

## **DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY 21 OCTOBER 2016 AT 10.00 AM**

**PRESENT:** Councillor Mrs Warwick (Chairman), Councillors Bloxham, Mrs Bradley, Bowman (as substitute for Councillor Shepherd) Burns (as substitute for Councillor Ms Quilter), Christian, Earp, McDevitt, McDonald (as substitute), Mrs Parsons, Ms Patrick, and Mrs Sidgwick.

**OFFICERS:** Director of Economic Development  
Legal Services Manager  
Development Manager  
Environmental Health and Housing Manager  
Principal Planning Officer  
Planning Enforcement Officer  
Planning Officersx 3

### **DC.100/16 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors Quilter and Shepherd.

### **DC.101/16 DECLARATIONS OF INTEREST**

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

Councillor Mrs Parsons declared an interest in relation to application 16/0672 – Warathwaite Head Farm, Armathwaite, Carlisle, CA4 9TB. The interest related to the applicant being known to her

Councillor Earp declared a personal interest in relation to applications 16/0722 & 16/0723 – The Fraty, 7 The Abbey, Carlisle, CA3 8TZ. The interest related to an objector being known to him.

Councillor Ms Patrick declared a personal interest in relation to applications 16/0722 & 16/0723 – The Fraty, 7 The Abbey, Carlisle, CA3 8TZ. The interest related to an objector being known to her.

Councillor Burns declared a personal interest in relation to applications 16/0722 & 16/0723 – The Fraty, 7 The Abbey, Carlisle, CA3 8TZ. The interest related to an objector being known to him.

Councillor McDonald declared a personal interest in relation to applications 16/0722 & 16/0723 – The Fraty, 7 The Abbey, Carlisle, CA3 8TZ. The interest related to an objector being known to her.

Councillor Mrs Bradley declared a personal interest in relation to applications 16/0722 & 16/0723 – The Fraty, 7 The Abbey, Carlisle, CA3 8TZ. The interest related to an objector being known to her.

Councillor Mrs Warwick declared a personal interest in relation to applications 16/0722 & 16/0723 – The Fraternity, 7 The Abbey, Carlisle, CA3 8TZ. The interest related to an objector being known to her.

Councillor Sidgwick declared a personal interest in relation to applications 16/0722 & 16/0723 – The Fraternity, 7 The Abbey, Carlisle, CA3 8TZ. The interest related to an objector being known to her.

#### **DC.102/16 PUBLIC AND PRESS**

RESOLVED – That the Agenda be agreed as circulated.

#### **DC.103/16 AGENDA**

RESOLVED - That Agenda Items A.1, items 4 and 5 – The Fraternity, 7 The Abbey, Carlisle, CA3 8TZ be considered together as one item.

#### **DC.104/16 MINUTES OF PREVIOUS MEETING**

The minutes of the meeting of 19 October 2016 (site visit) were noted.

#### **DC.105/16 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.106/16 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 attached to these Minutes.

##### **(1) Erection of 8no. Dwellings (Outline), Land to the rear of Culreouch & Emohruo, Station Road, Cumwhinton, Carlisle, CA4 8DJ (Application 16/0493).**

The Principal Planning Officer submitted the report on the application, consideration of which had been deferred from the previous meeting of the Committee in order to receive independent advice on viability and whether an affordable housing contribution could be made.

Members' attention was drawn to paragraph 6.29 of the report which outlined the findings of the applicant's Viability Study and the Review of Viability undertaken by the Council's consultants, Carigiet and Cowen. Following a reappraisal of build costs by the Council, based on the Royal Institute of Chartered Surveyors, Build Cost Information Service it was evident that the development could not viably deliver a contribution towards affordable housing.

The Principal Planning Officer suggested that the Committee may consider restricting the scale of the development through limiting the number of permitted dwellings, and the number of bedrooms per dwelling to ensure build costs remained in line those indicated by

the applicant in the Viability Study. Should Members be minded to impose restrictions on the scale of the development, Condition 4 would be re-worded accordingly.

