

**Development Control Committee**

**Date:** Friday, 08 April 2022

**Time:** 10:00

**Venue:** Cathedral Room

**Present:** Councillor Mrs Marilyn Bowman, Councillor Lisa Brown, Councillor Nigel Christian, Councillor John Collier, Councillor Mrs Christine Finlayson, Councillor Mrs Anne Glendinning, Councillor Keith Meller, Councillor David Morton, Councillor David Shepherd, Councillor Christopher Southward, Councillor Raymond Tinnion

**Also Present:** Councillor J Mallinson (in his capacity as Ward Member), attended the meeting having registered a Right to Speak in respect of application 21/1137 - Rose Lodge, Laversdale Lane End, Irthington, Carlisle, CA6 4PS.

**Officers:** Corporate Director Economic Development  
Head of Development Management  
Head of Legal and Democratic Services  
Principal Planning Officer  
Planning Officer x 2  
  
Mr Allan, Cumbria County Council

**DC.26/22 APOLOGIES FOR ABSENCE**

An apology for absence was submitted on behalf of Councillor Alcroft.

**DC.27/22 DECLARATIONS OF INTEREST**

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

Councillor Christian declared an interest in respect of the following applications:  
21/1161 – Scotby Acres, Broomfallen Road, Scotby, Carlisle, CA4 8DE. The interest related to objectors being known to him;  
21/0893 – Mannory, Broomfallen Road, Scotby, Carlisle, CA4 8DE. The interest related to objectors being known to him;  
21/1117 – Scotby Oaks, Broomfallen Road, Scotby, Carlisle, CA4 8DE. The interest related to objectors being known to him.

Councillor Tinnion declared an interest in respect of application 21/0014 – Land to north of Tarn Lodge Farm, Heads Nook, Brampton. The interest related to objectors being known to him.

Councillor Shepherd advised that he had not participated in the site visit in respect of application

21/0014 - Land to north of Tarn Lodge Farm, Heads Nook, Brampton and therefore would not take part in the discussion nor determination of the application.

## **DC.28/22 PUBLIC AND PRESS**

RESOLVED - It was agreed that the items in Part A be dealt with in public and the items in private be dealt with in Part B.

## **DC.29/22 MINUTES OF PREVIOUS MEETINGS**

RESOLVED 1) – That the Chair sign the minutes of the meetings held on: 1 December (site visits) and 3 December 2021; and, 12 January (site visits) and 14 January 2022.

2) That the minutes of the meetings held on 25 February and 6 April (site visits) 2022 be approved

## **DC.30/22 PUBLIC REPRESENTATION IN RESPECT OF PLANNING APPLICATIONS**

The Head of Legal and Democratic Services set out the process for those Members of the public who had registered a Right to Speak at the Committee.

## **DC.31/22 CONTROL OF DEVELOPMENT AND ADVERTISING**

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

### **1. Application - 19/0244 - Land at field 3486, Monkhill Road, Moorhouse, Carlisle**

#### **Proposal: Erection of 14no. dwellings (Outline)**

The Chair advised that the application had been withdrawn from discussion.

RESOLVED: That the application had been withdrawn from discussion.

### **2. Application - 21/1154 - Former KSS Factory Site, Constable Street, Carlisle, CA2 6AQ**

**Proposal: Variation of Condition 2 (Approved Documents) and removal of Condition 13 (Emergency Vehicle Access) of previously approved application 18/0215 (Erection of 43no. dwellings) to amend the site layout to allow units 12 – 31 inclusive to use the adopted highway east of the site (Retrospective Application).**

The Planning Officer submitted the report on the application which had been deferred by the Committee at its meeting of 25 February 2022 in order for a site visit to be undertaken. Slides were displayed on screen showing: site location plan; site plan; proposed site access and visibility splays; and, photographs of the site, an explanation of which was provided for the benefit of Members.

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

The Committee then gave consideration to the application.

In response to Members' questions, Officers confirmed:

- Residents from the development, when exiting via vehicular means were required to travel over a section of Leicester Street, which was unadopted to access Blunt Street;
- Leicester Street was unadopted, responsibility for the maintenance of the road lay with those whose properties abutted the road. Residents of the development subject of the application were not responsible for maintaining the road;
- It was for the applicant to secure a right of access over the unadopted road for residents in the development, which was a civil matter;
- In assessing the proposal the Highway Authority had identified a number of improvements to Blunt Street, which the applicant had agreed to implement, on that basis the Authority had not objected to the proposal.

