

Minutes of previous meetings

DEVELOPMENT CONTROL COMMITTEE

FRIDAY 12 OCTOBER 2018 AT 10.00 AM

PRESENT: Councillor T Sidgwick (Chairman), Councillors Bloxham, Christian, Earp, Glendinning, Graham, McDonald, Mrs Parsons, Tinnion, Shepherd, S Sidgwick (as substitute) and Mrs Warwick.

ALSO

PRESENT: Councillor Collier in his capacity as Ward Member attended the meeting having registered a Right to Speak in respect of application 18/0601 – Land to the rear of Orchard House, North End, Burgh by Sands, Carlisle, CA5 6BD.

Mr Allan – Cumbria County Council

OFFICERS: Corporate Director of Economic Development
Development Manager
Legal Services Manager
Regeneration Manager
Principal Planning Officer
Planning Officer x 4

DC.92/18 APOLOGIES FOR ABSENCE

No apologies for absence were submitted.

DC.93/18 DECLARATIONS OF INTEREST

In accordance with the Council's Code of Conduct the following declarations of interest were submitted:

Councillor Bloxham declared an interest in respect of application 18/0361 - Land adjacent to Hawklemass, Irthington, Carlisle, CA6 4NN. The interest related the applicant being known to him.

Councillor Tinnion declared an interest in respect of application 18/0497 - Mount Pleasant, Heads Nook, Brampton, CA8 9EH. The interest related to two objectors being known to him as customers.

Councillor Earp declared an interest in respect of the following applications:

- 18/0497 – Mount Pleasant, Heads Nook, Brampton, CA8 9EH. The interest related to objectors being known to him.
- 18/0742 – Land west of Longlands Head, The Stripes, Cocklakes, Cumwhinton. The interest related to objectors being known to him.

Councillor Graham declared a Disclosable Pecuniary Interest in respect of application 18/0648 – Unit 4, St. Nicholas Gate Retail Park, London Road, Carlisle, CA1 2EA. The interest related to his pension provider being the landowner of the application site.

DC.94/18 PUBLIC AND PRESS

RESOLVED – That the Agenda be agreed as circulated.

DC.95/18 MINUTES OF PREVIOUS MEETING

A Member noted that a typographical error had been made in relation to an Interest he had declared at the 24 August meeting of the Committee. The application number had been appropriately recorded, however, the description was incorrect, he requested that the minutes be amended accordingly.

RESOLVED – 1) That the minutes of the meetings held on 6 June 2018 (site visits meeting), 8 June 2018, 17 July 2018 (site visits meeting) and 20 July 2018 be signed by the Chairman.

2) That the minutes held on 24 August 2018 and 10 October (site visits meeting) be approved, subject to the amendment above.

DC.96/18 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS

The Legal Services Manager outlined, for the benefit of those members of the public present at the meeting, the procedure to be followed in dealing with rights to speak.

DC.97/18 CONTROL OF DEVELOPMENT AND ADVERTISING

1) That the applications referred to in the Schedule of Applications under A be approved/refused/deferred, subject to the conditions as set out in the Schedule of Decisions attached to these Minutes.

(2) That the applications referred to under the Schedule of Applications under B be noted.

1) Change of Use of part of field to create private Equestrian Arena/Manege without compliance with condition 3 imposed by planning permission 17/1108 to allow equestrian tuition to take place, Mount Pleasant, Heads Nook, Brampton, CA8 9EH (Application 18/0497).

Councillor Tinnion having declared an interest in the item of business removed himself from his seat and took no part in the discussion nor determination of the application.

The Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 10 October 2018.

Slides were displayed on screen showing; site location plan, block plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

Earlier in 2018 planning approval had been granted for an equestrian arena/manege to the rear of Mount Pleasant subject to a number of conditions of which, no.3 restricted the use of the manege to private use only. The current application sought to vary that condition to allow equestrian tuition to take place.

Following the Committee's deferral of the application an amended Management Plan had been submitted confirming that the applicant intended to offer specialised training of clients' horses on the ménage as well as lessons. The applicant wished to offer lessons up until 6pm in the evening during the summer months. The Management Plan stated that a maximum of 2 lessons per day would take place with lessons being staggered and consisting of 1-2-1 tuition with clients bringing their own horses to the site. It was proposed that lessons would be held between 9am to 3pm except April-October when they would finish no later than 6pm.

With regard to the training of horses the applicant had confirmed that they would only be able accommodate two horses on the premises for training at any one time. Once horses were dropped off they would remain on site with the applicant and taken away several weeks later.

The Planning Officer noted that objectors had raised the matter of a gate across the access lane, whilst those concerns were acknowledged, she advised Members that the issue was a civil matter and not a material planning consideration.

