

## **DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY 25 NOVEMBER 2016 AT 10.00 AM**

**PRESENT:** Councillor Mrs Warwick (Chairman), Councillors Bloxham (until 12:00pm), Mrs Bradley, Bowditch (as substitute for Councillor Ms Patrick) Christian, Earp, Glendinning, Mrs Parsons, Shepherd, McDevitt, McDonald, and Sidgwick.

**ALSO**

**PRESENT:** Mr David Bell, Cumbria County Council  
Councillor Mallinson

**OFFICERS:** Corporate Director of Economic Development  
Legal Services Manager  
Development Manager  
Principal Planning Officer  
Planning Officersx 3  
Landscape Architect/Tree Officer

### **DC.111/16 APOLOGIES FOR ABSENCE**

An apology for absence was submitted on behalf of Councillors Ms. Patrick.

### **DC.112/16 DECLARATIONS OF INTEREST**

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

Councillor Earp declared an interest in respect of applications:

- 16/0860 – Land to the North of Oakwood, Harker Park Road, Harker Park, Carlisle, CA6 4HR. The interest related to an objector being known to him.
- 16/0690 – Land at Montgomery Way, Rosehill Industrial Estate, Carlisle, CA1 2RS. The interest related to the applicant being known to him
- Tree Preservation Order 284 - Bay Tree House, Plains Road Wetheral – The interest related to an objector being known to him.

Councillor Mrs Parsons declared an interest in respect of application 16/0860 – Land to the North of Oakwood, Harker Park Road, Harker Park, Carlisle, CA6 4HR. The interest related to an objector being known to her.

Councillor Bloxham declared an interest in respect of application 16/0860 – Land to the North of Oakwood, Harker Park Road, Harker Park, Carlisle, CA6 4HR. The interest related to an objector being known to him.

Councillor Mrs Bradley declared an interest in respect of application 16/0690 – Land at Montgomery Way, Rosehill Industrial Estate, Carlisle, CA1 2RS. The interest related to the perception of predetermination, as a member of the Council's Executive she had previously discussed the development of the site.

Councillor Mrs Warwick declared an interest in respect of application 16/0842 – 19 Millcroft, Carlisle, CA3 0HX. The interest related to the architect being known to her.

## **DC.113/16 PUBLIC AND PRESS**

RESOLVED – That the Agenda be agreed as circulated.

## **DC.114/16 MINUTES OF PREVIOUS MEETING**

The minutes of the meeting held on 10 August 2016 (site visit), 12 August 2016, 14 September 2016 (site visit), and 16 September 2016 were approved and signed by the Chairman.

The minutes of the meeting of 23 November 2016 (site visit meeting) were noted.

## **DC.115/16 AGENDA**

RESOLVED (1) - That application 16/0362 – Land adjacent to Alexandra Drive, Durranhill Road be considered as the first item of business.

(2) That applications 16/0890 – Green Acres, Newtown, Blackford, Carlisle, CA6 4ET and 16/0833 – Land to West of The Cottage, Newton, Irthington, Carlisle, CA6 4NX be considered as the fifth and sixth items of business.

## **DC.116/16 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.117/16 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) Variation of Condition 22 (Roads/Occupation of Dwellings of Previously Approved Application 10/0792 (Retrospective). Land Adjacent Alexandra Drive, Durranhill Road, Carlisle, (Application 16/0362).**

The Principal Planning Officer advised Members that further to the preparation of the report contained in the Main Schedule and the presentation and slides for the Committee, a revised plan had been submitted which had included the provision of a linking pavement on the southern side of Durranhill Road. Consequently, the application was required to be re-advertised and the appropriate notifications issued, therefore the Principal Planning Officer recommended that consideration of the application be deferred until the next meeting.

Rights to Speak on the application had been registered by Mr Telfer (Objector), Councillor Betton (Ward Member), and Mr Farrington (Applicant), all of whom were in attendance at the meeting. The Chairman asked those persons whether they wished to exercise their Right to Speak at the meeting or to defer it until the application was next considered by the Committee. Mr Telfer, Councillor Betton, and Mr Farrington agreed to speak when the application was next considered by the Committee.

A Member noted that when the site had been considered previously, the Committee had been advised that a tree which was the subject of a Tree Preservation Order had prevented the inclusion of footpath at the site, he sought clarification as to whether that remained the case.

The Principal Planning Officer advised that proposal sought to retain the tree and provide a footpath at the site.

A Member moved that consideration of the application be deferred in order to enable consideration of revised plans showing the provision of a linking pavement along the southern side of Durranhill Road, which was seconded and it was:

RESOLVED – To defer consideration of the application in order to enable consideration of revised plans showing the provision of a linking pavement along the southern side of Durranhill Road with associated infrastructure, and to await a further report on the application at the next meeting of the Committee.

