extended parking area prior to submission of an application, which was reported to Members, however this was not undertaken. Go Ape's reasons for this are set out under the 'Applicant's Case' part of this report.
5. This application was validated on 21 October 2011 and originally proposed 36 parking spaces. An amended plan was received from Go Ape on 26 March 2012 which now shows 35 spaces.

### **Recommendation**

6. It is recommended that this application is granted planning approval subject to conditions.

### **Main Issues**

7. The main issues for consideration in respect of this planning application are:
  - Principle of the development
  - Impact on the neighbours
  - Design
  - Trees and Landscape
  - Ecology

- Parking
- Public Right of Way

## **Representations**

8. 14 letters of objection have been received on the following grounds:
- The proposal will obstruct a bridleway/definitive right of way (no. 15). It will not be safe to use it;
  - Blocking the bridleway is against planning law and would require a pre-application for a diversion order which LCC have indicated they would refuse. Also the bridleway has been gated which is unlawful as access is denied;
  - They horse ride and cycle in the area frequently and they are concerned about the impact of this;
  - The proposal contravenes the provisions of the Liverpool Corporation Act and Chorley Council as a trustee of Lever Park have a legal obligation to protect the park and provisions set within the Act and therefore the provisions of the Act must be taken into account when considering any planning application that will breach its provisions;
  - The Act ensures 'free and uninterrupted enjoyment' of Lever Park and under the lease for the land the applicant does not enjoy exclusive possession of the car park so any visitors to the area are free to use the facility thus negating sole use for Go Ape;
  - Go Ape have cut down more trees than they said they would;
  - The extension to the car park will impact on the rural area around Great House Barn;
  - The proposal would be contrary to policy HT3;
  - It will cause congestion;
  - Rivington is too small to attract the number of visitors it does;
  - The original application would have entailed the felling of trees. Go Ape originally applied for 45 spaces and now they only want 36 spaces on very dubious grounds and their staff parking else where taking up parking for other people;
  - Go Ape have not indicated that there are trees on site, only on adjacent land which is incorrect, they need an Environmental Impact Survey;
  - There has not been local consultation with Rivington Parish Council and Friends of Lever Park;
  - The original permission should be revoked or enforcement proceeded with;
  - Extending the car park would adversely affect the character of the area, which was traditionally an area of quiet woodland within Lever Park;
  - The proposal would increase traffic flow to the area around the Great House Barn;
  - Extending the car park is undoubtedly intended to increase the amount of people using the Go Ape site, this would cause an increased detrimental effect to the trees and pathways used by Go Ape;
  - The plans are not to scale and make it impossible to calculate a measurement and it doesn't show the definitive right of way;
  - The applicant cannot develop a car park solely for their customers, because they don't lease the land in question;
  - Chorley Council are allowing many untruthful statements to be ticked leaving the public to identify them;
  - The extension would be contrary to policy HT13 of the Local Plan that states development will not be permitted if it would lead to the loss of, or cause harm to the historic character or setting of any park or garden of special historic interest as defined on the proposals map. Pedestrian access to these areas by historic paths and routes will also be protected and maintained;
  - The proposal will harm the countryside and the public's enjoyment of it;

- It does not meet the stated parking requirements for the development on the original application and removes current parking in Rivington;

Five further letters of objection have been received to the amended plan on the following grounds in addition to the issues raised above:

- The amended plan discriminates against disabled people by removing disabled parking spaces;
- The application states 36 spaces the plans only show 35 spaces;
- Cars will have to manoeuvre on the bridleway (back on to bridleway or reverse into a parking space) this is a danger to the public while walking or riding on the bridleway;
- The parking takes up an area designated for coaches;
- No tree survey has been done on the trees on site (inside the red line) these trees were not on any previous survey;
- The new site plan would need serious pruning of a large oak (143.05), possible removal of a second (143.01) and damage to 4 tree root systems due to parking in close proximity to the trees' trunks. Other trees (143.98, 143.91, & 143.89) could also be under threat from root disturbance;
- In the Local Plan the car park area is denoted under Policy LT14 with a capital "P" in green to show "Protection of Parks and Recreational Open Space", so it should therefore be retained for its recreation and amenity value. This indicates that no car park can be developed on this area;
- Chorley Borough Council set a precedent in 1996 when considering planning applications 96/00848-00851. The decision to approve was suspended pending the applicants submission to Parliament to have the 1902 Act amended;
- They must develop a car park for their customers and staff and not encroach upon other parking areas, 'they will be robbing Peter to pay Paul'. Their supporting letter says that they and United Utilities agree that the current off-site parking facilities will not cope with the extra traffic that Go-Ape will generate;
- The submitted plan does not comply with the Disability Discrimination Act and the Disability and Equality Act 2010. The Submitted plan is also in contravention of the basic human rights of a disabled person: UN Convention on the Rights of Persons with Disabilities;
- The revised plans will encroach on an existing grasscrete area used for parking coaches and minibuses and a picnic area for users of the park;
- It will have a detrimental affect on Lower House Barn (a listed building).

9. Rivington Parish Council state that contrary to published reports there has been no consultation by Go Ape with regard to the car park extension;

10. Horwich Town Council state Rivington is the major amenity area for the people of Horwich. Members resolved to recommend refusal of this application for a car park on a bridleway in support of the retention of the bridleway.

11. They object to the application on the following grounds:

- The proposal is contrary to the provision of the 1902 Liverpool Corporation Act which states everyone should be allowed free and interrupted use of the area;
- It will affect a definitive right of way – a bridleway;
- Object to a car park area being fenced off and the general public being excluded;
- Object that parked vehicles will obstruct the bridleway. Several car parking spaces are proposed on the line of the bridleway;

- The safety of bridleway users will be affected by the manoeuvring of the vehicles in close proximity to the definitive public right of way;
- Go Ape should not have miscalculated the number of parking spaces needed in the first place;
- Object to the drip feeding for yet another planning application at the Go Ape site.

