

DEVELOPMENT CONTROL COMMITTEE

FRIDAY 15 SEPTEMBER 2017 AT 10.00 AM

PRESENT: Councillors Mrs Warwick (Chairman), Bloxham, Mrs Bradley, Christian, Earp, Glendinning, McDevitt, McDonald, Mrs Parsons, Shepherd, and Sidgwick T.

ALSO

PRESENT: Councillor Higgs (in his capacity as Ward Member) attended the meeting having registered a Right to Speak in respect of application 17/0540 – Skelton Court (formerly Skelton House), Wetheral, Carlisle, CA4 8JG.

Mr Allan – Cumbria County Council

OFFICERS: Corporate Director of Economic Development
Development Manager
Legal Services Manager
Principal Planning Officer
Planning Officers x 2

DC.87/17 APOLOGIES FOR ABSENCE

No apologies for absence were submitted.

DC.88/17 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 application 17/0540 – Skelton Court (formerly Skelton House), Wetheral, CA4 8JG. The interest related to objectors being known to him.

Councillor Mrs Bradley declared an interest in respect of application 17/0540 – Skelton Court (formerly Skelton House), Wetheral, CA4 8JG. The interest related to a statement which she had read out in public at a previous meeting and advised that she would not participate in the discussion nor determination of the application.

The Committee declared an interest in respect application 17/0443 – Land to the North of 10 Lonning Foot, Rockcliffe, Carlisle. The interest related to an objector being known to them.

DC.89/17 PUBLIC AND PRESS

RESOLVED – That the Agenda be agreed as circulated.

DC.90/17 MINUTES OF PREVIOUS MEETING

RESOLVED - (1) That the minutes of the meetings on 31 May (site visits meeting), 2 June 2017, 5 July 2017 (site visits meeting) and 7 July be signed by the Chairman.

(2) That the minutes of the meetings held on 11 August 2017 and 13 September be approved.

DC.91/17 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.92/17 CONTROL OF DEVELOPMENT AND ADVERTISING

RESOLVED – (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) **Variation of Condition 1 (Approved Documents) of Previously Approved Permission 14/0472 to retain a 2No. Bed Apartment within the roof space: formation of rendered plinth and installation of glazed screen in lieu of glazing and doors already installed; reinstatement of ridge line to that already approved under application reference 14/0472; formation of lift housing within the roof space; and retention of residual flat roof area (Not for any associated residential amenity space, Skelton Court, (formerly Skelton House), Wetheral, CA4 8JG (Application 17/0540).**

Councillor Mrs Bradley having declared an interest in the item removed herself from her seat and took no part in the discussion nor determination of the application.

A Member questioned whether determination of the application was appropriate given that the Planning Inspectorate was considering an Appeal against refusal of permission to develop the site in relation to application 17/0304.

The Corporate Director of Economic Development instructed Members that determination of the proposal must be undertaken. The Planning Inspectorates' decisions regarding previous applications to develop the site had been reproduced within the Officer's report, as they were material planning considerations, which Members needed to give weight to in their determination of the scheme. The Planning Inspectorate would be advised of the Committee's decision in respect of the current determination, such an approach was standard practice.

Another Member sought clarification as to how the Enforcement Notice, issued by the Council in respect of the unpermitted development at the site affected the determination of the current application.

The Legal Services Manager informed Members that the Enforcement Notice expired during the week commencing 18 September 2017, had the required action not been undertaken, the developer would be deemed to be in breach of the Notice. In the event of a breach the Council had various options including issuing criminal proceedings. She advised Members that the Council had a window of time in which to prepare its evidence and issue the summons. She further advised that it may be inadvisable to do so before receiving the Planning Inspector's Decision regarding the current Appeal.

In relation to the current application, the Legal Services Manager reminded the Committee that the timescale for deciding planning applications was set by government, accordingly she advised the Committee that they should determine the application before them.