Photographs of the site were displayed on screen showing: block plan; road layout design; indicative layout; elevation plans and; photographs of the site, an explanation of which was provided for Members.

The Principal Planning Officer advised Members that discussions had taken place with the applicant regarding Condition 13 of the draft permission which currently stipulated the closure of an existing access to Station Road. The applicant had expressed concerns regarding the replacement provision of a link path on to Station Road in relation to security and the need to provide a wayleave for United Utilities. As the application sought Outline Permission, the site layout was open to reconfiguration, therefore, should Members favour the inclusion of a link path for use by pedestrians/cyclists/wheelchair users, Condition 13 could be worded accordingly.

In conclusion, the Principal Planning Officer recognised that Members needed to give consideration of the merits of the proposal in the context of suggested Conditions 4 & 13; he recommended the application for approval.

The Committee then gave consideration to the application.

A Member considered that the inclusion of the link path as part of the development was a sensible proposal, which would negate the need for occupiers to take a circuitous route through the development to access the amenities in the village. He expressed concern that were the path to be blocked off it would become an area for dumping waste, he proposed that the link path for use by pedestrians/cyclists/wheelchair users be incorporated into the development and that Condition 13 of the permission be worded accordingly. The proposal was seconded, and the Committee agreed the proposal.

Another Member noted that the indicated cost of the properties, £175,000, as indicated in the report was low for the area in which the site was situated. She questioned whether, in the event that the properties were sold at a higher price, the Council was able to claw-back a proportion of the additional monies to form an affordable housing contribution from the site?

The Principal Planning Officer explained that a legal agreement between the Council and developer would be required for the authority to be able to clawback a proportion of any additional monies raised from the sale of the dwellings.

Responding to a further question from the Member regarding the timing of the installation of services such as drainage at the site, the Principal Planning Officer explained that a Reserved Matters application would need to be submitted and approved prior to such works taking place.

Another Member reiterated concerns in relation to the indicated retail price, and was disappointed that the development was not able to make a contribution to affordable housing. She asked the Principal Planning Officer for further detail on the indicated sale costs of the dwellings.

The Principal Planning Officer stated that he had no further information in regards to the sale price of the units than those contained within the report. He advised that the point of

contention regarding viability and affordable housing contribution had been the matter of build costs. He reminded Members that the issue had been resolved following a reappraisal of the build costs.

The Principal Planning Officer advised that there were a number of issues to consider in relation to Condition 4: viability, the need for bungalow type accommodation, and the visual impact of the application. It was for Members to decide the balance of those factors in their determination of the application.

A Member proposed that the number of dwellings be limited to 8 and that four of those be limited to two bedroomed units, which was seconded and agreed by the Committee.

A Member moved the Officer's recommendation subject to the re-wording of Conditions 4 & 13 as agreed by the Committee, which was seconded and it was:

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

**(2) Erection of Dog Boarding Kennels, Warathwaite Head Farm, Armathwaite, Carlisle, CA4 9TB (Application 16/0672).**

The Planning Officer submitted the report on the application which sought Full Planning Permission for the erection of a single storey building to provide dog boarding kennels on the site of a disused cattle shed to the north of Warathwaite Head Farmhouse.

Photographs of the site were displayed on screen showing: location plan; site location plan; block plan; proposed elevations; photographs of road access to the site; photographs of the application site, an explanation of which was provided for Members.

The Planning Officer recommended the application for approval subject to the conditions outlined in the report.

Mrs Stone (Objector) spoke against the application in the following terms: whilst appreciating the imposition of additional conditions following the original application, a number of factors had not been taken into consideration; the principle reason for approving the application appeared to be the creation of jobs, but it was not guaranteed that the positions would be created; the close proximity of the application site would result in a significant loss of privacy; despite the inclusion of mitigation measures noise from the development would be detrimental to the amenity of the neighbouring property; the proposal would create a significant increase in the number of vehicle journeys on the access lane.