A number of Members expressed significant concerns in relation to the application regarding: the higher level of residential parking on Blunt Street compared to Constable Street; the conclusion of an earlier Independent Highways Assessment that Constable Street was a more appropriate means of access/egress to the site; the impact on the residents of Blunt Street.

A Member considered that the proposal was not in accord with Local Plan policy SP 6 – Securing Good Design which required development to have no adverse impact on amenity. Nor was it compliant with Local Plan policy IP 2 – Transport and Development, as road / street safety requirements would not be met. On that basis, he indicated he was not able to support the proposal.

The Planning Officer sought clarification that the reference to policies made by the Member were the same as those the Committee cited at its earlier refusal of the proposal.

A Member that the application be refused on the grounds that it did not comply with Local Plan policies SP 6 and IP 2. The proposal was seconded and following voting it was:

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

### **3. Application - 21/0014 - Land to north of Tarn Lodge Farm, Heads Nook, Brampton**

**Proposal: Siting of 4no. Holiday Lodges and 2no. pods together with landscaping, new ponds, a sealed foul drainage system, access track and parking (Revised Application).**

Councillor Shepherd took no part in the discussion nor determination of the application.

The Head of Development Management submitted the report on the application which had been subject of a site visit by the Committee on 6 April 2022. Members' attention was drawn to page 149 of the Main Schedule which set out the reasons for refusing the application. The sentence "such splays cannot be achieved due to the undulations in the road to the north" should read "such splays cannot be achieved due to the undulation in the road to the *south for north-bound vehicles and the splays crossing third party land which consists of hedgerows*". Paragraph 6.35 of the report referred to undulation to the north which should also read south.

Slides were displayed on screen showing: red line boundary and AONB boundary plan; site layout plan; proposed lodges and pods plan; elevation plans; visibility plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Head of Development Management recommended that the application be refused for the reasons set out in the report.

Ms Meynell (Castle Carrock Parish Council) objected to the application in the following terms: no ecological survey data had been submitted with the previous applications for planning permission until requested by a Statutory Consultee; baseline assessment of the ecology of the site had been carried out and without which the Committee was not able to know the full extent of the ecology at the site; paragraph 99 of ODPM circular 06/2005 stipulated baseline surveys were not to be secured by planning condition, in the event of an application being submitted without the requisite data, it was to be refused; approving the proposal would impact the ability of the existing wildlife to function which was contrary to Local Plan policy GI 1 – Landscapes; the Woodland Trust and Cumbria Wildlife Trust had raised concerns and objections in relation to the proposal principally in relation to the impact on the site's significant population of mature, noble and veteran trees; the proposal would create new levels of disturbance affecting the trees wildlife and ground fauna, including protected bluebells, as such the scheme was not in line with Local Plan policy GI 3 – Biodiversity and Geodiversity; the proposals for a cess pit, laying of accesses, emergency vehicle access would cut through the root protection zone of veteran trees, which was contrary to Paragraph 180 of the National Planning Policy Framework (NPPF); the Highway Authority maintained its objection to the scheme and noted potential errors in the detail relating to the road junction; the proposed development was not sustainable and no overwhelming need for it had been identified; the 1994 Consent was not relevant to the current scheme as in the elapsed time understanding of ecological issues had evolved, and the context of national and local planning policy was significantly altered; eight Statutory Consultees including the Highway Authority had objected to the proposal; the scheme would provide few jobs and contribute little to the local economy.

Ms Cray (Agent) responded in the following terms: the only technical grounds for refusing the application related to concerns raised by the Highway Authority; the site utilised an existing access, was adjacent to an existing junction and had 3 approaches (North, East and South-West); the Highway Authority had identified a concern relating to the visibility of Light Goods Vehicles (LGVs) approach from the South-West; slides were displayed on screen showing: excerpts from Cumbria Design Guide demonstrating factors affecting visibility and visibility requirements relative to speed; plans showing the visibility of the site access for a variety of vehicles including LGVs illustrating that the required visibility splays were able to be met or exceeded; the Highway Authority, due to unusual issues relating to LGV visibility had to deviate from standard measuring methods to DRMB derived data which applied to trunk roads, the road abutting the access was a minor road; the use of DRMB data had required a visibility splay for a vehicle travelling at 60mph, yet traffic speed survey data demonstrated a lower average speed of 51.9mph which required a lesser visibility splay of 170.5m which was achievable.

