

## **DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY, 14 DECEMBER 2007 AT 10.00 AM**

**PRESENT:** Councillor Mrs Parsons (Chairman), Councillors Bloxham, Earp, Mrs Farmer, P Farmer, McDevitt, Miss Martlew, Morton, Mrs Riddle, Scarborough, Stockdale and Warwick (as substitute for Councillor Mrs Rutherford)

**ALSO**

**PRESENT:** Councillor Boaden attended part of the meeting having registered to speak as Ward Councillor on application 07/0921 (Demolition of existing pub and redevelopment of site for residential and associated car parking, The Inglewood, Pennine Way, Carlisle)

Councillors Allison and Tweedie attended part of the meeting as observers

### **DC.126/07 APOLOGY FOR ABSENCE**

An apology for absence was submitted on behalf of Councillor Mrs Rutherford.

### **DC.127/07 DECLARATIONS OF INTEREST**

Councillors Mrs Farmer, Morton, Mrs Parsons, Stockdale and Scarborough declared a personal interest in accordance of the Council's Code of Conduct in respect of application 07/1012 (amendment to condition 2 of approval 07/0537 to allow times to be extended from 8.30 hours to 23.30 hours, 1 Scotland Road, Carlisle). The interest related to the fact that they were also Members of the Council's Licensing Committee or Licensing Sub-Committees.

Councillor Morton further declared a personal interest in accordance with the Council's Code of Conduct in respect of the application 07/0921 (Demolition of existing pub and redevelopment of site for residential and associated car parking, The Inglewood, Pennine Way, Carlisle) because the applicant was a member of an organisation of which he was a member – Carlisle Rugby Football Club.

Mr Eales, the Head of Planning and Housing Services declared an interest in respect of Agenda item A.2 – Petition: Parkland Avenue/Parkland Drive Development, Parkland Village, Carlisle because a family member worked for the company concerned.

## **DC.128/07 MINUTES**

The minutes of the site visit meeting held on 12 December 2007 were submitted.

A Member noted that it was envisaged that planning application 07/1241 (land adjacent to Burgh Road/Moor Park Avenue, Carlisle) would be determined under the Scheme of Delegation and the application had therefore been withdrawn from the schedule of site visits. He commented that there had been objections to the application which should therefore come before the Committee.

The Principal Development Control Officer replied that the intention was for the matter to be reported to the next meeting, and it was agreed that the minutes be amended to reflect the position.

RESOLVED – That, subject to amendment as detailed above, the Minutes be noted.

## **DC.129/07 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS**

The Head of Legal Services 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.130/07 CONTROL OF DEVELOPMENT AND ADVERTISING**

RESOLVED - That the applications referred to in the schedule of applications under A, B, C and D be approved/refused/deferred, subject to the conditions as set out in the schedule of decisions attaching to these minutes.

### **(a) Erection of 3 no. bed dwellinghouse with garage, land adjacent to no. 2 Crossway, Tarn Road, Brampton (Revised Application 07/0723)**

The Principal Development Control Officer submitted her report on the application. Members had visited the site on 12 December 2007.

She reported that the application now sought approval to erect a three bedroom dwelling in the side garden area of 2 Crossways, Brampton and the change of use of an area of agricultural land to domestic curtilage. The new plans could be found on pages 2 to 4 of the supplementary schedule.

The Highways Authority had also responded with no objections, which could be found on page 1 of the supplementary schedule.

A further letter of objection had been received from a property to the rear, raising concern over the extent of area required to be backfilled due to the undulating site and differing levels. The site was set at a substantially higher level than that of its rear neighbour.

It was considered that although the distance from the proposed dwelling and the conservatory of Tarnway was over 21 metres the raised area/garden proposed resulted in the dwelling appearing closer to Tarnway. It was considered that, due to the more elevated site levels on the application site compared with the rear neighbour and the existence of the raised area, the living conditions of the residents of Tarnway would be detrimentally affected by reason of loss of privacy and over dominance.

Another issue was the scale of the proposal in relation to the surrounding properties. The neighbouring property was also a single storey dwelling with accommodation within the roof space, however, it was considered that due to the proposal being higher than the adjacent property, that the scale of the development was unacceptable for both the area and the actual site due to the detrimental impact on the surrounding properties.

In overall terms it was considered that the proposal adversely affected the living conditions of adjacent properties by unreasonable overlooking and unacceptable scale.

The application was recommended for refusal in line with the reasons outlined within the report.

Mr Roger Milton (Objector) was in attendance at the meeting and spoke to the Committee pointing out that, although he recognised that the appropriate authorities had no objection, he still objected on the grounds of parking and traffic.

There was no reason to develop the site, other than financial benefit. The value of the property was high, the applicant had not met housing needs and had put commercial interests ahead of the area.

Established, healthy shrubs had been felled and burned by Brampton Beck. The view across Brampton Beck was much cherished by residents and visitors alike.

If completed the development would dominate the area and was not in keeping therewith. Development of the Hemblesgate site was ongoing and this would be a further encroachment on the area.

Mr Milton had lived there for thirty years. If allowed the development would send a clear message that the remainder of the field was up for future development which would irrevocably diminish a beautiful area.

In considering the matter, a Member made reference to the Hemblesgate development which had affected the surrounding area. He believed that application 07/0723 should be granted, citing the reasons which the Officer had given for refusal and Policy H2 “within Primary Residential Areas defined on the Inset Maps for Carlisle, Brampton, Longtown and Dalston, proposals for new residential development will be acceptable....” The motion was duly seconded.