The proposed development would create a new business within the rural area, the scale of which the Planning Officer considered was acceptable. In order to prevent intensification of the business, a number of conditions were suggested in the report which sought to ensure compliance with the submitted Management Plan and included restricting: the hours of operation, number of lessons, and number of vehicle movements from the site. On that basis, the Planning Officer recommended that the application be approved, subject to the imposition of conditions detailed in the report.

The Committee then gave consideration to the application.

A Member expressed concerns about the potential for the applicant to intensify the business operation at the site, he asked what enforcement measures were able to be applied to prevent that from happening.

The Planning Officer advised that the business operator was required by planning condition to maintain a record of vehicle movements associated with the business, and to keep that record available for inspection of the Local Planning Authority. In addition the Council's Enforcement Officer was able to carry out un-notified inspections of the site.

The Member responded that the Council's Enforcement activities were already significant and that approving the application would add to that workload.

The Corporate Director of Economic Development reminded Members that the Council had an approved Planning Enforcement Policy which set out the parameters for how enforcement action was addressed and included reports from members of the public and the maintenance of registers as required by planning conditions.

Another Member stated that in the event of a change to the proposed business being applied for in the future, he wished for any such application to be presented to the Committee, rather than it being determined by Officers, under their delegated powers as a non-material amendment. He further requested that signage be installed on the access lane advising vehicle users of the presence of horses.

The Development Manager advised that whether an amendment to a permission was considered as non-material was judged on the nature of the permitted development. In the case of the current application, access to the site was a significant issue, as a result any future change to the scheme would be considered as a material amendment and accordingly would be brought to the Committee for Members to consider.

The Planning Officer added that there were a number of conditions in the proposed permission which sought to prevent the intensification of the use of the site and those were also material planning considerations.

The Member indicated that he was satisfied with the responses.

Mr Allan (Cumbria County Council) advised that, in the event of the application being approved, the Highway Authority would monitor the access lane and if it was judged necessary would install signage near the entrance advising road users of the presence of horses.

A Member sought clarification as to proposed condition 5 made reference to “amplified music”. The Planning Officer explained that the applicant trained horses for dressage, however, they did not require music as part of their activities, the condition was proposed to limit the impact of the scheme on neighbouring residents.

The Member felt the condition would have greater enforceability if it stated that “no music” was permitted at site.

The Planning Officer undertook to amend the condition accordingly.

A Member moved the Officer’s recommendation, which was seconded and it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

Councillor Tinnion resumed his seat.

2) Proposed Residential Development with relocated entrance to field widening providing access to the residential site and field (Outline) (Revised Application), Land adjacent to Hawklemass, Irthington, Carlisle, CA6 4NN (Application 18/0361).

The Development Manager submitted the report on the application and reminded Members that the Committee had deferred the application at the meeting on the 24 August 2018 in order for Officers to discuss the proposed access with the Highway Authority in relation to the existing field access.

The Development Manager noted that whilst the Highway Authority did not generally compare access alternatives and only commented on the highway safety aspects of any proposals, however, it was considered in this instance that the proposed access would present a safer option than the existing field access.

As a result of the further discussions, the Highway Authority had requested an additional condition to ensure that the stipulated visibility splays were retained. The Development Manager explained that due to the sloping nature of the highway the visibility splays were achievable and that any additional landscaping would be sited outside the visibility splays.

Slides were displayed on screen showing; location plan; existing cross sections; existing and proposed block plans; illustrative layout, and photographs of the site and adjacent highway network, an explanation of which was provided for the benefit of Members.

The Development Manager noted that the application was for Outline Planning Permission but included the matters of access, landscaping, layout and scale, with appearance being reserved for a later application. The proposed scheme included the siting of the dwelling closer to the rear of existing properties, compared to previous applications, due to the relocation of the access. The relocated access would be approximately 30m from the existing access and would require the removal of part of the existing hedgerow, the loss of which would be mitigated by additional planting as part of the scheme’s landscaping.

The Development Manager recommended that the application be approved, subject to the imposition of conditions detailed in the report, including the additional condition requested by the Highway Authority regarding the maintenance of visibility splays at the site access.

The Committee then gave consideration to the application.

A Member sought clarification that the newly planted hedge between the site and the highway was not permitted to exceed 1.05m in height.

The Development Manager confirmed the height of the hedge was restricted to 1.05m.

A Member moved the Officer's recommendation, which was seconded and it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

3) Erection of 1 no. Dwelling, Land to the rear of Orchard House, North End Burgh by Sands, Carlisle, CA5 6BD (Application 18/0601).

The Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 10 October 2018.

Members' attention was drawn to pages 1 and 2 of the Supplementary Schedule which contained photographs provided by the Agent illustrating the parking and garages serving The Pack which Members had viewed during the Committee's site visit.

Slides were displayed on screen showing: site location plan; block plan; elevation plans and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer noted that a Roman fort was located in the vicinity of the southern boundary of the site, she further advised that the majority of the trees at the north east corner of the site would be retained with further planting proposed to mitigate for those trees which were to be removed along the eastern (rear) boundary of the site.

