

## **DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY 16 MAY 2014 AT 10.00 AM**

**PRESENT:** Councillor Scarborough (Chairman), Councillors Bloxham, S Bowman (as substitute for Councillor Mrs Prest), Mrs Bradley, Craig, Earp, Mrs Luckley, McDevitt, Mrs Parsons, Mrs Riddle, Mrs Warwick and Whalen

**ALSO**

**PRESENT:** Councillor Allison attended the meeting as Ward Councillor in respect of Application 14/0124 (Dalston Hall Caravan Park, Dalston, Carlisle, CA5 7JX)

Councillor Collier attended part of the meeting as an observer.

**OFFICERS:** Director of Economic Development  
Development Manager  
Legal Services Manager  
Planning Officers (x4)

### **DC.29/14 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillor Mrs Prest

### **DC.30/14 DECLARATIONS OF INTEREST**

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

Councillor Earp – Interest – Applications 14/0248 (Skelton House, Wetheral, Carlisle, CA4 8JG) and 14/0190 (land adjacent Tholt Y Will, Aglionby, Carlisle, CA4 8AQ – some of the objectors were known to him.

### **DC.31/14 MINUTES OF PREVIOUS MEETINGS**

The Minutes of the meetings held on 29 January 2014, 31 January 2014, 5 March 2014 and 7 March 2014 were approved and signed by the Chairman as a correct record of the meetings.

### **DC.32/14 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.33/14 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 2 (Approved Documents) of previously approved Permission 10/1066 (Revised Application), Skelton House, Wetheral, Carlisle, CA4 8JG (Application 14/0248)**

The Planning Officer submitted the report on the application, which had been advertised by means of a site notice, a press notice and direct notification to the occupiers of 133 of the neighbouring properties. The Planning Officer explained that in total 82 letters of objection had been received.

The Highway Authority had confirmed that the provision of 24 parking spaces was sufficient for the proposed development and Cumbria Constabulary had raised no comment regarding the application.

For those reasons the Planning Officer advised that the application was recommended for approval with Authority to Issue subject to a Deed of Variation to the S106 Agreement.

Mr Stephenson (Objector) addressed the Committee on behalf of himself and three other residents of Wetheral. Save Wetheral Group had written to the City Council requesting access to all pre application advice in respect of any development proposed on the site. The response was heavily redacted on the grounds that it would be commercially sensitive to the Developer's competitors. The Group did not agree with that. It had been obvious who owned the site as signs had been erected on the site, and the selling price of the apartments had been posted on the Citadel website for some time. An image from application 10/1066 was being used to promote the development.

In the absence of the requested information residents assumed that the original submission for pre approval was for a development that was the same or only marginally different to 13/0521. Mr Stephenson believed that the advice of a former Planning Officer was that such a development would be unacceptable and said that the advice should be provided on the grounds that it was in the public interest.

Mr Stephenson believed that application 10/1066 was conceived with a view to up-scaling once approved under a minor material amendment and that it was never the intention of the developer to build 10/1066. The first set of drawings submitted for application 13/0521 were dated 18 January 2011 more than a year before 10/1066 had been approved. Since then subsequent variations retained the same foundations of 13/0521 and had no resemblance to that of 10/1066. Residents contended that the foundations already laid were a significant change and therefore should not be considered a variation in line with the Killian Pretty Review.

Mr Stephenson outlined a number of concerns regarding the size of the proposed development, balconies, the increase in the number of windows to the East and West elevations between 10/1066 and the current application. Residents believed that the distance between the front street pavement and the building was incorrect and a front door in the South elevation, indicated on the plans of 10/1066, was moved to the West elevation in 13/0521 which remained, as yet, unapproved.

Mr Stephenson reminded Members that the Planning Officer's report advised that no response had been received from the Highway Authority. In fact a response raising concerns about parking provision and manoeuvring of vehicles from 2010 remained current as it referred to an approval that had not yet been superseded.

Mr Stephenson explained that the comments made by the Conservation Area Advisory Committee had not been published on the City Council Planning Portal which represented an endorsement for rejection under LE12 and LE19.

Residents remained concerned about the manipulation of the proposed development site in the overall block plan.

Mr Stephenson acknowledged that the developer had invested considerable time and effort on preparing the foundations for a development that was as yet unapproved. Residents had frequently been advised that continuing in the absence of approval was at the developer's risk but Mr Stephenson queried whether that was correct.

