

PLANNING PANEL

14 OCTOBER 2009

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RELEVANT INFORMATION

The planning applications referred to in this agenda together with responses from consultations and all other representations received are available for inspection with the exception of certain matters relating to the personal circumstances of the applicant or objector or otherwise considered confidential in accordance with Local Government (Access to Information) Act 1985.

In considering the applications the following policy documents will, where relevant, be taken into account:-

Town and Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

Cumbria and Lake District Joint Structure Plan

Copeland Local Plan 2001-2016 - adopted June 2006

Lake District National Park Local Plan - Adopted May 1998

Cumbria Car Parking Guidelines

Department for Communities and Local Government (DCLG) Circulars:-

In particular:

22/80	Development Control, Policy and Practice
15/88	Environmental Assessment
15/92	Publicity for Planning Applications
11/95	The Use of Conditions in Planning Permissions
01/06	Guidance on Changes to the Development Control System

Department for Communities and Local Government (DCLG):-

Planning Policy Guidance Notes and Planning Policy Statements

Development Control Policy Notes

Design Bulletins

STANDARD CONDITIONS

In order to save space standard conditions applied to all outline, full and reserved matters consents have been omitted, although the numbering of the conditions takes them into account. The standard conditions are as follows:-

Outline Consent

1. The layout, scale, appearance, means of access thereto and landscaping shall be as may be approved by the Local Planning Authority.
2. Detailed plans and drawings with respect to the matters reserved for subsequent approval shall be submitted to the Local Planning Authority within three years of the date of this permission and the development hereby permitted shall be commenced not later than the later of the following dates:-
 - (a) the expiration of THREE years from the date of this permission
 - or
 - (b) the expiration of TWO years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reserved Matters Consent

The development shall be carried out in accordance with the plans submitted and in accordance with the conditions attached to the outline planning permission.

Full Consent

The development hereby permitted shall be commenced within THREE years from the date hereof.

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1 4/09/2273/0

DISCHARGE OF A SECTION 106 AGREEMENT RELATING TO
THE CREATION OF ROADS TO AN ADOPTABLE STANDARD
LAND AT, CHURCHILL DRIVE &, PANNATT HILL, MILLOM,
CUMBRIA.
MR A AND MRS S ELVEY

Parish Millom

- Object strongly as the roads have been in a totally unacceptable condition for 30 years.

Permission is sought to discharge an outstanding Section 106 Agreement requiring the making up of the estate roads on an existing housing development, Churchill Drive/Pannatt Hill in Millom, to adoptable standards to facilitate the development of the remaining vacant plots. The applicants have purchased one of the plots, plot C, and wish to develop it without being beholden to the existing S106 Agreement which they claim is now obsolete and offers no prospect of achieving its original objectives.

The planning history relating to the site is very relevant and material to the consideration of this application. The estate was created back in 1977 when permission was granted for 36 dwellings (4/76/0982 refers). This original permission did not require the roads serving the site to be constructed to a standard suitable for adoption. Although the majority of them have been aligned with kerbs and have lighting columns erected the road surface has never been completed beyond base course level. Due to the fact it was never completed and the considerable time lapse - which amounts to over 30 years - the roads subject to the agreement are now generally in a very poor state. In addition to being devoid of a finished surface the base course is now inadequate from wear, there are extensive potholes, kerbs are missing and lighting has fallen into disrepair. There are also problems with the underlying drains. The photographs attached to this report illustrate the condition of the road.

In 2003 permission was granted to convert a partially constructed block of 4 two bedroom flats on part of the site into 2 three bedroomed houses (plots A & B) as well as erect two detached houses (plots C & D) (4/03/0369/0 refers). There was considerable concern then regarding this proposal due to the poor and unfinished state of the estate roads. In order to remedy this situation it was agreed that the relevant sections of the estate road would be made up to a standard suitable for adoption before any of the dwellings granted by this 2003 permission could be occupied. These works were secured with the developer via a S106 Agreement. It was considered that the completion of the roads here as a result would at long last serve to improve highway safety as well as the general amenity of the area.

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Modification of the S106 Agreement was then sought in 2005 (4/05/2363/0 refers). This was approved but never signed. It sought to secure the phasing of the road works within set timescales in accordance with current Cumbria Design Guide standards. This, in effect, made the agreement more onerous for the developer insofar that it required the upgrading of the roads to adoptable standards within set time periods irrespective of whether the development had been completed or occupied. Consequently the original S106 signed in 2004 stands though this has never been complied with.

A request to modify the S106 agreement by removing plot C from the obligations of the agreement was submitted by the current applicants and refused in November 2008. In issuing the refusal it was considered unlikely that the modification would result in an increased likelihood of the highway works being carried out and there would be no certainty that the proceeds from the sale of plot C would be used to fund such works.

This current application has raised considerable concern from the residents of the estate served by the substandard roads and the local community. To date some 12 letters of objection have been received and 1 in support. The former raise the following collective concerns:-

1. The applicants wish to build a home cannot be used as a means to discharge the developer's obligations under the Section 106 Agreement.
2. Contrary to the applicant's statement the road is not of a reasonable standard. The infrastructure has deteriorated to the extent that it is now a health and safety risk. Whilst infill is acceptable in principle it should only be permitted where it shows a high standard of design. This does not provide a safe, convenient access and egress for all users etc. contrary to Policy DEV 7.
3. If the conditions of the obligation are lifted then the development falls short of the policy aims of the local plan.
4. S106 is not obsolete due to failure to enforce it.
5. The financial circumstances of the developer are not a material planning consideration.
6. The suggestion that the road be made up under a private road agreement scheme is not acceptable as this would put considerable costs onto the residents.
7. The applicant must be made to complete the work he started before he is allowed any further permission to build.
8. The Council has failed in taking any action to implement the

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- agreement during the 5 years it has been in place.
9. It is the duty of the Council to ensure the road is of the required standard to adopt and must take measures to enforce it, not discharge it.
 10. The potholes are now so large they are a danger to all users, especially in the dark.
 11. The pavements are also hazardous.
 12. This application is just a vehicle for the original developer to discharge his S106 obligations for which there is no justification.
 13. This proposal is yet another betrayal of trust by the Council in their trying to abdicate any duty of care. The Council has demonstrated a complete lack of will or control in addressing the situation.
 14. If this is approved, once building work commences the roads will deteriorate further with construction vehicular use. If it is not approved then nothing will be done.
 15. The only recourse available to local residents is to prevent further development until roads are made up to a suitable standard.
 16. There has been no maintenance in the past 5 years.

In support of the proposal one resident considers the S106 Agreement has been totally ineffective. If the properties on the plots A, B, C and D were completed which would surely improve the lifestyle of affected residents who have to view the situation on a daily basis.

In response, it is recognised that the condition of the estate roads has deteriorated considerably since the estate was developed in the late 70's. In an attempt to remedy the situation a S106 Agreement was negotiated and signed in 2004 requiring the roads to be made up to an adoptable standard. It is unfortunate that this was never complied with and that no formal action was undertaken by the Council to enforce it. Its modification was then approved in 2005 but never formally entered into. The only reasonable recourse now considered available to readdress the situation is to recommend that this application not be supported and for the Council to undertake the relevant action to enforce the agreement. It should be noted that separate negotiations to secure this are currently being progressed. To permit discharge would relinquish any control the Council has for remedying the situation and is likely to result in further deterioration of the roads. In reaching this view the legal opinion and advice of external planning solicitors and counsel has been obtained.

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It should be noted, however, that this is considered exempt information as defined by Paragraph 5 of Schedule 12A of the Local Government Act 1972. Should Members wish to see the advice it is available for inspection on request.

In order to assess whether the agreement should be discharged it has to be considered whether it is still relevant. The guidance contained in Government Circular 05/2005 on "Planning Obligations" cites that an obligation may be discharged "if it no longer serves any useful purpose" after a period of 5 years has lapsed. The applicants have put forward the case that the obligations contained in the agreement are unreasonable and that the developer cannot reasonably comply with them. It is claimed that they cannot secure the improvements of the roads and indeed over a 5 year period no progress has been made and the continued retention of the obligation has had an adverse affect on the residential amenity of the area resulting in buildings remaining vacant and the last part of the site undeveloped. They argue it does not serve any useful purpose. This is not a view with which I concur. It is our opinion, endorsed by counsel, that as a S106 Agreement the obligations in this instance do continue to serve "a useful purpose" sufficient to be retained due to the demonstrably adverse impact of the current situation with respect to the roads and the potential ability now for the Council to enforce the terms of the agreement and bring the matter to a satisfactory conclusion. These are the relevant material planning considerations to be taken into account in reaching a decision. Consequently, for the reasons set out above, it is recommended that the application to discharge is refused.