The application proposed a bin store located adjacent to the existing access gate and the start of the track, the collections would be made at the roadside as was already.

The Planning Officer recommended that the application be approved, subject to the imposition of conditions detailed in the report.

Councillor Collier (Ward Member) addressed the Committee and expressed strong concerns about the proposed access to the site, which was very narrow, he sought clarification on the dimensions of the archway. He questioned why the Highway Authority had not objected to the proposed arrangements.

Councillor Collier asked how the materials to build the dwelling would be conveyed to the site and what consideration had been given to protecting the mains sewer which ran under the arched access way. Furthermore he felt that approving the scheme would have a significant impact on the residents whose properties were sited at either side of the access lane for a period of months.

Mr Stonebridge (Parish Council) stated that the Parish Council had engaged with the Council regarding potential areas of development in the settlement, he noted that the application site was not one that had been considered and felt that approval of the application would damage

the network of orchards and gardens in the vicinity of the site. With regard to foul water drainage he explained that the existing system was already struggling to cope with the output from the existing residential properties and that approving the proposed scheme would exacerbate the matter further.

The proposed access arrangements would cause significant loss of amenity to the residents whose properties adjoined the access lane, and whose front doors were sited within the archway, he further noted that the access was not sufficient to allow emergency vehicles to access the site to make collections. Mr Stonebridge stated that the Parish Council's objection to the proposal was unanimous.

The Committee then gave consideration to the application.

With regard to the location plan, reproduced on page 77 of the Main Schedule, a Member noted that the application site was part of a larger field paddock, he asked whether the applicant owned the remaining part of the paddock and were it to be in their ownership could a further application for infill development be submitted.

The Planning Officer explained that the portion of the paddock comprising the application site was bordered in red, where the applicant to own the remainder of the field, it would be bordered by a blue line. In terms of future development, she reminded Members that each application was considered on its own merits, and that currently the only request to develop the area was the scheme before Members.

A Member expressed concern with regard to the proposed access via the archway in "The Pack" and the location of a main sewer underneath, she sought clarification as to the dimensions of the archway and what actions would be taken to prevent damage to it during construction.

The Planning Officer stated that she did not have the data for the dimensions of the archway, but noted that it was a single width carriageway, therefore construction materials would have to be transported to the site by hand or on smaller vehicles, which would be lighter and therefore less likely to impact on the sewer. She advised that United Utilities had not raised an objection to the construction of a single dwelling.

The Chairman sought clarification from the Member that she had proposed refusal of the application. The Member confirmed that she proposed the refusal the application on the grounds that it was not compliant with Carlisle District Local Plan 2015 – 30 (Local Plan) policies: HO2 – Windfall Housing Development; SP9 – Healthy and Thriving Communities and; CM5 – Environment and Amenity Protection. The proposal was seconded.

A Member asked whether it was possible for the applicant to access the site via the "Stack Yard".

The Planning Officer responded that such an arrangement was unlikely.

Another Member indicated that he was minded to refuse the application due to the impact on the residents whose properties were sited in the archway, and the safety and adequacy of those arrangements. He suggested that criteria 2 of Local Plan policy CM5 be cited as a reason for refusing the application.

The Planning Officer noted that policy CM5 related to ground water, she suggested that were Members minded to refuse the application due to their concerns about the impact on the

existing residents that policy SP6 – Securing Good Design criterion 5 and 7 was a more appropriate policy basis.

Referring to the consultation response from United Utilities, a Member noted that the organisation had not commented on the scheme. In his view, it was not acceptable to assume that the consultee had no issues with the proposed scheme, and he felt that United Utilities ought to submit a full response on the application.

The Corporate Director appreciated the Member's concerns, she explained that it was standard practice that United Utilities and other statutory consultees only responded to proposal where they had concerns, due to the large volume of applications the organisation processed. She assured the Committee that United Utilities had been consulted on the application and that the onus was on that organisation to raise issues it felt necessary.

The Member thanked the Corporate Director for her response, but felt that such an approach from a Statutory Consultees was seriously inadequate. He asked what the term "alternative prevention methods" referred to.

The Planning Officer explained that it referred to the use of sprinkler systems and the like as methods of fire prevention.

The Development Manager summed up the position of the debate, noting that a proposal to refuse permission had been moved and seconded on the grounds of the scheme not being compliant with Local Plan policies HO2, SP9 and CM5. He noted that Members had expressed serious concerns about the proposed access arrangements; the impact on the residential amenity to the occupiers of The Pack whose properties opened into the archway which was part of the proposed access to the site, and the lack of a full response from United Utilities on drainage proposals.

The Planning Officer had suggested that Members also consider Local Plan policy SP6 as a reason for refusal, the Development Manager stated that the policy specifically referred to residential amenity and stipulated that "... all components must work well together." He sought confirmation that the concern related solely to the proposed access and not the site itself. Furthermore, he advised that policy HO2 did not reference access, and therefore was not an appropriate justification for refusing the application.

