

Item 4d	14/00974/FUL
Case Officer	Helen Lowe
Ward	Clayton le Woods West and Cuerden
Proposal	Change of use of land to forest nursery and siting of nursery building
Location	Land north of The Walled Orchard, Cuerden Valley Park
Applicant	Mr Dean Barlow
Consultation expiry:	19 May 2015
Decision due by:	3 November 2014
Recommendation	Refuse full planning permission
Executive Summary	The proposed development would be inappropriate development within the Green Belt. It is considered that it has not been adequately demonstrated that sufficient very special circumstances that outweigh the harm caused by that inappropriateness have been demonstrated. Whilst there may be limited visual harm, harm to the openness of the Green Belt would arise as a result of the proposals. It has not been adequately demonstrated that the proposed development will support the functioning of the Valley Park. The proposal is accordingly recommended for refusal.

Representations

Cuerden Parish Council This application is on Green Belt land. There has been an increase in commercial development over the past 12 months that is not in keeping with the area. Concerns have been raised in relation to traffic along Shady Lane, Nell Lane and Berkley Drive. Question health and safety issues that would arise from having heavy machinery and small children sharing the same space. There are currently no facilities for car parking for the extra vehicles. The area is not served by any public transport, meaning the majority of visitors will be driving. The current level of traffic that presently utilise these routes make walking along these lanes very dangerous.

Lancashire Wildlife Trust No objection to the principle of the development proposed, however raise concern as to whether the established and proposed transport infrastructure is sufficient to cope with any significant increase in motor vehicle traffic. No ecological survey has been submitted. The application site is close to a Biological Heritage Site, identified for its breeding population of Great Crested Newts and there is also a 2013 record for slow worm nearby. The application suite has the potential to provide hibernation sites for both species. The application would need to satisfy your authority that either these species are not present on the application site at any time of year, or that adequate avoidance and/or mitigation measures would be put in place.

In total representations have been received from seven people (some of whom have provided multiple representations) which are summarised below:

Objection

Total No. received: seven (individuals)

- It would cause a drop in the value of my property;
- It would cause traffic congestion. This could also prevent emergency vehicles entering the site.
- It would cause noise and an invasion of privacy;
- It is not in keeping with the surroundings;
- The existing barn and events cause lots of noise and congestion;
- The address is incorrectly described as Shady Lane, it should be Berkeley Drive as this will be where the facility is based. Berkeley Drive is an unadopted road, whereas Shady Lane is owned and maintained by the Council.
- Dog walkers and horse riders use this road and an increase in daily traffic will be a further burden to regular users;
- The plans do not make adequate contingency for parking and daily dropping off of children plus staff commuters;
- It is inappropriate to run a business in the Green Belt. Development should only take place in exceptional circumstances.
- The site is on the boundary of a biological heritage site in the walled orchard where Great Crested Newts and slow worms have been

recorded. An ecological report should be submitted with the application

- Cuerden Valley Park Trust's staff and the Wildlife Trust at the barn visitor centre already provide similar experiences for school children and younger ones - is it necessary to provide more in this area?
- There should be more public consultation;
- No waste storage information has been provided;
- A transport report should be provided;
- A tree survey should be carried out;
- Berkeley drive is unlit;
- A new gate should not be made in the wall;
- Is safe to have the outdoor area of the nursery in the service yard, where will things that are currently stored in the service yard go;
- Where will water come from and who will pay for it?
- The proposed building will not be in keeping with the walled orchard;
- It could open the floodgates to other developers to do the same thing;
- A sequential test should have been applied;
- No additional parking is being proposed, there are often times when the existing car park is full;
- There is mention of a septic tank being installed but none is shown on the plans;
- Mitigation measure proposed by the Highways Engineer should be included as conditions.

Four further responses (from three individuals) received following the provision of additional supporting information have been received. These make the following comments:

- There are no exceptional circumstances demonstrated;
- No ecological report has been submitted;
- There are several inaccuracies in the application (such as the application form stating that there are no trees on the site and no protected species affected);
- The additional information does not take into account existing day to day traffic on Berkeley Drive;
- Placing a business such as this on the park would increase traffic and affect the 'very sedentary use of the park'
- The irretrievable damage to the listed Walled Garden to create access for the nursery, for which an environmental grant has already been received by CVP, is needless and cannot justify this application;
- If permission is granted it will set a very dangerous precedent and will giving the Green light for any other business to be developed on precious Green belt in Chorley Borough;
- There is still no statement from Cuerden Valley Park Trust how they will allocate parking for nursery staff and parents;
- The traffic survey fails to take account of the fact that Cuerden Valley park Trust will move out of the Lancashire Wildlife Trust premises and visitors to the new Centre when it open or the additional traffic travelling on surrounding roads;
- The Forest Scholl running toddler sessions at weekends will exacerbate parking problems caused by weekend events (such as the Park Run);
- Cuerden Valley park Trust hold many events that will encroach in the use of the nursery, such as the Beer Festival which take place in the Walled

Garden from Friday to Sunday.

