

## **DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY 3 OCTOBER 2014 AT 10.00 AM**

**PRESENT:** Councillor Scarborough (Chairman), Councillors Bloxham, Mrs Bradley, Caig, Earp, Gee, McDevitt, Mrs Parsons, Ms Patrick, Mrs Prest, Mrs Stevenson (as substitute for Councillor Mrs Warwick) and Wilson

**ALSO**

**PRESENT:** Councillor Bainbridge attended the meeting as Ward Councillor in respect of Application 14/0657 (Fell View Nursery, Hethersgill, Carlisle, CA6 6EY)

Councillor Collier attended the meeting as Ward Councillor in respect of Applications 14/0594 (Orchard Farm, Moorhouse, Carlisle, CA5 6EY) and 14/0555 (land to rear of Midtown Farm, Great Orton, Carlisle, CA5 6NA)

Councillor Higgs attended the meeting as Ward Councillor in respect of Application 14/0472 (Skelton House, Wetheral, Carlisle, CA4 8JG)

**OFFICERS:** Director of Economic Development  
Development Manager  
Legal Services Manager  
Planning Enforcement Officer  
Planning Officers (x4)

### **DC.75/14 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillor Mrs Warwick.

### **DC.76/14 DECLARATIONS OF INTEREST**

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

All Members of the Committee – Interest – Application 14/0547 (50 Victoria Place, Carlisle, CA1 1HP) – one of the objectors is known to them

Councillor Earp – Interest – Application 14/0472 (Skelton House, Wetheral, Carlisle, CA4 8JG) – some of the objectors are known to him

Councillor Earp – Registrable Interest – Applications 14/0490 (land adjacent Fallowfield, Plains Road, Wetheral, Carlisle, CA4 8LE), 14/0627 and 14/0648 (Orchard Lodge, Great Corby, Carlisle, CA4 8NE) – he is a member of Wetheral Parish Council

Councillor Ms Patrick – Interest – Application 14/0472 (Skelton House, Wetheral, Carlisle, CA4 8JG) – she is related to one of the original objectors. Councillor Ms Patrick advised that she would leave her seat on the Committee and not take part in the consideration and determination of the application.

## **DC.77/14 MINUTES OF PREVIOUS MEETINGS**

The Minutes of the meetings held 18 June 2014, 19 June 2014, 20 June 2014, 23 July 2014 and 25 July 2014 were approved and signed by the Chairman as a correct record of the meetings.

The Minutes of the site visits held on 1 October 2014 were noted.

## **DC.78/14 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.79/14 CONTROL OF DEVELOPMENT AND ADVERTISING**

RESOLVED – That the applications referred to in the Schedule of Applications under A, B, C and D be approved/refused/deferred, subject to the conditions as set out in the Schedule of Decisions attached to these Minutes.

### **(1) Erection of 1no dwelling with detached garage, Orchard Farm, Moorhouse, Carlisle, CA5 6EY (Application 14/0594)**

It was moved and seconded that consideration of the application be deferred to allow an independent highways report on the proposed access arrangements.

A Member stated that whilst he had sympathy for the Members' views he could not support the motion to defer the application. A second Member stated that she was against the motion as there were already six entrances onto the road and it would be difficult to say that a potential additional access would require an independent assessment. The Member suggested that Officers could talk to the Highway Authority with regard to traffic calming measures.

A Member stated that he acknowledged the comments. The bus on the site visit had driven down a different road which could be used for the access. The Member queried how many more accesses could be approved before the situation was assessed.

Two Members stated that they had not attended the site visit and therefore would not vote on the motion.

Following a vote it was agreed that consideration of the application would not be deferred.

The Planning Officer submitted the report on the application consideration of which had been deferred at the previous meeting to allow a site visit to be undertaken. The site visit was held on 1 October 2014. The application had been advertised by means of a site notice and direct notification to the occupiers of four of the neighbouring properties. In response one letter of objection had been received and the Planning Officer summarised the issues raised therein.

The Planning Officer reminded Members that the application sought planning permission for a two storey dwelling. The principle of development on the site was acceptable under the provisions of the National Planning Policy Framework. The proposal would not adversely affect the living conditions of adjacent properties by poor design, unreasonable overlooking or

unreasonable loss of daylight or sunlight. The siting, scale and design of the proposal was considered acceptable and would be well related to the existing built form of the village.

The Planning Officer presented slides showing site plans that indicated the route of the highway and the proposed access. The Planning Officer also presented photographs of the site from a number of locations.

The Planning Officer explained that the proposed dwelling would be two storeys in scale. Orchard Farm House to the north-west was two storeys in height and the gable faced the road and adjacent to the site was a single storey detached bungalow. On the opposite side of the road were a number of single storey and one and a half storey detached properties. All of those properties, perhaps with the exception of Orchard Farm House, had a significant degree of established boundary treatment along the roadside frontage. The proposed property would be set back from the frontage and in that regard would be acceptable in the context of the character of the area.

The proposal involved the formation of a new access onto the County highway and would be within the restricted 30mph speed limit. The Parish Council had raised concerns that the application was on a corner site and access to the site was dangerous. It was further stated that the plans were inaccurate insofar as they did not sufficiently show the curvature of the road.

During the course of the site visit, Members questioned whether the access could be taken from the road to the rear which served the farm and the converted outbuildings and new dwellings.

In 2007 planning permission was granted for the redevelopment of the site to convert a barn to a dwelling together with the erection of two new dwellings. Those, coupled with the farm house and the proposed new dwelling, would total five dwellings with access from the road to the rear. Although that was below the threshold for which the road would need to be adopted, the applicant wanted to retain the access from the frontage which they believed would be provide a better layout within the site. The Highway Authority had assessed the proposal, and subject to the imposition of highway related conditions, including the reduction of the hedgerow, had raised no objection.

The proposal was considered to be compliant with the objectives of the relevant Local Plan policies and the application was recommended for approval.

Councillor Collier (Ward Councillor) addressed the Committee and stated that he objected to the application. The Parish Council had indicated that the applicant had failed to complete that part of the application form relating to trees and hedges. The site was currently an orchard and if the application was approved it would be lost for ever.

The Ward Councillor added that he was not happy with the proposed access arrangements as the proposed access was onto a busy road. Although the road was within a 30mph speed limit drivers did not keep to that limit. Councillor Collier queried why the access could not be from the rear of the property where visibility plays were better.

The plans indicated that the house was large and Councillor Collier queried why such a large house was needed on the site.

The Committee then gave consideration to the application.

A Member moved approval of the application but requested that Officers contact the Highway Authority and enquire whether it would be possible to install traffic calming measures. Some areas have flashing speed warning signs which have been successful in reducing the speed at which drivers travel.

The Development Manager explained that the Highway Authority had advised that no change to the highway was needed so it would not be possible to impose such a condition. However the suggestion had been noted and the Planning Officer would write to the Highway Authority to advise them of Members' concerns.

A Member seconded the motion to approve the application.

Following a vote it was:

RESOLVED – That the application is approved subject to the imposition of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

**(2) Erection of a single wind turbine (500kW), 50m hub height, 74m to tip height and associated substation unit, land to rear of Midtown Farm, Great Orton, Carlisle, CA5 6NA (Application 14/0555)**

The Planning Officer submitted the report on the application which had been the subject of a site visit held on 1 October 2014. The application had been advertised by means of site and press notices as well as notification letters sent to neighbouring properties. In response 24 letters of objection had been received. The Planning Officer summarised the points raised therein.

The Planning Officer reminded Members that an application was approved by the Committee in July 2012 for the erection of a turbine of the same dimensions as that proposed. Members saw that turbine in the context of the existing six turbines, which were smaller, on the site visit. The proposed turbine was located 245m from the existing turbine at Midtown Farm.

The Planning Officer presented a map showing the relationship between the proposed turbine and the existing turbines in the area including those in the Allerdale area which had been approved or were in place.

The Planning Officer further presented a number of photomontages of how the turbine could appear taken from the roads surrounding the site.