Recommendation

Refuse

Due to the prevailing adverse condition of the relevant estate roads and the potential ability to enforce the obligations it is considered that the Section 106 Agreement is still relevant and continues "to serve a useful purpose" in accordance with the guidance and policies contained in Circular 05/2005 "Planning Obligations".







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2 4/09/2276/0

OUTLINE APPLICATION FOR THE DEMOLITION OF
EXISTING DWELLING & ERECTION OF ELEVEN DWELLINGS
TARN BANK, BRAYSTONES, BECKERMET, CUMBRIA.
MR P LOCKHART

Parish Lowside Quarter

- No objections but would like the roads improved before the details are approved.

Outline permission is sought for the demolition and replacement of an existing dwelling and the erection of 10 local affordable housing units on an L-shaped site currently occupied by a large detached house known as "Tarnbank". This is a prominent elevated site situated on the northern edge of the village of Braystones.

The proposal would involve demolishing the house, replacing it and erecting 10 housing units in its extensive grounds to meet local housing needs. The indicative layout submitted with the application shows how this would be achieved by siting two detached houses to the front with three blocks of three link houses being arranged around a cul-de-sac formation at the rear with adjacent off street parking areas. Vehicular access would be via the existing point of access off the adjacent C4020 road taking the form of a new access road into the site leading to a turning head.

This outline application comprises a resubmission, the original was refused in February this year on the grounds that there was insufficient proven local need for the number of dwellings now proposed and lack of demonstrable measures to ensure affordability (4/08/2318/0 refers).

The application is accompanied by a supporting planning statement which, in addition to putting the case forward for local affordable housing in this location, addresses the grounds of the previous refusal. This application relies on a housing need survey that was commissioned and undertaken by a local planning consultant on behalf of the applicant in 2005, which covered the Parishes of Lowside Quarter and the adjoining St John's Beckermat.

The Housing Need Survey identified that there was a housing need in the parish for 14 units. Eleven of the respondents cited that they wished to live in Braystones (2 exclusively Braystones with 9 including it with other areas).

Planning History

The previous planning history relating to this site in respect of affordable units is relevant and material to the assessment of this proposal.

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In 2006 outline permission was granted on this site for the demolition of Tarnbank and the erection of 6 new dwellings to meet local housing need subject to conditions and the applicant entering into a Section 106 Agreement with the Council which restricts the occupation of the dwellings to the local community of Lowside Quarter, St John's and St Bridget's Beckermets parishes and being let within the definition of "affordable" (4/05/2219/001 refers).

A request to vary the terms of the S106 by deleting the affordable element of the agreement, which would have rendered the housing site restricted to local occupancy only, was refused in 2007 on the grounds that it was at variance with Policy HSG 11 which requires that both local need and affordability requirements are met.

Consultations and Representations

In terms of statutory consultations the following responses have been received:-

Highway Authority - have expressed concern about the design of the turning head with the road layout and the limited amount of parking provision. These are matters though which can be addressed at the detailed stage.

Scientific Officer - cites there is no evidence for historical contamination but notes that the current property is on a septic tank which would need removal and clean up.

United Utilities - no objection subject to the site being drained on a separate system.

Historic Environment Officer - no objection subject to a condition securing archaeological investigation.

Flood and Coastal Defence Engineer - no objections but advises that the discharge of surface water into the mains sewer should only be permitted as a last resort.

Strategic Housing Services Manager - neither endorses nor rejects the findings of the housing needs survey submitted. Recognises that there are housing needs in this locality and that there may have been variations in the four years since the survey was completed. Does not doubt the intentions of the survey, but considers it indicative only as it doesn't measure how or why the respondents considered themselves to be in housing need.

Two letters of objection have been received from neighbouring residents who adjoin the site. They express concerns on the following grounds:-

1. This application is almost identical to the previous application

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- in 2008 which was refused. No further effort appears to be made to prove that the housing will be affordable. Applicant appears to be relying that a declared intention to let the property will suffice.
2. The proposed properties would be in competition with the cheaper accommodation provided by the recent approval for the expansion of the neighbouring caravan site.
 3. There is less reason than ever for local need housing. The RWE proposal for a nuclear reactor in the area has wiped out whatever market there was and the permission to extend the caravan park has also had a significant negative effect.
 4. The site is inappropriate for this type of development. It is a hamlet and the addition of 9 starter homes and 2 substantial houses will adversely affect the balance of properties in this location. There are no local amenities and occupants would be reliant on a car. Because of its isolated location and lack of amenities people with disabilities would be excluded as potential occupants.
 5. Proposal will increase the size of the village by 30% which is not compatible with the size and character of the existing settlement.
 6. It will be visually dominant in this location.
 7. Concern about the age and capacity of the existing sewer to be used.
 8. Query the validity of the housing needs survey - this was a private survey commissioned by the applicant and should be treated with extreme caution as Copeland's own housing needs survey refers only to a slight demand for affordable housing.
 9. There have been huge changes since the survey was conducted. We have seen a market reduction in house prices yet properties remain unsold which might be connected to the Nuclear Reactor proposal. This is a socially contentious issue and needs to be considered against a much broader demographic background.
 10. Information provided in a letter from the applicant's agent disassociates the applicant from any commitment to a target rent which is not much evidence of a commitment to affordability.
 11. There are plenty of properties on the market with a wide range of house values. As house prices are generally lower in this area young people can still expect to get into the property market.
 12. There is no real demand for housing at Braystones and historically properties have tended to be self build.

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13. The local population has increased following the recent expansion of Tarnside Caravan Park which has resulted in a significantly adverse impact on the local population and specifically the local nesting bird population around Braystones Tarn.
14. Braystones is outside the designated settlements where the Council will exercise strict control of development.
15. The proposal does not conform to Policy DEV 6 of the local plan. There are no local needs that cannot be satisfied within the local service centre of Beckermat.
16. The claim that a replacement dwelling is required first requires a perfectly sound dwelling to be demolished. This property has been considerably improved over the last 12 months. Urges that the Committee if it is minded to allow the proposal to inspect the site first.
17. The development is poorly thought out and the plans submitted are minimal.
18. The positioning of the block of houses 3-5 are sited very close to the rear boundary of the adjoining development of three detached dwellings. The proximity would result in serious overlooking and loss of privacy issues. This block should be resited or removed.

In response I would offer the following comments:-

1. Additional information has been submitted with the application including a draft S106 agreement to address the issue of securing affordability.
2. The extension of the caravan park relates to the provision of holiday accommodation only and not permanent residential dwellings.
3. The potential for a nuclear reactor site in the vicinity is not material to the consideration of this planning application.
4. & 15. Although not a local service centre in terms of the provision of local amenities as identified in the Local Plan it does benefit from a local bus service and is close to the local service centre of Beckermat.
5. & 6. The site is considered to be physically well related to the village in form, being essentially "infill" between existing dwellings and being previously developed it is classed as "brownfield".
7. United Utilities raise no objections providing foul drainage only is connected into the foul sewer.

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8. This issue is addressed in the Housing Services Manager's consultation response.
9. As stated in 3. this is not a relevant material consideration.
10. Detail regarding rent setting will be the subject of a S106 agreement.
- 11., 12. & 13. This is a proposal for affordable housing and relies on the identification of a need in the locality identified in a valid and relevant Housing Need Survey.
14. This application is for affordable housing which is recognised as one of the exceptions to the restrictive local plan policy on housing development in the countryside.
16. Replacement dwellings are strictly controlled by Policy HSG 14 of the local plan which it is considered this part of the proposal complies with. The principle of replacement has already been accepted by virtue of the previous outline planning permission on the site (4/05/2219/0 refers).
17. & 18. The application is in outline only and is accompanied by an indicative layout only - the issue of separation distances and layout which have been raised can be addressed at the detailed stage.

