

DEVELOPMENT CONTROL COMMITTEE

FRIDAY 14 AUGUST 2020 AT 10.00 AM

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

ALSO

PRESENT: Councillor Dr Davison (in her capacity as Ward Member) attended in the meeting having registered a Right to Speak in respect of application 19/0556 – BSW Sawmills, Cargo, Carlisle, CA6 4BA.

OFFICERS: Development Manager
Legal Services Manager
Principal Planning Officer
Principal Health and Housing Officer
Planning Officer x 1
Ms Renyard – Lead Officer, Flood and Development Management, Cumbria County Council

DC.064/20 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Brown, Collier, Nedved and Rodgers, and the Corporate Director of Economic Development.

DC.065/20 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 the applicant being known to her.

Councillor Morton declared an interest in respect of application 20/0206 – Land adjacent to Beck House, Cumwhitton, Carlisle. The interest related to the applicant being known to him.

Councillor Christian declared an interest in application 20/0206 – Land adjacent to Beck House, Cumwhitton, Carlisle. The interest related to an objector being known to him

DC.066/20 PUBLIC AND PRESS

RESOLVED – That the Agenda be agreed as circulated.

DC.067/20 AGENDA

RESOLVED – That Schedule B be considered after Item 4.

DC.068/20 MINUTES OF PREVIOUS MEETINGS

RESOLVED – That the minutes of the meetings held on 17 July 2020 and 12 August (virtual site visits) be approved.

DC.069/20 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.070/20 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. 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 submitted the report on the application which had been subject of a virtual site visit by the Committee on 12 August 2020.

Slides were displayed on screen showing: site location plan; site boundary plan; existing sensitive receptors plan and photographs of the site, an explanation of which was provided for the benefit of Members.

The application had been withdrawn from the 19th June 2020 meeting of the Committee in order for a meeting to take place between the applicant's noise consultant (WYG) and Officers in the Council's Environmental Health team to discuss the noise assessment undertaken. At the meeting, it was agreed that additional information was required to make the noise assessment more robust and, therefore, acceptable to Environmental Health Officers. A Noise Addendum Report was subsequently submitted on 15th July 2020, a summary of its findings and conclusions were set out in the Officer's report.

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

Councillor Allison (Cumbria County Council) addressed the Committee in the following terms: BSW were widely seen as a good employer and neighbour by local residents; there was already a high level of background noise in the area as a result of business operations, including, but not limited to BSW, therefore residents needed reassurance that the proposal would not generate significant increases in noise; Councillor Allison had carried out his own noise assessment and concluded that the existing road network and adjacent residential development generated more noise than the activities proposed by the application would. Councillor Allison asked Members to support the Officer's recommendation.

Councillor Dr Davison (Ward Member) addressed the Committee in the following terms: BSW were an important employer and approving the application would secure jobs; a number of residents in properties close to the application site were concerned about the potential for

increased night time noise; were an increase in noise to occur, it was important residents had a clear point of contact where they were able to raise issues; the Committee needed to be confident that BSW was able to effectively monitor and enforce the route HGVs took when exiting the site i.e. they should head to the ring road and not use the residential road.

Mr Hale (Agent) responded in the following terms: Environmental Health had withdrawn their objection to the proposal following the submission of further noise assessment information; the conditions that the application sought to remove were no longer necessary due to the creation of the ring road; the continued application of those conditions was contrary to Paragraph 55 of the National Planning Policy Framework (NPPF); the conditions had the potential to reduce the competitiveness of the business; BSW operated several other sites in the country each of which was in a similar setting, but were not subject to such conditions; the proposal was not contrary to Local Plan policy CM 5 – Environmental Protection and Amenity; the Noise Assessment and subsequent addendum demonstrated that the proposal complied with safety standards – BS 8233 WHO and BS 4142; approving the application would support the business.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The noise assessment in respect of BS 4142 had taken place prior to lockdown;
- A single 11 decibel sound event had occurred during the noise assessment, however, it was anticipated that the overall increase in background noise would be less than 1 decibel;
- BSW had carried out the noise assessment within the site in relation to BS 4142 as the same equipment was required to be used throughout the process. The data had been analysed by Environmental Health Officers and was considered to be compliant;
- Any person was able to contact Environmental Health in respect of a noise complaint. The process for dealing with such complaints was summarised;
- A Traffic Management Plan (which included written instructions to HGV drivers), CCTV and GPS tracking in vehicles allowed BSW to monitor and manage the direction used by HGVs exiting 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.

