

DEVELOPMENT CONTROL COMMITTEE

FRIDAY 12 NOVEMBER 2010 AT 10.00 AM

PRESENT: Councillor Mrs Parsons (Chairman), Councillors Betton, Bloxham, Cape, Mrs Farmer, M Clarke, Layden, McDevitt, Morton, Mrs Riddle, Mrs Rutherford and Scarborough

ALSO

PRESENT: Councillor Mrs Luckley attended part of the meeting having registered to speak on application 10/0813 (1 Cranbourne Road, Carlisle, CA2 7JN)

Councillor Mrs Mallinson attended part of the meeting having registered to speak on application 10/0857 (Site between 1 Eden Mount and 4 St Georges Crescent, Stanwix, Carlisle)

Councillor J Mallinson attended part of the meeting having registered to speak on application 10/0810 (High Mossthorn, Roadhead, Carlisle, CA6 6NJ)

Councillor Stothard attended part of the meeting having registered to speak on application 10/0818 (Land at Seatoller Close, Morton, Carlisle, CA2 6LQ)

Councillors Mrs Bowman, S Bowman and Craig attended the meeting as observers

Councillors Earp and Warwick attended the training immediately following the meeting

DC.77/10 APOLOGY FOR ABSENCE

No apologies for absence were submitted.

DC.78/10 DECLARATIONS OF INTEREST

- Councillor Cape declared a personal interest in accordance with the Council's Code of Conduct in respect of Application 10/0611 – 22 Kingstown Road, Carlisle, CA3 0AD. The interest related to the fact that the agent was a member of a club of which he also was a committee member.

- Councillor Mrs Farmer declared a personal and prejudicial interest in accordance with the Council's Code of Conduct in respect of Application 10/0818 – land at Seatoller Close, Morton, Carlisle. CA2 6LQ. The interest related to the fact that she was involved early in the consultation.
- Councillor Layden declared a personal interest in accordance with the Council's Code of Conduct in respect of Application 10/0818 – land at Seatoller Close, Morton, Carlisle. CA2 6LQ. The interest related to the fact that he was member of the board of Riverside.
- Councillor Morton declared a personal and prejudicial interest in accordance with the Council's Code of Conduct in respect of Application 10/0611 – 22 Kingstown Road, Carlisle, CA3 0AD. The interest related to the fact that some of the objectors were known to him.
- Councillor Mrs Mallinson declared a personal interest in accordance with the Council's Code of Conduct in respect of Application 10/0857 and 10/0930 – site between 1 Eden Mount and 4 St Georges Crescent, Stanwix, Carlisle. The interest related to the fact that some of the objectors were known to her.
- The Principal Development Control Officer, Sam Greig, declared a personal interest in respect of Application 10/0791 – Greenacres, Newtown, Blackford, CA6 4ET. The interest related to the fact that his parents had commented on the application.

DC.79/10 MINUTES

The Minutes of the meetings held on 18 August and 20 August 2010, and 29 September and 1 October 2010 were signed by the Chairman as a correct record of the meetings.

The Minutes of the site visit meeting held on 10 November 2010 were noted.

Councillor Layden advised that Councillor Craig had substituted for him on the site visit on 10 November 2010 and that had not been reflected in the minutes. The Committee Clerk agreed to make the necessary amendment.

DC.80/10 CHAIRMAN'S ANNOUNCEMENT

The Chairman advised that Item A.4 – Training Session on the Code of Conduct and Planning Code of Good Practice – would be outwith the meeting and while the training was not relevant to the meeting stated that the public could stay if they wished.

DC.81/10 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS

The Legal Services Manager outlined, for the benefit of those members of the public present at the meeting, the procedure to be followed in dealing with rights to speak.

DC.82/10 CONTROL OF DEVELOPMENT AND ADVERTISING

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

(1) Erection of 23 dwellings to be made affordable by means of social rent and shared ownership, land at Seatoller Close, Morton, Carlisle, CA2 6LQ (Application 10/0818)

Having declared a personal and prejudicial interest Councillor Mrs Farmer left the meeting room and took no part in the discussion on the application.

Having declared a personal interest Councillor Layden left the meeting room and took no part in the discussion on the application.

The Development Control Officer submitted her report on the application and advised Members that the application, which had been the subject of a site visit on 10 November 2010, was brought before the Development Control Committee for determination due to the receipt of more than four letters of objection.

The Development Control Officer informed Members that the site had been identified within the Carlisle District Local Plan as being within a Primary Residential Area and was currently occupied by seven blocks of two storey maisonettes.

Several footpaths ran through the site, in particular Loughrigg Terrace to the south, but also several others that gave access from the south and west, through Seatoller Close, to the neighbourhood centre on Newlaithes Avenue. There were a number of mature trees located both within and surrounding the site. There was also a significant change in levels across the site, with the land rising from the northern to the southern boundaries of the site.

With regard to parking the Development Control Officer informed Members that the proposal involved the replacement of 28 units with 23 dwellings, 19 of which had off street parking and the remaining 4 having allocated bays. A further 6 spaces were provided throughout the site. That proposal would increase the number of parking spaces while decreasing the number of units.

Both the Council's Drainage Engineer and United Utilities recommended that alternative measures were investigated regarding the disposal of surface

water, as opposed to discharging it into the public sewer. That information had been expected to be received before the meeting. The applicant's agent had confirmed that percolation tests were being carried out, the results of which would determine which method was used. Condition 12 required those details to be submitted prior to the commencement of development. It was recommended that the wording of the condition should be amended to remove 'foul drainage' as it had been confirmed that that would go to the sewer.

The Development Control Officer advised that, in overall terms, the principle of the development was acceptable. The scale, layout and design of the proposals were acceptable and the development would not have an adverse impact on the surrounding area. The dwellings could be accommodated on the site without detriment to the living conditions of the neighbouring properties through loss of light, privacy or over dominance. Adequate amenity space and car parking provision would be available to serve the dwellings. In all aspects the proposals were considered to be compliant with the objectives of the relevant Local Plan policies. Therefore the Development Control Officer recommended authority to issue approval of the application, subject to a S106 Agreement with Riverside that would require the properties to remain affordable in perpetuity and a commuted sum relating to the maintenance of open space in the area.

Councillor Stothard (Ward Councillor) addressed the Committee under the "Right to Speak" policy. He advised that he was speaking on behalf of himself and Councillor Bell (Ward Councillor). He stated that he originally requested a right to speak as an objector but after consultation with Riverside and the planning officers, Riverside had changed the facilities in relation to the bungalows and parking spaces so all aspirations had since been met. He believed that bungalows were important to the area and that the whole development was an asset to Morton and requested the Committee to support the application.

Mr Plant (Agent) advised that in view of the comments made by Councillor Stothard he no longer wished to make any comment.

The Committee then gave detailed consideration to the application.

A Member stated that she welcomed the layout and provision of the application, in particular the provision for accommodation for the elderly. The Member had some concerns about parking. She believed that while the majority of the proposed properties had parking spaces within the curtilage some of the properties were larger and that highway guidance stated 1½ cars per property. Parking was already difficult in the Morton area and she believed that extra parking spaces would have been useful. The turning head was a dead end that had a footpath. She queried whether a footpath was necessary and whether the applicant could revise the parking in that area.