The Planning Officer submitted the report on the application and noted that further to the production of the report, 7 letters of objection had been received which were reproduced on pages 1 - 7 of the Supplementary Schedule. Following the publication of the Supplementary Schedule, a further 7 letters of objection had been received, together with an objection from the Parish Council. The Planning Officer advised that the letters raised similar issues to those summarised in paragraphs 4.1 to 4.4 of the report.

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

The Planning Officer reminded Members that the principle of the additional accommodation had been accepted by the Planning Inspector in decision APP/E0915/C/16/3151214, however, in his letter, he remained concerned about the additional development that accompanied the apartment. A summary of the changes between the current application and the proposal rejected on Appeal were listed in paragraph 3.6 on page 31 of the Main Schedule.

The Planning Officer recommended that condition 3 be amended to read:

“The rendered plinth and non-opening glazed screen separating the third floor accommodation from the external area shall be undertaken in accordance with the requirements of condition 2 of this permission and shall remain in situ without any modification in perpetuity unless otherwise agreed in writing by the local planning authority.”

The Planning Officer further recommended a condition stipulating that the flat roof area not be used as a terrace or recreational outdoor area or similar to read:

“The flat roof areas hereby approved shall not be used as roof terraces, and any access out onto these areas shall be for maintenance or means of escape only.

Reason: In order to prevent any detrimental impacts of overlooking and/ or noise and disturbance of the neighbouring properties in accordance with Policies HO2 and SP6 of the Carlisle District Local Plan 2015-2030.”

In conclusion, the Planning Officer advised that the application addressed the issues raised by the Planning Inspector and by the Committee at its June meeting, on that basis, he recommended the application for approval subject to the imposition of the conditions, as amended, together with the additional condition restricting the use of the flat roof area.

Mr Stephenson (Objector) on behalf of himself and Mrs Hill-Gorst spoke against the application in the following terms:

- the proposed roof apartment had not been given consent as part of application 14/0472;
- many of the proposals contained in the current application had been contained in application 17/0304 which the Committee had rejected at its June meeting; the application contravened Section 70A of the Town and Country Planning Act;
- the Planning Inspector had not objected to the inclusion of accommodation within the roof space but had found the roof in its current format unacceptable;
- the application retained numerous roof lights and lanterns which would affect the residential amenity of neighbouring properties;
- the proposed screen was in fact a window and it was likely that it would be converted to a door allowing access to the flat roof, a change that did not require planning permission;

In conclusion, Mr Stephenson asked the Committee to defer determination of the application pending the Planning Inspectorate's decision of the appeal in relation to application 17/0304 or that the application be refused on the grounds that it was contrary to Carlisle and District Local Plan policies SP6 – Securing Good Design, H02 – Windfall Housing Development, HE3 – Listed Buildings, and HE7 – Conservation Areas.

Mrs Ferguson (Objector) on behalf of herself, Mrs Norman and Mrs Price spoke against the application in the following terms:

- The proposed apartment had previously been refused permission five times;
- The ability to access the flat roof for maintenance meant that the occupier in effect would have permanent access to the terrace, therefore the application was not significantly altered from application 17/0304;
- Conditions included within any planning consent described as “in perpetuity” were able to be amended as were Section 106 Agreements, therefore the conditions proposed by the Officer were open to amendment and may result in a detrimental impact on the residential amenity of the adjacent properties;
- The Planning Inspector had:
 - dismissed appeals by the developer on the basis that the apartment and terrace had altered the profile of the building and that the terrace would cause harm to the living conditions of neighbours;
 - described the inclusion of pyramid lanterns, lift shaft housing, air-conditioning unit and glass roof lights as detracting from the character and appearance of the Conservation Area and Listed Building and was contrary to Local Plan policies SP6, HO2, HE3 and HE7;
- The only issue addressed in the current application (following the refusal of application 17/0304) was the removal of the lift shaft housing;
- A Council issued Enforcement Notice requiring the removal of the apartment and the reinstatement of the building in line with approvals previously issued by the Council was due to expire on 17 September. The action required by the Notice should be carried out.

Mrs Ferguson displayed slides on screen showing: photographs of the site; approved and actual elevations and roof line height and photographs providing examples of her property being overlooked from the existing terrace.

