

## PLANNING COMMITTEE

Minutes of the proceedings at a meeting of the Planning Committee held in the Assembly Room, Kendal Town Hall, Kendal, on Thursday, 26 August 2021, at 10.00 a.m.

Present

Councillors

Pete McSweeney (Chairman)  
Malcolm Lamb (Vice-Chairman)

Rupert Audland  
Brian Cooper  
Michael Cornah

Philip Dixon  
Judy Filmore  
Chris Hogg

John Holmes  
Janette Jenkinson  
David Webster

Apologies for absence were received from Councillors Giles Archibald, Gill Gardner, Vicky Hughes and Susanne Long.

Officers

Nick Howard	Team Leader Development Management
Rachel Ireland	Trainee Solicitor
Andrew Martin	Principal Planning Officer
Charlotte McKay	Planning Lawyer
Emma Priest	Legal, Governance and Democracy Specialist (Solicitor)
Charlotte Pinch	Specialist Level 2 (Development Management)

**P/11**

### MINUTES

The Planning Lawyer explained to the Committee that all Members should have received an email the day before the meeting which outlined proposed amendments to the Draft Minutes of the last Planning Committee held on 29 July 2021. The Planning Lawyer drew Members' attention to the fact that Minutes were not verbatim but they must be an accurate record.

RESOLVED – That the Chairman be authorised to sign, as a correct record, the minutes of the meeting held on 29 July 2021 following the below amendments being made:-

- (1) At P/6 paragraph 1, within the final sentence, the word "included" be inserted. The Minutes shall be amended to read:-

*'The Planning Officer drew Members' attention to the principal issues which included the proximity of the development to adjacent residential dwellings, the loss of trees during the development phase and hence the lack of screening between the site and the residential area, and the objections received from residents included sound and light pollution.'*; and

- (2) At P/6 paragraph 4, within the first sentence, the word "complaints" be replaced with "objections". The Minutes shall be amended to read:-

*'The Planning Officer concluded his report by acknowledging the objections he had received from neighbours of the site.'*

**P/12 DECLARATIONS OF INTEREST**

RESOLVED – That it be noted that no declarations of interest were made.

**P/13 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS**

RESOLVED – That, where discussion was necessary, the items in Part II of the Agenda be dealt with following the exclusion of the press and public.

**P/14 PUBLIC PARTICIPATION**

RESOLVED – That it be noted that applications to speak under the Council's public participation scheme have been received in respect of the following items:-

- (1) Minute No. P/15 (Planning Application No. SL/2020/0908); and
- (2) Minute No. P/16 (Planning Application No. SL/2020/0783 (FPA))

**P/15 PLANNING APPLICATION NO. SL/2020/0908 - PORSCHE CENTRE, LONGPOOL, KENDAL, LA9 6BX**

The Planning Officer presented Planning Application No. SL/2020/0908, which sought full planning permission for a development of 55 retirement living apartments on the site of the Porsche car centre in Kendal. The Planning Officer highlighted to Members that the site was largely contained within Flood Zone 2, the development was within the boundary of the town, and adjoined the Kendal Conservation Area. The Officer displayed plans and photographs within a presentation, which detailed the proposals.

Within the proposed site plan for the new development, on the eastern side there would be three stories and on the northern side of the development, four stories. The site had vehicular access, which connected straight to the A6. Viability assessments had been submitted for the scheme and had been assessed by both the Council and externally.

The Planning Officer explained that recent discussions had taken place with the Applicant whereby 15 of the 55 apartments had been volunteered to have a local occupancy clause restriction. The Officer explained that the Committee could propose this as a Condition.

Chris Butt, the Applicant's Agent, addressed the Committee and spoke in support of the application.

The Planning Officer answered questions raised by Members of the Committee. Clarification was sought on the meaning of 'PAH' at page 41 of the Report. The Planning Lawyer explained this was an abbreviation of 'Polycyclic Aromatic Hydrocarbons'. Members discussed the potential affordable housing requirements of the site and highlighted that the applicant had previously made a commuted sum payment on another site where affordable housing could not be provided. Planning Officers explained this would not be viable on this site.

Members were concerned with the highway access to the site and the pedestrian crossing. The Planning Officer explained that no comments had been raised by the Highway Authority in relation to safety. Further, a transport assessment had been made which predicted a lower number of vehicles would access the site than previously when the site operated as a Porsche car centre.

