

DEVELOPMENT CONTROL COMMITTEE
FRIDAY 14 FEBRUARY 2020 AT 10.00 AM

PRESENT: Councillor Tinnion (Chair), Councillors Birks, Christian, Collier, Mrs Glendinning, Glover (as substitute for Councillor Brown), Morton, Nedved, Patrick, Rodgerson, Shepherd, and Tarbitt.

OFFICERS: Corporate Director of Economic Development
Development Manager
Legal Services Manager
Mr Allan – Flood Development Management Officer – Cumbria County Council
Principal Planning Officer
Principal Health and Housing Officer
Environmental Health Officer
Planning Officer x 1
Planning/Landscapes Compliance and Enforcement Officer

DC.016/20 APOLOGIES FOR ABSENCE

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

DC.017/20 DECLARATIONS OF INTEREST

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

Councillor Patrick declared an interest in respect of application 19/0243 – Dalston Hall Hotel, Dalston, Carlisle, CA5 7JX. The interested related to a family member having booked the marquee for a future event.

Councillor Tinnion declared an interest in respect of application 19/0748 – Land north of Hurley Road and east of Little Corby Road, Little Corby, Carlisle. The interest related to objectors being known to him as he was formerly Ward Member for the area.

DC.018/20 PUBLIC AND PRESS

RESOLVED – That the Agenda be agreed as circulated.

DC.019/20 MINUTES OF PREVIOUS MEETINGS

RESOLVED 1) That the minutes of the meetings held on 10 January and 11 February 2020 (site visits) be approved.

DC.020/20 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.021/20 CONTROL OF DEVELOPMENT AND ADVERTISING

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

1. Erection of 45no. dwellings (Outline), Land north of Hurley Road and east of Little Corby Road, Little Corby, Carlisle (Application 19/0748).

The Principal Planning Officer submitted the report on the application which had been subject of a site visit by the Committee on 11 February 2020.

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

The Principal Planning Officer set out the planning history of the site covering: the process of it being allocated as a housing development site as part of the Carlisle District Local Plan 2015-2030 (Local Plan), and the Highway Authority's comments on the need for pedestrian linkages to the Hurley Road Estate being essential, along with improvements to Little Corby Road; the refusal of application 16/0318; the subsequent appeal to the Planning Inspectorate, and rationale for dismissal; and, the findings of an independently commissioned highway assessment carried out on behalf of the Council.

During the Committee's site visit, Members had raised concerns about the pedestrian links to the site. The Highway Authority had recommended that the applicant provide a footway along the frontage of the site down to the kissing gate, together with improved street lighting.

The Principal Planning Officer explained that he had subsequently undertaken discussions with the applicant and the Highway Authority regarding improvements to the pedestrian linkages to the site. It had been agreed a pedestrian link should be provided up to the site boundary adjacent to the pedestrian link from Little Corby Road to Hurley Road. Such an arrangement would avoid the steep muddy bank adjacent to Little Corby Road and would provide a more level access. The developer had confirmed that they would be prepared to pay £1,000 towards improving the pedestrian route across the grass area. However, it was noted that the ownership of that land was not known.

On that basis, the Principal Planning Officer suggested that the S106 is amended to read:

"a financial contribution of £6,500 to enable the 30mph speed limit to be extended and village gateway signage, road markings and improvements to footpath linkages to be introduced."

The proposed scheme's impact on the adjacent Listed Building was considered acceptable, matters of layout, design and scale would be considered as part of any future Reserved Matters application.

In conclusion, the Principal Planning Officer recommended:

- 1) That the application be approved, subject to the completion of a Section 106 Legal Agreement to secure:
 - a) the provision of 30% of the units as Affordable;
 - b) a financial contribution of £171,878 to be paid to Cumbria County Council towards the provision of secondary places;
 - c) a financial contribution of £38,000 to be paid to Cumbria County Council towards secondary school transport;
 - d) financial contribution to upgrade existing off-site sports pitches;
 - e) the maintenance of open space within the site by the developer;
 - f) a financial contribution of £6,500 to enable the 30mph speed limit to be extended and village gateway signage and road marking to be introduced.

2) That should the Legal Agreement not be completed, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

The Committee then gave consideration to the application.

A Member expressed concern in relation to the availability of secondary school places at William Howard School for future occupiers of dwellings in the proposed scheme.

The Development Manager explained that as part of the allocation of sites for housing development in the Local Plan, Cumbria County Council, as the Local Education Authority was consulted on provision of school places. Pupils yields and capacity were taken into consideration when the indicative yield of site was assigned.

Mr Allan added that in addition to that process, the Local Education Authority also requested monies through planning obligations, as was the case with this scheme, to make provision for the increased number of pupils.