In conclusion Mrs Ferguson stated that she felt the Committee should defer determination of the application pending the Planning Inspectorate's determination of the appeal in respect of application 17/0304.

Councillor Higgs (Ward Member) spoke against the application in the following terms;

- the application had received more than 70 objections to the proposal, an increase to the 40 received for application 17/0304 which indicated that community opposition to the development was becoming entrenched;
- The Committee's previous refusals to grant permission in relation to the development had been borne out by the Planning Inspectorate Appeal Decision;
- The current proposal was not significantly altered from the previously refused application 17/0304;
- The proposed removal of the lift housing would only make more visible the objects which had been housed on the terrace and which did not have permission;
- The accommodation on the third floor had never been granted planning permission, therefore it was already in breach of planning policy;

- The application was contrary to Local Plan policies SP6, HO2, HE3 and HE7.

Mr Hutchinson (Agent) stated the applicant recognised that he had made a number of mistakes in his pursuit of the development of the site which had caused upset to a number of residents in the vicinity which had resulted in a cycle of responses between himself and objectors to the proposal. The applicant felt that in order to bring the development to a successful conclusion it was necessary to move on from the current situation.

The Planning Inspector had not taken issue with the principle of accommodation in the roof space, the current scheme proposed the formation of the lift housing be included within the roof space and that the roof line be reinstated to the height approved under application 14/0472. The current proposal, if approved, would minimise the impact of the development on the Conservation Area, Listed Building and residential amenity of neighbouring properties.

Mr Hutchinson stated that individual planning applications were required to be determined on their own merits, he asked the Committee to accept the Officer's recommendation and approve the application.

The Committee then gave consideration to the application.

A Member sought clarification on the differences between a flat roof and a terrace.

The Planning Officer drew Members' attention to page 53 of the Main Schedule where the proposed roof plan had been reproduced, and reminded the Committee that his recommendation included an additional condition which stipulated the permissible uses of the space.

Another Member asked what the applicant intended to do with the items currently situated on the flat roof, and how access to the area for maintenance purposes was possible without a door from the dwelling on to the flat roof area.

The Planning Officer noted that the cross section plans reproduced on page 54 of the Main Schedule indicated that the items would be removed.

A Member considered that the current application had addressed the concerns raised by the Planning Inspector and therefore the application warranted approval. On that basis he moved the Officer's recommendation.

Another Member considered that there was little difference between a terrace and a flat roof and expressed concerns that the imposition of a condition to restrict particular types of uses of the proposed flat roof would be difficult to enforce.

The Development Manager responded that the proposed condition restricting the types of use the flat roof could be put to, was a commonly used condition and its imposition would set out clearly to the applicant that permission to use the flat roof area as a terrace was required.

A number of Members expressed concerns that:

- permitting entry to the flat roof area to enable maintenance would necessitate a point of access from the living accommodation, and by allowing such access to the flat roof area, the Committee was, in effect permitting use of a terrace area;
- the ridge height surrounding the flat roof area be returned to that permitted under the planning permission granted in respect of application 14/0472.

A Member moved that the application be refused permission on the grounds that it contrary to Local Plan policies SP6, HO2, HE3 and HE7, which was seconded.

The Development Manager requested that the proposer provide further detail on her reasons for moving refusal.

The Member responded that she considered the application was detrimental to the living conditions of the neighbours, and that the scheme did not address the concerns of the Planning Inspector detailed in paragraph 51 of his decision in relation to APP/E0915/C/16/3151214 (reproduced in paragraph 6.6 of the Officer's report).

The Chairman noted that the Officer's recommendation had been moved by a Member, but not seconded. The proposal to refuse permission was put to the vote and it was:

RESOLVED: That the application be refused.

Councillor Mrs Bradley returned to her seat.

(2) Erection of 172No. Dwellings (Approval of Reserved Matters Pursuant to Outline Permission 14/0761), Land at Greymoorhill, Kingstown Road, Kingstown, Carlisle (Application 17/0480).

The Principal Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 13 September 2017.