Friends of Lever Park –solicitor’s letter

12. A letter has been received from a solicitor acting for the Friends of Lever Park who object to the application. They state that the original application (08/00553/FUL) was granted on the premise that it would make provision for 45 car parking spaces for customers and staff to the course. The need for this parking was therefore a central and integral part of this application as parking was and is at a premium in Lever Park. The tree survey accompanying the application concluded that only 3 trees would be felled to make way for the Go Ape course. No tree felling was mentioned for the parking. However, when work commenced it became apparent that more trees would need to be felled to enable the car park to be laid out which was opposed by the Council. The application could therefore only provide 19 of the required 45 spaces which left customers and staff with nowhere to park. Even now go Ape staff are instructed not to park in the car park but leave their cars some distance away in spaces designed for buses/coaches etc. To fit the additional spaces in the applicant unlawfully extended the car park. They now seek retrospective approval of the unlawful development.
13. The Act requires the Council to ensure that the public has ‘free and uninterrupted enjoyment’ of Lever Park. The provision of car parking will exclude the public access to those areas where cars are parking in direct contravention of the Act.
14. The additional parking will only be available to those fee paying customers of Go Ape and not members of the public generally in contravention of the Liverpool Corporation Act.
15. The proposal will obstruct the route of the bridleway and public safety will be compromised as vehicles manoeuvre close to it. The applicants also have a gate/barrier which they lock when Go Ape is closed which is also across the bridleway.
16. No consultation has been undertaken before submission of the application.
17. The plans are inadequate. They are not to scale and do not show correct dimensions. There are no roads plotted making it difficult to appreciate the significance of the application to Lever Park. Without more details they state their clients have been unable to examine the tree impact of the proposal.
18. There has been no assessment of the impact on local habitats and wildlife in such a significant environmentally sensitive area.
19. The application is made on the false premise that only those customers of Go Ape can use the car park which is incorrect. The applicant’s lease of the site does not give exclusive possession of the car park, merely a right to permit visitors to park there subject to a fee charged by the landlord. The applicant is therefore unable to prevent other members of the public from parking in the car park and cannot guarantee that at any one time 45 spaces will be available for their staff/customer sole use. Therefore staff from Go Ape will continue to park along Hall Drive in spaces originally designed for buses/coaches which in turn causes congestion and parking problems elsewhere in Lever Park.

20. The application should be dismissed and the previous permission be revoked as it was incorrectly granted on the basis that 45 spaces could be provided where in reality there could only ever be space for 19. Without 45 spaces the site will be unable to cope with customer/staff parking or the applicant should be required to contribute financially towards a new public car park outside the grounds of Lever Park. This would then ease demand for existing spaces and prevent inappropriate parking elsewhere in the Park.

21. Friends of Lever Park

Objected to the initial plans submitted on the following grounds:

- Section 21(2) of the Liverpool Corporation Act 1902 requires the Council to ensure that the Public has 'free and uninterrupted enjoyment' of Lever Park. The provision of car parking will exclude the public access to those areas where cars are parked in direct contravention of the provisions of the Act;
- The additional parking will only be available to those fee paying customers of Go Ape and not members of the public generally in direct contravention of the provisions of the Act and the provisions of the Applicant's Lease;
- The Liverpool Corporation Act 1902 is a material consideration because it protects the land in question regarding application 11/00938/FUL and because Chorley Council is one of the Trustees of Lever Park they have a legal obligation to protect the park by complying with the 1902 Act and the restrictions within;
- Bridleway No. 15 runs through the site and car park. The plans submitted with the Application show that 7 parking bays obstruct the route of the Bridleway. The Public's safety will also be compromised as vehicles manoeuvre in close proximity to the bridleway. The Applicants also have a gate/barrier which they lock when the Go-Ape site is closed. Both acts of parking a car across the Bridleway and locking the gate are unlawful;
- Lack of Consultation. Paragraph 10 of the Council's Enforcement Report dated 3<sup>rd</sup> November 2011 records that the applicant would not make this application without first consulting with the Friends of Lever Park and the Parish Council. Prior to the Application no such consultation has taken place;
- Inadequate plans. The plans submitted with the application are inadequate in that they are not to scale and do not show correct dimensions. There are no roads plotted on the plan making it extremely difficult to appreciate the significance of the Application to Lever Park. Without more detailed plans we have been unable to examine the true impact of the application;
- Car park exclusivity. This is a material consideration because the applicant gave the impression with the first application that they would develop a car park for their customers, because they did not lease the car park area they could not develop a car park solely for go-ape customers. The application is made on the false premise that only those customers of Go-Ape can use the car park. This is incorrect. Under the terms of the Applicant's Lease of the site dated 24<sup>th</sup> April 2009 the applicant does not enjoy exclusive possession of the car park, it is merely granted a right to permit visitors to park in the car park subject to paying any car park fee charged by the landlord (i.e. United Utilities Water PLC). The applicant is therefore unable to prevent other members of the public from parking in the car park and cannot guarantee that at any one time 45 car parking spaces will be available for their staff/customer sole use. Go-Ape do not have a lease on the car park area, and therefore they misled the planning authority in 2008 when they submitted a supporting statement containing the following quote:  
"It is therefore proposed that Go-Ape extend the existing car park, providing a designated area for our customers".

The lease taken out and registered on the 24 April 2009 only makes reference to the reception cabin and shelter areas, there is no mention of a lease on the car park area

and also makes no reference towards developing a car park solely for go-ape customers. The registered lease shows that the car park area is part of the retained land described in the lease registration documents held at the Land Registry offices.

