

PLANNING COMMITTEE

Minutes of the proceedings at a meeting of the Planning Committee held in the District Council Chamber, South Lakeland House, Kendal, on Thursday, 24 February 2022, at 10.00 a.m.

Present

Councillors

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

Giles Archibald
Rupert Audland
Brian Cooper

Judy Filmore
Gill Gardner
Chris Hogg

John Holmes
Susanne Long
David Webster

Apologies for absence were received from Councillors Vicky Hughes.

Officers

James Cartwright	Case Management - Support Services
Nick Howard	Team Leader Development Management
Andrew Martin	Principal Planning Officer
Jane McKeon	Case Management Officer (Support Services)
Emma Priest	Legal, Governance and Democracy Specialist (Solicitor)

P/43 MINUTES

RESOLVED – That the Chairman be authorised to sign, as a correct record, the minutes of the meeting of the Committee held on 25 November 2021 and 16 December 2021.

P/44 DECLARATIONS OF INTEREST

RESOLVED – That it be noted that the following declarations of interest were made:

(1) Councillors Pete McSweeney (Chairman), Giles Archibald, Malcolm Lamb and Chris Hogg with regards to Minute No. P48 (Planning Application No. SL/2021/0492 land off A595, School Road, Kirkby-in-Furness, LA17 7TL)

P/45 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS

RESOLVED – That it be noted that there are no excluded items on the Agenda.

P/46 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/47 (Planning Application No. SL/2020/0817 – Bowston Weir, Bowston, Kendal)
(2) Minute No. P/48 (Planning Application No. SL/2021/0492 – Land off A595, School Road, Kirkby-in-Furness, LA17 7TL)

(3) Minute No. P/49 (Planning Application No. SL/2021/0887 – Poachers Rest, 67 Jutland Avenue, Ravenstown, Grange-over-Sands, LA11 7LQ)

P/47

PLANNING APPLICATION NO. SL/2020/0817 - BOWSTON WEIR, BOWSTON, KENDAL

NOTE - Councillor Archibald asked whether this application could be moved further down the Agenda in consequence of it being of particular interest to the Community and given some Members had not arrived by 10am. The Chairman noted that Members may have been delayed due to traffic but it could not be confirmed that they would be attending at all. The Committee was quorate and so would proceed to start on time. Councillor McSweeney (Chairman) noted that there were nine public participants to speak for this item and so this would proceed first.

The Planning Officer presented the report for Planning Application No. SL/2020/0817, also making reference to a tabled Addendum Report which addressed a number of late representations. Location slides were displayed to provide context and to identify the position of the weir. The key features were highlighted. The Planning Officer identified the locations at which Members had viewed the application site at their visit the previous week. Historical context was provided with reference to the paper mill which has long since disappeared. Photographs and diagrams were provided of the weir from various angles to explain water flow, structure and levels. Two existing fish passes were illustrated. An aerial photograph from the applicant was provided. Kent Close and the surrounding properties were identified on screen. Diagrams were used to explain the extent of works proposed.

The component parts of the scheme were explained including the removal and arrangement of sediment. Technical reports were discussed and surveys referenced. The reshaping of the river was explained. The downstream installation of the rock ramp, inclusion of eight cascading pools and the intention to create the emulation of a natural river rapid with this artificial form was explained.

The officer explained that the rock ramp intended to perform two roles:

- (1) to control sediment movement
- (2) to retain the character of upstream wetland features

The existing weir has altered the shape of the river. The speed of the river has resulted in erosion of the river upstream. Rapids slow the speed of water. The Officer displayed a long section illustrating the amount of sediment established upstream to explain the proportion of sediment redistributed. Some of which is intended to be used to prime the rock ramp itself. The ramp is intended to sit proud, to slow erosion, hold back water and stem the flow of the river. Images of the eight connecting pools were displayed.

The Officer addressed the issue of flood risk using a graphic representation of modelling undertaken by the applicant's engineers. The graphic identified the flood risk before and after the implementation of the scheme, based upon a 1 in 100 year flooding event plus an allowance for climate change. The Officer also used the graphic to address points made in third party representations concerning Storm Desmond in 2015.

The Officer presented a series of computer generated images provided by the applicant. Areas of flooding and the likely changes resulting were explained. The Officer referred Members and the Public to the recommendation presented on page 107 of the agenda. The Officer explained that whilst not dismissing arguments that the upstream millpond had assumed local visual and ecological importance in its own right, it was important to

consider the River Kent holistically and apply the greatest weight to the wider special interest features of the SSSI and the conservation objectives of the SAC. The Officer emphasised the support for the scheme from Natural England and the Environment Agency. Other material considerations such as flood risk and the loss of the weir as a heritage asset had all been weighed in the overall planning balance. The Officer recommended Members to approve the scheme.