Planning Policy

The adopted Copeland Local Plan 2001-2016 identifies the site as being situated in the countryside outside any settlement boundary. Outside key service and local centres new housing development will only be considered where it can be demonstrated that it meets an exceptional need as stated in the criteria specified in Policy DEV 5 : Development in the Countryside. Criterion 2 of this specifies local needs housing as one of the exceptions and refers to Policy HSG 11 : Affordable Housing in Rural Areas as being the relevant policy against which this application should be assessed. This is set out below:-

Policy HSG 11 : Affordable Housing in Rural Areas

"Where a proposed development is to meet a proven local need for affordable dwelling/s planning permission may be granted in accordance with the requirements of Policy HSG 5. This policy will apply to all villages in the plan area and to be acceptable proposals must:-

1. Be on a site within or immediately adjoining the village and well related to its physical form.
2. Be supported by evidence to show that there is a need within the

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local community as a whole for such development or that the applicant individually has genuine local ties to the village and has genuine difficulty in finding an otherwise acceptable site within the terms of Policies HSG 1-4.

3. Comply with the sequential test set out in Policy DEV 4 and with other plan policies.
4. Be the subject of a planning obligation or condition which requires occupation of the dwelling in perpetuity to be by households which conform to the requirements of Criteria 2 above.

Affordable housing is defined in Planning Policy Statement PPS 3 : Housing as including "social rented and intermediate housing provided to specified and eligible households whose needs are not met by the market". Affordable housing should:-

- meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regards to local incomes and local house prices.
- include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.

Social rented refers to housing owned and managed by local authorities and registered social landlords. Intermediate affordable housing is housing at prices and rents above those of social rent but below market price/rents and which meets the criteria. It should be noted that the definition does not exclude homes provided by the private sector or without grant funding providing they meet this definition.

Key Issues and Conclusion

The key issue which the previous application failed on was the lack of a proven local need for the number of dwellings proposed as well as demonstrable measures to secure affordability. It was then considered that the Housing Need Survey submitted with the application was insufficient.

This application, however, differs from the previous submission in that it is now accompanied by additional information in the form of a supporting Planning Statement which is relevant. This refers specifically to a letter received from Cumbria Rural Housing Trust now endorsing the validity of the submitted Housing Needs Survey as well as discussions the agent has had with the Council's Housing Services Manager to this effect. In his consultation response he accepts that the Housing Needs Survey, although now some 4 years old, is indicative and still has some relevance. Also, it is still within the 5 year time span for which such surveys are normally considered

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valid.

In addition there is a draft S106 agreement which puts forward how the applicant intends to secure affordability, though it is recognised that the details put forward need to be the subject of further negotiation. It is accepted that reasonable measures to secure affordability can now be agreed via the mechanism of the S106 agreement.

It has also to be taken into account that the Council previously accepted the Housing Needs Survey in 2005 when it granted permission for 6 affordable dwellings on this site - the survey was submitted then as part of the application. In effect this application seeks approval for an additional 4 on the site.

It is on this basis that it is now considered that the previous grounds for refusal have been substantially overcome.

In arriving at this view the advice of both the Council's Head of Legal and Democratic Services and expert external planning solicitors has been sought and carefully considered. Their opinion is confidential and not available on the public file. It is considered Exempt Information as defined by Paragraph 5 of Schedule 12A of the Local Government Act 1972. Should Members wish to view the documentation it is available on request.

On balance I am satisfied, taking into account the additional information that has been provided and assessed, that the proposal for 10 affordable housing units on this site, in addition to a replacement dwelling, now complies with Policies DEV 6, HSG 11 and HSG 14 of the adopted Copeland Local Plan 2001-2016 and is hereby recommended for approval.

Recommendation

Approve in outline, subject to the signing of a Section 106 Agreement to secure "affordability" and appropriate rent setting mechanisms, and subject to the following conditions:-

3. Outline permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them:

Letter from HFT Gough & Co, dated 15 June 2009, received 16 June 2009

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Design and Access Statement, received on 16 June 2009

Supporting Planning Statement and Appendices, received on 16 June 2009

Block plan, drawing no. 2005.11.10, scale 1:500, received on 16 June 2009

Site Local Plan, scale 1:1250, received on 16 June 2009

4. The site shall be drained on a separate system with foul drainage only connected into the foul sewer.
5. Before development commences full details of the surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall become operational before the development is brought into use and shall be so maintained thereafter.
6. Notwithstanding the plans hereby approved full details of the site layout, access and parking arrangements shall be submitted to the Local Planning Authority for approval at the detailed stage.
7. No development approved by this permission shall be commenced until a desk top study has been undertaken and agreed by the Local Planning Authority to investigate and produce an assessment of the risk for on-site contamination. The desk study should include sufficient documentary research to enable a thorough understanding of the history of the site, including past and present uses. If the desk study identifies potential contamination a detailed site investigation should 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. If remediation measures are necessary they shall be implemented in accordance with the assessment to the satisfaction of the Local Planning Authority.
8. No development shall commence within the site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

The reasons for the above conditions are:-

To comply with Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004

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To ensure a satisfactory drainage scheme

To ensure a safe form of development that poses no unacceptable risk of pollution to water resources of human health

In the interests of highway safety

To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and the preservation and recording of such remains

The reason for the decision is:-

An appropriate scheme to provide a replacement dwelling and 10 affordable housing units in accordance with Policies DEV 6, HSG 11 and HSG 14 of the adopted Copeland Local Plan 2001-2016 subject to a Section 106 agreement being entered into to ensure affordability of the relevant dwellings in perpetuity

3 4/09/2340/0

CHANGE OF USE FROM RETAIL NEWSAGENT/FANCY GOODS TO INDIAN FOOD TAKEAWAY
10, WELLINGTON STREET, MILLOM, CUMBRIA.
MRS M SCURRAH

Parish Millom

- feel that this is an unsuitable location for another fast food outlet - already four within the immediate vicinity. Also express concerns regarding waste storage/collection and smells.

At the last meeting Members resolved to carry out a site visit before determining this application. The site visit took place on Wednesday 30 September 2009.

This application is being referred to the Panel under paragraph (e) of the Council's delegation scheme approved in March 2009 whereby the application has been submitted by an elected Member.

Planning permission is sought to change the use of this mid terraced property situated within the Millom town centre Conservation Area from a newsagents/fancy goods shop to a hot food takeaway. No external alterations are proposed as part of the scheme.

Wellington Street has a mixture of commercial and residential

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properties. Either side of the subject property is a ladies clothes shop and newsagents. The majority of properties have living accommodation above. There is an existing hot food takeaway, Caspian's, several doors down at No 2.

As originally submitted it was proposed that the takeaway would be open until the hours of 11.30pm Monday to Friday and until 12.00 midnight on Saturdays and Sundays. At the latest, existing hot food takeaways on this street are required to close by 11.00pm. In light of this the applicant has amended the proposed opening hours in line with those existing.

In terms of representations a single anonymous letter of support has been received. Notwithstanding this, there is strong local opposition to the application with six letters of objection and two petitions, one with 47 names and the other with 267 names, having been received. The grounds for objection can be summarised as follows:-

1. There is already a fast food takeaway at the end of Wellington Street and this has caused problems with the smell, storage and overflowing bins and rodents.
2. People were assured that when planning permission was given for the kebab shop the back street would be kept clean. Instead it is infested with rats and litter and waste bins. Despite complaints to councillors, nothing is done.
3. Neighbours were not properly consulted by the applicants as stated on the application form.
4. The proposed opening hours until 11.30pm or 12.00 midnight will cause extra noise and traffic disturbance. Opening at 4.30pm, neighbours will have to close their windows and doors to prevent smells.
5. It will encourage youths to congregate outside the takeaway and the neighbouring premises and may encourage damage to shop windows.
6. The extraction system will presumably be above the roof level which will result in fumes and extracted debris emitting onto neighbouring properties. Pungent aromas from cooking will directly penetrate rear windows and doors serving residential units 7 days a week.
7. The area is adequately served with hot food takeaways within easy walking distances, namely: Caspian, 2-4 Wellington Street; The Golden Lotus, Lapstone Road; CKs Fish & Chip Shop, Market Square; The Barbeque, Crown Street; Cafe at the Railway Station and Da Vinci Restaurant, Market Square.
8. Smells created during the day will be detrimental to one of the

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objector's businesses which is a high class ladies fashion shop.

