

APPLICATION REPORT – 17/00932/FUL

Validation Date: 21 September 2017

Ward: Heath Charnock And Rivington

Type of Application: Full Planning

Proposal: Application to vary the conditions (Section 73 application) on permission ref: 13/01042/FUL (which related to the Go Ape course) to amend the design of how the zip line ending at tree 0042 is terminated, so it alternatively ends at a pole located in front of the tree 0042 supported by back-stays to the existing concrete ground anchors.

Location: Go Ape Rivington Lane Rivington Bolton BL6 7RZ

Case Officer: Caron Taylor

Applicant: Mr Ben Davies, Adventure Forest Limited

Agent: N/A

Consultation expiry: 26 October 2017

Decision due by: 16 November 2017

RECOMMENDATION

1. The application is recommended for approval.

DESCRIPTION OF PROPOSED DEVELOPMENT

2. This is an application to vary the conditions (Section 73 application) of planning permission ref: 13/01042/FUL (which related to the Go Ape course) to amend the design of how the zip line ending at tree no.0042 is terminated, so it alternatively ends at a pole located in front of the tree no.0042 supported by back-stays to the existing concrete ground anchors.

SITE DESCRIPTION

3. The Go Ape course is situated at Rivington, close to the Great House Barn and is accessed from Rivington Lane. This application seeks consent for an amendment to the termination point of a zip line at site 4 of the existing Go Ape course. The change to the termination point has already been carried out. Instead of the zip line ending at tree reference 0042, supported by three anchor points (back-stays) to concrete ground anchors as previously approved, the termination of the zip line has been removed from this tree and changed so that it ends at a wooden pole immediately in front of the tree still supported by two of the existing ground anchors.

REPRESENTATIONS

4. Three objections have been received. One of them is from the Friends of Level Park:
 - Advice has been given prior to the application which is showing favour to the applicant;
 - Not making available for public viewing all advice given to the applicant;
 - At the time of the 2013 application objections were made on the grounds that the tree was unsuitable and not fit for purpose and would later need replacing with a pole. What they said would happen has happened;

- Councillors did not visit the site for application ref: 13/01042/FUL and only voted to pass it on the officer's recommendation;
- What has been done is an eyesore of a concreted stump with dangerous retaining supports alongside a damaged and dying tree that it is replacing in an Historic Park;
- The application is retrospective;
- The planning officer misled the committee by not revealing that the applicant had never produced a tree survey to a prescribed standard which would have supported all comments made regarding the suitability of tree no. 0042;
- It is queried whether the planning authority at any time gave advice on how to overcome the use of tree number no. 0042;
- Comment is made that if the answer is 'yes', then that officer should be removed from office for showing favour;
- If the answer is 'no' which the objector hopes is correct, then the officer should explain why Go-Ape were again allowed to develop without permission.

CONSULTATIONS

5. Council's Tree Officer - has no issues with the installation.

PLANNING CONSIDERATIONS

6. The development that has taken place is an engineering operation in the Green Belt. It is not considered inappropriate development as it is considered to preserve the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt. The proposal is, therefore, considered acceptable in principle.

7. The change to the termination at site 4 that has taken place is minor in the context of the whole course. The wooden pole is sited immediately in front of tree no. 0042 and uses two of the three ground anchors that previously supported this tree.

8. The material of the pole, being wood is considered to blend with the surrounding woodland and other structures associated with the Go Ape course.

9. Go Ape have advised that the change has been made further to their annual tree report, which monitors all the trees used on the course and which was undertaken by an independent arboriculturalist in April 2016. Due to the small diameter of the original zip termination tree (no. 0042), they have stated that the termination point would be more suitably provided by a pole located in front of the tree no. 0042 and supported by back-stays to concrete ground anchors (permission for three anchors given in March 2014). They advise that the tree has not been damaged, but its size does not allow for sacrificial battens to be relocated on it.