The Committee then gave consideration to the application.

In response to Members' questions, Officers confirmed:

- Parking provision was for 6 vehicles, the number of vehicles parking at the site would be dependent on the level of occupation;
- All types of tree identified at the site were listed in the submitted tree report, no cut leaf horn beams had been identified;
- No assessment of the access track had been carried out as it was an existing feature at the site, a standard condition regarding the surfacing of vehicular accesses required the first 10m to be made of a bonded material.

A number of Members expressed concerns about the proposed scheme's impact on the existing ecology of the site and indicated their support for the Officer's recommendation. With reference to Biodiversity Net Gain a Member noted that means to support it needed to be identified.

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

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

#### **4. Application - 21/1137 - Rose Cottage, Laversdale Lane End, Irthington, Carlisle, CA6 4PS**

##### **Proposal: Change of Use of self contained annexe to a dwelling.**

The Principal Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan, proposed site plan and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer recommended that the application be refused for the reasons set out in the report.

Councillor J Mallinson (Ward Member) addressed the Committee in the following terms: the construction of the annexe had originally been for the purpose of housing a family member; the number of industrial units and residential properties in the vicinity of the building made the Officer's assertion the site was in open countryside unreasonable, a description of the area as a small hamlet would be more appropriate; vehicular egress from the site would be via Laversdale Lane, note the B6071; refusing the application would likely mean a useable building remaining empty or being demolished.

Mr Greig (Agent) addressed the Committee in the following terms: Paragraph 79D of the updated National Planning Policy Framework (NPPF) stated that in rural areas, isolated homes should be avoided subject to a series of exceptions, one of which was the subdivision of an existing dwelling; the NPPF had been updated following a High Court ruling in relation to ancillary buildings and whether they may be subdivided into a separate dwelling; the presiding High Court Judge stated that the words of the NPPF had to be read as written, and because the Framework specifically referred a 'residential dwelling', the former version of the NPPF did not include ancillary buildings; following an update in 2021, the relevant section of the NPPF was amended to refer to 'residential building', thus the scope of the policy had been expanded to include a residential annexe; the Officer's report emphasised the High Court Judge's assessment, however, that pertained to the older version of the NPPF, rather than the revised, therefore the Officer's context of the Officer's assessment of the application was outdated; Members should consider what was meant by a residential building and how that differed to a residential dwelling; the comparison of the scheme to the dwelling 'Farndale' was not directly relevant; a Committee was able to determine approval of an application against an Officer recommendation if it deemed material considerations justified a deviation from policy; as the building already existed approving the application would not generate an additional impact on the landscape; the annexe was not an unsustainable form of development; slides were displayed on screen showing section, floor and elevation plans, and the site plan; the accommodation provided at the annexe was described and Members were advised that it was

sited within its own curtilage, independent of the main dwelling – effectively it operated as a separate dwelling; the current position created a situation where the family residing in the main dwelling was not related to the occupants of the annexe which was no more sustainable than the annexe being independently occupied as a separate dwelling; the Council's concern that approving the application would set a precedent was unlikely to be realised given the annexe's scale and physical detachment from the main dwelling; the Officer's recommendation created a situation where the applicant was required to either sell the property as a whole or allow the annexe to become vacant; the lack of material harm arising from the scheme was sufficient for the Committee to justify approval of the scheme.

Following an invitation from the Chair to respond to matters made in the verbal representations. The Principal Planning Officer made the following points: the structure was originally constructed as an annexe and was tied to the main dwelling; other uses of the annexe were permitted, for example holiday let; the site was not in a location where a new dwelling would be permitted; the High Court Judgement provided a narrow definition of a residential building as a means of restricting development in the countryside.

The Committee then gave consideration to the application.

In response to Members' questions, Officers confirmed:

- Rental use of the annexe would require Change of Use permission;
- Local and national planning policy were very restrictive regarding proposed development in the countryside;
- Assessments of planning applications considered land use not the structures;
- Consideration needed to be given as to the potential for setting a precedent if the application were to be approved;
- The Council Tax liability of an annexe related to whether the dwelling contained a kitchen;
- Other family members were permitted to occupy the annexe.

A Member was sympathetic to the proposal which he considered operated as separate to the main dwelling and was not ancillary. It was in existing use and it did not appear rational that the Officer had recommended refusal when the annexe could be changed into a holiday let which would have a greater impact than the currently proposed scheme.

The Principal Planning Officer stated that the annexe was not a separate building rather it was tied to the main dwelling.

