

DEVELOPMENT CONTROL AND REGULATION COMMITTEE

Minutes of a Meeting of the Development Control and Regulation Committee held on Wednesday, 8 July 2020 at 10.00 am.

PRESENT:

Mr GD Cook (Chair)

Mr A McGuckin (Vice-Chair)	Mr AJ Markley
Mr RK Bingham	Mr W McEwan
Mr A Bowness	Mr FI Morgan
Mrs HF Carrick	Mr D Wilson
Mr F Cassidy	Mr MH Worth
Mr N Cotton	Mr CP Turner
Mr KR Hamilton	Mr D Gawne
Mr JS Holliday	Mr K Hitchen

Also in Attendance:-

Richard Cryer	-	Lead Officer - Development Control
Paul Haggin	-	Manager Development Control and Sustainable Development
Edward Page	-	Planning Officer
Andy Sims	-	Countryside Access Officer

PART 1 – ITEMS CONSIDERED IN THE PRESENCE OF THE PUBLIC AND PRESS

147 PLEASE NOTE THAT THIS WAS A VIRTUAL MEETING

148 ROLL CALL AND APOLOGIES FOR ABSENCE

Apologies for absence were received from Mr D English.

149 CHANGES IN MEMBERSHIP

It was noted that Mr Gawne replaced Mr English as a member of the Committee for this meeting only. Mr Hitchen was a member of the Committee for this meeting only for the Conservative Group.

150 DISCLOSURES OF INTEREST

Mr G Cook declared a Pecuniary Interest in Agenda item 8 Application Reference No. 5/20/9004. Proposal: Vary Condition 1 of planning permission 5/16/9005 to allow continued use of the land as part of the Household Waste Recycling Centre

(HWRC) for an extended time period of 5 years. Location: Kendal Household Waste Recycling Centre (HWRC), Canal Head North, Kendal, LA9 7BY. He lived within 100m of the site and would therefore withdraw from the meeting. This item would be Chaired by the Vice Chair, Mr A McGuckin.

151 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that, the press and public not be excluded during consideration of any items of business.

152 MINUTES

Members had before them the minutes of the meetings held on 4 March 2020 and 9 June 2020.

The Senior Democratic Services Officer gave an update on the queries raised on the 4 March 2020 Minutes.

Page 8, Minute 119, resolution for CA13/28 Burgh by Sands

The Commons Registration Officer had advised that the word 'description' was missing in the resolution. This to be amended in the minutes to read 'land of a description specified in Section 11 of the Inclosure Act 1845'.

Page 14, minute 126, confirmation of members moving and seconding the motion

The 5th paragraph in minute 14 recorded that Mr Bingham moved an additional condition, seconded by Mr Markley. The recommendation was moved and seconded during the debate, not at the conclusion of the debate therefore it was recorded there. For clarification the Senior Democratic Services Officer suggested the words 'the recommendation and suggested' be added after 'He moved'

The full sentence to read 'He moved the recommendation and suggested that planting was increased and an additional condition be included in the permission to reflect this'.

Page 15, Minute 126, wording of the additional condition

Final sentence to read:

'The additional planting as approved shall be carried out in the first planting season following approval and any trees or plants which die or become seriously damaged or diseased within 5 years of planting shall be removed and replaced in the next planting season with a specimen of a similar species'.

9 June 2020

Page 18, Minute 132, Changes in Membership. Mrs Carrick highlighted that Mr Gawne was substitute member for Mr L Fisher for the June meeting only and not a permanent member of the Committee.

Page 18, Minute 135, last two lines and how this reflected the changes suggested by Mrs Carrick in the meeting. Please see the amendment to the minutes of 4 March above (Page 15, Minute 126, wording of the additional condition).

Page 21, Minute 138, Resolution 1, 3rd line. Insert 'to' between 'be' and 'delete.'

RESOLVED that, subject to the above, the minutes of the meetings held on 4 March 2020 and 9 June 2020 be confirmed as a correct record and signed by the Chairman.