The Planning Officer recommended approval of the application.

Councillor Collier (Ward Councillor) addressed the Committee and stated that he objected to the application on behalf the Parish Council and residents who had unanimously objected to the application at a recent meeting of the Parish Council.

The Ward Councillor queried how many more turbines would be erected in the area. If the turbine was a small erection for the farm that would be acceptable but the proposed turbine was on an industrial scale and was unacceptable in the area. Great Orton was dominated by wind turbines with two further applications within a five mile radius submitted. Councillor Collier acknowledged that those applications would be determined on their merits.

Councillor Collier queried the impact the turbine would have on wildlife. A recent study had indicated that bats and birds had been decimated by the existing wind turbines and he was also concerned about the migrating birds and geese to the area.

Whilst he had sympathy with the applicant Councillor Collier requested that the application be refused.

Mr Mulholland (Applicant) stated that he was a partner in the business of Mulholland Butchers and gave a detailed background to the business. Mr Mulholland advised that the turbine would be part of that business which had been forced to update their machinery in line with legislation and running costs had doubled, including electricity costs. Mr Mulholland had looked at how those additional costs could be offset now and for the future.

Mr Mulholland had spoken with Electricity North West who had advised that there was capacity for two further turbines in the area so if the application was approved there was the potential for only one further turbine on the site. The applicant had also spoken with H&H with regard to planning requirements and they had proposed the site in the application as it was between existing turbines and as far from the village as possible. The proposed turbine was also within a natural grouping and the site was slightly lower than surrounding fields which would reduce the impact.

With regard to wildlife Mr Mulholland advised that he had seen a lot of swallows under the turbines and the geese headed north before reaching the turbines so would not be in danger.

Mr Mulholland advised that only 4% of residents had objected to the application. Mr Mulholland stated that he understood the objections of the Parish Council. However he had lived in Great Orton all of his life and, if the application was approved, would provide an annual sum to help with facilities in the village.

The Committee then gave consideration to the application.

A Member was concerned about the height of the proposed turbine which could supply 800kW. Due to subsidies that output could be reduced to 500 kW which would require a smaller turbine which would be less visible to Great Orton and the surrounding area.

The Member was concerned about the cumulative impact of the turbines and therefore moved refusal of the application as it was contrary to policies CP2, LE2, LE3 and CP8. The Development Manager clarified the policies with Members and it was agreed that Policy LE2 was not applicable as the proposal did not directly impact on a Site of Special Scientific Interest (SSSI).

The motion to refuse the application was seconded. The Member stated that the area was unique as Members had to consider not just the cumulative effect in the Carlisle district but also of those turbines within the neighbouring district who had undertaken a lot of work within planning rules and regulations. The Member stated that Members should not be influenced by the proposal of a gift to the school as that should not be a consideration. The applicant had stated that only two more turbines could be erected in the area and the Member queried how many more could be erected before the cumulative effect could be a consideration.

Following a vote it was:

RESOLVED – That the application be refused for the reasons indicated within the Schedule of Decisions attached to these minutes.

**(3) Variation of Condition 2 (Approved Documents) of previously approved permission 10/1066 (Revised Application), Skelton House, Wetheral, Carlisle, CA4 8JG (Application 14/0472)**

Having declared an interest in the application Councillor Ms Patrick left her seat on the Committee but remained in the Chamber. Councillor Ms Patrick took no part in the consideration or determination of the application.

The Planning Officer presented slides that showed the plans of the proposed property and photographs of the site.

The Planning Officer submitted the report on the application which had been advertised by means of a site notice, a press notice and direct notification to the occupiers of 133 of the neighbouring properties. In response 67 letters of objection had been received as well as seven additional letters of objection including a lengthy commentary from the Save Wetheral Village Group which had been sent to Members of the Committee on 1 October 2014. The Planning Officer summarised the issues raised therein. Members of the Save Wetheral Village Group had stated that:

- the plans were variations of the previously refused application and not based on the previously approved application;
- they believed that the applicant was increasingly desperate to be given permission to build on the extant foundations which were built without permission;
- the villagers continue to hold that by any measure increasing the size of a building by one fifth and its volume by one quarter was clearly not a minor material amendment;
- the Group did not understand how changes which sought to make amended drawings more like the approved plans were actually amendments of the approved plans;
- the proposed drawings did not safeguard the setting of the adjacent listed property, Acorn Bank since the building would be built on foundations which had been shown to be forward of the building line of Acorn Bank;
- the removal of the projecting bays was another example of proof that the drawings were amendments of 13/0521 and 14/0033 and not 10/1066;
- no variation was sought to the condition requiring the boundary wall to be increased, yet the original condition was itself based on the retention of the detached barn which had been demolished without planning permission;
- the group believed that Member should consider whether the introduction of additional rooflights at such high level suggested the possibility at any time of adding additional living accommodation and that a restriction should be placed on the site to limit the total number of units to fifteen;
- the rooflights marked on the floor plans did not coincide with the location of the rooflights shown on the elevation drawings;
- the Planning Inspector's decision validated the Members' decision to refuse to allow the very much larger and more intrusive building, and
- the Group were disappointed that Officers continued to recommend approval of the proposals contrary to the Carlisle Local Plan policies and to members' decisions to refuse similar applications, contrary to commentary within the Planning Inspector's appeal.

The Planning Officer reminded Members of the lengthy planning history which had developed with regard to the site over the last eighteen months culminating in several refused planning applications and dismissal of an appeal by the Planning Inspector, a copy of which was included in the schedule.

The application had attracted a large number of objections which covered numerous issues. However it was important to recognise that the Planning Inspector considered only three issues in his assessment of the appeal, two of which were conjoined and covered the impact on the Wetheral Conservation Area and Acorn Bank, and the impact on the living conditions of the occupiers of neighbouring properties. In respect of the latter the Planning Inspector found that there would be no detrimental impact and it therefore followed that Members' sole consideration in the determination of the application related to the impact on the Conservation Area and Acorn bank.

The Planning Officer drew Members' attention to slides and photographs indicating the location of the extant and proposed schemes, floor plans and elevations, plans indicating the position of rooflights, and the bin store which would be detached from the building towards the rear.

The submitted drawings showed a comparison between the approved scheme and the current proposal. Members were reminded that the principle of a building of similar height had already been approved under the previous application and was based on Officers' assessment of the proposal. The scheme was not wholly contradictory to the approved scheme to relent on previous evaluations. The perceived height of the building when viewed from the front elevation was broken up by the projecting gables and the attention to architectural detail. The scheme had been further revised to take account of the Planning Inspector's decision and introduced greater depth and variation to the frontage on the form of the three gables and being set further back.

The architect had confirmed that the insertion of rooflights was required due to the reduction in the number of windows in the top floor flats which had resulted in a very low "daylight factor" that was currently well below the recommended minimum. Consequently additional roof lighting had been introduced to ensure that there was adequate natural day lighting in the flats. The architect had submitted revised elevations relating to the rooflights which correctly showed the alignment with the floor plans and the position of the central four rooflights on the south elevation. Two rooflights had been removed from the east and west elevations which conflicted with a valley and the position of two rooflights had been corrected on the east and west elevations so that they concurred with the plan and were therefore nearer to the eaves.

It was further confirmed that the rooflights would be a conservation style. Although that would affect the appearance of the building they would not result in a loss of amenity to the occupiers of the neighbouring properties. Should Members be minded to approve the application the Planning Officer recommended that a further condition was imposed requiring the rooflights to be conservation style.

Although foundations had been laid in the site, together with the installed drainage system, they would have to be amended should the application be approved.

With reference to the Save Wetheral Village Group comments regarding the boundary wall adjacent to Carleul and the retention of the building, the Planning Officer advised that a condition had been imposed that would ensure that no unit could be occupied until the wall that delineated the boundary between the application site and Carleul had been raised in

height in accordance with the approved plans. The increased section of wall should be natural stone that should match the existing stone wall in both appearance and the way in which the stone was laid. There was no reference in the condition to the retention of the outbuilding.

