

# Report to Development Control Committee

Agenda  
Item:  
**A.5**

Meeting Date: 20th December 2013  
Portfolio: Economy and Enterprise  
Key Decision: Not Applicable:  
Within Policy and  
Budget Framework NO  
Public / Private Public

Title: UNAUTHORISED WORKS AT SKELTON HOUSE, WETHERAL,  
Report of: Director of Economic Development  
Report Number: ED.41/13

## Purpose / Summary:

This report refers to the commencement of development without the benefit of planning permission on land at Skelton House, Wetheral, Carlisle and outlines the possible enforcement actions available to the Council based on the potential decision options of the planning application currently before Members under reference 13/0521.

## Recommendations:

The options available to the Committee are:

- a) To serve an Enforcement Notice if the application is refused requiring the cessation of all works immediately and the restoration of the site to its former condition within 6 months of the date of the notice;
- b) To serve a Temporary Stop Notice if the application is deferred until such time as the application is determined.
- c) To serve a Temporary Stop Notice if the application is approved until such time that the applicant has submitted an application to discharge the planning conditions.

## Tracking

Executive:	
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Overview and Scrutiny:	
Council:	

## **1. BACKGROUND**

- 1.1 Planning permission was granted on 24th May 2012 for the demolition of the house, adjoining barn and outbuildings; redevelopment of site for the erection of single block comprising 15 two-bed apartments with dedicated access, off-street parking and private amenity spaces at Skelton House, Wetheral, Carlisle (application reference 10/1066). This approval was subject to a number of pre-commencement conditions and a legal agreement to secure the provision of the 3 affordable housing units in perpetuity, a financial contribution of £3,500 to secure an amendment to the Traffic Regulation Order to provide bus clearway markings, a financial contribution of £3000 to be spent by the Parish Council towards the provision of play facilities for older children and/or the provision of allotments and the provision of a management company to oversee the maintenance of the building and the collection of refuse.
- 1.2 Work has now commenced on site which is not in accordance with permission 10/1066. Whilst some of the works may be necessary in relation to the initial permission some have not been undertaken in accordance with the approved plans. In addition conditions remain in place on the permission which should have been discharged.
- 1.3 Before the work commenced on site, a further planning application was submitted to change the layout of the approved scheme as detailed in the following paragraphs. It is intended that this application will start the process to regularise the development with an approved scheme. Determination of that application is therefore fundamental to the consideration of the unauthorised works and the action the Council may take to ensure compliance with planning requirements.

## **2. PROPOSAL**

- 2.1 A planning application was submitted on 2nd July 2013 for the variation of condition 2 of the planning consent granted under reference 10/1066 which lists the approved documents. The application for the variation seeks consent for alterations to the layout, access and fenestration of the site. This application was presented to Members of this Committee on 15th November 2013 following a site visit on 13th November 2013.
- 2.2 Following consideration of the application, the matter was deferred in order to allow Officers the opportunity to explore additional issues raised by third parties and the Highway Authority and to await a further report on the application at a future meeting of the Committee.

- 2.3 When Members visited the site, the ground had been prepared and some drainage works had taken place. On the 18th November 2013, Building Control Surveyors formally visited the site to inspect foundations that had been dug. These works are tantamount to works having commenced; however, are not in accordance with the approved scheme but are in accordance with the details submitted as part of the revised scheme which is undetermined.

### **3. ASSESSMENT**

- 3.1 The site occupies a prominent roadside frontage within Wetheral Conservation Area and adjacent to a listed building. There were also several pre-commencement conditions attached to the planning consent which have not yet been discharged. The decision notice for permission 10/1066 is appended to this report.
- 3.2 Should planning permission be granted for the current application, these same conditions would still apply and the applicant would need to submit the necessary details required to discharge them.
- 3.3 Given the importance of the details required, such as drainage, levels, materials etc. it is considered important that these details are agreed with the Council. Based on the current progress of the development, should Members grant permission for the scheme, it is likely that the drainage will have been installed with levels and materials and not agreed by the Council. It is important that these details are satisfactory and with regard to the levels and materials, particularly so due to the location within the conservation area and the relationship of the proposed building with the neighbouring properties and the listed building.
- 3.4 The commencement of work has led to complaints from neighbouring residents highlighting the fact that work has commenced on site that is not in accordance with the approved scheme and without conditions having been dealt with. The residents opine that this clearly flouts planning legislation and gives the impression that approval of the current scheme is a formality.