**(2) Change of Use of Storage Area to Rail Training Track including laying of 4No. Test Tracks, Story Construction Depot, Thomas Lane, Burgh Road Industrial Estate, Carlisle, CA2 7NA (Application 16/0798).**

The Principal Planning Officer submitted the report on the application, which had also been the subject of a site visit by the Committee on 23 November 2016.

The Principal Planning Officer drew Members' attention to pages 2 – 5 of the Supplementary Schedule which contained the Assessment of Likely Significant Effects in relation to the application.

Slides were displayed on screen showing: an aerial view of the site; photographs of the site and the vehicles used; and a video clip of a vehicle using the current training track, an explanation of which was provided for Members.

The Principal Planning Officer recommended the Assessment of Likely Significant Effects, and the application for approval, subject to the conditions contained in the report.

The Committee then gave consideration to the application.

A Member felt that the application was a good proposal which incorporated effective sound attenuation measures, he noted that some third party correspondents had made reference to ground shaking in the area. He asked what activity had caused the ground shaking and whether it was associated with the proposal.

The Principal Planning Officer responded that the ground shaking was the probable result of piling. A track would need to be laid as part of the proposed use but, as work associated with the application had not commenced, it was unlikely the reported ground shaking was associated with the proposal.

The Member noted that a condition had been suggested to restrict the working hours at the site, he consider that the applicant may wish to extend the hours of operation to offer training in night conditions. He sought clarification that in those circumstances, the applicant would be required to submit a further application.

The Principal Planning Officer confirmed that any proposal to change the hours of operation at the site would need to be submitted to the Local Planning Authority for consideration.

Another Member commented that similar works had been carried out for some time on an adjacent site and no complaints had been received as a result.

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 10.No Dwellings with associated infrastructure; Access to be provided adjacent 8 The Whins; Demolition of Garage to 8 The Whins and erection of replacement garage to the rear, Land Adjacent, The Whins, Heads Nook(Application 16/0812).**

*Councillor Mrs Parsons removed herself from her seat and took no part in the discussion or determination of the application.*

The Planning Officer submitted the report on the application which had also been the subject of a site visit by the Committee on 23 November 2016.

In addition to the letter of objection contained on page 6 of the Supplementary Schedule, a further three letters of objection had been received following the production of the report, which the Planning Officer summarised for the benefit of Members.

The Planning Officer reminded Members that an extant planning permission existed at the site with access via Black Lonning only, the use of a single access point had restricted the number of dwellings permitted in the extant permission to 5. The application before Members provided for an alternative access to the site via 8 The Whins, which was within the ownership of the developer. The number of proposed dwellings had increased to 10 with the revised access proposal being acceptable to the Highways Authority.

The scale and design of the scheme were considered acceptable, as the proposed plots were situated on large plots which provided good separation distances in excess of those required from the existing dwellings at The Whins. A 1.8m high stone wall would be erected to the front of 8 The Whins which would reduce to 0.9m adjacent to entrance to the new road, a condition concerning the boundary treatment of the site was detailed in the report.

Surface water drainage from the proposed development would collect in a Sustainable Urban Drainage System (SUDS) pond, where the water would be stored, prior to its discharge into the adjacent watercourse at a rate in keeping with existing run-off levels. The report detailed two conditions relating to the management of surface water drainage: Condition 23 required the submission of details of the surface water drainage scheme and; Condition 24 required the submission of a management and maintenance plan of the surface water drainage scheme for the lifetime of the development. The application proposed that the area between the SUDS pond and the watercourse would remain a field.

Regarding access for Council refuse collection vehicles to plots 1 – 4, the Planning Officer informed Members that the developer had advised refuse vehicles would not be permitted

to access the driveway, as it was proposed that the road would be privately owned. The Council's Waste Services had confirmed refuse vehicles were not permitted to access private driveways due to insurance reasons and the potential for damage to be caused to the road surface. Future occupiers of the dwellings would be required need to deposit refuse receptacles at the end of the driveway, therefore the Planning Officer suggested the imposition of a further condition for the provision of a bin storage area within the private driveway.

In conclusion, the Planning Officer sought Authority to Issue approval subject to: a legal agreement providing a financial contribution to affordable housing of £212,000; the completion of a bat survey of the garage at 8 The Whins prior to its demolition and; an additional condition to provide a bin storage area.

Councillor Mrs Parsons (Ward Member) objected to the proposal on the following grounds: the proposal was not compliant with Carlisle and District Local Plan 2016 – 30 (CDLP) in relation to policies SP2, HO2, HO4, IP6, and CL5. The site was in open countryside where no need for the proposed housing had been identified, she questioned how the development would increase the prosperity and enhance the vitality of the rural community as the site was on the edge of a village which was not a designated service area. The proposal did not provide affordable housing at the site, was the proposed contribution to affordable housing to be used in a rural location?