10. It is considered that changing the termination point of the zip line at site 4 on the Go Ape course before damage is done to the tree is acceptable.

Historic Park and Garden and Impact on Listed Buildings

11. As per the previous application, although within the designated boundary of the registered park and garden, the work done is not in the 'designed' element of Lever Park. It is not, therefore, considered the change to the course has a detrimental impact on the Historic Park and Garden and is viewed in the context of the existing Go Ape course and its associated development.

12. Great House Barn, Great House Cottage and the adjacent Information Centre are all Grade II listed buildings. There is over 350m between the pole and the Great Barn and it is not visible as it is within the woodland.

13. It is not, therefore, considered that the proposal has any detrimental impact on the setting of the listed buildings. The application is, therefore, considered acceptable in terms of Core Strategy policy 16 and Local Plan policy BNE8.

Other Issues Raised

14. The issue of the suitability of tree no. 0042 for the Go Ape course was covered in the report for the 13/01042/FUL application. The following is an extract from that report:

15. *'Representations also state that tree 0042 could be a health risk and therefore needs to be independently assessed and a tree report produced as part of the application for safety reasons. It is not the role of the planning system to check the safety of any of the trees to be used for the course. Go Ape as an experienced high ropes course provider will know that the course is subject to other requirements as well as planning. The suitability of tree 0042 or any other tree in terms of safety of the course is the responsibility of Go Ape, not the planning system.'*

16. Therefore, it is repeated that the suitability/safety of tree no. 0042 for the Go Ape course is not a matter for the planning system and, therefore, not a matter for consideration by the local planning authority either in relation to the previous application or this application.

17. It is not considered that the officer misled the committee by not revealing that the applicant had never produced a tree survey to a prescribed standard which would have supported all comments made regarding the suitability of tree no. 0042. The following is another extract from the application report from 2013:

18. *'The comments regarding a tree survey to the British Standard not being submitted are noted. It is accepted that the tree survey that accompanies the application has not been done to a prescribed standard, however the Council must consider when requesting information from applicants whether it is reasonable and proportionate to enable an application to be determined. It is considered a British Standard tree survey would have added little to the local authority's understanding of the development proposal.'*

19. This view is maintained – as the suitability of tree no. 0042 for the Go Ape course was and is not a planning matter for assessment as part of the application, it is not considered a full tree survey to the British Standard was or is necessary.

20. Representations have been made by objectors that on the application form the applicant has stated that advice was given regarding this application and they question the fact that as the development was completed in early 2017 how could application advice be given after the event. They state that to give advice to the applicant after planning procedure has been overlooked and is showing favour to the applicant and the public a disfavour. They also state that the planning authority also showed the applicant favour by not making available for public viewing all advice given to the applicant.

21. In response Members are advised that although the applicant has ticked 'yes' in the section titled 'Pre-application Advice' on the application form, the case officer and local planning authority have not given any formal pre-application advice in respect of this application. This is evidenced by the fact that all pre-application advice requests are given a reference number and the application form asks for this to be quoted, but this remains blank on the application form.

22. What this section of the application form actually asks is *'Has assistance or prior advice been sought from the local authority about this application?'* As stated above the local planning authority has not given any formal pre-application advice relating to this application. What has occurred in this instance, is that Go Ape originally submitted an application for minor non-material amendment to the original application in respect of the change to the course. Such applications are not normally subject to public consultation. The case officer, therefore, advised that they did not consider that what had been done could be treated as a minor non-material amendment and advised it should be dealt with by way of a material amendment application (under Section 73) which is subject to public consultation. The minor non-material amendment application was, therefore, returned to Go Ape and they submitted the current application the subject of this report. This is what it is assumed Go Ape have interpreted to be pre-application advice and is the reason they have ticked 'yes' in the pre-application advice section on the application form. The objector has been advised of this directly.

