

DEVELOPMENT CONTROL COMMITTEE

FRIDAY 22 MARCH 2019 AT 10.00 AM

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

ALSO

PRESENT: Councillor Collier (Ward Member) attended the meeting having registered a Right to Speak in respect of applications:

- 18/1088 – Land adjacent to King Edwards Fauld, Burgh by Sands, Carlisle, CA5 6AR;
- 18/0994 – Land to the rear of Hallcroft, Monkhill, Carlisle, CA5 6DB.

Councillor Allison (County Councillor) attended the meeting having registered a Right to Speak in respect of applications:

- 18/1088 – Land adjacent to King Edwards Fauld, Burgh by Sands, Carlisle, CA5 6AR;
- 18/0994 – Land to the rear of Hallcroft, Monkhill, Carlisle, CA5 6DB.

OFFICERS: Corporate Director of Governance and Regulatory Services
Development Manager
Principal Planning Officer
Planning Officer x 2

DC.027/19 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillor Brown and the Corporate Director of Economic Development.

DC.028/19 DECLARATIONS OF INTEREST

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

Councillor Tinnion declared an interest in respect of application 18/0499 – Newtown House, Blackford, Carlisle, CA6 4ET. The interest related to the applicant being known to him.

Councillor Shepherd declared an interest in respect of application 18/0499 – Newtown House, Blackford, Carlisle, CA6 4ET. The interest related to the applicant's business operation carrying out works for an organisation where he held the position of Vice Chairman.

Councillor Earp declared an interest in respect of application 19/0010 – Land adjacent to Scotby Acres, Broomfallen Road, Scotby, Carlisle, CA4 8DE. The interest related to objectors being known to him.

Councillor Mrs Parsons declared an interest in respect of application 18/0994 – Land to the rear of Hallcroft, Monkhill, Carlisle, CA5 6BD. The interested related to her being a relative of the applicant.

DC.029/19 PUBLIC AND PRESS

RESOLVED – That the Agenda be agreed as circulated.

DC.030/19 MINUTES OF PREVIOUS MEETINGS

RESOLVED – 1) That the minutes of the meetings held on 21 November 2018 (site visits meeting), 23 January 2018, 9 January 2019 (site visits meeting), 11 January 2019 be signed by the Chairman.

2) That the minutes of the meetings held on 15 February and 20 March (site visits) be approved.

DC.031/19 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS

The Corporate Director of Governance and Regulatory Service 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.032/19 CONTROL OF DEVELOPMENT AND ADVERTISING

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

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

- 1) **Change Of Use of Land and Buildings to for Concrete Product manufacturing premises to roofing business including the siting of a scaffold rack, erection of a car port and store together with the formation of a vehicle wash bay (Part Retrospective), Newtown House, Blackford, Carlisle, CA6 4ET (Application 18/0499).**

The Development Manager informed the Committee that a number of additional issues pertaining to the application had been raised that morning which meant they were not able to be resolved in advance of the meeting. He recommended that the application be withdrawn from discussion so that the issues may be considered, and a further report be submitted to a future meeting of the Committee.

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

RESOLVED: That the application be withdrawn from discussion so that the issues may be considered, and a further report be submitted to a future meeting of the Committee.

- 2) **Erection of 24no. detached dwellings and associated infrastructure, Land adjacent to King Edward Fauld, Burgh by Sands, Carlisle, CA5 6AR (Application 18/1088)**

The Principal Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 20 March 2019.

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

Correspondence had been received from the occupiers of 1 and 2 King Edwards Fauld, which had rear elevations facing the site, objecting to the two visitor spaces being located to the rear of their dwellings. It was requested that trees be planted in the area and that the fence to the rear of the dwellings to be increased to 1.8m.

Having considered the matter, the Principal Planning Officer considered it appropriate to amend the boundary treatment adjacent to 1 and 2 King Edwards Fault by increasing the fence height to 1.8m. However, the planting of trees was not feasible as they would be planted in the garden of Plot 16, which was not reasonable and had the potential to create future maintenance issues.

Objectors had expressed concerns about the impact of the proposal on the adjacent highway network, particularly in relation to parking issues at school drop off and collection times. The Principal Planning Officer noted that the matter would have been taken into account during the process of the site being allocated for housing in the Carlisle District Local Plan 2015 – 30 (“Local Plan”). Furthermore, the Highway Authority had not objected to the current proposal,

With reference to the conditions proposed in the report, the Principal Planning Officer advised that condition 14 effectively duplicated condition 18 and made reference to previous Local Plan policies, accordingly, he recommended that condition 14 be removed from the permission.