Miss Briggs (Applicant) responded to the objections stating that operating a board kennels had been a long term wish; she had visited numerous boarding kennels across the country to identify measures which would reduce noise impact on existing residential properties. The existing agricultural sheds at the site along with her property, planting and the installation of an acoustic barrier would each provide effective external mitigation against noise. Internally, the proposed kennels would be fitted with acoustic insulation and sunk 1 metre into the floor, doorways to the kennels would be staggered and each animal would be housed individually to help them remain calm. It was planned that each dog would have a minimum duration of stay, consequently, the number of vehicles using the access lane would not be as high as outlined by the objectors.

The Committee then gave consideration to the application.

A Member noted the report had detailed a number of measures to mitigate noise, and stated that were noise to become a Statutory Nuisance action could be taken via the Council's Environmental Health Officers. He sought assurances that the Council was competent to assess the noise management plan submitted by the applicant. The Environmental Health and Housing Manager confirmed that he had a Diploma in Acoustics and Noise Control, there was no reason to refer the noise management plan to a third party for assessment.

The Environmental Health and Housing Manager confirmed that a fully qualified assessment of the proposal had been undertaken which had appraised the levels of noise likely to be received at neighbouring properties and the impact of the proposed mitigation measures. Considering the Noise Management Plan and the conditions outlined in the draft permission it was not anticipated that the scheme would cause a noise nuisance, therefore no objection to the scheme had been raised. The Environmental Health Service recommended conditions on any approval to ensure that mitigation measures detailed the Noise Management Plan were applied.

In response to a further question from about the impact of noise when dogs were exercising outside, the Environmental Health and Housing Manager appreciated that was a sensitive issue for objectors. The barking may be heard, but would not necessarily be a nuisance. It was noted that the proposal for the animal boarding kennel was within a working farm and that the kennel building would replace an existing cattle shed. Sound was a pressure wave against which structures provided a barrier, therefore the existing buildings at the site would assist in the reducing the impact noise when the animals were outside. A calculation of expected noise had been conducted which indicated, a level of approximately 40 - 50 decibels (db) outside the objector's property, without structural attenuation, with structural attenuation, with structural attenuation it may be reduced to 20 – 30db. The property most affected by the noise from dog barking would be the applicant's property.

Turning to the issue of Highways, a Member sought reassurance that the visibility splay at the access point was considered sufficient.

The Planning Officer responded that in assessing the proposal the Highway Authority had considered that the gateway on the access lane was set back thereby enabling good visibility to either side of the access / egress point.

A Member understood the concerns expressed by the residents of the neighbouring property, however, the applicant had worked hard to incorporate many noise mitigation measures, resultantly, he felt that the application should be approved.

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

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

- (3) Proposed demolition of existing garages and erection of 1no. dwelling, land to the rear of Stribers, 23 Newbiggin Road, Durdar, Carlisle, CA2 4UJ, (Application 16/0384).**

*Councillors Burns and Bowman having not attended the previous meeting of the Committee where the application had been considered took no part in the discussion or determination of the application.*

The Planning Officer submitted the report on the application which had also been the subject of a site visit by the Committee on 19 October 2016, during which a further letter received from the occupier of the adjacent property, 14 The Willows, had been circulated to Members. A further e-mail from the occupier of 19 The Willows had been received which the Planning Officer summarised for the benefit of Members.

Further to a request from Councillor Allison, Ward Member, the Planning Officer read out a statement on his behalf:

*"I appreciated the opportunity of attending the site visit as ward Councillor. Despite local objections at the time, I had supported the original application for two dwellings on this site but what is proposed here is on a different scale and layout in respect of height and proximity to the neighbouring property.*

*After the site visit I went next door and into their garden. Their fence/hedge 1.9m high was casting a shadow of over 5m. The proposed dwelling will clearly dominate their property and shadow their garden and garden room. It will have no sun at all. Maximising the value of the development plot with this revision is clearly at the expense of the neighbouring property.*

*In my opinion this application should be refused until a more acceptable compromise can be reached".*

Slides were displayed on screen showing: site location plan; proposed and current block plan; proposed elevation plan; floor plan; photographs of the site, an explanation of which was provided for Members.