153 HIGHWAYS ACT 1980 SECTION 119 PROPOSED DIVERSION OF FOOTPATH NO 109097 CITY OF CARLISLE

A report was considered from the Executive Director – Economy and Infrastructure regarding the Highways Act 1980 Section 119 Proposed Diversion of Footpath No 109097, City of Carlisle. The report advised that an application had been received to divert a section of public footpath no 109097 in the City of Carlisle. This could be done under Sections 119 of the Highways Act 1980. Consultations had taken place so as to assist members to reach a decision as to whether or not a diversion order should be made.

The Countryside Access Officer reported that the diversion was in the interest of the landowner. The Committee was shown slides of the area covered by the Order Plan and of the diversion route. The Countryside Access Officer explained how the current route was impractical, showed the current and proposed routes using a photograph of the area and guided members through the proposed diversion using a series of photographs, highlighting the areas where there would be dropped kerbs. He explained how the works would be paid for and that no objections had been received. He considered that the route would not be less convenient to use than the current path and urged members to accept his recommendation, as set out in the report.

In expressing his support for the diversion, a member referred to an application determined at a previous meeting where a footpath had also been encroached upon. He asked whether a condition had been attached to the planning permission when the flood walls were built to resolve the issue of the blocked footpath and realign it. He considered that it should be standard practice for conditions to be attached to planning permission should a development block a footpath. He referred to the building of flood defences in Kendal and anticipated that similar applications may come before the Committee for the same reason.

The Countryside Access Officer explained that frequently, planning permission was granted for developments and did not take into consideration the realignment of footpaths. In this case it was positive that the applicant would be paying for the diversion. He reported that officers worked with District Councils to avoid this

situation however, he agreed that the Committee would continue to see this type of application.

Mr McGuckin, the Local Member considered that it was lucky that the diversion was only a short distance from the original line. He advised that no-one used the current route. He highlighted the disjointed way of working with Carlisle City Council on this matter. He moved that the Order be made. Mr McEwan seconded the motion.

A roll call vote was taken. Members confirmed if they were present and connected for the whole of the Agenda item Following a vote cast as follows, in Favour: 17, Against: 0, Abstain: 0, it was

RESOLVED that, pursuant to the power set out at Part 2G paragraph 2.1(g)(iii) of the Council's Constitution, an order be made under Section 119 of the Highways Act 1980 to divert a section of public footpath no 109097 in the City of Carlisle as shown A-B to a new route A-C-D-E-F-G as shown on the plan at Appendix A and that all necessary action be taken to confirm the order.

154 APPLICATION REFERENCE NO. 5/20/9004. PROPOSAL: VARY CONDITION 1 OF PLANNING PERMISSION 5/16/9005 TO ALLOW CONTINUED USE OF THE LAND AS PART OF THE HOUSEHOLD WASTE RECYCLING CENTRE (HWRC) FOR AN EXTENDED TIME PERIOD OF 5 YEARS. LOCATION: KENDAL HOUSEHOLD WASTE RECYCLING CENTRE (HWRC), CANAL HEAD NORTH, KENDAL, LA9 7BY

As he had declared a Pecuniary Interest earlier in the meeting, Mr Cook passed the Chair to Mr McGuckin and withdrew from the virtual meeting.

Mr McGuckin in the Chair.

The Planning Officer explained that planning permission was sought for a further five years for the Household Waste Recycling Centre (HWRC) site. An aerial photograph of the site, photographs and a map of the area was presented in order to show the site in its wider context and to highlight the site's boundary. Surrounding buildings were described and photographs showing the site's access were presented to the Committee. A slide showing the footprint of the canal basin was presented to provide a historical context.

The Planning Officer considered that there was a need for an HWRC site in Kendal and although possibly not the best site, this site was in accordance with the development plan and there were no material considerations that indicated that a decision should be made otherwise. The Planning Officer recommended that the application be granted subject to conditions.

A member queried the meaning of the term "white land" used in the committee report. The Planning Officer defined the term 'white land' for the Committee.

Referring to the temporary permission being for an additional five years, a member asked whether steps had been taken to identify a long term site in Kendal for the HWRC. The Planning Officer advised that the Committee would receive a statement from the County Council's Senior Manager of Environment and Regulatory Services, who oversaw the County Council's Waste Management Team on this matter later in the meeting.