Members sought clarification from the Planning Officers if there was any scope to increase the number of apartments on the site with a local occupancy restriction. The Team Leader of Development Management suggested to Members that the Committee could propose a Condition with a minimum requirement then Planning Officers could negotiate an increase, at present 27% of the site was subjected to the local occupancy restriction.

Members further proposed a condition; this would require the site to have two electric vehicle charging points that could be used by both residents and members of staff.

Members thanked the new Planning Officer for her presentation and report, the Chairman endorsed these comments.

RESOLVED – That the application be approved, subject to:-

- (1) The installation of two electrical vehicle charging points on the site;
- (2) Local occupancy restrictions being imposed on a minimum number of 15 apartments with Planning Officers to endeavour to negotiate a higher number, with an ideal aim to secure 35% of the apartments to be subjected to the restriction; and
- (3) The Conditions outlined below:-

**Condition (1):** *The development hereby permitted shall be commenced before the expiration of THREE YEARS from the date hereof.*

**REASON:** *To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

**Condition (2):** *The development hereby permitted shall be carried out in accordance with the following approved plans:*

**NW-2468-AC-003-005-1 Rev C Proposed Site Layout Plan Received 28 May 2021**

**NW-2468-AC-003-006-1 Rev B Floor Plans 1 of 2 Received 28 May 2021**

**NW-2468-AC-003-006-2 Rev B Floor Plans 2 of 2 Received 28**

**May 2021 NW-2468-AC-003-007 Rev B Roof Plan Received 28 May 2021**

**NW-2468-AC-003-008-1 Rev A Elevations 1 of 2 Received 28 May 2021**

**NW-2468-AC-003-008-2 Rev B Elevations 2 of 2 Received 28**

**May 2021 NW-2468-AC-003-023 Site Elevations Received 28 May 2021**

**REASON:** *For the avoidance of doubt and in the interests of proper planning.*

**External materials**

**Condition (3):** *External walls and roofs shall be finished in accordance with the materials shown on the approved plans, and in accordance with stone, render and slate specifications that shall first have been submitted to, and approved in writing by, the local planning authority. Notwithstanding any annotations to the contrary on the approved plans, all stone and slate must comprise natural, locally- sourced materials.*

**REASON:** *To ensure compliance with: (1) policies CS8.6 (Historic Environment) and CS8.10 (Design) of the South Lakeland Core Strategy; and (2) policies DM1 (General Requirements for all development), DM2 (Achieving Sustainable High Quality Design) and DM3 (Historic Environment) of the South Lakeland Development Management Policies Development Plan Document.*

**Accessible and adaptable homes**

**Condition (4):** *All of the apartments hereby approved shall be constructed to meet the Building Regulations M4(2) standards for accessible and adaptable homes and two of the dwellings shall be constructed to Building Regulations M4(3) wheelchair adaptable standards.*

**REASON:** *To secure an appropriate level of compliance with Policy DM11 of the Development Management Policies Development Plan Document.*

**Broadband**

**Condition (5):** *No individual apartment hereby approved shall be first occupied until connected to the necessary infrastructure to enable access to high speed (superfast) broadband.*

**REASON:** *To comply with Policy DM8 (High Speed Broadband for New Developments) of the Development Management Policies Development Plan Document.*

**Highways**

**Condition (6):** *Occupation of the apartments (excluding any on-site staff) shall be restricted at all times to people of 60 years of age and above, or those of at least 55 years of age and living with a spouse or partner of 60 years or above.*

**REASON:** *To ensure that predicted traffic trip generation rates and parking demand are adhered to, in the interests of ensuring highway safety and to safeguard the amenity of the existing area in accordance with: (1) policy CS10.2 (Transport impact of new development) of the South Lakeland Core Strategy; and (2) policies DM7 (Addressing Pollution, Contamination Impact, and Water*

**Quality) and DM9 (Parking Provision, new and loss of car parks) of the South Lakeland Development Management Policies Development Plan Document.**

**Condition (7):** *None of the apartments hereby approved shall be first occupied until the parking, access and manoeuvring areas shown on approved drawing NW-2468-AC-003-005-1 Rev C Proposed Site Layout Plan have been constructed and made available for. Thereafter, all parking, access and manoeuvring areas must be retained as approved for the lifetime of the development.*