22. A further letter of objection has been received from the Friends of Lever Park to the amended plan on the following grounds in addition to those above:

- The amended application is not compliant with the Disability Discrimination Act and the Disability and Equality Act 2010. The amended plan is also in contravention of The Equality and Human Rights Commission the independent advocate for equality and human rights in Britain. UN Convention on the Rights of Persons with Disabilities Article 9 Accessibility states parties shall also take appropriate measures to ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities. The original car park plan submitted with planning application 11/00938 displayed parking bays for the disabled. To develop a car park as per the submitted plan will be discriminating against the disabled, and also to support the amended plan can also be described as taking part in discrimination against the disabled. To be compliant would require 2 disabled bays, which would mean the removal of the 4 bays nearest the reception cabin and thereby reduce the total bays available to customers and staff to 31;
- 3 bays are on a parking facility that is already in place, and on an area covered by Chorley Local Plan policy LT14 this being the grasscrete which was put in place by West Pennine Moors to provide coach parking for the visitors of Rivington, the removal of these 3 would reduce the total to 28. With Chorley Council pushing for Rivington to be a tourist attraction, and United Utilities making reference to a park and ride system, who is to say that the current grasscrete area will not be used for coach travel within a park and ride system. Has there been a demonstration by the applicant that the retention of the grasscrete site is not required to satisfy a current or future recreational need as stated in Chorley Councils Local Plan information regarding policy LT14? Can the applicant provide an equivalent or enhanced facility in a convenient location to serve the catchment for which the coach park (grasscrete) was intended this being the every day users of West Pennine Moors. Chorley Council's data on LT14 requires the applicant to provide an equivalent or enhanced new facility to serve the catchment location before the existing facilities cease to become available;
- 2 bays will cause serious damage to the roots of tree's 143.05, 142.97, 143.12 and 143.81; the removal of these 2 bays will further reduce the total to 26. No tree survey has ever been completed on this site, because the applicant as stated on the planning application that there are no trees on site.
- The final total of 26 car parking spaces will represent a reduction of 26% on the submitted amended plan for 35 spaces, and a reduction of almost 50% on the original total of 45 car park spaces on which the application for a go-ape course was approved. Remove the 7 staff spaces and it leaves 19 car parking spaces for their customers which is 10 spaces less than the 29 referred to in their supporting letter. The users of Rivington should not be expected to sacrifice car parking spaces to Go-Ape for staff purposes, there is already a chronic shortage of parking availability within Rivington and private development should not be encouraged to make the situation worse;
- Go-Ape and United Utilities openly stated before the original application was submitted in 2008, that the current parking provision would not cope with the additional vehicles that Go-Ape would generate at peak times;
- In 1996 Chorley Borough Council set a precedent when considering planning applications 96/00848-00851(Blue Planet), before the applications were finally approved it was necessary for the applicant to amend the 1902 Act by submitting the

Lever Park Bill. The Bill failed and so did the planning applications, because the land (Lever Park) was subject to the Provisions of The Liverpool Corporation Act 1902;

- The planning application if approved will endanger the safety of pedestrians using Bridleway 15 because of the manoeuvring in and out the parking bays adjacent to the Bridleway;
- They have stated that their staff would park on the road towards the Upper Barn;
- No planning approval as ever been given for off-road parking on the road approaching the Upper Barn, so to support their statement would support the practice of off-road parking and increase the over burdened roadways throughout Rivington.
- Go-Ape have continued to fill in Town and Country planning application forms incorrectly, this time they say that there are no trees on site;
- This statement is incorrect in that there are 14 trees on site;
- The area in question regarding the proposed car park is covered on Chorley Local Plan as LT14 Protection of Parks and Recreational Open Space. Existing open spaces, or sites considered suitable for open space are designated to afford protection under the terms of policy LT14. They feel that no car park can be developed on this area of land;
- Go-Apes supporting letter contains incorrect statements which we believe could influence the thinking of the Authorities;
  - 2 The access point has been moved contrary to what they say;
  - 2 Tress will be affected contrary to what they say. There are 14 trees on site some of which will receive root damage because of the close proximity of parking bays, and one mature Oak will need heavy pruning because it obstructs access to a parking bay;
  - 2 They say the footpath will be separated from the car park by wooden posts, they were put in to separate pedestrians and cars but the posts were put in because of a complaint to planning that their customers were parking their cars on grassland on the north side of the Bridleway;
  - 2 They have made the statement that the 7 staff cars will park away from the site, if this is allowed they will eventually instruct their customers to park away from the site at peak times and thereby use the parking facilities intended for the use of other users to the park;
  - 2 Only recently United Utilities told Chorley Borough Council, that if they wanted to promote Rivington as a tourist attraction, the Council would have to consider providing a park and ride scheme because of the severe lack of parking spaces within Rivington;
  - 2 Go-Apes opening statement in their supporting letter: They have consulted with United Utilities and both parties recognise that the current parking provision would not cope with additional vehicles that Go-Ape will generate at peak times;

23. The Open Space Society

Objected to the original application plans as the car park will be constructed across bridleway number 15 thereby obstructing it whenever cars are parked there and destroying its surface. Clearly this is contrary to the law and they trust LCC as Highways Authority is objecting to the proposal.

24. The proposed car park will further encroach on historic Lever Park. Under the Liverpool Corporation Act 1902 s21 (2), the public has 'free and uninterrupted enjoyment' through out the park. The car park will prevent people from exercising that right. It will severely distract from people from exercising that right. It will severely distract from people's enjoyment of this historic and beautiful area.

25. They have also commented on the amended plans and still object to the proposal on the same grounds above.
26. Darwen and North Bolton Bridleways Association  
Object to the proposal on the grounds that it would be built across bridleway 15- a designated public right of way and would create a definite safety issue for pedestrians, cyclists and horse riders. No comments have been received on the amended plans.
27. The British Horse Society Regional Bridleway Officer for the North West is concerned that the works to the car park may impinge on bridleway 15. No comments have been received on the amended plans.

## **Consultations**

### **28. Lancashire County Council (Ecology)**

Based upon the submitted information, and previous site visits, significant impacts on biodiversity appear reasonably unlikely as a result of these proposals. The proposals thus appear to be in accordance with the requirements of relevant biodiversity legislation, planning policy and guidance.