NOTE – During the Officer presentation Cllr Cooper arrived at 10:18am, Cllr Gardner arrived 10:39am and Cllr Webster arrived at 10:51am.

The following members of the public addressed the Committee and spoke in objection to the application:-

Aidan Bruce.

Frank Sinclair, representing all the residents of Kent Close.

David Williams.

Mike Hayward; representing himself, Lakeland Canoe Club, Cumbria Canoeists and British Canoeing, addressed the Committee and spoke in support of the application but to object to the 'nature-like rock ramp downstream'.

The following members of the public addressed the Committee and spoke in support of the application:-

Gareth Pedley, representing Wild Trout Trust.

Luke Bryant, representing West Cumbria Rivers Trust and also speaking on behalf of Michael Rogers of Eden Rivers Trust.

Dr Louise Lavictoire, representing Freshwater Biological Association.

John Peatfield, representing Biodiversity & Sustainability Group of Burneside Parish Council, addressed the Committee and spoke in support of the application.

Pete Evoy, the Applicant, addressed the Committee and spoke in support of the application.

The Planning Officer responded to concerns raised during public participation.

Amongst his responses he reiterated the point made in the report that issues in respect of ownership queries and potential damage to property were not material planning considerations. He confirmed that the flood risk modelling had been scrutinised closely by the Environment Agency. He also stated that the fact that the scheme proposed the removal of only one of a number of weirs on the river did not negate the potential ecological benefits of the proposal; this had been confirmed by Natural England. Although there was no specific development plan policy addressing leisure use of rivers, the Officer referred to direct discussions between the applicant paddle boarders and canoeists which could see the fine detail of the proposal refined further.

The Chairman reminded the Committee to focus on material planning considerations only.

Members asked whether Cllr Cooper (arrival 10:18am), Cllr Gardner (arrival 10:39am) and Cllr Webster (arrival 10:51am) could vote on and contribute to the debate due to the fact

that they arrived late. Due to the fact that all Councillors missed part of the Officer presentation the Legal, Governance and Democracy Specialist advised Cllrs Cooper, Gardner and Webster not to vote and all three Members did sit out of the Debate and vote.

Members gave consideration to the application and raised concerns which were addressed by the Planning Officer.

In particular Members noted the historical importance of the weir and asked whether any consideration had been given to it being listed. Members asked if a condition requiring some on-site historical interpretation would be reasonable. With regards to the leisure aspect, Members asked if it would be possible to improve and better facilitate the interests of canoeists in the future.

The Planning Officer confirmed that he was not aware that the weir had been put forward for listing, but referred to the views of the County Council's Historic Environment Officer who regarded the structure as having local interest only, which is why it was being treated as a non-designated heritage asset. The Officer stated that an additional condition requiring on-site interpretation of the site's industrial past would not be unreasonable. Major redesigning of the scheme for canoeists would lack policy support, but the Planning Officer confirmed that ongoing dialogue between the applicants and leisure users might still result in further amendments.

During Debate Cllr Hogg proposed an amendment to the conditions before Committee so that a ninth condition could be added requiring some on-site interpretation of the Bowston Weir's significance as a heritage asset.

The Chair sought to clarify and specify the ninth condition to be added. The Planning Officer suggested a form of words that met with general approval.

A motion to approve the application was proposed on the basis of the nine conditions (which included the one additional condition proposed during debate) and seconded and a vote was taken on the application and it was:

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

a) adoption by the Planning Committee of the conclusions of "The River Kent & Tributaries SSSI/SAC Record of Assessment of Likely Significant Effect on a European Site, SCRT, 17 March 2021" to meet the Council's responsibilities as a competent authority in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019); and

b) the following conditions:

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:

- Bowston weir removal work area- Upstream of weir part, Drawing No. TQRQM21077085426821
- Bowston weir removal work area- Upstream of weir part 1, Drawing No. TQRQM21077084153127
- Bowston weir removal work area, Drawing No. TQRQM21077081610833
- Bowston weir removal work area-Downstream of weir, Drawing No. TQRQM21077083429899
- Rock Ramp Proposed Design, cbec eco engineering, Drawing No. 1
- Rock Ramp Long Profile, cbec eco engineering, Drawing No. 2
- Proposed Design Sections, cbec eco engineering, Drawing No. 3
- Rock Ramp Detail, cbec eco engineering, Drawing No. 4
- Rock Ramp Sections, cbec eco engineering, Drawing No. 5

Reason: For the avoidance of doubt and in the interests of proper planning

Condition (3): No development shall commence until tree protection measures have been put in place (and confirmed as acceptable following a site inspection by the local planning authority's representative) in accordance with the details in the Tree Survey and Impact Assessment (Envirotech, 28 May 2021). Thereafter, the protection measures shall be kept in place for the duration of the construction phase of the development.

Reason: To protect existing trees in accordance with policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.