Councillor Mrs Parsons expressed concerns that the nearby existing sewage works was already operating at near capacity, would it be able to manage the additional waste produced by the proposed scheme, and was it appropriate to site a housing development in such close proximity to an existing sewage works? She sought assurance that the SUDS pond would release water into Cairn Beck at a level which would not increase the likelihood of flooding at Warwick Bridge.

In respect of Highways matters, Councillor Parsons felt the proposed access via 8 The Whins would create a significant increase in the volume of traffic through the existing development thereby reducing the safety of children playing there and pedestrians, which was contrary to paragraphs 17, 56, and 58 of the National Planning Policy Framework. Furthermore, due to existing covenant, construction traffic was precluded from using The Whins as an access to the site.

In conclusion, Councillor Mrs Parsons considered that the proposed scheme would dominate existing properties at The Whins, principally numbers 2, 4, and 6, she asked the Committee to refuse the application.

Ms Rachel Lightfoot (Agent) addressed the Committee noting that the application was built on the previously granted permission for 5 dwellings, due to the extant permission the principle of development at the site had already been accepted. Responding to residents' concerns regarding the use of Black Lanning, a new access had been sought and acquired via 8 The Whins. The extant permission had limited the development to 5 dwelling due to access only being available via Black Lanning, however, as a result of the new access arrangements, the new proposal was not fettered in terms of numbers of properties.

Additionally, the extant permission for housing meant that the proposal continued to comply with current policy. In terms of the density of the development, the scheme was similar to that of The Whins, and the issue of existing covenants was a private rather than

a planning matter. The proposed properties exceeded the minimum separation distance, required by the Council's Supplementary Planning Document.

Regarding refuse collections, the application proposed the creation of a hardstanding area on which residents would present their refuse receptacles for collection, which was a typical arrangement used for private roads, and in keeping with other permissions granted by the Committee.

The SUDS pond was designed to release water slowly into an existing drain, and discussions had been undertaken with United Utilities, who had raised no objections. United Utilities had not raised concerns in relation to the foul drainage proposals.

The Planning Officer responded to the questions raised by Councillor Parsons advising the following:

- The scheme was on a site with extant permission for housing development, and the proposal was well related to the existing dwellings at The Whins;
- The concept of clustering of services was applicable, the site was not far from Warwick Bridge which provided services such as retail and public transport;
- The Highway Authority had not raised any issues relating to the proposed access to the site, the increase in traffic through The Whins from the proposed 10 dwellings would be low;
- Construction Traffic would access the site via Black Lonning as had been requested by the Parish Council;
- The contribution towards affordable housing was intended for use in a rural area.
- Statutory consultees had raised no objections regarding the proposed surface water and foul drainage systems.

The Committee then gave detailed and in-depth consideration to the application.

A Member commented that the proposal to provide a hardstanding area for refuse to be collected from the private drive was, in his view, not acceptable and that provision needed to be made for Council refuse collection vehicles to be able to access the plots.

The Planning Officer explained that the Highway Authority had advised it would not adopt the private drive serving plots 1 – 4 of the proposed development, the Council's Waste Service's had accepted the proposal of collecting refuse receptacles from a hardstanding area.

Another Member expressed concern that the submitted plans did not denote footpaths within the development, he sought clarification on whether footpaths for pedestrians would be provided.

The Planning Officer responded that the plans for the scheme indicated the provision of a shared surface, which was common in housing developments, which negated the need to provide separate footpaths for pedestrians. The inclusion of street lights would be addressed by the County Council through its procedures for adopting roads.

The Member sought further clarification of how a shared surface was constituted.

Mr Bell (Cumbria Highways) advised that a shared surface was a single level surface used by both pedestrians, cyclists and motorists that was able to be used in developments of up to 30 properties.

A number of Members expressed concern regarding the responsibility for maintenance of the SUDS pond facility in the future.

The Planning Officer drew Member's attention to condition 22 which required "... *the submission of a sustainable drainage management plan... to secure the surface water drainage scheme throughout its lifetime.*"

A Member understood that the responsibility for maintaining the SUDS pond may be taken up by a residents' management company which would be required to make an annual return to Companies House. Should the management company fail to make its annual submission the SUDS would fall under the ownership of the Crown, who was not obliged to conduct maintenance or remedial works. He asked if there was a mechanism by which a nil return was able to be reported to the relevant flood authority so that any action required to prevent a future failure of the SUDS pond was taken.

The Legal Services Manager advised Members that there were different forms the management company could take. It would be possible for condition 24 to be adapted to include a proviso that the annual return was sent to the Council, as well as Companies House.

