

DEVELOPMENT CONTROL COMMITTEE

FRIDAY 19 JUNE 2020 AT 10.00 AM

PRESENT: Councillor Tinnion (Chair), Councillors Alcroft (as substitute for Councillor Brown), Birks, Christian, Finlayson (as substitute for Councillor Collier), Glendinning, Meller (as substitute for Councillor Tarbitt), Morton, Nedved, Shepherd and Whalen (as substitute for Councillor Patrick).

ALSO

PRESENT: Councillor Allison (in his capacity as Ward Member) attended the meeting having registered a Right to Speak in respect of Application 19/0869 – Cumbria Wildflowers, The Stables, Great Orton, Carlisle, CA5 6NA.

OFFICERS: Corporate Director of Economic Development
Development Manager
Legal Services Manager
Principal Planning Officer
Planning Officer x 2
Mr Allan – Flood Development Officer, Cumbria County Council

DC.048/20 APOLOGIES FOR ABSENCE

Apologies for absence was submitted on behalf of Councillors Brown, Collier, Patrick, Rodgerson and Tarbitt.

DC.049/20 DECLARATIONS OF INTEREST

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

Councillor Whalen declared an interest in respect of application 19/0869 - Cumbria Wildflowers, The Stables, Great Orton, Carlisle, CA5 6NA. The interest related to a director of Cumbria Wildflowers being known to her.

Item A.1(1) application 20/0091 – Land north of Rockcliffe School, Rockcliffe, Carlisle, CA6 4AH had been considered by the Committee at its meeting of 22 May 2020. Councillors Alcroft and Finlayson indicated that they had not been present at that meeting, therefore they would not take part in the discussion nor determination of the application.

DC.050/20 PUBLIC AND PRESS

RESOLVED – That the Agenda be agreed as circulated.

DC.051/20 MINUTES OF PREVIOUS MEETINGS

RESOLVED – That the minutes of the meetings held on 22 May, 5 June and 17 June 2020 (virtual site visits) be approved.

DC.052/20 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS

The Legal Services Manager set out the process for those Members of the public who had registered a Right to Speak at the Committee.

DC.053/20 CONTROL OF DEVELOPMENT AND ADVERTISING

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.

1. Erection of 5no. dwellings (Reserved Matters Application Pursuant to Outline Approval 16/1038), Land north of Rockcliffe School, Rockcliffe, Carlisle, CA6 4AH (Application 20/0091).

The Principal Planning Officer submitted the report on the application which had been subject of a virtual site visit by the Committee on 17 June 2020.

Slides were displayed on screen showing: site location plan; proposed site layout plan; proposed elevation, roof and floor plans; access engineering plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The proposed development would be served by access from the C1016, as per the Outline Permission which had included a condition requiring the road to be widened to 5.5m in the vicinity of the site and visibility splays of 70m in both directions to be provided. The Highway Authority had no objections to the proposed access

In response to the consultation on the application, concerns about flooding and drainage had been raised by objectors and the Parish Council, the Principal Planning Officer advised Members that those matters did not form part of the application before them. Conditions had been added to the Outline Permission requiring details of surface water drainage to be agreed with the Local Planning Authority, those conditions had recently been discharged.

The Principal Planning Officer recommended that the application be approved, subject to the conditions detailed in the report.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- That the inclusion of chimneys within the proposed dwellings was not sufficient reason to refuse the application;
- A condition had been included in the permission requiring the road be widened to 5.50m;
- The widening of the road precluded the provision of a footpath from the development site;
- There was an existing speed restriction of 30mph on the highway adjacent to the school;
- The submitted Landscaping Plan showed the retention of the existing trees at the site;
- The trees at the site were not currently subject of a Tree Preservation Order.

A number of Members raised concerns about the proposed access, particularly for pedestrians and the proposed route to the school. They asked whether it was possible for additional traffic calming measures and a "walking bus" be considered.

Mr Allan (Cumbria County Council) advised that the proposal satisfied all necessary safety requirement in terms of access.

The Chairman asked Mr Allan to discuss with Officers at the Highway Authority, Members suggestions in relation to additional traffic calming measures. Mr Allan undertook to do so.

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

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

2. Erection of detached dwelling and garage together with associated access and landscaping, Land to the rear of 28 Beech Grove, Houghton, Carlisle, CA3 0NU (Application 20/0081).

The Planning Officer submitted the report in the application. Members' attention was drawn to section 1 of the report, the Planning Officer confirmed that the recommendation was to approve the application, subject to the implementation of conditions. Slides were displayed on screen showing: site location and block plan; elevation and floor plans; section plans and photographs of the site, an explanation of which was provided for the benefit of Members.

A condition had been included in the permission requiring the use of tree barriers in the construction phase to protect the existing trees and hedgerows at the site. The Planning Officer recommended that the application be approved, subject to the conditions detailed in the report.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The use of a covenant in respect of the shared access arrangements was a civil matter and was not dealt with as part of the planning process;
- The Parish Council had raised concerns in relation to vehicles used during the construction phase of the development. Condition 5 of the permission required the submission of a Construction Phase Traffic Management Plan, to the Local Planning Authority for approval, prior to the commencement of development at the site.

