

Caulmert Limited

Engineering, Environmental & Planning
Consultancy Services

Bruce Lodge, Pilley Hills, Tankersley, S75 3AU

Mrs Carey Sizer-Coy

APPLICATION FOR CERTIFICATE OF PROPOSED LAWFUL DEVELOPMENT FOR DETACHED OUTBUILDING

Planning Statement

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Client: Mrs Carey Sizer-Coy

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Planning Statement

TABLE OF CONTENTS

1.0 INTRODUCTION 1

 1.1 Application Submission..... 1

 1.2 The Proposed Development 1

2.0 THE SITE 3

3.0 PLANNING HISTORY 4

4.0 THE APPLICANT’S NEED 6

5.0 THE EXPRESS CONSENT OF THE ORDER 8

 5.1 Introduction 8

 5.2 Incidental Use 8

 5.3 Class E 9

6.0 PHYSICAL RELATIONSHIP TO THE PARENT DWELLING 12

7.0 FUTURE CONVERSION 13

8.0 CONCLUSION 14

APPENDICES

Appendix 1 Applicant Questionnaire

1.0 INTRODUCTION

1.1 Application Submission

1.1.1 This Statement has been prepared by Caulmert on behalf of Carey Sizer-Coy (“the Applicant”) and relates to an application in accordance with Section 192 of the Town and Country Planning Act 1990 for a Certificate of Lawful Development.

1.1.2 This statement relates to the proposed:

Erection of detached outbuilding (Application for a Lawful Development Certificate for a Proposed Development)

1.1.3 The Applicant seeks a certificate of lawfulness for the erection of an outbuilding (the “building”) within the curtilage of their property at Bruce Lodge, Pilley Hills, Pilley, Barnsley, S75 3AU. The building has been designed to remain within the parameters set out under Class E of Part 1 to Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) (“the Order”).

1.1.4 The application submission comprised the following, plans and documents:

- Forms 1APP
- Location Plan
- Proposed Site Plan including Topographical Survey
- Proposed Ground Floor Plan Drawing no. 244-17.1 Rev E (Ecclesall Design)
- Proposed Roof Plan Drawing no. 244-17.2 Rev E (Ecclesall Design)
- Proposed Front and LH Elevations Drawing no. 244-17.3 Rev E (Ecclesall Design)
- Proposed Front and LH Elevations Drawing no. 244-17.4 Rev E (Ecclesall Design)

1.2 The Proposed Development

1.2.1 The building comprises a single storey structure located within the curtilage of the existing dwelling (“Bruce Lodge”). The building has been designed to provide essential facilities for the Applicant’s daughter, who has severe physical and learning difficulties due to a unique medical condition (more detail is provided at **Appendix 1**).

1.2.2 In addition the building will provide benefit the applicants in respect of their health and well-being; as owing to their daughters condition they are not able engage in a number of recreational activities, whether as a family unit, or individually owing to her level of needs, and the around the clock care she needs.

1.2.3 It should be noted that Bruce Lodge is the primary residence of the Applicant and their daughter.

1.2.4 The building includes several rooms, each of which serve a specialist function and are intended for the sole benefit of the Applicant’s daughter. The rooms include the following:

- Art studio
- Gym
- Pool room with disabled changing room
- Pump room

1.2.5 Further information regarding these individual spaces is provided in Section 2. However, it should be emphasised that the building is to be used for purposes incidental to the enjoyment of the dwellinghouse (Bruce Lodge). None of the individual rooms / spaces are intended to be used as a primary habitable living space, nor for commercial purposes, and will instead have a highly specialist function.

2.0 THE SITE

- 2.1.1 The application site ('site') comprises a large detached, two storey dwelling house located on a substantial plot with an area of approximately 0.7 hectares. The site is located on Pilley Hills, in the rural settlement of Pilley, access to the property is from Pilley Hills into two driveway and parking areas.
- 2.1.2 In addition to the existing dwellings there are several outbuildings on site already including a detached car port located to the south of the dwelling, a domestic outbuilding to the south-east of the dwelling and a rectangular-shaped outbuilding to the north-east of the dwelling which houses a variety of machinery, including some equipment for tree felling operations.
- 2.1.3 The outbuildings all fall within domestic use with the tree management operation used by the applicant for the management of Green Springs Wood which adjoins the curtilage of Bruce Lodge and is jointly owned by the applicants who have a role of officially managing the woods, working closely with the Forestry Commission.
- 2.1.4 The site of the proposed building is located to the south of the existing dwelling toward Hermit Hill on a higher ground level than the dwelling and the rest of the site.
- 2.1.5 The nearest other residential properties are some 100m to the south and 300m to the west on Hermit Hill. The main village of Pilley is located 700m to the East. However the immediate surrounding area is predominantly woodland and agricultural land.