9. In this time of recession, like many other small businesses, existing takeaways are finding the going difficult with increased expenses, particularly where food is concerned. The loss of earnings due to another takeaway opening may lead to one of the objector's takeaways closing with a loss of 3-4 jobs.
10. Whilst the people of Millom are keen to encourage new business and see shops occupied there is no need for another takeaway.

In terms of planning policy, Policies TCN 7 and TCN 10 are considered relevant to the determination of this application.

Policy TCN 10 of the adopted Copeland Local Plan 2001-2016 generally supports food and drink uses within town centres. Policy TCN 7 sets out criteria against which such proposals should be assessed and states:-

"Proposals for food and drink uses in shopping areas will be permitted subject to the requirements of TCN 4 and other plan policies with particular attention to:

1. the likely impact on the character and amenity of the general area and on nearby residential properties as a result of noise, disturbance, litter, smell, sewer discharge or visual intrusion.
2. restriction on late night opening where late night activity associated with the proposed use would be harmful to the general character and amenity of the area.
3. any venting of the premises not causing undue nuisance to adjoining occupiers."

In response to statutory consultation procedures no objections have been received from the Highways Authority.

The Council's Environmental Health Department have expressed concerns given the proximity of adjoining residential flats and the likely adverse impact such a use may have on living conditions in terms of odour nuisance and general disturbance. In particular, 12A Wellington Street has a bedroom window and two kitchen windows at first floor level immediately adjoining and facing onto the rear of the subject property.

Additionally, given the proposed opening hours from 5.00pm until 11.00pm disturbance from food preparation activities is likely to occur at times when residents could reasonably expect some peaceful enjoyment of their properties.

Whilst there are generally a number of vacant units along Wellington Street and the introduction of a new business is generally welcomed,

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this does not outweigh the adverse impact such a use is likely to have on the occupants of adjoining residential properties.

I am therefore of the opinion that the proposal fails to satisfy the above policy criteria, in particular criteria 1 and 3 of Policy TCN 7 and, as such, refusal is recommended.

Recommendation

Refuse

The proposed use would have an unacceptable impact on adjoining residential properties on Wellington Street, particularly No 12A, by virtue of odour nuisance and general disturbance and, as such, would be at variance with Policies TCN 7 and TCN 10 of the adopted Copeland Local Plan 2001-2016.

4 4/09/2361/0

DEMOLITION OF 36 PROPERTIES
VARIOUS PROPERTIES ON, WINDERMERE ROAD AND,
FELL VIEW AVENUE, WOODHOUSE, WHITEHAVEN, CUMBRIA.
HOME NORTH WEST (MRS G STATON)

Parish Whitehaven

INTRODUCTION

This application was deferred at the last meeting as Members were concerned about the amount of demolitions proposed, especially at a time when houses are in demand. They requested further details with regards to the housing renewal programme that is in place to regenerate the area and also an indication of likely timescales for progression and completion to aid their consideration of this application. A representative from Home Housing has been invited to attend the meeting to address Members on this proposal.

PROPOSAL

It is proposed to demolish a total of 36 dwellings on Windermere Road and Fell View Avenue within the Woodhouse estate. The properties are semi-detached and date from the 1940's. They are currently vacant and are in a poor state of repair. It is proposed to landscape the sites after demolition until the next phase of regeneration takes place on the estate.

CONSULTATION RESPONSES

MAIN AGENDA

Highways Control Officer - no objections.

One letter of objection has been submitted by a local resident which questions the need for the demolition of these homes which he claims could be used to house people on the housing waiting list. He is also of the view that the general appearance of the estate will also worsen after the demolition has taken place.

PLANNING POLICY

The site lies within the West Cumbria Housing Market Renewal Area. Policy L3 of the North West of England Plan (Regional Spatial Strategy to 2021) advocates the comprehensive regeneration of the area by restructuring the local housing market in this area. This policy does identify clearance as an option, especially where the dwellings are unfit for habitation and unsuitable for modern living.

Policy HSG 12 of the adopted Copeland Local Plan 2001-2016 supports proposals for new development and environmental works which form part of approved neighbourhood renewal packages or similar estate action plans.

Policy HSG 13 seeks to retain existing dwellings unless provision is made for their replacement or unless the proposed housing loss is necessary to achieve other objectives of the Local Plan.

ASSESSMENT

The proposed demolitions form an integral part of the wider Woodhouse Evolution regeneration scheme. This involves the retention and refurbishment of a number of homes to modern decent home standards and the erection of a number of new bungalows which were approved at the Planning Panel meeting on 19 August 2009 in addition to the demolition proposed. The demolition is considered to be acceptable as the houses have passed their anticipated lifespan and will facilitate the regeneration of the Woodhouse estate.

Recommendation

Approve (commence within 3 years)

2. Prior to the demolition works commencing full details of a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 6 months of the completion of demolition works.

The reason for the above conditions are:-

In compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

MAIN AGENDA

To ensure the implementation of a satisfactory landscaping scheme.

Reason for decision:-

The demolition of these dwellings forms part of the wider Woodhouse Evolution regeneration scheme and is consistent with the aims of Policy L3 of the North West of England Plan (Regional Spatial Strategy to 2021) and Policies HSG 12 and HSG 13 of the adopted Copeland Local Plan 2001-2016.

5 4/09/2374/0

CHANGE OF USE FROM CAFE TO ADULT GAMING CENTRE
28, MAIN STREET, EGREMONT, CUMBRIA.
MR S HANNAH

Parish Egremont

- No comments received.

At the last meeting Members resolved to carry out a site visit before determining this application. The site visit took place on Wednesday, 30 September 2009.

Planning permission is sought to change the use of these ground floor premises into an adult gaming centre, which comprises coin-operated machines. Now vacant, the premises were last in use as a cafe, Cafe Lamont. Immediately adjoining the property is Wilson's Butchers and Chattanooga hot food takeaway.

The two storey property occupies a prominent location within Egremont town centre Conservation Area. Whilst not listed, the building is an attractive 19th Century former hall with sandstone frontage and wrought iron balcony.

As originally submitted it was proposed to replace the existing traditional shop front with an aluminium window frame and steel door. The Council's Conservation and Urban Design Officer expressed concerns regarding these proposed alterations recommending that the existing timber window frame simply be repaired or decorated. Whilst the replacement of the existing door with a solid panelled unit is appropriate, the preference is for timber. It was also recommended that the adjoining door serving the first floor flat be replaced in order to enhance the appearance of the frontage and the wider streetscape.

MAIN AGENDA

In terms of signage, it is proposed to erect stand-off lettering with a slimline fluorescent lighting unit above.

In response to the concerns raised the applicant has been very amenable, taking on board all recommendations and submitting an amended plan. This will not only secure the retention of this attractive frontage but will positively enhance it.

Proposed opening hours of the centre are from 9.00 am until 8.00 pm, seven days a week, consistent with existing town centre uses. The proposed use will employ six people, four on a part time basis and two on a full time basis.

In support of the application, the applicant's agent confirms that the applicant owns and operates 4 bingo clubs all of which incorporate gaming machines. For the last 3 years he has operated 13 bingo clubs and a chain of 26 arcades. Prior to this, the applicant has 20 years experience in the bingo/coin-op industry. He has a personal management licence and the company has an operating license, both issued by the Gambling Association.

All employees will be extensively trained in accordance with the company's strict policy, a copy of which is appended to this report.

No objections have been received in response to neighbour notification and publicity procedures.

In terms of planning policy, Policies TCN 8 and ENV 26 are considered relevant to the determination of this application.

Policy TCN 8 specifically relates to amusement centres. The preamble to this policy states that proposals for amusement centres or arcades will be dealt with in a similar fashion to those for food and drink uses. The Council will normally accept such uses in the main shopping areas but will expect the design of frontages and signing to conform to the special requirements of Conservation Areas. The policy specifically states:-

"Proposals for amusement centres in town centres will be permitted so long as the requirements of TCN 10 and other plan policies are met and:-

1. the likely impact on the general character and amenity of the area as a result of noise, disturbance or visual intrusion is acceptable
2. the location is not in close proximity to residential, religious or educational property
3. opening hours are restricted where late night activity associated with the proposed use would be harmful to the general character

MAIN AGENDA

and amenity of the area."