Slides were displayed on screen showing; location plan; detail layout; indicative masterplan; photomontage of proposed streetscape, house types and general arrangement and; photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer informed Members that on 14 September 2017 he had received letters from Councillor Bainbridge as Ward Member and Stanwix Rural Parish Council raising concerns that the application site had been used as Foot and Mouth burial pit in the 1950s or 1960s. The Parish Council was further concerned that the Local Planning Authority was relying on evidence submitted by the applicant, which they considered to be inappropriate. It was their view that in the wider public interest, a full and independent examination should be carried out at the developer's expense with the aim of ascertaining a definitive resolution regarding the presence or otherwise of a burial pit.

In response to those issues, the Principal Planning Officer advised that:

- A newspaper article confirmed an outbreak of Foot and Mouth at Greymoor Hill in 1952 where 47 cattle and 160 sheep were slaughtered;
- There were no local records of Foot and Mouth burial pit on this site;
- DEFRA did not have any data in relation to the 1952 outbreak;
- The landowner had stated that the burial pit was on the site of the Premier Inn;
- It was in the applicant's interests to ensure that there was no contamination on the site;
- The applicant had undertaken ground investigations and extensive bore holes across the site
- A geophysical survey had been carried out at the site in relation to archaeology which had included excavations at the site. No evidence of contamination had been found.

The Principal Planning Officer reminded Members that a condition had been included in the Outline Permission stating that in the event contamination was found, whilst the approved development was taking place, which had not previously been identified it must immediately be reported to the Local Planning Authority. Were such a notification to be received the Local Planning Authority would require an investigation and risk assessment to be undertaken, and where necessary a remediation scheme to be prepared and approved by the Authority.

A number of conditions pertaining to the Outline Permission remained to be discharged, including those relating to highways and drainage. The applicant had submitted samples of the proposed materials to be used which were acceptable and therefore that condition of the outline permission could be discharged.

In conclusion, the Principal Planning Officer recommended that Authority to Issue Approval of the application be delegated to the Corporate Director of Economic Development, subject to a Deed of Variation to the existing S106 legal agreement.

The Committee then gave consideration to the application.

A Member asked whether the scheme made sufficient provision of visitor car parking spaces to service the number of dwellings.

The Principal Planning Officer advised that each dwelling was provided with adequate car parking spaces for the occupiers within the curtilage of the property and that some had additional spaces. In addition to those spaces the proposed highways were sufficiently wide to enable on street parking, he noted that the Highway Authority had not raised any objection to the proposal.

With reference to the photomontage displayed on screen the Member requested confirmation that the applicant intended to install traffic lights at the junction between the site and Kingstown Road.

The Principal Planning Officer confirmed that the junction was to be controlled by traffic lights.

The Member further sought clarification as to the location of the emergency exit at the site.

The Principal Planning Officer advised that the emergency exit from the site was on to Kingstown Road, and that the Highway Authority had approved the proposed arrangements. He added that the emergency exit would be required to meet the relevant highways' standards, the responsibility for ensuring compliance to those regulations remained with the Highways Authority.

Another Member noted that the Council's Waste Services had raised concerns regarding the accessing of private drives by refuse collection vehicles, he asked why the proposed scheme had not been designed in such a way as to allow the vehicles access to the drives.

The Principal Planning Officer responded that the scheme provided bin storage areas at the end of the private drives for the storage and collection of refuse receptacles which was standard practice.

The Development Manager added that developing access arrangements, applicants had to consider both design and the "Manual for Streets" which encouraged the designing out of unwanted access to dwellings, thereby increasing the number of private drives. He noted that the Council was still able to provide its refuse collection services to the proposed dwellings.

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

RESOLVED: That Authority to Issue Approval of the application be delegated to the Corporate Director of Economic Development, subject to a Deed of Variation to the existing S106 legal agreement.

The meeting adjourned at 11:20am and reconvened at 11:35am

(3) Erection of 4No. Dwellings (Reserved Matters, Pursuant to Outline Application 14/0584), Land to North of 10 Lonning Foot, Rockcliffe, Carlisle (Application 17/0443).