- It should be noted that the barn and storage area will be built without planning permission and retrospective application had to be sought (03/00005/FUL);
- The money offered to Cuerden Valley Park Trust is too low;
- No consultation has taken place with the Parish Council, local councillors and residents;
- Will the Walled Garden be available to the public while the nursery is open?

Consultees

Consultee	Summary of Comments received
Chorley Council Parks and Open Spaces Officer	Have stated that they do not have any comments to make on the proposals.
Lancashire County Highways	Have advised they do not consider that the proposal would significantly impact on the surrounding highway network and raise no objections to the proposals. In response to concerns raised by residents they advise that they consider that few new vehicular trips will be generated by the nursery.
Greater Manchester Ecological Unit	The development would not have any impact on the special interest of the adjacent Biological Heritage Site and the existing structure on the site have low potential to support bats. Provided that no mature trees are to be felled to facilitate the development then there is no need for an ecological survey/assessment.
Conservation Officer	No comments received
Planning Policy	No comments received

Assessment

Background

1. This application proposes the change of use of land and siting of a building to be used as a children's day nursery, within the maintenance depot of Cuerden Valley Park. The site is located adjacent to the walled orchard and it is proposed that a new entrance is formed through the northern wall of the orchard. The proposed building would be flat roofed and constructed from concrete rendered panels.
2. Planning permission was previously granted for the erection of a single storey building also within the maintenance depot to be used as a facilities block for the Wildlife Trust at Cuerden Valley Park in July 2012 (ref. 12/00553/FUL). The building was intended to provide ladies, gents and disabled toilets with a baby changing area and a separate kitchen area for plating up food by caterers at events. This building has not been erected, but the permission remains extant.
3. The building that was previously approved would have measured 12.7m by 4.8m (6.8m when including the roof overhang) , with a ridge height of 3.8m. It would have been constructed from rendered blockwork with a grey tiled concrete roof.
4. The proposed building would be located approximately 6m further to the west, within the maintenance depot, than the previous proposal, with the resulting gap between the side of the building and boundary wall of the depot forming an outdoor play area measuring approximately 9.6m by 15.2m. The proposed nursery building would measure 12m by 9.6m, with a height of 2.9m, however due to the difference in land levels approximately 1m of the building would be visible above the wall of the walled orchard.
5. The applicant has put forward the following information in support of the application:
 - The site is within the Green Belt, but constitutes previously developed land;
 - The site is well hidden behind considerable established trees and shrubs;
 - Whilst the approved facilities block had a smaller footprint than that proposed now, it would have been taller and more prominent;
 - The maintenance yard is already home to garages and a substantially larger agricultural type storage building, and home to open outside storage;
 - The existence of planning permission for a taller building on the site which has an impact itself on openness is a material planning consideration. The fallback position is in law something which Local Planning Authority's must give due weight to. A recent High court judgement found that the prospect of a fall back does not have to be probable, or even have a high chance of occurring. Rather it has to be only more than a merely theoretical prospect.
 - This area is already used for similar sorts of outdoor educational activities (the proposed use is similar to that of a forest school);
 - There are financial benefits to Cuerden Valley Trust through a rental income and wider benefits to new residents in the vicinity;
 - The proposal will initially be on a time limited basis to allow the business to develop and allow the LPA to assess the effect on the environment;
 - There is significant existing car parking;
 - The proposed location and the scale is such that the building will actually be entirely hidden from outside the maintenance yard. The visual impact is therefore less than that for the facilities block;
 - The service yard will remain operational and access to the nursery would be via the walled garden.

A letter of support from Cuerden Valley Park Trust has also been provided.
6. Further supporting information has been provided by the applicant in response to some of the queries raised by neighbouring residents. Two traffic counts have been carried out, one during the Easter Holidays, one outside of the Easter Holidays. Both were carried out on weekdays and on an evening and morning. The number of vehicle movements in and out of the park and number of cars in the car parks (public and private) were recorded. The results of the survey showed that at all times surveyed there were parking spaces available.