The Principal Planning Officer recommended that:

- 1) Authority to Issue be given to the Corporate Director of Economic Development to grant approval of the application, subject to the completion of a S106 agreement to secure:
 - a) The provision of four affordable dwellings (two for discounted sale and two for social rent);
 - b) A financial contribution of £16,600 to support the off-site improvement of open space in Burgh by Sands;
 - c) A financial contribution of £98,216 (based on DfE multiplier of £24,554 per pupil place) to Cumbria County Council toward.
- 2) That should the Section 106 Agreement not completed in a reasonable time, then Authority to Issue a Refusal Notice be given to the Corporate Director of Economic Development.
- 3) That condition 14 be removed from the permission.

Mr Stonebridge (Burgh by Sands Parish Council) addressed the Committee noting that the Parish Council had engaged with the Council during its development of the Local Plan and agreed that the application site was the preferred location for development in the area. He objected to the proposed scheme on the following grounds: the increase in the number of proposed dwellings from the Outline application; the density of the development would lead to reduced amenity in terms of garden size; the proposed drainage system; impact on the adjacent highway network of additional vehicular movements particularly related to school drop off and collection time.

In conclusion Mr Stonebridge considered that development of the site was welcome, but the infrastructure needed to support the scheme was not in place.

Councillor Collier (Ward Member) endorsed the Parish Council’s representation and indicated he held the same concerns in relation to the proposed scheme. He stated that whilst attending the Committee’s site visit he had noted the boggy nature of the site. Moreover, he was not satisfied with Untied Utilities response to the application: in his view, the organisation was aware of a number of drainage issue in Burgh by Sands, including the backing up of sewage into domestic properties.

Councillor Allison (County Councillor) addressed the Committee advising that he did not object to the application. Referring to the longstanding issue of vehicular parking on Ludgate Hill at

school drop off and collection times, he expressed disappointment that the proposed scheme was not to be used as a mechanism for addressing the issue as part of the Section 106 Legal Agreement. Councillor Allison asserted that the community would realise far more amenity value from S106 monies being used to create parking provision in the vicinity of the school, than being put towards improvement of the existing play area. He requested that Members consider that option as part of their determination of the application.

The Development Manager responded that there were legal and planning tests for matters that were able to be included in a Section 106 Legal Agreement. It was also possible that issues identified during the early stages of an application may be addressed as part of the development. However, it was not possible for such matters to be included when an application was significantly progressed, for example, when both parties had agreed the terms of a legal agreement as was the case with the current application.

Mr Greig (on behalf of the applicant) responded that the layout and design of the proposed scheme provided a range of properties with an average garden depth of 10.5m. Acknowledging the issue of congestion at school times, he advised that the application would afford a betterment to the existing situation through the provision of a public footpath to the school.

The Highway Authority had rejected the Parish Council's proposal of widening the road in addition to the provision of a footpath on the grounds that it was likely to increase vehicular speed thereby reducing safety.

In relation to drainage, Mr Greig noted that United Utilities had advised that there was sufficient capacity in the existing sewerage system to incorporate the development. Ground investigations by the developer had indicated that soakaways were suitable for the site.

The applicant had agreed to all the requirements of the legal agreement thus far and was agreeable to the changed boundary treatment in relation to the fence adjacent to 1 and 2 King Edward Fauld. In conclusion, Mr Greig felt that the proposed scheme was compliant with the relevant planning policies, he requested that the Committee approve it.

The Committee then gave consideration to the application.

A Member asked, given the concerns expressed in relation to sewerage capacity in the area, whether Officers were able to raise the matter with United Utilities requesting that an assessment be carried out.

The Development Manager undertook to write to United Utilities on the issue.

With regards to the suggestion of using Section 106 monies to fund parking provision near the school, a Member asked whether it was permissible for the funding to be given to the Parish Council and for it to decide how to distribute it.

The Development Manager explained that the purpose of a Section 106 Agreement was to specify the level of funding required from the developer and the activity it was for, which required the consent of both parties. The proposed agreement, as set out in the Officer's recommendation had been settled by both parties (Council and developer), were the Committee minded to request that funding be required for parking provision, it would also need to be agreed by the developer and the current agreement would need to be redrawn.

In response to a question from a Member regarding the proposed boundary treatment adjacent to plots 1 and 2 King Edwards Fauld, the Principal Planning Officer detailed the height and extent of the proposed fencing.

A Member asked whether a condition could be added requiring the provision of an electric car charging point, and if such a requirement was able to be incorporated into all planning permissions going forward.

