DEVELOPMENT CONTROL COMMITTEE

FRIDAY 30 APRIL 2021 AT 10.00 AM

PRESENT: Councillor Tinnion (Chair), Councillors Alcroft, Birks (until 12:30pm), Christian, Finlayson, Meller, Morton, Nedved, Shepherd and Whalen.

OFFICERS: Corporate Director of Economic Development (until 12:30pm)
Development Manager
Legal Services Manager
Principal Planning Officer
Planning Officer x 3
Planning/Landscapes Compliance and Enforcement Officer
Mr Allan – Flood Development Officer, Cumbria County Council

DC.035/21 APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Glendinning.

DC.036/21 DECLARATIONS OF INTEREST

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

Councillor Tinnion declared an interest in respect of application 21/0182 – Land to the west of The Glebe, Rectory Road, Castle Carrock, Brampton, CA8 9LZ. The interest related to the applicant and objectors being known to him.

Councillor Alcroft declared and interest in respect of applications:

- 21/0076 – 17 Maltmill House, Bridge Lane, Caldewgate, Carlisle, CA2 5SR. The interest related to the applicant being known to her.
- 20/0477 – Land to the north east of Windsor Way (Tarraby View), Carlisle. The interest related to her husband working for the Local Education Authority
  Councillor Alcroft indicated that she would not take part in the determination of either application.

DC.037/21 PUBLIC AND PRESS

RESOLVED – That the Agenda be agreed as circulated.

DC.038/21 MINUTES OF PREVIOUS MEETINGS

RESOLVED 1) - That it be noted that Council at its meeting of 27 April 2021 received and adopted the minutes of the meetings held on 17 February (site visits) and 19 February 2021.

2) That the minutes of the meetings held on 26 March and 28 April (site visits) 2021 be approved.

DC.039/21 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.040/21 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. 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).

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

The principle of development had been established on the site through the granting of 3 applications for Outline planning permission. The current application solely considered the Reserved Matters comprising the layout, scale, appearance, access and landscaping which, for the reasons detailed in the report, were deemed acceptable.

The development remained subject to 15 other planning conditions which sought to further control the development, for example, through appropriate construction hours, highway detail, use of appropriate materials, finished floor levels, foul and surface water drainage.

Historically, the site was subject to a requirement to provide on-site affordable units. This was revised during a subsequent application to provide an off-site contribution. Since that time, the current Local Plan had been adopted and Policy HO4 did not require an affordable housing contribution in Affordable Housing Zone B (in which this site was located) on sites of fewer than 10 units. Therefore, no affordable housing or financial contribution was required.

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

Mr Jackson (Objector) spoke against the application in the following terms: it was not Council policy to permit buildings to be erected over existing septic tanks, associated pipe work or other underground services; the proposal was not compliant with Building Regulations; existing residents needed to retain access to the underground infrastructure in order to carry out maintenance, cleansing and repairs of the structures; the application site was not allocated for housing development in the Local Plan; the scheme would have an adverse impact on the Listed turret in an adjacent field; the Outline permission had required an archaeological brief be carried out prior to the commencement of development; the highway network in the vicinity of the application site comprised narrow roads often used by agricultural vehicles, the increased vehicle movements generated from the site would have a negative impact on highway safety; the development should seek to protect a tree with the curtilage of Mr Jackson's property from damage happening to the roots; the local Parish Council did not support the application.

Mr Rigg (Objector on his own behalf and on behalf of Mr Hitchons) spoke against the application in the following terms: he set out a timeline for the construction of dwellings which had underground infrastructure in the application site; the applicant for the Outline application advised that were the scheme approved, any repairs needed to the infrastructure would require the digging up of the proposed dwellings or their gardens in order to gain access; in 2004 an individual associated with the current applicant built across the only access to the underground

infrastructure, following court proceedings, which Mr Rigg won, access was re-granted and a new Deed of Access was made which stated *"… to ensure the right of way granted by the Deed is not impeded or obstructed in any way…";* the Deed also gave rights at all times for the construction, cleansing, maintenance repair and renewal of the tank and pipes and to pass over the access track; the cumulative effect of permitted development in and around Monkhill had a negative impact on highway safety in the area around the application site and particularly the road junction that would be used by future occupiers were the application to be approved – Mr Rigg displayed slides on screen illustrating a number of road traffic issues on the adjacent highway network; the existing drainage network in the village already struggled to cope and flooding occurred in times of rain, the scheme would make the matter worse; the development would over look and over shadow a number of existing properties.