### **4. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

- 4.1 At the time of preparing this report, the current application for the variation of the planning condition is undetermined. The application is scheduled for consideration at the meeting on the 20th December and at the time of consideration of this report Members will have made a resolution on that application (unless it is deferred).

- 4.2 It is clear that the works are unauthorised development. If the application has been further deferred, it is likely that works will continue on site without agreement of the scheme or any planning conditions and enforcement action would be necessary. If the application has been refused, enforcement action will also be required to regularise the unauthorised works.
- 4.3 If the application has been approved, a Temporary Stop Notice is considered appropriate to encourage the submission of an application to discharge the planning conditions without further works progressing on site.
- 4.4 The options open to the Council are:
- a) To serve an Enforcement Notice if the application is refused requiring the cessation of all works immediately and the restoration of the site to its former condition within 6 months of the date of the notice. Before issuing an Enforcement Notice, the Local Planning Authority (LPA) must be satisfied that there has been a breach of planning control and that “it is expedient to issue the notice, having regard to the development plan and any other material considerations”. Case law has held that “expediency” as a test suggests the balancing of the advantages and disadvantages of a course of action;
  - b) To serve a Temporary Stop Notice if the application is deferred until such time as the application is determined. Before issuing a Temporary Stop Notice, the LPA must be satisfied that there has been a breach of planning control and that “it is expedient that the activity which amounts to the breach is topped immediately”. It is also necessary for the LPA to give reasons for issuing the Temporary Stop Notice. While there is provision within the statute for compensation to be payable in certain circumstances, this would only apply where either the activity specified in the notice was the subject of an existing planning permission and any condition attached to the permission has been complied with), or the activity was permitted development, or a lawful development certificate is granted confirming that the development was lawful or in the event that the authority withdraws the notice. In this case, the development does not benefit from an extant planning permission and compensation would not be payable where retrospective planning permission is granted;
  - c) To serve a Temporary Stop Notice if the recent application is approved until such time that the applicant has submitted an application to discharge the planning conditions.
- 4.5 Members may be aware that other options are open to the Council, including serving a Stop Notice and seeking an Injunction. Neither of these options are considered to be appropriate in this instance. A Stop Notice would open the

Council to the risk of costs and an Injunction is a discretionary remedy not granted lightly by the Courts. In these circumstances, the legal advice given to the Council is that the most appropriate remedy would be service of either an Enforcement Notice or a Temporary Stop Notice.

4.6 The following table sets out the cost-benefit analysis of each of the above options:-

	Advantages	Disadvantages
4.4(a)	<p>Provides a remedy for unlawful activity.</p> <p>It will be a criminal offence for the developer to continue in breach of the Enforcement Notice.</p> <p>Without enforcement, the amenity of the residents of Wetheral and in particular the conservation area and listed building will be affected.</p>	<p>Effect is not immediate. There is a right of appeal which may be protracted and costly.</p>
4.4(b)	<p>Can be issued quickly, without needing to wait for Enforcement Notice to be prepared.</p> <p>Effect is immediate. This is important where there is a risk of serious harm to the surrounding area which is a conservation area with a listed building.</p> <p>There is no right of appeal.</p> <p>Allows 'breathing space' in which to determine the planning application.</p> <p>Limited circumstances in which compensation would be payable.</p>	<p>Notice expires after 28 days - at the end of this period there is a risk of the activity resuming if an enforcement notice and stop notice are not served. A further report should be brought to Committee for consideration of the options (a meeting is not next scheduled until 31<sup>st</sup> January 2014).</p> <p>There will be an impact on the developer which may impact upon jobs. For this reason, Members must be certain that the Notice is essential to safeguard amenity or public safety in the neighbourhood or to prevent serious or irreversible harm to the environment in the surrounding area</p>
4.4(c)	As above for 4.4(b)	As above for 4.4(b)