7. The applicant has also put forward further very special circumstances for consideration:
- The site is previously developed land, with unrestricted open storage on it;
 - There will be physical and visual enhancement of the site if the scheme is permitted;
 - The applicant envisages making a monthly contribution to Cuerden Valley Park Trust (in the first instance this may be around £100 per month, rising potentially to £2000 and possibly the employment of caretaker for the nursery who would also do work in the park);
 - Timmins V Gedling (2014) makes it very clear that where the visual amenity is improved or the impact on visual appearance is limited, this can be something that contributes towards very special circumstances
 - The loss of openness with this small -scale building is relatively small. Whilst the approval for the new visitor and facilities centre means that the fall back position is somewhat diminished, the approval of the much larger structure on the grounds that the benefits clearly outweigh the loss of openness is a clear indication that development in the park that brings benefits to the use of the park and its future upkeep are material planning considerations.
 - The applicant is willing to agree to a temporary 3 year permission to ensure that the business works and provides that income to the upkeep of the park. If not, because it is a temporary structure its removal will not result in any loss.
 - Some examples of other Forest Nurseries have been given. Children spend the majority of the day outdoors, in all weather conditions. A significant amount of this time will be spent in the wider park, not just the outdoor area attached to the nursery building.

Principle of the development

8. The application site is located within the Green Belt. The erection of new buildings within the Green Belt is considered to be inappropriate, except in a very limited number of circumstances, as set out in the National Planning Policy Framework and the emerging Local Plan. One of these exceptions is the infilling or redevelopment of previously developed sites, which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it. The purposes of including the land within the Green Belt include safeguarding the countryside from encroachment. Policy BNE5 of the emerging Local Plan deals with the redevelopment of Previously Developed Sites within the Green Belt. It states that in the case of infill, the proposal should not lead to a major increase in the developed portion of the site, resulting in a greater impact on the openness of the Green Belt, and the purpose of including land within it.
9. It is accepted that the maintenance yard constitutes previously developed land. The proposal could be considered to be either the partial redevelopment or infill of that land. It is accepted that a degree of outside storage takes place in the location where the building and outdoor play area would be sited, however the proposal would introduce a building where there is currently none and a change of use of an area of land to one considerably different in character to the existing use, and in particular a use which is more urban in character. An indicative layout of the types of equipment that would be located within the play area has been provided, showing a number of different types of structures (such as benches, animal hutches and play equipment). The loss of openness (i.e. unbuilt on land) is of itself harmful to the underlying policy objective of Green Belts. It is therefore considered, that although the proposal may utilise previously developed land, the proposals would be harmful to the purpose of including land within it, and the proposal is therefore inappropriate development within the Green Belt.
10. It therefore falls to be considered whether there are any very special circumstances that outweigh the harm to the Green Belt by reasons of the inappropriateness (and other harm) of the proposal.

