

At a meeting of the Development Panel held in Council Chamber, Allerdale House on Tuesday 5 July 2022 at 10.00 am

Members

Councillor Tony Annison (Chair)
Councillor Carole Armstrong
Councillor Allan Daniels
Councillor Jimmy Grisdale
Councillor Antony McGuckin
Councillor Alan Tyson

Councillor Janet Farebrother (Vice-Chair)
Councillor Nicky Cockburn
Councillor Malcolm Grainger
Councillor Daniel Horsley
Councillor Alan Smith

Staff Present

I Fairlamb, C Fleming, S Long, K Magnay and R Wilson

Also Present

Pieter Barnard, Highways Cumbria County Council and Ryan Swales, Noise Consultant RS Acoustic Engineering Ltd.

70. Minutes

The minutes of the meetings held on 10 May 2022 and 7 June 2022 were signed as a correct record.

71. Declaration of Interests

Councillor T Annison declared an interest in item FUL/2022/0116 – Resident of Thursby.

Councillor M Grainger declared an interest in item 2/2018/0595 – knows the objector Mr Pratt, however this will not affect his ability in the decision.

72. Questions

None received.

73. FUL/2022/0116 - Resubmission of application FUL/2021/0299 for the building of 67 residential dwellings with associated open space, infrastructure, landscaping and ancillary works including temporary construction access

Representations

Richard Noons, Colin Edgar and Lisa Hays Hudson spoke in objection to the application.

A letter of objection was read out on behalf of Ian Wood

Peter Hunter, Thursby Parish Council spoke in objection to the application.

A letter of objection was read out on behalf of Councillor Helen Barlow.

The Applicant, David Hayward spoke in support of the application.

Application

The Senior Planning Officer, Rebecca Wilson recommended to approve the application subject to conditions and the signing of a legal agreement to secure the section 106 for 13 affordable housing units (7 units for affordable rent, 3 starter homes and 3 low cost housing) and a travel plan monitoring contribution of £6,600.

The Senior Planning Officer drew member's attention to the late list.

The Senior Planning Officer outlined the application and detailed the main issues within the report as follows:

- Principle of Development

The application site is within the settlement limits of Thursby as defined in the Allerdale Local Plan Part 2 and is a 'Housing Commitment'.

- Benefits of the Proposal

The provision of 67 houses would contribute to strategic objective SO2c of the ALPP2, which seeks to ensure a deliverable supply of housing land that meets the needs of the community and local economy, as well as the Council Plan in terms of strengthening our economy and supporting the development of new homes where they are needed.

The additional affordable houses to be provided by the proposal would increase access to affordable housing in the Borough, in accordance with strategic objective SO2d of the ALPP1.

- Balanced and mixed communities including affordable and accessible homes

The development is for 67 dwellings comprising: 3 x 6 bedroom; 3 x 5 bedroom; 35 x 4 bedroom; 16 x 3 bedroom and 10 x 2 bedroom (3 of these are bungalows). 13 affordable dwellings are proposed. The housing mix is considered to be acceptable.

- Scale, Layout, Design and Materials

The scale and layout is acceptable for this development site with the design and materials responding to the character of the built environment and on site constraints.

- Sustainability, Vehicular Access and Highway Safety

The highway arrangements are acceptable. Suitable visibility splays can be provided to allow for a safe vehicular access. Parking standards are met.

- Flooding/Drainage

The development secures an acceptable scheme for the disposal of foul and surface water. The foul with connection to the existing pumping station before entering the public sewer, with surface water draining to the existing SuDs pond to the north of the site, before being directed to the watercourse at a controlled rate.

- Noise

The existing noise from the wind turbine and road traffic from the A595 would not lead to unacceptable living conditions of the dwellings subject to appropriate mitigation measures that shows acceptable levels of amenity can be obtained both within the properties and the gardens.

- Shadow Flicker

The impacts from shadow flicker from nearby wind turbines would not lead to unacceptable living conditions of the dwellings.

- Heritage/Archaeology

The County Archaeologist has reviewed the archaeological evaluation report which indicates no significant archaeological remains survive on the site and so no further archaeological work is necessary.

- Landscape and Visual Effects

The development will not have a significant adverse visual impact on the landscape and amenity and will be seen in line with the existing built development. There will also be hedgerow and tree planting proposed as part of the scheme. There will be a visual change for nearby dwellings however the change is deemed acceptable and will not have a significant impact on neighbouring residential amenity by virtue of overlooking or loss of light.

- Play Provision/Amenity Greenspace

The developer has provided amenity green space throughout the development in line with the SPD.