A member highlighted that this was a historical site and queried whether Kendal Civic Society and English Heritage had commented on the application. The Planning Officer advised that the proposal did not meet Historic England's consultation criteria, that no response had been received from Kendal's Civic Society and that both the Lancaster Canal Trust and national Canal and River Trusts had responded with no objections to the application.

The Chair invited Councillor Shirley Evans, Local Member to make her representations to the Committee via telephone call. She made the following statement:

Good morning everyone. My name is Shirley Evans and I am the County Councillor for the Kendal Nether division, which includes the HWRC site in Kendal. I have made a written submission to the DCR about the HWRC. Thank you for the opportunity to speak to you directly.

I think the position of the Kendal HWRC perfectly illustrates the old adage that, in an ideal world, 'I wouldn't want to be starting from here'. There are many problems which make this a far from ideal site for the HWRC in Kendal. I have mentioned these in my submission – the fact that the site is at the end of a cul-de-sac, queues cause problems for local residents and businesses and it increases traffic through Kendal as people have to go round the one way system to access the site. The County Council has just had to start a booking system for the Carlisle site and, while it has not yet been necessary for the Kendal site, such a step cannot be ruled out in the future. This just illustrates the problems with sites that are situated in unsuitable places.

The future potential for this area is compromised by the HWRC. There are many ideas from South Lakeland District Council, Kendal Futures and Kendal BID as to how the whole area could be developed and turned into a real asset for Kendal. The Lancaster Canal Trust has great ambitions to restore the canal as far as Kendal. The Canal Head area would then become 'an attractive area with cafes, offices, homes, retail development, allotments and water space'. Over the years I have been involved with the Trust, this has become a more and more credible ambition. Who knows where we will be in 5 years' time?

The position I do not want us to be in is 'well we could develop the area, but the HWRC is stopping us'.

That is why I am urging the County Council to use the next 5 years to find another site for the Kendal HWRC. I appreciate that this will not be easy. I would for

example, be totally opposed to the possibility of using the Council's Mintsfeet site as this would add to the considerable traffic problems in the area.

There should be a substantial return from the sale of the HWRC site and this could and should be a help in finding a new site.

Currently the site is well managed and there is no alternative available in the short term. That is why, despite my concerns about the position of Kendal's HWRC, I am not opposing the extension.

However, if the recommended extension is accepted, then I would urge the committee to add a clause committing the County Council to finding an alternative site so that this request does not have to be repeated in 5 years' time. 'Difficult' should not be equated with 'impossible'. Let's use the time to solve the problem that the Kendal HWRC is not in the right place and help to open up this part of Kendal to an exciting future.

Thank you for listening to me.

There were no questions from members and the Chair thanked the Councillor for her representations.

The Agent for the application, Kate Bellwood was unfortunately unable to make a direct representation to the meeting by telephone but the Senior Democratic Services Officer read out her statement as follows:

Members, Thank you for allowing me to speak and I hope you can all see and hear me ok.

My name is Kate Bellwood and I represent by Renewi Cumbria Limited, who operate the site on behalf of Cumbria County Council. Renewi operate all the Cumbria County Council Household Waste Recycling Centres and 2 waste treatment plants under a 25 year contract which expires in 2034. They have therefore been managing the Kendal site since 2009 so understand its operation, issues and need effectively.

I do not intend to say much as I consider that your planning officer has written an excellent and comprehensive report covering all the key matters and details and I hope you will be able to support the recommendation.

Very simply the Kendal site operates under two permissions. A permanent permission for the main part of the site, and this temporary permission which covers the entrance, car lane and some of the recycling area itself. This part of the site has been renewed a number of times as per the committee report as it serves a really important purpose in keeping cars off the public roads and making the site operate in a much safer and effective way. If this application were not renewed it would not stop the operation of the centre, but would make it smaller and less efficient with more impact on the public roads. The site accepts over 5 tonnes of waste per year, and averages around 11,000 vehicles per year. If the site were smaller, they would

not be able to accept as many vehicles or as much waste. This seriously increases the risk of fly tipping, which we sadly started to see occurring when the centres were closed due to Covid.

