

## **DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY 11 JUNE 2021 AT 10.00 AM**

**PRESENT:** Councillor Morton (Chair), Councillors Alcroft, Bowman (as substitute for Councillor Nedved), Christian, Finlayson, Glendinning, Meller, Shepherd, Southward, Tinnion and Whalen.

**ALSO**

**PRESENT:** Councillor Higgs (Ward Member) (in his capacity as Ward Member) attended the meeting having registered a Right to Speak in respect of application 19/0871 – Land North of Holme Meadow, Cumwhinton, Carlisle, CA4 8DR.

**OFFICERS:** Corporate Director of Economic Development  
Development Manager  
Legal Services Manager  
Principal Planning Officer  
Planning Officer x 2

### **DC.054/21 APOLOGIES FOR ABSENCE**

Apologies for absence was submitted on behalf of Councillors Denholm and Nedved.

### **DC.055/21 DECLARATIONS OF INTEREST**

No declarations of interest were submitted.

### **DC.056/21 PUBLIC AND PRESS**

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

### **DC.057/21 MINUTES OF PREVIOUS MEETINGS**

**RESOLVED** - That the minutes of the meetings held on 30 April, 9 June and 9 June (site visits) 2021 be approved.

### **DC.058/21 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.059/21 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. Creation of a Lorry park up to 40no. spaces including conversion of existing building to provide welfare facilities & storage unit; erection of commercial vehicles maintenance building and associated preparation yard; installation of 2.5m high acoustic fence (bund), Land adjacent Richardson House, Gretna Loaning, Mill Hill, Gretna, DG16 5HU (Application 20/0586).**

The Planning Officer reported that, following publication of the report, information had been submitted that was likely to be influential in terms of: the assessment of the application; imposition of relevant conditions; Officer recommendation and, Member consideration.

The Chair proposed that in light of the receipt of the additional information consideration of the application be deferred. The Committee indicated its assent.

RESOLVED: That the application be deferred in order to allow additional time for re-consultation, re-notification and further consideration by the Planning Service in respect of supplementary information submitted and to await a further report on the application in the light of those actions at a future meeting of the Committee.

- 2. Erection of 9no. dwellings and associated access/infrastructure (Outline), Land adjacent to Chapelfield Lane, Thurstonfield, Carlisle, CA5 6HP (Application 21/0212)**

The Principal Planning Officer submitted the report on the application which had been subject of a virtual site visit by the Committee on 9 June 2021. Slides were displayed on screen showing: location plan; block plan; indicative site layout plan; and photographs of the site, an explanation of which was provided for the benefit of Members.

The submitted indicative plan showed 9 dwellings including references to bungalows for which there was a need. Conditions had been added to the permission restricting the development to 9 dwellings only, including the provision of bungalows or dormer bungalows.

During the virtual site visit reference was made to using the road to the west of the site to gain access to the development. That stretch of highway was subject of a 60 mph speed limit and it was not considered that the required visibility splays were able to be achieved without the removal of large sections of the existing hedge. The Highway Authority had not objected to the proposed access being sited at Chapelfield Lane as it already served dwellings on Chapelfield Lane and Chapelfield.

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:

- With respect to the proposed condition limiting the development to nine dwellings of one and a half storey height, a future Reserved Matters application may seek any number of dwellings but the condition would limit the scale of the development;
- The buffer zone was out with the application site and was not within the applicant's ownership, therefore any permission granted could not impose constraints on that area;
- The number of proposed units was below the threshold number whereafter an affordable housing contribution would be required;

- Chapelfield Lane was sufficiently wide to allow two vehicles to pass and enable pedestrian access but was not wide enough to allow for a footpath to be included. The Highway Authority had considered the application and had indicated it was satisfied with the proposal.

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

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

**3. Variation of Condition 2 (Approved Documents) and removal of Condition 13 (Emergency Vehicle Access) of previously approved application 18/0125 (Erection of 43 dwellings) to amend the site layout to allow units 12-31 inclusive to use the adopted highway east of the site (Retrospective Application), Former KSS Factory Site, Constable Street, Carlisle, CA2 6AQ (Application 19/0935)**

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; site plan; proposed site access and visibility splays plan; and photographs of the site, an explanation of which was provided for the benefit of Members.