29. Although the proposals affect Lever Park; Rivington Biological Heritage Site, the application area itself is of relatively low biodiversity value (existing developed land subject to high levels of recreational disturbance). Significant impacts upon the biodiversity interest of the BHS therefore seems reasonably unlikely in this location.
30. The only ecological concern would appear to be potential impacts on trees in and/or adjacent to the application area. It should be ensured that these existing trees are adequately protected both during and after construction work.

### **31. Lancashire County Council (Public Rights of Way Officer)**

Originally stated that it appears that the application will affect the above Public Bridleway as 7 car parking spaces are proposed on the line of the Public Bridleway. They objected on the grounds that parked vehicles will obstruct the public bridleway. They were also concerned for the safety of bridleway users as vehicles will be manoeuvring in close proximity to the bridleway even if they are using parking spaces that are not on the bridleway. They stated that they noted from the supporting statement that post and rail fencing is to be installed to delineate the edge of the car park. As the car park includes part of the public bridleway they also objected to this aspect of the proposal.

32. Amended plans were then received and the Public Rights of Way Officer states they now have no objection to the revised plans. They note that the proposed picnic area will be on land that is currently being used by walkers and riders as the gates/barriers prevent or restrict use along the line of the recorded public bridleway. These barriers and any other posts etc. will need to be removed from the route of the Definitive Public Bridleway.

### **33. Chorley's Conservation Officer**

Commented on the original plans as follows:

- The application site is within Lever Park, a Registered Park and Garden and therefore a designated heritage asset as defined by Annex 2 to PPS5. Any applications for works within such areas must be judged in terms of their potential impact upon the significance of that designated heritage asset.
- In this case, Lever Park, its significance is derived from the designed landscape and the listed buildings contained therein. In the case of this application the location is not



within the designed landscape but is in an area surrounded by natural woodland. Furthermore it is over 60 metres from the nearest listed building – Great House Barn or Great House Cottage.

- Located between the application site and the listed buildings is an already existing car park, built to serve Great House Barn visitors, with picnic benches and seating areas. The appearance of cars adjacent to these buildings is therefore well established and accepted.

34. Given these details in his professional opinion the application will sustain the significance of the designated heritage assets and therefore considers the application to be acceptable.

35. On Amended Plans:

The Conservation Officer has provided the following advice on the amended plans and in light of the NPPF released since his original comments:

- States he has examined the application having regard to the National Planning Policy Framework (NPPF) and those relevant elements of local policy that are in conformity with that document. Extant local policies relevant to the historic environment are in conformity with the NPPF as is the preceding Planning Policy Statement 5.
- The application is judged with reference to these policies which suggest that any proposal should be determined having regard to the potential impact it may have upon the significance of all heritage assets. The definition of these is now contained within Annex 2 to the NPPF.
- In this particular case the application site is located within Lever Park, which is itself a designated heritage asset, and approximately 60 metres from the closest listed building, also a designated heritage asset, Great House Cottage.
- It is their opinion that, given the nature of the proposed development, its location outside of the designed landscape element of Lever Park and the distance to the closest listed building, the significance of these designated heritage assets will be sustained.
- The proposed development is considered to be acceptable as it is in conformity with the following policies:
  - 2 The adopted Chorley Council Local Plan Review 2003: HT13 Historic Parks and Gardens;
  - 2 The Publication Central Lancashire Core Strategy, December 2010: Policy 16 Heritage Assets
  - 2 The Site Allocations and Development Management Policies DPD Preferred Options: Policy BNE6
  - 2 The National Planning Policy Framework (NPPF): Section 12 Conserving and enhancing the historic environment.

36. In conclusion the Conservation Officer considers this application to be acceptable.

37. **United Utilities**

United Utilities are the landowner. The Council made United Utilities aware of amended plans received. They state that United Utilities are in agreement to the proposals being put forward by Go Ape for additional car parking and the provision of a new picnic area.

38. **Lancashire County Council (Highways)**

Made the following comments on the original plan submitted:

39. Although extending the car park is welcomed seven parking spaces are on the bridleway (BW15) that passes alongside the site.
40. On Amended plans  
LCC Highways were then notified of amended plans and state the proposed car parking layout is generally acceptable; the car park is no longer falling across the bridle path which was previously the problem.
41. A number of the spaces will involve tight manoeuvring however the risks should be manageable. The nearest space adjacent to the group of trees is likely to prove impractical owing to overhanging branches thereby allowing 34 spaces only however all improvement will be beneficial.
42. The plan does not show the existing fence gating [the gate that is across the bridleway] therefore they assume the gate is to be removed which will aid vehicle parking.
43. They do raise a query regarding the proposed surfacing and line marking as the car park is only going to operate efficiently if the spaces are marked out and are visible for visitors otherwise there will be tendency for cars to park over 2 spaces/take additional space thereby reducing capacity of the car park. There is no information on the plan drawing suggesting the proposed surfacing.
44. They state they would have no objection to the proposal for a picnicking area as suggested and that neither will it impact on any public right of way.

### **Applicants Case**

45. The applicant states the current car park [as built] can accommodate up to 20 cars when customers are parking efficiently and as few as 14 when they are not. The amended plans provide 35 spaces.
46. At peak times the course can accommodate 14 people every half hour and last up to 3 hours meaning there can be up to 84 people using the course at any one time.
47. Go Ape state they have undertaken a survey of their customers using the Rivington Course asking how many cars each group came in. From a set of 264 people consisting of 64 groups they travelled in an average of 2.94 people per car. This works out at 29 (28.5) spaces needed for 84 people on the course when it is fully booked.
48. The original application stated that a maximum of 35 spaces were needed to provide for the course but they proposed to provide 45. Therefore they state their stance on how many spaces the course needs has not changed.
49. An objection has been made about lack of consultation by the applicant. In response Go Ape state that in this case they did not consider it would be helpful as having discussed the options with the landowner the options open to them were limited. The parameters for the design were very constrained and the only decision was how to place the parking bays within the area which was undertaken by an independent surveyor. As they could see no other options it seemed that consultation outside the planning process would be meaningless.