The Member noted that the part of the site between the proposed dwellings and the SUDS pond, was to remain a field, he felt that the area had the potential to become a wildlife area with access from both The Whins and the proposed development, he requested that the management and maintenance of the area be conditioned as part of the permission

Another Member stated that the principle of development at the site had been established, she felt that the proposed dwellings were in keeping with the character of the area, and noted that the existence of covenants at The Whins was not a planning matter. No statutory consultees had objected to the proposed system for foul and surface water drainage, subject to the conditions suggested in the report. On that basis she moved the Officer's recommendation with the inclusion of additional conditions relating to: the provision of a bin storage area on the private driveway and; the upkeep of the area of the site between the dwellings and the SUDS pond. This was seconded and following voting it was:

RESOLVED - To give authority to the Corporate Director of Economic Development to issue approval of the proposal, subject the completion of a satisfactory S106 Agreement to secure a financial contribution of £212, 527 towards affordable housing.

*Councillor Mrs Parsons returned to her seat in the chamber.*

**(4) Erection of one dwelling with garage/storage building, stable and equestrian paddocks, Land of north of Oakwood, Harker Park Road, Harker Park, Carlisle, CA6 4HR (Application 16/0860).**

The Principal Planning Officer submitted the report on the application which had also been the subject of a site visit by the Committee on 23 November 2016.

Slides were displayed on screen showing: location and block plan; site layout plan; and photographs of the site and the carts owned by the applicant an explanation of which was provided for Members.

The Principal Planning Officer informed Members that the applicant had advised he intended to use two of the proposed stables for horses with the third being kept as a feed store. The applicant owned 12 acres of land in South Lanarkshire where he kept 8 breeding mares, the proposed paddock at the application site was not intended to be used as permanent grassing but rather for pregnant mares that would be returned to South Lanarkshire after foaling.

The applicant was aware of the need to erect horse fencing around the paddock area to prevent animals escaping. The Principal Planning Officer informed Members that the applicant was retired and he had indicated that he intended to operate the stables and paddock as a hobby not a business.

The Principal Planning Officer recommended that the application be approved subject to the conditions contained in the report.

Councillor Mallinson (Ward Member) addressed the Committee, commenting that he felt the site visit had been useful in aiding Members' understanding of the site. He welcomed the proposal to erect a dwelling at the site, however, he felt the inclusion of stabling and paddocks at the site was not in keeping with the residential character of the area, and asked Members to carefully consider the objections raised by residents of Harker Park Road.

Councillor Mallinson recognised that the Officer had carefully considered highways issues relating to the application, however, he remained concerned about the site's proximity to the A7, particularly the impact on visibility when the site as a result of buses using the adjacent bus stop. He requested that should Members be minded to approve the application, that appropriate animal fencing be erected at the site to prevent animals escaping on to the highway.

Mr Faulder (Agent) responded to concerns expressed in relation to fencing, he advised that the animals would primarily be kept in the stables, with the outside space being used as an exercise area rather than a paddock. The applicant had 30 years' experience in looking after horses and was well aware of the issues involved in caring for the animals.

The Committee then gave consideration to the application.

A Member expressed strong concerns about the access and egress arrangements to the site particularly in relation to the transit of animals and carts which required large vehicles exiting the site on to a very busy road. He questioned the applicant's assertion that the proposed scheme was not a business operation, and considered the impact of the scheme on the living conditions of nearby residents would be detrimental. Furthermore the Member felt that the inclusion of equine stabling in a residential area was not appropriate, he noted that the report did not contain information on the disposal of waste from the site.

The Member moved that the application be refused on the grounds that it was not in accordance with policies EC12 and EC13 of the CDLP. The proposal was seconded.



The Development Manager advised the Member that policy EC12 related to equine stabling in an agricultural context and therefore was not an appropriate policy upon which to base refusal of the application.

The Principal Planning Officer responded that the Highways Authority had not raised any objection regarding the transportation of horses or carts. He reminded Members that the site had an extant permission for the erection of four dwellings, full details of which were contained within the report.

The proposed stables in the scheme before Members would not be visible from either the A7 or Harker Park Road, and the Principal Planning Officer considered that as the site was in a rural context the inclusion of horses in the environment was not out of character. It was noted that no objections had been received from the neighbouring property.

Regarding the management of waste at the site, the Principal Planning Officer referred Members to Condition 6 contained in the report which stipulated how waste from the site was to be managed.

The Principal Planning Officer advised Members that were they minded to approve the dwelling without the stables they had the option of issuing a split decision granting permission to the dwelling and not the stables. Considering the agent's statements regarding the personal nature of the use of the stables, the Principle Planning Officer suggested the inclusion of those facilities within the application was not sufficient reason to warrant refusal of the scheme as a whole.

A Member stated that he had worked as a veterinarian for 50 years, he explained that mares gave birth to foals in foaling boxes which were generally larger than stables. In his view the proposed stabling was not of a sufficient size to enable a mare comfortably give birth, resultantly, he did not feel able to support the application.