A Member proposed that determination of the application be deferred in order for the Committee to undertake a site visit. The proposal was seconded.

A Member moved the Officer's recommendation which was seconded.

The proposals were put to the ballot in the order they were received and following voting it was:

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

*The meeting adjourned at 11:35am and reconvened at 11:48am.*

## **5. Application - 21/0768 - 24 Hendersons Croft, Crosby on Eden, Carlisle, CA6 4QU**

## **Erection of first floor balcony to rear elevation (Retrospective).**

The Planning Officer submitted the report on the application which had been subject of a site visit by the Committee on 6 April 2022. Slides were displayed on screen showing: site location plan; existing and proposed block, elevation, ground and first floor plans and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the application be refused for the reasons set out in the report.

Ms Cray (On behalf of the applicant) addressed the Committee in the following terms: the balcony was essentially a homeowner improvement; elevation plans and photographs of the balcony were displayed on screen – Members' attention was drawn to the frosted glass incorporated on the aspect where overlooking of a neighbouring property was most likely; adjacent dwellings were already overlooked by pedestrians; weather conditions were likely to restrict the use of the balcony; the view from the balcony was little different from that of the former window.

The Committee then gave consideration to the application.

Members expressed strong support for the Officer recommendation and noted that approving the scheme would have a significant impact on the privacy and amenity of the occupiers of adjacent dwellings.

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

**RESOLVED:** That the application be refused for the reasons indicated in the Schedule of Decisions attached to these minutes.

## **6. Application - 21/1143 - Land adjacent to Meadow Cottage, Tarraby, Carlisle, CA3 0JS**

### **Proposal: Erection of 4no. dwellings and associated works**

The Principal Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; planning layout; site layout; elevation plans; and, photographs of the site, an explanation of which was provided for the benefit of Members.

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

Mr Nicholson (Stanwix Rural Parish Council) objected to the application in the following terms: a significant proportion of the application site, including Meadow Cottage were within the Tarraby Conservation Area which was defined by Historic England as “ an area of special architectural and historic interest, the character and appearance of which it was desirable to preserve or enhance.”; the proposed scheme would not preserve, maintain nor enhance the Conservation Area and as such was not compliant with Local Plan policy HE 7 – Conservation Areas; approval would generate a significant increase of vehicular movements within the Conservation Area; the weekday average vehicle movements contained in the submitted Speed Survey, Supporting Information and Traffic count did not appear to be correct; the data in the Drainage Report regarding the drainage of the site was incorrect in relation to the point of discharge into the River Eden; no formal land drainage infrastructure was present at the site and there was an existing problem of localised flooding in the vicinity of the site entrance; condition 4 imposed in respect of permission 20/0692 (a nearby development site) limited the number of dwellings permitted to two in order “... to avoid a cramped form of development and its impact on the local highway network – permitting four dwellings sought by the current application would be in conflict with the earlier permission; condition 5 of permission 20/0692 required the installation of passing places prior to the commencement of development; application 18/0928 sought permission for two dwellings and was refused consent, yet the current application was recommended for approval, it was important that the Council was consistent and fair in its decision making.

Mr Nicholson requested that the Committee refuse the application, were Members minded to approve it, he requested a site visit be undertaken prior to determination.

Ms Lightfoot (Agent) responded in the following terms: there was extant permission at the site for the delivery of two dwellings which had commenced; the additional two properties proposed were of a smaller scale than those already approved and would provide for a better mix of housing at the site; in addition to the submitted drainage scheme further information was submitted, in the form of CCTV surveys, to the Lead Local Flood Authority (LLFA); the camera surveys demonstrated the significant improvement the development would provide, if approved, to the existing drainage / flooding issues; the applicant had agreed to undertake remedial works to the existing drainage infrastructure which was subject of a planning condition; three of the four proposed dwellings provided ground floor bedrooms which accorded with the Council's policies of providing a range of dwellings; the site already contained a level of permitted development and the current proposal reflected the Conservation Area appropriately; a bin storage area was provided along with a turning head for emergency and larger vehicles, the Highway Authority had not objected to the proposal; a condition was included in the report requiring the submission of a Construction Management Plan to the Local Planning Authority for approval; the scheme would ensure a better land use, offer a range of dwellings, have a neutral impact on the Conservation Area, and provide a betterment of the existing drainage.

The Committee then gave consideration to the application.