A play area is to be provided on site, with a pedestrian link to the phase 1 development. The size is in line with those stated in the SPD and the siting and layout is considered acceptable.

- Ecology/Biodiversity Enhancements

A suitable Ecological Appraisal has been provided for the proposal along with soft landscaping plans.

The proposal will see existing trees retained and landscaping increased throughout the site to encourage a wider variety of wildlife to use the site.

Members questioned Planning Officers, Cumbria County Council and the Noise Consultant.

Following member discussions, Councillor A McGuckin proposed to refuse the application based on the previous information received regarding the wind turbine.

Councillor N Cockburn second, Councillor Cockburn asked for the same wording to be used from the meeting on 12 April 2022 as the application still fails to provide an acceptable level of amenity for the residents of the planned development because:

- 1) Under Local Plan Policy S32 (Safeguarding Amenity) – the proposal will create an unacceptable quality of amenity for both internal and external environments of the proposed homes, either by exposure of residents to unacceptable levels of noise from nearby main road or from wind turbine, or by ‘flicker’ from the nearby wind turbine, or by restrictions of amenity by measures taken to mitigate exposure to noise and ‘shadow flicker’.
- 2) Local Plan Policy S19a(i & ii) (Renewable Energy and Low Carbon Technologies) – seeks to protect local residents from unacceptably adverse impacts from renewable energy and low carbon technologies (such as wind turbines) – the applicant has failed to demonstrate that adequate protection from impacts on amenity will be provided, without an unacceptable impact on the amenity of new householders.
- 3) Under Local Plan Policy S24a (Green Infrastructure) – as a result of the applicants design response to environmental factors, the development both fails to “promote high quality, attractive places which allow everyone to enjoy direct and regular contact with the natural environment.”

As such the proposal fails to provide an acceptable balance between the Economic, Environmental and Community objectives of the Council and is therefore not sustainable development as required by Section 2 of the National Planning Policy Framework.

Councillor A McGuckin accepted Councillor N Cockburn’s wording for the motion.

A vote was taken: 7 voted in favour of refusal, 0 against, 3 abstentions

Decision

Refused

Lunch Break 12:25pm - 13:00pm

Councillor N Cockburn left the meeting

- 74. 2/2018/0595 - Outline planning application for commercial development involved mixed retail (A1) food (A3) and hot food takeaway(A5) totalling 2,350sqm (25,295sqft).**

Representations

Robert Parks, Richard Pratt and Stephen Doyle spoke in objection to the application.

The Agent, Graham Hale and David White from Taxus Ecology spoke in support of the application.

Application

The Senior Planning Officer, Steve Long recommended to approve the application subject to conditions.

The Senior Planning Officer drew member's attention to the late list.

The Senior Planning Officer outlined the application and detailed the main issues within the report as follows:

- Principle of Development

The proposed retail store is considered to be a 'town-centre' use and as such the application is subject to a sequential assessment to discount other available sites within the town centre, plus a retail assessment to demonstrate any impact of the vitality and viability of the town centre. It has been robustly evidenced that there are no suitable, available sites in sequentially preferable locations to accommodate the development and the impact is acceptable.

Furthermore this evidence has been the subject of an independent peer review. It is concluded subject to a planning condition on the type of comparison goods, that there are no available or suitable, alternative sites in sequentially preferable locations to accommodate the proposed development and the retail impact on the vitality and viability of the town centre is acceptable.

The proposal therefore complies with policies S16 and DM8 of the Allerdale Local Plan Part 1.

A retail developer has confirmed interest in developing part of the site.

- Highway Safety

The site is in a sustainable location with access to public transport.

The application is supported by a traffic assessment and the application includes the reserved matter of access which is served via the existing roundabout junction opposite Morrison's retail park on Derwent Drive.

The existing footpath along the disused line is informal. The inclusion of this detail within the layout therefore is at the applicant's discretion and the applicant has also declined the option to extend the footpath outside the site. The applicant will seek the formal diversion of the site's existing public footpath at the southern end of the site.

The County Council as highway authority consider the transport evidence to be acceptable.

- Ecology

The application site relates to the route of a former disused railway line which has naturally regenerated. The application has undertaken an ecology survey of the site, plus a bat, reptile and an Entomology report at the time of the application submission. In response to the representations the council undertook its own peer butterfly assessment in 2019. As the original were out of date during the course of the application an updated amended preliminary ecological appraisal was submitted (July 2021)

The surveys recommend mitigation measures to address any impacts.

Following member's deferral resolution at the panel meeting the applicant has provided a further updated ecology survey and revised the layout plans developable area.