The Planning Officer advised Members an application for the demolition of an existing bungalow and replacement with a 4 bedroom house and two 3 bedroom link houses had been refused in 2007. The principle of development on the site had been established in 2014 when Full Planning Permission was granted under Delegated Powers for the demolition of an existing bungalow and the erection of two dwellings (application reference 14/0035) following a shift in national planning policy through the advent of the National Planning Policy Framework. The current application proposed the erection of a dwelling on part of the land subject of the previous planning approval.

In respect of Proposed Drainage Methods, the Planning Officer advised that United Utilities had raised objections to the foul and surface water entering the existing pumping station serving The Willows and had recommended that foul and surface waters be drained via separate systems. Members' attention was drawn to pages 62 and 63 of the Schedule where Conditions 5 – 7 of the draft consent were detailed. Condition 5 sought ensure that foul and surface water would be drained on separate systems, Conditions 6 & 7 required the submission of surface water and foul drainage plans prior to the commencement of any development. The issue of right to connect into the pumping station was a civil matter.

The impact of the proposal on biodiversity was covered in paragraph 6.21 of the report, and regarding the presence of bats, based on the Standing Advice of Natural England, a bat survey had not been required as part of the application.

In conclusion, the Planning Officer recommended the application for approval subject to the conditions contained in the report.

The Committee then gave consideration to the application.

A Member stated that the site visit had been of great benefit to the Committee as it had afforded Members the opportunity to assess the impact of the proposal on the surrounding area. He felt that the proposed scheme would dominate the adjacent dwelling and moved that the application be refused permission on the grounds that it was not in accordance with Carlisle and District Local Plan 2001–15, policy CP5 which sought to ensure no adverse effect on the residential amenity of existing areas or in an unacceptable standard of amenity for future users. The proposal was seconded.

The Member added that he was reluctant to propose refusal, however, he considered that the applicant had not gone far enough in addressing the Committee's concerns regarding the proposal's overshadowing impact on neighbouring property.

Another Member expressed concerns about the boundary treatment of the proposed dwelling in relation to Stribers, she sought clarification regarding the distance of the proposed boundary fence from the windows Stribers.

The Planning Officer advised that proposed boundary fence would be 10.8metres from the main dwelling and 7metres away from the extension of Stribers. These distances were not compliant with the Council's Supplementary Planning Document – Achieving Better Housing, however, when judged in relation to the existing form of the area, the proposed distances were considered permissible.

The Member responded that she was concerned about the degree of proximity and its impact on future users of both the proposed dwelling and Stribers.

The Member indicated a number of additional concerns: the proposal was contrary to the emerging Carlisle and District Local Plan 2016-30 (CDLP 2016-30) policy HO3 as the scheme constituted over-development of the site and would result in the loss of privacy and daylight to existing dwellings. The increased ridge height of the proposed dwelling was not in accordance with Strategic Policy 6; the proposed detached garage was out of character with others in the Willows development. On that basis she seconded the proposal to refuse permission.

The Chairman noted that it had been proposed and seconded that the application be refused permission on basis of current and emerging Local Plan policies CP5, HO3, and Strategic Policy 6. Following voting it was:

RESOLVED - That permission be refused.

- (4) Removal of 19<sup>th</sup> Century Porch and Erection of New Entrance, Hospitality Annexe with Café and Interpretation Spaces, The Fraternity, 7, The Abbey, Carlisle, CA3 8TZ (Application 16/0722).**
- (5) Removal of 19<sup>th</sup> Century Porch and Erection of New Entrance, Hospitality Annexe with Café and Interpretation Spaces; Modifications to existing doorway to North Elevation and Internal Works (LBC), The Fraternity, 7 The Abbey, Carlisle, CA3 8TZ (Application 16/0723).**

The Planning Officer submitted the report on the applications which sought Full Planning Permission and consent to alter a Listed Building, The Fraternity through the removal of the Street Porch, and the erection of a pavilion and glazed link building.