3.0 PLANNING HISTORY

3.1.1 The site's planning history is displayed in Table 1 below.

Application Reference	Description of Development	Decision	Decision Date
2023/0387	Erection of detached outbuilding (Application for a Lawful Development Certificate for a Proposed Development)	Refused	23 Oct 2023
2023/0445	Erection of an open fronted steel frame, steel clad single storey shed (Application to determine if prior approval is required for a proposed: Erection, Extension or Alteration of a Building for Forestry use)	Prior Approval Required - Refused	6 July 2023
2012/1016	Erection of side and rear two storey extension to dwelling	Approved	28 Oct 2012
2012/0199	Fell 8 no. Yew Trees within TPO 2/1950.	Approved	29 March 2012

3.1.2 The decision notice in regard to Application ref 2023/0387 concluded that the proposals were not lawful for the following two reasons:

1. In the opinion of the Local Planning Authority the proposed outbuilding, as a whole, is excessive in size and scale, and would be used for a purpose which would not be reasonably incidental to the main dwellinghouse to which it relates, featuring a detachment from the host dwelling and several rooms. The proposal is therefore considered to be of such a scale in comparison to the existing dwellinghouse that it would therefore not fall within the parameters of Class E of Part 1 of Schedule 2 to the General Permitted Development Order (GPDO) 2015 (as amended) and a Lawful Development Certificate cannot be issued by consequence.
2. The Local Planning Authority determine that insufficient evidence was submitted to justify the size and use of the proposed building in line with the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Sch. 2 Part 1 Class E with the onus resting upon the applicant to provide sufficient evidence and information to substantiate lawful development, as stipulated by the Planning Practice Guidance.

3.1.3 From the reasons for refusal it is clear that the there is no dispute that the proposed outbuilding complies with the limitations at Classes E.1, E.2 and E.3.

4.0 THE APPLICANT'S NEED

4.1.1 The following section provides a summary of the Applicants 'need', (detailing the Applicant's daughter's specialist requirements) and how the building will cater for these.

4.1.2 The Applicant's daughter has severe physical and learning disabilities and requires full-time care from the Applicant and their wider family. The building is intended to provide facilities specific to their requirements. For clarity, the Applicant's full account of their daughter's condition and their specific needs is attached at **Appendix 1**.

4.1.3

[REDACTED]

4.1.4 Given the severity of their condition, they require round-the-clock care which is currently provided by the Applicant and a team of specialist carers. They can never be left alone.

4.1.5 Due to their complex medical needs, it is vital that the Applicant's daughter has access to physical and mental stimulation in order to ensure they can lead a rewarding life. A letter has been provided by the Service Manager at Opening Doors (in association with Green Acre School) – addressed later - which is attached at Appendix C and states:

For [REDACTED] to benefit from a range of physical exercises, they need to take place regularly, ideally daily. This, in addition to being challenging and mentally stimulating would assist [REDACTED] greatly [REDACTED]

4.1.6 Alongside the benefits of regular physical exercise, it is important for the Applicant's daughter's mental health, that they have access to relaxation, creative and sensory spaces. The accompanying letter goes on to state:

Alongside the physical recreational spaces and activities there is also the inclusion of relaxation, therapy and creative spaces. These too would add to the diverse range of facilities available to [REDACTED], and in addition to [their] own well-being enhanced by these, it would provide [REDACTED] parents the opportunity to spend daily time with [their] in these spaces, and thereby enhance their own physical and mental well-being.¹

