

## **DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY 9 MARCH 2012 AT 10.00 AM**

**PRESENT:** Councillor Mrs Parsons (Chairman), Councillors S Bowman (as substitute for Councillor M Clarke), Cape, Craig, Mrs Farmer, McDevitt, Morton, Nedved (as substitute for Councillor Bloxham), Mrs Riddle, Mrs Rutherford, Scarborough and Whalen (as substitute for Councillor Warwick)

**ALSO**

**PRESENT:** Councillor Betton attended the meeting in his role as Ward Councillor having registered a right to speak in respect of application 11/1008 (garage to the rear of Geltsdale Avenue, Carlisle)

### **DC.17/12      APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors Bloxham, M Clarke, and Mrs Warwick

### **DC.18/12      DECLARATIONS OF INTEREST**

Councillor Scarborough declared a personal interest in accordance with the Council's Code of Conduct in respect of Application 11/1037. The interest related to the fact that he had built the bungalow and lived in the property for several years in the early 1980s.

### **DC.19/12      MINUTES**

The Minutes of the meetings of the Development Control Committee held on 14 and 16 December 2011 and 25 and 27 January 2012 were approved and signed as a true record of the meetings.

The Minutes of the site visit meeting held on 7 March 2012 were noted.

### **DC.20/12      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.21/12 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) Variation of Condition 7 (Drainage Details) relating to Planning Application 08/1089, Caxton Road, Newtown Industrial Estate, Carlisle, CA2 7HS (Application 12/0016)**

The Principal Planning Officer (Development Management) submitted the report on the application and outlined the background to the proposal, design and site details, together with the main issue for consideration. The application had been advertised by means of a site notice and notification letters sent to 44 neighbouring properties. In response four letters of objection had been received during the consultation period.

The Principal Planning Officer advised that, in respect of previous applications by Egertons Recovery Ltd on the site, local residents had expressed concern that they had experienced surface water drainage problems in recent years, which they believed were as a consequence of Egertons Recovery Ltd occupying the premises. Whilst the concerns of the residents were noted there was no evidence to substantiate that claim. Once the surface water drains were installed and surface water run off from the vehicle storage area taken into the foul sewer, that should assist in reducing surface water run off into the gardens of neighbouring properties, if that did indeed occur as a consequence of Egertons occupation of the site.

Therefore the Principal Planning Officer recommended that the proposed variation to condition 7 was acceptable and in all respects the proposal was compliant with the relevant policies contained in the Local Plan, but should only be approved subject to the imposition of those conditions identified within the report.

A Member queried whether the condition could be given an exact date for completion of the works to ensure that the company could not disregard the condition. The Principal Planning Officer advised that the condition could be modified to read that if approval was granted the works would be completed by 9 May 2012.

A Member queried whether the situation with regard to the flooding of residents' gardens could be monitored following the installation of the drainage equipment. The Principal Planning Officer advised that the drainage engineer had offered to monitor the flooding in a resident's garden but the resident did not take up the offer. However, if further complaints were received the Officer could investigate the matter.

A Member queried whether, if the condition was not completed by 9 May 2012, enforcement action could be started on 10 May 2012. The Principal Planning Officer advised that Officers would need to be mindful of how much of the work had been completed at that time. The Director of Economic Development advised that Officers would be required to follow rules and that if the work was not completed on time enforcement action would be considered but that Members would be kept informed at all times.

RESOLVED – That permission be granted, subject to the conditions indicated in the Schedule of Decisions attached to these Minutes.

**(2) Demolition of existing laboratory building; erection of terrace of 4no dwellings (Revised Application) (Retrospective), Former Laboratories, Talkin, Brampton, CA8 1LE (Application 11/1065)**

The Planning Officer submitted the report on the application and outlined for Members the background to the proposal, design and site details, together with the main issues for consideration. He reminded members that planning permission had previously been approved for four dwellings. There had been several changes to the proposal that would ensure the deliverability of the development and the provision of three bedroom properties was more desirable in terms of meeting the housing need.

The application had been advertised by means of a site notice, as well as notification letters sent to 9 neighbouring properties. In response 8 letters of objection had been received. The Planning Officer summarised the issues raised therein.

The Planning Officer presented slides showing plans of the proposal that indicated the footprint, fenestration and relevant ridge heights.

The Planning Officer explained that advised that in overall terms, the principle of residential development on the site had been granted through the previous planning permission. The development would provide four three-bedroom properties with two houses for rent at a discounted affordable rate that would be secured in perpetuity. In that respect, the development far exceeded the tenure of housing required by Local Plan policies in that they would be for rent and affordable. A Deed of Variation was required to the S106 Agreement that would ensure that they remained available as such in perpetuity. The two open market houses were required to enable the development.