Policy ENV 26 states:-

"Development within Conservation Areas or that which impacts upon the setting of a Conservation Area will only be permitted where it preserves or enhances the character of appearance of the Area and, if appropriate, views in and out of the Area. In particular it should:-

1. respect the character of existing architecture and any historical associations by having due regard to positioning and grouping of buildings, form, scale, detailing and use of traditional materials
2. respect existing hard and soft landscape features including open space, trees, walls and surfacing
3. respect traditional street patterns, plot boundaries and frontage widths
4. improve the quality of the townscape."

Having now secured an amended scheme which will see the sensitive restoration of this historic frontage it is considered that the proposal satisfactorily meets the above policy criteria. However, notwithstanding the extensive experience the applicant has within this sector, given the sensitive nature of the use, if Members are minded to approve the application it is recommended that the use of these premises is restricted to this specific applicant, which he is content with.

Recommendation

Approve (commence within 3 years)

2. The use hereby permitted shall be carried on by Mr Simon Hannah only. When the use and premises cease to be occupied by Mr Simon Hannah the use hereby permitted shall cease.
3. Permission in respect of the elevational treatments shall relate solely to the amended plan (drawing no. ETG 690/1A) received by the Local Planning Authority on 29 September 2009. Development shall be carried out in accordance with the approved details.

The reasons for the above conditions are:-

In compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

Given the sensitive nature of the use permission has been granted in recognition of the circumstances of the applicant

29 SEP 2009

RECEIVED

**Mayfair Bingo Ltd
Adult Gaming Centre's**

Access To Gambling By Children and Young Persons

Policy

The Company recognises its responsibility and obligation to comply with the Licensing Objectives of the Gambling Act 2005 and the Licence Conditions and Codes of Practice. It is illegal for any person who is under 18 years of age to be permitted entry to any Licensed Premises.

Procedure

- It is a matter of gross misconduct if a member of staff knowingly allows entry by any person who is under the age of 18 years to our Licensed Premises.
- Any person known to be under 18 years of age will be refused entry.
- Any person who appears to be under 21 years of age, and who has not previously provided satisfactory proof to the contrary, is challenged at the point of entry or when it comes to the attention of staff. Members of staff are trained to 'think 21'.
- If the person admits to being under the age of 18, they are refused entry.
- Should they claim to be 18 or over and there is still doubt, satisfactory proof of age is requested and has to be provided before entry is allowed. If at anytime there is suspicion of forged documents these incidents will be recorded and reported.
- Proof of age documents must contain a photograph from which the individual can be identified; state the individual's date of birth; be valid, and legible. It should bear no visible signs of tampering or reproduction. Acceptable forms of identification include those that carry the PASS logo (e.g. Citizencard, Validate and the Government's own Connexions card); a driving licence (including a provisional licence) with photograph, or a passport.
- Where there is still doubt and the person cannot produce proof of age, they are advised that they will not be permitted to enter until such time as they provide such proof.
- They will be shown, have explained to them, and be given a 'proof of age card' application form or offered an explanation on how to apply for a card.

- Should the person then refuse to leave, they are advised that the age restriction is a legal requirement.
- If they still will not leave, the Duty Manager is immediately contacted to take over the situation.
- Any attempts by under-18s to enter the premises or designated area(s) are brought to the attention of the Duty Manager immediately and recorded as an entry on a log retained on the premises. Details of entry to include date, time, identity of the individual if known - or detailed description if unknown – member of staff dealing, action taken, the outcome and measures put in place to prevent a re-occurrence. The Log is to be countersigned by the Duty Manager.
- Service is refused in all circumstances where any adult is accompanied by a child or young person.
- All gaming machines, other than category 'D' machines, are inscribed with a notice prohibiting play by persons under the age of 18 years.
- Stakes are returned to under-18s attempting to gamble in an adult-only environment, and under-18s are not allowed to retain any prize.
- Consideration will be given to permanently excluding from our Licensed Premises any adult who has previously and repeatedly attempted to gain entry when accompanied by a child or young person or, should entry have been gained, if the offence was committed knowingly or recklessly. Notwithstanding, that adult shall be required to stop gambling immediately and told to leave the premises.
- In instances where a child or young person repeatedly attempts to gamble on premises or in designated area(s) restricted to adults, or where repeated oral warnings have been issued, consideration will be given to reporting the matter immediately to the Gambling Commission and, where appropriate, police or local education welfare department.
- Consideration is to be given to reminding customers of their parental responsibilities and to assess whether there is a need to develop procedures for dealing with young or otherwise vulnerable children left unattended in the vicinity of our premises.
- Members of staff are trained as part of their induction process in the understanding of, and the strict adherence to this policy and accompanying log.

COPELAND BOROUGH COUNCIL
DEVELOPMENT SERVICES

29 SEP 2009

RECEIVED

MAIN AGENDA

For the avoidance of doubt

Reason for decision:-

An acceptable alternative use for these vacant town centre premises situated within Egremont Conservation Area in accordance with Policies TCN 8 and ENV 26 of the adopted Copeland Local Plan 2001-2016

6 4/09/2379/0

DEMOLITION OF 50 PROPERTIES (34 HOUSES & 16 FLATS)

KEIR HARDIE AVENUE, EHEN PLACE,,
DENT SQUARE AND ORCHARD PLACE, CLEATOR MOOR,
CUMBRIA.

HOME GROUP LTD

Parish Cleator Moor

- No objections.

INTRODUCTION

This application was deferred at the last meeting as Members were concerned about the amount of demolitions proposed, especially at a time when houses are in demand. They requested further details with regards to the housing renewal programme that is in place to regenerate the area and also an indication of likely timescales for progression and completion to aid their consideration of this application. A representative from Home Housing has been invited to attend the meeting to address Members on this proposal.

PROPOSAL

It is proposed to demolish 50 properties consisting of 34 houses and 16 flats at Cleator Moor. The properties were originally built as temporary homes after the second World War and have outlived their expected lifespan of 40 years. Demolition is to be undertaken in two phases with the first phase due to commence in October with completion in January 2010. The second phase will follow on from phase one and is due to be complete by March 2010.

The applicant has indicated that the demolitions proposed are as a direct result of an appraisal of property condition and demand in the local area that was funded by the Housing Corporation under the decent

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homes standards.

The applicant has confirmed that there are no immediate plans to rebuild on the sites that would be left vacant due to the current low level of demand for housing in the local area. However, they would be retained for potential development in the future.

It is proposed to top soil and seed the sites after demolition to form a landscaped area. The back and sides of the sites will be enclosed by a 1.8m high timber fence and a bund is to be constructed along the front.

PLANNING POLICY

The site lies within the West Cumbria Housing Market Renewal Area. Policy L3 of the North West of England Plan (Regional Spatial Strategy to 2021) advocates the comprehensive regeneration of the area by restructuring the local housing market in this area. This policy does identify clearance as an option, especially where the dwellings are unfit for habitation and unsuitable for modern living.

Policy HSG 12 of the adopted Copeland Local Plan 2001-2016 supports proposals for new development and environmental works which form part of approved neighbourhood renewal packages or similar estate action plans.

Policy HSG 13 seeks to retain existing dwellings unless provision is made for their replacement or unless the proposed housing loss is necessary to achieve other objectives of the Local Plan.

ASSESSMENT

Cleator Moor was designated as a Neighbourhood Renewal Area in April 2005. The proposed demolitions form part of a regeneration scheme which also involves the refurbishment of a number of homes that are to be retained on the estate. The demolition is necessary as the houses are deemed to be unsuitable for modern living and are beyond economic repair. On this basis it is considered to be acceptable to demolish them as part of the wider regeneration scheme. The low level of demand in the local area makes rebuilding unnecessary at the present time.

Recommendation

Approve (commence within 3 years)

2. Prior to the demolition works commencing full details of a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 6 months of the completion of demolition works.

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Reasons for conditions:-

In compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

To ensure the implementation of a satisfactory landscaping scheme

Reason for decision:-

The dwellings and flats are located within a designated Housing Renewal Area and are in a poor condition and unsuitable for modern living. The demolition of these dwellings and flats forms part of a wider regeneration scheme and is consistent with the aims of Policy L3 of the North West of England (Regional Spatial Strategy to 2021) and Policies HSG 12 and HSG 13 of the adopted Copeland Local Plan 2001-2016

7 4/09/2398/0

TWO "WELCOME TO MILLOM" SIGNS
A5093 NEAR OLD CROSS & NEAR, CASTLE COTTAGES,
MILLOM, CUMBRIA.
ROTARY CLUB OF MILLOM

Parish Millom Without

- No comments received.