Councillor T Sidgwick having declared an interest in the item of business removed herself from her seat and took no part in the discussion nor determination of the application.

The Planning Officer submitted the report on the application, and drew Members' attention to the addendum to the report on page 233 of the Main Schedule, she clarified that the location of the detention basin was to the east of Beckside and The Old Forge, the report had omitted reference to The Old Forge, and she apologised for any confusion caused.

Further to the production of the report and Supplementary Schedule, two further representations from third parties had received which further reiterated the objections summarised in paragraphs 4.2 to 4.4 on pages 236 to 237 of the Main Schedule.

The Planning Officer outlined the planning history of the site and noted a number of conditions relating to the 2016 permission remained to be discharged including condition 6 (surface water discharge) & 12 (foul and surface water drainage). The conditions were not able to be discharged due to the submitted details not overcoming the objections of the Environment Agency to provide a satisfactory method for the disposal of surface water into Rockcliffe Beck. In order to progress the 2016 application and allow further investigations in respect of surface water drainage, the application was subsequently partially discharged.

The current application sought Reserved Matters approval for the scale, layout and appearance of the proposed dwellings granted Outline Planning Approval by the Committee at its August 2014 meeting.

Slides were displayed on screen showing; aerial photograph of the site; block plan; elevations and pictures of the site, an explanation of which was provided for the benefit of Members. In addition the Planning Officer displayed on screen a series of slides submitted by the occupier of Hamethwaite illustrating the flooding issues in the area.

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

Mr Sidgwick (Objector) spoke against the application in the following terms; the application was contrary to Local Plan policies CC4 – Flood Risk and Development and CC5 Surface Water Management and Sustainable Drainage Systems; the proposed scheme would exacerbate existing flooding issues within Rockcliffe; the Environment Agency had recommended refusal of other applications for development in the area due to its increased sensitivity resulting from tidal

flooding/gravity locking; the scheme proposed the discharge of surface water into a Flood Zone 3 area. Mr Sidgwick displayed a number of slides on screen illustrating the existing flooding problem in the Rockcliffe area.

Mr Marshall (on behalf of the applicant) acknowledged the existing flooding problems at Rockcliffe and stated that the applicant, when developing the current scheme had taken this issue into consideration. The current proposal had utilised expert advice on drainage matters along with a number of assessments which had confirmed that surface water was able to be safely discharged into the proposed detention basin which would attenuate the water, thereby allowing a controlled flow rate into Rockcliffe Beck. On that basis, the applicant hoped that the proposed drainage scheme would enable the scheme to proceed.

The Chairman invited Mr Allan (Cumbria County Council) to comment on the proposed drainage scheme.

Mr Allan introduced himself to the Committee and advised that he was the Lead Local Flood Authority's Drainage Development Officer.

Mr Allan explained that the proposed detention basin was a dry pond which would act as a temporary storage area for water in times of high rain fall. The attenuation of surface water discharge into the basin would prevent the water flowing into Lonning Foot and consequently the flood risk there would be lower than was currently the case.

It was usual for surface water drainage systems on new developments to discharge into the existing drainage system, however, due to the heavy clay content of the soil, such an arrangement was not feasible. In addition to the detention basin, the proposal included a flood control valve and the two mechanisms together meant that proposed scheme afforded protection against a 1 in 200 year flood event, which significantly exceeded the Environment Agency's requirement for protection against a 1 in 100 year flood event, plus 30% allowance for climate change. In this context, Mr Allan considered that the proposed scheme would have a positive impact on the flooding problems at Lonning Foot.

The Committee then gave consideration to the application.

A Member commented that he did not oppose the proposed development, however, he had significant concerns regarding the proposed surface water drainage scheme. He informed the Committee that he had undertaken a site visit with Officer from the Lead Local Flood Authority and members of the Parish Council to identify issues relating to flooding in the parish. The Parish Council had commissioned a flood survey of the area within its boundaries, which it was to consider at its meeting of 18 September 2017. The Member felt that determination of the application ought to be delayed to allow the Parish Council to consider the results of the flood survey.