Having had the benefit of a site visit another Member moved the Officer’s recommendation, which was duly seconded.

In response to a question the Officer confirmed that none of the trees within the site were protected by Tree Preservation Orders.

Following voting, it was

RESOLVED – That permission be refused for the reasons stated in the Schedule of Decisions attached to these Minutes.

**(b) Change of use of land to a Gypsy caravan site for one family, Parkfield Stables, Field no 7765, Newtown, Blackford, Carlisle (Revised Application 07/1083)**

The Principal Development Control Officer submitted his report on the application. Members had visited the site on 12 December 2007.

The Principal Development Control Officer reminded Members that following the granting of permission under application 07/0522 for a Gypsy site on land neighbouring Ghyll Bank Park, the decision to refuse Mr Carrigan’s previous application solely on drainage grounds, and with regard to the Inspector’s findings outlined in the report and Circular 01/2006, they had tacitly accepted that there was not only a need for a site to accommodate Mr Carrigan and his family but also that need outweighed the harm to the character and appearance of the surrounding area.

The information provided by Rod Hind Drainage indicated that any problems associated with the drainage from the neighbouring properties could be resolved through maintenance of the existing tanks.

The Highway Authority, Environment Agency and Natural England had not raised an objection to the proposal. A City Council Building Surveyor had also indicated that the capacity of the proposed tank would meet the applicant and his family’s needs.

On the above basis, the recommendation was for approval of a temporary permission for a period of three years and imposition of relevant conditions restricting occupation of the site, the number of caravans, prohibiting the use of the site for commercial activity, including the storage of goods/materials, landscaping, the means of foul and surface water drainage including the

design and position of any 'utility/day room' and removal of two existing gardens sheds and insulation or removal of the generator.

Mr Matthew Green (Agent for the Applicant) was present at the meeting. He realised that Members may not wish to grant permission, but asked that they follow policy.

He then referred to the points raised by the Objectors and concerns expressed by Members, commenting that:

- Mr Carrigan's truck did not exceed the 7½ ton limit but, if it did, enforcement action could be taken.
- Electric – Mr Carrigan had made payment and received receipts on 13 October 2007, but work had not started until 26 November 2007. The electricity supply was now in place, with the exception of the meter which would be fitted on Monday.
- The septic tank was considered to be sufficient.
- Sewage out fall from neighbouring properties was their responsibility.
- Alternative sites – he was aware that the Inspector's reports were material considerations. However, the view of the High Court was primary. No alternative sites were currently available. Ghyll Bank would never be suitable; Hadrian's Park had transit accommodation, but that was not an alternative to the need for permanent accommodation.

Mr Green undertook many appeals in respect of gypsy sites across the country and was aware that there were often many objections in respect thereof. He pointed out that, once granted and after a period of six months, gypsy families were accepted by the community and the resentment disappeared.

In conclusion, Mr Green urged the Committee to follow the Officer's advice and grant consent.

A Member referred to the character references provided, commenting that the Committee would not consider any proposal which would affect the children. He sympathised with Mr Carrigan and also with people living within the vicinity of the site and noted that, but for the special circumstances of the applicants, permission would not normally have been forthcoming.

The Member moved that a temporary permission be granted for a period of twelve months, which was duly seconded.

Another Member questioned the length of time necessary to find an alternative site for Mr Carrigan and his family commenting that, without that information, she would not wish permission to be granted for a short period.

The Head of Planning and Housing Services confirmed that efforts were being made to obtain grant aid from Government for another gypsy site within the District. The Principal Development Control Officer added that much of the process regarding the bid was outwith the Council's control.

Another Member moved the Officer's recommendation, which was duly seconded.

Following voting, it was

RESOLVED – That permission be granted for a temporary period of three years, subject to the conditions as indicated in the Schedule of Decisions attached to these Minutes.

**(c) Change of use of field from agricultural to recreational use with creation of children's play area, North side of Crossgates Road, Hallbankgate, Cumbria (Application 07/0792)**

The Principal Development Control Officer submitted her report on the application. Members had visited the site on 12 December 2007.

The application was for the change of use of part of a field adjacent 2 Crossgate Road in Hallbankgate to create a play area with a selection of play equipment and a planting area between the site and 2 Crossgate Road.

Members' attention was drawn to a further letter of objection reproduced at pages 5 to 9 of the supplementary schedule. That raised no new issues other than those covered within the report and the issues raised by an objector when he spoke at the last committee meeting.

On balance it was considered that subject to the proposed conditions of the maintenance plan, landscaping and fencing materials that the scheme would not have a detrimental affect on the neighbouring properties or the surrounding area and the recommendation was approval subject to the conditions.

Mr Alan Shaw (Farlam Parish Council) was present at the meeting and spoke to the Committee in support of the proposal. The need for a play area was evidenced within the Parish Plan, the aim being to make social opportunities available to all.

The Highway Authority had no objection and the area would be planted with hawthorn bushes and trees.

Consideration had been given to alternative sites, but those had been ruled out for various reasons. The Parish Council would be responsible for the site, including its upkeep and maintenance and had taken advice from the installing contractor as regards the surface material. A notice would be erected stating the terms and conditions of use. The School was supportive of the proposal which would fulfil an important need.

Members considered that the proposal would be beneficial for the area and thanked the Parish Council for their work on the Parish Plan and subsequent actions.