This application is being referred to the Panel under paragraph (e) of the Council's delegation scheme approved in March 2009 as three elected Members are members of the Rotary Club of Millom who are the applicants.

Advertisement consent is sought to display two "Welcome to Millom" signs within fields adjacent to the A5093 on the western and northern approach routes into the town.

Both signs will be identical and will consist of a 0.9m x 1.2m curved top aluminium board on 1.8m high metal posts.

In terms of planning policy, Policy ENV 39 of the adopted Copeland Local Plan 2001-2016 states that in the Areas of Special Advertisement Consent the Council will exercise strict control to minimise the undue commercialisation of these areas and will not normally grant express consent for the display of advance warning signs unless:-

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1. there is no nearer location on a public road or
2. the sign is of a standard design approved by the Council and serving to advertise one or more businesses in a nearby community or
3. the sign is reasonably required having regard to the nature and situation of the land or building to which it relates.

In addition to the above, Planning Policy Guidance Note 19 "Outdoor Advertisement Control" is also considered relevant to the determination of this application. Within PPG 19 it is made clear that the display of outdoor advertisements can be controlled in the interests of "amenity" and "public safety".

No objections have been received in response to statutory consultation and publicity procedures. In particular, the Highways Authority are satisfied that the siting of the signs will not affect the highway.

It is considered that the proposal represents an acceptable form of development which will help enhance the profile of Millom, a Key Service Centre within the Borough, compliant with both Policy ENV 39 and guidance contained within PPG 19. As such, approval is recommended.

Recommendation

Approve Advertisement Consent

Reason for condition:-

In compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

Reason for decision:-

An acceptable advertisement scheme which will enhance the profile of this Key Service Centre in accordance with Policy ENV 39 of the adopted Copeland Local Plan 2001-2016 and Planning Policy Guidance Note 19 "Outdoor Advertisement Control".

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8 4/09/2408/0

DEMOLITION OF 14 PROPERTIES
GILGARRAN VIEW &, KILNSIDE, DISTINGTON, CUMBRIA.
HOME GROUP LIMITED

Parish Distington

- The members had concerns for the welfare of some of the elderly residents of some of these properties as it is known that there is great reluctance on the part of them to move. Some of the residents have spent many years in the same house and the trauma of moving them from their familiar surroundings may be a great shock to them with possible dire consequences, and the members wish that this concern is taken into consideration when the timing of the demolition is to be decided. Is the urgency to demolish all that critical?

While the reduction in housing stock in the parish is not welcomed by the Parish Council, as it is understood that there are people wishing to move into the village of Distington, the members recognise that some of these houses are in need of replacing. The members agreed that there should be no objections to the proposal.

PROPOSAL

It is proposed to demolish a total of 14 dwellings on Gilgarran View and Kilnside. These properties are semi-detached and date from the 1940's.

The applicants have confirmed that the houses were built as temporary accommodation with a 40 year life span. They have flat roofs, are made of concrete and have a lack of insulation which makes them cold and results in condensation problems.

Approximately half of the properties are currently empty with the tenants having been decanted into suitable alternative accommodation.

There are no immediate plans to build anything in their place. The sites will be landscaped following demolition and will have a 1.8m high fence erected around three sides with a bund along the front to prevent vehicles accessing the site.

CONSULTATION RESPONSES

Two letters of objection have been received from local residents. One resident raises concerns about further demolition of houses, especially when there is a waiting list and there are no plans in place for any new building. He also claims that the restoration of the land following previous demolitions in the locality has now been carried out to a satisfactory standard.

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The second objector raises concerns about the likely dust, noise and traffic pollution problems that will result from the demolitions.

PLANNING POLICY

The site lies within the West Cumbria Housing Renewal Area. Policy L3 of the North West of England Plan (Regional Spatial Strategy to 2021) advocates the comprehensive regeneration of the area by restructuring the local housing market in this area. This policy does identify clearance as an option, especially where the dwellings are unfit for habitation and unsuitable for modern living.

Policy HSG 12 of the adopted Copeland Local Plan 2001-2016 supports proposals for new development and environmental works which form part of approved neighbourhood renewal packages or similar estate action plans.

Policy HSG 13 seeks to retain existing dwellings unless provision is made for their replacement or unless the proposed housing loss is necessary to achieve other objectives of the Local Plan.

ASSESSMENT

The proposed demolitions form part of a wider housing regeneration scheme. The demolition is considered to be acceptable as the houses have passed their anticipated lifespan and do not conform to modern standards.

A representative from Home Housing has been invited to attend the meeting to address Members on the details of the demolition proposal and also to answer any questions that may arise with regards to the housing renewal programme for this area and the likely timescales for any progression and completion.

Recommendation

Approve (commence within 3 years)

2. Prior to the demolition works commencing full details of a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within 6 months of the completion of the demolition works.

The reasons for the above conditions are:-

In compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

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To ensure the implementation of a satisfactory landscaping scheme

Reason for decision:-

The dwellings are in a poor condition and unsuitable for modern living. The demolition of these dwellings forms part of a wider regeneration scheme and is consistent with the aims of Policy L3 of the North West of England Plan (Regional Spatial Strategy to 2021) and Policies HSG 12 and HSG 13 of the adopted Copeland Local Plan 2001-2016

9 4/09/2410/0

CHANGE OF USE FROM FORMER BRIDAL SHOP TO
RESTAURANT
STRAND HOUSE, STRAND STREET, WHITEHAVEN, CUMBRIA.
MRS F C WONG

Parish Whitehaven

Planning permission is sought for the change of use of this Grade II Listed property to A3 use as a restaurant.

Situated on the corner of Strand Street and New Lowther Street, within the town centre Conservation Area, this 3 storey building with a single storey extension along the Strand Street frontage is currently vacant, having last been used as a bridal centre retail unit. This use was granted permission in 2004 (4/04/2853/0 refers), having previously been the centre for the Cumbria Deaf Association, including a first floor licensed bar for members. Although located in a predominantly commercial area of the town, the building has neighbouring dwellings on New Lowther Street along with a public house and solicitor's offices on the opposite side of the street.

The building was granted planning permission in June 2002 for a change of use to licensed premises for the ground floor with residential above (4/02/0130 refers). This permission, however, was not implemented.

No external changes to the property or signage have been submitted for approval as part of this application.

The owner has confirmed that the use will be a restaurant only, with no takeaway facility. The restaurant will cater for a maximum of 72 covers. The main proportion of the building will be used for the dining area with the single storey element along Strand Street

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containing the kitchen facilities and the existing toilets in this section will be retained. The applicant also confirms that the extraction system from the kitchen will be through the flat roofed extension.

In terms of planning policy, Policies TCN 7 and TCN 10 of the adopted Copeland Local Plan 2001-2016 are considered relevant to the determination of this application.

Policy TCN 7 states that:-

"Proposals for food and drink uses in shopping areas will be permitted subject to the requirements of TCN 10 and other plan policies with particular attention to:-

1. the likely impact on the character and amenity of the general area and on nearby residential properties as a result of noise, disturbance, litter, smell, sewer discharge or visual intrusion
2. restrictions on late-night opening where late-night activity associated with the proposed use would be harmful to the general character and amenity of the area
3. any venting of the premises not causing undue nuisance to adjoining occupiers."

Policy TCN 10 states that:-

"In Whitehaven town centre planning permission will be granted for the following uses subject to other policies in the plan and provided that non-retail proposals are not detrimental to the main shopping function of the town centre:

..... Food and Drink outlets."

Two letters of objection have been received from adjoining residents in New Lowther Street whose concerns can be summarised as:-

1. The restaurant use will cause noise and general disturbance to the residents.
2. The use will lead to waste and litter issues in the area.
3. Parking problems on New Lowther Street will increase if permission is granted.
4. The proposed use would cause a reduction in property value.
5. If the application was granted it may set a precedent for further food/pub uses in the near vicinity.

In response to these concerns I would comment that due to a lack of

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external curtilage, the applicant will need to make adequate internal provision to store waste until the time for collection. With regards to littering, as the proposal is for a restaurant rather than a takeaway the proposed use will not likely increase any existing problem. While parking on New Lowther Street is limited, Cumbria Highways have raised no objections to the proposal and the property is located within the town centre where there is adequate available off-street parking.

