

Addendum Report – Planning Panel Meeting – 27th October 2021

Application Number: 4/19/2140/001

Application Address: Land to north of Ennerdale Country House Hotel, Cleator

Proposal: Outline application for residential development (with full details of access) and demolition of derelict barn.

Summary of Meeting of Planning Panel Held on 29th September 2021

At the meeting of the Planning Panel, Members received a detailed report and presentation from their Planning Officers; heard representations from members of the public in objection; and, heard representations from the Applicant in support.

Following their consideration of the Outline Planning Application Members resolved to refuse the Outline Planning Application contrary to the recommendation of the Planning Officers.

In accordance with the adopted protocol of Copeland Borough Council, the determination of the Outline Planning Application was deferred for a period of one month to allow the Planning Officers to consider the reasons for refusal outlined by Members.

Members also requested the following:

- That a site visit be arranged prior to this application returning to the Planning Panel for determination; and,
- That an Officer from Cumbria County Council – Highways be invited to attend the Planning Panel meeting when the application is next considered.

The Outline Planning Application is now being brought back for Members to consider the matter further.

It is confirmed that an Officer from Cumbria County Council – Highways has been invited to and agreed to attend the Planning Panel.

The main issues raised by Members in resolving to refuse Outline Planning Permission comprise the following:

- The impact of the development on highway safety.
- The loss of non-designated heritage assets.
- The loss of existing trees.
- Surface water flood risk from the A5086.

Additional Representations Received Post Meeting of Planning Panel Held on 29th September 2021

Cllr Frank Morgan – Cumbria County Council

Personally I have visited the site and after viewing the access to the proposed development at the rear of the Hotel I am concerned about the poor visibility (circa 60m) to the south towards Cleator.

As County Councillor for the area I have had a number of speeding complaints from residents over the years and am aware that the road between Cleator and Cleator Moor has been subject to regular enforcement activity by the police.

Personally I would not want to leave the proposed entrance to turn right onto the A5086 as I consider it to be extremely dangerous.

Two Additional Objections Received

The material planning issues raised comprise the following:

Objection 1

Concern exists regarding the traffic calming measures outlined by Cumbria County Council – Highways.

There are several entrances on the opposite side of the A5086 in addition to the access to the existing housing estates (Flosch Meadows and Howthorne Fields) that are not shown in the sketch prepared by Cumbria County Council – Highways. These include the existing entrance to Flosch Farm; the construction access approved under application ref. 4/18/2536/0F1; two field gates; and, services gates to the Ennerdale Hotel, which if opened outwards would severely restrict visibility. It is believed that these will add to traffic congestion and possibly contribute to a serious accident.

A turning lane is unworkable. The A5086 in that part on Cleator is approximately 7m wide. For this to work the width of the road would need to be approximately 9m minimum to facilitate the larger vehicles passing each other in both directions. Is the road being widened? Such a turning lane will hinder people exiting Flosch Farm turning right. Traffic from the proposed development turning right will have to cross the turning lane whilst navigating the traffic exiting from the construction access approved under application ref. 4/18/2536/0F1.

There are two developments on A5086 that have been required to have visibility splays of 2.4m x120m – application refs. 4/18/2536/0F1 and 4/20/2043/0O1. The first is directly opposite the proposed access.

There are a set of double gates at the service entrance to the Ennerdale Hotel that can be opened outwards further reducing visibility below 60m. Service vehicles are constantly parked unloading food, laundry etc. reducing visibility.

The speed survey on which the design is based was conducted in February 2021 during a period of lockdown when there was little or no traffic on the road - schools closed so no school traffic, workers on furlough so no work traffic and the 600+ Sellafeld park and ride scheme closed. A questionable vehicle resembling a speed van interfered with the legitimacy of this survey. It is considered that this survey should be considered invalid and an independent survey conducted to confirm the correct speeds on this area of the A5086.

There are also solid white lines on the outside of the bend on this part of the A5086 preventing motorists from overtaking and is indicative of the speeds on this road.

Objection 2

When the application was originally submitted it was requested that the accesses on the opposite side of the A5086 be illustrated on the proposed plan. At that time it was advised that this could not be required. It is considered that Members of the Planning Panel are not able to fully understand the proposed development without plans showing all of the existing and approved entrances at this location.

Cumbria County Council – Highways has provided a ‘hand drawn’ sketch of the proposed highway solution to access the development site; however, it is clear that the sketch does not take account of the access to Flosch Farm House; the two field accesses to the south of Flosch Farm House and, perhaps more significantly, the approved temporary construction access.

There would clearly be a conflict in vehicle movements from visitors wishing to turn right into the Application Site (when travelling north on the A5086) and construction traffic wishing to turn right into the approved temporary construction access and indeed some concern for visitors entering Flosch Farm House (when travelling south on the A5086).