¹ Appendix C – Letter from Opening Doors Service Manager

- 4.1.7 Bruce Lodge, was purchased in 2012 by the Applicant and their family who immediately undertook a full renovation, including the implementation of an extension to bring the property up to a standard that their daughter could safely live in. The renovation has ensured that the ground floor is fully open plan without doors or radiators (safety hazards) and includes a purposely designed suite of rooms at first floor level, that allow the Applicant to have adjoining bedrooms in case of an emergency. The garden courtyard to the rear of the dwelling has also been relandscaped to provide a large flat lawn and patio area, alongside a gentle slope that allows for safe access to the woodlands to the north of the site.
- 4.1.8 The Applicant's daughter attended Green Acre School and College until the age of 22, where they had access to physiotherapy and gym equipment alongside a pool, [REDACTED] [REDACTED] At these facilities they also took part in weekly rebound therapy (trampolining) and had access to a tricycle and walker. They also benefited from regular attendance at a drama class and other creative/ sensory classes that stimulate them mentally.
- 4.1.9 According to the Applicant, *after leaving Green Acre School & College at 22 [their daughter has] attended Opening Doors (a subsidiary of Green Acres for young adults with complex needs) three days per week. However, this is sited separately, close to Barnsley town centre and does not have immediate access to the specialist sports/physio facilities at the Greenacre School & College.*
- 4.1.10 There had previously been another highly specialist centre attended by the Applicant's daughter (Keresforth Centre), which closed in 2017.
- 4.1.11 The lack of facilities within the Opening Doors centre and the loss of the Keresforth Centre has meant that the daughter's access to stimulation and rehabilitation is now extremely limited.
- 4.1.12 As their full-time carer, the Applicant has considered a number of options and has settled on providing the essential facilities within the curtilage of their home, to allow their daughter to live the most rewarding life.
- 4.1.13 In summary, the building has been carefully thought out to ensure that the Applicant's daughter is both physically and mentally stimulated as well as being safe at all times. Due to the current lack of SEN adult facilities in the Barnsley area, the Applicant has no choice but to provide these facilities at home.

5.0 THE EXPRESS CONSENT OF THE ORDER

5.1 Introduction

- 5.1.1 The Order defines the express consent which applies to the erection of outbuildings (which are to be put to use for purposes incidental to the enjoyment of a dwellinghouse).

5.2 Incidental Use

- 5.2.1 Class E of the Order states:

E. The provision within the curtilage of the dwellinghouse of—

- (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure;**

- 5.2.2 The Order grants express consent for the construction of buildings to be put to use for purposes *incidental to the enjoyment of [a] dwellinghouse*, provided that the building adheres to certain criteria.

- 5.2.3 The incidental nature of said building refers to the building's use, which should be considered parasitic to the primary use of the host dwelling. To this extent, an incidental use can be considered any use that cannot exist without the parent dwelling and that will not materially extend the normal living accommodation.

- 5.2.4 The Guidance clarifies:

A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.

- 5.2.5 The building is to be put to use for purposes that are entirely incidental to the enjoyment of the dwelling, it will not contain any self-contained accommodation, bedroom, bathroom or kitchen, and will not be able to function without the existence (and occupation) of the dwelling.

- 5.2.6 It has been established by case law that an incidental use should be functionally related to the primary use (as a dwellinghouse). By definition, then, an incidental use cannot be one that is integral to or part and parcel of the primary use. The functional relationship should be one that is normally found and not based on the personal choice of the user.

- 5.2.7 Whether a use should be regarded as incidental will be a matter of fact and degree. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwelling and answer the question as to whether the proposed building is genuinely and

reasonably required or necessary in order to accommodate the proposed use or activity and thus achieve that purpose.

- 5.2.8 The size of the building in relation to the dwelling is relevant but not a conclusive factor and in this case the proposed building has been reduced in size following the 2023 refusal.
- 5.2.9 The outbuilding is divided into three separate rooms and there is a disabled changing room and pump room. One of the rooms would provide a swimming pool of approximately 70sq.m, another would provide a gym, approximately 37sq.m in area and there is an art studio with a floor area of approximately 17sq.m.
- 5.2.10 These facilities would be used to provide facilities specific to the requirements of the applicant's daughter who has severe physical and learning disabilities and requires full-time care in connection, details of which are set out in Section 4.0 above. These facilities would be used in connection with the main dwellinghouse and cannot be reasonably accommodated within the existing dwellinghouse.
- 5.2.11 Case law has established that a wide range of activities are capable of being considered incidental to the enjoyment of a dwelling. The provision of the swimming pool, gym and art studio could reasonably serve a purpose incidental to the enjoyment of the dwellinghouse, particularly given the individual circumstances of the applicant's daughter.
- 5.2.12 Whilst a changing room could be primary accommodation, in this case, it would not be unreasonable to regard it as part of the incidental use with the gym and swimming pool. Therefore, the facilities it would provide would be reasonable in size and likely to be what is needed to achieve their purpose

5.3 Class E

- 5.3.1 Sub-paragraph E.1(a) of the Order states that buildings etc incidental to the enjoyment of a dwellinghouse constitute permitted development unless:

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use)

- 5.3.2 The Applicant can confirm that the dwelling has not been granted permission by means of the above.