The application had been lodged some time ago, in response to the highway issues raised by Cumbria County Council (as Highway Authority) and local residents, the Council had commissioned an independent highway consultant to advise on the proposal.

Since that time, the applicant had worked with his own highway consultant, Officers and Cumbria County Council and following the submission of additional information, the issues raised by the City Council's highway consultant had been addressed. Accordingly, Cumbria County Council had raised no objection. The works required by the Stage 3 Road Safety Audit were to be imposed by planning condition. Subject to that and the other conditions listed in the report, the Planning Officer recommended the application for approval.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The condition had been imposed on the original application to prevent removal of the bollards during the construction phase of the development as a mechanism to prevent a cross thoroughfare occurring;
- The condition had not stipulated the form of the bollard i.e. fixed, only the requirement to retain them as part of the development;
- The Road Safety Audit contained in the report had been produced by the applicant.

Members expressed strong concerns that approving the application would have a significant detrimental impact on the local highway network particularly Leicester Street and the potential for increasing conflict with those attending Robert Fergusson Primary School. It was noted that the visibility splays at Leicester Street were hampered by an angled kerb which made navigation difficult. Furthermore, the application had received a significant number of objections, demonstrating the local community's concerns and lack of support for the current proposal, and a number of Members expressed concerns that approving the application would in effect create a rat run through the development.

Displaying the site layout plan on screen, the Planning Officer illustrated for the benefit of the Committee the positioning of the bollards in the event of the application being refused.

A Member moved that the application be refused on the basis that it did not comply with Paragraph 127a, of the National Planning Policy Framework, Carlisle District Local Plan policies SP 6 (Securing Good Design) criterion 7, and IP 2 Transport and Development. The proposal was seconded and following voting it was:

RESOLVED: That the application be refused for the reasons indicated within the Schedule of Decisions attached to these minutes.

*The meeting adjourned at 10:50am and reconvened at 11:02am*

**4. Erection of garage with office above (Revised Application), Fairfield Cottage, Wetheral Pasture, Carlisle, CA4 8HR (Application 21/0286).**

The Principal Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; block plan; elevation and section plans, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer recommended that the application be refused for the reasons detailed in the report.

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

RESOLVED: That the application be refused for the reasons indicated within the Schedule of Decisions attached to these minutes.

**5. Erection of 5 no. market dwellings; erection of 9 self/custom build dwellings; formation of vehicular access and road; provision of structural landscaping/planting; formation of amenity area and provision of associated infrastructure and services (Outline), Land north of Holme Meadow, Cumwhinton, Carlisle, CA4 8DR (Application 19/0871).**

The Development Manager submitted the report on the application which had been subject of a virtual site visit by the Committee on 9 June 2021. Slides were displayed on screen showing: location plan; block plan; proposed layout plan; updated layout for discussion purposes plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The initially submitted application had sought permission for 24 self-build dwellings, however, through negotiation the number had been revised to 9 self-build units with 5 open market dwellings. Although the current application was for Outline Permission, it would also establish the point of access onto Broomfallen Road and identify the location of structural landscaping and amenity open space as part of the scheme with a plot layout for the 14 units. Members were reminded that, for Outline applications, it was not usual to specify the indicative layouts as part of the Approved Documents. However, as structural landscaping and access were required at this stage those areas would form part of any approval. The Drainage Strategy also formed part of the Approved Documents and therefore was not required as part of the legal agreement.

The earlier proposal intended to develop housing along the road frontage but, in trying to reduce the impact of the development it had been replaced by a wooded copse which would link directly to the woodland across the road which had recently been protected by a Tree Preservation Order. The newly planted trees would provide enhanced wildlife value, building on existing

ecological networks and, with additional hedgerow planting within the site, would provide clear development parameters.