RESOLVED – That permission be granted, subject to the conditions as indicated in the Schedule of Decisions attached to these Minutes.

**(d) Proposed entrance porch to front elevation and additional garage adjoining existing, Little Bobbington, The Knells, Houghton, Carlisle (Application 07/1227)**

The Assistant Development Control officer submitted her report on the application commenting that, as mentioned in the report, the statutory consultees and neighbours had been re-consulted on the revised block plan.

The Parish Council had now objected to the proposal relative to the garage on the grounds that:

1. The planning application was retrospective as work appeared to have started on garage 3;
2. The garage projected in front of the adjoining property, “Parkside”, and was prejudicial to the amenity of that property; and
3. No details were provided with regard to the fall of the roof or how the applicant intended to dispose of surface water from the garage.

No written formal response had been received from any third parties on the revised plans, however, a meeting had taken place in which the objector reiterated his previous objections.

The Officer then addressed each of the points in turn commenting that the garage had indeed been started. The City Council’s Enforcement Officer had visited the site and advised the applicant that should the application be refused the works would be the subject of enforcement action.

The report acknowledged that the garage would project approximately two metres past the neighbouring properties building line, however, in mitigation the proposed garage would be partially screened by a 1.8 metre high close boarded fence. Should the application be approved the garage would only be visible by 0.83 metres above that fence when viewed from Parkside.

Plans were displayed on screen showing the garage in relation to the fence.

With regard to the Parish Council’s final point, the Officer clarified that the porch roof would be tiled, with the garage having a flat roof. In order to address the issue of surface water drainage, a condition had been included within the draft Decision Notice (contained within the Supplementary Schedule) requiring the submission of a scheme for surface water drainage prior to the occupation of the garage.

The application was therefore recommended for approval.

Mr A J Shaw (Objector) was present at the meeting and expressed his concerns at the proposal and also regarding the plans which gave a false impression of the relative positions of the garages with the bungalow Parkside.

He referred to the block plan of the garages which had now received planning approval. The plan showed the second garage reaching approximately the midpoint of the wall of the gable end of the bungalow, the position having been endorsed by the Enforcement Officer. A more recent drawing showed the second garage approximately  $\frac{3}{4}$  the length of the wall, a discrepancy of approximately six feet.

The drawings for the new proposal showed the same difficulties of interpretation. After considerable discussion with the case officer about the projection of the third garage beyond the building line it was confirmed, in writing, on 28 November to be approximately 0.5 metres. The planners then had the site measured and a figure of 2.09 metres was quoted. That proved the block plan was misleading. The case officer was initially prepared to accept a projection of  $\frac{1}{2}$  metre and stated that an enforcement order would be given, if that distance was exceeded. Why then was 2.09 metres now acceptable?

Mr Shaw commented that the foundations had been laid at 2.6 metres and requested that a site visit be undertaken. He added that:

- A projection of 2.09 metres beyond the building line would be obtrusive and unsightly and he would be aware of that when walking along the front path of the bungalow.
- The garage would be visible from the front window of the lounge and would dominate the view.
- The plans called for the garages to be pebble dashed, but a 6 foot black fence had been erected indicating that the back wall of the garage would not be pebble dashed. The final result would be very unsightly.
- If an effective drainage system was not installed Mr Shaw was very concerned that there would be considerable overspill from the flat roofs into his garden.
- The garages would box in the side garden reducing light and creating a tunnel effect.
- A projecting garage would be out of character with other properties in the area. Little Bobbington had been extended and the extension overlooked by an existing garage. That was obtained by choice and Mr Shaw did not consider it reasonable that the same condition was imposed upon him.

In conclusion, he requested that permission be refused.

RESOLVED – That permission be granted, subject to the conditions contained within the Schedule of Decisions attached to these Minutes.



**(e) Housing Development on land to rear of 60 Currock Road, Carlisle (Outline) (Revised Application 07/1068)**

The Assistant Development Control Officer submitted her report on the application.

Members' attention was drawn to additional correspondence received, copies of which were contained within the Supplementary Schedule, namely:

- A letter of objection from the occupier of 46 Currock Road
- An amended Design and Access Statement, the revisions being that the maximum ridge height had been reduced to 5 metres as opposed to 6 metres, and the proposal was now for bungalows as opposed to dormer bungalows
- A letter of support from the occupier of 25 Coney Street

In addition a further letter of objection had been received from the occupier of 3 Adelphi Terrace, the main objection being the loss of privacy.

A further letter of support had been received from the occupier of 58 Currock Road who wished to point out that the local Councillor, speaking on behalf of some of the residents of Currock Road, was not speaking for him. He would rather overlook a modern development than the old garage workshop, even if it was from the back bedroom window; and that they were closest to the proposed development and felt it would prove beneficial.

The Officer reported the receipt of an e-mail from the Ward Member who had requested a right to speak on behalf of Mrs Cooke, Mrs Gunveld and Miss Smith. Unfortunately, due to work commitments, he was unable to attend. He had approached another Ward Member but she could not attend either.

The Ward Councillor had asked the Officer to appraise the Committee of his main points of concern and that they be addressed:

- Safety of pedestrians using the rear lane when vehicles were accessing or leaving the new properties
- Poor visibility for vehicles exiting the lane, particularly onto Adelphi Terrace, but also onto Currock Road where vehicles tended to exceed the speed limit
- The possibility of the dormer aspect of the bungalows being reinstated at some point, therefore looking into the rear bedrooms of the Currock Road properties.