The Development Manager responded that Officers would raise the matter with the developer. He noted that the provision of electric charging points for visitor spaces were difficult to justify commercially as doing so would require an appropriate supply and frequency of use of the points. It was a matter that Officers would continue to be mindful of going forward. The layout of this development allowed all properties to easily access their own supply which was also be able to be used by any visitors.

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

RESOLVED – 1) That Authority to Issue be given to the Corporate Director of Economic Development to grant approval of the application, subject to the completion of a S106 agreement to secure:

- a) The provision of four affordable dwellings (two for discounted sale and two for social rent);
- b) A financial contribution of £16,600 to support the off-site improvement of open space in Burgh by Sands;
- c) A financial contribution of £98,216 (based on DfE multiplier of £24,554 per pupil place) to Cumbria County Council towards education provision.

2) That should the Section 106 Agreement not completed in a reasonable time, then Authority to Issue a Refusal Notice be given to the Corporate Director of Economic Development.

3) That condition 14 be removed from the permission.

4) That the Development Manager write to United Utilities requesting that an assessment of the sewer system in Burgh by Sands be carried out.

3) Erection of 7no. Dwellings (Outline/Renewal of previously approved permission 15/0284) Land to the rear of Hallcroft, Monkhill, Carlisle, CA5 6DB (Application 18/1059).

Councillor Parsons having declared an interest in the item of business took no part in the discussion nor determination of the application.

The Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 20 March 2019. He advised that paragraph 3.3 of the report erroneously referred to two dwellings with two affordable dwellings and should read seven dwellings with two affordable dwellings.

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

In overall terms, the site was well-related to the village of Monkhill and had been previously granted two planning permissions. The application was supported by the National Planning Policy Framework (NPPF) and the Local Plan, and as such, the principle of development

remained acceptable. Matters of access, appearance and landscaping, layout and scale would be considered during the course of any subsequent Reserved Matters application.

The submitted plans took account of highway issues and the living conditions of the occupiers of the neighbouring properties which would not be prejudiced, subject to the imposition of appropriate conditions.

The means of foul and surface water drainage would be suitably addressed through the imposition of planning conditions. Any subsequent development would have to take account of existing underground infrastructure both through the planning and building control processes.

The proposal would preserve the character and setting of nearby Listed Buildings and existing trees and hedges would be protected by means of a condition requiring the provision of protective barriers.

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

Mr Rigg (Objector – on behalf of Mrs Rigg and himself) objected to the application in the following terms: the site was on a field which contained a number of septic tanks and associated infrastructure for a number of existing, adjacent properties; it was contrary to Building Regulations to build on top of sewerage infrastructure; a Deed of Access existed between himself and one of the applicant parties to allow access into the site for the purposes of maintaining the septic tank; the existing drainage in the village was poor and may not have the capacity for the additional properties; the proposal would create an additional 14 vehicles in the village which would have a detrimental impact on road safety; the properties would overlook and overshadow his property. Slides were displayed on screen showing conditions on the adjacent roads.

Mr Jackson (Objector) objected to the application in the following terms: the Parish Council who had previously supported the proposal now objected to the scheme; the site was poor quality land; approving the application, in addition to other extant permissions would equate to a 42% increase in the number of dwellings in the village; it was not lawful to building dwellings over existing septic tanks and associated infrastructure; the adjacent field was thought to contain Roman artefacts. Slides were displayed on screen showing traffic issues on the adjacent highway and an aerial photograph of an adjacent field which potentially contained Roman artefacts.

Councillor Collier (Ward Member) addressed the Committee and drew Members attention the comments of the Parish Council (page 122) which he fully endorsed. He questioned how it was feasible for development to be permitted over existing septic tank infrastructure. In respect of highway matters he disagreed with the Highway Authority's comments and noted that a number of accidents had occurred at the junction on the adjacent highway.

Councillor Allison (County Councillor) addressed the Committee recognising the application sought the renewal of a permission. In relation to highway issues, a traffic monitoring exercise had been carried out (full details of which were contained in his written representation on the application). Given the number of accidents and near misses, he was disappointed with the Highway Authority's response to the application and was concerned that the Authority viewed the matter as a traffic control issue rather than a problem with the junction itself.

Regarding drainage matters, Councillor Allison felt that there had been a lack of developer interest in the site as a result of the existing utilities within the site. He was of the opinion that

the matter ought to be addressed and requested, in the event of the Committee approving the application, that a condition be imposed to require that.