11. As the applicant indicates, a material consideration is the existence of the extant consent (ref. 12/00553/FUL) for a facilities block in a similar location within the maintenance yard. This was also considered to be inappropriate development, but the following reasons were considered to constitute very special circumstances:
 - the small scale of the building proposed,
 - its location, and
 - the benefits it would bring in supporting Cuerden Valley Park Trust and the continued running and operation of the park.
12. The case law that the applicant has provided in support of the weight that must be given to a fallback position is noted. The likelihood of the earlier proposal being implemented is considered to be significantly diminished now that planning permission for an Eco-Friendly Visitor Centre for the Cuerden Valley Park Trust has been approved (ref. 14/00977/FUL).
13. Furthermore, it is considered that there are fundamental differences between the two applications. The current proposal would be for a larger building and includes an outdoor play area and is therefore considered to have a greater impact on the openness of the Green Belt than the previous proposal. The level of activity that would be associated with the proposed building would also be significantly greater, as it is proposed to be used on a daily, rather than occasional basis.
14. Therefore, although a fallback position may exist, it is considered that this can only be given limited weight.
15. Some information has been provided by Cuerden Valley Park Trust regarding their support for the proposals, however it does not express how the proposal would support the running and operation of the park. It is acknowledged that there would be some financial benefit to the Trust as result of letting this facility. Unfortunately it is difficult at this stage to have a degree of certainty and the information supplied by the applicant indicates that this would be of a notional financial amount initially.
16. The location of the proposed building is such that it would have a limited impact upon the visual amenity or the open character of the area, being within an already enclosed compound and adjacent to a high wall and existing store building. It has been established however, in case law, that openness and visual impact are different concepts in terms of Green Belt policy.
17. The fact that the proposed dwelling could be less visually intrusive than the previously approved building, does not, necessarily, mean that it would cause less harm to the openness of the Green Belt (similar to the findings in *Timmins v Gedling BC* and *Westerleigh Group Limited* [2014]). Taking into consideration the nature of the proposal (in particular the size and scale of the building, the outdoor play area now proposed and the proposed use) it is, on balance, considered that the proposal would have a greater impact on the openness of the Green Belt than the both the present situation and the previously approved proposals.
18. The nature and ethos of the facility that the applicant intends to run, a Forest Nursery, is such that easy access to an area such as Cuerden Valley Park would be beneficial to the applicant. However, in some of the examples cited by the applicant children are bussed from a base location to a woodland location.
19. The applicant has also expressed concern that there has been a degree of inconsistency between how this particular application has been assessed and application 14/00977/FUL, the Eco-friendly Visitor Centre for the Trust. As this building is to be used to provide facilities to enhance the visitor offer at Cuerden Valley Park it is considered to be a facility for outdoor recreation which is considered to be appropriate development within the Green Belt, provided that such facilities do not impact on the openness of the Green Belt. The design of the building is such that it takes advantage of the topography of the site, being effectively set down into the landscape and set into the corner of the side

immediately adjacent to a large number of mature trees. Therefore, whilst the proposed visitor centre may be larger in size than the proposed nursery, the building is not considered to be inappropriate development within the Green Belt and is designed in such a way as to minimise its impact on the openness of the Green Belt. The assessment of the two applications is therefore fundamentally different.

20. The applicant has accepted that the proposed development is inappropriate in the Green Belt, as defined in the Framework. It is not considered that sufficient very special circumstances that outweigh the harm caused by that inappropriateness have been demonstrated.
21. Policy HW3 of the emerging Local Plan also states that proposals to enhance the recreational value of Valley Parks at Yarrow Valley, Cuerden and Chapel Brook will be permitted if it can be demonstrated that they would not detract from the amenity, recreational and wildlife value of the Valley Parks.
22. Whilst the users of the proposed nursery would undoubtedly benefit from the location of the facility within the park, this is a private facility that would only be of benefit to those specific customers. There would be very limited enhancement to the recreational value of the park as a whole. It is not considered that this would be sufficient reason to outweigh the harm arising from the inappropriate nature of the proposals.

Neighbour Amenity

23. The walled garden itself is some distance from neighbouring residential properties (the nearest being The Cottage on Berkeley Drive approximately 70m away), although noise and disturbance may arise from increased vehicle movements to and from the proposed nursery.

Highways

24. It is proposed that the nursery would provide spaces for up to 30 children, with four full time and three part time staff. Opening hours of 7.30am-6pm Monday to Friday are suggested, as is the possibility of weekend opening for classes. It is anticipated that the existing parking spaces within the park, close to the walled garden would form the location for dropping off and picking up children. They indicate that two parking permits for staff would be obtained and the rest of the staff would have to access the site by other means. The applicant also mentions the possibility of negotiating with the adjacent office building, Parkwood Holdings, to use some of their spaces and the provision of a shuttle bus for children.
25. Cuerden Valley Park has a number of pay and display parking spaces close to the application site. The applicant states that there are 32, although information submitted with application 10/00049/FUL suggests that there may be more. An additional 27 parking spaces are proposed as part of application 14/00977/FUL.
26. Policy ST4 of the emerging Local Plan states that proposals for development should make provision for parking in accordance with the standards set out in the Plan. Taking into account:
 - The level of existing parking provision;
 - That the timing of the majority journeys to and from the nursery is likely to be outside of the timing of the majority of journeys for recreational use of the park;
 - The comments of the LCC Highways Engineer;
 - The location of the nursery, away from the road networkIt is considered that it would be difficult to refuse the application on the basis that it would cause undue harm to highway safety or that there is inadequate parking provision.
27. The use of adjacent parking spaces on land that is not owned by the applicant or Cuerden Valley Park Trust is considered to be of limited weight as this is outside of the control of the applicant and its availability could not be secured.