The Planning Officer reminded Members that the applications to vary the planning consent related to that granted under reference 10/1066. It was synonymous with the planning situation that the applicant would make reference to previous applications for revision to the planning permission in order to demonstrate how planning concerns had been addressed.

For the reasons stated the Planning Officer recommended that Authority to Issue approval of the application be sought subject to the completion of a Deed of Variation to the Section 106 Agreement.

Mr Stephenson (Objector) addressed the Committee and stated that he was speaking on behalf of himself and two other residents. Mr Stephenson was surprised by the variations and that approval had been recommended. Little had changed between the current application and the previously refused 14/0033. The last set of amended plans had been submitted on 30 September which had not allowed sufficient time for objectors to respond.

Mr Stephenson reminded Members of the Planning Inspector's decision and presented slides related to the application which he believed showed an over simplification of the similarities between the approved foundation and that of the current application, how little the overall massing had changed and the lack of change on the first and second floors. Little had changed in respect of the Planning Inspector's concerns.

Mr Stephenson objected to the excessive number of Velux windows and which had been a stated by the Planning Inspector to be a legitimate concern.

With regard to the boundary wall Mr Stephenson reminded Members that the original condition was conditional on the retention of the barn which had been demolished. If no change was sought to that condition it followed that the barn should be rebuilt or retrospective planning permission for its demolition sought.

Mr Stephenson stated that the Information Commissioner's Office had advised members of the Save Wetherall Village Group that the Council had acted illegally when they had refused to provide the Group with access to the pre-application advised which preceded the approved application within 20 days under the Environmental Information Regulations. Mr Stephenson requested that consideration of the application be deferred to allow the Council to provide that advice which would show minor material amendments based on the pre-application advice.

Four hundred letters of objection had been submitted. The developer had submitted plans that fit the foundations that had been laid without approval. Mr Stephenson believed that the application was contrary to Local Plan policies CP5, H1, LE12 and LE19 and that more drastic modification was needed before the building fit better into the Conservation Area.

Mrs Ferguson (Objector) addressed the Committee and advised that she was speaking on behalf of herself and one other resident. Mrs Ferguson explained that she had recently been informed of the 1996 Party Wall Act which she, as well as English Heritage, believed should have been taken into account as a matter of good practice, although it was not a legal requirement. Mrs Ferguson was concerned about the impact of the construction of the proposed building on the foundations on Acorn Bank which had little or no foundations. Mrs



Ferguson presented photographs showing the foundations of her property and the close proximity to the application site. The developer, and agent and the Council were all aware of the matter and yet no-one had mentioned it. The original case officer had touched on the subject and reported in his original report Mrs Ferguson's concerns.

Mrs Ferguson stated that the repeated use of false and exaggerated plans continued and the drawings continued to show Acorn Bank and Carleul closer to the south boundary than they actually were. The Planning Officer had refused to meet with the objectors to check that information. Mrs Ferguson believed that the developer had no intention of building application 10/1066 but always intended to build a larger scheme. Mrs Ferguson hoped that the confirmation from the Information Commissioner's Office would answer some of the objectors' questions and explain why the Council had previously refused to allow the Save Wetheral Village Group to see the requested information.

The development would be the largest ever seen in the Parish. Mrs Ferguson believed that the application was a farce and had caused concern and confusion over the years to distract from the main issues surrounding why the application should be refused. Mrs Ferguson did not believe that the current application could fit on the foundations already laid on the site and listed a number of reasons why the application should be refused.

In conclusion Mrs Ferguson stated that although residents fought to have application 10/1066 refused they were now fighting to have that built rather than other applications that had been submitted.

Councillor Higgs (Ward Councillor) addressed the Committee and stated that the application was the latest in a long series to vary the previously approved 10/1066. Residents knew the history of the application and the variations. Councillor Higgs was concerned about the increase in size of the development, the appearance of the front door, the sky lights and the forward footprint of the proposed building. There was also concern about parking on the site and the bin store. The developer had laid foundations which had not been approved and a stop notice had been imposed which had been ignored.

Councillor Higgs stated that he had not seen anything that had galvanised residents so much as the applications on the development of the site. He acknowledged that the developer had attempted to tackle many of the issue but added that the main objections were that the scheme was too big and would not enhance the Conservation Area or neighbouring buildings. That view had been endorsed by the Conservation Area Advisory Committee, the Development Control Committee and the Planning Inspector. For those reasons the Ward Councillor requested that the application be refused.

Ms Johnston (Agent) responded to the issues raised and explained that she was attending the meeting to summarise the amendments to the application. Ms Johnston reminded Members that there was an extant approval for development on the site and the findings of the Planning Inspector. As a result of the concerns of the Planning Inspector Ms Johnston advised that she had revisited the scheme and analysed the design afresh. Ms Johnston summarised the Planning Inspector's concerns and the actions taken to rectify those concerns.

Ms Johnston presented slides that indicated the site plans showing the front street elevation which had been moved further back into the site, and the south elevation which indicated that the design was asymmetrical, the roof on the right had been lowered, the balconies had been removed and the doors were now functioning doors leading to the two ground floor flats. No

part of the roofline projected higher than the approved scheme and that, combined with the overall reduction in length of the whole elevation resulted in a significantly smaller area of street frontage.

With regard to rooflights, Ms Johnston explained that additional rooflights were added to improve the daylight within the third floor flats as the area of those windows did not currently meet regulations minimum standards. In response to concerns from residents Ms Johnston stated that she had looked at the removal of the rooflights to the front street elevation. Furthermore Ms Johnston confirmed that the height of the rooflights would be such that they would not create an overlooking issue.

The Conservation Area Advisory Committee had indicated that they found it difficult to compare the computer drawings of the proposed design with the hand drawn drawings of 10/1066. Ms Johnston presented a hand drawn elevation of the proposed design for reference purposes.

Ms Johnston advised that the changes proposed in the application were not insignificant or superficial. The consequences of the changes would reduce the footprint and height of the building, the position of the building in relation to the front street and the overall massing of the front elevation and Ms Johnston believed that the changes fully addressed the Planning Inspector's concerns.

The Committee then gave consideration to the application.

A Member believed that the Planning Officer's report and the plans did not agree and stated a number of discrepancies. The Member queried which plans were being looked at, there had been four variations, and whether the Planning Officer or the developer had considered the wrong set of plans. The current application was still larger than the previously approved application and the Member was concerned about the potential creep on the southern aspect. The proposed development would be a bulkier building which would create a certain amount of shade on Acorn Bank. The Member did not believe the proposed building would enhance the street scene of the area to blend in with adjacent properties. The Member reminded the Committee that the Council's Conservation Officer did not approve of the proposals.

For those reasons the Member moved refusal of the application as it was contrary to policies CP5, LE12 and LE19.

The Planning Officer advised that he was quite familiar with the application and that there had been a number of variations, the latest of which had been received on 30 September. The issue of the impact on the street scene and the Conservation Area was an issue for Members to consider.

A Member requested an explanation in respect of the Freedom of Information request. She was aware that Freedom of Information requests could be refused on a number of grounds one of which was that the information was confidential and commercially sensitive. The Member believed that pre-application advice was confidential and commercially sensitive and was surprised at the judgement made. The Member was concerned about the potential effect on the planning system. A great deal of issues were sorted out in pre-application discussions rather than the necessity to have changes to the application submitted. That saved time and money to all concerned and prevented misunderstandings.

The Legal Services Manager replied that the Member's understanding was correct and that the impact of that decision would be widespread, affecting all local planning authorities and the manner in which they dealt with pre-application advice. While a request had been made by the Save Wetheral Village Group under the Freedom of Information Act, as the request related to land it had to be dealt with under the Environmental Information Regulations 2004. The relevant exemption under those regulations was slightly different and was available where information could adversely affect the developer's rights. The Council had spoken to the developer which had not consented to the release of the information and had explained the impact on its rights. These had formed the basis of the refusal of the request. Following appeal, the Information Commissioner's Office had determined that the effect on the developer's rights were not sufficient to refuse to disclose the requested information. Prior to this decision no case law had existed on the application of this exemption.