The Member who had proposed the refusal confirmed that the access arrangements were the issue of concern, along with the lack of a response from United Utilities.

In response the Development Manager advised that no elements of policy HO2 had been put forward in the Member's rationale for refusal therefore it was not appropriate to reference that policy. He indicated that the most relevant policies, on which to base refusal of the application, given the concerns expressed by the Committee were policies SP6 and SP9.

A Member proposed that the application be refused on the grounds that it was not compliant with Local Plan policies SP6 – Securing Good Design and SP9 – Healthy and Thriving Communities. The proposal was seconded and following voting it was:

RESOLVED: That the application be refused, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

4) Erection of 2no. Detached Dwellings (Outline), Land west of Longlands Head, The Stripes, Cocklakes, Cumwhinton (Application 18/0742).

The Principal Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 10 October 2018. During the site visit, Members noted that a dwelling within the vicinity of site had subsided, and expressed concerns about the potential for the proposed dwellings to be affected by subsidence due to former mine workings at the application site.

The Principal Planning Officer advised that he had received an email from the applicant which stated that the only subsidence in the area had occurred about 40 years ago on land that was nearer a development at Cumwhinton than the current application site. He further noted that three of the other approved dwellings at The Stripes were on under mined areas, 2 of which had access onto the lane that the proposed scheme sought access on to.

The Parish Council had raised concerns about subsidence in its response to the application. The Principal Planning Officer had consulted with British Gypsum on the matter, who confirmed that mine workings had taken place in the area at a depth of 100m below surface, therefore it raised no objections to the proposal. The Principal Planning Officer explained that the Council's Building Control Officers, as the relevant regulatory service, would consider the proximity of mine workings and the potential effects of subsidence. The Building Control Manager had confirmed that given the depth of the mine workings in the area it was unlikely that the proposed scheme would require any specific requirements to prevent subsidence.

The Principal Planning Officer stated that a development of 22 dwellings in the vicinity of the application site had been built over previously mined land, and that two dwellings had been erected on adjacent land. Were Members to consider it necessary an additional condition to address the issues of subsidence, could be added to the permission, which would require the submission of an engineer's report.

The Principal Planning Officer reminded Members that Planning Permissions had been granted for other residential developments on other sites at The Stripes, which was a significant material consideration, on that basis, he considered that residential development at the site was acceptable, in principle.

Slides were displayed on screen showing: location plan; plan illustrating developments previously permitted in the area; site plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

In relation to the proposed access, it was noted that the Parish Council had raised concerns. The Highway Authority had been consulted on the application and had raised no objection to the proposal, subject to the imposition of conditions requiring: the provision of suitable visibility splays; the provision of the parking and turning requirements prior to the commencement of development to enable construction traffic to park clear of the highway.

The Principal Planning Officer advised that, in the event of the application being approved, a further condition was required preventing the removal of hedges during the bird breeding season. He recommended that the application be approved, subject to the imposition of conditions detailed in the report, along with the additional condition preventing the removal of hedges during the bird breeding season.

The Committee then gave consideration to the application.

A Member proposed that the application be deferred in order that an engineer's report be prepared and submitted to the Committee, so that Members were able to fully consider the impact of the undermining and any potential impacts on the proposed development. He further requested that the report author attend the Committee to answer Members questions. The proposal was seconded.

The Principal Planning Officer advised that he had discussed the matter with the Council's Building Control service, who had advised that as the mining underneath the site had taken place 100m below the surface, no mitigation measures were required. Moreover, the locations of the proposed dwellings at the site were not directly above areas which had been previously mined, a larger development had been permitted close by which was on ground that had been previously mined.

The Principal Planning Officer suggested that Members may add a condition requiring an engineer's report on the impact of the undermining, and that any forthcoming recommendations be incorporated into the permission for the scheme.

The Member rejected the Principal Planning Officer's suggestion and reiterated his request for an engineer's report to be submitted to the Committee, and that the report author attend the meeting to answer Member's questions.

Referring to British Gypsum's response to the consultation, a Member noted that it stated that the Council needed to satisfy itself "... *that any subsidence would not damage the proposed dwellings, gardens and access road (which are above worked areas)*." Moreover, the National Planning Policy Framework (NPPF) stipulated that planning decisions should ensure that a site was suitable for its proposed use taking into account in risk from land instability. He questioned how Members were able to satisfy themselves on the matter of undermining, and properly determine the application without an engineer's report.

The Chairman noted that a proposal to defer determination of the application in order to commission an independent engineer's report on previous mine workings in the area and any implications for the proposed development. She put the proposal to the vote and it was:

RESOLVED: That determination of the application be deferred in order to commission an independent engineer's report on previous mine workings in the area and any implications for the proposed development and to await a further report on the application at a future meeting of the Committee.