In light of the Member's comments the Principal Planning Officer suggested that determination of the application be deferred to enable the issues highlighted to be assessed, and a further report brought back to the next meeting of the Committee.

A Member requested that should the application be deferred, that the Officer gave consideration to tying the use of the development to the individual who had applied for the permission and the removal of further development rights so that no further buildings would be added to the site.

A Member moved that the application be deferred to allow Officers to clarify the nature of the equine use of the site and the required size of foaling boxes, which was seconded and it was:

**RESOLVED -** To defer determination of the application in order to await clarification on the nature of the equine use and required size for foaling boxes, and to await a further report on the application at the next meeting of the Committee.

*The Committee adjourned at 11:30am and reconvened at 11:48am*

**(5) Change of Use of Land for stationing 1No. Mobile Home and 1No. Touring Caravan for 1No. Gypsy Family; Associated Landscaping (Part Retrospective / Revised Application), Green Acres, Newtown, Blackford, Carlisle, CA6 4ET, (Application 16/0798).**

A Member moved that consideration of the application be deferred in order for the Committee to undertake a site visit, which was seconded and it was:

RESOLVED - That consideration of the application be deferred in order to undertake a site visit and to await a further report on the application at the next meeting of the Committee.

**(6) Outline Application for Residential Development, Land to west of The Cottage, Newtown, Irthington, Carlisle, CA6 4NX, (Application 16/0833).**

A Member moved that consideration of the application be deferred in order for the Committee to undertake a site visit, which was seconded and it was:

RESOLVED - That consideration of the application be deferred in order to undertake a site visit and to await a further report on the application at the next meeting of the Committee.

Councillor Bloxham left the meeting at 12:00pm

**(7) Erection of 30.No Dwellings, Land between Tyne Street and Chertsey Mount, Carlisle (Application 16/0249).**

The Planning Officer submitted the report on the application, which had also been the subject of a site visit by the Committee on 23 November 2016.

The Planning Officer noted that in addition to the letter of objection contained on page 10 of the Supplementary Schedule, a further two letters of objection had been received a summary of which was provided for the benefit of Members.

The application was accompanied by an Archaeological Desk Based Assessment and an Archaeological Evaluation Report - no significant archaeological remains were found within the site. The County Archaeologist had no objections to the proposal and had not offered any comments or recommendations in respect of the application.

Slides were displayed on screen showing: aerial photograph of the site; site plan; proposed elevations; road improvements; and photographs of the site, an explanation of which was provided for Members.

The Planning Officer informed Members that the proposal sought a number of highway improvements including: the creation of shared surface on the narrow section of Tyne Street retaining the sandstone kerbs and including a delineated footway; the installation of priority signage at both ends of the narrower section of Tyne Street; the widening of sections of Tyne Street; footway improvements; the creation of a shared surface on Tree Road; and the provision of lighting on Tyne Street and Tree Road.

The Highways Authority had no objections to the proposals subject the proposed highway improvements. The application had also been assessed by an independent highway

consultant who had supported the Highway Authority recommendation, the consultants' report was contained on page 124 of the Main Schedule.

The application provided for 6 affordable housing units: 3 units being offered for discounted sale and three rental properties, whilst the site was adjacent to the Settle – Carlisle Conservation Area the scale and design of the proposed dwellings and their impact was considered acceptable.

The Planning Officer advised that a Noise report had been submitted as part of the application, which had considered the impact of nearby commercial premises on the proposed scheme. In order to mitigate the impact of noise from the operations associated with those premises, on the residential development, mitigation measure were to be provided to Plot 1 comprising an acoustic fence and trickle vents, these measure were detailed in the conditions contained in the report.

In conclusion, the Planning Officer sought Authority to Issue, subject to the completion of a S106 regarding affordable housing provision; a contribution to the improvement of children's play space in the locality and; the maintenance of an informal open space within the site.

The Committee then gave consideration to the application.

In response to a question from a Member regarding the level of the footpath, Mr Bell explained that the application proposed a shared surface area, which would be single level with the footpath indicated by a different colour to the road. The inclusion of pedestrian warning signage was able to be conditioned accordingly.

A Member commented that during the site visit he had not observed any surface water drainage gullies, he requested that appropriate gullies be included in the development.

Mr Bell responded that in relation to Tree Road the un-adopted section would be brought up to adoptable standard which would include surface water drainage mechanisms. He was not aware of any issue in relation to surface water drainage in relation to Tyne Street.

Responding to a Member's request for further information regarding the archaeological survey work undertaken, the Planning Officer informed Members that five trenches had been excavated at the site. A small number of pottery sherds had been recovered from the topsoil which indicated domestic use of the site, overall the report concluded that no significant archaeological remains were present at the site. The County Archaeologist was satisfied with the findings of the report and had not objected to the proposal.

