

## **DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY 26 APRIL 2019 AT 10.00 AM**

**PRESENT:** Councillor T Sidgwick (Chairman), Councillors Mrs Birks (as substitute for Councillor Mrs Glendinning), Bloxham (until 2:10pm), Christian, Earp, Graham (until 3:07pm), McDonald, Ms Quilter (until 12:40pm - as substitute for Councillor Brown), Shepherd, and Mrs Warwick.

**ALSO**

**PRESENT:** Councillor J Mallinson (Ward Member) attended the meeting having registered a Right to Speak in respect of:

- Application 18/0499 – Newtown House, Blackford, Carlisle, CA6 4ET and;
- Item A.2 – Briar Lea Park, Longtown – Gleeson Homes Development.

Mr Allan – Flood and Development Officer, Cumbria County Council  
Mr Lawton (Environment Agency)

**OFFICERS:** Corporate Director of Governance and Regulatory Services  
Corporate Director of Economic Development  
Development Manager  
Principal Planning Officer  
Planning Officer x 3

### **DC.036/19 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors Brown and Mrs Glendinning.

### **DC.037/19 DECLARATIONS OF INTEREST**

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

Councillor Tinnion declared an interest in respect of the following applications:

- 18/0499 – Newtown House, Blackford, Carlisle, CA6 4ET. The interest related to the applicant's son being known to him.
- 18/0990 – Land to the rear of Braefoot, Lanercost Road, Brampton, CA8 1EN. The interest related to the applicant being known to him.

Councillor Shepherd declared in interest in respect of application 18/1037 – Former Brampton Infant School Lunch Hall, Moat Street, Brampton, CA8 1UJ. The interest related to objectors being known to him.

### **DC.038/19 PUBLIC AND PRESS**

**RESOLVED** – That the Agenda be agreed as circulated.

### **DC.039/19 MINUTES OF PREVIOUS MEETINGS**

**RESOLVED** - That the minutes of the meetings held on 22 March 2019 and 24 April 2019 (site visits) be approved.

## **DC.040/19 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS**

The Corporate Director of Governance and Regulatory Service 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.041/19 CONTROL OF DEVELOPMENT AND ADVERTISING**

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

(2) That the applications referred to under the Schedule of Applications under B be noted.

- 1) Change Of Use of Land and Buildings to for Concrete Product manufacturing premises to roofing business including the siting of a scaffold rack, erection of a car port and store together with the formation of a vehicle wash bay (Part Retrospective), Newtown House, Blackford, Carlisle, CA6 4ET (Application 18/0499).**

The Planning Officer submitted the report on the application and reminded the Committee that a site visit had been undertaken on 20 March 2019.

The Planning Officer reported that an additional letter of support had been received from an occupier of a neighbouring property. The application sought planning permission to change the use of the existing building from a commercial premise to use for the storage of plant and equipment associated with the applicant's roofing business. The Planning Officer advised that the nature of the application had changed therefore, the of the proposal description should be amended to read "retrospective" instead of "part retrospective". In overall terms the principle of the reuse and erection of additional buildings on the site was considered acceptable, and the development would not adversely affect the character or appearance of the area.

The proposed use had the potential to impact on the living conditions of the occupiers of neighbouring properties through increased noise and disturbance. Consequently, the applicant had undertaken a Noise Assessment which had been reproduced in the schedule. The Planning Officer drew Member's attention to paragraphs 2.1.4 and 5.2.4 therein.

The Noise Assessment concluded that the use of the site, albeit subject to planning conditions, was acceptable and would not be detrimental to the occupiers of the neighbouring properties. The Planning Officer advised that whilst being mindful that the report did not insist that a fence be constructed, Members ought to give consideration to the issue.

Slides were displayed on screen showing: Block Plan; Floor Plan; Proposed Elevations; Proposed Scaffolding Rack Plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The proposed continued use would not result in significant levels of vehicle movements that would be detrimental to the surrounding highway network and as such, the Highway Authority raised no objection to the application.

In conclusion, the Planning Officer considered that all aspects of the proposals were compliant with the objectives of the relevant national and local planning policies. Accordingly, he

recommended that the application be approved subject to the imposition of conditions including the rewording of condition 5 to omit the reference to points A and B in the Noise Report.

Mr Addison (Objector – speaking on behalf of Mr Roberts and himself) spoke against the application in the following terms: the locating of a scaffolding business in a residential area was inappropriate; the constructed car port should be removed; the Noise Assessment submitted by the applicant did not accurately represent the level of noise generated by the loading and unloading of scaffolding poles; the proposal amounted to large scale commercial development in a rural area; an unauthorised bungalow had been constructed within the site, the use of which ought to be restricted to the applicant's roofing company; a separate scaffolding company operated from the site, it should be required to submit an application for its commercial use of the site.

Mrs Hedley (Applicant) responded in the following terms: the site had a long history of commercial use, and had a rateable value; the proposed scheme would allow for the storage of equipment associated with the scaffolding business, no works were to be carried out there; two Noise Assessments had been carried out and the locating of the scaffolding in the car port had been suggested by one of the consultants as a way of reducing noise; the request to allow weekend operation at the site was to enable the company to fulfil contracts at sites where weekday access was not permissible; the main unloading times were in the morning and the end of the working day; staff working late did not return their vehicles to the site.