The Committee adjourned at 11:05am and reconvened at 11:19am

5) Change of Use redundant agricultural storage building/barn into no.1 Dwelling, Chapel House, Hethersgill, Carlisle, CA6 6DS (Application 18/0521).

The Planning Officer submitted the report on the application which sought Full Planning Permission for the Change Of Use of a redundant agricultural storage barn into a dwelling. For clarity, the Planning Officer explained that as detailed within paragraph 3.3 of the Main Schedule, the proposal requested permission for the conversion of a redundant former chapel attached to Chapel House. Since its function as a chapel ceased there had been several uses over the intervening years, the documents submitted with the application detailed its last use as agricultural storage.

Slides were displayed on screen showing: location plan; block plan; section, floor, roof and elevation plans, and photographs of the site, an explanation of which was provided for the benefit of Members

The Planning Officer recommended that the application be approved, subject to the imposition of conditions detailed in the report.

A Member requested further detail on the Bat, Barn Owl and Nesting Bird Survey recommendations and how they would be incorporated into the proposed scheme.

The Planning Officer responded that the survey had recommended standard mitigation measures such as not disturbing animals in their breeding seasons, and that the relevant actions had been incorporated into conditions in the permission.

A Member moved the Officer's recommendation, which was seconded and it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

6) Demolition of existing portico and erection of new porch/entrance together with single storey extension to existing kitchen and utility, Waterside Cottage, Tarraby, Carlisle, CA3 0JS (Application 18/0241).

The Planning Officer submitted the report on the application and advised that the key planning considerations when assessing the application had been the design and scale of the proposal along with its impact on the character and appearance of the Tarraby Conservation Area.

Slides were displayed on screen showing: location plan; proposed and existing elevation plans, and photographs of the site and existing portico, an explanation of which was provided for the benefit of Members

The Parish Council had objected to the proposal expressing concerns in relation to the design and choice of materials for the replacement porch. The Planning Officer acknowledged that the proposed timber cladding for the porch was in sharp contrast to that of the host property, however, he considered the design and suite of materials to be a contemporary addition to the property that offered a deliberate contrast and an improvement to the existing portico. To ensure the quality of the proposed materials, a condition was recommended (Condition 3) requiring the submission to and the approval of the Local Planning Authority of sample materials prior to their use.

The Planning Officer reported that the proposal had been revised following comments from the Council's Conservation Area Advisory Committee and Heritage Officer, as a result of which they no longer objected to the proposal as presented.

Whilst matters of design had the potential to be highly subjective, the National Planning Policy Framework advised that planning policies and decisions must not stifle innovation or contemporary forms of design. The Planning Officer stated that national policy and accompanying guidance was clear that local policies and decisions should not impose architectural styles or particular tastes.

In conclusion, the Planning Officer advised that the proposed single storey rear extension had not raised any concerns. The proposed replacement porch offered a contemporary design and suite of materials which would replace an existing inappropriate portico that currently detracted from the quality of the Conservation Area. In that context, the proposal was considered to be acceptable and the Planning Officer recommended that the application be approved, subject to the imposition of conditions detailed in the report.

In response to a Member commenting that the Council had policies to prevent the use of uPVC windows in Conservation Areas, the Development Manager clarified that uPVC was considered under the policy, and that it was only permissible in a restricted number of uses.

A Member moved the Officer's recommendation, which was seconded and it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

7) Erection of 3no. Dwellings, Land to west of The Cottage, Newtown, Irthington, Carlisle, CA6 4NX (Application 18/0433).

The Planning Officer submitted the report on the application and reminded Members that in January 2017, following a site visit, the Committee had granted Outline Planning Permission for residential development at the site. As there had been no change in planning policy since the determination of the extant permission, the principle of development remained acceptable.

Slides were displayed on screen showing: site location plan; block plan; floor plan; elevation plans, and photographs of the site, an explanation of which was provided for the benefit of Members

The Planning Officer recommended that the application be approved, subject to the imposition of conditions detailed in the report.

The Committee then gave consideration to the application.

With reference to paragraph 6.26 of the report, a Member noted that the extant Outline Permission granted in respect of application 16/0833 had imposed a limit of two dwellings at the site, he asked, if the viability had not changed, why had the applicant proposed three dwellings?

The Planning Officer explained that as part of the Outline Application an indicative layout had been submitted showing two dwellings. The applicant had reassessed the site and felt it was able to accommodate three properties. The Planning Officer advised that the application before Members was not a Reserved Matters application pursuant to the Outline Permission, rather it sought Full Planning Permission and was therefore a standalone application.

The Member responded that he had expected a report on viability relating to the application, but that none had been provided, he further expressed concerns that the vehicle access from the site was on to an un-adopted road, and the design of the dwellings which he considered bland.