Following the production of the report a further two letters of objection had been received, one of which was from the former MP for Carlisle Eric Martlew. The Planning Officer summarised the following points from the items of correspondence: the proposed design was wholly inappropriate and materials unsympathetic to the cathedral and its environs; a number of historic buildings would be lost from view and the overall historic plan of the twelfth century abbey would be lost; the proposal would bisect the current pedestrian area and the close; the proposal would impact on the aesthetic appeal of the City's Historic Quarter; there was sufficient space to provide the proposed extension between The Fraternity and West Walls.

Slides were displayed on screen showing: pictures of the site; proposed block plan; artist's impressions of the proposed pavilion, an explanation of which was provided for Members.

The Planning Officer noted that The Fraternity was an important building which housed a café in its undercroft, and the Cathedral's library on the first floor however, it was considered that the building was currently under used. Both of the facilities housed in The Fraternity currently were accessed by steps, with the inclusion of a lift in the new link building, the proposal would create a Disability Discrimination Act compliant entrance to both the undercroft and the first floor.

The proposed pavilion was to be constructed of local red sandstone and would be of a contemporary design drawing inspiration from the Gothic architecture of the contextual medieval buildings. A new glazed link building would be added which would connect the Fraternity to a new single-storey pavilion. An independent Design Review Panel had assessed the scheme and had been broadly supportive of the design.

The Planning Officer informed Members that the applicant had undertaken pre-application discussions with Historic England, who had commented that the proposal would cause harm to the Fraternity, however, the public benefits of the scheme significantly outweighed the harm caused. Historic England also considered that the design, materials, and scale of the extension along with its location and enhanced landscaping would ensure that the new building had a limited impact on the setting of the surrounding Listed Buildings.

The City Council's Heritage Officer considered that the design was of high quality and welcomed the modern-Gothic inspiration and use of a palette of materials which would allow the building to blend in with its surroundings.

The Planning Officer drew Member's attention to conditions contained in the draft permission which sought to mitigate the harm of the proposals: Condition 7 required the recording of the Street Porch and internal features prior to removal; Condition 8 stipulated the carefully taking down and storing the Street porch to enable it to be preserved for possible future use; Condition 9 requiring a programme of archaeological work to be undertaken prior to commencement. In conclusion the Planning Officer recommended the application for approval, subject to the conditions detailed in the report.

Mr McDowall (Objector) spoke against the application in the following terms: the proposed cream coloured Yorkshire stone was not in-keeping with the vernacular red sandstone; the



scheme proposed an unnecessary extension to the finest space in urban Carlisle; approving the proposal would spoil views of the Cathedral, Deanery, The Fraternity and the remains of the original cloisters;

The Very Reverend Dean of Carlisle (Applicant) responded to the objections by noting that the proposed scheme had gone through a number of options appraisals culminating in the current application which was supported both by Historic England and many in the community. In the development of the scheme attention had been given to achieving clear pathways and sight lines through the Cathedral precinct which had undergone many changes over time. The proposal aimed to enable the Cathedral precinct to respond to the needs of its current users, such as schools, and visitors and to contribute effectively to the life of the city.

The Committee then gave consideration to the application.

A Member recognised the concerns in respect of the proposed alterations to a Listed Building, but felt that the precinct had evolved over a period of centuries with numerous additions and removals, for example, the Street Porch which was a nineteenth century addition to The Fraternity. He felt it was important to consider the current use of the buildings within the precinct and how accessible they were to the community, particularly with disabilities. He agreed that the Cathedral needed to respond to the demands it was currently placed under. He moved the Officer's recommendation.

Another Member commented that the Cathedral precinct was a very important area in the city where it was crucial that development should be of high quality and appropriate to the surroundings. Historic alterations to the site had led to the inclusion of architecture from different style and ages: it was testament to the all those involved that the various parts had blended together so well. In her view, the proposed scheme was part of the continuing process of developing of the site with care having been taken in respect of selected materials and that the design honoured the Listed Buildings. She seconded the Officer's recommendation.