In relation to written objections referencing the provision of forty car parking spaces within the site, Mrs Hedley noted that the Planning Permission application form requested that information. However, it was not intended that the site would provide this level of car parking facilities.

Councillor J Mallinson (Ward Member) addressed Members and noted that he had attended the Committee's site visit. He felt that the type of business proposed by the application was not suitable for a rural residential area due to the noise levels created by loading and unloading of scaffolding poles. In the event that the Committee was minded to approve the application, he requested that conditions be imposed to: require the applicant to construct an acoustic barrier to mitigate noise and; that the hours of operation at the site be restricted to Monday to Friday.

The Committee then gave consideration to the application.

A Member sought clarification as to whether the applicant for the scheme comprised one or two companies.

The Planning Officer explained that the applicant's details as submitted was Hedley's Roofing, he reminded Members that in determining the application their principal consideration was the proposed land use.

Another Member asked whether companies other than the applicant's operating at site would be subject to the same restraints on hours of operation. He further suggested that the applicant be required to keep a log of emergency works carried out which would be available for inspection by the Council's Planning/Landscape Compliance and Enforcement Officer.

The Planning Officer responded that the report proposed a number of conditions to limit the use of the site, and drew the Committee's attention to condition 3, which Members were able to add to or amend as they deemed necessary.

In terms of the number of businesses at the site, there was no evidence to indicate that any other than the applicant's were operating from the location. Should the Committee judge the

issue to be a matter of concern, the Planning Officer suggested that consideration be given to whether the proposed conditions were sufficient to prevent intensification at the site.

Regarding the suggestion that the applicant be required to maintain a log of emergency works undertaken, the Planning Officer considered that such a document would, in effect, afford the applicant mitigation against enforcement action.

Responding to comments from a Member that condition 2 restricted the use of the site to Hedley's Roofing, the Corporate Director of Governance and Regulatory Services advised that: currently the condition was personal and to an individual. He stated that the condition must correctly reflect the applicant, which he understood was the scaffolding company, resultantly, the condition may require re-wording.

During the Committee's consideration of the submitted Noise Assessments, the following issues were raised:

- the original Noise Assessment noted that local wind conditions were variable and not considered;
- Obtrusive facets of noise – LA Max stated that no environmental guidelines other than for night time, and therefore was not addressed;
- No evidence of noise produced by the previous occupier of the site;
- Was the location of the noise monitoring equipment known to the Officer, applicant and neighbours;
- Page 66 of the Schedule listed noises at the site, but did not include scaffolding un/loading;
- In the event of permission being given the following condition be imposed:
  - No unloading/loading of scaffolding from 12pm on Saturdays – 7:30am on Mondays;
  - The installation of an acoustic barrier.

In response the Planning Officer advised:

- That the location of the noise monitoring equipment was shown on page 50 of the Schedule. Whilst he had not been party to the assessment process, it was likely that the applicant would have been aware of the siting of the equipment;
- Page 56 of the Schedule set out vehicle movements recorded during the Noise Assessment, Appendix D of that report tied in with the times in the statement and were commented upon in the report.

A Member noted that page 73 of the Schedule contained comments from the Noise Consultant, but felt that the matter had been left to the Committee to determine.

The Chairman directed the Committee to consider the Officer's recommendation.

A Member proposed that the application be approved subject to the conditions detailed in the report and:

- a) The imposition of a condition restricting the unloading/loading of scaffolding between 12:00pm on Saturdays to 7:30am on Mondays;
- b) The imposition of a condition requiring the construction of an acoustic barrier;
- c) The re-wording of condition 2 to refer to the company using the site not the individual applicant

The proposal was seconded and put to the vote, but was not carried.

The Corporate Director of Governance and Regulatory Services noted that the Committee had discussed matters relating to noise, following which a number of additional conditions had been proposed to make the scheme acceptable. Given that the Officer's recommendation and additional conditions had not been agreed Members, needed to explain why the proposal was not acceptable.

A Member stated that she remained concerned about the impact of noise affecting residents in neighbouring properties, particularly during weekends, and the noise assessments had not provided sufficient information for her to effectively determine the matter.

The Planning Officer drew the Committee's attention to page 57 of the Schedule which detailed the Assessment Results and stated that the proposal would impact on the noise experienced at neighbouring properties, but that the impact would not be significantly adverse.

With reference to the earlier motion which had suggested additional conditions regarding hours of operation and the construction of an acoustic barrier, the Planning Officer suggested that Members consider whether those conditions were sufficient to address the issue.

Another Member commented that she was unclear about the number of businesses using the site.

The Planning Officer reminded that Committee that its principal concern in determining the application was to consider the proposed land use. Moreover, the conditions of the permission and the buildings at the site were self-limiting.

*The Committee adjourned from 11:04am to 11:14am*

The Corporate Director of Economic Development advised those present that during the adjournment a number of Members who had not been satisfied with the Officer's recommendation had considered the proposal in the context of the Carlisle District Local Plan 2015 – 30 ("Local Plan") with a view to identifying an appropriate planning policy basis for their determination of the application.