In conclusion, Mr Rigg noted that through a Deed he had right of access to the underground infrastructure, he asked whether it was right that he be expected to return to court to defend them again.

The Development Manager read out a submission on behalf of Councillor Allison (Ward Member) which contained the following points:

- It was disappointing that the Highway Authority had not shared the concerns expressed by the Parish Council in relation to the junction which emerged on to the C2042, as it had been estimated that the development would generate at least 50 additional vehicle movements per day;
- Access to septic tanks and service pipes by existing residents were dismissed as a civil matter. Detailed drawings of the site and the dwellings, were now available, however, the locations of those services were not shown in the plans, were they found to be close to or even under a dwelling that may result in non-compliance with Building Regulations As a condition for approval, Councillor Allison suggested that the inclusion of those services being included in the Approved Plans be a material consideration. The existence of those services and access rights would then be evident to prospective purchasers and should not be hidden;
- The original application proposed two affordable houses which had subsequently been amended to an equivalent financial sum, presumably as a financial contribution under a S106 agreement, or to support affordable dwelling of equivalent value elsewhere. The Parish Council, Countryside Officer and Councillor Allison as Cumbria County Council Ward Member were seeking funding for the protection of Hadrian's Wall Walk a short distance away at Beaumont.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- There was an underground infrastructure corridor on the application site to the rear of Gracelands and Bushy Bank properties, the Agent had confirmed the development would not affect the existing underground services;
- Were the proposal not to be compliant with Building Regulations, a redesign of the scheme may be necessary in which case the applicant would need to submit an application for a variation to any permission granted in respect of the current application;
- Any damage to the existing underground infrastructure during the construction of the scheme would need to be rectified by the developer, the issue was a civil matter;
- The Agent had advised there was no map of the existing underground infrastructure, but that those structures would be taken into account and would not be built over;

- Condition 16 of the Outline permission stipulated "*Any subsequent application for Reserved Matters shall take account of existing underground infrastructure on the site and the layout shall take account of such to avoid inhibiting future access for maintenance and repair by the relevant entitled party."*
- A separate application would consider the means of foul and surface water drainage from the site;
- At the time of the Outline application, the Highway Authority had requested the imposition of a number of conditions which were contained in the associated permission. The Highway Authority confirmed that subject to those conditions the development was acceptable;
- The layout provided with the Outline application was indicative only;
- The current application did not meet the trigger in terms of the number of dwellings to necessitate an affordable housing contribution.

Members remained concerned about the access for third parties to the underground infrastructure within the application site and for the proposed scheme to potentially construct buildings, gardens etc over those structures. A number of Members considered that in order to be certain that the infrastructure was not built over the applicant/agent must be in possession of a plan which contained those details. A Member asked if a condition may be imposed requiring that plan to be submitted.

The Planning Officer responded that in such instances it was usual for conditions to be added at the Outline application stage, it was only reasonable to add a condition to a Reserved Matters application when a material change had occurred.

The Legal Services Manager reminded Members of condition 16 on the Outline application, which the developer had advised had been done.

Members remained concerned about access to the underground infrastructure, and that without a map detailing where those structures were in the site felt they did not have sufficient information to properly determine the application.

The Corporate Director advised the Committee that it needed to be mindful of acting within its powers. Whilst it was not feasible to impose a condition regarding the submission of an underground infrastructure plan, given Members serious concerns in relation to the matter, she suggested Members considered deferring the application in order for the applicant to submit those details.