- 5.3.3 Sub-paragraph E.1(b) of the Order states that development is not permitted where:

(b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)

- 5.3.4 Even taking into account additional development at the site (including by way of extension to the original dwelling and the erection of outbuildings) the total area of ground covered by

buildings, other than the original dwellinghouse, will be approximately 370.63 sqm which amounts to approximately 5.5% of the total area of the curtilage (which, excluding the original dwelling is approximately 6,744 sqm).

5.3.5 As such, the requirements of sub-paragraph E.1(b) will not be exceeded.

5.3.6 Sub-paragraphs E.1 (c) to E.1 (f) state:

(c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

(d) the building would have more than a single storey;

(e) the height of the building, enclosure or container would exceed—

(i) 4 metres in the case of a building with a dual-pitched roof,

(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or

(iii) 3 metres in any other case;

(f) the height of the eaves of the building would exceed 2.5 metres;

5.3.7 The building is not sited forward of the principal elevation of Bruce Lodge ('original dwellinghouse'). It comprises a single storey structure with a dual-pitched roof which does not exceed 4 metres in height nor will the height to eaves exceed 2.5 metres in height from ground level.

5.3.8 The Technical Guidance² states that height should be measured from ground level; however, if the ground is not uniform, the ground level [from which the height is measured] is the highest part of the surface of the ground next to the building. In this instance the ground is not uniform, and the height is measured from the 'highest part of the surface of the ground next to the building', and in this location the extension will not exceed 4 metres in height (to ridge). No part of the building will be situated within 2 metres of the boundary of the curtilage to Bruce Lodge.

5.3.9 Sub-paragraphs E.1(g), (h), (i), (j) and (k), state that development under Class E is not permitted where:

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

(h) it would include the construction or provision of a verandah, balcony or raised platform;

² Householders Technical Guidance, Page 6

- (i) it relates to a dwelling or a microwave antenna;
- (j) the capacity of the container would exceed 3,500 litres; or
- (k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

5.3.10 None of the subsections above apply to the building proposed under Class E. As such the building is compliant with Class E.1 of the Order.

6.0 PHYSICAL RELATIONSHIP TO THE PARENT DWELLING

- 6.1.1 The Local Authority in the 2023 application expressed concerns over the proximity (siting) of the building and its physical relationship to the host dwelling. Our interpretation of the Local Authority's position is that the distance between the two buildings may prevent the building from being read as a Class E compliant building.
- 6.1.2 It should be noted that such an assessment is irrelevant for the purposes of the Order. A degree of separation from the existing dwelling, such as that which is proposed, is not uncommon for Class E outbuildings.
- 6.1.3 The positioning of the building has been dictated by the topography of the site and the presence of a number of mature trees (including trees protected by a TPO); the building has been sited as close to Bruce Lodge as the topography permits.

7.0 FUTURE CONVERSION

- 7.1.1 The Local Authority in the 2023 application also expressed its concern at the potential for the building to be converted (at a later date) into ancillary accommodation; or into a separate planning unit. Neither of these matters are material to determining whether the building is lawful.

Conversion to Ancillary Building

- 7.1.2 The Local Authority is concerned that the building could be converted to ancillary accommodation.
- 7.1.3 To stress, the building has been designed to suit the needs of the Applicant (and their daughter) whilst remaining wholly within the confines of what can be considered permitted development under Class E of the Order. The building will not be used as ancillary accommodation.

Conversion to Separate Planning Unit

- 7.1.4 The Local Authority has also expressed concern that the building could be converted into a separate planning unit in the future.
- 7.1.5 It is important to note that the application is for a Certificate of Lawful Development and that it would be wholly inappropriate and prejudicial for the Local Authority to weigh in the balance an application which has not been submitted (that of a new dwelling). Nevertheless, in the event the building was put to use for purposes other than those classed as being incidental to the enjoyment of Bruce Lodge, the Local Authority would have the option to pursue matters separately in accordance with the provisions of the Town and Country Planning Act 1990, with a view to considering matters on their face at that point in time.