Copeland Disability Forum have commented that they do not support the application at this point as no information has been submitted with regards to access for people with disabilities or the provision of disabled toilets. However, as previously mentioned, no plans have been submitted in relation to external changes.

Any affect on the value of surrounding properties in the area is not a material planning consideration and any other applications in the future for food or pub uses in the area would be considered on their own merits.

In my opinion the proposal satisfactorily meets the relevant Local Plan policy requirements. The town centre of Whitehaven has a mix of retail, commercial and food and drink uses, with a number of similar uses in the vicinity. The proposal, therefore, is considered to be in accordance with Policies TCN 7 and TCN 10 of the adopted Copeland Local Plan 2001-2016 and, as such, is favourably recommended.

Recommendation

Approve (commence within 3 years)

2. The use hereby permitted shall not be open to customers outside the hours of 11.00am until 11.00pm on any day.
3. The use hereby permitted shall not commence until full details of the scheme for the extraction of cooking fumes and cooking odours has been submitted to and approved in writing by the Local Planning Authority. The system shall be installed in accordance with the approved details before the use commences and shall be maintained thereafter.
4. The use hereby permitted shall not commence until a ground floor layout plan for the use has been submitted to and approved in writing by the Local Planning Authority. The layout shall be in accordance with the approved details and shall be maintained thereafter.
5. Details of any external changes to the property shall be submitted to and approved in writing by the Local Planning Authority prior to development being commenced. Any approved alterations shall be in accordance with the approved details.

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The reasons for the above conditions are:-

In compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

To minimise the risk of nuisance to neighbouring properties

For the avoidance of doubt

Reason for decision:-

An acceptable alternative use for these vacant town centre premises in accordance with Policies TCN 7 and TCN 10 of the adopted Copeland Local Plan 2001-2016

10 4/09/2420/0

ERECTION OF TWO STOREY DETACHED DWELLING
LAND ADJACENT TO, UTOPIA KENNELS, LOWCA,
WHITEHAVEN, CUMBRIA.
MR P EDMONDSON

Parish Lowca

- No comments received.

PROPOSAL

Planning permission is sought for the erection of a two storey dwelling on the site to replace an existing mobile home. The mobile home was granted planning permission in 2006 for a temporary 3 year period as part of a proposal for the establishment of a specialist kennel business for racing greyhounds.

The proposed dwelling is to be sited adjacent to an existing kennel building at the entrance into the site and is two storeys in scale. It has been designed with two half dormer windows on the front elevation to enable bedroom accommodation to be incorporated within the roof space with the overall aim of minimising the height of the building to reduce its impact. The dwelling is to be finished with smooth rendered walls although it is proposed to stone face both the porch and chimney stack. The roof is to be covered with concrete tiles.

An existing gated entrance off the minor road which flanks the site is to be used to provide a vehicular access to the dwelling.

MAIN AGENDA

The applicant has submitted financial accounting information in support of the application in an attempt to illustrate that the business is financially viable.

CONSULTATION RESPONSES

Highways Control Officer - No objections as the proposal will be unlikely to have a material affect on existing highway conditions.

United Utilities - No objections.

One letter of objection has been received from a resident of Distington which expresses concerns about the need for a dwelling on the site and the impact that it and any likely expansion of the kennel business will have on the appearance of this stretch of the C2C cycle track.

PLANNING POLICY

Government guidance set out in Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS 7) requires any isolated new houses within the countryside to have special justification and it clarifies that any proposal for this type of development should be scrutinised thoroughly. It advocates the application of both a functional and financial test. A functional test is necessary to establish whether it is essential for a worker to be readily available at most times for the proper functioning of the enterprise. The financial test is necessary to establish whether the enterprise is economically viable in the longer term.

Policy DEV 5 of the adopted Copeland Local Plan 2001-2016 seeks to protect the open countryside from inappropriate types of development. This policy states that development will not be permitted unless it is essential agricultural, forestry or other rural business development.

Policy HSG 5 states that new dwellings outside the recognised settlements will only be permitted in exceptional circumstances. One of the exceptional circumstances listed is for site anchored rural business where accommodation is needed in close proximity to the work-place. The Council will require both functional and financial tests of the business as proof that the new dwelling is essential to the long term viability of the enterprise. This approach is consistent with the guidance set out in PPS 7.

Policy HSG 6 permits the siting of a temporary residential caravan at new rural enterprises where there is a reasonable prospect of the business achieving viability in the medium term (up to 3 years).

CONCLUSIONS

It was accepted that there was a functional need for a person to be present on the site when the temporary mobile home was approved in

MAIN AGENDA

2006. This was consistent with the provisions of Policy HSG 6 which allow temporary residential caravans to be sited at rurally based businesses where there is a reasonable prospect of the business achieving viability in the medium term. The caravan has been on site for 3 years.

Once a functional need has been established then it is relevant to apply a financial test to establish whether the business is viable. The applicant has been trading for 3 years and has submitted financial accounts for the past two years to illustrate. Although this detailed information is confidential it does show that the business has an increasing turnover and is now generating a small profit which has increased over the last two years. As the financial test is critical to the outcome of this application the Head of Finance and Business Development has been asked to review the accounts to verify whether she is of the view that the business is financially viable and likely to operate in the long term. Her comments will be reported at the meeting.

Recommendation

That delegated authority is given to the Development Control Manager to grant planning permission subject to confirmation from the Head of Finance and Business Development that this rural enterprise is financially viable, and subject to the following conditions:-

2. The dwelling shall be occupied solely in association with the specialist business on site and shall not be sold or let separately.
3. This permission shall inure for the benefit of Mr P Edmondson and his family/dependents only.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development permitted by Classes A, B, D, E, F or G of Schedule 2 Part 1 (The enlargement, improvement or other alteration of a dwelling house; the provision of any building, enclosure, pool, hard standing or domestic heating oil container) shall take place other than as expressly authorised by this permission without the prior written permission of the Local Planning Authority.

The reasons for the above conditions are:-

In compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

MAIN AGENDA

The Local Planning Authority would not be prepared to grant planning permission for the erection of a dwelling on the site except for the occupation by persons so employed.

Permission has been granted as an exception to established planning policies in recognition of the special needs of the applicant.

To retain control over external alterations to the dwelling house in the interests of amenity of the locality.

Reason for decision:-

The Local Planning Authority is satisfied that exceptional circumstances exist that justify the erection of a permanent dwelling on the site. There is a functional need for a worker to be resident on the site for the proper functioning of this rural enterprise and the applicant has supplied sufficient information to demonstrate that the kennel business is economically viable in the longer term. On this basis this proposal is considered to comply with Policies DEV 5 and HSG 6 of the adopted Copeland Local Plan 2001-2016.

Schedule of Applications - DELEGATED MATTERS

4/09/2338/0	Lowside Quarter	ERECTION OF A DETACHED DWELLING (RE-SUBMISSION) PLOT C, ROWLEE COTTAGE, NETHERTOWN, CUMBRIA. MR A LESLIE
4/09/2339/0	Millom	REDEVELOPMENT OF PUBLIC HOUSE COMPRISING EXTENSION FOR NEW KITCHEN & TOILETS & ADDITIONAL THE RISING SUN, 38, MAIN STREET, HAVERIGG, MILLOM, CUMBRIA. MR A GARDNER
4/09/2369/0	Lowside Quarter	CHANGE OF USE FROM ONE HOLIDAY APARTMENT INTO TWO SELF CONTAINED HOLIDAY APARTMENTS CLUBHOUSE, TARN SIDE CARAVAN PARK, BRAYSTONES, CUMBRIA. THOMAS MILBURN PROPERTIES LTD.
4/09/2323/0	Whitehaven	RESIDENTIAL DEVELOPMENT CONSISTING OF 22 BUNGALOWS FOR ELDERLY OR DISABLED RESIDENTS WASTWATER ROAD, WHITEHAVEN, CUMBRIA. HOME GROUP DEVELOPMENTS LTD.
4/09/2373/0	Cleator Moor	WOODEN HORSE SHELTER AND HAY STORE (RETROSPECTIVE) LAND AT BLIND LANE, BLIND LANE, CROSSFIELD, CLEATOR MOOR, CUMBRIA. MR E IRVING
4/09/2378/0	Whitehaven	EXTERNALLY ILLUMINATED FASCIA SIGN 11, TANGIER STREET, WHITEHAVEN, CUMBRIA. MR R OPAN
4/09/2348/0	St Bees	ERECTION OF GARAGE 6, BAY VIEW, ST BEES, CUMBRIA. MR JONES
4/09/2360/0	Egremont	EXTENSION TO FIRST FLOOR ROSEBANK, EAST ROAD, EGREMONT, CUMBRIA. MR B BOWNESS
4/09/2362/0	Whitehaven	SINGLE STOREY EXTENSION TO SIDE AND OPEN PORCH FRONT 37, RUTLAND AVENUE, WHITEHAVEN, CUMBRIA. MR C MAY
4/09/2363/0	Whitehaven	PROPOSED SINGLE STOREY EXTENSION FOR KITCHEN AND BATHROOM 5, ROTTINGTON ROAD, SANDWITH, WHITEHAVEN, CUMBRIA. MR D HOGG
4/09/2377/0	St Bees	DOUBLE STOREY EXTENSION TO SIDE OF DWELLING