A Member proposed 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. The proposal was seconded and following voting it was:

RESOLVED: 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.

2. Proposed rear extension to provide annexe accommodation comprising living room & W.C. on ground floor with 2no. bedrooms & 1no. bathroom above (Revised Application), Rose Cottage, Uppertown, Kirklinton, Carlisle, CA6 6BD (Application 20/0834)

The Planning Officer submitted the report on the application which had been deferred by the Committee following its consideration at its meeting of 26 March 2021. The reason for deferral was for additional information and images to be provided to understand the potential impact of the proposal in its setting/context which was contained in the Main and Supplementary Schedules. Slides were displayed on screen showing: site location plan; proposed block plan; existing ground floor plan; existing elevation plan; proposed floor plans; previously approved elevation plans; revised proposed elevation plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the application be refused for the reasons set out in the report.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The application sought permission for a householder extension, therefore the most relevant Local Plan policy for its assessment was HO 8 – House Extensions. Policy SP 6 – Securing Good Design required proposed developments to respond to their local context. With reference to the block plan, the Planning Officer described the extensions at Bramley Cottage and Bramley Mews, which had a variety of forms but were all single storey and where therefore read as subservient to the main dwellings. The current application proposed an extension with a ridge height that exceeded the original dwelling so would not be viewed as subservient and as such was contrary to policy HO 8;
- The position of the dwelling on a corner would increase the visual impact of the proposed extension;
- There was an extant planning permission at the site for the construction of a flat roof extension.

A Member asked whether approving the application would set a precedent.

The Corporate Director responded that the policies of the Local Plan had been agreed by Council at the time of its adoption. The application had been assessed by the Planning Officer as not being compliant with policy HO 8 and therefore recommended it be refused. Were the Committee to grant permission, it was possible that a precedent may be set as a developer could reference the approval in a future application judged as not in compliance with that policy.

A Member moved the Officer's recommendation which 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.

3. Erection of 2no. Dwellings, Roseville Terrace, Edward Street, Carlisle (Application 21/0095)

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: site location plan; block plan; floor, elevation and section plan, 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.

With respect to the provision of residential car parking permits a number of Members commented that as the previously existing dwellings would have been issued with a permit, they expected such provision to be made for the new dwellings.

A Member moved the Officer's recommendations 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.

4. Erection of 8no. Dwellings (Reserved Matters Application Pursuant to Outline Approval 18/0214, Land to the west of The Glebe, Rectory Road, Castle Carrock, Brampton, CA8 9LZ (Application 21/0182).

The Principal Planning Officer submitted the report on the application. Slides were displayed on screen showing: site location plan; proposed site plan and sections plan; floor and elevations plan; landscape masterplan, and photographs of the site, an explanation of which was provided for the benefit of Members.

Further to the production of the report, a further letter of objection had been received, the Principal Planning Officer summarised the main points as follows: 24 Velux windows was excessive; The proposed use of brick was not in keeping with the surrounding area so was not acceptable, the houses should be rendered to fit in with the area; the proposed dwellings would be the first properties seen upon entering the village, as such they should be in keeping with the dwellings on Rectory Road and The Glebe; there was no turning point at the end of the development

The Principal Planning Officer provided the following response;

- 6 of the dwellings would have 2 rooflights in the front and 2 in the rear to serve a room in the roof. The original proposal had been for 4 in the front but had been amended to address residents' concerns;
- 2 dwellings would be render, 6 would be stone. There were a lot of stone properties in the village, and the particular stone used would be agreed via a Discharge of Conditions application;
- A turning head would be provided at the start of the development which led on to a private road. Waste Services and the Highway Authority had confirmed they were satisfied with the proposed access and turning arrangements.

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.