The Development Manager gave an overview of the operation of the Council's Self-Build Register and the findings report of the Right To Build Task Force earlier this year. As a result of the report Government had reacted by increasing the commitment to custom/self-build housing and was seeking to ensure that all councils deliver housing to meet their registered demand. The Council's Housing Development Officer when compiling this year's returns to Government was concerned that there may be under delivery of custom/self-build plots in the short term until the St Cuthbert's Garden Village commenced its delivery of homes. In recognition of this shortfall, the proposed development provided a significant in-road to dealing with that demand.

The Council had acknowledged the Climate Change emergency which would have a direct impact on planning and there would be new guidance and policy emerging as the Environment Bill had resumed its course through Parliament and as Government picked up on its commitments in last year's White Paper. One of the planning matters was how to deal with biodiversity net gain. The proposals for the development had clearly sought to address this by considerable structural planting which would link directly to existing wildlife networks as well as providing a strong visual boundary.

The Development Manager advised that in considering the application there were clearly concerns about the scale of development which had occurred in Cumwhinton and how the proposal complied with Local Plan Policy H0 2 – Windfall Housing. He directed Members to consider whether they viewed the site as being well contained by exiting boundaries or whether it was an intrusion into the open countryside.

The planning balance of all these factors had to be taken into account and in assessing the balance of the application, the Development Manager considered that the proposal was acceptable.

Further to the production of the report discussions had been held with the Council's Green Space team, it was understood that its request (paragraph 6.82) was based on the initial 24 units. In addition, consideration of exemptions for Community Infrastructure Levy contributions which applied to self-build units would mean the eligible scheme would be 5 dwellings. This was usually below the threshold for contribution.

The Development Manager recommended that:

a) Authority to Issue be given to the Corporate Director of Economic Development subject to the completion of an appropriate Section 106 Agreement regarding:

- limiting defined units to self-build and custom dwellings;
- drainage strategy.

b) Should the S106 agreement not be completed, authority to refuse the application be given to the Corporate Director of Economic Development.

Mr Mallinson (Objector on his own behalf and on behalf of Messrs Credie, Thompson and Liverick) spoke against the application on the following terms: a condition of the existing Holme Meadow development had required the planting of native hedge and trees species along the southern boundary of the application site which the Council had confirmed had been imposed to define the edge or the limit of the village, beyond which was open countryside; the developer's contention that a key objective of the proposed scheme was to *'provide the edge of the village*

*which reinforces its form and put definite limits on development'* was then fallacious as the existing landscaping provided that function; permitting development beyond the existing defined limit would set a precedent and provide for further such applications thus continuing the march of the village into open countryside; the Officer's report recognised the issue (paragraph 6.26), noting any expansion into open countryside was not in accordance with Local Plan policy HO2, specifically criterion 1 and 3; two dozen local residents had objected to the proposal along with the Parish Council, local MP, the Friends of the Lake District, and the Campaign for the Protection of Rural England (CPRE); the mitigation measures put forward in the Officer's report were not sufficient, for example, the proposed landscaping screening would take decades to be effective, regardless of the height or location of individual dwellings; the proposed location of the self-build dwellings at the southern boundary would have a strong visual impact as that was the highest point of the site; the ecological impacts of the development would not be positive as the scheme would necessitate the displacement of wildlife from both the existing landscaping features and through the development of the site; the canopy of trees at the boundary of the Holme Meadow development overhung the application site, as such it was likely branches may be lopped in future creating a detrimental impact on both the appearance and viability of the trees along the length of the boundary; since 2014 the village of Cumwhinton had, due to permitted development, doubled in size, the village's proximity to Carlisle city should not mean its character and form were not protected as that would not be in accordance with Local Plan policies HO 2 and SP 2 – Strategic Growth and Distribution; the Officer's report grossly underestimated the scale and impacts on the existing village; the application site was prominent and the proposed scheme's dwelling types and locations would have maximum impact on the settlement and open countryside; the St Cuthbert's Garden Village project (SCGV) was conceived as a mechanism for protecting villages in the district from overdevelopment and its associated harms, there was no reason that the dwellings proposed in the current scheme may not be provided there particularly given permissions for the Garden Village were now able to be provided.