A Member seconded the proposal to refuse the application and believed that the applicant should be stopped from submitting variations to the application and build the approved scheme.

A Member was concerned that the Committee had been advised about the Information Commissioner's decision at the last minute and the information should have been included in the report or passed to Members in some way. The Member queried why the developer could not build the scheme which had been approved. The Member had come to the meeting with an open mind and because of the arguments put forward and because the information within the Officer's report differed to that put forward by the Agent he did not believe that the Committee had the strength to make an informed decision and therefore he would vote against the proposal.

The Legal Services Manager advised that there had not been time to advise Members of the Information Commissioner's decision but that the Council was still considering whether or not to appeal against that decision. The relevance of the decision to this application was doubtful as the pre-application advice related to a different proposal and Member had to consider the application before them.

The Member replied that the Save Wetheral Village Group had received the information on Monday and brought it to the meeting. The Member believed that there had been time to inform Members.

A Member stated that she was not a member of the Committee when application 10/1066 was approved but she had watched the subsequent applications and would like to see the matter resolved. The Member had also come to the meeting with an open mind and, as the architect explained, the applicant had done a great deal of work to overcome the objections of the residents and the Planning Inspector. It was worth noting that the Council had served a stop notice on the developer which had been ignored. The developer had been taken to court and received a heavy fine.

The Member moved approval of the application.

A Member seconded the motion to approve the application. He believed that there had been contributions from the architect and the Planning Officers and he would be happy to second approval of the application on condition that Officers ensured that the developer complied with the construction.

A Member was confused about the differing information and therefore did not believe that she could make a decision. The plans did not agree and the narrative did not agree and therefore the Member was concerned.

The Legal Services Manager advised that if the Member was confused and did not feel able to make a decision she should not vote on the determination of the application.

A second Member was also confused about the information that had been presented and advised that she would abstain from voting on the application.

The Legal Services Manager further advised that if a number of Members were of the same mind consideration of the application could be deferred.

A Member stated that the Officer's report and the site plans did not agree. The Member queried how the Committee could make a decision if they did not have all of the information and moved that consideration of the application be deferred to allow clarification on the application to be given. That motion was seconded.

Following a vote it was unanimously:

RESOLVED – That approval of the application is deferred in order to seek clarification regarding the submitted documents that comprised the application and to await a further report on the application at a future meeting of the Committee.

The meeting adjourned at 11.37 and reconvened at 11.50.

**(4) Change of use from clinic to shared accommodation comprising 50no bedrooms and communal facilities, 50 Victoria Place, Carlisle, CA1 1HP (Application 14/0547)**

The Planning Officer submitted the report on the application which had been advertised by means of site and press notices as well as a notification letter sent to five neighbouring properties. In response eight letters of objection (from six different households) had been received. The Planning Officer summarised the issues raised therein.

The Planning Officer presented slides showing the location plan and photographs of the site. The Planning Officer advised that the last page of the updated response from the Crime Prevention Officer contained within the Supplementary Schedule was missing. The response provided advice on security alarms, lighting and CCTV. The missing page had been forwarded to the applicant for consideration.

The Planning Officer explained that he had discussed the application with Officers in Housing who had advised that the accommodation would be a licensed House in Multiple Occupation and a licence would be required from the Council. The owner would be required to comply with the House in Multiple Occupation regulations. The amenities in the property would need to comply with those laid out in the Council's adopted amenity standards for licensed HMOs and the current layout did comply with those standards. The owner of the property would also be required to undertake a risk assessment under the Regulatory Reform Fire Safety Order. In order to advertise as a student accommodation provider with the University of Cumbria, the owner would be required to sign up to the Cumbria Landlord Accreditation Scheme through the National Landlords Association.

A letter had been received from Carlisle College who had already raised concerns that the buildings may not be used for student accommodation. The college had been in contact with the Vice Chancellor of the University of Cumbria who had indicated that, to his knowledge, the University had not offered support for the proposed development and if further student accommodation was required in the future the preference would be for the extension of the University's accommodation at Denton Holme. The College continued to object to the proposal and suggested that the developers needed to submit clear evidence that the University supported the proposal by way of a letter from the University of Cumbria.

The Planning Officer had spoken to the University who had stated that they neither objected to nor supported the proposal.

The issue of need was covered within the report which stated that whilst there was enough student accommodation to meet the needs of students at present there was not a large over supply. The proposal would increase the range of accommodation available at the higher end of the market and would provide some two bedroom accommodation for which there was a need and would be in a very good location for students, adjacent to the City Centre.

The Planning Officer advised that a condition had been added to ensure that the accommodation should be used for student accommodation and for no other purpose. A new application would be required to use the building for another purpose.

Concerns had been raised by neighbours in respect of anti-social behaviour. A Management Plan had been produced which was included in the report. The Management Plan had been updated to include the enhancement of safety and security on site by the provision of a security guard service visiting at least three nights per week and the possible provision of CCTV.

The applicant had confirmed that they would identify procedures within each lease agreement stipulating that any anti-social behaviour would not be accepted and outlining actions to be implemented should that occur. Behaviour would be monitored on an ongoing basis, the structure reviewed and appropriate actions taken.

A further concern raised by neighbours related to parking. The Planning Officer advised that the scheme proposed 20 spaces for 58 students which was more than other student accommodation in the City. The previous use of the building would have generated significant parking in the area and alternative uses to the building, for example office use, could generate a lot more traffic than the proposal. A condition had been included that would prevent occupiers applying for residents' parking schemes which was also covered in the Management Plan. However the Planning Officer confirmed that he would make the County Council aware of the issues.

The Planning Officer recommended approval of the application.

Mr Calvert (Objector) addressed the Committee and stated that he was a resident on Strand Road. The proposed development could generate potentially 50+ cars going into the car park. There were already three schools and Carlisle College in the area with approximately 1000 children at certain times. Extra traffic could make the dangers worse. Most of the parking on Strand Road was unrestricted and the development would not help. The report stated that the students would not be able to apply for parking permits so the likelihood was that they would park on Strand Road. There was the potential for an increase in noise and rubbish. Mr Calvert believed that a more suitable application should be submitted.

Mr Swarbrick (Agent) responded to the issues raised and stated that the developer considered that the application provided a suitable development of a redundant building that formerly accommodated NHS facilities with associated offices, parking and traffic. In considering how best to utilise the building the developers considered that the application would not increase any loss of amenity locally and provided a sustainable location for University of Cumbria students close to the main campus at Fusehill Street. That would encourage students to walk or cycle to the University.

The provision of mixed level of accommodation provided students with a better choice of rooms including nine double/twin rooms. All rooms on the grounds and first floor would be en-suite.

The developers had engaged with the planning department throughout the application period to provide information. The developers understood the major concerns of residents were in respect of parking on the site. The matter had been raised during the application process and it was considered that the current proposals for change of use to student accommodation were better than other uses of the building that could be considered. Offices or similar could lead to an increase in traffic throughout the day. Historically students do not have a high dependency on cars. However the proposal provided greater parking provision than other sites in the City. On site car parking would be available through a permit scheme and disabled residents would be given priority. The developers understood that students would not be eligible to apply for residents parking permits and the Highways Authority supported the scheme subject to a management plan during construction which would be provided.

The developers had responded to queries over access, DDA requirements, crime prevention and all were incorporated into amended documents.

The provision of refuse bins had been identified as a potential issue and provision had been made in an existing outbuilding adjoining Hartington Street to provide such bins which would reduce noise levels.

The Committee then gave consideration to the application.

A Member stated that parking was available at the student accommodation at Denton Holme. The Member was concerned that there was nothing in place with regard to recycling. If the accommodation were individual properties a contribution would be required in respect of refuse and recycling collection. The application was for 50+ student rooms and no contribution was required. The Member suggested that Officers speak with colleagues in the Green spaces team as they were finding it difficult to keep up with the services required.