Two of the above points related to highway safety and the Highway Authority had confirmed in writing that they had no objection to the proposal.

The proposal was for outline planning permission and the plans were indicative only. It should, however, be noted that a condition had been included within the Decision Notice requiring the submission of finished floor levels.

Plans and photographs were displayed on screen and explained to the Committee.

In conclusion the Officer said that the proposal accorded with the relevant policies of both the adopted and emerging Local Plan and, in those circumstances, Members were requested to grant permission.

A Member said that, based upon the information to hand, he did not feel confident in making a decision. He therefore requested that the Committee visit the site, which course of action was agreed.

The Chairman noted that Mrs Little (Applicant) had registered a right to speak and explained that she could either speak now or, alternatively, reserve that right.

Mrs Little elected to reserve her right to speak.

RESOLVED – (1) That consideration of application 07/1068 be deferred to enable the Committee to visit the site.

(2) That the applicant's right to speak be carried forward until such time as the matter was considered further.

**(f) Alterations to shop front windows, Scotby Cycles, Church Street, Carlisle (Revised Application 07/1217)**

The Development Control Officer submitted his report on the application.

Photographs of the site were displayed on screen and explained to the Committee and the recommendation was for refusal.

Mr G Dickson (Applicant) was present at the meeting and spoke to the Committee in support of the proposal. He outlined briefly the history of the property which had a variety of uses:

- It was built as a Methodist Chapel
- In 1929 it was sold to The Williams Cinema Ltd. Major changes were made. The Church door was removed and the building extended.
- In the late '70s it became known as "The Regal Bingo Hall". When it closed no suitable use was found for the building which became empty, neglected and badly deteriorated.

Change was clearly needed and Mr Dickson purchased the building in 1997. Planning permission was approved for retail use and, due to the extensive amount of work required, it was four years before he could move in.

Windows are a key feature of any retail premises, but they had to wait pending dry rot and other structural work being dealt with.

Mr Dickson stated that he was now ready to finish the conversion to retail premises and asked the Committee to note that:

- The building was not listed or of any architectural interest
- It had gone from Chapel to gambling establishment
- The Council had approved retail use, together with the retail alterations already made to the entrance
- The glass doors were approved and caused no upset
- The windows applied for were very much in harmony with the rest of the building
- The existing upper windows were rectangular and matched the new windows
- The new windows would match the cinema door.

Many local people had told Mr Dickson that they were pleased that he was doing something with the building. There had been no objections to the plans for new windows.

In conclusion, Mr Dickson stressed that his livelihood was tied into the building and windows were essential to any retail establishment.

A Member felt that the application constituted a retrospective step and moved refusal.

Another Member said that he had mixed feelings. If the building had architectural merit it should have been listed but, if retail use was agreed, it should be fit for purpose. Accordingly he was not in agreement with the Officer's recommendation.

Other Members expressed conflicting views on the matter, including the suggestion that consideration be given to the installation of arched windows in keeping with those existing.

The Officer drew attention to the Urban Design Officer's observations on the proposal which were contained within the Supplementary Schedule.

A Member moved deferral to enable further negotiations to take place with the applicant with a view of reaching an amicable solution, which was duly seconded.

The Head of Legal Services stressed that parties should be aware that even if an amended submission was forthcoming it would not necessarily be approved.

Following voting, it was

RESOLVED – That consideration of application 07/1217 be deferred to enable further negotiations to take place with the Applicant on an amended scheme.

**(g) Change of use of land to provide railway test track and materials store for rail training and plant certification, Carlisle Airport (Watchclose Woods Area) (Application 07/1090)**

The Assistant Development Control Officer submitted the report on the application which sought retrospective approval for the change of use of land to provide a railway test track and materials store for rail training and plant certification at Carlisle Airport (Watchclose Woods area).

As noted in the report, the use had commenced without permission and the Council was concerned that damage had been caused to the adjacent County Wildlife Site through –

- (i) the removal of trees and scrub to the edge of the site; and
- (ii) storage of materials in a manner which was likely to have caused damage to root systems of the trees.

Those concerns had been discussed with Cumbria Wildlife Trust and brought to the applicants' notice. The applicants had been instructed to remove all material off land outside the application site and it was the Officer's understanding that had now taken place.

In addition to the above, it should be noted that the proposal did not conform with Policy DP3 of the Revised Redeposit Draft Local Plan as it was not airport related nor did it fall within an employment use as envisaged by Policy EC20.

Notwithstanding the above, following discussions with Cumbria Wildlife Trust it was considered that continued use of the facility would not cause further damage to the interest of the County Wildlife Site. It was also evident that there was a need to provide a training facility on a temporary basis while a permanent location was sought.

As such the recommendation to Members was that the application be approved on a temporary basis for a period of eighteen months. That would allow a condition to be attached requiring the applicants to erect demarcation fencing, preventing any further damage to the Wildlife Site. Conversely and bearing in mind that the proposal was contrary to policy, Members may wish to refuse the application with enforcement action prescribing a compliance period which would afford adequate time for the applicants to find a more appropriate alternative site.

Mr Michael Fox (Objector) was in attendance at the meeting and pointed out that:

- disruption had commenced prior to July 2007. The Council's policy regarding Watchclose Woods appeared to have been disregarded.
- In 1999 proposals were put forward for management of the Airport site which stated that if wildlife assets were affected the Council should mitigate to off set losses.
- The development was detrimental to the character and value of existing woodland hedges.
- The proposal gave no consideration to the terms of the Lease Agreement
- Preferential treatment was being given to one contractor
- The proposal was not related to airport use and the interests of airport should come first.
- Members were requested to look at the effects of the application and consider whether they wished to accept it or whether they were being "railroaded" into a decision.