The Development Control Officer informed Members that there were 3 extra spaces and that the larger properties were situated on Westrigg Road and

there was room for future applications to open up the front of the properties if necessary. With regard to the turning area, the Development Control Officer advised that that had not been explored but that the applicant may be willing to do so but that the Panel had to consider the application as submitted.

A Member stated that there had been a verbal agreement with regard to parking but that any agreement should be tied down by means of a Section 106 Agreement. He therefore moved that the application be approved subject to a Section 106 Agreement regarding car parking.

As well as similar concerns about parking, a Member stated that, while he was pleased that the development was using Code 3 and therefore was more environmentally friendly, he was concerned that the only method of water harvesting was by individual water butts. He believed that the additional hardstanding would increase the amount of water into the sewer and that water attenuation tanks should have been included in the plans. Notwithstanding those concerns the Member seconded the proposal for approval.

A Member advised that following the site visit he was impressed with the development and congratulated Riverside on the development.

A Member stated that while he supported the application asked whether there was access to the playing fields. There was also a concern about the grass verges being churned up by cars parking on them and asked whether that had been addressed.

The Development Control Officer advised that the footpath would be retained between the two sections of the development along with the footpath along Loughrigg Terrace. With regard to grass verges, neighbours and local Councillors had expressed concerns and areas at the top of the site would be tarmaced while the remainder would be left as grass verges. One of the reasons for that decision was that there were fibre optic cables beneath the grass verges on the opposite side of the road to the proposed development.

The Member asked whether there was sufficient space for lorries to turn at the turning head. The Development Control Officer advised that a single unit was to be built on that part of the highway as opposed to a pair of semi detached properties that was originally proposed.

RESOLVED – That the application be approved subject to a S106 Agreement requiring the properties to remain affordable in perpetuity.

Councillors Mrs Farmer and Layden returned to the meeting.

(2) Demolition of existing redundant 2 bed dwelling and erection of 3no flats with on-site parking, 22 Kingstown Road, Carlisle, CA3 0AD (Application 10/0611)

Councillor Morton, having declared a personal and prejudicial interest, left the meeting room and took no part in discussion on the application.

The Development Control Officer submitted her report on the application, and advised Members that the application, that had been the subject of a site visit on 10 November 2010, was brought before the Development Control Committee due to the receipt of more than four letters of objection from neighbouring residents.

The Development Control Officer pointed out that within paragraph 5.6 of the report the height of the wall should read 1m not 1.5 m and paragraph 5.11 should read "The two windows positioned in the ground and first floor areas on the north elevation of the flats serve the hallways/entrance lobbies, which are not habitable rooms."

The Development Control Officer advised that the proposal was for the demolition of the 2 bedroom dwelling and the building of 3 flats within its curtilage. The cottage was in a poor state of repair. The surroundings of the site were wholly residential with the exception of Wm Morrison's Superstore, the car park of which was located directly to the rear of the plot, beyond an area of planting.

The Development Control Officer stated that the site currently had no vehicle access, but fronted onto Kingstown Road, and was situated adjacent to the lane that gave vehicular access to the rear of 24-38 Kingstown Road. The existing boundary of the site was demarcated by a mixture of a low brick wall to the front and hedging of varying heights to the rear boundary. The application site was within a Primary Residential Area, as identified on the Proposals map that accompanied the Local Plan.

In overall terms, the principle of the proposed development was acceptable. The scale and layout of the proposed apartment block was acceptable in relation to the site and the surrounding properties. The living conditions of neighbouring properties would not be compromised through unreasonable overlooking or unreasonable loss of daylight or sunlight. Adequate car parking and amenity space would be available to serve the development and in all aspects the proposals were compliant with the objectives of the relevant Local Plan policies. Therefore the Development Control Officer recommended that approval of the application be granted.

Mr Jardine (Objector) addressed the Committee under the "Right to Speak" policy. He presented slides and advised that he believed that:

- the application was an over-development of a restricted site
- there would be a potential danger to the general public through increased vehicle movement in a restricted area
- there was inadequate access to the site, and
- there was the potential for intrusion on privacy, trespass, parking and vehicle movements on private land at the rear of the terrace.

Mr Jardine did not believe that the scale of the development could be relied upon as the drawings showed an anomaly in entry levels with the footpath. The drawings also indicated that the roofline was equal to that of the terraced houses and that the kitchen outlook on the second floor was higher than the bedrooms opposite.

Mr Jardine believed that the residents were being misled when the application was compared to the Reiver Court development by the agent, and was concerned that the roofline of the development would not be the same as the terraced houses, as had been indicated. He was also concerned that the lighting within the car parking areas may intrude on the windows of neighbouring properties.

Mr Jardine concluded by stating that a development on two floors would have been more acceptable and more in keeping with the area.

Mr Andrews (Agent) responded by stated that he was the architect for the development and that the development was in an area of high residential use and in a good location for shops/schools/bus routes and that the site had been chosen to put a property on the site with parking.

Mr Andrews believed that all the issues raised by Mr Jardine had been dealt with in the report but clarified that while the property was 3 storey, some of the adjacent terraced properties were 2 storey with attic rooms which made them 3 storey also. He stated that the third storey of the proposed development was wholly within the roof space. There were open spaces and planting around the parking area in the Morrison's car park.

With regard to vehicular access, the deeds to the property had shown a legal right of way to the site. At the back of the site were parking spaces and a garage and Mr Andrews believed that the proposed development would help access to those areas as the access was to be widened by giving up some of the land on the site to enable traffic to enter and exit more easily.

The Committee then gave detailed consideration to the application.

A Member stated that when she had first looked at the application she was unsure how the development would fit onto the site of the cottage. The site visit had been very useful and although the access was narrow at present she believed the development would ease the situation. The Highways Officer had attended the site visit and had no objections to the proposal. Therefore the Member moved that the recommendation of the officer be agreed.

A Member agreed with the above comments and seconded the proposal.

RESOLVED – That approval of the application be granted.

Councillor Morton returned to the meeting room.

**(3) Erection of 1no dwelling, 1 Cranbourne Road, Carlisle, CA2 7JN
(Application 10/0813)**

The Principal Development Control Officer submitted the report on the application and advised Members that the application had been brought before the Development Control Committee as the Ward Councillor had requested the Right to Speak and more than four written objections to the application had been received.

The Principal Development Control Officer explained that the application sought approval for the erection of 1no dwelling in the grounds of 1 Cranbourne Road, a two storey semi-detached property constructed from brick/rendered walls under a tiled roof. The property was surrounded by two storey terraced properties situated on the western side of Cranbourne Road, an unadopted access lane to the north, single storey dwellings to the east and a two storey residential property to the south. Beyond the access lane to the north there were two storey terraced properties on Newtown Road whose rear gardens/yards back onto the access lane. The site was identified on the Proposals map that accompanied the Carlisle District Local Plan as being within a Primary Residential Area.

A Ward Councillor had requested a site visit. However, the Principal Development Control Officer advised that a video of the site had been taken and presented it to Members.

