

# Carlisle City Council

Report to:-	<b>DEVELOPMENT CONTROL COMMITTEE</b>		
Date of Meeting:-	14th June 2002	Agenda Item No:- EN.067/02	
<b>Public</b>	<b>Operational</b>	<b>Delegated: Yes</b>	
<b>Accompanying Comments and Statements</b>		<b>Required</b>	<b>Included</b>
Environmental Impact Statement:		No	No
Corporate Management Team Comments:		No	No
City Treasurers Comments:		No	No
City Solicitor & Secretary Comments:		No	No
Head of Personnel Services Comments:		No	No
Title:-	<b>Request to Vary Planning Condition</b>		
Report of:-	<b>The Director of Environment &amp; Development</b>		
Report reference:-	<b>EN.067/02</b>		

## Summary:-

The Solicitor acting for the applicant in respect of the approvals to convert/erect two houses in the car park of the Sands House Hotel at Brampton seeks a variation of a planning condition, attached to the planning approval, for the new dwellings. He proposes a S106 Agreement linked to that amendment, in order to provide the Council with further assurance regarding the completion of the whole development.

A draft of that Agreement has been forwarded to the City Solicitor.

## Recommendation:-

That the applicant's request be agreed to and Officers be authorised to issue a revised Notice of Approval for application number 01/0579 that omits Condition 05 once an appropriate S106 Agreement has been concluded.

**Contact Officer:** Alan Taylor

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**M Battersby**

Director Environment and Development

**To the Chairman and Members of the EN.067/02**

## Development Control Committee

1. Members may recall that, following a Site Inspection, the Committee granted planning permission in November of last year in respect of two applications for development at the Sands House Hotel. One of the applications related to the conversion of the hotel to four dwellings (reference no. 01/0581), whilst the accompanying application (reference no. 01/0579) secured approval for the erection of a pair of semi-detached houses within part of the car park.

2. A specific planning condition attached to the second of these approvals requires the following:

*"Notwithstanding the provisions of Condition 1 above, no development shall be commenced in relation to the implementation of this planning permission until and unless the associated scheme of conversion of the existing hotel premises to four dwelling units (planning application reference 01/0581) has been commenced and has reached the stage of plastering out of the proposed dwellings"*

3. The Solicitor acting for the applicant has written to seek a variation of the above Condition since it effectively means that his client would, in order to comply with it, need to cease trading from the Hotel altogether and also move out of what is his home, whilst the works were in progress. Perhaps unsurprisingly, his Bank is concerned at the financial imposition this places upon him for the duration of building works.

4. It is, therefore, requested that the Council gives consideration to a variation of that condition which would allow the applicant to commence work on the two new dwellings, whilst also working on the hotel building. This would permit construction work to occur on the new build units in tandem with work on the existing hotel building. In essence, the applicant would cease to use part of the hotel (i.e. the reception area and residential facilities, the area to which units 1 and 2 of the approval for conversion relates) and thus would be able to undertake that section of work immediately. The closure of the remaining area of the hotel (i.e. the bar, dining room and kitchens) would follow circa Spring 2003, by which time the two new dwellings and the formation of units 1 and 2 would be virtually finished. Work on the remainder of the hotel, to complete the overall conversion by forming units 3 and 4, would then be commenced.

## To the Chairman and Members of the EN.067/02

## Development Control Committee

5. Conscious that the Council was anxious to ensure that the whole of the scheme was implemented and may be reluctant to omit the condition in its entirety, the Solicitor has proposed that an alternative approach would be for his client to enter into a legal agreement with the Council, under S106 of the Town & Country Planning Act 1990. It would effectively covenant the applicant to

undertake all of the works, but in the phased manner he has proposed.

6. One covenant would allow the commencement of construction of the new build units, but would prevent their occupation for residential purposes until the applicant has not only commenced the related conversion of the hotel, but has also ceased to carry on the residential side of the business and has closed that associated reception and accommodation element. A second covenant would prevent the occupation or use for residential purposes of any of the units within the hotel building, unless and until the hotel has closed in its entirety.

7. The approach outlined is considered reasonable and affords the City Council with the security that would be required, that the whole of the development would proceed to completion, but in a time-scale and order that allows the applicant to retain both an income and a home for the duration of building works.

8. It follows, however, that if a S106 Agreement better attains the Council's objectives there is no need to substitute a planning condition, since the provisions of the Agreement would suffice.

**Recommendation:**

That the applicant's request be agreed to and Officers be authorised to issue a revised Notice of Approval for application number 01/0579 that omits Condition 05 once an appropriate S106 Agreement has been concluded.