Mr Ian Lumley (Applicant) responded commenting that:

W A Developments Ltd required to operate safely on the railway, which included training and testing needs. The airport was an ideal location in that it discourages access for children, vandals and the theft of plant.

Permission was not thought to be required initially. Environmental impact was caused by removal of trees. Trees had encroached on a taxi way and there should be no trees within 20 m thereof. Only a very small part of the woods was involved and he did not envisage felling any more trees.

It may be possible to find alternative sites for the test track in the future, but the track was needed.

He was happy to progress any alternatives, but nothing was available at the moment. The current location ticked all boxes required.

In considering the matter, a Member expressed concern that trees may have been removed from Watchclose Woods which was owned by the Council, and that more and more non-airport related business was taking place. He did, however, recognised the need for a test track and suggested that the applicants may wish to speak to the MOD at Longtown.

The Member moved that permission be refused (contrary to Policy DP3) and the applicants be required to reinstate and vacate the site no later than 30 June 2009. In do doing, he stressed that the Committee considered each application on its merits.

Another Member seconded that proposal, expressing the hope that the facility could be retained in the area.

**RESOLVED** – (1) That permission be refused for the reasons stated in the Schedule of Decisions attached to these Minutes.

(2) That the Director of Legal and Democratic Services, in conjunction with the Head of Planning and Housing Services, be authorised to serve all Statutory Requisitions for information and Enforcement Notices as may be required under Section 172 of the Town and Country Planning Act 1990, to secure the removal of the railway test track and materials store for rail training and plant certification from the Watchclose Woods area of Carlisle Airport, by 30 June 2009 and to take any legal proceedings in the Courts by way of Civil Injunction or Criminal Prosecution under the 1990 Act as might be necessary thereafter.

(h) **Amendment to condition 2 of approval 07/0537 to allow times to be extended from 8.30 hours to 23.30 hours, 1 Scotland Road, Carlisle (Application 07/1012)**

Councillor Mrs Parsons (Chairman) having declared a prejudicial interest, vacated the chair and retired from the meeting room during consideration of the application.

Councillors Morton (Vice-Chairman) and Scarborough, having declared personal interests, withdrew from the meeting room.

Councillors Mrs Farmer and Stockdale took no part in discussion on the matter.

In the absence of the Chairman and Vice-Chairman, Councillor Bloxham (Environment and Infrastructure) Portfolio Holder took the Chair.

The Principal Development Control Officer submitted the report on the application.

She reminded Members that the application was approved at the August 2007 meeting subject to a number of conditions, one of which was the hours of opening. The building had been converted and was currently open for business. The current application only proposed to vary those hours.

Attention was drawn to a corrected Decision Notice, contained within the Supplementary Schedule, which showed the corrected Condition 2 relating to hours of operation 8.00 – 12 midnight Monday – Sunday and 8.00 – 1.30 on Public Holidays and Bank Holidays.

Since preparation of the report and the supplementary schedule the response of the Police had been received which raised no objections due to no disorder or nuisance incidents occurring since the premises opened.

The application was recommended for approval in line with the new Condition 2.

Mrs Anne Kelly (Objector) began by questioning whether the notification was worded correctly and, if not, whether it was legal. She referred to the differing operating hours and sought clarification of what was being requested.

Noise and disturbance would impact upon residents, the impact being greater at times when traffic noise had abated. The area, which had once consisted of a parade of shops, was now a centre for night time activities. The change to night time use was a real change which had a significant negative impact upon residents.

Opening hours had been restricted to protect neighbouring houses. Why could they be changed now and what else would change? It was untrue to say that there had been no impact locally.

Mrs Kelly had written to all Ward Councillors, none of whom had replied or acknowledged receipt of her letters.

Ms Sheila M Bomford (Objector) was present at the meeting and spoke to the Committee commenting that her first remarks had been made before. She stated that people chose to live in the area, the character of which was changing. Shops had closed, and there had been changes in use of buildings, including this building to a café bar. Parking problems had been experienced.

The opening hours should take account of residential housing in the vicinity. Mrs Bomford had went to the mail box at 11.05 pm the previous evening and noted that people remained within the premises. If permission was granted until midnight people would still be leaving at 1230 hours which was not acceptable.

The premises had only recently opened and was already asking for additional operating hours. She asked how, in all conscience, the Committee could grant the request.

The Head of Legal Services sought and received confirmation that all relevant parties had been properly appraised as part of the consultation exercise.

With the permission of the Portfolio Holder, Mr McGregor (Applicant) spoke to the Committee in support of the application, commenting that he was asking for the restriction of 10.30 pm Monday – Thursday and 11.00 pm Friday – Sunday on his opening hours to be removed from his application; and for the hours to reflect the Premises Licence granted by the Licensing Committee.

Some objections had been received from residents on his original planning application relating to noise, parking and crime. He had reduced the size of the proposed venue to address those concerns but, so as not to totally undermine the Business Plan, he did not want to reduce the stated opening hours as well.

Mr McGregor emphasised that he was not trying to undermine the planning process. The intended opening hours had been clearly stated which was backed up by a letter from the Police.