A Member stated that he fully understood the noise issue and that it was clear from the submitted assessments that the matters were able to be addressed subject to the imposition of appropriate conditions. Accordingly, he did not consider the matter sufficient to refuse permission. He moved that the application be approved subject to the conditions detailed in the report and:

- a) The imposition of a condition restricting the unloading/loading of scaffolding between 12:00pm on Saturdays to 7:30am on Mondays;
- b) The imposition of a condition requiring the construction of an acoustic barrier;
- c) The re-wording of condition 2 to refer to the company using the site not the individual applicant

The proposal was seconded.

In response to a question from a Member regarding the location of the acoustic barrier, the Planning Officer advised that the condition would require the applicant to submit details of the structure to the Local Planning Authority for approval. Consultation with the Council's Environmental Health team would be carried out to ensure that the structure was appropriate.

The Chairman noted that the following proposal had been put forward and seconded: to approve the application subject to the conditions detailed in the report and:

- a) The imposition of a condition restricting the unloading/loading of scaffolding between 12:00pm on Saturdays to 7:30am on Mondays;
- b) The imposition of a condition requiring the construction of an acoustic barrier;
- c) The re-wording of condition 2 to refer to the company using the site not the individual applicant

The matter was put to the vote and it was:

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

**2) Demolition of agricultural outbuildings; Erection of 1no. dwelling with access from Lanercost Road, together with additional landscaping, Land to the rear of Braefoot, Lanercost Road, Brampton, CA8 1EN (Application 18/0990).**

The Planning Officer submitted the report on the application which been the subject of a site visit by the Committee on 24 April 2019.

Slides were displayed on screen showing: Existing Site Plan; Proposed Site Plan; Proposed Floor Plans; Proposed Elevation Plans; Brampton Conservation Area Map, and photographs of the site, an explanation of which was provided for the benefit of Members.

During the Committee's the site visit a Member had asked for clarification of the extent of Brampton Conservation Area, The Planning Officer confirmed that the application site was located wholly within the Conservation Area

Further to the production of the report two additional letters of objection from the same property have been received and were reproduced in the Supplementary Schedule. A further 31 objections from residential properties in and around Brampton had been received following publication of the Supplementary Schedule. The objections covered a number of matters which the Planning Officer summarised. A letter of objection had also been received from Councillor Mitchelson, Ward Member, which the Planning Officer read out for the benefit of Members. Furthermore, the Planning Officer stated that she was also aware that an objection letter had been circulated directly to Members.

The additional objections received raised similar matters to those already summarised in paragraphs 4.1- 4.3 of the report, as such, they were considered to have already been addressed.

Regarding the objector's comments in relation to asbestos at the site, the Planning Officer advised there was no evidence to confirm that asbestos was present in the existing roofing structure. Were it to be found, the applicant would have to comply with the relevant health and safety regulations in relation to any removal.

In terms of the Planning Inspectorate Appeals cited by objectors, the Planning Officer displayed a plan on screen which illustrated for Members the extent of the sites of the previous Appeals. She noted that both of those applications were for Outline Planning Permission for housing and that they encompassed a much larger area and were set further into the field. As such the previous planning refusals on the site were not directly comparable to the application currently before Members.

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

A Member commented that a significant amount of objections to the application had been submitted following the production of the report, whilst he appreciated that the Officer had summarised the central issues raised, he felt it was appropriate for the Committee to be able to read the objections in full. On that basis, he recommended that determination of the application be deferred.

Another Member supported deferral and further requested that the previous Planning Inspectorate Appeals Decisions be provided to the Committee.

The Development Manager acknowledged that a large volume of correspondence had been received following the publication of the report. He suggested that in order to prevent the issue arising again that Members consider closing the consultation on the application, as of the date of the meeting, to prevent a repeat of the current situation from recurring.

A Member responded that the consultations on applications to be presented to Committee should end prior to the report deadline. He felt it was imperative that Members were able to consider all correspondence relating to applications, and in the interests of openness and transparency that the public was able to view all the information that the Committee were to consider.

A Member moved that:

- 1) That the determination of the application be deferred in order to enable Members to view in full: all correspondence relating to the application and the previous Planning Inspectorate Appeal Decisions for the site, and that a further report on the application be submitted to a future meeting of the Committee;
- 2) That the consultation on the application close on 26 April 2019;
- 3) That Officers investigate imposing a deadline on the consultation of applications for Planning Permission to be submitted to the Development Control Committee prior to the deadline for Officers submitting their reports for publication.

The proposal was seconded whereupon the Chairman put it to the vote, and it was:

RESOLVED:

- 1) That the determination of the application be deferred in order to enable Members to view in full: all correspondence relating to the application and the previous Planning Inspectorate Appeal Decisions for the site, and that a further report on the application be submitted to a future meeting of the Committee;
  - 2) That the consultation on the application close on 26 April 2019;
  - 3) That Officers investigate imposing a deadline on the consultation of applications for Planning Permission to be submitted to the Development Control Committee prior to the deadline for Officers submitting their reports for publication.
- 3) Carlisle Phase 1 Flood Risk Management Scheme, consisting of new and raised flood defences at Melbourne Park and associated land raising at the entrance to Tesco Supermarket at the junction with the A69 Warwick Road, Land at Warwick Road, Melbourne Park & Tesco, Carlisle (Application 19/0149).**

The Principal Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 24 April 2019.