Whilst the presence of small blue butterfly colonies and habitat is evident in the locality, the applicant has offered a mitigation scheme partially retaining islands and securing a new peripheral corridor for butterflies which compensates for any loss and retains the connectivity linkage along the route of the disused line. The proposal as amended complies with policy S35.

- Trees

The belt of trees on the eastern boundary of the site fronting onto Derwent Drive were previously protected by a Tree Preservation Order prior to the submission of the application as they were perceived as being under threat by any development. The application has defined a developable zone within the site which would result in the loss of the protected trees on the western side of the roadside embankment which supports the trees. As this results in the visual amenity value of the trees visible to public view on Derwent Drive being retained, these details are considered acceptable, with no significant harm to public amenity.

Following member discussions, Councillor A McGuckin proposed to refuse the application, the local planning authority consider the environmental harm to the site, by virtue of its adverse impact on the ecology and wildlife biodiversity value of the site including the loss of protected trees as part of an existing green infrastructure corridor, outweighs the economic benefits of the development contrary to Policies S2, S5, SA24, S33, S35 and DM17 of the Allerdale Local Plan (part 1) and Policy SA52 of the Allerdale Local Plan (part 2) Councillor D Horsley seconded.

A vote was taken: The vote was unanimous for refusal

Decision

Refused

75. FUL/2022/0103 - Refurbishment, redecoration and conversion of cinema including demolition of 28 Senhouse Street to create a small extension

Representations

The Agent, Kim Corrall spoke in support of the application.

Application

The Senior Planning Officer, Steve Long recommended to approve the application subject to conditions and further conditions to be applied.

The Senior Planning Officer outlined the application and detailed the main issues within the report as follows:

- Principle of Development

The scheme relates to a community regeneration project as part of the programme of works within the towns investment plan. The building concerned represents an important landmark within the centre of the town and has been vacant for several years. This therefore represents a positive investment in the town's community facilities at a sustainable location within the town, fulfilling the objectives of Maryport's role as a key service centre under the adopted settlement hierarchy of policy S3 of ALPP1. Therefore, subject to addressing any physical constraints the principle of the development is welcomed.

(Albeit this would potentially overlap and compete with the existing community asset of the Wave centre there is a separate ongoing drafted regeneration project relating to the redevelopment of this separate building.)

- Heritage/Design

The site occupies a prominent townscape corner location at the top of Shipping Brow's interchange with Senhouse Street/High Street. The large dominant scale of the Carlton building contributes to its sensitive

locality setting within the town's Conservation Area. Furthermore the Grade II listed building of the Town hall is sited opposite the property.

The neighbouring 3 storey commercial premises (No.28 Senhouse St) has been vacant for several years. The principle of its demolition is acceptable, subject to ensuring the implementation of a replacement building on its footprint (retaining the theme of the town's Georgian grid street pattern) and demonstrating that the substituting property preserves and enhances the Conservation Area. The present building has fallen into a state of disrepair.

The proposal as submitted enhances the character and features of the Carlton premises, removing the latter day alterations of the staircase entrance onto Senhouse St, with an overall facelift to the whole building. This reinforces its traditional historic identity to the benefit of not only the town's community but as a tourist destination asset, attracting visitors up into the town from the quayside area.

The replacement contemporary building for No.28 Senhouse St adopts architectural details which ensure that its design, albeit contrasting with traditional facades, complements the streetscene. The proposal therefore complies with policy S27 of ALPP1

- Highways

The County highway authority refer to the other existing public car parks within the surrounding locality which could support the proposed landuse. Therefore, there are no highway objections.

- Residential Amenity

Policy S32 of ALPP1 seeks to safeguard amenity. The application site is located within the primary commercial frontage of Senhouse Street. However, there are residential properties on the northern boundary which front onto John Street. Furthermore there is a first floor residential flat to the neighbouring property on Senhouse St.

Given the site historic use the building already has the benefit of existing noise proofing measures, and it located within the vicinity of other existing night-time economy commercial uses. It is therefore considered to be well suited towards its future community use

No objections have been received from the council's environmental health officer subject to planning conditions including restricting the operational hours of the rear yards open enclosed yardspace.

- Ecology

Policy S35 refers to ecology/Biodiversity. The application is supported by an ecological assessment. Albeit undertaken in January the report considers that given its urban setting detached from the River Ellen in an open environment which subject to artificial lighting and disturbance there was little or no impact on protected species (including bats), albeit

mitigation is required to address pigeon /brown rat species identified at the site.