The Planning Officer noted that the access point to the site was on to an existing un-adopted road, adjacent to the highway, as the proposal was for three dwellings, it was not considered to be detrimental.

Regarding the Member's comments on design, the Planning Officer stated that while the submitted drawings were one dimensional, she advised that the applicant had developed other sites in the district which had incorporated a range of building materials.

Another Member asked why, if the extant Outline Planning Permission had conditioned a maximum of two dwellings at the site, were Members not to consider that in their assessment of the application. He further asked why no viability assessment had been submitted.

The Development Manager reiterated that the current application was for Full Planning Permission, consequently the site was considered as new. Whilst the previous Outline

Permission was contextual, the conditions contained therein did not carry forward to the current application which had to be judged on its own merits. He advised Members that should they consider no more than two dwellings were appropriate at the site, the Committee could not apply such a condition to the application before them, accordingly the application would need to be refused.

With regard to viability, the Development Manager advised that in the context of the application, it related to commercial viability. The Council considered the viability of proposals when applications met its policy threshold hold for the provision of Affordable Housing, given that the application was for three dwellings, it was below the level of development that would trigger the policy.

A Member comment that the majority of properties located close to the application site were single story, he felt that the proposed two storey dwellings were not in-keeping with the predominant style of the area. He further expressed concerns in relation to highways matters, particularly the speed on drivers on the adjacent highway, the number of fatal accidents in recent years, and the location of a play area near the highway. It was his view that the proposed scheme would have a negative impact on the highway network, he suggested that a speed restriction be imposed at the entrance to the village.

Mr Allan (Cumbria County Council) responded that he Highway Authority was limited on the aspects of an application it was able to comment on. The application was for three dwellings with access on to an un-adopted road, consequently, he considered that there would not be a large increase in vehicle movements and as such the scheme was not able to be used as a justification for imposing speed restrictions in the area. Moreover, the application could not be used to address issues relating to the existing play area.

In response to a question from a Member regarding access to the Village Hall car parking area, the Planning Officer stated that she had discussed the matter with the Agent, and that a full exposition of the issue was contained in paragraphs 6.34 – 6.38 of the report.

A Member moved the Officer's recommendation, which was seconded and it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

8) Erection of 1 No. Agricultural Workers' Dwelling (Reserved Matters Application pursuant to Outline Approval 17/0361), Home Farm, Farlam, Brampton, CA8 1LA (Application 18/0663).

The Planning Officer submitted the report on the application and drew Members' attention to page 3 of the Supplementary Schedule which contained an up-to-date materials schedule confirming the use of stone on the south elevation, excluding the garage.

At its meeting of 8 June 2018, the Committee had granted Outline Permission for the erection of 1 agricultural worker's dwelling (application 17/0361). The current application sought approval for all the associated Reserved Matters: access, appearance, landscaping, layout and scale.

Further to the publication of the report, a response had been from the Highway Authority which stated that details had been provided in relation to the surfacing of the access drive in bituminous material. The Authority had also confirmed that, having obtained the necessary Section 186 permit, the works had been carried out by an approved contractor. The response concluded that the layout details shown on the submitted plan were considered satisfactory from a highway perspective.

The Planning Officer advised that the means of foul and surface water drainage were able to be suitably addressed through the existing planning conditions imposed on the Outline Permission.

Slides were displayed on screen showing: location plan; block plan; floor plans and sections; elevation plans, and photographs of the site, an explanation of which was provided for the benefit of Members.

In overall terms, the Planning Officer considered the scale and design were appropriate to the site and would not result in an adverse impact on the character or appearance of the area or the nearby Listed Building. The submitted plans took account of the highway issues and the living conditions of the occupiers of the neighbouring properties would not be prejudiced subject to the imposition of conditions. Accordingly, the Planning Officer recommended that the application be approved, subject to the imposition of conditions detailed in the report.

The Committee then gave consideration to the application.

Paragraph 6.43 of the report stated that the proposed scheme required the submission of detailed management and maintenance plans in respect of foul water drainage, a Member asked whether it was possible to include a condition in the permission to secure those details.

The Planning Officer explained that the current scheme was a Reserved Matters application, and that the submission of the details of the foul water drainage system had been required by a condition in the Outline Permission which the applicant was required to discharge. Consequently, it was not necessary to include such a condition on the current application.

A Member moved the Officer's recommendation, which was seconded and it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

9) Change of Use from Agricultural Land to provide additional land for existing caravan storage compound, Green Acres, High Knells, Houghton, Carlisle, CA6 4JW (Application 18/0702).

A Member moved that determination of the application be deferred in order for the Committee to undertake a site visit. The proposal was seconded, and following voting it was:

RESOLVED: That determination of the proposal be deferred, in order to undertake a site visit and to await a further report on the application at a future meeting of the Committee.

10) Change of Use from Retail (Class A1) to Gym/Health and Fitness Centre (Class D2) and creation of new mezzanine floor, Unit 4, St Nicholas Gate Retail Park, London Road, Carlisle, CA1 2EA (Application 18/0684).