### **Assessment**

#### Principle of the development

50. The application site is in the Green Belt. Since previous applications for Go Ape were assessed the Government has released the National Planning Policy Framework (NPPF) on 27 March 2012. This replaces former Planning Policy Guidance Notes and Statements including PPG2, PPS5 and PPS9.
51. The Adopted Chorley Borough Local Plan Review was adopted prior to 2004 (August 2003) and therefore in accordance with Appendix 1 of the NPPF the weight given to its policies will depend on their degree of consistency with the framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
52. The wording in the NPPF on development in the Green Belt does differ slightly from the wording in PPG2 which is reiterated by Local Plan Policy DC1.
53. PPG2 and policy DC1 stated that essential facilities for outdoor sport and recreation are appropriate development in the Green Belt as long as they preserve the openness of it and do not conflict with the purposes of including land within it.
54. The NPPF doesn't require facilities to be essential to be appropriate development, but rather requires them to be appropriate with the same caveat that they preserve the openness and do not conflict with the purposes of including land within it. It is considered this is a less stringent test than being essential that was in PPG2. The NPPF also states that engineering operations are appropriate subject to the same caveat.
55. The original Go Ape permission (08/00553/FUL) permitted a 45 space car park which has not been implemented in full due to the need to remove more trees. Therefore a car park for this amount of cars has been established as acceptable in Green Belt terms by a previous permission. The Council accept that parking around the Great Barn is at a premium at busy times and that the Go Ape course will attract visitors to the area and therefore consider it appropriate that further parking should be provided. The provision of an enlarged car park is therefore considered appropriate and acceptable in the Green Belt in terms of the NPPF.
56. Policy LT7 of the Local Plan covers Historic Parks and Gardens in the Leisure and Tourism chapter of the Local Plan and is considered to be in conformity with the NPPF. This states that development and restoration proposals which would enhance the attraction of Lever Park and Terraced Gardens at Rivington will be permitted provided a number of criteria are met.
57. Criterion (a) requires that the special character and appearance of the park or garden and any important landscape features within it are protected. The proposed car park extension is next to the existing car park adjacent to the Great Barn, it is not therefore considered that it will impact on the special character and appearance of the park or result in the loss of any important features within it.
58. Criterion (b) requires compliance with Policy HT13 and this is discussed later under the Historic Park and Garden Section. In relation to criterion (c) - that the proposals are compatible with the character and appearance of the area and the Council's policies relating to the Green Belt - the latter has already found to be satisfied above. The former is discussed under the design section below.
59. Criterion (d) states that access is available by a choice of means of transport other than the private car. The Go Ape course itself has been found to be acceptable in this location by previous permissions.

60. In terms of criterion (e) – the site has adequate access and the traffic generated can be safely accommodated on the local highway network – this proposal will not increase the capacity of the course (the length of the course determines this) and therefore it is not considered the application is contrary to this.
61. Therefore the proposal is considered to comply with Policy LT7 subject to the proposal being compatible with the character and appearance of the area, under criterion (c) and policy HT13 being satisfied.
62. LT14 of the Local Plan covers Public, Private, Educational and Institutional Playing Fields, Parks and Other Recreational Open Space. There is a small LT14 allocation in the Adopted Local Plan on the land between the existing main Great House Barn car park and the Go Ape parking area as currently exists. Objections have been made that the proposal is on such an allocation on the Local Plan proposals map, be it in paper form or on the Council's website where the Local Plan is displayed as an electronic map. The case officer has tried to establish the background to the LT14 designation. When interpreting the allocation against what is on the ground it appears to cover part of an area of grasscrete that was created when the main car park behind Great House Barn was permitted by an application made in 1982 (82/00483/FUL) that was shown as two coach parking spaces. However, policy LT14 was not adopted as a policy of the Local Plan until 2003. It was not in the Local Plan prior to that which was adopted in 1997. Policy LT14 would not be used to protect a parking area, as it is for the protection of open space. Examples of other facilities in the Borough protected by such an allocation include pitches, bowling greens and recreational open space, which includes amenity open space. It is possible that the electronic map does not accurately show the site of the LT14 allocation, especially as the plotting of the Local Plan proposals map was undertaken with the GIS technology available at the time.
63. The paper Proposals Map accompanying the Local Plan shows the position of LT14 allocations in the Borough and is the definitive source of their location. The scale of this map does not allow its position to be found accurately on site. It is relevant to consider general issues in mapping and cartography. Prior to sophisticated digital mapping the base plans for Local Plan were of a small scale with a potential for error +/- 8-10m compared with features on the ground. In addition the thickness of lines used to delineate a site could be a difference of 5-10m on the ground at such a scale. As digital mapping products came to market more accurate cartography and annotation has been possible. As the Local Plan and its proposals map was adopted in 2003 it is possible and indeed likely that the LT14 feature is up to some 20m away from what is on the ground at that time and may not be therefore be the grasscrete.
64. There are two picnic benches to the southwest of the LT14 allocation and it is possible that the allocation was therefore intended to protect the picnic area as it is a type of recreational open space that LT14 may be applied to. The proposal will result in the loss of the area where the two picnic benches are currently positioned. However, the applicant is proposing to create a new picnic area to the north west of the proposed extended car park with four picnic tables provided. It is therefore considered that this is an enhanced facility to what is there at present (as an additional two tables will be provided) and is in a location that will still be convenient to users, very close to the existing area. The proposal is therefore considered acceptable in relation to policy LT14 of the Local Plan.

#### Impact on the neighbours

65. The extended car park would be located adjacent to the existing parking area at Great House Barn but further away from the building. The nearest residential property is Great House Cottage adjacent to Great House Barn. It is not considered the proposal will have any more impact on the amenities of this property than the existing car park which is closer.