8.0 CONCLUSION

- 8.1.1 The Local Authority has expressed its concern that the original submission lacked the justification expected in the application for a Certificate of Lawfulness to determine whether the proposed development is in fact lawful. The Local Authority has also raised concerns in regard to the *scale, size, purpose and positioning of the outbuilding and whether this could be considered to be incidental*.
- 8.1.2 As clarified throughout this document, the use / uses of the building are solely for the benefit of the Applicant's daughter, and are as such, entirely for purposes incidental to the enjoyment of Bruce Lodge. The scale of the building is driven by the unique condition and particular vulnerabilities of the Applicant's daughter, which means that larger, open-plan spaces are safer and more suitable for their needs.
- 8.1.3 Regardless, the proposed design fits entirely within the parameters set out within Class E of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) and as such can be considered lawful.

APPENDIX 1

SITE NOTICE SCHEDULE 1B - BILINGUAL

Question

How long have you lived at Bruce Lodge?

Have you ever considered moving from Bruce Lodge in order to accommodate [REDACTED]'s needs?

Answer

We purchased BL in 2012, and after a full renovation, including a 100% extension moved into the property just prior to Christmas 2014. No we have not. We moved to BL owing to the opportunities it afforded us as a family, and particularly to accommodate [REDACTED] needs owing to her level of disability. We were already part owners of 20 acres of woodland that adjoins BL. We've owned Green Spring Woods for over 20 years, and at the time, the only access to BL was on a track that we already owned as a second to the woods.

To accommodate [REDACTED] needs the house was designed so that the downstairs is now fully open plan without doors, except for the wet room and toilet, utility room and small study. With no radiators, but underfloor heating ([REDACTED] has had accidents with radiators previously). Being a Victorian Hunting Lodge BL originally comprised of three small rooms downstairs and three upstairs. The largest being 12ft square and the two smallest rooms, both upstairs and downstairs both being 8ft x 12ft.

[REDACTED]



Outside of the bifold doors in the lounge downstairs we had the area significantly landscaped to create a large flat lawn, with a shallow slope that leads into the east side of our woods (gated). [REDACTED] can access easily with our supervision. Prior to it being levelled and turfed it was inclined and very overgrown, and inaccessible. We also created a walled flat patio area, access from both the utility and kitchen doors which [REDACTED] is able to make use of, again with supervision. This area too is gated to ensure safety. Upstairs there are also 2 guest bedrooms and a main bathroom, which are used regularly by family and friends when they come to visit. However, all 3 rooms are too small to accommodate a specialist space with facilities for [REDACTED] needs, and none adjoin so that one larger space could be designed.

So that [REDACTED] can enjoy access and travel through the woods, we have a four seater buggy. However, she does enjoy taking small walks on the track with aid.

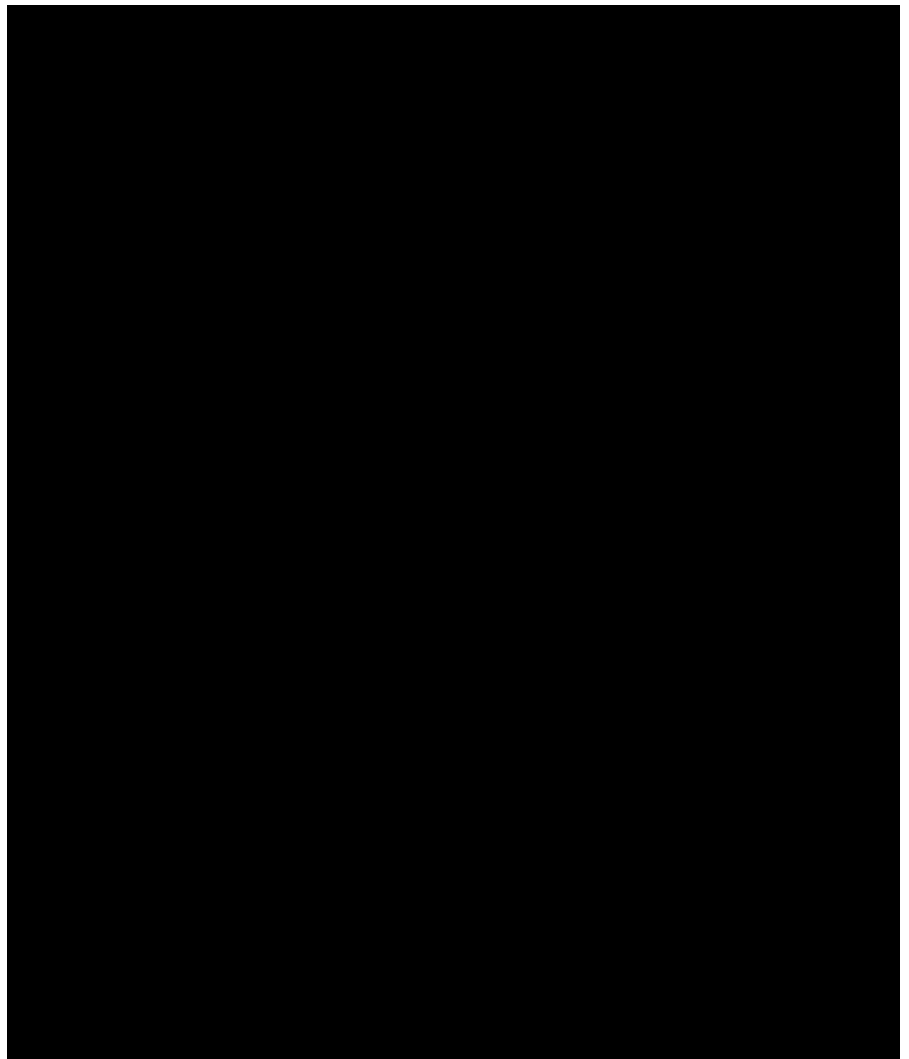
When we purchased BL with a substantial plot of land, we hoped that when our funds permitted that in addition to landscaping we would