Mr Stephenson suggested that the application should be refused as it was contrary to policies CP5, LE19, LE12 and H1. He was aware that the developer had appealed to the Planning Inspectorate against the refusal on 13/0521 and 14/0033 and advised that residents of Wetheral would be equally as supportive in fighting their case at appeal.

In conclusion Mr Stephenson thanked the Committee for their support to date and requested that application 14/0248 be rejected.

Mr Hall (Objector) reminded Members that only application 10/1066 had been approved and the current application was for a development that would be 20% larger. He suggested that the application was contrary to policies CP5, LE12 and H1 and did not meet the requirements of paragraph 12 of the National Planning Policy Framework.

Following refusal of application 14/0033 Mr Hall believed that an impasse had been reached and requested that the application be refused to allow the Planning Inspector to determine the application.

Mr Willison-Holt (Agent) addressed the Committee and explained that the current application was the latest in a long line of changes. The developer had tried to address concerns raised by residents and the Committee. Mr Willison-Holt outlined the changes in the application and added that the developer would continue to meet residents' concerns.

The Committee then gave consideration to the application.

A number of Members stated that they had not been members of the Development Control Committee which approved application 10/1066.

In response to a query from a Member the Planning Officer confirmed that the projecting bay windows had been removed from the plans.

A Member was concerned about the building line, the increase in the number of windows and the siting of the bin/cycle store within the main building. The Member considered that the application was contrary to policies CP5, H1 and LE19 and therefore moved refusal of the application. The motion for refusal was seconded.

A Member was concerned that the condition relating to obscure windows was not strong enough to protect neighbouring properties in future.

The Planning Officer advised that if, at some point in the future, someone wished to change the window a further application would be required to vary that condition.

The Member reminded the Committee that the Conservation Area Advisory Committee was made up of architects, historians and the Chair of the Civic Trust all of whom were involved in the retention of Heritage Assets and were against the proposal.

A Member was concerned that comments had been made about the advice given by a former Planning Officer who was not able to defend himself and believed that was inappropriate, and said that a letter contained within the Supplementary Schedule had queried why the application was being considered. The Member explained that the Committee were required by law to consider applications that had been submitted.

The Member reminded the Committee that the existing approved application was extant and that he believed that no variation would be popular with residents. The Member moved approval of the application. A Member seconded the motion to approve the application.

A Member stated that the Committee had delivered a statutory function in approving application 10/1066 and that Officers had worked hard and did what they had to do within planning regulations. The Member did not agree that it was right for a developer to submit an application, have it approved then do something different to that which had been approved. He believed that the application had moved a great distance from the approved application and therefore agreed that the application should be refused. Two previous applications had been submitted to the Planning Inspector and the Member believed that if the current application was refused it too would be submitted for appeal. The Member further believed that the Committee was now in a situation where an independent, fresh look at the applications was required and therefore believed that refusal of the application to potentially allow the Planning Inspector to investigate the applications was the right course of action.

The Director of Economic Development reminded Members that their role was to consider the application and determine whether or not it was an improvement on the original application.

A Member was concerned that the applications had been discussed a number of times and if the application was refused and was submitted for appeal there could be a cost to the Council.

A Member was concerned about the issues in relation to the building line. He believed that the drawings had been distorted and that recent alterations had not removed the projecting bays but had brought the walls forward.

The Member was also concerned that the bin/cycle store had been moved to within the main building and that could cause environmental and health problems. There were concerns about who would collect the refuse and what type of bins would be provided. That variation was contrary to paragraphs 56 and 57 of the National Planning Policy Framework.

The Legal Services Manager advised that collection of refuse would be the responsibility of a Management Company and that would be covered by a Section 106 Agreement.

A Member acknowledged the advice from the Legal Services Manager and stated that he was concerned that if the Management Company did not collect the refuse the City Council had an obligation to do so. However it would not be able to access the building. He believed that the design was wrong.

In response to a query from a Member the Planning Officer indicated the extent of the previously approved application and that of the current variation. However a Member believed that the drawings were incorrect.

The Development Manager explained that the variation was to application 10/1066; however he acknowledged that there were issues with regard to the building line. The revised drawings indicated a new building line and that of the extant permission which the developer could proceed with.

Having been moved and seconded that the application be refused, and moved and seconded that the application be approved, following a vote it was:

RESOLVED – That the application be refused for the reasons stated in the Schedule of Decisions attached to these Minutes.