**REASON:** *To maintain highway safety in accordance with: (1) policy CS10.2 (Transport impact of new development) of the South Lakeland Core Strategy; and (2) policies DM1 (General Requirements for all development) and DM9 (Parking Provision, new and loss of car parks) of the South Lakeland Development Management Policies Development Plan Document.*

**Condition (8)** *None of the apartments hereby approved shall be first occupied until the precise details of the location and number of disabled parking bays within the site has been submitted to and approved in writing by the Local Planning Authority. The disabled parking bays shall be provided in accordance with the approved details prior to first occupation of the development.*

**REASON:** *To ensure suitable access and parking arrangements for people with disabilities in accordance with Policy DM1 of the Development Management Policies Development Plan Document and Policy CS10.2 of the South Lakeland Core Strategy.*

**Condition (9)** *None of the apartments hereby approved shall be first occupied until precise details of a means of access for pedestrians to the south of the site has been submitted to and approved in writing by the Local Planning Authority. The pedestrian access shall be constructed in accordance with the approved details and made available for use prior to first occupation of the development.*

**REASON:** *In the interests of highway safety in accordance with Policy DM1 of the Development Management Policies Development Plan Document and Policy CS10.2 of the South Lakeland Core Strategy.*

**Construction management**

**Condition (10):** *No development shall commence until a Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include:*

- details of designated areas for construction vehicle parking, maneuvering, loading and unloading;
- details of storage areas for construction plant and materials;
- details of measures to control the emission of dust and dirt during construction;
- measures to control noise and vibration from plant, equipment and procedures during construction, including from any rock pecking and excavations;
- confirmation of an embargo on the burning of waste material;
- a scheme for recycling / disposing of waste resulting from excavations;
- details of a construction lighting scheme, designed to minimise light spillage from the site boundary;
- procedures for the cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- procedures for the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- management of junctions to and crossings of the public highway including the footway;
- details of any proposed temporary access points (vehicular / pedestrian);
- details of surface water management during the construction phase;
- details of any mitigation needed to prevent interference with public rights of way throughout the duration of the construction phase; and

***Thereafter, the construction phase of the development shall proceed in accordance with the approved CTMP.***

**REASON:** *In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.*

**Condition (11):** *Construction work shall not take place outside the hours of 0800 – 1800 Monday to Friday or 0900 – 1300 on Saturdays, nor at any time on Sunday and bank holidays.*

**REASON:** *In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and*

***Water Quality) of the South Lakeland Development Management Policies Development Plan Document.***

**Noise**

**Condition (12):** *The development shall not proceed except in accordance with the noise assessment prepared by SRL 'Noise and Vibration Assessment for Planning' dated 14/06/2018 and deposited with the Local Planning Authority on 02 December 2020.*

***The development must ensure that;***

- The glazed elements (including the glazing and frame when fitted) of the façade of the building facing Longpool meet the sound insulation value detailed in Table 6 (33dB glazing)
- The glazed elements (including the glazing and frame when fitted) of all other facades of the building are to meet the sound insulation value detailed in Section **4.0 (30dB glazing)**.
- Plant noise shall be limited to a sound rating level of 35dBL at the façade of the nearest noise sensitive receptor.

***All approved control measures shall be implemented prior to first occupation of the building and shall be retained as such thereafter.***

**REASON:** *These details are required to be approved before the commencement of development to safeguard the amenity of future occupiers of the site in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and The National Planning Policy Framework Chapter 2*  
 - Achieving sustainable development, para 8, Chapter 12 - Achieving well-designed places, para 128 and Chapter 15 - Conserving and enhancing the natural environment –para 180.

**Condition (13):** *If residential properties are to be completed and occupied prior to the whole development being finished, a scheme to protect those early occupants from noise and vibration shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation.*

**REASON:** *These details are required to be approved before the commencement of development to safeguard the amenity of future occupiers of the site in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and The National Planning Policy Framework Chapter 2*  
 - Achieving sustainable development, para 8, Chapter 12 - Achieving well-designed places, para 128 and Chapter 15 - Conserving and enhancing the natural environment –para 180.