Condition (4): Replacement tree planting shall take place in accordance with the details contained within the document entitled Replacement Tree Planting Bowston Weir Removal, (Envirotech, 07 June 2021) and shall be undertaken no later than the end of the planting season March – November immediately following the completion of the development. Trees should be planted in 3 metre square tree enclosures and should be staked and protected by tree tubes in order to encourage successful establishment. Any trees which are removed, die, or become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the character of the area in accordance with policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.

Condition (5): The site access shall be restored: (1) in accordance with a scheme that shall first have been submitted to, and approved in writing by, the local planning authority; and (2) within the first planting season November – March following completion of the development, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard the character of the area in accordance with policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.

Condition (6): Prior to the carrying out of any demolition work the existing weir shall be recorded in accordance with a Level 2 Survey as described by Historic England's document 39 "Understanding Historic Buildings A Guide to Good Recording Practice, 2016". Within 2 months of the commencement of construction works a digital copy of the resultant Level 2 Survey report shall be furnished to the local planning authority.

Reason: To ensure that a permanent record is made of the structure of architectural and historical interest prior to its demolition as part of the proposed development.

Condition (7): 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 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.

Condition (8): In order to monitor and manage the release of sediment in an acceptable manner, and to ensure adequate biosecurity is maintained, all demolition and construction work shall proceed in accordance with the mitigation measures set out in the following two documents: (1) Restoration of the River Kent, Bowston Weir, Design Method Statement (Rev 2.1), cbec eco engineering, 19 March 2021; and (2) Bowston Weir Removal - Sediment Monitoring and Management Plan – Updated March 2021 Gez Foster (Geomorphology Technical Specialist) and Emma Thompson (Geomorphology Technical Officer).

Reason: In the interests of safeguarding the special interest features and conservation objectives of the River Kent Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC), and 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 (9): This would be an additional condition prepared by the Planning Officer requiring a scheme for the on-site interpretation of the Bowston Weir's significance as a heritage asset.

Reason: Members noted the importance and relevance of buildings like these, they are historical structures of interest and should be listed.

NOTE – The Committee voted to adjourn for a break at 11:40.a.m. and reconvened at 11:57.a.m.

P/48

PLANNING APPLICATION NO. SL/2021/0492 LAND OFF A595, SCHOOL ROAD, KIRKBY-IN-FURNESS, LA17 7TL

NOTE – Councillors Pete McSweeney (Chairman), Giles Archibald, Malcolm Lamb and Chris Hogg declared that they were approached by the Applicant who had sent an email on the 23rd February 2022.

This was an attempt to lobby and the Chairman confirmed that he had not read and subsequently deleted this email after first sending to planning and legal specialists.

Councillors Malcolm Lamb and Chris Hogg also confirmed that the email had been received, remained unread and was deleted.

Cllr Giles Archibald confirmed that he had read the email but remained of an open mind and remained to hear and vote on the application.

The Planning Officer provided an overview of the report, description of the site location, the landscape, and buildings currently present. Aerial view point slides, diagrams and slides from a variety of vantage points were displayed. Diagrams for the temporary dwelling and the proposed block plan were illustrated.

Policies relevant to this proposal were relayed and how these relate to the function of this specification. The Applicant has not satisfied these. The recommendation was discussed. The Officer relayed to Members that effectively this is a new business. The temporary dwelling assessment has been made for someone to live on site. A temporary condition has been prepared for inclusion if approved by Members. The land scape assessment submitted by the applicant was not supported by officers. Various view points from public vantage points were considered. The landscape visual would be impacted by these new buildings. Viewpoints 1 and 2 were considered. The proposed build would be intrusive to the rural landscape. There would be also be a significant impact on neighbouring residential properties. The proposed acoustic fence and its impact on neighbours would be harmful to their outlook. The acoustic fence would have a significant impact visually.

The Officer highlighted that within the Agenda plan there was an error and it affected a small triangle of land. The diagram was incorrect and this was pointed out to Members. The land was not part of the Application site.

The Officer relayed that the recommendation would be for refusal of the proposal on the grounds of the three reasons for refusal put forward in the Officers report.

The following members of the public addressed the Committee and spoke in objection to the application:-

Karen Stringer.

Malcolm Groundwell..

Ian Winstanley..

Anthony Atkinson, the Agent for the Applicant, addressed the Committee and spoke in support of the application:-

The Planning Officer responded to concerns raised during public participation.

The Planning Officer responded to questions raised by Members.

A motion to refuse the application was proposed and seconded and a vote was taken on the application and it was:

RESOLVED – That the application be refused on the following grounds:

Reason:

1. The proposal for a horticulture nursery development within the open countryside has provided insufficient evidence to demonstrate that there is an essential need for the development in this location. Nor is it located within or adjacent to an existing farm or agricultural building complex. Moreover, by virtue of the developments scale and siting, the proposal does not seek to minimise the impact on the qualities of the open

countryside. The proposal is therefore contrary to Policy DM25 of the Development Management Development Plan Document.