In overall terms it was considered that the proposal would not adversely affect the living conditions of adjacent properties sufficient to merit refusal. The scale and design of the proposed development was acceptable and it was considered that the proposal would not have an adverse impact upon the surrounding area. The Principal Development Control Officer therefore recommended the application for approval subject to an additional condition ensuring that the proposed in-curtilage parking was provided before the dwelling was occupied.

The Principal Development Control Officer advised that United Utilities had made no objections to the proposal.

Councillor Mrs Luckley (Ward Councillor) stated that she was representing the residents of Armstrong Place, the 19th century terraced houses on Newtown Road that backed onto the unadopted lane alongside the proposed site. She advised that the majority of the objections were with regard to the proposed change of use of the lane that had been pedestrian access to Armstrong Place and 1 Cranbourne Road. The lane was accessed to the west of Cranbourne Road and was closed at the east end making it a virtual cul-de-sac. The area was used by children to play in safely and people took their recycling bins and refuse bins down the lane as the refuse vehicles could not access the lane. While no owner of the land had been identified the owners that flanked the lane accepted responsibility for the lane. There had been some episodes of anti-social behaviour and the residents had considered gating the lane. The Councillor considered the loss of the lane a loss of an

amenity for the community and asked that Members visit the site to see for themselves the limitations of the lane and the effect its use would have on the residents.

A Member stated that he believed the site to be similar to that on Kingstown Road and that he proposed a site visit so Members could be certain what to do when considering their decision.

A Member seconded the proposal and it was:

RESOLVED – That a site visit be undertaken before giving consideration to the application.

(4) Erection of 1no dwelling; formation of vehicular access, site between 1 Eden Mount and 4 St Georges Crescent, Stanwix, Carlisle(Application 10/0857)

The Principal Development Control Officer submitted his report on the application and advised that the application had been brought before the Development Control Committee as Councillor Mrs Mallinson (Ward Councillor) had requested a Right to Speak against the proposed development. He suggested that items (4) and (5) be considered together as they related to the same development.

The Principal Development Control Officer advised that several residents had requested a “right to speak” in respect of the application for Listed Building Consent and, therefore, it was recommended that the application was deferred to enable those residents to speak at the next Committee.

The Chairman advised those who were in attendance who had requested a right to speak that if the decision was deferred they could defer their right speak until that future meeting.

Councillor Mrs Mallinson (Ward Councillor) stated that she and others who had requested a right to speak would defer that right to the future meeting and requested that a site visit take place. There was some discussion about whether there had been a site visit in the past but the Principal Development Control Officer advised that there had not and that photographs had been displayed. There was discussion about whether a site visit was appropriate as the original application had been approved and the Committee were now looking at revisions to that application. The requested site visit was in respect of the demolition and replacement of the wall at the site.

The Development Control Manager advised that the request for a site visit was in respect of item (5) only – the Listed Building Consent and that it did not apply to the planning consent for the erection of the dwelling.

RESOLVED – That a site visit be undertaken before giving consideration to the application.

(5) Demolition of garden wall and erection of replacement (LBC), site between 1 Eden Mount and 4 St Georges Crescent, Stanwix, Carlisle (Application 10/0930)

The item was to be considered with item (4) above.

It was agreed that a site visit be undertaken with regard to the demolition and replacement of the wall at the site. Councillor Mrs Mallinson (Ward Councillor) had indicated that those people who had registered a right to speak on the application would defer that right until the next meeting.

RESOLVED – That a site visit be undertaken before giving consideration to the application.

(6) Erection of 12 bedroom care home, The Knells Country House, The Knells, Carlisle, CA6 4JG (Application 10/0551)

The Development Control Officer explained that the application had been brought for consideration by the Development Control Committee as the Parish Council had objected to the application and six letters of objection had been received from local residents.

The Development Control Officer advised that The Knells, a Listed Building, was an existing care home with a terraced garden to the front of the property with lawns and seating areas. The area also contained the existing septic tank that served the House, together with a septic tank that served some adjacent properties. A low timber fence was located at the eastern edge of the garden beyond which lay some ground filter tanks. Beyond that were open fields.

A further area of garden was located to the south of the property that contained a number of trees and shrubs, including two mature trees that were the subject of a Tree Preservation Order. An additional area of garden to the west of the house contained some trees and shrubs and a number of benches that were used by residents. The area was adjoined by a block of brick garages and some timber outbuildings that were in a poor state of repair.

The Development Control Officer further advised that Knells House was accessed via a private driveway from the Houghton to Scaleby road that ran around Knells House and had various areas of hardstanding adjacent to it, including a parking area located to the south of the house. Parking also took place on some of the other areas of hardstanding, including areas immediately adjacent to the north of the dwelling and in the northern corner of the site, adjacent to the timber outbuildings.

Six residential properties adjoined the curtilage of Knells House five of which shared access to the nursing home and had a right of way over it. Two further

bungalows that fronted onto the main road also shared access and had a right of way over the access.

Since publication of the schedule, United Utilities had advised that 2 water mains crossed the proposed site and that the applicant was not allowed to build over them. The applicant would have to have them diverted at his own expense. If that was not possible the building would not go ahead even if planning permission was granted.

The Development Control Officer presented a video of the application site.

The Development Control Officer explained that, in overall terms, the proposal was acceptable in principle and the scale and design of the building was acceptable. The proposal would not have an adverse impact on the Listed Building or on the living conditions of the occupiers of any neighbouring properties due to loss of light or privacy, or over-dominance. The impact on the existing trees and the proposed access and parking arrangements would be acceptable. In all aspects, the proposal was compliant with the relevant policies contained within the adopted Local Plan. Therefore, the Development Control Officer recommended that approval of the application be granted.

Mr Wilkinson (Objector) believed that, since he had moved into his property, the area had moved from being a residential area to a commercial area and that his complaint was the same as that made by the owners of The Knells in 2006 regarding parking. He reminded Members that under CP16 of the Carlisle District Local Plan, new developments should offer a realistic choice of access by public transport, walking or cycling. He did not believe the proposed development met that criteria. The plans indicated 5 new parking spaces but Mr Wilkinson was unsure where the minibus would park as he believed it would need to use the proposed additional spaces. He was unsure how the legal right of way to the bungalows would be maintained and how refuse and recycling vehicles and emergency vehicles would be able to access the properties. Mr Wilkinson requested a site visit to enable Members to see the potential parking problems more clearly.

Mr Nicholson (Stanwix Rural Parish Council) advised Members that the letters of support for the application were from residents from the opposite side of the city and one from San Fransisco. He stated that his concern was with regard to the impact on neighbouring properties and that the Parish Council believed that, if the development went ahead, the enjoyment of the residents of the neighbouring properties would be diminished.

Mr Swarbrick (Agent) stated that, as part of the application into the demolition of the redundant outbuilding and the building of a 12 bedroom unit, he had done some research into the criteria of the Department of Health Care and other relevant bodies. If the development went ahead it would have to be approved by the Care Commission before residents could be housed there. He confirmed that the building was DDA compliant with wheelchair access to the building and within the accommodation. The design had also considered relevant technology to improve the environmental issues. The mass and

impact of the proposed development had been reduced to alleviate concerns about overlooking. There had been full consultation regarding the drainage issues and the installation of a sealed sewage treatment plant would prevent water running into the beck near the property.