Councillor Birks advised that she had lost connection to the virtual meeting for a period of time and therefore would not take part in the discussion nor voting on the application

In response to questions from Members, Officers confirmed:

- The ridge height of the proposed dwellings was 87cm higher than the existing properties at The Glebe when viewed from the road. The properties would be set back 15 to 20 metres from the road with the finished floor levels being 1m higher than the road;
- The topography of the application site varied, but the levels would be reduced in places to keep the ridge heights of the dwellings down;
- Discussion had taken place with the North Pennines AONB, whose principal concern was the design and palette of materials. 6 of the proposed dwellings would be stoned faced, the particular stone used was subject to agreement by condition which would enable Officers to ensure it was in keeping with the vernacular of the village;
- Impact on the North Pennines AONB Dark Skies initiative – the proposed roof lights would serve a bedroom, therefore the light spillage was likely to be less than that from a streetlight. Given the existing dwellings and street lighting in the village, the impact of the roof lighting was not considered to be significant;
- A Swept Path Analysis of the access proposals had indicated that an HGV/refuse vehicle was able to egress the site in a forward gear;
- The proposed layout of the road within the development was not of a standard that would lead to it being adopted by the Highway Authority;
- The provision of a field gate at the western end of the site had been included in the proposal by the applicant as it had been a contractual requirement of the purchase of the site.

A Member moved the Officer's recommendation which was seconded, 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.

5. Erection of building for use as a function room in support of self-catering holiday lets; Erection of a timber-framed shelter for wedding ceremonies (Part Retrospective), Carwinley Mill House, Carwinley, Longtown, Carlisle, CA6 5PE (Application 20/0077).

The Planning Officer submitted the report on the application which had been subject of a virtual site visit by the Committee on 28 April 2021. Slides were displayed on screen showing: site location plan, existing and proposed block plans; overall site plan; proposed elevations and site plan/roof plan; sections plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

During the virtual site visits, Members had asked for clarification of numbers of guests expected at any event. The Planning Officer advised that the maximum number would be 40, it was expected that normal parties would tend to range from 30 to 40 guests. The Planning Officer further advised that the site currently included five 2-person units for tourism accommodation, but that two of the units can provide accommodation for 1- 2 more guests, meaning that the maximum number of persons staying at the site after an event would be 14, but this was not intended to be the norm.

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 Highway Authority had assessed the application in relation to car parking provision and vehicular access arrangements and was satisfied that both meet the relevant requirements;
- The applicant had provided an Operating Strategy which set out how noise from the site would be managed, were the application to be approved the onus would be on the applicant to implement those measures.

Members discussed the issue of noise management at the site and considered imposing the following conditions: no noise after 11pm, that the building be constructed with dense block work structure.

In response Officers advised that a condition relating to the block work was appropriate. However, a condition stipulating no noise after 11pm was likely not to be enforceable and as such it was not reasonable to include in any permission granted.

A Member moved the Officer's recommendation, along with the imposition of a condition requiring the building to be constructed with dense block work structure. The proposal 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.

6. Change of Use of former flat to specialist support gym together with alteration to the window and door (Part Retrospective) 17 Maltmill, Bridge Lane, Caldewgate, Carlisle. CA2 5SR (Application 21/0076).

Councillor Alcroft 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: site location plan; existing and proposed site plan; existing and proposed floor and elevation 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.

A Member moved the Officer's recommendations 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.

Councillor Birks and the Corporate Director of Economic Development left the meeting at 12:30pm.

The meeting adjourned at 12:30pm and reconvened at 2:00pm

DC.041/21 STANDING ORDERS

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.

7. Erection of 90no. dwellings (Revision of Previously Approved Permission 14/0778 to increase dwellings from 72no. to 90no. (Phase 2) Land to the north east of Windsor Way, Carlisle (Application 20/0477).

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

The Development Manager submitted the report on the application which had been subject of a virtual site visit by the Committee on 28 April 2021. Slides were displayed on screen showing: site location plan; site layout plan; layout phase 2 plan; surface treatment plan; and photographs of the site, an explanation of which was provided for the benefit of Members.