A Member asked if it was known whether bats were present at the site.

The Planning Officer advised that bats were not known to be present at the site, the boundary of the site included a number of immature trees which were not considered a suitable environment for bats.

A Member requested further detail on the contribution towards the improvement of children's play space.

The Planning Officer explained that consultation had been undertaken with Green Spaces that had resulted in a request for a £16,320 contribution which was intended to be used to

upgrade facilities at an existing play area in the vicinity of the site. Additionally, an informal open space area was to be provided at the site and maintained by the developer.

A Member welcomed the application which she considered offered a mixture of housing types including much needed low cost homes within the city, including the provision of affordable housing units. The terraced design of the proposed dwellings was in keeping with existing properties in the area. She moved the Officer's recommendation, which was seconded and it was:

RESOLVED – To give authority to the Corporate Director of Economic Development to issue approval subject to the completion of a satisfactory S106 Agreement regarding affordable housing provision; a contribution to the improvement of children's play space in the locality and; the maintenance of an informal open space within the site.

**(8) Erection of Road to Serve New Housing Estate (Application 14/0778) including crossing for Public Footpath, Land to North East of Windsor Way, Carlisle Cumbria, (Application 16/0032).**

The Principal Planning Officer submitted the report on the applications which had also been the subject of a site visit by the Committee on 23 November 2016.

Slides were displayed on screen showing: location plan; site access plan; photographs of the site; an explanation of which was provided for Members.

The Principal Planning Officer reminded Members that an application to have California Lane classified as an urban green had been submitted to the County Council, the application had been rejected.

The Principal Planning Officer suggested the inclusion of an additional condition to those contained within the report, as follows:

*"Prior to the commencement of development a detailed plan(s) showing the proposed means for users of California Lane crossing the hereby permitted road (inclusive of cross-sections, levels, traffic calming, a raised speed table and warning signs) shall be submitted to and approved in writing by the local planning authority. The hereby permitted development shall be completed fully in accordance with the approved plan(s)."*

The Principal Planning Officer recommended the application for approval, subject to the conditions detailed in the report, with the addition of the aforementioned condition.

The Committee then gave consideration to the application.

In response to a Member's request that signage alerting pedestrians to traffic be included at the proposed crossing, Mr Bell, Cumbria County Council confirmed that signage would be provided.

A Member welcomed the inclusion of a further condition regarding the treatment of the crossing, she asked if it was possible to include a raised table in the crossing to clearly highlight to users that they were crossing a road, and if that could be incorporated into the additional condition proposed by the Officer?

The Principal Planning Officer responded that he appreciated the aims of the Member's proposal, it was important to balance the safety needs of users of the crossing with the open character of the area, he undertook to liaise with the developer on the matter.

A Member moved the Officer's recommendation with the addition of a condition relating to the treatment of the crossing, 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) Proposed Two Storey Side Extension and Single Storey Rear Extension to provide Garage and Kitchen / Dining Room on the Ground Floor with 1No. Ensuite above, 19 Millcroft, Carlisle, CA3 0HX, (Application 16/08472).**

*The Chairman, having declared an interest in the item of business facilitated the Committee's determination of the proposal, but took no part in the discussion of or voting on the item.*

The Planning Officer submitted the report on the application which proposed the erection of a two storey side extension, and single storey rear extension to provide garage and kitchen/dining room on the first floor with an en-suite bathroom above.

Photographs of the site were displayed on screen, an explanation of which was provided for Members.

The Planning Officer recommended that the application be approved subject the conditions detailed in the report.

The Committee then gave consideration to the application.

A Member moved the Officer's recommendation which was seconded, and following voting 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.

The Chairman abstained from the vote.

**(10) Erection of new Pioneer Food Hall with Coffee Shop; 1No. Industrial Units (Use Classes B1/B2/B3); Car park and Infrastructure Works (Application 16/0690).**

*Councillor Mrs Bradley, having declared an interest in the item of business, left her seat in the chamber and took no part in the discussion or determination of the application.*

The Principal Planning Officer submitted the report on the application, and suggested the inclusion of a further condition relating to security measures as follows:

*"The development hereby approved shall not be carried out otherwise than in complete accordance with the security measures as identified in the Security Statement (reference number CNG/378/CC) dated the 25th October 2016 prepared by Garner Planning and drawing numbers 11543-12D (Site Plan as Proposed) and 12044-EX04 A (Proposed*

*Security Treatment Site Plan, Foodhall).*”

In addition the Principal Planning Officer proposed the re-wording of Condition 18 to include reference to access via Montgomery Way and Auchinleck Drive, as per the approved plans.