Slides were displayed on screen showing: Site Location Plan: General Arrangement Plan; Western Embankment Sections, and photographs of the site, an explanation of which was provided for the benefit of Members.

The proposal sought to deliver new and improved flood defences to a standard of protection above the level of a Storm Desmond event. Following hydraulic modelling of various options and a subsequent economic analysis a scheme comprising a combination of increasing the height and length of existing defences in Melbourne Park and at the Tesco supermarket entrance had been developed.

All access ramps and paths within the site would be regraded to take account of the new levels of the flood defences. New tarmac footpaths would be provided adjacent to the flood embankments. The defences would be integrated into the park and would not affect existing sports facilities or play areas. The report made reference to a range of levels of defences, the tallest being up to 1.6m high. The Principal Planning Officer explained that they would be in particular sections adjacent to the existing flood defences which were being raised. The indicated levels were taken from the existing ground levels.

A Habitats Regulations Assessment had been undertaken by the applicant which concluded that with necessary mitigation the proposal would not have an adverse impact on the River Eden Special Area of Conservation which was hydrologically connected to the River Patteril

Concerns had been raised about the impact of the proposal on the flooding further upstream. A Flood Risk Assessment had been submitted with the application, which included hydraulic modelling that illustrated the scheme would have minimal impact on flood risk elsewhere in the district.

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

Mr Kelsall (Objector – Carlisle Flood Action Group) addressed the Committee in the following terms: Carlisle Flood Action Group agreed that flood defence work in the location of the site was needed. Two principal concerns were identified with the proposed scheme: the level of protection may be too low and, the role of Botcherby Bridge in flood events had not been adequately addressed. Mr Kelsall requested that four further conditions be added to the permission, as set out below:

- The Botcherby Bridge is shown to provide at least the same level of protection as the rest of the scheme;
- The proposal to upgrade the strength of Botcherby Bridge be supplied to show its fitness as a flood defence within the scheme and adequate safety margin – independently verified;
- That the landscaping scheme show how the central channel of the River Patteril can be kept clear in order that it can run fast, early in storm event;
- The hydraulic modelling be independently verified.

Mr Kelsall considered that Botcherby Bridge was fundamental to the future effectiveness of the proposed scheme. With reference to paragraph 6.70 of the report, it was noted that the Environment Agency had indicated it did not consider that the parapet of the bridge required to be raised. Mr Kelsall stated that the bridge parapet including copings was 230mm lower than the flood wall protection proposed by the scheme, he provided an analysis of likely flow rates that the bridge would be able to withstand. Mr Kelsall displayed slides on screen showing: Botcherby Bridge and a variety of restrictions relating to the structure; application drawing no. 54, and site location plan.



Mr Mounsey (Applicant) responded in the following terms: the proposed scheme provided for £6.6 million of flood defence infrastructure in Carlisle that would enhance the 2005 scheme and provide further protection to 1,200 homes and 107 other properties; the increased protection meant that in a flood event of the magnitude of Storm Desmond those properties would not flood; the proposed scheme was the first of four planned phases across the city; the scheme proposed other benefits in relation to recreational facilities, wildlife features and a refurbished car park on Borland Avenue.

Mr Mounsey stated that in addition to the work proposed in the scheme, the Environment Agency would also undertake other flood defence associated works that were outwith the planning permission process, such as gravel management. Were the application to be given permission work would commence in summer 2019 and it was expected to be completed in summer 2020.

The Committee then gave consideration to the application.

Regarding the raised levels proposed by the scheme, a Member noted that such alterations would affect the walkways within the site which were used by pushchair users, he asked whether increased gradients were required.

The Principal Planning Officer advised that the walkways within the site would be amended, but that use by people with pushchairs would be considered as part of the design.

A Member commented that in determining the application, the Committee's central concern was the proposed land use, rather than the technical specification of the scheme. He further noted that the Environment Agency was both the applicant and a Statutory Consultee, and sought clarification as to what mechanisms the agency had in place to challenge its own processes and designs to ensure that the proposed scheme was appropriate.

Mr Lawton (Environment Agency) explained that the Environment Agency processes for challenging its design proposals were inbuilt and ongoing. The design of the proposed scheme had been undertaken by independent consultants and reviewed by engineers. Within the organisation there were separate teams dealing with the submission of planning applications and assessing schemes to ensure they were technically appropriate.

The Member sought confirmation that the Officer was satisfied that the proposed scheme had undergone sufficient challenge.

Mr Lawton reiterated that external challenge was essential in the development of schemes and that had taken place in respect of the application currently before the Committee.

A Member broadly welcomed the application but expressed concerns that the scheme may increase flood risk in other parts of the district.

Mr Lawton noted that the matter had been raised in the consultation on the application, he stated that the proposed scheme would not impact the flood risk of other areas in the district due to the variability of ground levels. He considered that the scheme would afford an increased level of protection from flooding to many properties.