23. To respond to the other points/questions raised:

- Whether the planning authority at any time gave advice on how to overcome the use of tree number no. 0042;
The answer to this is 'no'. The local planning authority has at no point given advice on how to overcome the use of tree number no. 0042.
- Comment is made that if the answer is yes, then that officer should be removed from office for showing favour;
The answer is 'no'.
- On this basis, the objector has requested an explanation as to why Go-Ape were again allowed to develop without permission.
Members will be aware that the local planning authority cannot prevent a person doing something without planning permission. That is entirely their decision and their own risk. No officers have given Go Ape advice or permission to go ahead and develop without first applying for planning permission. The current application has been submitted for the development retrospectively and the local planning authority must decide if what has been done is acceptable or not based solely on the planning merits of the case.

CONCLUSION

24. The works undertaken are considered a very minor change in the context of the course and the application is recommended for approval subject to conditions.

25. As this is a Section 73 application, it would result in a new planning permission being issued, that amends the original plans from the 2013 permission, if it is approved. Therefore, the conditions imposed on that permission will need to be re-imposed and amended or removed where relevant/necessary.

RELEVANT HISTORY OF THE SITE

Ref: 08/00553/FUL Decision: PERFPP Decision Date: 24 July 2008

Description: Proposed high wire adventure course with associated equipment, cabin and shelter, and extension to existing carpark

Ref: 10/00426/FUL Decision: WDN Decision Date: 29 November 2013

Description: Addition of additional zip line to Go Ape! course (at site 4 within course) with associated landing area

Ref: 11/00466/FUL Decision: PERFPP Decision Date: 7 September 2011

Description: 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).

Ref: 11/00938/FUL Decision: PERFPP Decision Date: 10 May 2012

Description: Extension of car park to Go Ape (enlargement of car park as built)

Ref: 12/00506/DIS Decision: PEDISZ Decision Date: 10 July 2012

Description: Application to discharge conditions 5 (boundary treatment and surfacing), 6 (parking bay details) and 7 (travel plan) of permission 11/00938/FUL (for enlargement of car park)

Ref: 13/01042/FUL Decision: PERFPP Decision Date: 14 March 2014

Description: Proposed changes to site 4 of existing Go Ape course including a new zip line, removal of course infrastructure from trees 414 and 416, new path from site 4 and relocation of forest shelter (change to position of shelter approved under planning permission ref: 08/00553/FUL). Also, retrospective application for paths/surfacing around the pre-brief site (adjacent to the cabin) and linking paths to site 1, 2 and 3.

Ref: 13/01149/ADV Decision: PERADV Decision Date: 14 March 2014

Description: Application for Advertising Consent for signs: additions to three existing ladder board signs and one 'gallows' style sign (please see application for full details).

Ref: 17/00810/MNMA Decision: Application not accepted and returned
Description: For retrospective permission to relocate the termination point of Zip 4 from tree 0042 to a pole installed in front of the tree with back-stays to concrete ground anchors.

RELEVANT POLICIES: 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 Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/guidance considerations are contained within the body of the report.

Suggested Conditions

1. The Development shall only be carried out in accordance with the approved plans, except as may otherwise be specifically required by any other condition of this permission.

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Title	Received date
Location Plan	29 th November 2013
Artificial Zip Wire Anchor Section	21 st September 2017
Support Cables Fencing	20 th February 2014
Proposed Shelter Relocation Plan	29 th November 2013
Development Proposals (as amended by Artificial Zip Wire Anchor Section plan above)	5 th November 2013
Proposed Shelter Relocation Plan	5 th November 2013
New Landing Zone Elevations	5 th November 2013
Hardstanding Cross Section	5 th November 2013
Go Ape Forest Shelter	5 th November 2013

Reason: For the avoidance of doubt and in the interests of proper planning

3. The forest shelter hereby permitted is an alternative to the shelter permitted by planning permission ref: 08/00553/FUL. The shelter approved under planning permission ref: 08/00553/FUL shall not be erected.

Reason: To ensure only one shelter is erected to reduce the impact on the Green Belt.