- 2. 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 on the application. Slides were displayed on screen showing: 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.

The application had been deferred at the 19 June 2020 meeting of the Committee in order to allow Officers the opportunity to review the suggested planning conditions. The report included an Addendum which set out each of the conditions originally proposed and an appraisal of the planning discussions with the applicant which the Planning Officer summarised.

The wording of the conditions were as precise as they were able to be in terms of dealing with the planning issues which was the extent of the remit of this application and process. The planning system was not a catch all solution and was only able deal with the matters relevant to the development being proposed.

Members were advised to be mindful of the fall-back position which was a material consideration in the determination of this application. Focusing on the extended area to the rear of Stonerigg, were the application to be 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 the land unencumbered except if it resulted in any statutory nuisance that may be enforceable under separate legislation.

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

The Development Manager read out a written submission on behalf of Councillor Allison (Ward Member) which: requested the re-wording of Conditions 3 and 4 to include specific references to Cumbria Wildflowers; considered Condition 5 did not support the Council's stance on Climate Change; Condition 6 was not adequate and was open to manipulation. Were the Committee to refuse the application, the applicant had a right of appeal to the Planning Inspectorate who would consider the conditions as part of any such determination.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The only machinery permitted to be operated on the extended area of hardstanding within the application site was that related to the horticultural business operation;
- It was not reasonable to include a condition precluding the chipping of wood on the site as:
 - (a) such an operation did not include permanent, fixed structures and as such did not require Planning Permission;
 - (b) the applicant used a biomass boiler at the site, and it was reasonable to consider that chippings of wood may be used as fuel as part the existing business operation;
- Condition 3 required the applicant to submit details of means of preventing plant and machinery breaching the boundary with the adjacent property, for approval by the Local Planning Authority;
- Environmental Health had responded to the consultation on the application but had not raised any issue with regards to noise related to wood chipping activities. Any complaint passed to that team on the matter would be investigated;
- No condition had been included on the 2013 Change of Use permission restricting the operations at the site to horticulture. It was a matter for Members whether they deemed such a condition had become necessary.

A number of Members felt that the provision of additional screening along the boundary of the site adjacent to the play area of the adjacent property would minimise the visual impact for those residents. A Member proposed that a condition be added to the Consent requiring that to be provided, the Committee indicated its agreement.

Members also expressed concerns in respect of the burning of waste at the site and, the parking and storage of vehicles not associated with the Cumbria Wildflowers business at the site. At the Committee's request, Officers undertook to write to the applicant on those matters.

A Member moved the Officer's recommendation along with an additional condition requiring provision of additional screening along the boundary of the site adjacent to the play area of the adjacent property. The proposal 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. Erection of Machinery and crop storage building (Part Retrospective) Land adjacent to former Railway Inn, Low Row, Carlisle CA8 2LG (Application 20/0377).

The Principal Planning Officer submitted the report on the application which had been subject of a virtual site visit by the Committee on 12 August 2020.

Slides were displayed on screen showing: location plan, block plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Lead Local Flood Authority (LLFA) had an ongoing investigation relating to flooding in the area of the building and the railway line. It was the belief of the LLFA that the drainage outfall for the agricultural field was potentially compromised beneath the railway line which resulted in severe flooding to multiple properties within the vicinity. The surface water drainage from the building currently discharged to the compromised drainage network downstream which was not acceptable. Accordingly, Condition 2 required the removal of the current connection to the compromised culvert and for the surface water to be directed to a soakaway.

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

Mr Watson (Objector) spoke against the proposal in the following terms: the applicant and their land agent were aware of an existing covenant that prevented use of the road and development of the site. A structure had been present at the site for approximately two and a half years. Approval of the application may result in legal action.

The Committee then gave consideration to the application.

In response to a request from a Member for further information on the point made by the Objector, the Principal Planning Officer stated that he had discussed the matter with Mr Watson on several occasions. The existence of a covenant was a civil matter and did not prevent the granting of Planning Permission. The application contended a right of access over the road and to the application site. Any breach of a covenant was a matter for the individual or organisation with the power to enforce it.

The Legal Services Manager added that she had, on the previous day, consulted the Land Registry regarding the application site, however, no ownership details were recorded. Any covenant associated with the site would be included in the Title Deeds, which were not available as no owner was known. She reiterated that the issue was a civil matter, Members were only required to be satisfied that the proposed access was suitable and safe in order for Planning Permission to be granted.