The Planning Officer explained that a condition was included to provide bins and he confirmed that he would speak to the Waste Services team with regard to recycling and update the condition. There was no request for a Section 106 Agreement from the consultees.

The Member was saddened that the proposal was to convert the building into student accommodation as it could have been a lovely development for families.

A Member was disappointed that the ground floor would accommodate ten people and had a communal toilet. Mr Swarbrick had stated that all rooms would be en-suite or shared facilities. The Member believed that it would be better to have all rooms en-suite.

The Planning Officer advised that the lower basement would have communal facilities. The Planning Officer explained that the developer was trying to provide a range of accommodation to meet different financial needs.

A Member queried whether the Fire and Rescue service had been consulted and asked for assurance that that had been dealt with.

The Planning Officer explained that the applicant was required to undertake a risk assessment as part of the Homes of Multiple Occupancy licence. The applicant had discussed the matter with Building Control.

With regard to parking the Member queried whether there was anything the City Council could do with regard to residents' parking on Strand Road. A former Councillor had pushed for a better parking system in that area.

The Planning Officer confirmed that he would discuss the issue with the Highway Authority and make them aware of the concerns raised by Members.

The Member requested more information to be included in the Management Plan and queried whether there would be a tenancy agreement. The Member believed that something should be issued to each student indicating their responsibilities and help with their behaviour. The agreement should also outline their responsibility. That would avoid future disputes and maintain the quality of accommodation.

The Member also requested more detail in line with other student accommodation provided locally. The Management Plan indicated that there would be a level of care and servicing on site and the Member queried who would provide that. The person would be dealing with young, inexperienced people and requested an assurance that appropriate management arrangements would be in place and adhered to.

With regard to cleaning, the Management Plan stated that contract cleaners would be employed. Full details would be required in respect of who would employ those cleaners and there were no details of whether the cleaning would take place at the beginning and end of term or more frequently.

The Member further suggested that the crime prevention methods be incorporated and that the applicant or a management representative joined the Landlord Accreditation Scheme.

The Member requested that a condition be included with regard to security either in terms of CCTV or regular visits by a security firm. If all of those suggestions were included the Member stated that she was happy to move approval of the application.

The Planning Officer advised that the management arrangements had been updated to cover security and CCTV would be a consideration. The Management Plan was an approved document and covered the relevant issues. The Planning Officer explained that it would be difficult to provide too much information at the present time and the applicant was waiting to see whether the application was approved. They had undertaken a lot of work and the Management Plan contained a lot of information about what the applicant would do if the application was approved.

With regard to the Landlord Accreditation Scheme that issue was covered by the licensing of the property as a House of Multiple Occupation.

The Director of Economic Development advised that the issues around parking had been raised twelve months previously and she had worked with the late Councillor Whalen and spoke to the Highway Authority regarding the residents' parking scheme.

With regard to the Landlord Accreditation Scheme the Director of Economic Development advised that it was important to ensure an adequate tenancy lease agreement to protect the tenants and local residents. If there were any problems with noise or anti-social behaviour the landlord could take action. It would also protect the landlord and would make it easier if everyone knew their responsibilities.

The Planning Officer explained that the updated version of the Management Plan indicated that behaviour would be monitored and that there would be a lease agreement in place which would include anti-social behaviour.

A Member stated that the lease agreement would also require details of the landlords' responsibilities for their protection.

The Development Manager advised that a condition could be included to include the issues raised notwithstanding the provision of the Management Plan.

A Member stated that whilst he was happy that something was being done with the building he was not happy with the shared facilities and believed that something better should be offered. The Member was also not happy that students would not be able to apply for parking permits as he believed that would push the parking problem elsewhere and he was aware of the problems that already existed in the area. The Member queried what the building would be used for if it was not required for student accommodation and believed the matter should be looked at more closely and in particular policies CP6, T1 or T2. If the developer was not providing sufficient car parking and saying that students could cycle then money from the development should be used to provide a safe cycle route.

A Member had similar concerns and stated that someone had invested a huge sum developing accommodation for which there was already an adequate supply.

The Member believed that parking in the area could not be compared to other areas and there was no more capacity for additional parking. Students would take up the unrestricted parking spaces in the area. The Member queried how many of the garages would be available for students and how many cycle spaces were available in the cycle store. No information was included in the report on a sustainable transport scheme.

A Member had seen in her own Ward how parking problems affect the area. The Director of Economic Development had stated that the parking issue would be taken into consideration and the Member suggested that the Planning Officer should contact the County Council as soon as possible to ensure an Officer revisits the area to look again at the parking issues.

The Planning Officer advised that if the building was used for offices more parking would be required in the area. A lot of students live at home and drive to college or university but those who move to Carlisle usually don't bring cars.



The Member queried on what issues the Access Officer had sought clarification and the subsequent response.

The Planning Officer explained that the Access Officer had requested an additional disabled toilet and the plans had been updated accordingly. All of the issues had been approved by Building Control.

It was moved and seconded that the application be approved with the additional conditions included and that the County Council be contacted with regard to the parking issues as quickly as possible. The Director of Economic Development confirmed that she would take the matter up.

Following a vote it was:

RESOLVED – That the application is approved subject to the imposition of relevant conditions as indicated within the Schedule of Decisions attached to these minutes. It was noted that Councillor Bloxham abstained from voting on the application.

The meeting adjourned for lunch at 12.37 and reconvened at 13.25.

**(5) Erection of live/work unit (Outline), Fell View Nursery, Hethersgill, Carlisle, CA6 6EY (Application 14/0657)**

The Planning Officer submitted the report on the application which had been advertised by means of a site notice and direct notification to the occupier of the neighbouring property. In response no representations had been received.

The Planning Officer presented slides showing plans of the proposed development and photographs of the site.

The Planning Officer advised that the Parish Council had objected to the application on the basis that the access had not been constructed to the previously agreed standards and that the business did not appear to be viable. Therefore in their opinion there was no need for a dwelling on the site. The Planning Officer explained that the applicant had clarified that the additional workshop space was required for the creation and construction for a number of items including the creation of Christmas wreaths and decorations which would create a need to store large quantities of stock at times.

Given the space and the items described, the business appeared to be more of an industrial use than a horticultural one. It also seemed to achieve that, the creation and construction of such items produced by the business was likely to be very time consuming. The stated use was more commonly found in industrial units rather than the countryside and if the applicant could be allowed to be distracted away from developing the horticultural business that lessened the claim that there was a need for a dwelling on the site.

The main issue for consideration in the application was whether the principle of a dwelling in the rural location was acceptable where residential development would not normally be permitted.

The applicant had tried to argue that a dwelling for a live/work unit should be assessed on its merits against planning policy and did not need to be financially assessed. Whilst there was no policy requirement to test financial viability, as there was with an agricultural workers

dwelling, policies require that in terms of housing there was an essential need and that economic development should be sustainable.

The applicant's business had been recently independently assessed and it was concluded that the business is unviable at present. In order to ensure that a sustainable contribution to the economy was made it would be vital that the business was profitable, otherwise such an argument could be made to secure a cacophony of dwellings in the rural area. No counter evidence of viability had been submitted by the applicant.

The Council had supported the applicant in her efforts to develop the business in terms of new vehicular access, workshops, polytunnels and a static caravan. That was furthered by the renewal of temporary planning consent to allow the retention of the caravan so that the business could be further developed. However, at the present time the provision of a permanent dwelling remained contrary to policy. There were no material considerations that warranted approval and the arguments submitted by the applicant were thin and insufficient to allow approval.

Therefore the Planning Officer recommended refusal of the application.

Councillor Bainbridge (Ward Councillor) addressed the Committee and advised that he was in favour of the application. The applicant had lived in a static caravan for the last six years whilst developing the business which had environmental concerns at its core. That had not been easy but the applicant had stuck to their commitment. As a live/work unit the application would be an improvement on previous applications. There had been an inference that the applicant sought to circumnavigate the planning process by submitting the application for a live/work unit. That was not the case. The applicant had sought advice from a planning agent.