A number of Members expressed concern that the scheme did not encompass works to Botcherby Bridge.

Mr Lawton explained that works to Botcherby Bridge were currently at the design phase, and once plans were fully developed, consultation would be undertaken with the Council and any necessary planning applications submitted.

A Member noted that in its response to the consultation on the application, the Council's Green Spaces Team had suggested bank gradients of 1:2.5. In the scheme before the Committee there were a variety of bank gradients, some of which were steeper than those put forward by the Green Spaces Team, he sought clarification as to who would be responsible for those areas.

Mr Lawton advised that, in line with the Environment Agency's national policy, it would assume responsibility for those areas of bank where the Council considered the gradient too steep for its machinery.

The Principal Planning Officer added that an agreement would be drawn up between the Council and the Environment Agency which stipulate the areas of responsibility for each organisation in respect of management and maintenance.

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.

**4) Erection of two storey side and single storey rear extension to provide office, utility, WC and kitchen on the ground floor with 1no. bedroom and bathroom above (Revised Application) 8 Knowe Park Avenue, Carlisle, CA3 9EJ (Application 19/0018).**

The Planning Officer submitted the report on the application which been the subject of a site visit by the Committee on 24 April 2019.

Slides were displayed on screen showing: Location Plan; Existing Block Plan; Existing Floor Plans; Existing Elevation Plans; Previously Approved Plans and photographs of the site, an explanation of which was provided for the benefit of Members.

In July 2018 the Committee had granted Full Planning Permission for the erection of a two storey side extension (attached to the southern side of the property) and a single storey rear extension to provide a kitchen, utility, WC and office on the ground floor with extended bedroom and bathroom above (application 18/0396). As stated in the committee report work had commenced on site following the previous approval, after which it transpired that the works undertaken were not in accordance with the approved plans. The current application had been submitted to regularise those works.

The Planning Officer detailed the main changes between the development permitted under the Planning Consent and the as built extension of the property as follows:

1. The walls of the two-storey side extension set back 0.34 of a metre from the front elevation as opposed to 0.5 of a metre;
2. Additional number of quoins, insertion of window surrounds and a down pipe on the front elevation of the proposed side extension;
3. Removal of quoins on the side elevation of the two-storey side extension and removal of the first floor bathroom window;

4. Guttering and roof on the side elevation of the two-storey side extension stepped in to reduce over hang;
5. Removal of quoins on the rear elevation of the existing property and proposed rear extensions;
6. Alterations to the design and size of opening of the first-floor bathroom window on the rear elevation;
7. Single storey rear extension to be 0.5 of a metre longer in length with a roof overhang of 0.5 metres;
8. Removal of 3no.sky lights on the single storey rear extension, installation of an additional french window and alterations to the design of the ground floor kitchen window;
9. Installation of down pipes on the rear elevation; and,
10. Installation of a flue on the single storey rear extension to serve a new boiler.

The principle of a two-storey side and rear extension had previously been assessed and considered acceptable under application 18/0396. The changes proposed in the current application were appropriate in terms of scale and design, and would not have a detrimental impact on the character/appearance of the surrounding area nor the living conditions of occupiers in neighbouring properties. In conclusion, the Planning Officer recommended that the application be approved, subject to the imposition of the conditions detailed in the report.

Ms Ballantyne (Objector on behalf of Mr Ion) spoke against the application in the following terms: the property has been stripped of its original characteristics and was not in keeping with the vernacular style; the gap between no.s 8 and 10 Knowe Park Avenue was so narrow that it contravened Policy HO 8 of the Local Plan; the narrowness of the gap meant that the quality of the render work on the wall was poor; soffits had not been included as per the Approved Plans; the extension was over-bearing. Ms Ballantyne displayed a number of photographs of the constructed extension on screen.

Mr Pietruszka (Applicant) responded: that he had been advised by his architect to build the extension around the existing dwelling; the gap between no.s 8 and 10 Knowe Park Avenue was sufficient for the rendering work to be carried out, however, the neighbouring property had refused access on to the land; the flue pipe had been relocated due to the boiler being replaced with a larger unit.

The Committee then gave consideration to the application.

In response to comments from a Member regarding the number of retrospective planning applications and making an example of those who submitted them, the Corporate Director of Governance and Regulatory Services reminded the Committee that retrospective applications were permitted in law. In terms of determining the application, he instructed Members to apply the same principles as used when judging a new application.

A Member asked whether the gap between no.s 8 and 10 Knowe Park Avenue was sufficient to allow for maintenance to take place.

The Planning Officer explained that she did not have the precise dimensions of the gap however, it was a civil matter dealt with under the Party Wall Act.

Responding to concerns expressed by a Member regarding the location of the flue, the Planning Officer advised that the Council's Building Control team had indicated that the location was acceptable.

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.