## **5. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

5.1 Not applicable.

**Contact Officer:** Richard Maunsell

**Ext:** 7174

**Appendices**                      **Decision Notice Planning Application 10/1066**  
**attached to report:**

**Note:** in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- **None**

### **CORPORATE IMPLICATIONS/RISKS:**

**Chief Executive's** – None

**Community Engagement** – None

**Economic Development** – None

**Governance** – Legal comments incorporated within body of report.

**Local Environment** – None

**Resources** – None

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## **Application for Planning Permission Notice of Approval**

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Town and Country Planning Act 1990  
Town and Country Planning (Development Management Procedure)  
(England) Order 2010

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Applicant: Agent: (if any)

Citadel Estates Ltd.  
C/O Agent

Holt Planning Consultancy  
Maple House  
Great Strickland  
Penrith  
Cumberland  
CA10 3DJ

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### **Part 1 - Particulars of Application**

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Date of Application: 02/12/2010

Application Number: 10/1066

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Particulars and Location of Proposal:

**Proposal:**

**Demolition Of House, Adjoining Barn And Outbuildings; Redevelopment Of Site For The Erection Of Single Block Comprising 15No. Two-Bed Apartments With Dedicated Access, Off-Street Parking And Private Amenity Spaces**

**Location:**

**Skelton House, Wetheral, Carlisle, CA4 8JG**

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### **Part 2 - Particulars of Decision**

In pursuance of the powers under the above Act and Order the Carlisle City Council hereby gives notice that **Planning Permission Has Been Granted** for the carrying out of the development referred to in Part 1 hereof and as described and shown on the application and plan(s) submitted, subject to due compliance with the following condition(s):

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 ( as amended by Section 51 of the



2. The approved documents for this planning consent comprise:

1. The Planning Application Form received 25th November 2010;
2. The existing site location plan and proposed block plan received 2nd December 2010 (Drawing No. 00revA);
3. The existing block plan received 2nd December 2010 (Drawing No. 02);
4. The proposed block plan received 29th June 2011 (Drawing No. 03F);
5. The proposed ground floor plan received 8th March 2011 (Drawing No. 04A);
6. The proposed first floor plan received 8th March 2011 (Drawing No. 05A);
7. The proposed second floor plan received 8th March 2011 (Drawing No. 06A);
8. The proposed north and east elevation received 8th March 2011 (Drawing No. 07A);
9. The proposed south and west elevation received 19th April 2011 (Drawing No. 08B);
10. The proposed street scene received 2nd December 2010 (Drawing No. 09);
11. The existing elevations and floor plan of the single storey barn received 19th April 2011 (Drawing No. 20);
12. The proposed floor plan and side elevations of the single storey barn received 29th June 2011 (Drawing No. 21A);
13. The proposed front and rear elevations of the single storey barn received 29th June 2011 (Drawing No. 22);
14. The tree constraints plan received 25th November 2010 (Drawing No. SH-Wetheral-09082010);
15. The Design and Access Statement received 6th December 2010;
16. The Bat Survey received 25th November 2010;
17. The Ecological Survey received 2nd December 2010;
18. The Statement of Security Measures received 19th April 2011;
19. The Notice of Decision; and
20. Any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. Samples or full details of all materials to be used on the exterior shall be submitted to and approved, in writing, by the Local Planning Authority before any work is commenced.

**Reason:** To ensure the materials used are acceptable and to ensure compliance with Policies CP5 and LE19 of the Carlisle District local Plan 2001-2016.

4. No development shall commence until details of the proposed hard surface finishes to all public and private external areas within the proposed scheme have been submitted to and approved, in writing, by the Local Planning Authority.

**Reason:** To ensure the materials used are acceptable and to ensure compliance with Policies CP5 and LE19 of the Carlisle District

5. No development shall take place until a detailed landscaping scheme, including identification of those trees/shrubs to be retained, has been submitted to and approved, in writing, by the Local Planning Authority. These works shall be carried out as approved prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. The landscaping plan should identify the crown spread of the trees to be retained, including the crown spread of any trees that overhang the boundary, and those trees shall be protected by a suitable barrier in accordance with details to be submitted to and approved, in writing, by the Local Planning Authority. Any trees or other plants, which die or are removed within the first five years following the implementation of the landscaping scheme, shall be replaced during the next planting season.

**Reason:** To ensure that an acceptable landscaping scheme is prepared and to ensure compliance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

6. No development shall commence until a method statement for any work within the root protection area of those trees to be retained, including those that overhang the boundary, have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved statement.