Schedule of Applications - DELEGATED MATTERS

		40A, ABBEY VALE, ST BEES, CUMBRIA. MR R SMITH
4/09/2387/0	Cleator Moor	ERECTION OF SINGLE STOREY EXTENSION TO SIDE OF DWELLING 78, CONISTON PARK, CLEATOR MOOR, CUMBRIA. MR D GRAHAM
4/09/2340/0	Millom	CHANGE OF USE FROM RETAIL NEWSAGENT/FANCY GOODS TO INDIAN FOOD TAKEAWAY 10, WELLINGTON STREET, MILLOM, CUMBRIA. MRS M SCURRAH
4/09/2346/0	Egremont	GENERAL PURPOSE AGRICULTURAL SHED DISMANTLED RAILWAY, FIELD 7563, MOOR ROW TO WOODEND ROAD, MOOR ROW, CUMBRIA. MISS E HEWITSON
4/09/2350/0	Millom	REAR CONSERVATORY (RETROSPECTIVE) 35, PANNATT HILL, MILLOM, CUMBRIA. MRS A JAMES
4/09/2366/0	Egremont	EXTENSION TO BUNGALOW FOR BEDROOM, EN-SUITE BATHROOM, AQUATIC THERAPY POOL AND CARERS THE ORCHARD, ULDALE VIEW, EGREMONT, CUMBRIA. MISS J SPEDDING
4/09/2371/0	Lowside Quarter	1ST FLOOR DECKED AREA AND CONSTRUCTION OF RAMP GROUND LEVEL TO FRONT (RETROSPECTIVE) MEADOW BROOK, DENT ROAD, THORNHILL, CUMBRIA. MR A OATES
4/09/2376/0	Egremont	CHANGE OF USE OF PART FIRST FLOOR & SECOND FLOOR INTO BED AND BREAKFAST ACCOMMODATION 1, MARKET PLACE, EGREMONT, CUMBRIA. MR A SHIPLEY
4/09/2381/0	Seascale	APPLICATION TO TRIM 3 PURPLE BEECH TREES AND 2 OAK TREES GLENWOOD, LINGMELL, SEASCALE, CUMBRIA. MR P WILLIAMS
4/09/2383/0	Seascale	CROWN REDUCTION OF ONE COPPER BEECH TREE PROTECTED BY A TREE PRESERVATION ORDER THE SHEILING, LINGMELL, SEASCALE, CUMBRIA. MR A BOSTOCK
4/09/2392/0	Egremont	CROWN REDUCTION OF 2 LIME TREES WITHIN EGREMONT CONSERVATION AREA ST MARY & ST MICHAEL CHURCH, SOUTH STREET, EGREMONT, CUMBRIA. OPEN SPACES SECTION

Schedule of Applications - DELEGATED MATTERS

4/09/2395/0	St Johns Beckermat	CROWN RAISE 5 ACER TREES PROTECTED BY A TREE PRESERVATION ORDER 16, BECK RISE, BECKERMET, CUMBRIA. MR C BOOTHROYDE
4/09/2396/0	St Johns Beckermat	FELLING OF ONE ULMUS PROCERA TREE PROTECTED BY TREE PRESERVATION ORDER 18, BECK RISE, BECKERMET, CUMBRIA. MR N LEWTHWAITE
4/09/2397/0	St Johns Beckermat	FELLING OF ONE ACER TREE PROTECTED BY A TREE PRESERVATION ORDER 20, BECK RISE, BECKERMET, CUMBRIA. MR M WRIGHT
4/09/2416/0	Egremont	FELL ONE DAMSON PLUM TREE (RETROSPECTIVE) WITHIN EGREMONT CONSERVATION AREA LAND TO THE REAR OF, 7/8, MARKET PLACE, ADJACENT TO BECK GREEN CAR PARK, EGREMONT, CUMBRIA. MR R MERRETT
4/09/2332/0	Moresby	DEMOLISH FORMER MORESBY PARKS MISSION CHURCH WITH OUTLINE PERMISSION TO ERECT A SINGLE RESIDENTIAL MISSION CHURCH, MORESBY PARKS, WHITEHAVEN, CUMBRIA. MORESBY PAROCHIAL CHURCH COUNCIL
4/09/2333/0	Whitehaven	INFILL EXTENSION FORMING GLAZED LINK BETWEEN SURESTART AND COMMUNITY FACILITIES ST GREGORYS & ST PATRICKS RC, INFANT SCHOOL, ESK AVENUE, WHITEHAVEN, CUMBRIA. THE SCHOOL GOVERNORS
4/09/2336/0	Whitehaven	ERECTION OF ILLUMINATED FASCIA SIGN 63, LAKELAND AVENUE, WHITEHAVEN, CUMBRIA. FOOD PROGRAMME DELIVERY ORCHID
4/09/2341/0	Cleator Moor	INSTALLATION OF ONE 15M WIND TURBINE WATH BROW HORNETS RLFC, WATH BROW, CLEATOR, CUMBRIA. MR P MARTIN
4/09/2342/0	Whitehaven	NEW OPENING IN INTERNAL WALL 7, FOXHOUSES ROAD, WHITEHAVEN, CUMBRIA. MR N RILEY
4/09/2345/0	Lowca	BUNGALOW AND GARAGE (RE-SUBMISSION) LAND ADJACENT TO, BAY VIEW, LOWCA, WHITEHAVEN, CUMBRIA.

Schedule of Applications - DELEGATED MATTERS

		MR B ENNIS
4/09/2356/0	Whitehaven	CHANGE OF USE FROM PART OF FIELD TO GARDEN REAR OF, 39, LOOP ROAD SOUTH, WHITEHAVEN, CUMBRIA. MRS L McDOWELL
4/09/2357/0	Whitehaven	REPLACEMENT EXTERNAL SIGNAGE 22, KING STREET, WHITEHAVEN, CUMBRIA. MR R YEATES
4/09/2359/0	Whitehaven	CROWN REDUCTION OF 3 ALDER TREES WITHIN HIGH STREET CONSERVATION AREA ST JAMES CHURCH YARD, HIGH STREET, WHITEHAVEN, CUMBRIA. MR T MAGEAN
4/09/2367/0	Whitehaven	PRUNE 5 ALDER TREES AND 2 SILVER BIRCH TREES WITHIN WHITEHAVEN CONSERVATION AREA SENHOUSE STREET CAR PARK, SENHOUSE STREET, WHITEHAVEN, CUMBRIA. OPEN SPACES SECTION
4/09/2368/0	Ennerdale and Kinniside	PURPOSE BUILT CATTLE SHED (REPLACEMENT) HOLLINS FARM, ENNERDALE, CUMBRIA. MR W RAWLING
4/09/2370/0	Lamplugh	CHANGE OF USE FROM AGRICULTURAL LAND TO GARDEN LAND LAND AT THE REAR OF, ASHBURN, EAST SIDE OF WOOD CROSSGATES, LAMPLUGH, CUMBRIA. MR J LEVY
4/09/2372/0	Arlecdon and Frizington	HAY STORE - STEEL FRAMED FIELD NO. 4289, ARLECDON, CUMBRIA. MR J VOUT