**Land contamination**

**Condition (14):** *The remediation scheme shall be implemented in accordance with the approved 'Section 9.6 Phase 2: Ground Investigation Report Dated 18/09/2017 [Produced by Arc Environmental]'. Within 3 months of the completion of measures identified in the approved remediation scheme, a validation report, including the validation criteria detailed in the approved remediation scheme (that demonstrates the effectiveness of the remediation carried out) must be submitted to the Local Planning Authority*

**REASON:** *These details are required to be approved before the commencement of development to prevent harm to human health and the environment in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and the National Planning Policy Framework - Chapter 15, Conserving and enhancing the natural environment – paras 178 and 179.*

**Condition (15):** *In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and development must be halted on that part of the site.*

*An assessment must be undertaken and a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable.*

**REASON:** *These details are required to be approved before the commencement of development to prevent harm to human health and the environment in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and the National Planning Policy Framework - Chapter 15, Conserving and enhancing the natural environment – paras 178 and 179.*

#### **Flood risk**

**Condition (16):** *a) The development shall not be occupied until a surface water drainage scheme, based on the hierarchy of drainage options in the NPPG with evidence of an assessment of the site conditions have been submitted to and approved in writing by the Local Planning Authority.*

*b) The surface water drainage scheme must be in accordance with the Non-statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. In the event of surface water draining to the public surface water sewer, the pass forward flow rate to the public surface water sewer must be restricted to max 33l/s for any storm event.*

*c) The development shall not be occupied until the*

approved [surface water management works have been provided on the site to serve the development.

d) Before any dwelling is occupied, a validation report (that demonstrates that the drainage scheme has been carried out in accordance with the approved plan) must be submitted to the Local Planning Authority. The approved works shall be retained as such thereafter.

REASON: To ensure adequate provision is made for the management of surface water in accordance with Policies DM1, DM6 and DM7 of the Development Management Policies Development Plan Document and Policy CS8.8 of the South Lakeland Core Strategy.

**Condition (17):** *The development shall not proceed except in accordance with the flood mitigation measures as described in Flood Risk Assessment Project Ref:41671/4001 RevA July 2018 prepared by Stantec on behalf of McCarthy and Stone. and deposited with the Local Planning Authority on 02 December 2020.*

**REASON:** *To ensure adequate provision is made for the management of surface water in flood events in accordance with Policy DM6 of the Development Management Policies Development Plan Document and Policy CS8.8 of the South Lakeland Core Strategy.*

#### **Landscaping**

**Condition (18):** *No development shall commence until a soft landscaping scheme has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details of: (i) planting plans; (ii) existing vegetation to be retained; (iii) written specifications and schedules of proposed plants noting species, planting sizes and proposed numbers/densities; (iv) an implementation timetable; and (v) a schedule of landscape maintenance proposals for a period of not less than five years from the date of completion of the scheme. Thereafter, the approved landscaping scheme shall be implemented and maintained in accordance with the agreed details and timetables.*

**REASON:** *To safeguard and enhance the character of the area in accordance with policy LA1.3 of the South Lakeland Land Allocations Development Plan Document and policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.*

#### **Biodiversity**

**Condition (19):** *The development shall commence in strict accordance with the recommendations in the approved Biodiversity Assessment Dated May 2021 by RSK Biocensus Ltd.*

*Thereafter the net gain of the development shall be maintained for the lifetime of the development.*

**REASON:** *To meet the requirements of: (1) policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the of the South Lakeland Development Management Policies Development Plan Document; (2) paragraph 170 of the National Planning Policy Framework.; and (3) section 40 of the Natural Environment and Rural Communities.*

**Condition (20):** *None of the apartments hereby approved shall be first occupied until any required external lighting has been installed in accordance with a scheme that shall first have been submitted, and approved in writing by, the local planning authority. The scheme shall include a layout plan with beam orientation and a schedule of light equipment proposed. The approved scheme shall be installed and fully assessed by a suitably qualified individual when operational to ensure no light creep. Thereafter, the lights must be permanently maintained and operated in accordance with the approved details.*

**REASON:** *To mitigate the potential impacts on residential amenity, the environment and protected species, all in accordance with policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy.*

**Condition (21):** *The development shall proceed in accordance with the document 'Applicant's Comments upon the 7 key points set out in Appendix 1 of the SLDC DM Policies DPD' submitted to the Local Planning Authority on 29 July 2021 incorporating as many of the provisions within the "List of Measures that support and enhance habitat creation, urban greening and respond to the effects of climate change" contained in Appendix 1 of the Development Management Policies Development Plan Document as is reasonably practicable in the circumstances.*