In response to concerns expressed by a number of Members regarding the pedestrian access to the site, the Principal Planning Officer advised that in addition to the access arrangements set out in the report, the applicant had agreed to provide an additional £1,000 via a Section 106 Agreement to provide a footpath link across the area of land adjacent to the south-west side of the site. He reiterated that the ownership of the strip of land was not known, therefore it was hoped that the link was able to be provided.

A Member commented that the uncertainty regarding the provision of a path over to the south-west of the site was not sufficient assurance. The Planning Inspector had stated that a pedestrian link was essential to the delivery of housing on the site, and without it, he did not feel able to support the application. He moved that determination of the application be deferred until such time as the details of the pedestrian linkages from the site were known. The proposal was seconded.

Members requested that the following matters also be indicated as reason for deferment, and that the Officer give consideration to them: the provision of street lighting along the footpath linkages; the introduction of speed humps or other speed reduction measures from the commencement of the extended 30mph zone on Little Corby Road, and; the crossing arrangements of the A69.

The Chairman asked the proposer and seconder of the motion to defer application whether they were happy to incorporate those matters. They indicated their assent, and it was:

RESOLVED: That determination of the application be deferred in order to allow further consideration to be given to: the provision of pedestrian linkages (including lighting) from the site to Hurley Road; the introduction of speed reduction measures; the crossing arrangements of the A69; and to await a further report on the application at a future meeting of the Committee.

2. Erection of a marquee without compliance with Condition 2 imposed by Planning Permission 14/0680 to grant permission for a further five years, Dalston Hall Hotel, Dalston, Carlisle, CA5 7JX (Application 19/0243).

The Planning Officer submitted the report on the application which had been subject of a site visit by the Committee on 11 February 2020.

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

The Planning Officer summarised the planning history of the site, including: the approval of application 14/0101; application 14/0680 which sought to regularise the marquee which had not been built in accordance with the original permission due to (the double door system being omitted, the marquee including additional glazing, an overhang to the roof with the western wall positioned off vertical, doors on the north and south elevations, inclusion of a toilet block and store to the rear, alterations to the paving and amendments to the banking/fencing to the rear); the conditions imposed on 14/0680 (a temporary 5 year planning consent, a sound monitor being located in the marquee which knocks off music when it gets to a certain level, noise monitoring taking place inside and outside the marquee), no external speakers attached to the marquee, marquee not being in use when a separate function in the hall takes place, maintenance schedule for the marquee and a parking plan.

Application 14/0680 had been implemented, with the exception of the toilets to the back. The current proposal was a variation of condition application which sought to vary condition 2 of planning approval 14/0680 to grant permission for the marquee for a further 5 years.

As detailed in the report, the principle matters for consideration in determining the application were the principle of development, whether the retention of the marquee would have an adverse impact on the setting of the Grade II* Listed Hall and the impact on the living conditions of neighbouring properties. It was the Planning Officer's view that the principle of a temporary marquee which helped support an existing rural business was acceptable.

In terms of impact on the living conditions of neighbouring residents, since the approval of 14/0680 there has been noise and disturbance issues caused to the adjacent property and business. The Planning Officer advised the Committee that it needed to distinguish what noise had been directly caused as a result of the marquee and what could be caused from existing operations at Dalston Hall Hotel itself which had been in existence as a food/drink establishment for a significant period of time.

A number of issues that had occurred (noise/disturbance from anti-social behaviour, fireworks, patrons entering/leaving the premises) could take place from the Hall itself if it operating to full capacity. Such issues were controlled by separate regulatory bodies.

In terms from noise disturbance from the marquee itself it has been established through a Noise Management Plan which was now tied to the premises license and had agreed noise levels based on an event taking place over a weekend without the toilets installed, that the marquee was able to operate within tolerable levels.

Were Members minded to approve the application, the Planning Officer suggested the following conditions be imposed to protect the living conditions of neighbouring residents:

- adherence to the sound levels specified in the Noise Management Plan;
- ensuring that the sound monitor in the marquee was in situ at all times in direct sight of the music source and not obstructed by any solid objects/curtains;
- sound monitoring should take place at regular intervals during any event where amplified music was played within the marquee and such details shall be made available by the applicant to any Officers of the City Council on request;
- no external speakers should be attached to the marquee at any time;
- ensuring that the marquee is not used when there is a separate unrelated function being held in Dalston Hall Hotel

- ensuring that the doors in the marquee remain self-closing except those for emergency access; and,
- ensuring that all events in the marquee finish at 1am with all live bands finishing at 11pm.