It is only correct that it be clarified that the unmarked accesses to the northern side of the A5086 have been factored into the prospective highway design solution.

Copeland Borough Council should request a technical drawing illustrating the proposed solution rather than rely on a sketch that is (a) not to scale and (b) does not take account of the accesses that I have referenced. Failure to do so would leave the Council without any certainty that the condition in question can be satisfied. If there is no prospect of the requirements being met then you will appreciate the condition should not be imposed.

Will the 7m wide A5086 road require widening to support centre of road proposals?

Forward visibility measurement should be provided for the Proposed Entrance.

The actual design speed of the road should be confirmed.

It should be confirmed if the overspill 600+ car park has been considered in relation to the proposed development.

The requirement for visibility of 120m at 2.4m setback for applications 4/18/2536/0F1 and 4/20/2043/001 should be confirmed.

Cumbria County Council – Highways should confirm if they support their own words for this road general location: "Vehicle speeds and increase in pedestrian movement is of concern along the A5086".

Assessment

Each of the reasons for refusal outlined by Members of the Planning Panel are considered in turn below:

The Impact of the Development on Highway Safety.

Access is proposed via a newly created access from the A5086. Visibility splays of 2.4m x 60m are demonstrated as achievable to the access.

Cumbria County Council – Highways initially objected to the proposed development. It was confirmed that whilst the visibility splays achievable to the proposed access meet the requirements for the 30mph speed limit of the A5086, they did not meet the requirements for the known 85th percentile speed on the A5086 confirmed via a third party speed survey. It was confirmed that visibility splays of 2.4m x 120m would be required based on the known 85th percentile speed.

Further to the above, the Applicant commissioned a speed survey to establish the 85th percentile speed of the A5086 at the location of the proposed access. The completed speed survey demonstrated an 85th percentile speed of 36mph. Cumbria County Council – Highways confirmed that on the basis of this information, visibility splays of 2.4m x 60m were acceptable subject to the imposition of planning conditions.

The conclusions of the commissioned speed survey were subsequently challenged by an objector to the development, with it confirmed that the conclusions could not be relied upon due to the presence unofficial 'slow down-tree cutting' signs being placed by persons unknown either side of the road and survey point immediately prior to the survey and removed following its completion. Following legal advice and advice from Cumbria County Council – Highways, it was confirmed that the conclusions of the completed speed survey could not reasonably be relied upon.

A further speed survey was then commissioned by the Applicant. The completed speed survey was completed in July 2020 and demonstrated an 85th percentile speed of 37mph. Cumbria County Council – Highways confirmed that on the basis of this information, visibility splays of 2.4m x 60m were acceptable subject to the imposition of planning conditions. The proposed planning conditions include a requirement to implement a scheme of traffic calming on the A5086 at the expense of the Applicant. A base specification for the scheme has been drafted by Cumbria County Council – Highways, the detail of which will be secured at a later stage. The resulting reduction in road speeds would deliver betterment of the safety of the proposed access and A5086 generally in this location.

The conclusions of the commissioned speed survey were again challenged by an objector to the development, with it confirmed that the conclusions could not be relied upon due to the

presence of a parked vehicle during the completion of the survey which may have influenced the results and that the survey was completed during Covid 19 times when traffic volumes were lower. The vehicle when known to have been present, did not result in materially different road speeds to other days surveyed. Following legal advice and advice from Cumbria County Council – Highways, it was confirmed that the conclusions of the completed speed survey could reasonably be relied upon and the timing of the survey was acceptable.

Planning conditions are proposed requiring the creation of the access and required visibility splays before development excluding demolition and site clearance are completed to secure the safety of construction vehicles; to secure details of the proposed access; requiring the closure of the existing access; and, to secure Construction Traffic Management Plan.

Cumbria County Council – Highways have confirmed that the other existing accesses to the A5086 have been considered in their assessment and that any scheme of traffic calming would be the subject of further scrutiny and that any scheme should be designed to increase safety within the locality.

The Loss of Non-designated Heritage Assets.

Policy DM10 expects high standards of design and the fostering of quality places. It is required that development responds positively to the character of the site and the immediate and wider setting and enhances local distinctiveness. It is required that developments incorporate existing features and address vulnerability to and fear of crime and antisocial behaviour.

Policy ENV4 and Policy DM27 seeks to protect, conserve and where possible enhance listed buildings, conservation areas and their settings

The LBCA sets out a clear presumption that gives considerable importance and weight to the desirability of preserving a heritage asset and its setting.