#### Design

66. The extended car park will be within the area between the car park as now on site by the Go Ape cabin and the existing car park by Great House Barn by the removal of an area of grass. It is proposed to surface it in crushed stone. The main car park behind Great House Barn has a tarmac surface, while the parking by the Go Ape cabin as exists has crushed stone surface so the proposal will match this material. Looking at the area as a whole the proposed car park surface is considered appropriate to the area and acceptable in relation to the listed buildings. It is envisaged that the parking area could be delineated by the insertion of wooden blocks to fit nearly flush with the surface and the boundary marked by low post and rail as is on site at present. It is noted that the layout of spaces and boundary treatment would be an appropriate design solution for the site in its context and can be controlled by planning condition. Subject to this the application is considered acceptable in design terms in relation to the character and appearance of the area.

#### Ecology, Trees and Landscape

67. The area where the car park will be extended is an area of grass and a small part of grasscrete between two parking areas as exist. The area is already subject to high levels of disturbance from people walking over the area and using the two picnic tables on it. The County Ecologist confirms that although it is within a Biological Heritage Site (BHS) the application area itself is of relatively low biodiversity value (existing developed land subject to high levels of recreational disturbance). They state that significant impacts upon the biodiversity interest of the BHS therefore seem reasonably unlikely in this location. The application is therefore considered acceptable in relation to policy EP2 and the NPPF.

The County Ecologist states their only ecological concern would appear to be potential impacts on trees in and/or adjacent to the application area. It should be ensured that these existing trees are adequately protected both during and after construction work. It is considered that this could be controlled by an appropriate root protection condition, however the two trees nearest the car park most likely to be affected are small specimens which it is not considered have a significant harm to ecological value and are discussed further below.

68. To implement the parking as shown in the original permission would require the loss of a number of trees to the southeast. The current application would result in a grassed mounded area between the car park as exists near the Go Ape cabin and the existing car park being reduced in size. There are a number of trees adjacent to where the extended car park will be located and will be referred to here as numbered on the proposed plan.
69. Tree numbered 143.05 is already adjacent to the parking area as exists and although the proposal will bring it nearer this tree it is not considered it will have an unacceptable impact on this tree.
70. Tree 143.01 will be close to the car park but will benefit from post and rail fencing adjacent to it separating it from the car park. Tree 143.98 is one of the trees most likely to be affected by the proposal as it is closest to the edge of the car park. Go Ape advise that this tree will remain as the parking space is away from the tree (approximately 1m) and only the post and rail fence will be close to it. Both these trees are discussed further below.

71. 143.91 has a canopy that starts high from the ground and it is not considered the proposal will unacceptably impact on this tree.
72. The tree numbered 143.89 (check) has blown over/snapped in half and does not therefore need to be considered.
73. The Council in assessing any application that may affect trees must consider the amenity value of those trees and whether they would justify a Tree Preservation Order (TPO). The trees closest to the car park (143.01 and 143.98), although prominent are not of a size that means they would warrant a TPO.
74. The Council must also consider the fall back position in terms of extant planning permission 08/00553/FUL that would have resulted in the felling of trees to the southeast of the car park as exists. The impact upon trees from this proposal needs to be considered against the impact that would arise if the previous proposal for car parking was implemented. The proposed car park approved under 08/00553/FUL would require the removal of a belt of trees to the southeast of the existing car park. This belt of trees gives a sense of enclosure to this part of the park. None of these is subject to a Tree Preservation Order. If the previous consent was implemented, all of these trees would be removed. This would have a far greater impact than any potential loss of the trees around the car park which are more isolated. If damage were to occur to trees as a result of this application when set against the potential loss of a wider tree belt this would appear to be acceptable. Moreover, in itself the potential for harm of trees, particularly those marked 143.05, 143.01, 143.98 and 143.91 would not in itself be a sufficient reason for refusal. A condition is proposed regarding proposed construction details of the car park, however if this would interfere with the delivery of a car parking space, when weighed against the fall back position and the small size of the trees most affected their harm/loss would appear acceptable. The proposal is therefore considered acceptable in relation to Policy EP9.
75. Although permission 08/00553/FUL is still extant the applicant would not be able to gain access to the area due to the car park layout now proposed and therefore it is not considered it could be implemented.

#### Parking

76. The relevant car parking standards in this case would be that required for a leisure use. However this standard is based on a number parking spaces for the floor area of a building. Clearly this would not be appropriate in these circumstances.
77. The original application for Go Ape proposed to provide parking spaces for 45 cars. The bays were not to be marked out. The application now proposes 35 car parking spaces to be demarcated (originally 36 spaces were proposed but the amended plan removed spaces from across the bridleway and reduced it to 35 spaces).
78. The 45 spaces originally proposed for the course under planning approval (08/00553/FUL) were not based on surveys of how many people used the course as it was not up and running at the time. The parking requirements now proposed are based on actual figures from Go Ape customer surveys at the Rivington site, which due to the unusual nature of the use that does not fit the normal parking standards based on floor area, is considered to be appropriate. The surveys show an average of 2.95 people per car visiting the course which is considered a realistic number of people to travel to the site together for such an activity. Therefore 29 spaces to cater for the course are considered realistic. There is a maximum of 7 staff present on site and this would mean 36 spaces would be required. This is one space more than being proposed. However, this would only occur at the very busiest times when

the site was fully booked and there was the maximum number of staff on site. It is not considered the Council could refuse the application on the issue of one space considering the proximity of other parking, even though demand for this may be high at busy times.