Mr Greig (on behalf of the applicant) responded that whilst he appreciated the objectors' concerns, the application merely sought the renewal of a previously granted permission with no material changes. Whilst the issues relating to the existing septic tanks at the site were Civil matters, condition 16 of the Consent required that the matter be taken into account as part of any future Reserved Matters application.

The Committee then gave consideration to the application.

A number of Members expressed concerns regarding the existing drainage infrastructure within the site in relation to:

- the uncertainty of the exact number and location of pipes and septic tanks;
- the potential for damage to occur during the construction phase of the development and where liability for rectifying any such matters would lie;
- issues relating to future access and maintenance of the existing drainage infrastructure.

The Corporate Director reminded the Committee that its purpose was to determine the proposed land use, as such Members were required to assess whether the site was suitable for housing development. The current application sought a renewal of previously approved permission for the site, given that the application was for Outline Permission, Members were being asked to approve the principal of development only, other matters including drainage would be considered later in the process in the event of a future Reserved Matters application submission.

The Development Manager added that the location of the drainage infrastructure at the site was not known by the Local Planning Authority however, it was a matter for the landowner and developer to resolve. Condition 16 required those parties to carry out investigation works at the site, as the details of the existing infrastructure at the site would be required as part of any future Reserved Matters application. The condition did not prejudice the Committee's right to refuse permission of a Reserved Matters application, nor the Civil rights of the occupiers of the existing dwellings.

Regarding the liability for the reparation of damage as a result of any permitted construction activities at the site, the Planning Officer advised it was a Civil matter and as such was not reasonable to impose a condition apportioning responsibility to any one party.

A Member considered that the most effective system for managing the drainage from the existing properties was a single septic tank.

The Planning Officer accepted the idea and indicated that a relevant condition would be considered at the appropriate stage of the planning process.

In response to a question from a Member regarding education contributions, the Planning Officer explained that the County Council, as Local Education Authority, was responsible identifying contribution levels. However, a development of the size proposed would fall below the threshold where a contribution would be required.

Turning to the issue of Roman artefacts being present in the adjacent field, Members sought confirmation that the matter had been brought to the attention of Historic England.

The Planning Officer responded that Historic England had returned comments on the current scheme and the two previous applications. There had been no material changes to the application nor the submissions from objectors. He understood that Mr Jackson (Objector) had made representations to the organisation on the matter.

A Member requested that the situation be monitored in future.

The Development Manager agreed impose a condition requiring the submission of a watching brief.

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

RESOLVED: 1) That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

2) That an additional condition be imposed requiring the submission of a watching brief on the possible archaeological artefacts in the field.

4) Single storey rear extension to provide sunroom, 5 Kirkandrews Moat, Longtown, Carlisle, CA6 5PH (Application 19/0100).

The Planning Officer submitted the report on the application. Slides were displayed on screen showing; Site location plan; Existing floor plans and elevations; Proposed floor plans and elevations; Photo of the rear of the property existing outbuilding to be demolished; Northern boundary of the site; Southern boundary of the site, and photographs of the site, an explanation of which was provided for the benefit of Members.

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.

5) Change of Use of Land to mixed use of agricultural and siting of 1no. residential gypsy/travellers pitch with 3no. caravans, (including a static caravan); erection of amenity building; laying of hardstanding (Part Retrospective) without compliance with condition 8 imposed on planning permission 14/0825 to allow the submission for the development and landscape details of the site and subsequent completion of development, Land adjacent to Scotby Acres, Broomfallen Road, Scotby, Carlisle, CA4 8DE (Application 19/0010).

The Planning Officer submitted the report on the application which sought the variation of a condition of the previous permission in order for it to be discharged. The current application proposed the variation of condition 8 by altering the timescale allowing for the submission of an application with details relating to: the layout of the site including the positioning of the caravans and ancillary buildings and areas of hard standing; boundary treatments; the means of foul and surface water drainage; external lighting; landscaping including tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities. The principle and level of the use, together with the overall timeframe for implementation of the planning permission remain unaltered by the application.

The Planning Officer advised that in all aspects the proposal was compliant with the objectives of national and Local Plan policies, accordingly, the application was recommended for approval, subject to the imposition of appropriate planning conditions.

A Member questioned whether the name of the site was correct. Concerns had been expressed by local residents that the whole site would be taken over, he sought clarification that there was an allocated Gypsy and Traveller site within the district.

The Planning Officer confirmed that an allocated Gypsy and Traveller site existed within the district.

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

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

6) Siting of hand car wash and valet facility, including canopy and portable office store building, (Revised Application), Houghton Hall Garden Centre, Houghton, Carlisle, CA6 4JB (Application 18/0891).