**(2) Change of use of golf practice range/course to provide extension to existing caravan park to form 16no additional stances for holiday use (Revised Application), Dalston Hall Caravan Park, Dalston, Carlisle, CA5 7JX (Application 14/0124)**

The Planning Officer submitted the report on the application consideration of which had been deferred at the previous meeting of the Committee following the late submission from the agent acting on behalf of the owner of Dalston Hall which cited case law. The application had been advertised by means of the direct notification of three neighbouring properties and the posting of a site notice. In response two representations of objection and twelve representations of support had been received together with a petition of support containing sixteen signatories.

The Planning Officer drew Members' attention to the Supplementary Schedule which contained an e-mail of support from a third party. Two further letters of support had also been received since the preparation of the Supplementary Schedule. All of the aforementioned representations reiterated points outlined in the main schedule.

The Planning Officer reminded Members that they had visited the site prior to the previous meeting. However, the application was deferred at that meeting in order to allow Officers to further assess issues raised by third parties, all of which had been addressed in the Main Schedule.

The Planning Officer presented photographs of the site from a number of view points from within the application site and the Hall's grounds and some of the rooms within the Hall.

In conclusion the Planning Officer recommended approval of the application.

Councillor Allison (Ward Councillor) addressed the Committee and stated that as District and County Councillor he represented both the applicants and the owners of Dalston Hall. Councillor Allison reminded Member of the background to the golf course and caravan site which had expanded over the years. The expansion had brought business to Dalston and Carlisle and local businesses had signed a petition in support of the application.

The main objectors to the application were the owners of Dalston Hall Hotel who felt increasingly compromised by the expansion of the caravan park. The Ward Councillor was concerned that the Planning Officer proposed additional screening to be placed along the

Southern boundary wall of Dalston Hall to protect the hotel from sight of the caravans would also obscure the existing views. He believed that approval of the application could lead to continued incremental development of the caravan site.

The hotel owner had and continued to invest heavily to establish the hotel as an up-market Country House Hotel catering for top end weddings and functions. If the hotel continued to be a successful business it could contribute to the local economy with increased occupancy at local bed and breakfast establishments and other hotels for wedding guests.

Councillor Allison presented photographs of the site from various viewpoints. He suggested that if the caravan site was allowed to continue to expand and encircle Dalston Hall it would compromise the future of the hotel and was therefore a material consideration when deciding on the current, and any future, applications.

Ms Bellwood (on behalf of the applicant) stated that the caravan park was currently run by two generations of the same family and was important to visitors and businesses in the area. The proposal was for a modest extension to the caravan park on land on the edge of the golf course. It was physically and visually separated from Dalston Hall. There was a high boundary wall with existing landscaping which would be enhanced. There was now permission for a large marquee in the grounds of Dalston Hall which had an impact on the setting of the Listed Building and should be taken into account when considering the application.

Whilst protecting the setting of the Listed Building it did not mean that anything within sight of the building could not be allowed. The Hall currently had no windows which overlooked the site but if they did they would see the existing caravans. If the application was approved they would see a few more and slightly closer than currently. Views of the site were minimal from the Hall and therefore there were no views of the Hall that were interrupted by the caravans and no harm to the setting of the building.

With regard to Heritage legislation modest harm could be acceptable. The current application allowed the expansion of the site to meet demand for tourist accommodation which would be a public benefit and therefore met the policy.

The Committee then gave consideration to the application.

A Member stated that whilst Dalston Hall was an important historic building, the caravan site provided support to extensive facilities in Dalston and it was important to find a balance within planning policies. As indicated by the photographs there would be no substantial impact on the views from the Hall and the proposed planting scheme would minimise the impact on the Hall. The Member moved approval of the application.

A Member seconded the motion to approve the application. The Member acknowledged the concerns of the owners of Dalston Hall and queried whether a condition could be imposed that would ensure no further expansion of the caravan site could take place. The Legal Services Manager advised caution against such a condition as it would not be possible to legally enforce such a condition nor would it be justified. Any future application would be considered on its merits.

A Member stated that it was obvious that both businesses benefitted the local community and wider community and therefore all should be done to support both businesses with regard to visitors. The Member suggested that the static caravans could be painted green to lessen the

visual impact but acknowledged little could be done with regard to touring caravans. The Member agreed that the application should be granted approval and recommended that Officers work with all parties to ensure that the impact on Dalston Hall would not be as great as they feared.

A Member reiterated that Dalston Hall was an important historic building and consideration should be given to what the Hall meant to the area.

RESOLVED – That the application be approved subject to the imposition of relevant conditions as indicated within the Schedule of Decisions attached to these Minutes.

The meeting was adjourned at 11:20am and re-convened at 11:33am.