79. It is noted that objectors comment that Go Ape encourage their staff to park else where away from the site and also that Go Ape cannot reserve the parking for their customers only. To respond to this, the issue is whether there is sufficient parking being provided for the Go Ape course. The application in 2008 established the principle that additional parking was necessary to meet needs arising from Go Ape and did not include a condition that the parking only be provided for Go Ape customers. The fundamental issues that that additional parking spaces are properly provided while the control of these spaces is a civil matter between the owner and applicant.
80. Based on evidence submitted by the applicant which is considered reasonable and robust the number of parking spaces is considered acceptable.
81. In terms of disabled parking, the amended plan does not specifically show two spaces allocated as disabled bays as the original plan for this application did. The parking standards state that 6% (two spaces) should be allocated disabled parking for leisure uses (although again it is acknowledged that this is based on the floor area of a building it serves, which is not relevant to the current application). The provision of no disabled bays would not be acceptable. However, when assessing applications Councils should consider whether otherwise unacceptable development could be made acceptable through the use of planning conditions. In this case two of the bays could be required to be disabled bays through the use of a planning condition. Disabled bays do not have to have extra space all the way round, but can have an area to one side only and therefore can be located at the end of one of the proposed rows. This issue can therefore be overcome by the imposition of a planning condition.
82. It is considered that the parking spaces need to be marked out within the car park to ensure the spaces are used efficiently as indicated on the amended plan. The 2008 approval did not require this and therefore the parking spaces now proposed are likely to be used more efficiently. This can also be controlled by condition.
83. The grasscrete area that is currently between the existing main car park and the Go Ape parking area as exists was originally created under planning permission number 82/483 (which was for the visitors centre and laying out of main car park) as a space to park two coaches. The area is however not marked as coach parking on site. It is considered that in practice this area is used by minibuses but also by normal cars. Coach parking is available in a layby off Rivington Lane to the north of the Great Barn. United Utilities state they do not encourage coach parking at Great House Barn car park as it damages the verges and they struggle to manoeuvre in the tight space. Therefore although the proposal will result in the loss of coach parking space it is not considered this is widely used by such vehicles now. Although minibuses do use the grasscrete, the proposal will still leave an area of grasscrete approximately 11m long and of the same width as at present which is still of sufficient size for this type of vehicle to park there. Cars also park on the grasscrete but not on the most south-eastly part that would be taken by the proposal as they would be blocked in by cars behind them. The proposal is therefore considered acceptable in relation to this aspect.

#### Public Right of Way

84. The plans originally submitted as part of this application showed parking spaces across the bridleway (number 15) that runs from Rivington Lane down towards the reservoir. Lancashire

County Council Highways and Public Rights of Way Officer both objected to the application on this basis.

85. Amended plans have been received changing the location of the parking bays to remove them from the line of the bridleway. LCC Highways and LCC Public Rights of Officer no longer object to the proposal.
86. The access to the extended parking will still be via the line of the bridleway, however the bridleway currently already goes down the access road from Rivington Lane to the existing main parking area next to Great House Barn and is the same situation as that proposed.
87. There is currently a gate across the bridleway adjacent to the access point to the parking area the subject of this application. This is not shown on the proposed plans and would be unacceptable as it is not of a type suitable for horse riders. Therefore a condition is proposed ensuring its removal is secured.
88. There are bridleways in the UK which include gates suitable for horses to ensure safe operation of bridleways. If the applicant or landowner wishes to install some form of gate in the future it is advised that they should contact the Public Rights of Way Officer at the County Council for advice. An informative note will be placed on any permission to advise of this.
89. The amended plan is therefore considered acceptable in relation to policy LT10 on Public Rights of Way which is considered in conformity with the NPPF subject to a condition in relation to removal of the gate.

#### Historic Park and Garden and Impact on Listed Buildings

90. Policy HT13 of the Local Plan covers Historic Parks and Gardens and is considered in conformity with the NPPF. This states development will not be permitted if it would lead to the loss of, or cause harm to, the historic character or setting of a Park or Garden of Special Historic Interest as defined on the Proposals Map. Pedestrian access to these areas by historic paths and routes will also be protected and maintained.
91. The proposed extended parking will not be within the 'designed' element of Lever Park and will be situated adjacent to the existing car park. It is not therefore considered the proposal will have a detrimental impact on the Historic Park and Garden.
92. In terms of the setting of Listed Buildings, Local Plan policy HT3 is not a 'saved' policy and PPS5 was therefore the policy used to assess applications against. This has not been replaced by the NPPF. Great House Barn, Great House Cottage and the adjacent Information Centre are all Grade II listed buildings. They are over 55m from the proposed parking area. In addition the existing main car park is immediately to the rear of these buildings, and the proposal will always be viewed in its context. It is not therefore considered that the proposal will have a detrimental impact on the setting of the listed buildings.
93. The Council's Conservation Officer also considers the application to be acceptable in the above respects.
94. The application is therefore considered acceptable in terms of policies HT13 and the NPPF in relation to the above.

#### Other issues

95. The Friends of Lever Park state they must stress that they feel that a condition should be put in place like in 1997, in that the Liverpool Corporation Act 1902 (Lever Park Act) should be



amended before any planning application is approved that would violate the contents of the 1902 Act. They state in 1997 it required the Lever Park Bill to be approved in Parliament before any development could begin, the proposed Bill failed and was withdrawn just like the proposed planning applications and also the application for Lottery funding.