*The Committee adjourned at 12:40pm and reconvened at 1:20pm  
Councillor Ms Quilter left the meeting at 12:40pm.*

**5) Conversion of former Brampton Infant School Lunch Hall to 1no. dwelling with partial demolition and reconstruction of frontage to form Off Street Parking (Part Retrospective), Former Brampton Infant School Lunch Hall, Moat Street, Brampton, CA8 1JU (Application 18/1037).**

*Councillor Shepherd having declared an interest in the item of business removed himself from his seat and took no part in the discussion nor determination of the application.*

The Planning Officer submitted the report on the application which been the subject of a site visit by the Committee on 24 April 2019.

Slides were displayed on screen showing: Site Location Plan; Elevation Plans; Floor Plans; Proposed Site Plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer drew Members' attention to two original plans that had erroneously been included in the Schedule on pages 169 and 172, updated versions were shown on screen.

The application sought to convert an empty, disused building into a three bedroomed dwelling with associated off-street parking. Work had commenced at the site prior to the submission of an application for permission, resultantly there was a retrospective element to the proposal. Following the publication of the report, the Planning Officer had been notified that reconstruction works to the frontage of the property were being undertaken: accordingly, two formal Temporary Stop Notices were served on 10th April to halt any further building works taking place.

Given that construction works had commenced, the Planning Officer advised that proposed condition 3 in relation to cement-free lime mortar was no longer applicable. Furthermore, the applicant had confirmed that the new frontage was bedded and pointed in cement free lime mortar graded at NHL 3.5, which the Council's Heritage Officer confirmed was acceptable.

The Planning Officer explained that the application site was on a narrow street, where a number of properties did not have any designated parking area, therefore, on-street parking was used. As a consequence, vehicles using the street were required to navigate it at a very slow speed.

In the vicinity of the application site there was a rear access point to the local school: its use was occasional with the gates at the access only being unlocked between 8am – 9am and 3pm – 4pm during term times. Consequently, the Planning Officer was of the view that that section of Moat Street adjacent to the application site would have a very low level of both pedestrian and traffic movement.

In conclusion the Planning Officer stated that the proposal would bring back a vacant building back into use, and the rebuilt frontage would remedy the issue of the plant growth from the building thereby enhancing the amenity value and overall appearance of the building. Given the local circumstances, it was not considered that the proposal would have a detrimental impact upon highways safety. On that basis the Planning Officer considered that the proposal fully

complied with both national and local policies and he recommended that the application be approved subject to the conditions detailed in the report, with the exclusion of condition 3.

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.

*Councillor Shepherd resumed his seat.*

**6) Erection of a 16,000 bird poultry unit and packing area with 2no. feed hoppers. Desoglin, West Hall, Brampton, CA8 2BP (Application 18/0620).**

The Planning Officer submitted the report on the application which been the subject of a site visit by the Committee on 24 April 2019.

Slides were displayed on screen showing: Site Location Plans; Block Plan; Floor Plan; Proposed Elevations; Tree Plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer noted that in order to realise the access to the proposed poultry units, a number of trees from the Spotleybank Plantation were required to be removed, she indicated to the Committee which trees this would comprise with the aid of the Tree Plan displayed on screen.

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

The Committee then gave consideration to the application.

A Member noted that the birds would be dealt with under the Fallen Stock Scheme, which he had studied, but found little reference to poultry.

The Planning Officer confirmed that was the formal scheme under which such livestock were dealt with.

In response to a question from a Member regarding the use of gases and waste materials from the birds being used for biomass energy production, the Planning Officer undertook to discuss the matter with the applicant.

Clarification was sought by a Member on the width of the proposed access road.

The Planning Officer advised that condition 4 required the standard width of three metres.

Another Member asked whether the proposed access road required a passing place.

Mr Allan (Cumbria County Council) advised that as the main users of the proposed access would be those involved with the operation of the site, it was not deemed a passing place was necessary as there would not be a flow of two-way traffic.

Responding to a further question from a Member regarding the need for a junction to be installed at the entrance of the access road, Mr Allan advised that it was anticipated that the

road would be used by two HGVs every fourteen months. Such a level of usage was able to be accommodated by the existing highway layout.

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.

#### **DC.042/19 SCHEDULE B**

RESOLVED - That the applications referred to under the Schedule of Applications under B be noted.

#### **DC.043/19 BRIAR LEA PARK, LONGTOWN – GLEESON HOMES DEVELOPMENT**

The Principal Planning Officer submitted report ED.19/19 – Briar Lea Park, Longtown – Gleeson Homes Development, which had been subject of a site visit by the Committee on 24 April 2019. Following the site visit, a further letter on the matter had been received from Arthuret Parish Council which was read out for the benefit of Members.

Planning Consent for the development was granted in December 2017, following the Committee's determination of the proposal where approval for the scheme had been given, subject to the completion of a Section 106 Legal Agreement in July 2017.

A central aspect of Members' consideration of the scheme had been surface water drainage, due to flooding issues on Old Road. The Committee agreed that all surface water would discharge into a watercourse on the opposite side of the A6071 thereby creating a significant improvement on the then current situation. The approved plans included an engineering layout showing the Finished Floor Levels of the properties would be up to 1.2m higher than those of neighbouring properties

In June 2018, an application was received for the discharge of the surface water drainage conditions. The plans submitted at that time showed the following increase in Finished Floor Levels: between 2.5cm and 22.5cm along Old Road and, 15.0cm to 82.5cm to the rear of Briar Lea Court. The Principal Planning Officer advised that the dwellings were currently being constructed in accordance with the Finished Floor Levels indicated in the discharge of conditions application. Accordingly, he considered that the applicant needed to submit a Section 73 application to regularise the work.