Following member discussions, Councillor M Grainger proposed to approve the application subject to conditions.

Councillor A Daniels seconded.

A vote was taken: The vote was unanimous for approval

Decision

Approved

CONDITIONS

Time Limit:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**
Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990.

In Accordance:

- 2. The development hereby permitted shall be carried out solely in accordance with the following plans:**

Dwg 9246-BA-ZZ-00 DR-A(01) 001- Location Plan:

Dwg 9246-BA-ZZ-00 DR-A(04) 001- Site plan as proposed

Dwg 9246-BA-ZZ-ZZ DR-A(05) 001- North elevation as proposed

Dwg 9246-BA-ZZ-ZZ DR-A(05) 002- East elevation as proposed

Dwg 9246-BA-ZZ-ZZ DR-A(05) 003- South elevation as proposed

Dwg 9246-BA-ZZ-ZZ DR-A(05) 004- West elevation as proposed

Dwg 9246-BA-ZZ-00 DR-A(04) 010- ground floor as proposed

Dwg 9246-BA-ZZ-RF DR-A(04) 009- Roof demo plan

Dwg 9246-BA-ZZ-02 DR-A(04) 012- GA second floor plan as proposed

Dwg 9246-BA-ZZ-00 DR-A(04) 013- GA Roof plan as proposed

Dwg 9246-BA-ZZ-BA DR-A(04) 014- Basement demo plan

Dwg 9246-BA-ZZ-00 DR-A(04) 006- Ground floor demo plan

Dwg 9246-BA-ZZ-01 DR-A(04) 011- GA First floor plan as proposed

Dwg 9246-BA-ZZ-02 DR-A(04) 008 Second demo plan

Dwg 9246-BA-ZZ-01 DR-A(04) 007- First floor demo plan Location Plan:

Dwg 9246-BA-ZZ-ZZ DR-A(06) 002 East-West section as proposed

Dwg 9246-BA-ZZ-ZZ DR-A(06) 003- South-North section as proposed

Dwg 9246-BA-ZZ-ZZ DR-A(06) 005- North South demo section

Dwg 9246-BA-ZZ-ZZ DR-A(06) 006- East-West demo section

Dwg 9246-BA-ZZ-ZZ DR-A(06) 007 North South demo section

Dwg 9246-BA-ZZ-ZZ DR-A(06) 008 West-east demo section

Dwg 9246-BA-ZZ-ZZ DR-A(06) 004- West –East section as proposed

Dwg 9246-BA-ZZ-ZZ DR-A(06) 001- North–South section as proposed

Dwg 9246-BA-ZZ-ZZ DR-A(09) 001- Room schedule

Dwg 9246-BA-ZZ-ZZ DR-A(31) 004- Window type W4 proposed details

Dwg 9246-BA-ZZ-ZZ DR-A(31) 005- Window type W5 proposed details

Dwg 9246-BA-ZZ-00 DR-A(32) 001- Door type D3 proposed details

Drainage strategy

Draft ecology

Noise assessment

Reason: In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material

alterations to the scheme are properly considered.

Pre-commencement conditions:

3. **All necessary site investigation works within the site boundary must be carried out to establish the degree and nature of the contamination and its potential to pollute the environment or cause harm to human health. The scope of works for the site investigations should be agreed with the Local Planning Authority prior to their commencement.**

Reason: To minimise any risk during or post construction works arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1), Adopted July 2014.

4. **Where land affected by contamination is found which poses unacceptable risks to human health, controlled waters or the wider environment under condition 3, no development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme must include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan.**

Reason: To minimise any risk during or post construction works arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1).

5. **Should a remediation scheme be required under condition 4 , the approved strategy shall be implemented and a verification report submitted to and approved in writing by the Local Planning**

Authority, prior to the development (or relevant phase of development) being brought into use.

Reason: To minimise any risk during or post construction works arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1).

6. **In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority. Development on the part of the site affected must be halted and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to the development (or relevant phase of development) being brought into use. All work shall be undertaken in accordance with current UK guidance, particularly CLR11.**

Reason: To minimise any risk arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1).

7. **No development shall take place until a Construction and Demolition Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include the following:**

- a) **Traffic Management Plan to include all traffic associated with the development, including site and staff traffic;**
- b) **Procedure to monitor and mitigate noise and vibration from the construction and demolition and to monitor any properties at risk of damage from vibration, as well as taking into account noise from vehicles, deliveries. All measurements should make reference to BS7445.**
- c) **Mitigation measures to reduce adverse impacts on residential properties from construction compounds including visual impact, noise, and light pollution.**
- d) **Mitigation measures to ensure that no harm is caused to protected species during construction.**
- e) **A written procedure for dealing with complaints regarding the construction or demolition;**
- f) **Measures to control the emissions of dust and dirt during construction and demolition;**
- g) **Programme of work for Demolition and Construction phase;**
- h) **Hours of working and deliveries;**
- i) **Details of lighting to be used on site.**

The approved statement shall be adhered to throughout the duration of the development.

Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with Policy S32 Allerdale Local Plan, (Part 1).

- 8. No development shall commence until a scheme which specifies the provisions to be made for the control of noise emanating from the site has been submitted to and approved in writing by the Local planning authority. The scheme, as approved, shall be implemented before the development is brought into use and retained at all times thereafter.**

Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with Policy S32 Allerdale Local Plan, (Part 1).

- 9. No deliveries shall be taken at the premises or orders despatched from the premises between the hours of 2000hours and 0700 hours Mondays to Fridays, between 2000 hours and 0900 on Saturdays, and not at all on Sundays or Bank Holidays.**

Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with Policy S32 Allerdale Local Plan, (Part 1).

- 10. Before any machinery or plant is operated, a detailed scheme of sound attenuation shall be submitted to, and approved in writing by, the local planning authority and implemented to the satisfaction of the local planning authority. The apparatus shall subsequently be retained, and maintained in good working order at all times to the satisfaction of the Local planning authority.**

Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with Policy S32 Allerdale Local Plan, (Part 1).

- 11. No part of the development hereby permitted shall be commenced until full details of the ventilation and odour control measures to be installed at the property (including noise attenuation measures and predicted noise levels at the discharge point) have been submitted to and approved in writing by the Local Planning Authority. These measures shall be installed in accordance with the approved details and shall be fully operational before the use commences. The measures shall be retained as approved and maintained operational for the lifetime of the development.**

Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with Policy S32 Allerdale Local Plan, (Part 1).

- 12. No part of the development hereby permitted shall be constructed above ground floor level until details and representative samples/colours of all external and roofing materials have been submitted to and approved by the Local Planning Authority. The development shall be constructed in accordance with the approved details.**

Reason: To ensure a satisfactory standard of development for the external appearance of the approved scheme which is compatible with the character of the surrounding area, in compliance with the National Planning Policy Framework and Policy DM14 of the Allerdale Local Plan (Part 1).

- 13. The use of the building hereby approved (excluding the open courtyard) shall solely operate between the hours of 9am and 11pm on Mondays to Saturdays, and between 9am and 10.30pm on Sundays and Bank Holidays.**
Reason: In the interests of preserving the amenity of nearby residential properties, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.
- 14. The rated level of plant noise from the site shall not exceed 42dB leq 1 hour between the hours of 9am and 11pm on Mondays to Saturdays, and between 9am and 10.30pm on Sundays and Bank Holidays (in accordance with the methodology provided in BS4142 (2014) as measured 1m from the façade of the nearest sensitive landuse to the site or at the point identified in the accompanying monitoring plan of the site.**
Reason: In the interests of preserving the amenity of neighbouring residents, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.
- 15. The demolition works hereby approved shall not be implemented until a contract has been granted for the delivery of the redevelopment of the site**
Reason: To ensure the delivery of the development preserves and enhances the existing environment of the site and its character and setting within the Conservation Area, in compliance with the National Planning Policy Framework and Policies S4 and S27 of the Allerdale Local Plan (Part 1).
- 16. The approved obscure glazing details hereby approved shall be fully implemented prior to the commencement of the use and shall be retained at all times thereafter unless agreed in writing with the Local Planning Authority.**
Reason: To safeguard the residential amenity of the occupiers of neighbouring dwellinghouse, in compliance with the National Planning Policy Framework and Policies S4, DM14 and DM15 and S32 of the Allerdale Local Plan (Part 1).
- 17. The works shall be implemented solely in accordance with the mitigation strategy outlined in Section (7) of the Ecological appraisal received on 3rd May 2022.**
Reason: To safeguard the habitat of bats in compliance with the National Planning Policy Framework, Policy S35 of the Allerdale Local Plan (Part 1), Adopted July 2014.
- 18. The use of the open courtyard hereby permitted shall solely operate between the hours of 9am and 9pm on Mondays to Fridays, Saturdays, Sundays and Bank Holidays.**
Reason: in the interests of preserving the amenity of nearby residential properties, in compliance with the National Planning Policy Framework and Policy S32 of the Allerdale Local Plan (Part 1), Adopted July 2014.

The meeting closed at 3.10 pm