Design

28. The design, scale and appearance of the proposed building is considered to be appropriate. The building is functional in its form and nature and its appearance is not unusual for this type of use. No details of the design of the treatment of the entrance from the walled garden to the nursery (although a wrought iron gate is suggested). This could be secured by condition. Only a small portion of the roof of the building would be visible above the existing wall. The rest of the building would only be visible from within the maintenance depot and would therefore not be on view to members of the public using the park. The proposal is therefore considered to comply with policy BNE1 of the emerging Local Plan.

Ecology

29. The concerns of the neighbouring residents are noted with regard to the impact of the proposals on protected species. The application site is not located within the Biological Heritage Site, but is adjacent to it. However, Greater Manchester Ecology Unit have advised that the proposal is unlikely to cause any undue harm to protected species and therefore the proposal complies with policy BNE11 of the emerging Local Plan.

Overall Conclusion

30. The proposed development would be inappropriate development within the Green Belt. It is considered that it has not been adequately demonstrated that sufficient very special circumstances that outweigh the harm caused by that inappropriateness have been demonstrated. Whilst there may be limited visual harm, harm to the openness of the Green Belt would arise as a result of the proposals. It has not been adequately demonstrated that the proposed development will support the functioning of the Valley Park. The proposal is accordingly recommended for refusal.

Planning Policies

31. In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Borough Local Plan Review 2003 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposals has had regard to guidance contained with the National Planning Policy Framework (the Framework), the development plan and the emerging Local Plan 2012-2026. The specific policies/ guidance considerations are contained within the body of the report.

Note on the Emerging Chorley Local Plan 2012-2026

32. In October 2013, the Local Plan Inspector issued her partial report on the findings into the soundness of the Chorley Local Plan 2012-2026 which is a material consideration in the consideration of any planning application. In summary, the plan is considered to be legally compliant. In relation to soundness, the plan is considered sound, with the exception of matters relating to Gypsies and Travellers.

33. Paragraph 18 of the Partial Report states: "For the avoidance of doubt, the Plan may not be adopted until it has been changed in accordance with all the main modifications set out in the Appendix to this partial report and any which may be specified in the Appendix of my forthcoming supplementary report. However because of the very advanced stage in the examination process that the main modifications set out in the Appendix have reached, significant weight should be attached to all policies and proposals of the Plan that are amended accordingly, where necessary, except for matters relating to Gypsies and Travellers."

34. The Council accepted the Local Plan Inspector's modifications for Development Management purposes at its Executive Committee on 21st November 2013. It is therefore considered that significant weight can be given to her report, and to the policies and proposals of the emerging Local Plan, as amended by the main modifications.

35. Further consideration has been given to matters relating to Gypsies and Travellers, and the Local Plan Inspector's Supplementary Report on Gypsy and Traveller and Travelling Showpeople was issued (08 May 2015) and it concludes that the part of the Chorley Local Plan dealing with Gypsy and Traveller and Travelling Showpeople policy and site allocation is also sound, providing a number of main modifications are made.

Planning History

Reference	Description	Decision	Date
14/00977/FUL	A single storey Eco-Friendly Visitor Centre including a cafe with kitchen, toilet facilities (male, female, disabled, and baby changing) administration/office space a classroom and storage space.	Approve	24 th October 2014
12/00553/FUL	Erection of a single storey facilities block comprising of ladies, gents and disabled toilets with baby changing area and a separate kitchen area for plating up food by caterers at events.	Approve	20 th July 2012
11/00277/FUL	Application to hold a Farmers Market on the last Sunday of each month in The Barn visitor centre, car park and grassed area behind. Including utilising the car park at Parkwood Holdings and Cuerden Valley Park for visitors attending the market (previously approved as part of application 10/00049/FUL).	Approve	28 th July 2011
10/00049/FUL	To hold a Farmers Market on the last Sunday of each month in The Barn visitor centre, car park and grassed area behind. To utilise the car park at Parkwood Holdings and for Cuerden Valley Park for people attending the market.	Approve	8 th April 2010
03/00005/FUL	Retrospective application for erection of storage building for stock/machinery/woodchip,	Approved	31 st March 2003
00/00711/FUL	New park operations centre with associated car parking and garage,	Approve	25 th October 2000
0/00193/FUL	Erection of two-storey building for use as park operations centre with ancillary car park	Withdrawn	15 th June 2000