Councillor Higgs (Ward Member) addressed the Committee in the following terms: Cumwhinton had already accommodated its share of the district's housing provision called for by the Local Plan; the additional housing was not needed in the village; the site contributed to the setting of the village by providing an open aspect and expansive views to open countryside, development thereon was then contrary to Local Plan policy GI 1 - Landscapes; Cumbria Constabulary recognised there was a speeding issue in the village, other recent applications had been required to make contributions towards traffic calming measures but no such levy had been applied to the proposed scheme; no Green Spaces contribution had been secured to enable compensatory provision either on or off-site; there was no low cost housing provision associated with the application; the road network in the village was already busy, drainage was struggling to cope, the local school was oversubscribed, thus approving the application would over burden the community in ways there were contrary to Local Plan policy SP 2; the application site was not well contained within existing landscape features nor was it well integrated with the existing settlement, instead it constituted an unacceptable intrusion into open countryside and so was not in accord with Local Plan policy HO 2; the SCGV project was conceived as a mechanism for protecting villages in the district from overdevelopment and its associated harms, there was no reason that the dwellings proposed in the current scheme may not be provided there. Councillor Higgs asked that the application be refused.

Mr Hutchinson (Agent) responded in the following terms: there was a local need for self and custom build plots which the Council had a legal duty to provide; in July 2020 the Ministry for Homes, Communities and Local Government published an assessment of the district and the SCGV project that showed 2,803 people were looking for a self or custom build plot; the Housing Development Officer had provided confirmation that a specific duty to grant permission for

service plots was in force and that the Council was not making sufficient delivery, therefore more plots were required; it was evident that the Council needed to do more to comply with the duty for self and custom build housing provision; Paragraph 61 of the revised National Planning Policy Framework (NPPF) further supported the need to make provision; the nature of self and custom build dwellings meant that they tended not to be provided for on sites allocated for housing development in the Local Plan; the proposed scheme defined the properties therein and the settlement boundary; the scheme would enhance the visual continuity of the woodland and road layout by use of the contours of the site; the scale of the proposed development was small; the village of Cumwhinton had services and was sustainable, there was no planning policy limiting the number of dwellings that may be built there; the proposed scheme was permissible under policy HO 2 and the Council had accepted it was acceptable in scale and form to the adjacent existing development; SCGV would accommodate significant housing development in the future, windfall housing remained permissible; the proposed structural planting would compliment the existing copse, provide screening of the development and deliver a positive impact on biodiversity; sectional plans had been submitted but not included in presentation; there was no evidence that other recently permitted development in the settlement had threatened social cohesion or the balance of the community; no Statutory Consultee had objected to the proposal, subject to the imposition of relevant conditions; the proposed surface water attenuation would reduce water flow from the application site; the proposed plots exceeded the minimum separation distance from the adjacent development required by Council policy.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The indicative plan and structural landscaping plan would, if the application was approved, be included in the permission as Approved Documents. Further detail on those aspects i.e. species of planting, scale and form of dwellings would be considered in any future Reserved Matters application. The purpose of incorporating them into the Outline permission was to define parameters that made the development acceptable. Members were also able to consider imposing conditions in relation to the height, scale and massing of the scheme to ensure the development was acceptable;
- There were two options in relation to future management of the SUDS pond – use of a Management Company or a residents' group or United Utilities may take over responsibility;
- The usual time limit imposed for the commencement of development was 3 years. Given the self and custom build aspects of the proposed scheme a condition had been incorporated which specified a 5 year commencement period. The variation was made to reflect the different nature of self and custom build as opposed to developer led market development;
- The removal of limbs from the existing trees at the southern boundary of the application site was a civil matter, should Members wish to provide additional protection Officers were able to carry out a Tree Preservation Order (TPO) assessment;
- Cumbria County Council (as Local Education Authority) had considered the application, due to the number of dwellings being under the required threshold, no education contribution was required.

A Member welcomed the positive impact on biodiversity the scheme would afford in advance of the legal requirement coming into force. He indicated he wished a TPO assessment to be carried out on the existing trees at the southern boundary of the application site.

A number of Members expressed concern in relation to the impact of cumulative development in the village and its associated impact on highway safety.