The Member was further concerned that the cumulative effect of permitted developments in the area was intensifying the existing flooding problem at Rockcliffe and that the Parish Council had not had sufficient time to consider the new report. It was his view that the application was not compliant with Local Plan policies CC4 – Flood Risk and Development and CC5 Surface Water Management and Sustainable Drainage Systems, therefore he proposed the application be refused permission. The motion was seconded.

The Corporate Director of Economic Development cautioned Members that it was not feasible to delay determination of the application in lieu of the result of the Parish Council's flood survey,

which she understood was broader in scope than the site of the application before Members. She advised the Committee that it was unreasonable to expect a single application to address an existing flooding problem in the wider area of the site's location, and stated that the central consideration for Members was whether the proposal would add to the existing problem.

A Member asked why the proposed detention basin was situated at such a distance from the development site, he understood it was usual practice for such flood prevention mechanisms to be contained within or adjacent to development site.

The Planning Officer responded that the siting of the detention basin was a matter for the applicant, she understood that the location had been selected as the area was scrub land. The Lead Local Flood Authority were satisfied with the proposal.

Members additionally detailed the following issues and concerns in relation to the proposed drainage scheme.

- The impact of tidal surges increasing the flood risk in the area;
- The likelihood that stagnant water held in the detention basin would attract insects;
- Whether the proposed system would alleviate flooding issues at the bridge?

Mr Allan responded to the issues detailed above as follows:

- The Rockcliffe Beck area was heavily affected by tidal activity, which was a factor in the existing flooding problems. The capacity of the proposed detention basin had been assessed against the Environment Agency's projections of future flooding and had been found to exceed the minimum requirements and withstand a 1 in 200 year event. The siting of the detention basin in a natural depression and the positioning of the outfall point meant that the flow of water from the basin was able to be restricted to greenfield run-off rates, therefore the system would have a positive impact on the existing flooding problems;
- The detention basin would be dry the majority of the time, only forming a body of water during periods of heavy rainfall, however, during dry periods a small flow of water would continue to pass through the system, therefore stagnation would not occur.
- The proposed surface water drainage system would not affect the flooding experienced at the bridge as the proposed system managed a different flow path of water.

A Member considered that, given the consultation responses of the Environment Agency and the Lead Local Flood Authority it was difficult for the Committee to refuse permission on the grounds of that they were not satisfied with the proposed drainage arrangements.

Another Member agreed and felt that it was unreasonable to expect a single application to address an existing flooding problem which affected a wider geographical area than the development. He further noted that it was the view of the Lead Local Flood Authority that the proposed scheme would have a positive impact of the existing flooding problem. On that basis, he moved the Officer's recommendation which was seconded.

The Chairman noted that motions to refuse and approve the application had been moved and seconded. The proposal to refuse permission was put to the vote and defeated, whereupon the proposal to approve the application was put to the vote and it was:

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

Councillor T Sidgwick returned to her seat.

(4) Demolition of existing bungalow and outbuildings; erection of 1No. 2 storey dwelling, Broadfield, Carleton, Carlisle, CA1 3DZ.

The Principal Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 15 September 2017.

In response to a Member's questions regarding the energy efficiency methods planned for the dwelling, the Principal Planning Officer informed the Committee that the applicant proposed to incorporate the following:

- The building envelope was designed with very high levels of thermal insulation to all walls, floor and roof elements including the installation of triple glazed windows throughout the property which typically improved upon current Building Regulation standards by over 50%.
- The design and orientation of the building on the site had been carefully considered to maximise natural light and solar gains, thereby reducing the requirements for additional heating and artificial lighting. The building would also utilise a natural ventilation strategy for the provision of fresh air to the building.
- Further low and zero carbon technologies were currently being considered for the project including ground source heat pumps and photovoltaic panels. In addition, investigations were being conducted into the storing of the electricity produced on site using new battery technologies to enable the electricity produced during the day to be utilised during the evening/night time instead of selling the electricity back to the grid.

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 meeting closed at 12:25pm]