There was a functional need for the applicant to be on the site which had been established previously. There was no requirement to demonstrate financial viability. The application was being judged on an implied threshold of profitability rolled over from the previous application which was not applicable. The applicant had undertaken access and workshop construction which demonstrated a commitment to the business.

The report made reference to the role of a website in promoting the business. The applicant was establishing a green food business which as a Food City the City Council had pledged to support. A business concerned about food miles could not have a website that would promote buying a plant and shipping across the UK.

Parish Councils are cautious in outlook and suggested that the Committee should consider conditions that enabled the work areas to be completed before the live areas.

The Ward Councillor believed the application to be sensible and would establish a food business that would bring a previously abandoned nursery back to life and would enhance the local area.

The Committee then gave consideration to the application.

It was moved and seconded that the application be refused in line with the Planning Officer's recommendation.

RESOLVED – That the application is refused for the reasons indicated within the Schedule of Decisions attached to these minutes.

**(6) Erection of dwellings (Reserved matters Application pursuant to Outline Permission 13/0546), land adjacent Fallowfield, Plains Road, Wetheral, Carlisle, CA4 8LE (Application 14/0490)**

The Planning Officer submitted the report on the application which had been advertised by the direct notification of ten neighbouring properties and the posting of a site notice and press notice. In response two representations had been received. The Planning Officer summarised the points raised therein.

The Planning Officer presented slides showing plans of the site and a number of photographs showing the range of design and ages of properties along Plains Road. There was also a photo visualisation of the proposed properties.

The Planning Officer explained that the application sought Reserved Matters approval for the erection of three contemporary detached dwellings within the grounds of Fallowfield.

The Parish Council and objectors had raised concerns in respect of highway safety. However, that issue formed part of the Outline Approval. The Highways Authority had been consulted on the current application and raised no objections subject to the imposition of conditions.

The Parish Council had also raised concerns about the adequacy of the existing drainage system to accommodate the additional dwellings. That issue was addressed within the report and stated that foul drainage would be to a package treatment plant as an interim measure until the upgrade of the Waste Water Treatment Plant. Surface water from the dwellings and that of Fallowfield would be via a filtration device.

The final concern raised by the Parish Council was the design of the dwellings. That issue had been discussed in detail within the report.

There was no vernacular style with a range of house styles, materials and designs along Plains Road. However as Members were aware design was subjective and the National Planning Policy Framework and Planning Policy Guidance made it clear that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. Therefore a judgement had to be made as to the impact of the proposal on the character of the area.

The Planning Officer recommended approval of the application subject to the completion of a Deed of Variation to a Section 106 Agreement in respect of the provision of a commuted sum towards off-site affordable housing provision. If the Deed of Variation was not completed within a reasonable time then Authority to Issue a Refusal Notice was requested to the Director of Economic Development.

The Committee then gave consideration to the application.

A Member queried whether the Section 106 Agreement could be used towards environmental enhancement. The Planning Officer advised that the Section 106 Agreement was in respect of off-site affordable housing. The Development Manager explained that Officers consulted

with colleagues in other departments and consideration had to be given to ensure that the Section 106 requirements of a development would be proportionate.

A Member stated that the Council had to be careful with Section 106 Agreements as they could make a proposed development unviable and the Council could be challenged if they were asking for too much. The Member believed it was more important to have affordable housing in rural areas to enable people to stay in the area.

It was moved and seconded that the application be approved.

The Director of Economic Development advised that a report on Section 106 Agreements would be submitted to the next meeting of the Committee and it was agreed that a training session would be useful when the report was ready.

A Member moved refusal of the application as he did not believe the proposed dwellings would fit in with other properties on Plains Road. Furthermore the existing house on the site was nothing like those proposed in the application. Therefore the Member moved refusal of the application as it was contrary to policy CP5.

A Member seconded the motion to refuse the application.

A Member who had lived in the area for many years was concerned that the proposed development was on the narrow part of Plains Road. The road carried a lot of vehicles commuting into Carlisle and there was no footpath, however the Member understood that a footpath was to be constructed.

The Member was concerned that construction traffic could cause an obstruction on Plains Road and suggested a condition be imposed to ensure that construction traffic parked within the curtilage of the site.

The Member was also concerned about the collection of refuse. If the access was too narrow it would be difficult for refuse vehicles to access the bin store and suggested that the bin store should be big enough to accommodate all of the required bins.

The Planning Officer advised that the outline conditions ensured the access met the requirements in respect of construction traffic parking on site and would condition the size and type of refuse collection area. The Planning Officer confirmed that there would be three dwellings constructed plus the existing dwelling on the site.

Following a vote it was:

RESOLVED – That the application is approved subject to a Deed of Variation to the Section 106 Agreement in respect of a commuted sum towards off-site affordable housing provision. If the Deed of Variation is not completed within a reasonable time, then Authority to Issue a Refusal Notice is requested to the Director of Economic Development.

**(7) Demolition of stone outbuilding (LBC), Stone Barn to the north of the Manor House, Kirkandrews on Eden, Carlisle, CA5 6DJ (Application 13/0246)**

The Planning Officer submitted the application, consideration of which had been deferred at the previous meeting to allow a site visit to be undertaken. The site visit had been held on 1 October 2014. The application had been advertised by means of a site notice, a press notice

and direct notification to the occupiers of two of the neighbouring properties. No representations had been made during the consultation period.

The Planning Officer reminded Members that the application was for the demolition of a stone outbuilding at The Manor House, Kirkandrews on Eden. The Planning Officer described the outbuilding and advised that very little of the roof structure remained. The building was constructed of randomly course rubble stone which was filled with rubble core in a lime mortar. The building was in a poor state of repair and was structurally unstable.

The Planning Officer presented slides and photographs of the site and the building.

The Planning Officer explained that the protection of heritage assets was a theme that ran through both the National Planning Policy Framework and Local Plan policies and there was a strong presumption in favour of their retention unless the appropriate policy criteria had been robustly assessed and there were material considerations which allowed for their demolition. It was the exception rather than the norm to consider applications for the demolition of listed buildings and wherever possible such heritage assets were repaired.

Consideration had been given to how best to sustain and enhance the heritage assets within the overall context of the site, comparing the options of the retention of the building against its demolition and the potential benefits to the adjoining buildings. It had been concluded that the significance of the heritage assets were best sustained, enhanced and preserved by the demolition of the barn. The continued retention of the building was likely to prejudice the sale of the estate and therefore continue the deterioration of the Manor House and clay dabbin barn. The proposed development was therefore considered to be in accordance with Paragraphs 131 and 137 of the National Planning Policy Framework and Policy LE14 of the Local Plan.

Section 13 of the Planning (Listed Building and Conservation Areas) Act 1990 required that certain descriptions of application for listed building consent, which included demolition, were referred to the Secretary of State. In that case, the application involved the demolition of the principal building and therefore should Members be minded to grant consent, Authority to Issue approval was sought subject to the referral of the application to the Secretary of State for approval.

The Committee then gave consideration to the application.

A Member was saddened that it had been proposed to demolish the building but appreciated the group value of the buildings. The barn was unstable and the Member had sympathy with the views of English Heritage. However the Member was concerned about the remaining barn and requested, if the application was approved, that a condition be imposed to prevent an application being submitted for the demolition of that barn.

A Member noted that the report stated that the clay dabbin barn would be preserved. English Heritage often put forward suggestions about listed buildings but then were not keen on helping the situation through. English Heritage had said that the barn should not be pulled down but that was not feasible. The Member believed the Council should do all it could to preserve old buildings but the building at Manor House was just a wall propped up by insecure methods.

The Member reminded the Committee that the wall was already falling down when it was listed and therefore the Council would not be able to take enforcement action. The Manor House was listed but needed a lot of work doing to it.

The Member moved approval of the application

A Member stated that the site visit had highlighted the poor condition of the building.

A Member stated that the Committee had no choice but to approve the demolition of the barn as there was virtually nothing left. The Member suggested that the stones in the wall be incorporated into a garden or frontage wall to retain what had been there.