The dwellings would be set back from the frontage of the site and the scale, design and massing would be appropriate to the character and appearance of the area. Whilst there had been revisions to the design and materials, the scheme remained appropriate with the frontage of the properties constructed from red sandstone and reclaimed slate. Whilst the fenestration and orientation of the elevations had altered the scheme would remain of a high standard and would be sympathetic to the character and appearance of the village.

The properties would not result in any demonstrable harm to the living conditions of any neighbouring residential dwellings and the combination of those elements would result in a development that would enhance its appearance within the village. In all other aspects the proposal was compliant with the objectives of the relevant Local Plan policies.

Therefore the Planning Officer recommended that the authority to issue approval be granted subject to a Deed of Variation to the S106 Agreement to ensure the provision of affordable housing.

Mr Jackson (Objector) requested clarification on which parts of the proposed dwellings would be rendered. The Planning Officer advised that the least prominent gable end and rear elevation would be rendered with the remaining elevations being stone with stone quoins at the side. Mr Jackson did not believe that rendering would match other properties in the village and that the revised proposal indicated an increase in height of the dwellings. He added that the revised plans would not suit a village location. Mr Jackson had been advised that the dwellings would be built on the original footprint of the demolished buildings but that had now been increased. He believed that the application that had been approved had been amended several times to the detriment of the village and that steel security fences should be on the dwellings' land and not public land. Mr Jackson stated that he also believed that the entrance onto the driveway was dangerous.

The Committee then gave consideration to the application.

A Member stated that he knew where the property was located and he was pleased that the dwellings would be three bedroom rather than two bedroom as originally planned and that two would be given to affordable rent. The Member was also pleased with the proposed parking arrangements on the site. He reminded Members that the Parish Council had stated that the development was not in keeping with the village and that the dwellings looked cheap. The Member advised that he did not agree with those comments, but that it would be a good development and good for the village.

A Member requested clarification of the materials to be used within the development. The Planning Officer explained that render would be used on the rear elevation and the least prominent gable wall. The remainder of the building would be reclaimed red sandstone and slates in keeping with other buildings in the area.

With regard to the footprint of the development a Member queried whether the footprint had been increased. The Planning Officer advised that there had not been a reduction in the overall footprint and that the frontage of the building was now in a linear elevation and the levels were more consistent throughout the development.

RESOLVED – That authority to issue approval be granted to the Director of Economic Development, subject to the conditions indicated in the Schedule of Decisions attached to these Minutes.

**(3) Change of use of garage and adjacent land to storage for roofing materials (Retrospective Application), garage to rear of Geltsdale Avenue, Carlisle, CA1 2RL (Application 11/1008)**

The Planning Officer submitted the report on the application which had been deferred at the last meeting of the Committee to enable a site visit to take place. The site visit took place on 7 March 2012. The Planning Officer outlined for Members the background to the proposal, design and site details, together with the main issues for consideration.

The application had been publicised by means of a site notice, as well as notification letters sent to 10 neighbouring properties. In response 2 letters of objection and a petition signed by 18 local residents had been received. There had also been 1 letter of support and 1 comment received. Councillor Betton (Ward Councillor) had also objected to the proposal. The Planning Officer summarised the issues raised and support therein.

The Planning Officer reminded Members that the fence had been painted in accordance with the condition set out in the report. Therefore that condition could either be removed or amended if necessary.

The Planning Officer advised that in overall terms the proposal would be acceptable in principle. It would not have an adverse impact on the character of the area or on the living conditions of the occupiers of any neighbouring properties. In all aspects the proposal was considered to be compliant with the objectives of the relevant adopted Local Plan policies. Therefore the Planning Officer recommended that the application be approved subject to the conditions set out in the report.

Councillor Betton (Ward Councillor) (Objector) thanked the Committee for undertaking the site visit and reminded Members that the area was covered by a covenant dating from 1944 that restricted the use of the garages. The Chairman advised that the covenant was a civil matter and could not be considered as part of the application.

Councillor Betton advised that there had been a number of objections and that any civil action taken could be expensive to the Council. He stated that the area was a quiet residential area and that the forecourt was a right of way for users of the other garages on the site. Councillor Betton informed Members that the entrance to the site had been churned up by large vehicles and residents had fought to have the entrance to the site resurfaced.

The Legal Services Manager advised that she had obtained a copy of the deeds that stated that the property could not be used for any noisy, noxious or offensive trade or business and queried whether the proposed business would fall into any of those categories. With regard to the right of way the Legal Services Manager reminded Members that the covenant related to the access onto Geltsdale Avenue and therefore as the garage in question was at the end of the row other garages would not require access in front of it. She advised that any covenant could not be enforced by the Council but would be a civil matter between Mr Tyrell and the owners of the other garages and that the Council would only be involved if the application went to appeal.