The Planning Officer submitted the report on the application which sought Planning Permission for the change of use of the premises to be occupied and used as a gymnasium. In order to facilitate the change of use, some alterations were proposed to the building, which the Planning Officer summarised as follows:

- The installation of a new shop front on the front elevation;
- The formation of an internal lobby and office accommodation, accessible toilet, shower and utility storage;
- The construction of a mezzanine floor towards the rear of the building to allow for changing facilities;

- External areas to the rear of the building would be used for the siting of condenser units and air handling units.

Slides were displayed on screen showing: location plan; block plan; existing ground, roof, floor, mezzanine and elevation plans, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer advised that the principle of the Change Of Use was considered acceptable, and in his view, the development would not adversely affect the character or appearance of the street scene or the Settle to Carlisle Conservation Area.

The building was accessible by a variety of modes of transport and adequate parking provision was able to be accommodated within the car park. Although the gym would operate 24 hours a day, the scale and nature of the use would not adversely affect the living conditions of the occupiers of neighbouring properties. The Planning Officer noted that any perceived devaluation of properties was not a material planning consideration.

Objectors had expressed concern that approval of the application would lead to a recurrence of anti-social behaviour in the area. The Planning Officer's opinion was that the nature of the use, together with the physical changes to the layout of the retail park, were sufficient to prevent any long-term repeat issue, a view that was supported by Cumbria Constabulary. As such, he recommended that the application be approved, subject to the imposition of conditions detailed in the report.

The Committee then gave consideration to the application.

A number of Members welcomed the application and considered that it would add to the sustainability of the wider retail park, increase the health and wellbeing of residents, and help to prevent anti-social behaviour at the site.

A Member noted that the application proposed the installation of equipment at the rear of the building, he asked if the lower ambient noise levels at night time meant that the sound of the equipment operating would impact on neighbouring residents.

The Planning Officer advised that an independent noise assessment report had been submitted with the application which had been considered by the Council's Environmental Health services, who had advised that the proposed equipment noise was within the approved standard. Furthermore, other businesses at park operated similar equipment at the rear of their premises which had little impact on neighbouring residents.

A Member stated that he was a member of the Royal Mail Pension Scheme, he asked who owned the application site.

The Planning Officer advised that the site owner was Custodian REIP Plc, which the Development Manager confirmed was the pension fund company of the Royal Mail.

The Legal Services Manager noted that the Member had not taken part in the discussion of the application and stated that she was confident that the Member was not influenced by his link to the company. She advised him to declare a Disclosable Pecuniary Interest and to take no further part in the discussion or determination of the application.

Thereupon Councillor Graham declared a Disclosable Pecuniary Interest in the item of business, which related to his membership of the Royal Mail Pension Scheme and took no further part in the discussion or determination of the application.

A Member moved the Officer's recommendation, which was seconded and it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

11) Erection of garden shed and single storey side and rear extension to existing garage, 8 Edmondson Close, Brampton, CA8 1GH (Application 18/0813).

The Principal Planning Officer submitted the report on the application, which had been presented to Members due to the applicant being an employee of the Council. The scale of the proposal was small and the design was considered acceptable, therefore, the application was recommended for approval, subject to the imposition of conditions detailed in the report.

A Member moved the Officer's recommendation, which was seconded and it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

DC.98/18 WAVERLEY VIADUCT

The Regeneration Manager submitted report ED.36/18 – Waverley Viaduct which considered an application for the creation of a public footpath on private land on the northern side of the viaduct.

The Carlisle Waverley Viaduct Trust (CWVT) wanted to create the path so as to join the two footpath networks on either side of the Viaduct. The Regeneration Manager outlined the history of the structure which had closed in 1969, and had become the site of anti-social behaviour, with several applications for palisade fencing at either side of the Viaduct being permitted in an effort to prevent further vandalism taking place.

The Development Manager summarised the background of the creation of the CWVT which had been formed when a number of key signatories to a petition to open the Viaduct had come together to form a Trust. Such a body was able to apply for funding and grants to carry out works to the structure which the Council was precluded from. CWVT had submitted an application for Planning Permission for the path, which had been approved by the Committee at its meeting of 27 April 2018, that consent had led to the application before Members.

The Legal Services Manager stated that Public Path Creation Orders (PPCOs) were not a matter that the Committee regularly dealt with, as such applications were usually determined by Cumbria County Council, was the City Council to consider that the PPCO was needed, it had the requisite powers to make the Order.

The two primary factors which Members needed to consider in determining the application where set out in Section 26(1) of the Highways Act 1980 as follows:

- a) the extent to which the new public right of way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and
- b) the effect which the creation would have on the rights of persons interested in the land crossed by the public right of way, taking account of the provisions as to compensation in Section 28 of the 1980 Act.