**Reason:** In order to ensure that adequate protection is afforded to all trees/hedges to be retained on site in support of Policy CP5 of the Carlisle District Local Plan 2001-2016.

7. No dwelling shall be occupied until its foul drainage system is connected to a public sewer.

**Reason:** To ensure that adequate drainage facilities are available and to ensure compliance with Policy CP12 of the Carlisle District Local Plan 2001-2016.

8. No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water drainage system has been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

**Reason:** To ensure that adequate means of surface water disposal and to prevent increased risk of flooding in accordance with Policy CP12 of the Carlisle District Local Plan 2001-2016.

9. Details of the heights of the existing and proposed ground levels and the height of the proposed finished ground floor level of the apartment building shall be submitted to and approved, in writing, by the Local Planning Authority before any site works commence.

**Reason:** To safeguard the living conditions of neighbouring residents and the setting of the Conservation Area in accordance with Policies CP5 and LE19 of the Carlisle District Local Plan 2001-2016.

10. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the condition above, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

**Reason:** To protect the environment and prevent harm to human health in accordance with Policy LE29 of the Carlisle District Local Plan 2001-2016.

11. No development shall commence until a detailed scheme for the external lighting of the car park, which shall include the provision of low level bollard lighting, has been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

**Reason:** In order to prevent crime, antisocial behaviour and to safeguard the living conditions of neighbouring residential properties and the setting of the Conservation Area in accordance with Policies CP5, CP6, CP17 and LE19 of the Carlisle District Local Plan 2001-2016.

12. No development shall take place until the applicant has demonstrated how the protected species/wildlife mitigation measures set out in Paragraph 5 and 5.1 of the "Ecological Survey" prepared by Andrew Carr (received 2nd December 2010) and Paragraph E1 of the "Survey for Bats" prepared by Sally Phillips (received 25th November 2010) have been incorporated into the development in accordance with a scheme to be submitted to and approved, in writing, by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

**Reason:** To mitigate the impact of the development upon wildlife in the vicinity and to ensure compliance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

13. No unit hereby approved shall be occupied until the wall that delineates the boundary between the application site and the adjacent property, Caerluel, has been raised in height in accordance with the approved plans. The increased section of wall shall be carried out in natural stone that shall match the existing stone wall in both appearance and the way in which the stone is laid.

**Reason:** To safeguard the living conditions of neighbouring residents and to ensure the materials used are acceptable in accordance with Policies CP5 and LE19 of the Carlisle District local Plan

14. The units hereby approved shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan and has been brought into use. The vehicular access turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior consent of the Local Planning Authority.

**Reason:** To ensure a minimum standard of access provision when the development is brought into use and to support Local Transport Plan Policies LD5, LD7 and LD8.

15. Before any development takes place, a plan shall be submitted for the prior written approval of the Local Planning Authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular access thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.

**Reason:** The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users, and to support Local Transport Policy LD8.

16. No units hereby approved shall be occupied until the developer has applied (via Highway Authority) for an amendment to the Traffic Regulation Order to facilitate the provision of bus clearway markings on the public highway adjacent to the site.

**Reason:** In the interests of highway safety and to support the objectives of Policies CP5 and H1 of the Carlisle District Local Plan 2001-2016.

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## Summary of Reasons for the Decision

The decision to grant planning permission has been taken having regard to the Development Plan, including Supplementary Planning Guidance/ Documents and Design Guidance. The relevant Development Plan policies and Supplementary Guidance have been considered in conjunction with comments received from consultees (including statutory consultees) and any responses from third parties, together with other material planning considerations. On balance the proposal was regarded as acceptable and it was considered that the development does not cause demonstrable harm to interests of acknowledged importance that justifies withholding permission.

## Relevant Development Plan Policies

### Carlisle District Local Plan 2001 - 2016

### Core Development Policies - Policy CP3 - Trees And Hedges On Development

## Sites

Proposals for new development should provide for the protection and integration of existing trees and hedges. Where trees and hedges are present, a survey will be required showing the following:

- 1 the location of existing trees and hedges;
- 2 the species, age, height and crown spread of each tree;
- 3 an assessment of the condition of each tree;
- 4 the location and crown spread of trees on adjacent land which may be affected by the development;
- 5 existing and proposed changes in ground level.