**(3) Erection of 1no dormer bungalow, Land between Wood House and 1 Fellbeck View, Hallbankgate, Carlisle (Application 14/0166)**

The Planning Officer submitted the report which had been advertised by means of a site notice and notification letters sent to seven neighbouring properties. In response one letter of objection and three letters of comment had been received the content of which was summarised by the Planning Officer.

The Planning Officer presented photographs of the site and reminded Members that outline permission for a dwelling on the site had been granted in August 2013. Concerns had been raised about surface water drainage and the flood risk. Members had requested that any subsequent application should be determined by Committee so they could consider the impact of any proposal on flood risks.

The application had been reviewed by a firm of consulting civil and structural engineers who had advised that part of the watercourse would be diverted and a new watercourse would have a uniform width and a constant gradient which would increase flow capacity. Underground water storage tanks would be used to attenuate the flow of water into the watercourse and a soakaway would be constructed to the west of the watercourse. Conditions would be added with regard to surface water drainage and to ensure hard surfaces were permeable. United Utilities, the Environment Agency, the County Council Drainage Engineer and the City Council's Building Control Officer had no objections to the proposal. Therefore the Planning Officer recommended approval of the application.

The Committee then gave consideration to the application.

A Member stated that he was pleased that suggestions made by the Committee had been acted upon by the applicant. The development was in a small settlement with a shop, school and public house and was a vibrant community and it was important to add small developments otherwise those facilities could be lost. The Member moved approval of the application. The motion for approval was seconded.

A Member was concerned that the proposed bridge over the watercourse would not be adequate to prevent flooding. He suggested that the bridge would need to be of a sufficient size to allow the free flow of water. The Planning Officer confirmed that those suggestions would be taken into consideration of the design.

The Legal Services Manager sought clarification on the location of the watercourse. The Planning Officer confirmed that the watercourse did not pass under the highway but the bridge was the access on to the property.

A Member believed that the site would flood unless the culvert was cleared regularly and queried who would be responsible for that. He was concerned that the soakaway would not be sufficient for the site.

A Member reminded the Committee that advice had been given from the Drainage Engineer and that United Utilities and the Environment Agency were happy with the proposal.

RESOLVED – That the application be approved subject to the imposition of relevant conditions as indicated within the Schedule of Decisions attached to these Minutes.

**(4) Variation of Condition 28 (Highway Improvement Scheme) of previously approved Permission 00/0439, L/A Peter Lane bounded by Dalston Road, Cummersdale, Carlisle, Cumbria (Application 14/0135)**

The Planning Officer submitted the report which had been advertised by means of a site notice and notification letters sent to the occupiers of four of the neighbouring properties. No representations had been received during the consultation period. The Planning Officer recommended approval of the application.

The Committee then gave consideration to the application.

A Member was concerned that there had been a great deal of inconvenience to motorists during the recent work which had caused the road to be closed. The Member suggested that service providers should work together to limit the disruption when future work would be required on the site. The Member believed that the developer should have the infrastructure in place before starting work on the site. The Member moved refusal of the application.

A Member had understood that when work started on the site that the part of Dalston Road close to the site would be resurfaced and requested an update on the work. The Development Manager explained that Pirelli had recently had a number of applications approved and there was also work to be undertaken with regard to the site at Morton. The Development Manager confirmed that he would look at the work programme which related to a number of Section 106 Agreements on different applications.

A Member was concerned that the applicant was requesting permission to complete work on the site before constructing any footways, roadways or installing lighting and that it could set a precedent for future developers. Part of any development was to ensure that the infrastructure was right.

The Planning Officer explained that the previous condition had stated that the developer should enter into and complete an agreement with the Highway Authority before work commenced. The Highway Authority had raised no objection to the current application.

The Planning Officer considered it unlikely that approval of the application could set a precedent on a development of such a scale as houses would not sell without the infrastructure being in place. The current application was a relaxation of the condition to enter into the agreement process but not complete before work commenced. However the Planning Officer confirmed that he acknowledged Members' concerns.



The Legal Services Manager explained that, in legal terms, an agreement was complete when it was entered into and therefore Members should not be too concerned with the deletion of the wording “and complete”.

A Member believed that there could be problems in future and stated that a clear condition had been imposed which the developer now wished to vary. People in the area had suffered for some time with little progress and the Member believed that the matter should be resolved to enable work to commence.

A Member stated that the previous condition was clear and stated that he did not wish the Committee to be faced with a similar situation in future. He suggested that the Highway Authority had been given sufficient time to complete the work. Therefore the Member proposed that the application should be rejected.