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

Mr Holder (Objector on behalf of Mr Hartely, Mr Mckenzie, Mr Bell and himself) read out letter on behalf of objectors covering the following points: noise and Anti-Social behaviour occurred as a result of the events at the marquee; patrons of the marquee did not observe the appropriate parking protocol at the site; the septic tank used at the site was not sufficient to cope with the level of use when an event took place; fireworks had been set off at the site after 11pm; renewing the permission for another 5 years would allow the applicant to apply for a Certificate Of Lawfulness so the structure would become permanent; the Noise Management Plan was not effective, and was monitored by the applicant; the Council's Environmental Health team objected to the application; noise exceedance at the site had been confirmed on occasion in 2018; 14 letters of objection and a 40 signature petition opposing the application had been submitted; national planning policy guidelines stated that a second temporary permission was only to be granted in cases where there was a clear rationale. Mr Holder displayed slides on screen showing: parking at the site when an event occurred and the discharge from the septic tank pipe.

Mr Greig (Agent) responded in the following terms: the fundamental issue was the lawful use of the site, be that the Hotel or the marquee as the impact identified by objectors could occur irrespective of whether the marquee was retained. The Officer's report was unbiased and summarised all the complaints in relation to the marquee from paragraph 5.2 onwards. Following unsubstantiated objection a Noise Abatement Notice had been served on the marquee, for an event that had not taken place at the site. Subsequently, the applicant voluntarily agreed to a Noise Management Plan which since formed part of the Premises Licence. All parties (applicant, Council, objector) agreed that the noise levels set out in the Plan would not adversely impact on the objector's property. At no time since the implementation of the Plan had the Council's Environmental Health team raised noise concerns with Dalston Hall.

Conditions contained in both the Planning Consent and the Premises Licence sought to manage any adverse impacts from the marquee and were enforceable, to date there was no evidence that either had been breached. The marquee was important in safeguarding the upkeep of Dalston Hall Hotel which was Grade II* Listed. Mr Grieg urged the Committee to support the Officer's recommendation.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed that:

- Access to Dalston Hall and the caravan park was via a private road;
- Environmental Health had received 47 complaints in relation to noise and anti-social behaviour since the installation of the marquee in 2014. Complaints tended to cluster around individual events e.g. one event may receive 2 or 3 complaints. No complaints were received in respect of noise prior to the installation of the marquee;
- The holiday park operated for 12 months of the year on a holiday let basis, residential use of the caravans was not permitted;
- The playing of music by live band was restricted to 11pm in the Noise Management Plan, events were required to cease by 1am.
- The toilets and double door system specified in the approved plans had not been installed;

The Committee discussed the laws around the use of fireworks; the time restrictions imposed on the playing music at the venue; the need for notifying the Council in advance of live music events; and, the closing time of the venue.

A Member proposed that Temporary Permission be granted for a 2 year period, the proposal was seconded.

A Member moved the Officer's recommendation with a variation to condition 11 of the Consent to stipulate live music was to cease by 11pm and amplified music by 12am. The proposal was seconded.

The Chairman put the two motions 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.

The Committee adjourned at 11:40am and reconvened at 11:55am.

3. Erection of up to 160no. dwellings with associated car parking, cycle parking, open space, landscaping and associated infrastructure; all matters are reserved except for access (Outline), Land At Carleton Clinic to the west of Cumwhinton Drive, Carlisle (Application 19/0459).

The Development Manager submitted the report on the application which had been subject of a site visit by the Committee on 11 February 2020.

Slides were displayed on screen showing: site location plan; developable area and access parameter plan; green infrastructure parameter plan; illustrative masterplan; section plan; building heights and minimum floor levels plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The current application site comprised an area allocated for housing in the 2001-16 Carlisle District Local Plan along with an additional field which extended the edge of Carlisle site into the St Cuthbert's Garden Village area. Taking that matter into account, the Development Manager advised that the fundamental issue of not prejudicing the masterplanning of St Cuthbert's Garden Village, as stipulated by the Local Plan, was a central consideration in the determination of the current application.

A Design Code for the site had been worked up as part of the proposed scheme, it set out the parameters for the site's development including examples of higher quality materials and build that would be included in any future Reserved Matters application for the site. Based on the Design Code an Indicative Masterplan had been submitted with the application, accordingly, the Development Manager was satisfied that the proposed scheme would not prejudice the masterplanning of the adjacent Garden Village.

As detailed in the report the recommended approval of the application was subject to a number of planning obligations. Following receipt of those requirements, the applicant had undertaken a viability assessment which initially identified a significant shortfall in available funds. The City Council had this independently assessed by a specialist who had worked on Carlisle housing sites for some time and had experience of the local markets. In the re-assessment it identified more scope within the viability however confirmed that it would not meet the whole financial ask.

Lengthy discussions and negotiations took place between the applicant and the Council, culminating in a position on the planning obligations which now provided a policy compliant affordable housing approach but with reductions on contributions towards highway infrastructure, education and off-site formal play.