A Member was surprised that the Highway Authority had not commented on the application particularly given its requirement for the provision of two passing places in relation to permission 20/0692 which was situated on the same lane as the current application site. Moreover, he was concerned that the scheme did not take sufficient account of the Conservation Area, and moved refusal on the grounds that the application did not comply with Local Plan policy SP 6 – Securing Good Design.

Mr Allan responded that the Highway Authority had considered the application and had not



raised any objection to the proposals.

Another Member felt that the proposal amounted to overdevelopment, he seconded the proposal to refuse the application.

The Chair stated that he had concerns regarding the validity of the data in the submitted traffic survey and was not confident with the information provided. He asked Members to consider deferring determination of the application in order to allow further information to be submitted on the traffic report. A Member seconded the proposal and the Committee indicated its assent.

*Councillor Shepherd left the meeting.*

RESOLVED: That determination of the application be deferred in order to allow further information to be submitted on the traffic report.

## **7. Application - 21/1161 - Scotby Acres, Broomfallen Road, Scotby, Carlisle, CA4 8DE**

**Proposal: Variation of Condition 5 of previously approved appeal decisions APP/E0915/W/15/3127903 (Siting of 2no. residential Gypsies/Travellers pitches with utility/day room; 2no. static caravans and 2no further toilet/shower rooms (Part Retrospective) to allow an additional 8no. touring caravans and storage shed.**

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; block plan; floor and elevations plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the application be refused for the reasons set out 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 refused for the reasons indicated in the Schedule of Decisions attached to these minutes.

## **8. Application - 21/0893 - Mannory, Broomfallen Road, Scotby, Carlisle, CA4 8DE**

**Proposal: Change of Use of land from agricultural use to 1no. Gypsy pitch comprising the siting of 4no. mobile homes, 1no. utility block, 2no. toilet blocks & 2no. touring caravans together with the formation of an area of hardstanding & installation of a treatment plant (Part Retrospective)**

The Head of Development Management submitted the report on the application. Slides were displayed on screen showing: location plan; block plan; floor and elevations plan; entrance gates plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Head of Development Management recommended that the application be refused for the reasons set out in the report.

The Committee then gave consideration to the application.

In response to a Member's concern regarding Highways England not responding to the application and its potential to create light pollution on the motorway, the Head of Development Management advised that the organisation was aware of the proposal.

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

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

## **9. Application - 21/1117 - Scotby Oaks, Broomfallen Road, Scotby, Carlisle, CA4 8DE**

**Proposal: Change of Use of land residential for a single family group comprising of 4no. plots each containing 1no. amenity building; 1no. static caravan; 1no. storage shed & 2no. touring caravans together with the formation of an area of hardstanding & installation of a treatment plant (Part Retrospective)**

The Head of Development Management submitted the report on the application. Slides were displayed on screen showing: location plan; block plan; floor and elevations plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Head of Development Management recommended that the application be refused for the reasons set out in the report.

The Committee then gave consideration to the application.

In response to Members' questions, Officers confirmed:

- The minimum distance of permissible development adjacent to a motorway was dependent on the nature of the development;
- A public bridleway existed between the application site and the motorway;
- The applicant owned the site;
- The process for establishing need for a Gypsy/Traveller site. As part of the review process for the existing Carlisle District Local Plan 2015-30, consideration would be given to other potential sites.

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

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

## **DC.32/22 SCHEDULE B - DECISIONS TAKEN BY OTHER AUTHORITIES**

RESOLVED - That the content of the report be noted.

## **DC.33/22     PUBLIC AND PRESS**

RESOLVED – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in the paragraph numbers (as indicated in brackets against the minutes) of Part 1 of Schedule 12A of the 1972 Local Government Act.

## **DC.34/22     TPO 317 LAND AT DEER PARK, KINGSTOWN ROAD, CARLISLE**

(Public and Press Paragraph 5)

The Principal Planning Officer submitted report ED.08/22 which considered the confirmation of Tree Preservation Order TPO 317 Land at Deer Park, Kingstown Road, Carlisle following the receipt of representations to the making of the Order. Photographs of the trees, subject of the Order were displayed on screen.

The Principal Planning Officer recommended that the Order be confirmed with the following modification: that tree 'T2' be excluded.

The Committee gave consideration to the Order. A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED – That Tree Preservation Order 317 Land at Deer Park, Kingstown Road, Carlisle, be confirmed subject to the following modification: that tree 'T2' be excluded.

The Meeting ended at: 13:09