A Member sought clarification on details relating to the proposed platform lift, which the Planning Officer undertook to supply.

The Chairman stated that Officer's recommendation had been moved and seconded. It was:

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

**(6) Change of Use of storage area to Rail Training Track Including laying 4No. test tracks, Store Construction Depot, Thomas Lane, Burgh Road Industrial Estate, Carlisle, CA2 7NA(Application 16/0798).**

A Member moved that consideration of the application be deferred to allow the Committee to consider a report on the proposal following receipt of the Assessment of Likely Significant Effects, which was seconded.

The Chairman moved that the consideration of the application be deferred to enable the Committee to undertake a site visit; await the completion of an Assessment of Likely Significant Effects; and receive a further report at a future meeting, and it was

RESOLVED - That consideration of the proposal be deferred in order to undertake a site visit; await the completion of an Assessment of Likely Significant Effects; and to await a further report on the application during the next meeting of the Committee.

#### **DC.107/16 QUARTERLY REPORT ON PLANNING ENFORCEMENT.**

The Planning Enforcement Officer submitted report ED.36/16 which provided Members with an update on the scope of enforcement activities undertaken in the previous quarter.

The Planning Enforcement Officer informed Member that 149 cases had been recorded in 2016, 62 of which had been resolved. 181 Enforcement cases had been recorded in 2015, of which 140 had been resolved. Members' attention was drawn to the tabular and graphical comparisons of the Enforcement Case Types by year contained within the report, which provided an illustrative assessment of the variation in Enforcement Case Types.

In cases of unauthorised work being undertaken on a Listed Building, the Planning Enforcement Officer was liaising with the Heritage Officer to identify principal locations with a view to working geographically through areas and ensuring that residents were provided with consistent information. The Planning Enforcement Officer summarised the Update on Enforcement Notices contained in the report.

In respect to the ongoing enforcement issues, a Member asked how many Enforcement Notices the Council were required to issue in order to gain compliance.

The Corporate Director of Economic Development acknowledged Member's frustration in relation to longstanding enforcement cases. Officer acted as quickly as possible to address matters, but in order for a successful outcome to be realised correct procedures needed to be followed.

The Legal Services Manager informed Members that in respect of the Crown Street case, the Enforcement Notice remained extant and it was open to the Council to pursue court action.

Responding to a further question from the Member on the fining structure relating to Community Protection Notices, the Legal Services Manager advised that fines for an individual were set at £2,500 and up to £25,000 for an organisation.

A Member asked how the number of Enforcement Cases related to the number of applications submitted to the Council.

The Development Manager responded that the Council received approximately 1,200 applications for Planning Permission per year, with 149 Enforcement cases recorded in 2016, which was a small proportion.

Another Member requested an update on the Council's enforcement action at Skelton Court, Wetheral.

The Development Manager reminded Members that some Planning Permissions had been granted at the site, however, unpermitted development had subsequently taken place. The developer had sought to regularise the unpermitted works with application 15/0920 which

the Committee had refused. A further three subsequent applications had also been refused.

An Appeal had been lodged with the Planning Inspectorate in relation to each of the refused permissions and related Enforcement Notices, which the Inspectorate was considering collectively. The Council had been advised by the Planning Inspectorate of the average time for undertaking appeals, based on its current timescales for considering appeals, the Planning Inspectorate would be likely to complete its determination of the in early 2017.

A Member noted that a high percentage of the Council's Enforcement Action related to the use of UPVC windows in Listed Buildings, he asked how a property owner would be aware the use of UPVC was not permissible.

The Development Manager explained that property owners would be aware that their property was a Listed Building. The Listing related to both the interior and exterior of the property, and owners were responsible for ensuring they maintained their property in accordance with Listing requirements. He added that window companies also had a duty to install appropriate products, the Council contacted companies periodically with guidelines to help address this issue.

RESOLVED - (1) That Report ED.36/16 be noted.

[The meeting closed at 11.52am]