Not a single complaint had been received in the nine weeks the premises had been open which was testament to the professional manner in which the business was run, and proved that it was never his intention to turn Stanwix into a mini Botchergate.

No noise was audible from either the back or front of the property. The only apparent nuisance appeared to be customers getting into Taxis to take them into town for an extra couple of drinks and, if the restriction was lifted, these customers would not leave his premises.

In conclusion, Mr McGregor said that he was asking for no more than any other licensed establishments in the area, in fact a lot less. He asked that permission be granted for the success of the business.

Certain Members expressed some confusion regarding the opening hours requested.

The Head of Legal Services commented upon the need to be satisfied that the consultation exercise had been undertaken on the correct hours. He suggested that, in the circumstances, consideration be deferred to allow Officers to clarify that aspect and report back.

RESOLVED – That consideration of application 07/1010 be deferred in order to allow the neighbours to be re-notified and thereby explicitly make clear the proposed hours.

*The Chairman returned to the Chair.*

- (i) **Demolition of existing garage and store; erection of one and a half storey double garage, store and office; erection of two storey building to provide ancillary accommodation comprising lounge, 2 no. bedrooms and bathroom, Dale View, Wetheral Pasture, Carlisle (Application 07/1196)**

The Principal Development Control Officer submitted her report on the application.

The description of the proposal had been amended to refer to the erection of a “single” storey building rather than a double storey building in line with the amended plans.

The recommendation was for authority to issue approval, subject to no other comments being received that had not been addressed within the report during the remaining one day of consultation period.

A representative of Gray Associates Limited (Agent for the Applicant) had registered a right to speak on the matter but was not in attendance at the meeting.



RESOLVED – That the Head of Planning and Housing Services be granted authority to issue approval, subject to no comments being received which had not been addressed within the report during the remaining one day consultation period.

**(j) Extension to dwelling to create 2 semi detached houses and construction of 4 detached houses, Marsh House, Burgh by Sands, Carlisle (Revised Application 07/0915)**

The Principal Development Control Officer submitted his report on the application, consideration of which had been deferred on 9 November 2007 to allow the submission of revised plans for the two units in the front garden, allow consideration of the recently received revised plans and for clarification of the situation regarding foul and surface water drainage in the light of comments from the Parish Council.

The Environment Agency had been consulted and had submitted objections via e-mail, the content of which was read out to the Committee.

United Utilities had confirmed that there had been twenty eight incidents regarding the foul sewer since 1982 and six additional houses would not have an impact. They had objected to the proposal because a public sewer crossed the site and maintained that objection.

In conclusion the Officer recommended that permission be refused for the reasons stated in his report, together with a third reason relating to the comments expressed by the Environment Agency and Unites Utilities.

Mr Grant Long (Objector) had registered a right to speak. The Chairman invited Mr Long to exercise that right, but no response was forthcoming.

Mr R Taylor, Taylor & Hardy (Agent for the Applicant) was present at the meeting and commented upon the need to balance the various policy aims, including sustainability.

He referred to application 06/0859 which involved the removal of trees on a site in a Conservation Area, and which had been withdrawn prior to determination. Further planting could be required by condition.

The Parish Council had no objection to the siting of the houses which would provide an interface between Marsh House and buildings to the south. The separation distances were out of step, with 12 – 18 metres being accepted.

The scheme comprised three separate components and he believed a split decision could be issued, and urged such an approach if Members found elements to be acceptable.

RESOLVED – That permission be refused for the reasons indicated in the Schedule of Decisions attached to these Minutes.

**(k) Demolition of existing pub and redevelopment of site with 41 no residential units (30 no flats and 11 no houses) and associated car parking, The Inglewood, Pennine Way, Carlisle (Application 07/0921)**

Councillor Morton, having declared a personal interest, retired from the meeting room during consideration of the matter.

The Principal Development Control Officer submitted his report on the application. Members had visited the site on 7 November 2007.

He reported the receipt of correspondence on behalf of the Applicant concerning activities taking place at the Harraby Catholic Club.

Shadow, cross section and site level plans were displayed on screen and explained in detail to the Committee. In addition, the Officer outlined amended wording in respect of conditions 5 and 6.

The Open Spaces Officer had undertaken calculations based upon houses and flats, and questioned whether flats fell into that criteria. Attention was also drawn to condition 3.

In conclusion, the Principal Development Control Officer recommended that the application be approved on the basis of the revised conditions.

Ms Jane Richardson (Objector) was present at the meeting and outlined the content of a restrictive Covenant which was in her possession and had not been lifted.

Concerns included surface water, flooding and restrictions to sunlight. The ground was not derelict and children played football. The Inglewood was the most consistent public house and had a steady flow of customers throughout the day.

A Ward Member made representations to the Committee pointing out that they were dealing with an outline application but, at this point and despite what they had heard, it was important to focus upon two key issues, namely:

- The loss of the facility – there were many similar public houses in a similar state which were up for demolition. Members required to look very carefully at the appropriateness of demolishing The Inglewood. The public house was open and he questioned the assertion as to its viability. A series of questions remained unanswered and it would be remiss if the Committee took the Applicant's view on that aspect.

He stressed the importance of that aspect being fully investigated since Harraby had suffered a loss of facilities over the years when a broad mix was required.

- The effect on residents – two groups would be severely affected. Members would recall from the site visit the differing levels and, if the proposal went ahead in the manner proposed, residents to the west would be compromised. In addition, there were no proposals for the Elizabeth Welsh House to close. It was viable and many residents were house bound. Even with mitigating measures residents' ability to look out over a clear area would be affected. Their privacy would also be significantly affected.