The Member was concerned about the condition of the Manor House which had been on the market in the past. The Member assumed that someone had responsibility for the House and was required to take action to keep it watertight. The Member had noted that an upstairs window was open and there was a dip in the offshoot roof. The Member believed that if someone took on a listed building they had a duty to maintain that building and if it was listed it was important in both heritage and culture. The Member queried whether there was anything that the Council could do to encourage the repair and maintenance of the Manor House. English Heritage had suggested an urgent works notice. The Member stated that she would like to see grants available to help people to maintain listed buildings if they were not in a financial position to do so.

The Development Manager explained that while English Heritage offered advice they did not follow up that advice with actions. Enforcement would be up to the Council and there would need to be an itemised list to make the building watertight and secure. The Development Manager advised that the Council may wish to put an urgent works notice on the Manor House. If the applicant was then unable to do the work the Council could undertake the work and put a charge on the property.

There was a national Buildings at Risk register which was currently under review and prioritised opportunities for investment. At present there were currently a number of ancient monuments in the District on the list as well as the Corn Mill at Warwick Bridge.

The Director of Economic Development confirmed that Members' concerns would be considered.

A Member stated that the building was listed 30 years ago and he was not certain that the removal of the barn would encourage someone to purchase the Manor House. The Member suggested removing part of the barn and retaining the left hand side. The Member queried whether it would be possible to have a partial demolition of the barn.

The Planning Officer advised that, if Members were minded to approve the application, it would not guarantee that the other buildings would be repaired or maintained. The removal of the barn would facilitate the sale of the site. The current condition of the barn was no fault of the trustees.

With regard to the building the Planning Officer suggested that Members should consider what merit was in the retention of the building in the context of the other buildings and the group value.

The Development Manager explained that the application was for the total demolition of the barn and that Members could either approve or refuse the application or defer it for further consideration at a future meeting.

A Member seconded the motion to approve the application with a condition included that the clay dabbin barn be retained.

RESOLVED – That Authority to Issue approval of the application is granted with the imposition of conditions contained within the schedule and subject to notification and approval by the Secretary of State.

## **SUSPENSION OF STANDING ORDERS**

During consideration of the above Item of Business, it was noted that the meeting had been in progress for 3 hours and it was moved, seconded and RESOLVED that Council Procedure Rule 9, in relation to the duration of meetings be suspended in order that the meeting could continue over the time limits of 3 hours.

### **(8) Demolition of extension and garage; two storey rear extension to provide additional accommodation on ground floor with garden room and balcony above, Orchard Lodge, Great Corby, Carlisle, CA4 8NE (Application 14/0627)**

The Planning Officer submitted the report on the applications. Application 14/0627 had been advertised by the display of a site notice, press notice and by means of notification letters sent to eight neighbouring properties. In response to the original plans submitted five letters of objections from four separate households had been received. Application 14/0648 had been advertised by the display of a site notice, press notice and by means of notification letters sent to seven neighbouring properties. In response to the original plans submitted four letters of objections from three separate households had been received. The Planning Officer summarised the issues raised therein.

The Planning Officer presented a video of the site from a number of viewpoints and recommended the application for approval.

The Committee then gave consideration to the application.

It was moved and seconded that the application be approved.

RESOLVED – That the application is approved subject to the imposition of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

### **(9) Demolition of extension and garage; two storey rear extension to provide additional accommodation on ground floor with garden room and balcony above (LBC), Orchard Lodge, Great Corby, Carlisle, CA4 8NE (Application 14/0648)**

The Chairman reminded Members that the application was linked to the previous application and the Planning Officer's recommendation was for approval.

The Committee then gave consideration to the application.

It was moved and seconded that the application be approved.

RESOLVED – That the application is approved subject to the imposition of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

**(10) Demolition of dwelling and erection of 2no dwellings (Outline), Whingather, Carlisle Road, Brampton, CA8 1ST (Application 14/0606)**

The Planning Officer submitted the report on the application which had been advertised by means of a site notice, a press notice and direct notification to the occupiers of eleven of the neighbouring properties. In response five letters of objection had been received and the Planning Officer summarised the issues raised therein.

The Planning Officer recommended that the application be approved.

The Committee then gave consideration to the application.

It was moved and seconded that the application be approved.

RESOLVED – That the application is approved subject to the imposition of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

**DC.80/14 QUARTERLY REPORT ON PLANNING ENFORCEMENT**

The Planning Enforcement Officer submitted Report ED.35/14 updating Members on the scope of activities undertaken by the Planning Enforcement Officer.

He explained that, as at 22 September 2014, 145 enforcement cases had been recorded during 2014. The report outlined the nature of those cases and indicated that to date 8 cases remained active from 2013.

The Planning Enforcement Officer updated Members on cases where Enforcement Notices had been issued and explained the current position.

With regard to land adjacent 25 Ladysteps, Scotby the Planning Enforcement Officer advised that the applicant had submitted an appeal to the Planning Inspector which was allowed. The Planning Inspector had determined that the caravan could remain on the site.

With regard to land at Skelton House, Wetheral, the applicant had appeared in court in respect of the stop notice which had been imposed. The applicant was fined £8,500 plus costs.

With regard to land at South View, Houghton an enforcement notice had been issued in respect of vehicles on the land which had subsequently been removed.

The next meeting of the Cumbria Planning Enforcement Group was scheduled to be held in November at the offices of Eden District Council, Penrith.

A Member queried what the outstanding cases from 2013 were. The Planning Enforcement Officer advised that there was nothing major and involved some outstanding applications.

RESOLVED: That Report ED.35/14 be accepted and noted.



## **DC.81/14     ARTICLE 4 DIRECTION – COMMUNITY ASSET REGISTER**

The Planning Officer submitted Report ED.37/14 that set out consideration of issuing an Article 4 Direction to suspend permitted development rights for the change of use of buildings and land, registered as a Community Asset to other uses within the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

The Planning Officer explained that public houses and facilities within rural areas continued to provide an important facility within rural areas delivering a valuable service and social focus for local communities. The retention of those facilities was protected by policies within the Local Plan and the National Planning Policy Framework. However, over the past decades many communities had suffered the closure of valuable local amenities which had left many areas bereft of the assets that could help to contribute to the sustainable development of vibrant and active communities. Recognising how important local amenities were to local communities, the Government had introduced the Community Right to Bid legislation under the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012. The aim of the Community Right to Bid was to encourage more community focussed, locally led action by providing an important tool to help communities looking to take over and run local assets. The scheme allowed local communities to nominate an asset and request that the council include it on a list of assets of community value.

However, even though a public house may be listed as a Community Asset, that did not stop the owner undertaking another permitted business use from the premises. For example a public house could be converted into a shop, cafe, restaurant or betting office without requiring planning permission by virtue of the General Permitted Development Order (GPDO) and the Use Classes Order. The consequence of that was that valued community facilities such as public houses could be lost without any scrutiny or jurisdiction from the Council.

One avenue open to the Council to protect those important facilities was to issue an immediate Article 4 Direction with regard to public houses which would withdraw permitted development rights that would otherwise apply by virtue of the GPDO. The withdrawal of permitted development rights did not necessarily mean that planning consent would not be granted. It merely meant that an application had to be submitted so that the Planning Authority could examine the plans in detail.

The Planning Officer recommended that delegated authority be given to the Director of Economic Development to make, publicise and consider representations and, where she considered appropriate, confirm an Immediate Article 4 Direction under the Town and Country Planning (General Permitted Development) Order 1995 (as amended) to remove permitted development rights for change of use of public houses within Carlisle District, registered as Community Assets, under Part 3 of the same Order. Such a direction would operate alongside existing local development plan policies and help maximise the protection afforded to community facilities of value, in this case public houses.

In considering the report Members raised the following comments and questions:

A Member sought clarification on the comments from the Legal department. The Legal Services Manager explained that the comments set out the procedure and provided background information.

A Member advised that Wetheral Parish Council had put public houses on the Community Asset Register which came to the Council. One was then put up for sale which raised

problems as it was on the register. The owner appealed and won and the asset classification was removed. If a property was added to the register then removed on appeal where did that leave the status of that property.