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

4. Erection of 1 no dwelling, Land adjacent to Beck House, Cumwhitton, Carlisle (Application 20/0206).

Councillor Morton, 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. Slides were displayed on screen showing: site location plan; proposed block plan; proposed floor plans; elevation plans; proposed site section plans; entrance view plans; external views plans, and photographs of the site, an explanation of which was provided for the benefit of Members.

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 original Block Plan submitted showed the re-routing of the Public Right of Way (PRoW) through the site. However, the revised block plan indicated that the PRoW would retain its existing course through the site.
- The Historic Environment Officer had responded to the consultation on the application, indicating no further information was required. Were Members to consider an archaeological survey of the site was necessary they were able to impose a condition requiring it.

The Chair felt an archaeological survey was necessary and that it should be carried out prior to the commencement of development, he proposed that an additional condition be included in the Consent requiring one to be undertaken. The Committee indicated its agreement.

A Member moved the Officer's recommendation along with the imposition of an additional condition requiring an archaeological survey of the site be undertaken prior to development at the site. The proposal 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.

Schedule B

The Development Manager submitted the report which detailed other planning decisions taken within the district.

RESOLVED – That the report be noted.

The Committee adjourned at 12:10pm and reconvened at 2:10pm

Councillor Mrs Bowman left the meeting.

5. Erection of self building dwellings (Outline), Land adjacent to St John's Hall, Cumwhinton, Carlisle, CA4 8EJ (Application 19/0898).

The Principal Planning Officer submitted the report in the application which had been subject of a virtual site visit by the Committee on 12 August 2020. Slides were displayed on screen showing: site location plan; superseded outline proposal plan; amended outline proposal plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

Member's attention was drawn to the Supplementary Schedule which contained an additional letter of objection to the proposal. Since the publication of the report a further response had been received from County Council as Lead Local Flood Authority (LLFA), emphasising the importance of daylighting of the culvert within the site. Therefore, the Principal Planning Officer proposed that the following condition be included in the permission:

"As part of any subsequent reserved matters application details of the proposed daylighting of the unnamed watercourse from NGR: 345098, 552794 to NGR: 344937, 552947 shall be submitted to and approved in writing by the Local Planning Authority. Works to daylight the watercourse shall be completed prior to first occupation."

The applicant had advised that a visual inspection of the barn had been undertaken which indicated no evidence of bats therein. The Principal Planning Officer advised that an emergence survey was still required to be conducted.

The Planning Officer recommended that:

- 1) the application be approved, subject to the completion of a Section 106 legal agreement to secure:
 - a) the units as self-build dwellings;
 - b) a financial contribution of £5,500 for the gateway and speed limit changes and £5,000 for the chicane and associated signage.
- 2) Should the legal agreement not be completed, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

Mr Round (Objector) spoke against the application in the following terms: were the application to be approved the cumulative impact of it along with other approved development in and nearby the village would amount to over development; the area around the proposed Southern Relief Road was where new developments should be sited; there was an ongoing flooding issues associated with the application site which approval of the proposal would exacerbate – slides were shown on screen to illustrate the matter; in the event of the application being approved, the

drainage system would need to be tested and proven to work prior to the commencement of works.

Councillor Mrs Bowman (Ward Member – on behalf of Councillor Higgs) addressed the Committee in the following terms: if approved, the application would be the fifth development permitted in the area in recent times; three of the other latterly approved sites remained under construction; the site was not allocated in the Local Plan 2015-30 and had been discounted under the Strategic Housing Land Availability Assessment (SHLAA) on the grounds of surface water flooding, poor drainage and impact on setting; the Commission for Architecture and the Built Environment also noted that allowing substantial development in Cumwhinton would become incongruous and change the character of the village; the local school was oversubscribed and had parking problems associated with collection and drop off times; the nearby village hall was well used and also had associated parking issues, the 10 spaces proposed by the applicant were not sufficient to meet that need; the policy was not compliant with Local Plan policy HO2 – Windfall Housing Development; details of the visibility splays at the access point had not been provided.

Mr Blacker (Agent) responded in the following terms:

Drainage – The proposal to daylight the culvert would lead to a betterment of the existing situation and was compliant with the Cumbria Development Design Guide and the relevant Carlisle District Local Plan policies. Moreover, a Condition had been imposed (no.19) which required, prior to the commencement of development a surface water drainage scheme be submitted to the Local Planning Authority for approval.