The applicant had taken legal advice which stated that the Finished Floor Levels were not fixed by the Engineering Layout approved under the original planning application because those were "indicative only". Consequently, the applicant understood that there was scope for amendment with the Finished Floor Levels being finalised through the discharging of the drainage conditions and that those later drawings would show the approved Finished Floor Levels. On the basis of the legal advice received, the applicant indicated it did not intend to submit a revised application.

The Principal Planning Officer advised Members that consideration needed to be given to whether the development that was currently being constructed with the increased Finished Floor Levels was acceptable. Were the Committee to judge the as built development to be unacceptable, the Council may consider taking Enforcement Action against the developer.

The amendment in the construction from the approved drawing was a response to comments from United Utilities who required the drainage outfall from the development to be 300mm higher than the water level in the watercourse and reed bed. The Finished Floor Levels were increased in order to ensure positive drainage back to the adopted foul and surface water drainage networks adjacent to the A6071.

Lowering the Finished Floor Levels would cause clashes between the private surface and foul drainage networks hence the levels at which they have been set. The adopted drainage networks have been set to slackest gradients allowed and to minimal cover to allow for positive draining gravity networks. The Principal Planning Officer advised that a gravity fed solution was favoured over the use of pumps, which were liable to failure which may lead to flooding of the surrounding area.

A number of objectors along Old Road, who live in bungalows, have raised concerns about the Finished Floor Levels and the height of the dwellings, and the impact that had on their privacy and light. The Council's Supplementary Planning Document on Achieving Well Designed Housing specified a minimum separation distance of 21m between primary facing windows.

Slides were displayed on screen which illustrated the relationship between the existing and proposed dwellings on both Old Road and Briar Lea Court. For the benefit of Members, the Principal Planning Officer indicated the separation distances between dwellings and variances in ridge heights.

The Principal Planning Officer advised that the gradient of some of the gardens sloping down to the boundary with the dwellings on Briar Lea Court would be steeper than previously approved due to the increased finished floor levels of the dwellings. The Lead Local Flood Authority had stipulated that a filter drain should be installed along that boundary, the applicant had agreed to undertake the work.

Whilst the Principal Planning Officer acknowledged that the as constructed Finished Floor Levels of the dwellings were higher than those approved in the original planning application, he considered them to be acceptable. Consequently, he was of the opinion that it would not be expedient to take enforcement action on the matter.

A number of other matters had been raised by local residents, which were outlined in the report, pertaining to issues that had been approved under the original Consent, whilst others related to ongoing site management issues.

In conclusion, the Principal Planning Officer recommended that no enforcement action be taken in relation to the finished floor levels and that Officers continue to monitor the development.

*Councillor Bloxham left the meeting.*

Mr Snowden (Objector) addressed the Committee in the following terms: the development had led to a loss of privacy at his dwelling; the height of the constructed dwellings was not suitable; the proposed gravel drives would create debris on the highway; neighbouring properties had not been advised of the increased Finished Floor Levels which had created the increased height of the dwellings; why had the site not been drained prior to the commencement of construction as it would have negated the need for increased levels; he requested evidence that United Utilities had required the Finished Floor Levels to be raised.

Mr Armstrong (Objector) addressed the Committee in the following terms: he farmed the land to the east of the development site and noted that plot 40 was 14 inches from the centre of his

hedge, he questioned how it was meant to be maintained going forward; surface water from the development would drain on to his land, but no consultation on the matter had been carried out with him.

Mr Vallely (Objector) addressed the Committee in the following terms: why had the Council not taken enforcement action against a development that had not been built in accordance with the Approved Plans; the increased levels meant that the neighbouring properties on Old Road had no privacy within or outside their dwellings; the drainage scheme would exacerbate existing flood problems experienced by a number of properties on Old Road.

Mr Vallely recalled an incidence where the developer had been required to force access into the foul drainage system under Old Road in order to facilitate surface water discharge from the development site. He further described a number of incidences where he felt the management of the site and conduct of the staff thereon had not been acceptable.

Councillor J Mallinson (Ward Member) addressed the Committee in the following terms: Members observed at their site visit the imposing nature of the tallest dwelling in the development on existing neighbouring properties; the increased Finished Floor Levels made for a significant different development to that which had been given permission; the increased levels meant a steeper gradient on the drives, the proposed gravel covering was liable to displace on to the highway; existing residents remained unpersuaded of the effectiveness of the proposed drainage system.

Councillor J Mallinson detailed incidences where he felt the management of the site and conduct of the staff thereon had not been acceptable

Mr Wright (Applicant) responded in the following terms: the drainage plan submitted in June 2017 was “indicative only” and required to be approved by United Utilities and the Lead Local Flood Authority as Statutory Consultees; in June 2018 the finalised drainage plan which met all the stipulated requirements was submitted to the Local Planning Authority and the Statutory Consultees; the June 2018 document contained the finalised finished floor levels; there was no need for a Section 73 application to be submitted as no breach of planning had occurred; he questioned whether the Council wished to take legal action as a result of an increased in Finished Floor Levels of 22.5cm.