The Development Manager noted that all developments within the Garden Village Area would be required to contribute to the Carlisle Southern Link Road, and such a requirement had been imposed on this scheme, even though there was significant funding towards the road already being provided by Homes England.

The Development Manager was aware that Members had been contacted directly by the local County Councillors who had requested improvements to the roundabout at Garlands Road/Cumwhinton Road. That matter had been considered as part of the planning process however given the viability of the scheme, other transport infrastructure had been prioritised and a total of £475,000 was already committed to bringing forwards essential highway infrastructure through planning obligations assigned to the scheme.

The Development Manager recommended that the application be approved with conditions subject to the completion of a Section 106 to secure:

- a) the provision of 20% of the units as affordable (in accordance with the National Planning Policy Framework and the Council's Supplementary Planning Document proportions);
- b) a financial contribution of £218, 400 to Cumbria County Council towards secondary school capacity;
- c) a financial contribution of £2,000 per dwelling (i.e. up to £320,000) towards the Carlisle Southern Link Road;
- d) a financial contribution of £155,000 towards the widening of Sewell's Lanning;
- e) a Travel Plan Monitoring Fee of £6,600;
- f) the provision of an on-site play area;
- g) the maintenance of the formal and informal open space within the site by the developer.

2) That should the Legal Agreement not be completed, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

The Committee then gave consideration to the application.

Councillor Earl (Cumbria County Council) addressed the Committee and requested that determination of the application be deferred and a condition added requiring the improvement of the mini roundabout at the Garlands Road/Cumwhinton Road junction, paid for by the developer. Whilst acknowledging that the submitted accident survey had not highlighted any patterns at the roundabout it did not record the near misses and not recorded accidents which was a concern to a number of local residents. The additional homes provided for by the proposed scheme along with previously approved housing developments in the area would exacerbate the problem. New housing development required necessary infrastructure provision to support it.

Ms Holroyd and Mr Green (Applicant and Agent) responded that the submitted Transport Assessment indicated that the roundabout would operate within its capacity limit when the current baseline situation, consented developments and the proposed scheme were taken into account. Overall it judged that the development traffic would have a minimal cumulative effect on the surrounding highway network. An open, transparent, fair and flexible approach had been adopted by the applicant in respect of the Section 106 Agreement, which viability having been considered by an independent assessor. The contributions relating to highways had been defined by Carlisle City and Cumbria County Council who had identified priorities in light of their local knowledge.

The Committee then gave consideration to the application.

A number of Members appreciated the objectors' concerns with regards to the mini-roundabout and sought clarification as to why it had not been included in the proposed planning obligations.

Mr Allan noted that the matter was raised as part of the Transport Assessment but had not been identified as an area requiring work, as such there was no need to charge the developer with such an undertaking.

The Development Manager explained that the matter had been considered on numerous occasions in relation to other permitted development in the area, notably the Moorside Drive development but no Transport Assessment had concluded improvements were required. Furthermore, major improvement to the highway network in the vicinity of the site, particularly Sewell's Lonning were scheduled to take place. It was anticipated that those works would have a positive impact on the traffic at the mini roundabout.

Responding to Members' questions the Development Manager advised that:

- The proposed scheme would not prejudice the development of St Cuthbert's Garden Village;
- The details of the spread of Affordable dwellings in the development was a matter for any future Reserved Matters application;
- It was anticipated that the properties would enhance affordability by being cost efficient;
- The Council was working with the applicant on other schemes in the district which would offer 100% Affordables.

The Committee expressed support for application and praised the creation of a Design Code which would set a high quality standard for development across the site.

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

RESOLVED: That the application be approved with conditions subject to the completion of a Section 106 to secure:

- a) the provision of 20% of the units as affordable (in accordance National Planning Policy Framework and the Council's Supplementary Planning Document proportions);
- b) a financial contribution of £218, 400 to Cumbria County Council towards secondary school capacity;
- c) a financial contribution of £2,000 per dwelling (i.e. up to £320,000) towards the Carlisle Southern Link Road;
- d) a financial contribution of £155,000 towards the widening of Sewell's Lonning;
- e) a Travel Plan Monitoring Fee of £6,600;
- f) the provision of an on-site play area;
- g) the maintenance of the formal and informal open space within the site by the developer.

2) That should the Legal Agreement not be completed, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

DC.022/20 QUARTERLY REPORT ON PLANNING ENFORCEMENT

The Planning/Landscapes Compliance and Enforcement Officer submitted report ED.10/20 – Quarterly Report on Planning Enforcement which set out details of a number of enforcement case being dealt with by the Council and analysis of quarterly and annual figures. She provided a verbal update on progress regarding several of the cases therein.

The Committee gave consideration to a number of enforcement cases set out in the report.

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

RESOLVED - That the content of the report be noted.

[The meeting closed at 12:58pm]