The Committee then gave detailed consideration to the application.

A Member stated that while it was good to see care for people with dementia and Alzheimer's disease he was concerned about the access to the nursing home and the security and safety of the residents of the home. He was concerned that one of the characteristics of Alzheimer's disease was that people wandered off and queried where they would be able to walk safely in the nursing home. While he acknowledged that the Care Commission would look at the proposal he was still concerned that the grounds could not be made secure with access to the neighbouring properties.

The Member was also unhappy with the arrangement of the chairs indicated on the plans and stated that he could not see an activity room or a separate room for extra support.

The Development Control Officer advised that there was an access road that went around the property. He confirmed that the unit would be secure with 2 access points into the building that would prevent residents from leaving the building unaccompanied, and a recreation area to the front. The design and internal layout met with national care standards.

A Member asked whether the Care Commission had been consulted on the application and whether they were happy with the design. With regard to parking, the Member asked when the video had been taken as there were no cars visible and suspected that at other times of the day there would be several visitors to the nursing home. The Member also asked whether there was sufficient space for large vehicles to turn if the development was in place.

The Development Control Officer advised that the Care Commission had to sign off the home before use so there was no consultation before building commenced. He further advised that the video had been taken around 11:00 and agreed that there were not many vehicles present but there had been on other occasions when he had been at the home. With regard to large vehicles accessing the site, the Development Control Officer stated that he had consulted with the highways officer who considered that large vehicles would still be able to drive around Knells House even after the new building was constructed.

A site visit was proposed and seconded to enable Members the opportunity to investigate the parking situation before making a final decision.

The Development Control Officer confirmed that there would be a sensory area outside the nursing home for residents where residents could sit out safely unaccompanied.

A Member noted that the corridor had emergency exits and queried whether an extra emergency exit half way along the corridor might be advisable. The Development Control Officer advised that there was a maximum distance of 30m to any exit which complied with Building Control standards. The doors would be consistent with Care Commission guidance.

A Member asked whether it would be possible to have sight of the proposed materials to be used. While the Development Control Officer stated he would speak with the architect the Development Control Manager advised that it was not always possible to have sight of the materials prior to the Committee reaching a decision on an application.

Following a vote it was:

RESOLVED – That a site visit be undertaken to enable Members to see the proposed parking arrangements prior to consideration being given to the application.

(7) Change of use from agricultural field to hard core compound with erection of stables and tack room (part retrospective), Field 2024, land to the west of junction of Dykesfield and Burgh Roads, Burgh by Sands, Carlisle (Application 10/0829)

The Development Control Officer submitted his report on the application, and advised that the application was being brought before the Development Control Committee at the request of a Ward Councillor who had exercised his right to speak at the meeting.

The Development Control Officer advised that the site, within open countryside, was situated approximately 0.9 kilometres south-east of Longburgh and 1 kilometre south-west of Burgh by Sands. Directly opposite the site was a road junction with the road leading to Burgh by Sands.

The site was bounded by a mature hedgerow to the frontage. Other land owned by the applicants abutted the site to the north and was bounded by a public footpath that ran parallel with the northern field boundary that was formed by a hedgerow approximately 4 metres in height. A residential property, Burgh Moor House, was located approximately 140 metres to the south of the site.

The Development Control Officer explained that the proposal involved the formation of a vehicular access and parking area. A double width vehicular access previously existed in the south-east corner of the site but was now closed. The applicant had removed a section of hedgerow and repositioned an access approximately 10 metres northwards along the frontage. An area of land within the site had been resurfaced with hardcore and a concrete hardstanding had been formed. It was proposed to construct a timber stable on the concrete hardstanding that would measure 11.3 metres in length by 3.5 metres in width. The mono pitched roof would measure 2.95 metres at the

front and 2.25 metres to the rear. The building would be constructed from rendered block work under a dark green profile sheeted roof.

The Development Control Officer advised that further comments had been received from the Highway Authority who had confirmed that although the new access did not comply with the normal standards it was an improvement over the previous access. It was the view of the Highway Authority that, as that field would not be used as an agricultural field but for the personal use of the applicant, there would not be an increase in traffic from the site and there were no objections subject to the imposition of a condition requiring details of the construction and drainage of the access.

The Development Control Officer presented slides of the proposed development, and stated that in overall terms the proposed building was of a scale and design that was appropriate to the application site. The building had been sited in such a manner as to minimise the impact on the character and appearance of the area and the building would not appear too obtrusive. The building would be sited adjacent to the southern boundary and would be sufficient distance from the nearest residential property thereby ensuring no adverse impact and the equestrian development would not adversely impact on the rural setting. Therefore the Development Control Officer recommended that approval for the application be granted subject to the deletion of condition 2 as the use of the stables was controlled by condition 3, and that condition 3 be amended to read "The stables shall be used for the keeping of horses only, for the domestic enjoyment of the applicant, family members and his successor in title and shall at no time be used for any commercial purposes." A further condition was recommended in accordance with the Highway Authority requiring the submission and approval of the construction and drainage details relating to the access.

Mrs Bolton advised that she was speaking on behalf of Councillor Collier (Ward Councillor) and reminded Members that the application was the result of an enforcement order in respect of an amount of hedgerow that had been removed and the installation of a gate directly opposite a junction that she believed was unsafe. The hardcore on the site meant that excess water ran down the hill and became extremely icy in winter and that the extra water would run into the drain that was already at capacity.

The Parish Council had objections to the application due to the visual impact the application would have in a rural area. Mrs Bolton stated that work had already been carried out and that similar work had been done in other places prior to planning approval being applied for.

Mr Woodhouse (on behalf of the Applicant) stated that the photograph that had been presented was taken from the internet and had been taken before the applicant had bought the property. The applicant was not aware that permission was required for the installation of the gate and that the Highway Authority had advised that permission was not required. Mr Woodhouse confirmed that the site would be used to keep horses on and that the hardcore drainage was easier run off than tarmac. He confirmed that the field would be

used to exercise horses and that, while the stable block appeared large the horses it housed were large shire horses, and that the stable block consisted of 3 stables and a tack room.

The Committee then gave detailed consideration to the application.

A Member stated that he had concerns about the removal of the hedgerow and asked whether there had been accidents in the area due to poor visibility at the junction. The Development Control Officer advised that the Highway Authority had not reported any accidents and that they had looked at the access arrangements and considered the re-planted hedgerow to be an improvement.

A Member moved that the application should be refused on the grounds of policy CP1 that related to the character of the landscape. The motion was seconded and the Member asked whether the buildings that were there already had been the subject of planning permission. The Development Control Officer advised that they had been there for some time and they were considered to be temporary structures and therefore did not require planning permission.

The Development Control Manager advised that there was specific development criteria that would relate to the application and that policy LE24 would be more relevant to the application. The Development Control Officer stated that the Highway Authority had looked at the application and were satisfied that there was enough land available for large vehicles to turn.

In light of the information from the Development Control Manager the Members moved that the application be refused on the grounds of policy LE24.