2. By virtue of its scale, industrial design and siting on open agricultural land, the proposed horticulture nursery development would result in a prominent, readily visible and unsympathetic addition to the open countryside, which would cause unacceptable harm to the landscape character from short and long ranging views, for which landscaping would not adequately mitigate. The proposal is therefore contrary to Para.130 of the NPPF, Policy CS8.10 of the South Lakeland Core Strategy and Policy DM1 and DM2 of the Development Management Development Plan Document.

3. The requirement for a 2.5m high acoustic fence on the western boundary of the site within close proximity of existing residential dwellings, by virtue of the existing topographical land level differences, would result in a severely overbearing boundary structure. This would cause unacceptable harm to the residential amenity of existing and future occupiers of 'High Tor'. The proposal is therefore contrary to Policy DM1 of the Development Management Development Plan Document.

P/49

PLANNING APPLICATION NO. SL/2021/0887 - POACHERS REST, 67 JUTLAND AVENUE, RAVENSTOWN, GRANGE-OVER-SANDS, LA11 7LQ

NOTE - The Chairman noted that Trevor Wilson – Chairman of Lower Holker Parish Council – had been registered as a public speaker but had not attended Committee.

The Planning Officer provided an overview. The proposal was for the removal of S106 (local occupancy) clauses that are attached to planning permission SL/2004/0741. In consultation with legal services, the proposal was described as a Deed of Variation to the S106 rather than a discharge as the proposal was in effect a removal of the applicable clauses from the S106. A clause requiring the owner of the dwelling to reside there as their main residence for at least six months each year would remain in place.

The current application has been referred to Committee as the original application, subject to the S106 agreement, was determined by Members.

The original application in 2004 was approved due to the need to accommodate a disabled child locally to their grandparents living next door. The applicant at the time was willing to accept a local occupancy condition.

The Officer explained that due to policy change, this property was not harmful to the landscape. The dwelling was of a scale appropriate to the character of the area, it would enhance the vitality of the community, it is well contained within the existing landscape with Winder Lane providing a clear demarcation between the developed area in which the site sits and the wider countryside and services. The proposal therefore complies with the criteria set out in Policy DM13. Therefore, if a planning application was submitted for a dwelling now, the Council would approve such a dwelling with no occupancy restriction. The recommendation is to remove the local occupancy clause and to approve the application.

The Planning Officer responded to questions raised by Members.

The Planning Officer in particular relayed the local parish objection to the removal of the local occupancy clause as there are few affordable properties available in the local area to rent or buy by local residents. However, this was not an affordable home, but it was accepted that a property with a local occupancy clause may have a lower market value.

Members were reminded to consider the application as it appears before them. Clarification of the exact wording of the S106 in respect to surrounding parishes was provided.

A particular concern of Members in considering the application was the need for local occupancy in the District.

Members agreed that there was a material planning consideration of considering what the impact the removal of the local occupancy clause would have on the local economy, which they considered to be detrimental. Members noted that accepting this proposal could also set a precedent for future applications.

A motion to refuse the application was proposed and seconded and a vote was taken on the application and it was:

RESOLVED – That the application be refused on the following grounds:

Reason – The loss of a local occupancy dwelling would result in a harmful impact on the local economy in that it would restrict the choice of available locally affordable units in the area.

P/50

PLANNING APPLICATION NO. SL/2021/0161 LAND AT VIVER GREEN, VIVER LANE, HINCASTER, MILNTHORPE, LA7 7NA

The Planning Officer presented the proposal, layout plan and photographs were shown illustrating the site. The Planning Officer confirmed that the application was to vary the 2014 S106 agreement and revoke the S106 agreement from 2016 and deed of variation from 2018. One aspect of the application is to remove the obligations relating to affordable housing attached to an outline planning permission for residential development of the site and the other to discharge of the obligations in respect of a subsequent reserved matters application. The proposal was in effect to remove the affordable housing on-site and to provide no off-site financial contribution to affordable housing.

The Officer relayed the key issues identified on the viability report and that the inclusion of an affordable housing requirement will ensure the development is unviable and will not go ahead. The previous developer became insolvent. The current infrastructure of the site will need to be removed and re-done. The current unfinished site is causing issues for the current occupiers. The development is deemed unviable due to the affordable requirements. The Officer referred Members to the report.

The recommendation was to approve the application.

The Planning Officer responded to questions raised by Members and it was established that the viability reports had not yet been considered by Members which were crucial to their understanding of the situation and application.

A motion to defer the application was proposed and seconded and a vote was taken on the application and it was:

RESOLVED –

The application be deferred to enable Members to review the viability reports.

The meeting ended at 1.45 p.m.