The Legal Services Manager explained that applications for a property to be added to the Community Asset Register were made to the Council's Policy and Performance Team. There was an appeals process which involved the Director of Governance. In the case referred to by the Member the Director had looked at the issue and determined that the sales negotiations were under way when the application was submitted, which meant that the deal would be exempted from the Asset Register. A report was to be submitted to the Executive for a formal decision to be made and until that was done no properties were included on the Community Asset Register.

A Member believed that if people were putting properties onto the register and then that register did not materialise it was giving false hope.

The Development Manager explained that it had been a matter of timing. He had been in discussion with the Policy and Performance Team and a report would be submitted to the Executive before the next meeting of the Development Control Committee. It was not standard practice to put Article 4 Directions in place but they were useful. They provided powers to the Community Asset List that would not necessarily be followed up through the planning process. The Article 4 Direction would not change the right for people to bid for a property when marketed and sold.

A Member advised that the Parish Council had received advice from CALC. A meeting was due to take place in the near future between the Executive and the Parish Councils and the Member suggested that the matter could be born in mind at that meeting.

The Legal Services Manager advised that there was no automatic right for a building to be put onto the register. People could apply to have a property placed on the register which would be investigated by Council Officers and a report submitted to the Executive for a decision to be made.

**RESOLVED:** That delegated authority be granted to the Director of Economic Development to make, publicise, consider representations and, where she considered appropriate confirm an immediate Article 4 Direction to remove permitted development rights for change of use of public houses within Carlisle District, registered on the Community Assets Register, under Part 3 of the same Order.

#### **DC.82/14     CONSULTATION ON PLANNING APPLICATION NO 1/14/9015**

The Development Manager submitted Report ED.38/14 which set out the consultation and identified the issues for consideration on a planning application for new offices for Cumbria County Council.

The Development Manager explained that a planning application had been submitted to the County Council and the City Council's role was as a consultee in the process.

The Development Manager advised that the Design and Access statement submitted with the application stated:

“Cumbria County Council is looking for a contemporary and sustainable new office building that was simple in design and sympathetic to its setting within Cumbria and the site. The building will be serving the whole population of Cumbria and needs to reflect and support local natural materials with contemporary styling and simple robust materials.”

The Development Manager presented a number of photographs of the site and explained that two buildings were to be demolished. In recent changes to legislation a separate application for Conservation area Consent was no longer needed and was combined within the planning application. Photographs showed the view of the proposed building from opposite the site and the Development Manager advised that the building would be highly visible within the street scene. The Christ Church Gardens opposite the site were slightly offset and the view from within the gardens provided limited scope to see further than the frontage of the building.

Approaching the site from the south the Stanley Hall building dominated the scene but the existing buildings were apparent in the street scene. On the same side of the street as the site the view would be more restricted. A further photograph showed the view from William Street and the buildings to be demolished. Within the car park the boundary with Cecil Street Car Park was marked by a brick wall and some natural landscaping. The boundary would remain although new landscaping to soften this boundary will be planted. The proposed development remained on the William Street Car Park as the levels between the car parks vary by over one metre. Further photographs provided views of the rear of the properties on Cecil Street and Tait Street. Those properties had minimal rear yards and some had been extended to the rear wall.

The Development Manager advised that since preparing the report amended plans had been submitted and a number of slides were presented showing the revised proposals. There were a few changes and overall there was a reduction in office space. That had been reflected in changes to the site plan in a reconfiguration of the internal space although the initial concept of meeting rooms and conference room remained at the front of the building as did the open plan office arrangement for the rear of the building.

There had been a reduction in the length of the building that had been achieved by the relocation of the substation, bin store and secure cycle parking which had now been placed in the car park. Those changes resulted in an increase in five spaces to create 100 parking spaces including five disabled spaces. Cycle parking was now set at 20 spaces. Additional spaces and a change to the landscaping had also occurred in relation to a small change of the boundary which previously was protecting a residential access and had now been incorporated into the site. The increased landscaping also included additional green areas and tree planting indicated in the car park and at the boundary with Cecil Street Car Park. On the eastern elevation the reduction in size effectively removed two parking bays.

On the western elevation the ground floor appearance had changed and as the majority of uses which required access and ventilation had been relocated outside of the building it did mean that additional glass had been incorporated down to ground floor level.

A final photograph was of the street scene and whilst the four storeys plus a fifth for plant element were seen on the drawing it was unlikely that it could be viewed in that context other than glimpsed at the point where William Street met Botchergate where it would be possible to see into the site.

In considering the report Members raised the following comments and questions:

A Member was disappointed that the County Council had not submitted something better. Members were aware that something had to be done in Botchergate but he did not agree with the proposal. The City Council were consultees but Members lived in Carlisle and passed the site regularly. The Member believed that there would have been some merit in trying to keep the front architecture in keeping with other buildings in the area. The Member did not believe that the proposed development would add anything to Botchergate.

Whilst not against modern buildings, a Member stated that the proposed development was within a Conservation area and the County Council should make efforts to protect and enhance the area. The Member would not want a pastiche but recognised what was in place. The City Council had retained the old Co-op building and the Cumberland Arms and other public houses had been converted from existing buildings. The Member was disappointed that nothing referred to the existing buildings.

Members agreed that the proposed development was out of character.

A Member stated that it would be great for the public having all of the service together but the proposed building had several glass panels next to traditional buildings. The Member hoped that the glass had a high energy rating and he believed that it would be cold in winter. The Member queried the remit passed to the architect.

A Member reminded the Committee that the development was on a major route into the City and did not match other buildings in any way.

A Member believed that the building would dominate houses on Tait Street which had a Georgian history. The Member added that if the building was erected it would not enhance the area.

The Director of Economic Development advised that Members' comments would be forwarded to the County Council.

A Member stated that the building would be a huge structure that would dominate the backs of houses that people lived in.

A Member added that having looked at the civic centre and the complaints about its design the proposed building looked like a glass house and he believed it would be a disgrace to support the application.

The Director of Economic Development explained that modern materials were good at dealing with heat etc and it was hoped such materials would be used. The Director of Economic Development confirmed that she would liaise with the Chairman and write to the County Council to advise them of Members' objections.

RESOLVED: 1. That Report ED.38/14 be noted.

2. that the Director of Economic Development liaise with the Chairman and write to the County Council to advise them of Members' objections.

## **DC.83/14     REVOCATION OF TREE PRESERVATION ORDERS 69 AND 166**

The Landscape Architect/Tree Officer presented Report ED.36/14 that proposed the revocation of Tree Preservation Orders 69 (Stackbraes Road, Longtown) and 166 (land adjacent to Brunstock Cottage) as part of the ongoing Tree Preservation Order review.

The Landscape Architect/Tree Officer outlined the reasons for the variation or revocation of Tree Preservation Orders in particular in respect of Tree Preservation Orders 69 and 166.

The Landscape Architect/Tree Officer explained that Tree Preservation Order 69 (Stackbraes Road, Longtown) had been developed and a number of the trees were removed to implement that development. A replacement Tree Preservation Order had been made and confirmed to ensure the continuing protection of the remaining trees. One tree which was not previously included was added to the new Tree Preservation Order.

During the site visit to assess Tree Preservation Order 166 it was evident that a small number of trees shown on the Order no longer remained on the site but other trees on the site now merited protection. A replacement Tree Preservation Order had been made and confirmed to ensure the continuing protection of the remaining trees and to include new trees that merited protection.

Consultation had been carried out with the property and land owners affected by the new Tree Preservation Orders and the Landscape Architect/Tree Officer recommended that Tree Preservation Order 69 and 166 be revoked.

The Committee then gave consideration to the report.

It was moved and seconded that the Tree Preservation Orders 69 and 166 be revoked.

**RESOLVED:** That Tree Preservation Orders 69 (Stackbraes Road, Longtown) and 166 (land adjacent Brunstock Cottage, Brunstock) be revoked.

(The meeting ended at 2.40pm)