Parking – the proposal provided for 10 car parking spaces within the site, available for public use which would reduce the need for parking along the roadside. In addition, the applicant was in discussions with Cumwhinton Village Hall committee in relation to the grassed area adjacent to the north east side elevation of the Hall, to the rear of the War Memorial as it was considered that the use of this area by the Village Hall could considerably improve the facility. An area of grassed space would allow for greater use and enjoyment of the building if additional doors were provided in this elevation, for outdoor activities and events.

Carlisle South - the St Cuthbert's website stated that *'there are strong links between the construction of the Carlisle Southern Link Road and the unlocking of development parcels for the building of the new garden communities. Construction of the road is due to start in Autumn 2021 and be completed two years later.'* Therefore, it was unlikely any building would commence on the Carlisle South land within 3 years, and so was not relevant to the current application. In addition, Local Plan policy HO 2 was not dependent on nor linked to Carlisle South.

The issue of speeding traffic in the village was mentioned several times in the Summary of Representation. A contribution of £10,500 requested by Cumbria County Council for signage and traffic calming outside of the Village Hall had been agreed, as part of any approval.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

Culvert:

- The design would be carefully considered as part of the Discharge of Conditions application and was covered by the additional condition proposed by the Principal Planning Officer in his presentation;

- The proposal to daylight the culvert would offer a betterment to the existing flooding situation in the area;
- The maintenance of the daylighted culvert would be the responsibility of the landowner. The LLFA had powers to ensure that it remained free from obstruction and in operational order;
- The likely cost of the works would be significant and may not secure DEFRA funding for it to be carried out. It was in the LLFA's Programme of Works for Comprehensive Spending Review 3 (2027 - 2035). The approval of the application would see those works carried out far sooner than where the matter to be addressed by the LLFA.

Car Parking:

- In response to concerns expressed by Members that the proposed car parking offered by the applicant be provided at the earliest opportunity, the Principal Planning Officer noted that Condition 10 required the submission of details for approval, and indicated that its formation may take place early in the process of developing the site;
- The amount of wall that would need to be removed to accommodate the visibility splays for the parking was not known. Condition 25 required the submission of details for approval. Reducing the height of sections of the wall to no lower than 1.05m would lessen the section requiring removal. The Principal Planning Officer noted concerns that the wall was a characteristic feature of the village;
- The 10 spaces provided by the applicant was considered to more than offset the loss of roadside parking;
- The applicant was in discussions with the Village Hall Committee regarding the provision of additional land for car parking. Those discussions were a civil matter and out with the current application;
- The additional car parking provision was not considered to have a detrimental impact on the activities of the Village Hall as users of that facility would be able to utilise the 10 provided spaces within the development;
- Given the scale of the proposed development it was not reasonable to expect the applicant to provide any further car parking provision or traffic management measure beyond those already indicated in the report.
- The application was for Outline Permission with all matters reserved. Accordingly, the development of individual dwellings would subject to the granting of Planning Permission through the usual application process where issue such as form, scale, design and material would be considered;
- The site discounted as part of the SHLAA had been the whole field and had been for a significant number of dwellings. The current application site and proposed development was much more modest in scale and was therefore considered acceptable.
- The site had not been allocated for housing in the existing Local Plan. In order for the Council to deliver its government set housing targets development of Windfall sites, was necessary and supported by the Local Plan via policy HO 2 – Windfall Development. The St Cuthbert's Garden Village development did not preclude Windfall Development taking place.

Members expressed concerns regarding the availability of places at the local primary school. In response the Development Manager advised of the Planning Obligations made in respect of education contributions which it was understood would be used to provide an extension at the school. Cumbria County Council as Local Education Authority was responsible for the matter.

A Member proposed that the application be refused on the grounds that the impact of the cumulative development of the area amounted to creeping urbanisation of the village, and that in

his view the policy was not compliant with Local Plan policy SP 2 – Strategic Growth and Distribution. The proposal was seconded.

Another Member moved the Officer's recommendation, which was seconded. Both proposals were put to the vote, and it was:

RESOLVED – That:

- 1) the application be approved, subject to the completion of a Section 106 legal agreement to secure:
 - a) the units as self-build dwellings;
 - b) a financial contribution of £5,500 for the gateway and speed limit changes and £5,000 for the chicane and associated signage.
- 2) Should the legal agreement not be completed, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

DC.071/20 STANDING ORDERS

During consideration of the above item, it was moved, seconded and RESOLVED that Council Procedure Rule 9, in relation to the duration of meetings be suspended in order that the meeting could continue over the time limit of 3 hours.

[The meeting closed at 3:35pm]