Members were concerned about the drainage of water from the building. The Development Control Officer advised that a condition could be imposed that would necessitate the installation of a soakaway from the building. The Members stated that if such a condition were imposed they would withdraw their objection to the proposal. The Development Control Manager stated that the proposed scheme for a rainwater butt would enable the site to be permeable and the hedge to be planted to the rear of the building would reduce the amount of water running onto the road.

RESOLVED – That approval of the application be granted subject to conditions relating to drainage and the storage of excess water.

(8) Two storey rear extension to provide kitchen and living area on ground floor with enlarged bedrooms above; single storey front extension to provide study, new entrance hall with access to garage and WC, 17 Strawberry Terrace, Carlisle, CA3 9LT (Application 10/0814)

The Development Control Officer submitted her report on the application, and advised that the application was brought before the Development Control Committee as four letters of objection had been received.

The Development Control Officer advised that the property was a one and a half storey detached bungalow, finished in painted render with a concrete tiled roof, located within a Primary Residential Area as allocated in the Carlisle District Local Plan. The property was adjacent to the Stanwix Conservation Area with other residential properties surrounding the site on all sides.

The property had a reasonable size garden and parking area to the front, the curtilage of which was separated from the highway by way of an approximately 1 metre high brick wall. The property featured an integral garage that was partly set forward from the main front elevation of the property, and also featured two large flat roofed dormer windows, one to the front and one to the rear of the elevation.

In conclusion, the Development Control Officer advised that, in overall terms, the principle of the proposed development was acceptable, as were the scale, siting and design in relation to the site and surrounding properties. The living conditions of neighbouring properties would not be compromised through unreasonable loss of light, overlooking or overdominance. In all aspects, the proposal was compliant with the objective of the relevant Local Plan policies. Therefore the Development Control Officer recommended that approval of the application be granted.

The Committee then gave detailed consideration to the application.

Mr Taylor (Objector) advised that he was speaking on behalf of residents on Etterby Scaur and while they did not have any objections to the application in principle they did object to the mass and design of the proposed extension. They believed that the upper floor of the extension would overlook the properties on Etterby Scaur. There was also an absence of planting at the boundary of the site and that the applicants would not be able to plant holly along the border that was consistent with other planting along that boundary. The residents were also concerned that the site was on the edge of Stanwix Conservation Area and asked that a site visit be undertaken as they believed the application was in conflict with policies H11, CP5 and LE19. Mr Taylor asked Members to consider, should they be minded to approve the application, to impose a condition that would require a landscaping scheme on the site.

The Development Control Officer advised that when the application was being considered Officers had taken into account that the existing property featured a large dormer window to the rear. The proposal, which included providing two gables to the rear of the property, one of which featured a Juliet balcony, was therefore not considered excessive. The Officer requested Members to note that the rear of the proposal would be 40m from the buildings on Etterby Scaur, well in excess of the 21m indicated within Policy guidance.

A Member asked whether a condition could be imposed that would require screening at the rear of the property. The Development Control Officer advised that it could be looked at if Members felt it was necessary.

RESOLVED – That authority to issue approval of the application be granted subject to the requirement for additional screening to be investigated.

(9) Positioning of chalet for temporary residential use for care of mares in foal, Greenacres, Newtown, Blackford, CA6 4ET, (Application 10/0791)

The Principal Development Control Officer submitted his report on the application, and advised that the application was brought before the Development Control Committee as it was not conventional in that it related to an enterprise involving the breeding and training of race horses that did not fall within the definition of agriculture.

The Principal Development Control Officer advised that Greenacres was located on the eastern side of the road leading between Newtown of Rockcliffe and Ross Castle/Westlinton approximately 250 metres to the north of the hamlet of Newtown. On the opposite side of the road there were open fields apart from some caravans at the property known as Blackmoss. The site was bounded by open fields to the north, east and south. The Principal Development Control Officer reminded Members that temporary planning permission was granted in 2007 for three years for a single family gypsy caravan site at Parkfield Stables.

The Principal Planning Control Officer described the site, and explained the types of structures on the site and explained that the location was used for the breeding and training of the applicant's own 'Standard Bred' horses for trotting/cart racing. When the Case Officer visited the site the applicant advised that there were 6 horses on site with 7/8 mares off-site near Appleby and Stirling.

The boundaries of the application site were delineated by mature hedging and hedge trees along the western and southern boundaries.

The application site was in an area of open countryside but was not subject to any special planning constraints. In overall terms, the area immediate to the application site was characterised by its relatively flat landscape interspersed by rural lanes leading to the A7, fields delineated by hedgerows, extensive

visibility across open terrain and the sparse nature of the settlement. Newtown of Rockcliffe was not identified as a Local Service Centre under Policy H1 of the Local Plan.

The Principal Development Control Officer advised that Government policy was to encourage sustainable economic growth that maintained environmental quality and countryside character with any new dwellings in the open countryside requiring special justification for permission to be granted. It was also recognised that legislation and case law drew a distinction between equestrian and agricultural enterprises and that paragraph 5.41 accompanying Policy H7 of the Local Plan explained that the Council would 'refer to advice contained in Annex A to PPS7.'

When provisionally assessing the proposal on its own merits, it was apparent that time, money and effort had been invested by the applicant associated with the current use of breeding and training his own 'Standard Bred' horses. Inherent with that use was foaling, and the Principal Development Control Officer believed that the presence of the proposed chalet would be more convenient for the applicant.

The Principal Development Control Officer continued that the scale of the operation involved a relatively small number of stables for the applicant's own horses and constant on-site supervision was advanced primarily to cover foaling.

The Principal Development Control Officer advised that since publication of the report an e-mail had been received from the agent and a letter of objection from a local resident. The e-mail from the agent indicated the number of horses sold over the previous three year period and the levels of profit and loss over the same period. An e-mail from the applicant's vet stated that between 2007 and 2009 2 mares were put down. Other incidents included a gelding being injured by wire and a foal being stuck in mud.

The drainage report had been received that indicated that the measurements of the septic tank were satisfactory.

The Principal Development Control Officer then presented slides of the proposed site.

In conclusion, the Principal Development Control Officer advised that the enterprise was alleged to have been in operation over a number of years but no evidence had been submitted that showed that there was a reasonable chance of the enterprise achieving viability although equine use was likely to continue in the future. The horse breeding and training did not appear to be the applicant's principle income and therefore the Principal Development Control Officer believed that refusal of permission would not deprive the applicant of his home, livelihood and/or occupation. In such circumstances the viability of the enterprise did not justify the proposed chalet and it was considered that the arguments about a functional need did not outweigh both national and local policies to protect the open countryside. In the context that

no evidence had been submitted showing that there was a reasonable chance of the enterprise achieving viability, a temporary permission was not considered appropriate and the proposal would therefore conflict with Policy H7 of the Local Plan. It was considered that the proposed chalet would be harmful to the character and appearance of the area contrary to Policy CP1 of the Local Plan and therefore the proposal was recommended for refusal.

RESOLVED – That the application be refused.

(10) Conversion of barn to form 1no 2 bedroom dwelling (revised application), High Mossthorn, Roadhead, Carlisle, CA6 6NJ (Application 10/0810)

The Development Control Officer submitted his report on the application, and advised that the application was brought before the Development Control Committee at the request of Councillor John Mallinson (Ward Councillor).