The application proposed an alteration to an existing development, therefore Members considerations must be based on the impact of the increase in dwellings, not the principle of development which had been established. The Development Manager noted that the implementation of the existing permission constituted the back stop position and was able to be lawfully implemented.

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

- 30% of the proposed additional dwellings to be affordable of which 50% are to be rented and 50% shared ownership or discounted sale over and above those already given permission;
- The payment of an education contribution of £14,500 per primary school pupil generated by the increased number of units (i.e. £71,316);
- Pro-rata increase of the off-site contributions towards open space; and
- Maintenance and management of on-site open space.

b) Should the Section 106 Agreement not be completed, authority to refuse the application be given to the Corporate Director of Economic Development.

The Development Manager read out a submission on behalf of Councillor Dr Davison (Ward Member) which contained the following points: the lack of resident response to the consultation does not necessarily equate to a lack of resident concern about this development; the application had been processed during the time of the Covid 19 pandemic which may have affected resident's capacity to respond; an objector who had wished to address the Committee on the matter had not been aware that the application was being considered at the meeting.

Members' attention was drawn to objection 0065 on the Council's Planning Portal webpage which set out a number of issues;

- Flood risk - were the Committee confident that the proposed flood risk mitigation measures were sufficient to deal with the increased number of dwellings;

- The Hanbury house design provided a bedroom size that did not comply with new guidance, were those dwellings being marketed as two or three bedroomed properties; the issue of providing an additional school in the north of the city was not yet resolved - paragraph 6.23 stated "*Whilst officers endeavour to be consistent in relation to the Committee's decisions, it is notable in this instance that the developer has already made a significant contribution towards educational provision on the basis of a financial contribution ...*" Cllr Dr Davison questioned the relevance of that statement to the decision around additional school places for this development;
- Traffic implications: Residents remain concerned about the impact of the additional traffic being generated by the estate, although another 18 houses did not seem that much it all added to the traffic. If a new school was to be built at Windsor Way, as had been suggested by Cumbria County Council, that would result in further traffic movements in and out of the estate, had the traffic assessments taken this into account;
- Exit into Newfield: Concerns have been raised about the access into Newfield crossing California Lane and whether the process was legal given that, although it was identified as a public footpath, it was a road and as such should surely come under the classification of a public highway. Along with this, issues around loss of any significant Roman remains in the process of creating the crossing of it have been raised and the hope that no further loss of damage occurs to any Roman remains along California Lane;
- California Lane provided a potentially useful cycle route Councillor Dr Davison hoped that any plans around boundaries to the estate didn't prevent any future work to upgrade California Lane as a through route for pedestrians and cyclists as part of a move towards more sustainable travel.

The Development Manager responded:

- Flood Risk - None of the statutory consultees had objected to the proposed increase in dwellings however, additional information in relation to drainage had been provided during consideration of the application to ensure that the proposed scheme did not increase risk;
- Hanbury House style - This house style already had permission however, it should be noted that the concern arose from the reference to an office rather than a third bedroom. This style and reference had not changed from the original permission and was referenced as two bedrooms with an office on the first floor. It was not referenced in the application as a bedroom;
- Traffic Implications - The Highway Authority had considered the increase in numbers and the traffic generation and were satisfied that the increase was able to be accommodated with the measures already introduced. The Development Manager advised the Committee could not consider potential applications and must only consider the proposed increase in housing proposed by the current application;
- The exit in Newfield - As well as the original application, the details were considered in a separate application and the access had been constructed. In response to reports of Roman remains being found a number of trial trenches dug under archaeological supervision. The County Council's Historic Environment Officer had not objected to the application;
- Educational Provision - This application generated demand for additional primary school places, Cumbria County Council, as Local Education Authority, had requested an increase in the financial contribution. With reference to paragraph 6.24 of the report - contributions had already been agreed and made by the developer. Whilst acknowledging further contributions would be required as a result of the increased number of dwellings, the level would be small as only four extra pupil places would be generated. The overall numbers of housing on the site were 294 including the increase created by the current application,

which was comparable to the Local Plan estimated 300 dwellings and therefore the potential numbers of pupils was envisaged when the site was allocated.