In order to protect and integrate existing trees and hedges within new development, the City Council will resist proposals which cause unacceptable tree loss, and which do not allow for the successful integration of existing trees identified in the tree survey.

Layouts will be required to provide adequate spacing between existing trees and buildings, taking into account the existing and future size of the trees, and their impact both above and below ground.

The City Council will protect existing trees and woodlands where appropriate, by tree preservation orders, and by the use of planning conditions requiring protective fencing around trees to be retained to prevent site works within their crown spread.

## **Carlisle District Local Plan 2001 - 2016** **Core Development Policies - Policy CP5 - Design**

All new development proposals will be assessed against the following design principles. Proposals should:

- 1 Respond to the local context and the form of surrounding buildings in relation to height, scale and massing, and by making use of appropriate materials and detailing;
- 2 Take into consideration any important landscape or topographical features and respect local landscape character;
- 3 Reinforce local architectural features, where appropriate, promoting and respecting local distinctiveness;
- 4 Ensure all components of the proposal, such as buildings, car parking, access routes, open space and landscaping, are well related to one another to ensure a well integrated, successful and attractive development;
- 5 Ensure there is no adverse effect on the residential amenity of existing areas, or adjacent land uses, or result in unacceptable standards for future users and occupiers of the development;
- 6 Ensure the retention and enhancement of existing trees, shrubs, hedges and other wildlife habitats where possible. Where environmental features are lost as a result of the proposal, appropriate mitigation measures should be put in place and on-site replacement of those features will be sought;
- 7 Include landscaping schemes (both hard and soft) to assist the integration of new development into existing areas and ensure that development on the edge of settlements is fully integrated into its surroundings;
- 8 Ensure that the necessary services and infrastructure can be incorporated without causing unacceptable harm to retained features;
- 9 Ensure that the layout and design incorporates adequate space for waste and recycling bin storage and collection.

## **Carlisle District Local Plan 2001 - 2016**

### **Core Development Policies - Policy CP12 - Foul And Surface Water Sewerage And Sewage Treatment**

Development will not be permitted where inadequate foul and surface water sewerage infrastructure and sewage treatment capacity exists, or where such provision can not be made within the time constraint of the planning permission.

## **Carlisle District Local Plan 2001 - 2016**

### **Core Development Policies - Policy CP17 - Planning Out Crime**

The design of all new development must contribute to creating a safe and secure environment, integrating measures for security and crime prevention and minimising the opportunity for crime.

The following points should be applied to all development proposals:

- 1 Security measures should be an integral part of the design
- 2 Developments should be laid out and buildings positioned to maximise natural surveillance with the intention of creating a sense of neighbourhood and deterring criminal and anti-social activity
- 3 Public and private spaces should have clearly defined boundaries.
- 4 Footpaths and cycleways should be designed to maximise their use and prevent opportunities for concealment, unauthorised access or provide a choice of escape routes.
- 5 Landscaping schemes be designed to ensure that they do not create secluded areas, opportunities for climbing or reduce natural surveillance.
- 6 Lighting should deter criminal and antisocial activity whilst minimising light pollution. CCTV may be considered necessary in certain circumstances.

Developers should, at the earliest stage possible, consult Architectural Liaison Officer to advise on measures to be incorporated for designing out crime.

## **Carlisle District Local Plan 2001 - 2016**

### **Housing - Policy H1 - Location Of New Housing Development**

New housing development will be located in sustainable locations in accordance with PPS3: *Housing*, Regional Planning Guidance and the Joint Structure Plan. During the Plan period 80% of new development will be located within the urban area of Carlisle, including allocated sites on the edge of the City referred to in Proposal H16. The remaining 20% will be permitted in the rural area of the District with the focus on the two Key Service Centres of Brampton and Longtown.