A Member welcomed the innovation of the proposed scheme and the diversity of character the self and custom build dwellings would provide. However, she was concerned about the impact of cumulative development in the village and the intrusion into open countryside that the development would create. She considered there was a conflict between the Council's legal duty to provide self and custom build homes and protecting open countryside from unacceptable intrusion.

The Development Manager responded that the duty to provide plots for self and custom build development came in 2016, with dwellings having to be defined as self or custom build in order to meet the criteria. As part of the duty, the Council was required to keep a register of those wishing to self or custom build, unless permissions were granted to enable self and custom builds the Council would not be fulfilling its duty.

The Committee was required to make decisions in line with the Council's planning policies as set out in its Local Plan. Policy HO 2 provided for Windfall Development but also considered the issue of intrusion into the open countryside, how much weight was afforded to each was a matter for Member to consider thereby determining the balance of the matter.

The Development Manager was of the view that there was significant material weight attached to the duty to provide self and custom build dwellings. He advised the Committee of its need to consider the scheme and its impacts and, given the location of the site the level of intrusion the scheme would have on the open countryside

A Member moved the Officer's recommendation and added a requirement for a Tree Preservation Order assessment of the existing trees at the southern boundary of the application site. The proposal was seconded.

The Chair proposed that the application be refused on the basis that it constituted an intrusion into the open countryside and therefore was not in accordance with Local Plan policy HO 2 – Windfall Development. The proposal was seconded.

The motions were put to the vote it was:

RESOLVED: That the application be refused for the reasons indicated within the Schedule of Decisions attached to these minutes.

**6. Erection of 7no. dwellings (Reserved Matters Application Pursuant to Outline Permission 18/0994), Land to the rear of Hallcroft, Monkhill, Carlisle, CA5 6DB (Application 21/0038).**

*Councillors Mrs Bowman, Mrs Glendinning and Southward had not been present at the previous meeting where the application had been considered, accordingly they left the meeting and took no part in the discussion nor determination of the application.*

The Planning Officer submitted the report on the application which was deferred by the Committee at its meeting of 30 April 2021 in order to allow the applicant to submit a drawing showing the layout of underground services within the site. Slides were displayed on screen showing: location plan; site layout plans; floor and elevation plans and photographs of the site, an explanation of which was provided for the benefit of Members.



In response to the deferral the applicant had submitted a Drainage Report, Local Authority Search Results, a Northern Gas Network Search results and a Drainage & Water Search report, copies of which were reproduced in the report.

An amended Block Plan had also been submitted which showed Plots 1 to 6 (inclusive) being reoriented slightly further to the east which was accompanied by an email from the agent who stated that the applicant:

*“...wants to work with the neighbours and we have decided to tweak the layout slightly to move the houses away from the houses and the drainage corridor.”*

Were Members are minded to approve the application, the Planning Officer recommended that condition 2 be amended to include reference to the revised Block Plan within the list of approved documents.

In conclusion, the Planning Officer recommended that the application be approved subject to the conditions detailed in the report along with the amendment to condition 2 to include reference to the revised Block Plan.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The information in the Supplementary Schedule was the applicant's submission in response to the deferral, he had indicated that he wished it to be presented to the Committee for its consideration;
- It was understood that the applicant had viewed the Committee's earlier consideration of the proposal and was aware that a map detailing the underground infrastructure had been requested;
- The information provided by the applicant had been gathered from the public record none of which contained a map of the underground services. Resultantly, the applicant was in a catch 22 situation as without planning permission he was unable to dig at the site to locate the infrastructure;
- Any damage caused to third party infrastructure as a result of the development was a civil matter;
- There were existing rights for third parties to access their infrastructure within the application site;
- If approved, the development would be subject to the relevant Building Control standards compliance.

A Member moved the Officer's recommendations which was seconded. Another Member moved that determination of the application be deferred in order to allow the applicant to submit a drawing showing the layout of underground services within the site, which was seconded.

The proposal to accept the Officer's recommendation was put to the vote, whereupon the numbers were even. The Chair used his casting vote and it was:

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

[The meeting closed at 12:34pm]