The Chair read out a submission on behalf of Councillor Mrs Mallinson (Ward Member) which contained the following points:

- The Gosling beck drained into the Eden River at a point on the bottom of the Scaur at Etterby Terrace Stanwix where it was culverted and caused flooding. A solution needed to be found up stream where the proposed Reed Bed, subject of the application was sited:
- The siting of the reed bed - the various authorities and the developer needed to ensure that further surface water drainage into the beck was better controlled on the site to stop (in a flood) the fast flow into the culvert and problems at the Etterby Terrace End of the Gosling Beck e.g. flooding of homes. To do this could the reed area be planted with Willow trees

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The reed beds and wider drainage system had been approved as part of the original application and were being worked on over time as the whole development was constructed;
- Safety measures in relation to SUDS had evolved as the mechanisms were utilised more. The use of high fences was not now considered good practice as they prevented oversight of the features so that were a child to cross a fence it may not be seen and could become trapped, as such different measures such as reed beds were preferable;
- The ongoing issues of the flooding at Gosling Syke were acknowledged. The Environment Agency was currently undertaking works (culvert expansion) to improve that situation;
- The application site in its state as a field discharged its surface water into Gosling Syke. Subject to discussions with the developer, Cumbria County Council, as Lead Local Flood Authority was seeking to secure a greenfield run-off rate of surface water from the development. In conjunction with the works to expand the culvert at Gosling Syke and the restriction of surface water drainage discharge into the beck, it was not anticipated that the development would increase flood risk;
- Vehicular access to the development via Drumbrugh Avenue had been consented as part of the original application;
- The majority of dwellings in the overall development were two storey properties. They would be built in compliance with the Life Time Homes Standard which would enable ground floor living, subject to necessary adaptations being implemented;
- The consultation response submitted by Cumbria Constabulary in respect of surveillance measures needed in relation to California Lane was based on an assessment of existing properties. In order for the proposed properties whose rear gardens would back on to the lane, the height of their rear fences would need to be increased in order to achieve Secure by Design accreditation;
- Provision of lighting on the adopted highway was a matter for Cumbria County Council as Highway Authority;
- Tarraby Lane – there was no vehicular access from the site, as defined by its red line boundary.

A number of Members expressed serious concerns in relation to school provision noting that the cumulative level of permitted development in the north of the city was exacerbating an already serious issue. Members asked for: an update on the progress of the matter, where the school

age children from the development would be schooled, and whether they would be able to access the school by walking or cycling.

The Development Manager responded that Members were aware that there was to be a new primary school north of the river within a short walk of the new dwellings. However, no planning application to construct the school has so far been forthcoming. The developer would not be the applicant for any future school provision and it had already complied with its obligations to provide contributions to education provision via a Section 106 agreement as such it was not reasonable to delay the development in this instance where a further contribution was being asked for.

It was anticipated that the new school site would be within walking distance of the development, where school aged children were educated prior to the completion of the school was a matter for Cumbria County Council as Local Education Authority.

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

RESOLVED: 1) That Authority to Issue an approval be given the Corporate Director of Economic Development subject to the completion of an appropriate Section 106 Agreement regarding:

- 30% of the proposed additional dwellings to be affordable of which 50% are to be rented and 50% shared ownership or discounted sale over and above those already given permission;
- The payment of an education contribution of £14,500 per primary school pupil generated by the increased number of units (i.e. £71,316);
- Pro-rata increase of the off-site contributions towards open space; and
- Maintenance and management of on-site open space.

2) That should the Section 106 Agreement not be completed, authority to refuse the application be given to the Corporate Director of Economic Development

DC.042/21 TPO 310 LAND WEST OF TANGLEWOOD, CUMWHINTON

The Planning/Landscapes Compliance and Enforcement Officer submitted report ED.14/21 which considered the confirmation of Trees Preservation Order (TPO) 310 Land west of Tanglewood, Cumwhinton in light of representations received to the making of the Order.