The Planning Officer submitted the report on the application which sought permission for the operation of a car wash and valet business from within the hardstanding area associated with the garden centre. The development would comprise the creation of water recirculation system and water tanks, floodlighting affixed to the cabin and the demarcation of valet areas within the site. The car wash business would operate from 9am to 6pm Mondays to Saturdays and 10.30am to 4.30pm Sundays.

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

The principle of development was acceptable, and in the Planning Officer's view, would not have a detrimental impact on the character or appearance of the area or the nearby Listed Building. The site was detached from the nearby residential property and, subject to the imposition of conditions, the development would not result in a nuisance to the occupiers of that property.

The report detailed proposed conditions in respect of the foul water, surface water run-off, and the storage of detergents and chemicals on the site. The proposal had not raised any biodiversity or highway issues and in all aspects, the Planning Officer considered that the proposal was acceptable in terms of the NPPF and Local Plan policies. On that basis the application was recommended for approval, subject to the imposition of the conditions detailed in the report.

The Committee then gave consideration to the application.

A Member expressed strong concerns that the applicant had not provided full details of the foul drainage system, he considered that withholding such information meant that the proposal was not in accordance with Local Plan policy IP 6 – Foul Water Drainage on Development Sites. In addition, he felt it was inappropriate that the authority was passing the responsibility for determining the efficacy of the system to the Environment Agency.

The Planning Officer agreed that policy IP 6 was central to the determination of the proposal. Given that a pre-commencement condition had been imposed requiring the submission of details of the foul water drainage system to the Local Planning Authority for approval prior to any future permit application with the Environment Agency, he did not believe the Council was negating its responsibilities.

Another Member drew the Committee's attention to the Environment Agency's response which had been reproduced on page 157 of the Schedule, noting it stated that the application was unlikely to be able to meet the standards required for the permit. In light of those comments, he considered that the application ought to be refused on the basis of the foul drainage system not being able to meet the required standard.

The Planning Officer advised that, due to the applicant not having submitted the details of the foul water drainage arrangements, the Environment Agency had not carried out an assessment of system. The use of conditions requiring the submission of details of systems related to a development was a common place occurrence in planning.

The Member responded that the foul drainage system information ought to have been provided with the application to enable Officers and the Committee to properly determine the application.

The Development Manager acknowledged the Members' concerns and noted the applicant had stated that they would not provide the details of the foul water drainage system until planning permission had been granted. The imposition of a condition requiring the submission and approval of the system meant those arrangements would need to be formally approved prior to the commencement of the development.

A number of Members remained of the view that details of the foul water drainage system ought to have been provided with the application and gave consideration to refusing the scheme on the grounds that not providing the data meant the scheme was not compliant with Local Plan policy IP 6.

The Corporate Director advised Members that in order to base refusal on policy IP 6 Members should be convinced that no suitable foul water drainage system was in place. In the case of the application before the Committee that information had not been submitted. He reminded Members that the function of planning conditions was to make development acceptable, and that the central consideration was the proposed land use; were the use to be deemed acceptable, subject to a satisfactory drainage system, the scheme was permissible.

Moreover, condition 3 required the Local Planning Authority to approve the foul drainage system prior to the development commencing. The permitting regime of the Environment Agency offered a secondary protection on the efficacy of the system.

A Member appreciated the Corporate Director's advice and indicated that he did not have concerns with the proposed land use. In his view, drainage management was the key issue relating to the scheme, the lack of data on the arrangements meant that the Committee was not able to consider the issue. On that basis, he moved that the application be refused on the grounds that it was not compliant with Local Plan policy IP 6 Foul Drainage on Development Site. The proposal was seconded.

In response to a question from a Member regarding the restrictions on the use of pressure washers, the Planning Officer advised that the application was for a hand car wash, therefore using such equipment was not necessary to the operation.

The Committee discussed the applicant's experience of providing car wash facilities and noted that they had another operation in the district which used pressure washers.

A Member noted that the foul water drainage condition required the submission of details prior to the development taking place. If the applicant did not discharge the condition, planning

permission would not be given, therefore, she moved the Officer's recommendation which was seconded.

The Chairman noted that proposals to refuse and approve the application had been moved and seconded, they were put to the vote and it was:

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

DC.033/19 SCHEDULE B

The Development Manager provided Members with a synopsis of the key issues relating to the applications reported in the Schedule B reports.

A Member commented that he considered the Officer's overview of the implications of the Planning Inspectorate Appeals had been very useful.

RESOLVED - That the applications referred to under the Schedule of Applications under B be noted.

[The meeting closed at 12:26pm]