These two factors were to be weighed in the balance.

Accordingly, the Legal Services Manager instructed Members to give thought to whether they felt the footpath was needed and the impact of the balance of public and private rights. Were the Committee to approve the PPCO, the Council would make the Order which would be open to public consultation for 28 days, if no objections to the Order were forthcoming during that time the matter would then be brought back to the Committee where Members would be asked to confirm the Order. Should any objections to the Order be submitted the matter would be considered at a Public Inquiry after which the Secretary of State's decision would be final.

The Regeneration Manager explained that the PPCO was not needed for the entirety of the path, only a small section on the northern side which was shown on the plan in appendix 4 as the green hatched area, the CWVT had the necessary agreements with the relevant landowners for the construction of the remainder of the path.

The cost of the PPCO process had the potential to be significant, especially if a Public Inquiry was required, the Regeneration Manager advised Members to give careful consideration to that aspect of the proposal.

The Corporate Director of Economic Development added that the CWVT had agreed that the making of the Order should not cost the Council money, and that the Trustees had undertaken to fund the process.

The Legal Services Manager advised the Committee that in addition to the costs of the PPCO process, there were potential additional costs related to compensation to the relevant landowner and the costs related to the construction of the path, all of which the CWVT had stated it was prepared to pay. On that basis, she recommended that were the Order to be approved the Council undertake an agreement with the CWVT to secure all necessary monies, upfront, in order to protect the Council's financial position.

The Committee gave consideration to application.

A Member asked why Cumbria County Council had not determined the application.

The Legal Services Manager advised that both Councils had the same power, on this occasion the application had been made to the City Council.

Another Member asked why the matter was being considered by the Committee?

The Legal Services Manager responded that, as detailed in the Legal comments in the report, the decision was a Council (not Executive) function, being listed in Schedule 1 to the Local Government (Functions and Responsibilities) (England) Regulations 2000 (as amended) ("The Functions Regulations"). The Council's Scheme of Delegation provided that the exercise of powers relating to the regulation of the use of highways and public rights of way as set out in Schedule 1 to the Functions Regulations be delegated to Development Control Committee.

A Member considered that the report had been clear and concise, and demonstrated that the benefits to the public of the PPCO outweighed the impact to the landowner which she felt would be minimal. In her view, it was right that the path would run alongside the embankment, and given that Committee had granted Planning Permission for the path she felt it appropriate that it approve the PPCO.

Whereupon the Member proposed that Officers be authorised to make the Public Path Creation Order and commence the statutory 28 day consultation period, subject to the applicant's written agreement on the issue of payment of costs and compensation and the payment of sufficient funds on account. The proposal was seconded.

Another Member commented that the need for the path had long been established and the proposal had widespread public support. He hoped that the CWVT would be prepared to pay the Council upfront for administering the process as he was concerned that costs may rise and he did not wish to see the Council put in a position where it had to bear costs.

The Corporate Director of Economic Development understood that the CWVT were prepared to enter into an agreement with the Council, and that Legal Services would negotiate directly with the Trust on the matter.

A Member commented that he also supported the application, in his view, the land where the path was proposed to be sited was not fit for agricultural use, as a result he failed to see how the landowner would suffer any detriment as a result of the footpath being created. He asked whether it was possible to establish the reasons for landowner's objections.

The Legal Services Manager responded that it was not appropriate to speculate on the reasons for the landowner's objection to the PPCO, however, further detail on that point may come to light in the event of the landowner submitting an objection to the making of the Order.

Another Member sought confirmation that the submission of an objection to the making of the PPCO by the landowner would result in matter being put to a Public Inquiry.

The Legal Services Manager advised that any objection to the making of the Order would necessitate a Public Inquiry to determine the matter.

The Member further considered that a legal agreement was of limited value if it was not backed-up, he felt it was very important that the Council was certain that it would receive the necessary funding from the CWVT, he asked whether it was possible for the agreement to be underwritten.

The Legal Services Manager appreciated the Member's concern, she explained that the Council in its agreement with the Trust would request that all necessary monies would be paid upfront, and that work on the making of the Order would not commence until the funds had been received. Additionally, she advised that Trusts were able to be disbanded, in order to prevent the Council from incurring any costs related to the making of the Order, consideration would be given as to whether it was more appropriate to make the agreement with individual members of the Trust so as to safeguard the Council's position.

The Chairman noted that a proposal to authorise Officers to make a Public Path Creation Order and commence the statutory 28 day consultation period, subject to the applicant's written agreement on the issue of payment of costs and compensation and the payment of sufficient funds on account had been put forward and seconded. The proposal was put to the vote and it was:

RESOLVED – That Officers be authorised to make a Public Path Creation Order and commence the statutory 28 day consultation period, subject to the applicant's written agreement on the issue of payment of costs and compensation and the payment of sufficient funds on account.

[The meeting closed at 12:38pm]