The Development Control Officer advised that the property was located approximately 1.5km south of Roadhead and consisted of a range of modern and traditional agricultural buildings, set around a central hard surfaced courtyard. The building that was the subject of the application, together with the attached farmhouse, was located on the southern side of the courtyard and all operational buildings were located on the northern and eastern sides.

The application site comprised a single storey redundant agricultural building that was attached to the west elevation of the existing farmhouse. The Development Control Officer gave a description of the main part of the building.

The Development Control Officer drew Members' attention to the statement from the applicant in the Supplementary Schedule that indicated they considered the special circumstances that existed which would sufficiently override the reasons for refusal.

Natural England requested that extra survey work be carried out to establish if the pond that was located approximately 100m from the application site could be suitable for great crested newts. They were now satisfied that the pond was not a suitable habitat for great crested newts.

In conclusion, the Development Control Officer stated that the proposed development was not located within any of the settlements identified in policies DP1 and H1 of the adopted Local Plan but was located in open countryside. Policy H7 only permitted dwellings in the open countryside if they were supported by a proven agricultural or forestry need. The proposed development would conflict with policies DP1, H1 and H7 and it was, therefore, recommended that permission be refused.

Councillor John Mallinson (Ward Councillor) stated that the situation was not as black and white as it appeared. The criteria of policy H1 appeared to be

met and he had visited the site and the proposed development was along a ½ mile farm track, across 2 cattle grids in a secluded area. He confirmed that the barn was no longer used and that at some point the applicant would have to decide whether to maintain the barn or demolish it. He believed that the location was not in a lush valley and that the applicant's daughter and her partner, who were currently living in the farmhouse with the applicant, his wife, his son and daughter in law, wished to remain on the farm. The applicant hoped that the next generation of his family would take over the farm when he retired. Councillor Mallinson stated that he appreciated there were reasons to refuse the application but advised that if the application was refused the alternatives for the family would be hard.

The Committee then gave detailed consideration to the application.

Councillor McDevitt stated that as had been outwith the meeting room for part of the discussion he would take no part in the consideration of the application.

A Member stated that the proposed building would be permanent and that it was sited on land that was not high grade agricultural land. The Member was concerned that the Committee would be able to grant permission for the conversion of a barn to a holiday let but there were question marks over the guidance for the application as a member of the applicant's family wished to live there. He believed there was a real need in rural areas for such developments for people to remain in the area and that the application would provide sustainability for the family circumstances, and that it would not be visible from the surrounding area. The Member therefore moved that the application be approved.

A Member seconded the proposal and stated that he believed that it gave the Committee the opportunity to strengthen and secure a family contribution to the area and that such initiatives should be encouraged.

A Member stated that the proposal complied with policy H6 in relation to Rural Exception Sites and therefore agreed with the proposal to approve the application. The Development Control Officer advised that the policy was not relevant as it related to affordable housing, but stated that, if the Committee were minded to grant approval, a condition could be imposed that would tie the building to the occupation of the applicant's daughter.

The Development Control Manager advised that there were several policies that could apply to the application and gave the reasons why they would or would not apply. He advised that Members would be setting a dangerous precedent if they approved the application without evidence of exception. He did not believe the criteria for approval had been satisfactorily assured. He advised that even though the building would not be visible that was not considered sufficient reason to approve.

A Member was unclear on what grounds it was proposed to approve the application.

A Member moved that the application be refused in accordance with the Officer's recommendation.

A Member stated that this was 2010 and that the Committee should seek ways to accommodate such an application. The Highway Authority had recommended refusal on the grounds that facilities within walking distance were minimal and there was no bus service, therefore all journeys would be car borne. The Member stated that the family were aware there was no bus service and that as they were currently living in the farmhouse there would be no change to vehicle movement. He proposed that if there was a way to defer the application to enable the applicants to get someone to look at the application again then the Committee should consider that option.

The Development Control Manager advised that the applicant could withdraw the application and re-submit it with the relevant information but the Committee did not have that to consider at the meeting. He advised that the principles of DP1 looked at sustainable development locations and that the application did not meet that criteria. He advised that the Committee could defer consideration of the application and reflect upon the information or the applicant could withdraw the application and re-submit it with the necessary information. He stated that while the applicant's son-in-law lived on the site he did not work there full time but assisted when required and that it was up to the land agency to appraise the application and prove a requirement for the building.

Based on that information a Member proposed deferral of the application while the applicant considered whether or not to withdraw the application and re-submit it. The proposal was seconded.

A Member seconded the earlier proposal that the application be refused.

The Development Control Officer confirmed that as the application was the re-submission of an earlier application, if the application was withdrawn and re-submitted it would not be free of charge to the applicant.

Following a vote it was decided that consideration of the application should not be deferred and that the application be refused.

RESOLVED – That the application be refused.

(11) Variation of Condition 2 of Application 06/0539 to allow family and friends to use the field and horse arena and variation of Condition 3 of Application 06/0539 to allow the horse transporter to be parked in a specific area of the site, Dunston House, Barclose, Scaleby, Carlisle, CA6 4LH, (Application 10/0825)

The Development Control Officer advised that the application had been brought before the Development Control Committee as an objection had been

received from the Parish Council together with four letters of objection from neighbouring residents.

The land in question lay to the rear of Dunston House and within the Hadrian's Wall Buffer Zone. However, in overall terms, the principle of the variation of the two planning conditions was considered acceptable. The relocation of the parked vehicle would not impact on the character of the area or adversely affect the living conditions of the occupiers of the neighbouring properties. The revision to condition 2 would restrict the use of the site whilst allowing reasonable flexibility of use for the applicant. In all aspects the proposal was considered to be compliant with the objectives of the relevant Local Plan policies. Therefore the Development Control Officer recommended that the application be approved.

RESOLVED – That approval of the application be granted.

(12) Erection of 4no bedroom dwelling unit including new access road (revised application), land to the rear of Wensleydale, Tarraby, Carlisle, CA3 OJS, (Application 10/0851)

The Development Control Officer advised that the application had been brought before the Development Control as the Parish Council had objected to the proposal.

The Development Control Officer advised that Wensleydale was a large detached property, constructed of brick under a tiled roof that sat in a very large plot set back some 16m from the road. Large gardens were located to the side and rear of the property, with the rear garden boundary being 35m from the rear of the dwelling. A number of mature trees were located within the garden, and the front boundary that adjoined the road that linked Whiteclosegate with Tarraby village consisted of a hedge. A timber stable was located to the east of the dwelling, adjacent to the boundary with Ardleen House and a paddock adjoined Wensleydale to the west with open fields being located to the rear of the property.

The dwelling was located within the urban area of Carlisle, as identified on the inset map that formed part of the District Local Plan and lay within the Hadrian's Wall Heritage Site Buffer Zone. The dwelling was also located within the Tarraby Conservation Area, although part of the rear garden was excluded from the designation.

The Development Control Officer stated that the Supplementary Schedule contained a revised plan that removed the adjacent paddock, which was in the applicant's control, from the application site. He also advised that there had been one letter of objection received since the publication of the report

The dwelling was located in a very large plot, which was in the Carlisle settlement boundary. The scale and design of the proposal were acceptable, it met the minimum distances for space between dwellings, replacement

planting would be secured by condition and proposed access was acceptable to the Highway Authority. Therefore the Development Control Officer recommended the application for approval.