The Committee then gave consideration to the application.

Councillor McDevitt advised that as he was not able to attend the site visit he would not take part in any vote on the application.

A Member reminded the Committee that consideration could only be given to the change of use of the garage and where materials would be stored and not the fence. However the Member believed that should the adjacent garage, which was currently

used for storage only, was brought back into use as a garage, there would be a problem with access due to the location of the fence.

A Member indicated that one of the objectors had referred to the damage to the grass verges due to large vehicles entering the site. He reminded Members that the application stated that a transit type vehicle would be used and a similar type of vehicle parked on the site at the site visit would not have caused any access problems.

The Member requested clarification of where materials would be stored and hoped that that condition would be enforced. He noticed on the site visit that materials were stored at the rear of the garage that requested that they be removed as they could be a danger to children. The Planning Officer confirmed that the area identified for storage was to the side of the garage and that none should be stored at the front. If the application was approved Officers would check that the condition was being complied with.

The Member believed that the applicant had done all he could to enhance the area and added that if the remaining garages were improved the area would be further enhanced.

A Member sympathised with residents as there had been problems while the work to the garage was being completed. The applicant had stated that the site would be accessed three times per week between 8:30am and 5:30pm. The garage was now in a good condition and he hoped that the adjacent garages would also be improved. The Member moved the Officer's recommendation for approval.

In response to a query from a Member the Planning Officer advised that only roofing materials and scaffolding could be stored in the garage.

RESOLVED – That permission be granted, subject to the conditions indicated in the Schedule of Decisions attached to these Minutes.

**(4) Demolition of existing detached garage and erection of 1no detached bungalow, Rosegarth, Brier Lonning, Hayton, Carlisle, CA8 9HL (Application 11/1037)**

The Planning Officer submitted the report on the application setting out the background to the application, together with a description of the site and proposed design and outlined the main issues of the application.

The Planning Officer advised that the application had been advertised by means of a site notice and notification letters sent to neighbouring properties. In response 1 letter of objection had been received that related to a culverted watercourse that ran through the property and the neighbouring property.

In overall terms the principle of the development was acceptable. The scale, siting and massing of the proposed dwelling was acceptable in relation to the adjacent property, its setting and the street scene. The living conditions of neighbouring

properties would not be compromised through unreasonable overlooking or overdominance. Adequate car parking, access and amenity space would be provided to serve the dwelling. In all aspects the proposal was compliant with the objectives of the Local Plan policies.

The Committee then gave consideration to the application.

A Member stated that he had concerns about flooding on the site as he had been involved in the building of the bungalow and knew the site. He stated that the bungalow was set up higher than the garage which was liable to flooding. He requested that if approved a condition be imposed that ensured run off drained into the sewers and not flood the area. The Planning Officer advised that a condition had been imposed that requested details of the final floor level and surface water drainage. Once the surface was completed the drainage engineer and United Utilities would be consulted.

A Member stated that she was not satisfied with the drainage and if a vote was taken she would abstain. The Director of Economic Development recommended that the application be deferred to enable further information to be provided. A Member moved that a site visit should be undertaken. That proposal was seconded. Following a vote it was:

RESOLVED – That consideration of the application be deferred to enable a site visit to be undertaken and a further report be presented to a future meeting of the Committee

**(5) Demolition of porch and erection of replacement porch and WC together with redevelopment of single storey rear extension (Part Retrospective), Hillside, Great Corby, Carlisle, CA4 8LT (Application 11/1095)**

The Planning Assistant submitted the report on the application setting out the background to the application, together with a description of the site and proposed design and outlined the main issues for consideration. She advised Members that the application had been submitted as the applicant was an employee of Carlisle City Council.

The application had been advertised by means of a site notice, a press notice and the direct notification of 5 neighbouring properties. In response no written or verbal representations had been received.

The Planning Assistant advised that in overall terms the scale and design of the proposal was acceptable and there would not be any adverse impacts upon the residents of the neighbouring properties as a result of poor design, unreasonable overlooking or unreasonable loss of daylight or sunlight. Furthermore there would not be any detrimental impact upon the conservation area, the neighbouring listed buildings or the biodiversity of the area. In all aspects the proposal compliant with the relevant policies contained within the adopted Local Plan.

Therefore the Planning Assistant recommended that the application be approved.

In response to a query the Planning Manager advised that an application of the size of the proposal would not necessarily be presented to the Committee and that the application had been presented to the Committee as the applicant was an employee of the City Council.