In the remainder of the rural area small-scale development will be located in accordance with Policy DP1 and other policies of this Plan to ensure that:

- 1 the site is well related to the landscape of the area and does not intrude into open countryside; and
- 2 the scale of the proposed development is well related to the scale, form and character of the existing settlement; and
- 3 the layout of the site and the design of the buildings is well related to existing property in the village; and
- 4 the siting and design of the buildings is well related to and does not adversely affect the amenity of neighbouring property; and
- 5 appropriate access and parking can be achieved; and

- 6 the proposal will not lead to the loss of amenity open space within or at the edge of the settlement; and
- 7 the proposal will not lead to the loss of the best and most versatile agricultural land.

Settlement boundaries have been drawn for the following Local Service Centres within which proposals will be judged against the above criteria.

Burgh-by-Sands	Castle Carrock	Cummersdale
Cumwhinton	Dalston	Gilsland
Great Corby	Great Orton	Hallbankgate
Hayton	Heads Nook	Houghton
Irthington	Raughton Head	Rockcliffe
Scotby	Smithfield	Thurstonfield
Warwick Bridge (including Little Corby & Corby Hill)	Wetheral	

In the following settlements small-scale infilling (development between an otherwise continuous frontage) will be allowed where this does not conflict with the criteria above and is evidenced by local need to be in that location. S106 agreements may be used to ensure local occupancy to provide for the identified need.

Blackwell	Cardewlees	Cargo
Carleton	Cotehill	Cumwhitton
Durdar	Faugh	Harker
Hethersgill	How Mill	Lanercost
Laversdale	Low Row	Monkhill
Moorhouse	Talkin	Todhills
Walton	Warwick-on-Eden	Wreay

## **Carlisle District Local Plan 2001 - 2016**

### **Housing - Policy H2 - Primary Residential Areas**

Within the Primary Residential Areas defined on the Inset Maps for Carlisle, Brampton and Longtown, proposals for new residential development will be acceptable provided that:

- 1 existing areas of open space and other amenity areas are safeguarded; and
- 2 the proposed development does not adversely affect the amenity of adjacent residential property; and
- 3 the proposed development complements or enhances existing adjacent residential areas and their amenity; and
- 4 satisfactory access and appropriate parking arrangements can be achieved.

Proposals for non-residential uses will be permitted in Primary Residential Areas provided that they do not adversely affect residential amenity. Development that would create unacceptable noise, smell, safety and health impacts or excessive traffic generation will not be acceptable. The traffic impact of new development upon existing residents through inconvenience and detrimental effect will be taken into account. Such schemes falling within the scope of this policy will be considered against the above criteria as well as other policies of the Plan appropriate for the proposed use.

Outside the Primary Residential Areas and sites allocated under Proposal H16 for Carlisle, Brampton and Longtown, applications for residential development, including redevelopment and the change of use of vacant and underused buildings,

will be only be permitted provided that:

- 1 satisfactory housing conditions can be achieved; and
- 2 the proposal will complement the existing character of the area; and
- 3 the proposal will not adversely affect the amenity of the area; and
- 4 satisfactory access can be provided; and
- 5 appropriate parking arrangements can be made.

### **Carlisle District Local Plan 2001 - 2016**

#### **Housing - Policy H4 - Residential Development On Previously Developed Land And Phasing Of Development**

In order to achieve the higher target of 65% brownfield permissions in the urban area, applications for greenfield development in addition to any allocations in H16 will not be granted planning permission. A sequential approach to site development will be applied and, in the context of Policy DP1, brownfield sites in unsustainable locations will not be given priority over more sustainably located greenfield sites. Permission will be phased on sites over 20 dwellings in the urban area and over 10 dwellings in the rural area.

### **Carlisle District Local Plan 2001 - 2016**

#### **Housing - Policy H5 - Affordable Housing**

The City Council will negotiate with developers for an element of affordable housing to be included in the majority of housing developments.

All allocated housing sites and windfall sites of 10 or more dwellings in the urban area will be expected to make a contribution of 30% of units on-site towards affordable housing. Only in exceptional circumstances will the Council consider off-site contributions or a financial contribution in lieu of on-site provision.

In the rural area the contribution to affordable housing will be:

- 1 25% of housing on large sites (over 0.8ha or 25 dwellings)
- 2 20% of housing on medium sites (over 0.3ha or 10 dwellings)
- 3 10% of housing on small sites (over 0.1ha or 3 units)

The proportion of affordable housing sought will only be varied if this can be justified on a robust, evidence based, assessment of the economic viability of the site.