Regarding issues raised about the impact of the works, Mr Wright stated that the construction phase of a development made it difficult to be a good neighbour to residents in existing properties. He acknowledged that relations with neighbours could be improved and undertook to circulate information to neighbouring residents to advise them of how the development was to be progressed and provide contact details, so issues could be raised as required.

The Committee then gave consideration to the report.

A Member welcomed the developer’s offer for improving day to day relations with neighbouring residents. He considered that the report was unusual in that it required the Committee not to determine an application against policy, but whether or not Enforcement Action was necessary. The Member outlined the following issues and questions:

- Whether regularisation of development not built in accordance with the Approved Plans was necessary;
- Was the work carried out unauthorised;
- Did a condition relating to drainage implicitly provide developers with a mechanism to amend floor plans without reference back to the Committee;
- What strength in law did the phrase “indicative only” have;



The Corporate Director of Governance and Regulatory Services responded that the nature of the report was rare. Given that determination of the matters therein may be a pre-cursor to litigation, the consideration of the report in public was also unusual but had been progressed as such to allow Members to consider local views on the issue.

It was noted that the developer had put forward their legal position in their representation to the Committee. The Corporate Director of Governance and Regulatory Services recommended to Members that should they require legal advice in relation to matters detailed in the report, the rest of the discussion be conducted in private.

A Member moved that the public and press be excluded from the meeting, the proposal was seconded.

RESOLVED – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in the paragraph number (as indicated in brackets against the minute) of Part 5 of Schedule 12A of the 1972 Local Government Act.

Members assessed in depth the matters raised in the report and potential mechanisms for those to be addressed. The Corporate Director of Governance and Regulatory Services provided legal advice as required to the Committee.

*Councillor Graham left the meeting.*

In response to a request from a Member that a permeable bound surface be used on the drives as opposed to gravel, the Principal Planning Officer undertook to take the matter up with the developer.

A Member moved the Officer's recommendation, and that the Principal Planning Officer discuss with the developer the use of a permeable bound surface as opposed to gravel on the driveways.

RESOLVED – 1) That no enforcement action be taken in relation to the Finished Floor Levels.

2) That Officers continue to monitor the development at Briar Lea Park, Longtown.

3) That the Principal Planning Officer discuss with the developer the use of a permeable bound surface as opposed to gravel on the driveways.

#### **DC.044/19    STANDING ORDERS**

During consideration of the above item, it was moved, seconded and RESOLVED that Council Procedure Rule 9, in relation to the duration of meetings be suspended in order that the meeting could continue over the time limit of 3 hours.

#### **DC.045/19    QUARTERLY REPORT ON PLANNING ENFORCEMENT**

The Planning/Landscape Compliance and Enforcement Officer submitted report ED.20/19 – 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 number of Members thanked the Officer for her work, particularly in relation to longstanding enforcement cases, and noted that the work would on occasion be challenging.

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 Committee returned to public session.*

#### **DC.046/19 RIGHT TO SPEAK POLICY FOR DEVELOPMENT CONTROL COMMITTEE**

The Development Manager submitted the Right to Speak Policy for Development Control Committee (ED.04/19) which set out a revised Right To Speak policy for operation in relation to Development Control Committee. The revised policy followed on from the workshop held with members of the Committee and would replace the current 2-sided A4 leaflet, thereby expanding on the Council's existing practices with updated information to make the process more transparent.

Following the workshop one matter remained outstanding: the right of Parish Councils to be able to address Members during the Committee's Site Visits. The Development Manager reminded Members that under the current policy Parish Councils were invited to attend site meetings to observe the procedure. They may address matters through their Ward Member or the Vice-Chairman, and also had the opportunity to formally address the Committee at its meeting. Against that background, the new policy as drafted retained the existing practice however, it provided for an extension of Parish Council's allotted time to speak at Committee meeting from the current 5 minutes to 10 minutes.

Members were asked to note that the site visits were not a public meeting and were not a vehicle for debating the application. Their purpose was to be fact finding visits for members of the Committee and did not substitute the meeting. Site visits were not carried out for every application, nor was every site visit in a parished area attended by the local Parish Council, with some Parishes using their local Ward Member to raise issues.

The Development Manager directed Members to consider whether or not they wished to see changes to the current practice and if so, what form those changes should take. There was no standard national practice and policies were determined individually by each Local Planning Authority.

The Development Manager recommended that the Right To Speak Policy For Development Control Committee be referred to the Executive for adoption.

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

RESOLVED – That the Right To Speak Policy For Development Control Committee be referred to the Executive for adoption.

#### **DC.047/19 COMMITTEE COMMENTS**

Local government elections were to be held on 2 May 2019, at which a number of members of the Committee were retiring from the Council. The Chairman and Councillors Earp and Mrs

Parsons addressed the Committee reflecting on their experience as members thereon, they thanked the Officers for their work in support of the Committee.

[The meeting closed at 3:35pm]