96. They also state United Utilities are the Trustees of the Park and will be aware of their legal requirements and obligations with regard the protection and running of the Park. They point out that United Utilities have notified the Land Registry that the wording 'Subject to the provisions of the 1902 Liverpool Corporation Act' should be added to the Registry of titles. They state it appears that in 1996 a condition in some form was attached to planning applications 96/00848 - 00851 that required the Lever Park Bill to proceed through Parliament to amend the Liverpool Corporation Act 1902, the Bill failed which led to the withdrawal of all the planning applications submitted to the planning authority of the Borough of Chorley. This documentary evidence gives support to the fact that the Liverpool Corporation Act 1902 was taken into consideration, and they are of the opinion that the Liverpool Corporation Act 1902 should be of material interest and duly considered when considering any planning application that would breach the conditions set with the 1902 Act.
97. In response to the Liverpool Corporation Act the Council's Head of Governance comments as follows:  
*'The Liverpool Corporation Act of itself does not prevent the grant of planning permission. Neither does the grant of planning permission authorise the breach of any provisions of that Act. Planning permission simply provides that the proposed use or development is acceptable in planning terms. It is not appropriate to condition compliance with the Act in this case, either the landowners (United Utilities) feel that the use is appropriate and in compliance with the Act whereupon they will grant a lease to the applicant, or they will not and the applicant will have no authority to enter the land and undertake the works. Either way, the operation of the Liverpool Corporation Act is a matter to be dealt with by the landowner and the applicant'.*
98. As the course is already constructed and in use, to secure the extra parking it would be necessary for the Council to apply a condition requiring the extended parking to be carried out within a certain time frame. Three months from the date of any permission would seem reasonable and the Go Ape Course Manager indicates they are content with this. The Council should not apply conditions that are not enforceable and as the land is owned by United Utilities Go Ape would require their consent. The Council have therefore contacted United Utilities and sent them a copy of the amended plan to which this report relates. They state that they are in agreement with the proposals being put forward by Go Ape for additional car parking and the provision of a new picnic area. It is therefore considered that this condition would therefore meet the necessary statutory tests to be applied. If such a condition were not met then the Council would then need to consider whether enforcement action was appropriate.
99. The Friends of Lever Park also state that Go-Ape have not leased the land on which they said they would develop a car park. The ownership of land in this regard is a civil matter. The Council are only required to ensure that the applicant has served notice on the landowner, which they have in this case. The issue arising from that is whether any conditions placed on a permission are likely to be secured, which has been discussed above.
100. The advice of the Council's Head of Governance has been sought as to whether the application breaches the provisions of the Liverpool Corporation Act 1902 on previous applications at the Go Ape site. His advice is set out again below for Members:

*'Firstly, prior to considering the Act I can confirm that as local planning authority, the duty as a committee is to consider the planning merits of the application. You are not required to consider whether the proposed development can take place due to restrictions on the legal title to the land.*

*'However, due to past history on this matter I am fully aware of the position of the Friends of Lever Park in relation to the Go-Ape site. They oppose this development and seek to rely on the wording at section 21 (2) of the Act "desirable in order to secure their free and uninterrupted enjoyment by the public" to support their position that the application should be refused. The group suggest that this development will prevent their "free and uninterrupted enjoyment".*

*'I do not agree with this interpretation, even with the restrictive extract provided. If members of the committee consider the full provisions of this subsection it specifically grants to the owner general powers to do almost what they wish to provide that the public enjoy the park. This includes the provision of new buildings.*

*'To confirm therefore, my advice is that this development / application does not contravene the Act, indeed, given that it may open Lever Park up for the enjoyment of a different category of the public it would appear to be in line with its requirements.*

*'To be absolutely clear however, the committee do not need to have regard to the Act when considering the planning application. It is a private act and is not a material planning consideration'.*

101. In terms of disability discrimination objections have been received that plan does not comply with the Disability Discrimination Act and the Disability and Equality Act 2010. The Submitted plan is also in contravention of the basic human rights of a disabled person: UN Convention on the Rights of Persons with Disabilities. A condition is proposed to secure disabled parking on the site and is therefore considered acceptable in this respect.

### Conclusion

102. The application is considered acceptable. In terms of decision-taking the NPPF states that Local Planning Authorities should look for solutions rather than problems and decision-takers at every level should seek to approve applications for sustainable development where possible. The application is recommended for approval subject to conditions.

### **Planning Policies**

#### National Planning Policies:

National Planning Policy Framework (NPPF).

#### Regional

North West Plan Partial Review to Regional Spatial Strategy evidence base – parking standards.

#### Adopted Chorley Borough Local Plan Review

Policies: DC1, EP9, LT7, LT19, LT14, HT13.

### **Planning History**

**08/00553/FUL** Proposed high wire adventure course with associated equipment, cabin and shelter, and extension to existing car park. Permitted 24.07.2008.

**11/00466/FUL** Retrospective application for the building up (raising) and enlargement of two zipwire landing sites at Go Ape course (landing area for site 2 located near site 3, and landing area for site 3 located near site 4). Permitted 07.09.2011.

**Recommendation: Permit Full Planning Permission  
Conditions**

**1. The approved plans are:**

<b>Received On:</b>	<b>Title:</b>
<b>25 March 2012</b>	<b>Car park and picnic area</b>
<b>26 March 2012</b>	<b>Car park and picnic area</b>

***Reason: To define the permission and in the interests of the proper development of the site.***

**2. The gate as shown on the existing site plan ref: NKC(GOAPE) shall be removed from the site within three months of this permission.**

***Reason: The gate as exists lies across the definitive line of a bridleway and is not of a design suitable for horses and its retention would therefore contrary to policy LT10 of the Local Plan and the NPPF.***

**3. The parking and picnic areas hereby permitted and shown on the approved plan shall be implemented within three months of the date of this permission.**

***Reason: To ensure the parking and picnic areas are provided and in accordance with policies LT14 and TR4 of the Adopted Chorley Borough local Plan Review.***

**4. Before the development hereby permitted is commenced details of the boundary treatment and surfacing of the car park shall be submitted to and agreed in writing with the Local Planning Authority. This shall include details of the car park construction adjacent to trees 143.05, 143.01, 143.98, 143.91 and 142.09 (trees numbered as marked on approved plan). The development shall only be carried out in accordance with the approved details.**

***Reason: To safeguard the trees as far is practicable and in accordance with Policy No. EP9 of the Adopted Chorley Borough Local Plan Review.***

**5. Before the development hereby permitted is first commenced details of how the parking bays will be marked out within the parking area permitted shall be submitted to the Local Planning Authority and approved in writing. This shall include details of two disabled parking spaces to be provided and how they will be marked as disabled bays. The development shall be carried out in accordance with the approved details.**

***Reason: To ensure sufficient disabled parking is provided on site and in accordance with policy TR4 of the Adopted Chorley Borough Local Plan Review.***