**REASON:** *To incorporate measures that support and enhance habitat creation and urban greening ensuring that provision reflects the local biodiversity evidence base and reduces the factors contributing to, and responds to the effects of climate change, in accordance with policy DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.*

**P/16 PLANNING APPLICATION NO. SL/2020/0783 (FPA) - LAND OFF BRIGSTEER ROAD, KENDAL - UPDATE**

The Principal Planning Officer presented an update in relation to Planning Application No. SL/2020/0783, which had previously received a resolution of the Planning Committee to grant planning permission for the erection of 88 dwellings and associated works on the land off Brigsteer Road, Kendal. At the meeting of the Planning Committee held on July

29 2021 Members' considered the merits of the planning application which included a discussion of the fact that since the allocation of the Stainbank Green site for residential development in 2013, the Lake District National Park had been extended in 2015 and designated a World Heritage Site in 2017. These issues were addressed in officers' responses to questions. However, in light of a question raised which regarded the Lake District National Park Authority's response to the application and given the significance of these considerations it was decided to summarise the position in a further written update to the Committee.

The Principal Planning Officer displayed slides that demonstrated the changes, and provided the comments of the National Park Authority; this was reported in full in the update within the report. He highlighted to Members that the redefinition of the boundary made no difference to the previous Officer recommendation, Members were asked to note the lack of intervisibility between the site and the National Park boundary. The recommendation provided to the Committee at the last meeting on 29 July 2021 still stood and Members were asked to re-affirm their resolution of the Committee.

The Principal Planning Officer made Members aware of an online petition that was sent to the Chief Executive of the Council the day before the Committee, which contained twelve signatures. The Principal Officer highlighted that none of the points in the petition were points that were not discussed at the last Committee meeting on 29 July 2021 or not covered in the Officers report. Members requested that the Principal Specialist read out the petition for completeness.

Before the Public Participants addressed the Committee, the Chairman reiterated that under the Council's Constitution any points that had been addressed at the previous Committee could not be raised again as part of the Public Participation.

Mr Graham Dearlove addressed the Committee on behalf of a number of local residents and spoke in objection of the application.

Mr Martin. Nugent, the Applicant's Agent, who was due to speak in support of the application, conceded his time. The Agent clarified that the Principal Specialist had already addressed all of his points in the report.

The Principal Planning Officer, in response to Mr.Dearlove's address, confirmed that a view from the Lake District National Park Authority had been sought and no objections were received. Members' spoke of a potential Roman Road that may have run through part of the site. However, the Principal Officer clarified to Members this was unconfirmed.

RESOLVED – That Members be asked to reaffirm their resolution from 29 July 2021 P/7 in accordance with:-

- (1) the recommendation in section 7.0 of the original officers' report (Appendix A);
- (2) the modifications to conditions 2 and 13 set out in the update tabled on 29 July 2021 (Appendix B); and

That Members:-

- (3) grant the Director of Customer and Commercial Services delegated authority to secure the provision of adoptable highway links (previously reported on at section 7.1(b)(vi) of the original officer report at Appendix A) by S106 agreement and/or by use of planning condition the details of which are delegated to the Director.

**P/17 PLANNING PERFORMANCE AND APPEALS UPDATE**

The Planning Performance and Appeals Update was presented by the Development Management Team Leader. He outlined current performance and summarised key figures within the report.

***Note - Councillor Dixon left the meeting room at 11.34.a.m.***

RESOLVED – That the contents of the report be noted.

***Note - Councillor Dixon returned to the meeting room at 11.37.a.m.***

**P/18 PRESS AND PUBLIC**

RESOLVED – That, under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12 A of the Act as amended by the Local Government (Access to Information) (Variation) Order 2006 by virtue of the Paragraph indicated.

**P/19 A REPORT ON MONTHLY ENFORCEMENT ACTIVITY**

- Paragraph 3, 4, 5 - Information relating to the financial or business affairs of any particular person (including the authority holding that information)
- Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.
- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

The Planning Development Management Team Leader presented the Monthly Enforcement Activity Report, which outlined the enforcement activity from January 2021 to July 2021.

RESOLVED –That the contents of Appendices 1 and 2 to the report in Part II of the Agenda be noted.

The meeting ended at 12.06 p.m.