be able to create onsite, single level facilities for [REDACTED], so as to maximise opportunities for her to take part in daily activities and exercises. We initially considered a swimming pool, with a gym/physio room, but having considered the activities that were encouraged by the physio and which she took an active part in at her school and college, Green Acres, we thought it would be better to design a build that could accommodate a variety, including a gym area which offered flexibility in how it could be used.

After leaving Green Acre School & College at 22 [REDACTED] has attended Opening Doors (a subsidiary of Green Acres for young adults with complex needs) three days per week. However, this is sited separately, close to Barnsley town centre and does not have immediate access to the specialist sports/physio facilities at the Greenacre School & College. Initially there was the Keresforth Centre, Off Broadway, Barnsley, This was a highly specialist centre, including

[REDACTED]

If comfortable to do so, please can you provide an overview of [REDACTED]'s condition and medical history?



Is [REDACTED]'s condition degenerative?

The proposed outbuilding includes several facilities (hydrotherapy pool room, sensory room, art studio, crafting workshop and gym with soft play area). Would you be able to elaborate on:

* The above answer is linked to the previous one.
I would like to add that the size of the proposed gym area (something which Nathan, planning officer commented upon) is to also accommodate [REDACTED] using her walker, and riding a specialist tricycle. These allow her a sense of independence, which she enjoys tremendously. [REDACTED]

1. [REDACTED]'s current access (if any) to these facilities – please include information on travel distances and other relevant details (e.g., cost, frequency etc.)

2. Which, if not all, have been recommended by medical professionals

3. The benefit of accessing these facilities

As mentioned earlier [REDACTED] in being an adult with complexed disabilities does not have easy or regular access to specialist sporting facilities with specialist changing areas. We have hired a private swimming pool (10 miles away) weekly, but since earlier this year we were not happy with the level of maintenance, cleanliness, plus no specialist area for changing. For one hour the cost was approximately £38 per hour.

The above were all facilities that [REDACTED] once had regular access to and were scheduled as part of her care/schooling/ physio package. Even attending the Barnardo centre in the summer and on a Saturday during the summer break at the Priory Campus, Barnsley, prior to becoming an adult. [REDACTED] has also gone on a weeks long holiday with Opening Doors to Bendrick, a specialist activity centre which caters for youngsters and adults with physical and mental disabilities. The cost for this, is just under £1,000 per individual for 5 days. Unfortunately, this has been cancelled these last two years, owing to staffing needs and overall cost to some of the families.

Already stated previously regarding both physical and mental well-being of her being able to regularly engage with these.

Please see earlier answer at the beginning. You'll see that I have covered these two questions in full. Sorry for any confusion caused by this.

Please describe any internal alterations to Bruce Lodge that you have had to carry out already to accommodate [REDACTED]'s needs, and why the proposed facilities cannot be accommodated within the dwelling.

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