In conclusion, the Member asked the Committee to give full consideration to the above statement.

Mr R Taylor, Taylor & Hardy (Agent for the Applicants) replied commenting that the site was in a primary residential area, with policy H2 giving a presumption in favour of the proposal.

Policy H2 anticipated the replacement of public houses with new development and development of the scale proposed could be satisfactorily accommodated.

Extensive discussions had taken place and the cross sections provided showed that the development could be satisfactorily achieved. The distances related to generally accepted distances to achieve privacy. There was nothing to prevent the loss of a public house in planning policy terms and that issue should be afforded limited weight.

Alternative facilities were located nearby, with the Arroyo Arms having opened the night before.

The restrictive Covenant had been lifted and was a private matter. Sunlight and surface water treatment could be dealt with by condition. The issue of viability did not arise.

In response to a question, the Head of Legal Services advised that the Covenant was not a matter for the Committee.

A Member indicated her appreciation of the work undertaken in respect of the application, but would feel happier if the buildings in the vicinity of Westville could be bungalows rather than houses. On those grounds she moved refusal of the application.

Another Member commented on the importance of sustainable communities and that the Harraby Catholic Club was a membership club.

A Member emphasised the importance of having valid planning grounds upon which to base any refusal. He suggested that the way forward may be for the matter to be deferred in order to allow further negotiations to take place regarding substitution of bungalows for houses.

In response, the Officer said that the conditions could be reworded to address concerns regarding levels at Westville.

The Head of Legal Services cautioned that the Applicant could appeal any decision to refuse permission which could potentially lead to an Inquiry and award of costs against the Council.

A Member added that there was a great shortage of bungalows in Carlisle which should be borne in mind.

RESOLVED – That consideration of application 07/0921 be deferred in order to allow further negotiations to take place over the potential height and siting of any residential units with regard to the neighbouring properties at Elizabeth Welsh House, 1 Pennine Way and 2-14 Westville.

**DC.131/07 PETITION: PARKLAND AVENUE/PARKLAND DRIVE DEVELOPMENT, PARKLAND VILLAGE, CARLISLE**

The Head of Planning and Housing Services, having declared a prejudicial interest, retired from the meeting room during consideration of the matter.

The Director of Development Services submitted report DS.123/07 concerning a petition received in connection with a complaint heard by the City Council's Corporate Complaints Board of Arbitration on 31 August and 2 October 2007.

The letter attached to the report (which accompanied the petition) was addressed to the Arbitration Board Members and was submitted in support of the Corporate Complaint presentation to that Committee.

Members' attention was drawn to the finding of the Board of Arbitration following its full consideration of the complaint. There was no further referral or recommendation to the Development Control Committee.

The Director reported that the next stage in a complaints process would normally be with the Local Government Ombudsman, should the complainant not be satisfied with the outcome and that Mr Jamieson had been given that information.

However, Mr Jamieson had expressed his concern to the Director of Legal and Democratic Services that no mention of the petition was made by the Board of Arbitration. He had therefore been invited to present the petition to this Committee and to speak on that item.

Mr Jamieson was in attendance at the meeting and thanked the Committee for the opportunity to speak.

Mr Jamieson commented that the petition was the result of hard work by himself and local residents over a period of two years, and had been raised because the mitigation of noise in line with the requirements of PPG24 had not been given any consideration whatsoever.

The Noise Impact Assessment Report supplied by Kirby Charles Associates in 2001 had called for acoustic glazing to a required specification which incorporated acoustic night time air vents; an acoustic barrier; dense mature plantation of tree specimens and an acoustic earth bund.

Mr Jamieson stated that he had been offered arbitration by the Deputy Chief Executive, but disagreed with the Arbitration Board's findings. The letter from Legal and Democratic Services was full of inaccuracies.

He further raised issues regarding decibel levels. There were no measures whatsoever to mitigate against noise from the motorway. A decibel reading by Environmental Health found in favour of the Council, but failed to mention the decibel readings which did not meet British or World Health Organisation standards.

Mr Jamieson questioned the ability of the Arbitration Board and contended that it was highly irregular that two senior Officers within Development Control had family members who worked for the developer. The petition could have included 1,000 signatures if required. The Planning Department had made a serious error and should have considered PPG24 in more detail; and the acoustic measures currently in place should be looked at again.

In conclusion, Mr Jamieson extended an invitation to any Member of the Committee to stay at his property for one night.

In considering the matter a Member expressed concern and disappointment at the statement made by Mr Jamieson alleging that Officers had family members working for the company concerned. He stressed categorically that the Director of Development Services had no such relationship and that the Head of Planning and Housing Services had declared an interest and left the meeting.

RESOLVED – That, having heard the representations made by Mr Jamieson, the petition be received.

The Committee then returned to the Schedule of Applications for Planning Permission.

- (l) **Construction of Police Divisional Headquarters including operational police station and associated storage, parking and landscaping, etc. Minor alteration to existing Custody Unit to move an access door from the south to the north side and an external access stair to the roofspace, Cumbria Constabulary, Brunel Way, Durranhill, Carlisle (Application 07/1149)**

The Development Control Officer submitted his report on the application which was recommended for approval.

A Member commended the applicants for incorporating energy efficiencies as part of the proposal.

RESOLVED – That permission be granted, subject to the conditions as indicated in the Schedule of Decisions attached to these Minutes.