A Member was concerned that the application could be considered a tandem development. The Development Control Officer advised that policy H9 dealt with backland development and confirmed that the application fit the criteria to satisfy that policy. There would be no loss of amenity and the access would be along the side of the existing property. The Development Control Officer did not believe the application would have an adverse impact on the property at the front of the proposed development.

RESOLVED – That approval of the application be granted.

(13) Use of garage for repair of motor vehicles, Hedley Cross, Scotby Road, Scotby, Carlisle, CA4 8BJ (Application 10/0847)

The Development Control Officer informed Members that the application had been brought before the Development Control as the Parish Council had objected to the proposal.

The Development Control Officer explained that the site was located on the corner of the junction with the A69 road and Scotby Road. There was a residential property opposite the site to the west and further along Scotby Road to the south. Properties also faced the site from the north on the opposite side of the A69. The site was bounded by open countryside to the east and was within the Scotby settlement boundary as defined on the inset map that accompanied the Carlisle District Local Plan.

The Development Control Officer advised that in overall terms the proposal was acceptable in principle. The use of the building would not have an adverse impact on the living conditions of the occupiers of neighbouring properties or raise any highway issues, subject to the imposition of the conditions indicated in the report. In all aspects the proposal was compliant with the relevant policies contained within the adopted Local Plan and, therefore, the application was recommended for approval subject to the deletion of condition 4.

The Committee then gave detailed consideration to the application.

A Member was unclear what had changed from the original planning permission that had been granted in 1995. The Development Control Officer advised that the applicant ran a building company and at the time of the consent there were concerns that the buildings would be used for storage and that could lead to increase number of vehicles on the site. The condition imposed limited the use to the scale and type of use.

The Development Control Manager explained that when the original application was granted the condition was imposed as there had been

accusations that the depot was being used for storage. Any applications relating to the site had to be a new application and dealt with on its own merits. The application related to a small scale garage that was not objectionable on the grounds of site, access or scale and therefore justified acceptance.

A Member proposed that the application be approved.

A Member stated that the Committee needed an assurance that a condition would prevent car sales and repairs. The Development Control Manager advised that they could not exclude repairs but the condition limited repairs to 2 vehicles and that the Highway Authority were satisfied with that condition.

Following a vote it was:

RESOLVED – That approval of the application be granted.

(14) Redevelopment of former Prince of Wales public house and conversion of 102 Denton Street to create 16no apartments and 1no commercial unit with associated parking and servicing, 102 and 104 Denton Street, Carlisle, (Application 10/0164)

The Development Control Officer advised that the application had been brought before the Development Control as it was a revision to a previously approved planning permission (04/1196) for a substantial mixed residential/commercial redevelopment scheme in Denton Holme.

The Development Control Officer reminded Members that, at the meeting on 20 August 2010, Members gave authority to issue approval subject to the imposition of relevant conditions and the satisfactory completion of a Section 106 Agreement. The applicant's agent had subsequently submitted revised plans that detailed two amendments. The agent also explained that there were no intended changes to the external appearance of the development or site layout as part of the proposed revisions and under PPS25 'Development and Flood Risk' buildings used for shops, offices, financial/professional services, restaurants/cafes and hot food takeaways were identified as being less vulnerable and thus appropriate in Flood Zones 1, 2 and 3a.

The Development Control Officer understood that the proposed revisions were to enable a greater depth to be provided between the ceiling height of the commercial unit and floor level of the residential units above, and reduce the length of ramp to minimise any loss in floorspace.

The Development Control Officer advised that in comparison to the previously agreed scheme, the proposed revisions only potentially impinged upon those issues association with flooding and access and, therefore, the revised proposal was recommended for authority to issue approval subject to a Section 106 Agreement.

The Committee then gave detailed consideration to the application.

The officer's recommendation was moved and seconded.

A Member requested that the Section 106 Agreement included an assurance that the lay-by in Denton Street would be completed before the developers occupied the site and that the condition relating to opaque glass be attached rather than 'could be' attached as stated in the report. The Development Control Manager advised that the Section 106 Agreement would implement a traffic regulation order to make the lay-by a parking zone and that the use of opaque glazing was a condition.

A Member was concerned that there were no play facilities and asked whether money could be made available to improve facilities in St James Park. The Legal Services Manager advised that the officer would have to check if the 106 agreement required payment but that it would be difficult to ask how that payment would be made. The Development Control Manager advised that the issue had not been raised with the Council's Green Spaces Team.

A Member believed that the issue was not only for equipment but maintenance and would need to include Carlisle Leisure.

The Legal Services Manager reminded Members that Carlisle Leisure Limited managed the play facilities but that they were owned by the City Council and therefore the City Council would be bound by the Section 106 Agreement but would look at the issue in consultation with Carlisle Leisure Limited.

A Member asked whether adequate sound proofing had been included in the plans as the flats were above commercial properties that could generate a lot of noise. The Principal Development Control Officer advised that the issue had been dealt with that would enable a greater depth of space between the ceiling of the commercial properties and the floor level of the residential units above.

The Legal Services Manager advised that with regard to late night music should any of the commercial properties wish to play music late at night they would have to apply for a licence and conditions could be applied to that licence if appropriate.

The Development Control Manager advised that the Committee could defer making a decision on the application to allow time for the officer to ascertain through the Green Spaces Team whether money would be available for the facilities at St James Park.

It was moved and seconded that the application be deferred.

RESOLVED – That a decision on the application be deferred to allow officers the opportunity to consult with the Green Spaces Team regarding whether money was available for the facilities at St James Park.

DC.83/10 SUSPENSION OF STANDING ORDERS

During consideration of the above Item of Business, it was noted that the meeting had been in progress for 3 hours and 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 limits of 3 hours.

DC.84/10 ALLEGED BREACH OF PLANNING CONDITIONS AT THE LOWTHER ARMS PUBLIC HOUSE, CUMWHINTON

The Planning Enforcement Officer presented report ED.32/10 regarding the alleged breach of planning conditions at the Lowther Arms public house, Cumwhinton. The report had been prepared in response to the concerns of the occupier of Ivy Cottage regarding the need for the height of the shrubbery to be reduced, the licensee to repaint/reconfigure the spaces in the car park and provide a planting bed in accordance with the plan approved in 1997, and addressed the question of whether it would be expedient to take enforcement action.

The Planning Enforcement Officer reminded Members that the matter, and the associated effects on the living conditions of the occupier of Ivy Cottage, had previously been the subject of complaints to Ward Councillors, and letters and personal representation to the Council's Development Control Committee.

The Planning Enforcement Officer gave the background to the application and advised that at the time of processing the application (97/0781) no objections had been received from the Parish Council, Environment Agency or Cumbria County Council. The owner of Ivy Cottage had raised an objection that any intensity of use would inevitably lead to an increase in exhaust fumes entering her property at window height from vehicles being parked adjacent to the boundary fence. It was suggested that the applicant/licensee provide a screen to mitigate the impact of any intensification of use of the existing car park. Conditions were placed on the approval of the application that stated that "The car parking bays shall be demarcated with painted lines....." and "No development shall take place until details of the car park landscaping scheme have been submitted to and approved by the local planning authority."