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

The Principal Planning Officer recommended that, subject to the awaited comments from Natural England, the application be approved along with the conditions detailed in the report with the addition of the conditions suggested above.

The Committee then gave consideration to the application.

A Member noted that Natural England had previously raised concerns regarding the impact on bats of the site being developed, he sought clarification on this matter.

The Principal Planning Officer explained that Natural England had raised concerns regarding the impact on bats in relation to an adjacent site under application 14/0241. In terms of the application before Members, the site contained one mature Oak tree which the scheme sought to retain within the site, therefore the Officer considered that there were not any issues relating to bats in respect of the application.

Another Member asked when the authority expected to receive comments from Natural England on the application.

The Principal Planning Officer explained that the report had been written in the context of the previous scheme proposed at the site, in relation to which Natural England had not raised any objections or required the inclusion of further conditions. Natural England had been consulted on the application as a result of the beck within the site discharging into the River Eden, the Principal Planning Officer had sought in his report to cover all the issues relating to this aspect of the proposal. In the event that Natural England did submit objections to the application or required the imposition of additional conditions, the Principal Planning Officer undertook to the matter before the Committee.

Considering the surface water drainage system, a Member noted that the attenuation lagoon was situated on an area of contaminated land, the developer had proposed the use of a membrane as a barrier to contaminants entering the lagoon. He hoped that the Lead Flood Authority would be able to monitor the outflow from the lagoon to prevent contaminants being discharged into the river Eden.

In addition, the Member asked what mitigation was proposed to prevent the release of methane gas, and how would the gas be prevented from entering the proposed buildings.

The Principal Planning Officer drew Members' attention to Conditions 24, 25, and 26 in the report which detailed the requirements of the surface water drainage system, and the required sustainable drainage management and maintenance plan. Particular reference was given to condition 26.2 which stipulated the particular elements required in terms of ongoing maintenance of surface water management at the site.

Regarding the contamination of the land at the site, the Principal Planning Officer explained that an expert report had been prepared and used in the development of the scheme and had informed the layout of the site. Were further issues relating to site contamination to be identified, any necessary mitigation measures would be implemented.

A Member requested that additional measures be included in the scheme to control the amount of waste in the area.

The Principal Planning Officer advised that a condition could be included to require the inclusion of additional bins at the site, however, it was difficult to attribute whether the litter was generated within the site or from without.

The Corporate Director of Economic Development undertook to discuss the matter with the applicant to identify what measures could be included at the site to address the issue of litter.

Another Member expressed concerns that people using The Auctioneer or The Shepherds Inn, particularly during the evening would no longer be able to access the car park, he requested that a condition be included to require the operation of the car park to be 24 hours.

The Legal Services Manager advised that the site had formerly been in the ownership of the Council, during which time it had operated as an informal car park, no operating time restriction had been placed on the site when the Council disposed of the land. It would not be appropriate to place a condition requiring 24 hour operation as this would be unlikely to satisfy the test for the imposition of conditions.

The Principal Planning Officer advised that he was not aware of any intention to restrict the hours of use of the car park, and noted that access to the car park area would be required on a 24 hours basis by industrial traffic.

The Corporate Director of Economic Development undertook to discuss the matter with the applicant as an aspect of the Management Plan for the area, however, due to difficulties in enforcement she was reluctant to condition a requirement that the car park must operate on a 24 hour basis.

A Member moved the Officer's recommendation with the addition of a condition relating to security measures, and the re-wording of Condition 18 which was seconded, and it was:

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

*Councillor Mrs Bradley returned to her seat.*

**(11) Erection of 4No. Detached Dwellings, Land to South East of Orton Grange Roundabout, Orton Grange, Carlisle, CA5 6LA (Application 16/0784).**

The Planning Officer submitted the report on the application, which was also the subject of a site visit by the Committee on 23 November 2016.

Slides were displayed on screen showing: the site location map; photographs of the site; and an illustration of the proposed palette of materials, an explanation of which was provided for Members.

The Planning Officer advised Members that Tree Preservation Order 285 - Land to South East of Orton Grange Roundabout, Orton Grange, Carlisle, CA5 6LA had been confirmed on 24 November 2016. The Planning Officer recommended that the application be approved subject to the conditions detailed within the report.

In response to a Member's question regarding how the application proposed to treat Plot 1 and how that area would be maintained, the Planning Officer advised that the area was shown on the submitted drawings to be an amenity space to serve Plot 2.

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 in the Schedule of Decisions attached to these minutes.

#### **DC.118/16 CONFIRMATION OF TREE PRESERVATION ORDER 283.**

The Landscape Architect/Tree Officer submitted report ED.34/16 which considered the confirmation of Tree Preservation Order 283, Tower Farm, Rickerby, Carlisle (TPO 283).