Where intermediate affordable housing is to be provided at a discounted market value a discount of 25-30% will be sought and the discounted sale will be required to be in perpetuity.

### **Carlisle District Local Plan 2001 - 2016**

#### **Local Environment - Policy LE12 - Proposals Affecting Listed Buildings**

Proposals for new development which adversely affects a listed building or its setting will not be permitted. Any new development within the setting of a listed building should preserve the building's character and its setting. The City Council will seek to encourage any new development to be sympathetic in scale, character and materials.

### **Carlisle District Local Plan 2001 - 2016**

#### **Local Environment - Policy LE17 - Development Involving The Demolition Of**



## **Unlisted Buildings In Conservation Areas**

There will be a general presumption in favour of the retention of buildings which make a positive contribution to the character or appearance of a conservation area. Applications for planning permission for development proposals that would require the total demolition of unlisted buildings in conservation areas will be assessed against the following criteria:

- 1 the contribution of the building to the landscape/townscape; and
- 2 the structural condition of the building; and
- 3 the suitability of the building for its existing, proposed or any other use; and
- 4 the cost of repair; and
- 5 the contribution which the demolition/ redevelopment would make to broader conservation objectives.
- 6 the inclusion of any building on a local list as defined in policy LE16

All proposals for demolition must be accompanied by details of redevelopment, which will normally be secured by means of a legal agreement.

## **Carlisle District Local Plan 2001 - 2016**

### **Local Environment - Policy LE19 - Conservation Areas**

The City Council will continue to review existing and designate new conservation areas. Development proposals within and adjoining conservation areas will be granted planning permission provided they preserve or enhance their character and appearance. Any new development or alterations to existing buildings should harmonise with their surroundings and be in sympathy with the setting, scale, density and physical characteristics of conservation areas, and protect important views into or out of such areas. Applications for outline planning permission will not be accepted for proposals in conservation areas.

Proposals for new development and/or alterations to buildings in conservation areas will be judged against the following criteria:

- 1 the development should preserve or enhance all features which contribute positively to the area's character or appearance, in particular the design, massing and height of the building should closely relate to adjacent buildings and should not have an unacceptable impact on the townscape or landscape;
- 2 the development should not have an unacceptable impact on the historic street patterns and morphology, roofscape, skyline and setting of the conservation area, important open spaces or significant views into, out of and within the area;
- 3 development proposals should not result in the amalgamation or redrawing of boundaries between traditional buildings and plots, or demolition and redevelopment behind retained facades;
- 4 wherever practicable traditional local materials such as brick, stone and slate should be used and incongruous materials should be avoided;
- 5 individual features both on buildings and contributing to their setting, should be retained e.g. doorways, windows, shopfronts, garden walls, railings, cobbled or flagged forecourts, sandstone kerbs, trees and hedges, etc. Where features have deteriorated to the extent to which they have to be replaced, the replacement should match the original;
- 6 proposals which would generate a significant increase in traffic movements and heavy vehicles or excessive parking demands will not be permitted since these would be prejudicial to amenity;
- 7 proposals which would require substantial car parking and servicing areas which can not be provided without an adverse effect on the site and its surroundings

will not be permitted.

## **Carlisle District Local Plan 2001 - 2016**

### **Transport - Policy T1- Parking Guidelines For Development**

The level of car parking provision for development will be determined on the basis of the following factors:

- 1 the Parking Guidelines for Cumbria as updated by additional requirements in PPG 13;
- 2 the availability of public car parking in the vicinity;
- 3 the impact of parking provision on the environment of the surrounding area;
- 4 the likely impact on the surrounding road network; and
- 5 accessibility by and availability of, other forms of transport.

## **Carlisle District Local Plan 2001 - 2016**

### **Leisure & Community Uses - Policy LC2 - Primary Leisure Areas**

Within Primary Leisure Areas proposals that relate to and complement the existing use and are appropriate in character and scale to the surroundings, will be acceptable. Development or change of use of Primary Leisure Areas to non-sport or recreation uses will not be permitted unless:

- 1 an alternative open space can be provided which is equivalent in terms of size, quality, accessibility, usefulness and attractiveness; or -
- 2 the Open Space, Sports and Recreational Facilities Audit indicates that the ward has a surplus of open space.