A landscaping scheme to the north west of the car park, as required by the condition, was submitted and approved on 16 March 1998. Correspondence between the resident, her solicitor and the City Council continued throughout 1998 and 1999 regarding the planting species, the heights of the species and the planting bed itself. In November 1999 the owner of Ivy Cottage had lodged a Corporate Complaint on the basis that, although the applicant had provided a planting bed, a concrete edge and bollard, the planting bed was not the size as shown on the approved plan and therefore the City Council had failed to enforce a planning condition. The then Head of Planning

investigated and responded to the complaint and it was concluded that there was no justification in the complaint.

The Planning Enforcement Officer informed Members that in November 2003 the owner of Ivy Cottage submitted a complaint to the Local Government Ombudsman on the basis that the Council had failed to enforce a planning condition relating to the size of a flower bed in the car park. The investigator, acting on behalf of the ombudsman, concluded that the City Council had adequately investigated the problem, and its decision not to take enforcement action was not so unreasonable as to be maladministration. The ombudsman therefore recorded a decision of 'No or insufficient evidence of maladministration.'

Further complaints had been received in 2004, 2006 and 2009. It appeared that the owner of Ivy Cottage had contacted the licensee in October and November 2009 asking that the shrubbery alongside the property be pruned to a height of 2 metres as set out in the approved landscaping scheme.

The Planning Enforcement Officer advised that in June 2010 the Ward Councillor asked the Enforcement Officer to investigate complaints relating to the Lowther Arms public house. A subsequent meeting, attended by the owner of Ivy House, highlighted concerns relating to the height of the shrubbery and the neighbour's desire for the licensee to repaint the parking spaces and provide the planting bed in accordance with the plan approved in 1997. Those matters had been discussed with the licensee and, as a consequence, the shrubbery and trees had been pruned to a height of no more than 2 metres. A second tree was to be pruned at the end of the flowering season. The licensee had also explained the reasons for the change to the car park layout and the number of spaces.

The Planning Enforcement Officer stated that the licensee was not amenable to repainting the parking spaces or modifying the form of the planting bed as a total of three spaces had already been lost due to an inaccuracy in the approved layout plan regarding the space for disabled drivers' vehicles.

The Planning Enforcement Officer had assessed the situation and concluded that the issue concerning the height of the planted shrubbery and trees had been resolved with the licensee agreeing to also reduce the height of a tree in a separate planting bed at the entrance to the car park.

It was appreciated that the owner of Ivy Cottage may disagree with the decision not to undertake enforcement action, but the Planning Enforcement Officer believed that there was no significant planning objection to the breach of control. In 2004, the ombudsman had concluded that the Council had given proper consideration to its decision not to take enforcement action and, as a disproportionate amount of time had already been spent dealing with a relatively minor breach that did not unacceptably affect a public amenity, it was recommended that no further action was taken with regard to those matters.

RESOLVED: That no further action be taken in regard of the matters raised.

**DC.85/10 APPLICATION 08/1089 – EGERTONS RECOVERY
 LIMITED, CAXTON ROAD, NEWTOWN INDUSTRIAL
 ESTATE, CARLISLE**

The Principal Development Control Officer submitted Report ED.34/10 that referred to application 08/1089, that granted retrospective planning permission in July 2010, that enabled Egerton's Recovery Limited to lawfully operate its vehicle recovery service from their depot in Newtown Industrial Estate, subject to compliance with several planning conditions.

In October 2010, the Principal Development Control Officer submitted a report informing Members that the operator had failed to comply with the conditions and that the Council had begun enforcement proceedings. The 'Breach of Condition Notice' was served on 13 October 2010 and the 28 day timeframe for compliance expired on 10 November 2010. Within that timeframe Egertons were required to:

- Complete the construction of the proposed acoustic/visual barrier (including the associated surface water drain to the south side of the barrier) in accordance with the approved scheme; and
- Complete the concreting and installation of the drainage scheme to the vehicle storage area in accordance with the approved details.

The Principal Development Control Officer advised that the landscaped bund/acoustic fence had been erected along the rear of Nos 182 to 192 Newtown Road measuring 60m in length. The bund required to be landscaped in accordance with the approved scheme and the bund needed to be extended to the site's eastern boundary which abutted Caxton Road. Egerton's explanation for having not yet installed the bund in its entirety was because it involved the repositioning of a palisade fence that was required to keep the site secure.

The remaining work required the operator to concrete and drain the vehicle storage area in accordance with the approved scheme. The site manager instructed a drainage contractor to carry out those works. However, following a site inspection the contractor informed the site manager that there were difficulties in complying with the approved means of drainage of the vehicle storage area due to the falls in levels across the site. The Case Officer had met with the contractor to discuss the problems of complying with the approved drainage scheme. An alternative arrangement was suggested that would involve repositioning the interceptor and draining the site towards the centre of the vehicle storage area. Until the issue regarding the drainage system had been resolved it was not practical to make good the existing concrete surface. The contractor had suggested the use of tarmac as opposed to concrete as that would be quicker to lay. While there would be no objection to tarmac being used, concrete had originally been proposed by

Egertons and for that reason the condition stated that the yard must be concreted in accordance with the approved scheme.

In summary, the Principal Development Control Officer advised that the requirements of the 'Breach of Condition Notice' had not been met. However, the Council had received no complaints since August 2010.

With regard to the non-compliance with the approved drainage scheme the Principal Development Control Officer advised that the site manager had attempted to progress the works but had been advised that the approved scheme was unworkable. The Principal Development Control Officer believed there was no merit in attempting to pursue compliance with the requirements of that condition. The site manager was aware of the concerns raised and in order to demonstrate a willingness to address those issues, an application had been submitted to vary the details of that condition in accordance with a modified scheme as proposed by Egertons drainage contractor.

The Principal Development Control Officer informed Members that if they felt it justified, the Council could take legal proceedings in the Magistrates Court on the basis that Egertons had failed to install the entire length of the acoustic/visual barrier, and he recommended that the Council's Enforcement Officer be instructed to pursue the matter through the Magistrates Court.

With regard to the drainage work, the Principal Development Control Officer believed that the revised application in respect of that work needed to be determined in accordance with the Council's procedures and, if that scheme was acceptable, an appropriate timescale imposed for the implementation of the works.

The Principal Development Control Officer presented slides of the bund and the site.

Members gave detailed consideration to the report.

A Member stated that planting on the bund was part of the condition imposed. The Principal Development Control Officer advised that it was not the planting season but that pressure would be applied and the breach of condition notice would be served.

A Member asked who would maintain the wooden fence shown on the photographs. The Legal Services Manager advised that the fence was on Egerton's land and therefore their responsibility.

RESOLVED: That Report ED.34/10 be noted and the officers' actions endorsed.

[The meeting ended at 13.30pm]

**TRAINING SESSION ON THE CODE OF CONDUCT AND PLANNING
CODE OF GOOD PRACTICE**

The Legal Services Manager provided training on the Code of Conduct and Planning Code of Good Practice.