RESOLVED – That permission be granted, subject to the conditions indicated in the Schedule of Decisions attached to these Minutes.

**DC.22/12      ERECTION OF BOUNDARY FENCE AT 1 BURNRIGG, MORTON PARK, CARLISLE**

The Planning Manager submitted Report ED.12/12 that related to the unauthorised erection of a boundary fence fronting the highway at 1 Burnrigg, Morton Park, Carlisle.

The Planning Manager described the location of the property and the neighbouring properties and the height of fences in the immediate area. Following a complaint made by Councillor Mrs Farmer concerning the unauthorised erection of a fence, as well as the siting of a touring caravan, horse box and trailer within the curtilage of the property the occupiers of the property were contacted. The owners had stated that they did not believe that planning permission was required for the fence and that they had erected the fence to provide a sense of enclosure and enhance their security. The owners had planted a quick growing Leylandii hedge inside the fence. Once the hedge had reached a similar height to the fence, the fence would be reduced to a height of one metre and would therefore not require planning permission.

The hedge had now become established and stood above the height of the boundary fence. However despite repeated requests to reduce the height of the fence that had not been carried out. The Planning Manager explained that the owners had vacated the property in 2011 and 1 Burnrigg had since been let. There had been no complaints from neighbouring residents regarding the height of the fence since the owners had moved out and the other matters that were of concern were no longer an issue.

The Planning Manager advised that if the height of the fence was reduced there would still be a Leylandii hedge surrounding the property. The fence did not create a highway safety issue for vehicles exiting Burnrigg into Newlaithes Avenue or for vehicles turning left into Burnrigg from Newlaithes Avenue. In the context of the hedge, it was considered that the fence was not sufficiently detrimental in visual/streetscape terms to refuse permission. There were also fences of a similar height within the immediate vicinity of 1 Burnrigg that, although not at a road junction, had been erected to a similar height with the time period for taking enforcement action having expired.

As the fence did not affect highway safety and was not considered sufficiently detrimental to the character of the area to merit the refusal of permission, it was

recommended that it was not expedient or in the public interest to pursue the matter any further and that no enforcement action be taken.

A Member stated that she believed that the fence and hedge did cause a restriction at the junction and advised that the gates opened onto the pavement causing a further restriction to pedestrians. Whilst she was aware of other similar fences in the area they were on side roads and not on main junctions. The Member believed that although the owner had moved that did not preclude him from returning at some point in the future. Therefore the Member moved that enforcement action should be taken.

There was lengthy discussion about the hedge that had been planted. The Legal Services Manager reminded Members that the enforcement was in respect of the fence only and that issues around the hedge could not be considered. If the hedge caused a restriction to the highway, including the pavement, that would be a matter for the highways agency to resolve. The Planning Manager explained the High Hedges Act and how that could be used if the hedge restricted light to neighbouring properties.

The Director of Economic Development advised that it would not be possible and that if enforcement action was taken the owner would be required to purchase a new fence as it would not be possible to trim the existing fence.

A Member stated that she was in favour of retaining the fence as it prevented the hedge from encroaching onto the pavement.

It was proposed and seconded that enforcement action should be taken and the fence removed.

Following a vote it was:

**RESOLVED:** That Report ED.12/12 be noted and that enforcement action be taken with regard to the removal of the fence.

It was noted that Councillor Whalen did not vote in consideration of the enforcement action.

## **DC.23/12 FORTHCOMING TRAINING OF LOCALISM AND PLANNING**

The Planning Manager explained that training on Localism and Planning had been arranged for Members for the morning of Friday 27 April 2012. The training would be provided by Trevor Roberts Associates and would initially be offered to members and substitutes of the Development Control Committee. If spaces were available it would then be open to all members of the Council. Councillors Mrs Farmer and Mrs Rutherford advised that they would not be attending as they would not be members of the Council in the next municipal year. The Director of Economic Development suggested that their knowledge and experience would be useful to Members and they would be welcome to attend.

**DC.24/12 PUBLIC AND PRESS**

**RESOLVED** – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it contained information relating to the financial or business affairs of any particular person (including the authority holding that information) as defined in the paragraph number (as indicated in brackets against the minute) of Part 3 of Schedule 12A of the 1972 Local Government Act.

**DC.25/12 APPEAL TO THE PLANNING INSPECTOR**  
(Public and Press excluded by virtue of Paragraph 3)

The Planning Manager advised that an application that had previously been refused had been submitted to the Planning Inspector. Further information was being sought on the proposed site and with regard to one of the conditions indicated within the Officer's report. A report would be submitted to Members at the next meeting that would seek authority to deal with the issues intended for the enquiry.

[The meeting ended at 11:20]