The Planning/Landscapes Compliance and Enforcement Officer recommended that the Order be confirmed with the following modification: the removal of trees T2 and T13; the repositioning of Tree 17 (T17) on the site plan.

Mr Stamper (Objector) spoke against Tree Preservation Order 310 and 311 in the following terms: the TPO had been made as a result of the refusal of planning application 20/0602, therefore the Orders needed to be considered in the context of the proposed layout of the site (a slide was displayed on screen showing the layout plan); prior to the submission of the planning application, Mr Stamper had the right to remove any number of the trees, subject to felling volume limits, however, Mr Stamper recognised the value of the trees and decided to retain them; application 20/0602 only required the removal 4 trees which were either dead or at the end of their life; the Orders sought to protect already damaged trees; the local Parish had not objected to the application; The Council had commissioned a tree assessment report which in the main produced the same findings as his own assessment report, Mr Stamper questioned the

qualifications of the person who had prepared the report; Mr Stamper was insulted that as the owner, he was not trusted with the protection of the trees; the purpose of the TPOs was to prevent development of the site. Mr Stamper displayed the following slides on screen: application 20/0602 as proposed site plan and a plan from a tree survey carried out in December 2019.

Councillor Morton having heard Mr Stamper's objection became aware that the objector was known to him. Accordingly, in line with the Council's Code of Conduct, he declared an interest and took no part in the discussion nor determination of the item.

The Committee then gave consideration to the Order.
In response to questions from Members, Officers confirmed:

- The purpose of a TPO was to protect tree(s) from having unnecessary works being undertaken on them, they did not preclude the development of a site. Works to a tree subject of a TPO were able to be undertaken, subject to permission being given by the local authority;
- Planning application 20/0602 had been refused permission by the Committee principally on the grounds that the application site was considered not to be well integrated with the adjoining settlement as it was separated from it by trees and therefore would constitute development in the open countryside. The issue of the trees had been a secondary issue cited in the reasons for refusing the application.

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

RESOLVED: That Tree Preservation Order 310 Land west of Tanglewood, Cumwhinton be confirmed subject to the following modification: the removal of trees T2 and T13 and repositioning of T17.

Councillor Nedved had lost connection to the virtual meeting and therefore took no part in the discussion nor voting on the item. As he had not heard the entirety of the objector's submission the Legal Services Manager advised that he may not take part in the discussion nor determination of item A.3 – TPO 311 Land North of Tanglewood, Cumwhinton.

DC.043/21 TPO 311 LAND NORTH OF TANGLEWOOD, CUMWHINTON

Councillor Morton having declared an interest took no part in the discussion nor determination of the application.

The Planning/Landscapes Compliance and Enforcement Officer submitted report ED.14/21 which considered the confirmation of Trees Preservation Order (TPO) 311 Land north of Tanglewood, Cumwhinton in light of representations received to the making of the Order.

The Planning/Landscapes Compliance and Enforcement Officer recommended that the Order be confirmed.

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

RESOLVED: That Tree Preservation Order 311 Land north of Tanglewood, Cumwhinton be confirmed.

DC.044/21 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 involved the likely disclosure of exempt information, as defined in Paragraph Number 1 of Part 1 of Schedule 12A of the 1972 Local Government Act.

DC.045/21 QUARTERLY REPORT ON PLANNING ENFORCEMENT

The Planning/Landscapes Compliance and Enforcement Officer submitted report ED.13/21 – Quarterly Report on Planning Enforcement which set out details of a number of enforcement case being dealt with by the Council and analysis of quarterly and annual figures. She provided a verbal update on progress regarding several of the cases therein.

The Committee gave consideration to a number of enforcement cases set out in the report.

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

RESOLVED - That the content of the report be noted

[The meeting closed at 3:21pm]