The Legal Services Manager explained that an agreement was complete when it was entered into and signed. The legal definition of occupancy was when someone was occupying a property for the purpose intended by the permission, ie living in it as opposed to occupation for building or fitting out. The new condition stated that no-one should live in any of the properties until the work was completed.

A Member stated that there had been a similar situation in Dalston where work was not completed until some time after the development was occupied. The Development Manager explained the background to that application. He advised that the current site was still being constructed and it was not in the developer’s interest to leave the work until after occupancy.

A Member stated that the developer was aware of the condition when planning permission was granted. There had been huge disruption and the Member believed that there could be more in future. The Member queried whether the proposed condition was strong enough to prevent a similar situation occurring in future.

The Director of Economic Development advised that the agreement was with the Highway Authority and it was their responsibility to take any relevant enforcement action. The Committee, as the planning authority had set out the condition when the application was approved and the developer had agreed with that.

It was moved and seconded that the application be approved.

A Member queried whether the Committee could refuse the application when the Highway Authority had no objection to it. The Legal Services Manager advised that a breach of the Highways Agreement would be the responsibility of the Highway Authority. A breach of the planning condition would fall to the City Council to take any necessary enforcement but any penalty would be minimal, being a fine in the Magistrates’ Court. In response to a suggestion from a Member the Legal Services Manager advised that a stop notice would prevent work on the site and the Council could be liable to pay compensation to the developer if they lost money as a result. If it was the wish of the Committee to impose a stop notice a further report to the Committee would be required.

The Chairman reminded Members that refusal of the application had been moved and seconded and approval of the application had also been moved and seconded. Following a vote it was:

RESOLVED – That the application be approved subject to the imposition of relevant conditions as indicated within the Schedule of Decisions attached to these Minutes.

**(5) Demolition of residential building and erection of 1no dwelling, land adjacent Tholt Y Will, Aglionby, Carlisle, CA4 8AQ (Application 14/0190)**

The Planning Officer submitted the report which had been advertised by means of a site notice and a notification letter sent to three neighbouring properties. No verbal or written representations had been received during the consultation period.

The Planning Officer explained that the site was located adjacent to the small village road which led to Holme Gate from the A69 Carlisle to Newcastle road. The site was located within part of the curtilage of an existing property which extended along the north of Aglionby. To the south and west of the site were several large detached properties. The site was also adjacent to other residential properties and their domestic curtilages. Furthermore, Aglionby was close to Carlisle as well as the Key Service Centre of Scotby. In light of those facts the site for housing was consistent with the policies in the National Planning Policy Framework and the principle of development was acceptable.

The Planning Officer presented slides showing the site location plan, the block plan and existing and proposed elevations. The existing garage was currently used as both a garage and ancillary accommodation to the main property. The proposed ground floor and first floor plans were also presented. Photographs were presented showing the site from various viewpoints. The Planning Officer recommended approval of the application.

The Committee then gave consideration to the application.

A Member was concerned about the shared drive. The existing property currently had a garage with ancillary accommodation and the applicant had now submitted an application for a second dwelling. The original dwelling would not have a garage. The Member queried whether there would be a legal agreement with regard to the shared drive.

The Planning Officer explained that the Highway Authority had no concerns about the proposal. The proposed property had a garage and there would be sufficient parking available for the existing property.

The Legal Services Manager advised that the main issue with regard to the drive would be maintenance and it would be a civil matter to resolve any problems.

Approval of the application was moved and seconded.

In response to a query from a Member the Planning Officer explained that the accommodation within the garage was ancillary to the main dwelling and therefore no planning permission was required.

RESOLVED – That the application be approved subject to the imposition of relevant conditions as indicated within the Schedule of Decisions attached to these Minutes.

**(6) Erection of 1no dwelling (Outline), land adjacent 337 Blackwell Road, Carlisle, CA2 4RU (Application 14/0212)**

The Planning Officer submitted the report on the application and advised that the application had been advertised by the display of a site notice as well as notification letters sent to four neighbouring properties. During the consultation period, one comment had been received from the occupier of a neighbouring property. The Planning Officer drew Members' attention to a photograph of the application site displayed on the screen and recommended refusal of the application.

The Committee then gave consideration to the application.

Refusal of the application was moved and seconded.

RESOLVED – That the application be refused for the reasons stated within the Schedule of Decisions attached to these Minutes.

(The meeting ended at 12.15pm)