#### **DC.132/07 CHAIRMAN'S COMMENTS**

The Chairman reported that Mrs Jones, Principal Development Control Officer, was leaving the employment of the Council. Members joined the Chairman in wishing Mrs Jones well for the future.

*The meeting adjourned at 12.44 pm and reconvened at 1.20 pm*

- (m) **Two storey extension to provide garage and living room on ground floor with en-suite bedroom above, Rose Villa, Hayton, Cumbria (Application 07/1204)**

A Member referred to the differing land levels on the site and suggested that the Committee would benefit from undertaking a site visit prior to reaching a decision on the matter.

RESOLVED – That consideration of application 07/1204 be deferred to enable the Committee to visit the site.

- (n) **Single storey side extension to provide additional bedroom and bathroom, 1 Bishops Mill, Dalston, Carlisle (Application 07/1243)**

The Development Control Officer submitted his report on the application which was brought before the Committee for determination because the applicant was employed by Carlisle City Council.

RESOLVED – That permission be granted, subject to the conditions as indicated in the Schedule of Decisions attached to these Minutes.

- (o) **Installation of 5 no. dish antennas. 1 no. 1.2m dish at 20.4m and retrospective consent for 2 no. 0.3m dishes at 22.1m, 1 no. 0.3m dish at 25.5m and 1 no. 1.2m dish at 29m, Roughet Farm, Roughet Hill, Castle Carrock (Revised/Retropective Application 07/1065)**

The Development Control Officer submitted his report on the application which was brought before the Committee at the request of a Member.

He further reported the receipt of a letter from Councillor Bainbridge outlining additional concerns.

RESOLVED – That permission be granted, subject to the conditions as indicated in the Schedule of Decisions attached to these Minutes.

## **DC.133/07    REVOCATION OF TREE PRESERVATION ORDERS – 15 WEST HILL AND 73 ST MARTINS HOUSE**

The Landscape Architect/Tree Officer submitted report DS.124/07 considering the reasons for the revocation of Tree Preservation Orders 15 West Hill and 73 St Martins House.

The Officer reported that, to ensure the best possible continuing protection for the trees within the up-to-date Tree Preservation Order 225, the old duplicate Tree Preservation Orders should be revoked in accordance with Government Guidance and best practice.

**RESOLVED** – That Tree Preservation Orders 15 West Hill and 73 St Martins House are revoked.

## **DC.134/07    INTRODUCTION OF 1APP, THE GOVERNMENT'S NATIONAL PLANNING APPLICATION FORMS AND THE ADOPTION OF LOCAL CRITERIA WITHIN CARLISLE DISTRICT**

The Principal Development Control Officer submitted report DS.125/07 highlighting the forthcoming national use of standardised planning application forms (1 App) from 6 April 2008 which would replace the existing suite of application forms.

Although all applications would require to comply with a list of information known as National Requirements, there would be discretion for individual authorities to require further information defined as Local Requirements subject to certain adoption procedures prior to the introduction of those 'local' requirements having been followed. When introduced, failure to supply all of the required information with the application would result in it not being validated.

The Principal Development Control Officer outlined the process for the adoption of a local requirements checklist as recommended by Government. The two main considerations in drawing up a local requirement list related to establishing what topics to include and the nature of any subsequent document or documents produced.

A recommended list of local requirements that may be adopted locally had been provided in the Department for Communities and Local Government publication "The Validation of Planning Applications – Draft Guidance for Local Planning Authorities (issued in August 2007). In order to simplify matters, the approach (as appended to the report) was based on providing a checklist for each type of application that identified what was a national requirement and a local requirement.

In order to comply with the recommended process for incorporating 'local requirements' the Council needed to undertake a six week consultation period on any proposed local list of requirements for the different application types.

In considering the report, a Member thanked the Officer for his explanation. He felt that the initiative had resulted in a great deal of unnecessary work, but looked forward to the result of the consultation exercise.

Another Member asked that a written response be provided detailing the cost to the Council in terms of Officer time, paper, etc.

RESOLVED – That the proposed local list for different application types be the subject of consultation, with comments received being reported back to the Committee for consideration, formal resolution and adoption at a future meeting prior to 6 April 2008.

#### **DC.135/07 SUSPENSION OF COUNCIL PROCEDURE RULE**

It was noted that, during consideration of the above item of business, the meeting had been in progress for three hours and it was moved and seconded, and

RESOLVED – That Council Procedure Rule 9 in relation to the duration of meetings be suspended in order that the meeting could continue over the time of three hours.

#### **DC.136/07 APPLICATION 04/0073**

The Development Control Officer submitted report DS.126/07 relating to a planning application for the erection of 78 no. dwellings on the former Sawmill Site, Netherby Road, Longtown which was considered by the Development Control Committee on 27 April 2007. Members resolved to grant authority to issue an approval, subject to the completion of a Section 106 Agreement relating to the phasing of the development; the provision of affordable housing and a commuted sum to cover the cost of the maintenance of the play area.

The application has now been approved. However, the visibility splays required at the junction of the site access with the County Highway, as specified in Condition 16 of the Decision Notice, had been amended to reflect the guidance provided within recent Government document produced by the Department of Transport “Manual for Streets”.

RESOLVED – That the content of report DS.126/07 be noted.

#### **DC.137/07 CHAIRMAN’S COMMENTS**

The Chairman wished all those present a happy Christmas and a prosperous New Year.

[The meeting ended at 1.37 pm]