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

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

3. Removal of conditions of previously approved permission 90/1152 (Conditions 10, 11, 12, 16); 92/0219 (Conditions 7, 8, 9, 12); 92/0733 (Conditions 7, 8, 9, 11); 99/0313 (Condition 6); 01/0075 ((Condition 6); and 15/04718 (Condition 5) relating to hours of operation; restricting the movement of operation of vehicles or plant within and to and from the sawmill; restricting the despatch of timber or by-products from the site and deliveries of timber; and restricting the maintenance, repair, servicing, replacement or re-fitting works to plant equipment or vehicles, BSW Sawmills, Cargo, Carlisle, CA6 4BA (Application 19/0556).

The Principal Planning Officer advised that the application had been withdrawn from discussion in order to allow a meeting to be held with Officers from the Council's Environmental Health team and the applicant's noise consultant to discuss the submitted noise report, the need for further noise reports and potential conditions.

RESOLVED: That it be noted that the application was withdrawn from discussion.

4. Use of former stable building and erection of extension to provide storage facilities; reconfiguration of staff and visitor parking facilities; retention and extension of administration building; siting of polytunnel; erection of potting shed; erection of tray filling building; Change of Use from meadow to hardstanding; installation of standalone solar panels; erection of additional greenhouse (Part Retrospective), Cumbria Wildflowers, The Stables, Great Orton, Carlisle, CA5 6NA (Application 19/0869).

Councillor Whalen, having declared an interest in the item of business, took no part in the discussion nor determination of the application.

The Planning Officer submitted the report in the application which had been the subject of a virtual site visit by the Committee on 17 June 2020.

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

A number of detailed objections had been received and it was evident that the operations conducted on the land had an impact on the amenity of the occupiers of the neighbouring property and that approval of the current application may exacerbate any existing issues.

The Planning Officer stated that Members needed to be mindful of the fall-back position which was a material consideration in the determination of the application. Focusing on the extended area to the rear of Stonerigg, if the application were refused the approved boundary would have to be reinstated, reducing the area to that of the extant planning permission. The extension to the storage building would not be permitted; however, the applicant would be at liberty to use land unencumbered except if it resulted in any Statutory Nuisance that may be enforceable under separate legislation.

In addition to the standard planning conditions, two further conditions were recommended to protect the amenity of the neighbouring residents which was a betterment to the existing situation where there were no such restrictions. The applicant has recently highlighted that the condition restricting the times when the land can be used was too restrictive particularly during times when hay was to be collected. The Planning Officer indicated that Members may wish to bear that in mind and there was potential for further debate following the applicant's submission.

The Planning Officer advised that condition 4 be amended to be consistent with the annotation on the plan with the Seed Building should be amended to read 'Seed Store'. In the same condition, there was a typographical error with the drawing number which should read 6NA 06 not 05. The same references in the following two conditions also required revision for the same reasons.

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

Mr C McTurk (Objector, on his own behalf and on behalf of Ms McTurk, Mr Cook and Mr I McTurk) objected to the application on the following grounds:

- The loss of residential amenity at Stonerigg as a result of:
 - o the use of heavy plant machinery operating and being stored at the site, that machinery was the property of a different company than the applicant;
 - o the storage of piles of timber (up to 160 tonnes) and it's chipping by machinery adjacent to the boundary with Stonerigg;
- A significant portion of the application was retrospective;

- The need to keep doors and windows at Stonerigg closed to prevent dust and particles from entering;
- Children unable to use outside spaces due to the operation of heavy plant machinery;
- The scale and positioning of the operations on the site were inappropriate and visually intrusive;
- The proposed shed was imposing and would have a negative impact on Stonerigg;
- Prior to visits by the Planning Officer and the taking of footage at the site for the Committee's virtual site visit, the applicant cleared the plant machinery from the hardstanding area. Therefore, an accurate depiction of the use of the site has not been given;
- The conditions proposed within the report were not sufficient to adequately protect the residential amenity of Stonerigg. It was requested that the following conditions be added to the permission, should it be granted:
 - o No heavy plant machinery should be allowed to operate on the area of hardstanding or the land behind or around Stonerigg;
 - o No logs to be stored on the area of hard standing or the land behind or around Stonerigg;
 - o Chipping to be undertaken at the furthest point from Stonerigg (as recommended by Environmental Health, the furthest point being at the other side of the existing poly-tunnels or further down that field);
 - o Operating hours should be restricted to an 8am start.
- The proposed lean-to storage behind Stonerigg was intrusive and should not be permitted.

Slides were displayed on screen showing: photographs of operations at the site; the area of meadow which had been converted to hardstanding; videos showing wood-chipping activity and plant machinery being used at the site, an explanation of which was provided for the benefit of Members.