The Local Planning Authority will aim to achieve the following standards of recreational open space provision:

- 3.6 hectares of land/1000 population of informal and formal grassed, wooded or landscaped land, and small amenity areas of public open space;
- 1.86 hectares of playing pitches/1000 population;
- all dwellings should be within 3km of an open space of at least 20 hectares which provides general facilities for recreational activity within a landscaped setting;
- all dwellings should be within 1km of an open space of between 5 and 20 hectares which provides general facilities for recreation provision within a landscaped setting;
- all dwellings should be within 400 metres of an open space of between 2 and 10 hectares which caters for informal recreational needs;
- all dwellings should be within 200 metres of a small formal or informal open space between 0.2 and 2 hectares that is suitable for informal use and has high amenity value.

Permission will not be given for development where it would lead to a reduction in the target for recreational open space provision/1000 population in the ward in which it is proposed.

## **Carlisle District Local Plan 2001 - 2016**

### **Leisure & Community Uses - Policy LC4 - Children's Play and Recreation Areas**

New family housing developments of 40 or more dwellings will be required to include, pro rata, the following standards of play space provision:

Outdoor playgrounds 150m<sup>2</sup> per hectare

Informal playspace 270m<sup>2</sup> per hectare

In addition to the above, on development sites of 5 hectares or over, 0.1 hectares of sports ground development per hectare will be required.

On smaller housing sites the developer will be required to make commuted payments towards the provision of play space in the locality if there is a deficiency of play space in the local area judged against the Audit of Open Space currently being carried out by the City Council as required by PPG 17.

Children's play and recreation areas required by this policy will be dedicated to the City Council for maintenance purposes and a commuted payment equivalent to 10 year's maintenance costs will be required.

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Date: 24/05/2012

Signed:

Jane E Meek  
Director of Economic Development

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### **Important Note**

This notice neither conveys nor implies any other approvals, entitlements or statutory rights which may require to be obtained from any other public or private utility or agency prior to work being carried out. In particular, if the proposal involves building work you should ensure that you obtain any approval which may be necessary under the Building Regulations before commencement of development.

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### **Advisory Notes**

- i) Any approval by the local planning authority of further details required by conditions specified in this notice must be obtained in writing and such notice of approval should thereafter be appended to this notification of decision.
  - ii) It is recommended that this notice (and any subsequent written approval of details required to satisfy conditions) be annexed to the property deeds to which the application relates.
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- 1. The Highway Authority has advised that if any works are proposed on highway land then the developer must not commence works, or allow any person to perform works, on any part of the highway until in receipt of an appropriate permit allowing such works. The developer is advised to contact Cumbria Highways at Barras Lane, Dalston, Carlisle, CA5 7NY (Tel. 01228 227603).
  - 2. Natural England has advised that the developer should be aware that if any protected species are found during the construction process, all work should cease to enable further surveys to be undertaken by a suitably licensed ecologist.
  - 3. The planning permission is linked to a Section 106 Agreement which is intended to cover the following matters:

- a) the provision of three affordable units which will be made available by discounted sale, with the discount set at 30% below open market value;
- b) a financial contribution of £3000 to be spent by the Parish Council towards the provision of play facilities for older children and/or the provision of allotments; and
- c) the provision of a management company to oversee the maintenance of the building and the collection of refuse.

### **Notice to Applicant of Rights of Appeal**

- Where an application for planning permission has been refused, or has been granted subject to a condition or conditions with which you are dissatisfied, you are entitled to appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.
- Appeals must, however be made within six months of the date of this notice. Appeal forms and guidance can be downloaded from The Planning Inspectorate web site [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk). Alternatively they can be obtained from the following address: -

The Planning Inspectorate  
Customer Support Unit  
Temple Quay House  
2 The Square  
Temple Quay  
BRISTOL  
BS1 6PN

Telephone: 0117 372 6372

- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

### **Further Information**

- The Planning Portal web site ([www.planningportal.gov.uk](http://www.planningportal.gov.uk)) contains a range of planning-related guidance and services, which are useful at both the application and appeal stage.

## **Purchase Notices**

- If either the local planning authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

## **Compensation**

- In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.
- These circumstances are set out in sections 114 and related provisions of the Town and Country Planning Act 1990.

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