Section 66.1 requires that: *‘In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses’.*

Paragraph 197 of the NPPF requires that in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new develop

Paragraph 199 of the NPPF requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be

given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 200 of the NPPF requires that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional.

Paragraph 202 of the NPPF requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 203 of the NPPF requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 204 of the NPPF requires that local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

Paragraph 205 of the NPPF requires that local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

Appearance, landscaping, layout and scale reserved for subsequent approval; therefore, such details are not to be considered as part of this planning application. It is however necessary to consider if a scheme is deliverable on the Application Site that will not result in unacceptable impacts.

Ennerdale County House Hotel (formerly The Flosh) dates to 1832 and is a Grade II Listed Building.

The barns on the Application Site are shown on the 1861 OS map as part of a coherent cluster around yards appended to the north side of The Flosh. Flosh Farm is not shown until the 1899 OS map. The Flosh dates to 1832.

The barns on the Application Site are separated from The Flosh by approximately 40m and although the plots adjoin and the complex of barns was historically spatially connected via a loose courtyard arrangement, physical connection did not exist between the buildings at the time of the listing. The Flosh itself was vacant at the time of the listing.

It is therefore concluded that the barns on the Application Site comprise non-designated heritage assets and part of the setting of The Flosh

The barns on the Application Site date mostly from a relatively narrow window of time, likely being around the date of construction of The Flosh. By the 1861 OS map, the complex as it currently exists seems largely in place. There is no evidence that the barns were associated with a particular engineer or architect, although their association with a high status country house and the relative simultaneity of the buildings' construction suggests it may have been planned at a single point in time as a functional unit.

Neglect has allowed several of the barns to deteriorate substantially; however, the two main barns at right angles to one another survive in good condition. The north orientated stone barn may well contain an infilled mill wheel pit.

The barns on the Application Site retain a discernible plan form and have been partitioned from the Flosh. Notwithstanding, the barns comprise an important part of the readability of the structures that were associated with The Flosh and so contribute to its historic value and an element of its significance.

The proposed removal of the existing barns and the erection of dwellings will result in the loss of these non-designated heritage assets with that harm to the setting of The Flosh as the relationship between the buildings etc. would no longer exist or be discernible. The visual effect on the setting of The Flosh is debateable, having some visibility from the rooms and garden, although the Application Site is mostly hidden behind a large wall. The impression given within the hotel grounds is one of being surrounded by trees and this is a character that could be expected to be lost or impacts to some extent in the short to medium term, depending on the level of site clearance. It must however be noted that the majority of the trees appear to be fairly young self-seeded specimens that would not have existed only a few years ago.

The potential to retain the existing barns has been investigated with the Applicant. In doing so, the Applicant highlights the requirement that would exist for the demolition and effective replication of c.80% of the barns on the Application Site due to their form and structural condition; the inability to deliver an acceptable means of access whilst retaining the existing barns; the limitations arising from the existing drainage infrastructure that cross under the existing barns; and, the financial costs of converting the existing buildings resulting in a development that would not be economically viable.

The Copeland Conservation Officer whilst initially objecting to the development owed to the loss of the existing barns, following the receipt of the additional information and evidence from the Applicant has confirmed that development without retaining the existing barns would be preferable to the site remaining vacant subject to the completion of the recording of the existing barns.

It is considered that a detailed scheme is deliverable on the Application Site that relates well to the existing development within the locality, albeit, less than substantial harm would result to the setting of The Floss.

The Loss of Existing Trees.

A Tree Survey has been submitted.

The majority of trees within the Application Site have naturally regenerated since the site fell into disuse, are poor quality and are unsuitable for retention within a residential development.

The Tree Survey demonstrates that a residential development could be accommodated on the Application Site without harm to the trees protected by a Tree Preservation Order covering the Ennerdale Country House Hotel and the loss of the higher quality trees within the Application Site including the group to the boundary with Hawthorne Fields.

It must be accepted that any residential development would result in visual impacts owed to the removal of trees, which at present resemble a small wood; however, historically was unlikely to have been the case.

A scheme of landscape mitigation would be required and could be accommodated within any residential development including the retention of the higher quality trees within the Application Site.

Planning conditions are proposed requiring the submission, approval and implementation of a full scheme of landscaping and an Arboricultural Method Statement to prevent harm to retained and neighbouring trees.

Invasive plants are known to exist on the Application Site and a planning condition is proposed to secure a means of removal and treatment.

Surface Water Flood Risk From The A5086.

As the identified flooding is located on the public highway, this is a matter to be considered separate from the planning process with Cumbria County Council – Highways as Local Highway Authority.

Conclusion

For the reasons set out above Officers maintain their original recommendation that Outline Planning Permission be approved subject to the planning conditions outlined.