Mr Lightfoot (Objector) objected to the application on grounds of the impact on the residential amenity of Stonerigg. He further expressed concerns that the structure put in place to prevent vehicles contacting the boundary fence between the application site and Stonerigg was not sufficient.

Councillor Allison (Ward Member) objected to the application on the following grounds:

- The impact on the living conditions of the residents of Stonerigg in terms of:
 - o The safety of operations being carried out at the application site; the impact of noise and particles containing Dioxins and Furans being conveyed into the curtilage of Stonerigg

Councillor Allison noted that the application was governed by Paragraph 182 of the National Planning Policy Framework (NPPF) which related to existing businesses, in this case the Cumbria Wildflowers (CWF) operation. He asserted that Companies House filed accounts showed that Open Space had invested heavily in capital equipment and paid CWF £16,000 to rent land on the application site. Councillor Allison was not aware that Open Space had Planning Permission to operate from the site for the purposes of servicing of heavy industrial scale machinery.

Slides were displayed on screen showing: the meadow area as was and following its conversion to hardstanding and storing machinery; the re-profiling of road verges at the application site; the storage of machinery and logs for chipping at the site; diggers at the application site abutting the boundary with Stonerigg; the burning of commercial waste at the application site.

Councillor Allison requested that the Committee defer determination of the application in order for the Open Space operations at the site to be clarified. In the event of the Committee being minded to approve the application he requested that an additional condition be incorporated into the permission to preclude any other type of operation without a formal application for Planning Permission.

Mr Rook (Applicant) responded in the following terms:

- The scale of the development was modest with new structures being installed in areas where other already existed, mostly well away from Stonerigg;
- The proposal sought to:
 - o bring up to date the revised locations of features within the site which already had planning permission; increase the efficiency of the CWF operation and would not alter the existing operation of the site.
- The photographic and pictorial submissions of objectors showing the use of heavy plant machinery was not recent and related to necessary construction and demolition activities formerly undertaken on the site;
- Activities carried out at the site were not unsafe.

In respect of comments about the use of the land for operations by Open Space, Mr Rook stated that their equipment had been used during the construction and demolition activities carried out at the site. He went on to describe the storage of that equipment at sites other than that subject of the application. Moreover, he asserted that the rear area of the application site would not be used as long-term storage for of plant and equipment for OpenSpace which amount to about 25 items of plant. Having those items on site would conflict with the legitimate Cumbria Wildflower operations, would be detrimental to the site and get in the way of the nursery.

Turning to the matter of proposed planning conditions, Mr Rook objected to the condition restricting the hours of operation at the site. CWF currently operated under extant Planning Permission which imposed no such restriction. Furthermore, the proposed condition was unreasonable as it prevented work after 6pm which may interfere with hay collection activities, it was also feasible that access to the fields would be needed on Sundays. He noted that local farmers were able to work late on their land, therefore imposing such a condition on the application was unreasonable, and, in Mr Rook's view, ought to be removed from the permission.

Approving the application would assist an existing business and its employees, CWF had applied for grant funding for new machinery, which was dependant on securing Planning Permission. Mr Rook asked the Committee to support the application.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The 2013 Planning Permission granted at the site did not limit the use of the land to a particular user, nor was it reasonable to limit the use of the site to a named company;
- The Local Planning Authority had not been notified of the former construction and demolition works that had taken place at the site. The Planning Officer advised that there were no ongoing works requiring plant machinery taking place at the site at the time of his visits;
- Condition 4 which restricted the operating hours at the site contained the standard timings, it was a matter for Members to determine whether they deemed them appropriate;
- Burning of waste was dealt with under Environmental Health not Planning Legislation, no complaint had been submitted to the Council on that matter;
- A complaint about the use of the site had led to enforcement action being taken which had resulted in the current application to regularise the activities at the site;

- Were the current application to be refused the applicant was able use the site under the conditions of the extant Planning Permission;
- The use of a woodchipper at the site did not constitute a change of use as the machine was there on a temporary basis.

A number of Members sought clarification about the use of the site by Open Space.

The Legal Services Manager reminded Members that issues relating to Statutory Nuisances and civil matters were not planning considerations, therefore should not be a factor in the Committee's determination. The Officer's report set out the relevant NPPF guidance for the proposal, she advised it was not permissible to condition who used the land, Members' role was to consider the type of land use and whether that was appropriate and policy compliant. Were Members minded to refuse the application it would need to be based on relevant planning policy.

The Committee expressed serious concerns that the conditions contained in the permission were not sufficient to adequately protect the residential amenity of Stonerigg, particularly conditions 4, 5 and 6.

In response, the Corporate Director advised that Members were able to defer the application in order for the conditions to be reviewed.

A Member moved that the application be deferred in order to allow Officers the opportunity to review the suggested Planning Conditions and to await a further report on the application to be submitted to a future meeting of the Committee.

RESOLVED: That the application be deferred in order to allow Officers the opportunity to review the suggested Planning Conditions and to await a further report on the application to be submitted to a future meeting of the Committee.

[The meeting closed at 12:05pm]