The Landscape Architect/Tree Officer noted that in July 2016, the Forestry Commission had conducted a formal consultation in relation to a Felling License application which had included 16 Oak Trees along the road from Rickerby to Linstock. The Council, Parish Council and Ward Members had responded to the consultation, and discussions were subsequently held between the Council and the Forestry Commission in which a compromise position was reached on an acceptable level of felling (16 trees) and the individual trees to be felled. Further to the agreement the applicant (Mr Walker) put forward a further option for the felling of the trees, which had not been deemed acceptable.

All the trees along the stretch of road from Rickerby to Linstock had been individually assessed for the suitability for inclusion in an Order and had been identified as warranting protection. TPO 283 was made to protect the Oak Trees as it was considered that they contributed to the pleasant rural character of the area enhanced the approach and exit to the Rickerby Conservation Area.

Member's attention was drawn to the summary of representations received in response to the making of Tree Preservation Order, which had been received from the applicant, Ward Councillors, Parish Council, the Friends of Rickerby Park and members of the public.

In conclusion the Landscape Architect/Tree Officer recommended that TPO 283 be confirmed without modification.

Mr David Atkinson (on behalf of Mr Elliot Walker, applicant) addressed the Committee, noting that the Landscape Architect/Tree Officer had provided Members with a good summary of the position regarding TPO 283.

Mr Atkinson explained that the applicant had initially proposed the felling of two woodlands, one of which included the 28 trees covered by TPP 283. Following discussions with the Forestry Commission and the Council, the applicant had accepted the compromise position



of the felling of 16 trees, Mr Atkinson therefore felt that it was not correct for the Landscape Architect/Tree Officer to assert that the compromise position had not been agreed by all parties.

Mr Atkinson stated the trees were not veteran trees and that they had shed branches on to the public road. The applicant had looked after the trees well as part of an agricultural business, and that good stewardship would require replanting of trees, which the applicant wished to work with the Council to do.

Mr Atkinson felt that the Council was liable to pay the applicant for the loss of timber and potentially costs associated with action related to this as a result of making TPO 283.

The Chairman asked the Landscape Architect/Tree Officer to clarify the compromise position.

The Landscape Architect/Tree Officer explained that the original Felling Licence application had requested the felling of all the trees covered by TPO 283. Following a site visit, the Landscape Architect/Tree Officer had met with the Forestry Commission and discussed the felling of individual trees, with the aim of trying to get an even spread of trees along the road: 16 trees had been identified as being acceptable for felling and the Forestry Commission had put this proposal to the applicant. The applicant had responded with a further suggestion in which different individual trees would be felled, this proposal had not been in line with the Forestry Commission and Council's position. In addition, rising public opinion in support of TPO 283 had been received in response to the consultation on the Order.

In response to a Member seeking clarification as to whether the TPO prevented the removal or replacement of trees protected by the Order, the Landscape Architect/Tree Officer advised that TPOs did not prevent works being undertaken to the trees and that an application to conduct works would be considered on its merits.

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

RESOLVED –That Tree Preservation Order 283 be confirmed without modification.

#### **DC.119/16 CONFIRMATION OF TREE PRESERVATION ORDER 284.**

The Landscape Architect/ Tree Officer submitted report ED.46/16 which considered the confirmation of Tree Preservation Order 284, Bay Tree House, Plains Road, Wetheral, Carlisle.

In October 2016 the Council had received a notice of intention to fell a lime tree to the north of the entrance to Bay Tree House, Plains Road, Wetheral, which was within the Wetheral Conservation Area. The neighbouring property, 1 Greenacres, was within the same ownership as Bay Tree House, and Officers had been aware of an intention to fell tress at 1 Greenacres.

Officers had conducted a site visit to the properties during which it was evident that significant lowering of the ground at both properties had caused root damage which had rendered the trees dangerous. An assessment of the tress at the properties had indicated that two trees: a Lime to the south of the entrance to Bay Tree House, and a Sycamore in the garden of 1 Greenacres, had not been affected by excavations and were found to merit

protection. Tree Preservation Order 284 had been made to protect the two trees.

One letter of objection to the Order had been received and was appended to the report, along with the Officer's response, which the Landscape Architect/Tree Officer summarised for the benefit of Members.

The trees contained in the order were clearly visible from Plains Road and contributed to the sylvan character of the area, enhancing the approach to, and exit from the Wetheral Conservation Area. On that basis, the Landscape Architect/Tree Officer recommended that Tree Preservation Order 284 be confirmed without modification.

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

RESOLVED – That Tree Preservation Order 284 be confirmed without modification.

#### **DC.120/16 CHAIRMAN'S COMMENTS**

The Chairman and members of the Committee noted that the Landscape Architect/Tree Officer was leaving the authority, they thanked him for his work in aid of the Committee and wished him well for the future.

[The meeting closed at 1:10pm]