I understand that the restoration and regeneration of the Canal Head has been a long standing priority for both the County and District Councils. The Committee report sets out effectively that there is not expected to be any realistic chance of on the ground progress on this regeneration scheme within the five year time scale requested for this application. But more importantly is that both councils understand the waste site needs to move as a whole, and it would be expected that if a new site were found, the entire operation would move and the permissions which cover both parts of the site would be relinquished or would expire naturally, or more simply physical regeneration works and new uses would replace these waste uses.

Renewi work hard with the local community and their staff and the low levels of complaints, but more importantly the levels of official compliments are testament to this. The staff work hard on the site to keep it clean and tidy with measures and controls to reduce noise, smells and traffic. The only materials that could create smell on the site is the garden waste and general waste, but these containers are removed within 3 hours of being full so smell is kept to a minimum. All the other containers store things like batteries, glass, paper, rubble, textiles, plasterboard etc so no smell.

It is widely accepted that the site, as a whole, would be better elsewhere, and Renewi fully support the County Council should a move be progressed. However, finding a new site and organising the move is not within their contract or control, so they cannot provide any information on this, but I hope that Council staff have been able to respond directly to this matter already.

But for now, the site needs to maintain its operation in the best manner. They consider that a combination of the two parts provides the best operational space, that their track record for good operation shows they are considerate to their community and we hope that you will be able to grant this temporary extension to the site. Thank you.

The Planning Officer read out the following statement from the County Council's Senior Manager of Environment and Regulatory Services, who oversaw the County Council's Waste Management Team:

Kendal household waste recycling centre (HWRC) is one of the 14 HWRCs in Cumbria, which are managed by Renewi Cumbria Limited as part of the 25 year PPP waste contract (expiring in 2034). Being part of the contract means that Cumbria County Council are not able to make changes without contractual negotiation with the contractor, and this would potential involve a significant deed of variation to the contract (a time consuming and costly process aside from any relocation process). Any changes to Kendal HWRC would require the business case to be economically viable.

The Waste Operational Manager (which is currently a vacant post but is being actively recruited to) will be tasked with a review of a number of the HWRCs across the network, including Kendal, and whether there are suitable alternative sites and if

there are, whether an economically viable business case can be made. This will not be a short term project even if it is proven to be feasible. The 5 year planning for Kendal is still required for this site in the interim.

The Chair reminded members that they were to determine the planning application before them rather than to consider the best location in Kendal for an HWRC.

After expressing that he hoped a new HWRC site could be identified for Kendal in the future, Mr Markley stated that he had listened carefully to the public representations and considered that granting the extension of time would benefit the residents of Kendal. He moved that planning permission be granted subject to the conditions in Appendix 1 of the report. This was seconded by Mr Turner.

A member stated that there was little choice but to grant planning permission. He asked whether it was within the Committee's remit to grant planning permission for one last time only.

The Chair considered that this may be a policy or financial decision which would be made by senior County Council officers. He invited the Planning team to comment on this. The Planning Officer did not consider that it would be lawful to include a condition which required that the HWRC cease operating after five years and added that should an application be submitted in five years' time, this would be considered on its own merit at that time. The Manager - Development Control and Sustainable Development concurred. He advised that members should determine the application in front of them and the Committee did not have the authority to impose such a condition. However, he would raise the issue of the future of the HWRC with senior officers.

A member considered it imperative that this matter be raised with senior officers. He informed the Committee that Kendal Town Council had queried whether the site would continually have a rolling 5 year extension of planning permission. A member considered access to the site to be inadequate and highlighted the importance of it being a heritage site. In supporting the motion and agreeing that the matter should be discussed with senior officers, a member highlighted that this had been the sixth planning application to extend the time limit for the HWRC.

The Chair suggested that consensus of the Committee was that it was uneasy with the continual extensions of planning permission and that officers should have a robust debate with senior officers in property services. After agreeing with this, Mr Markley, with no dissent from the Committee and supported by the seconder of the motion, added to his motion that the future of the HWRC be raised with senior officers.

A roll call vote was taken. Mr Bingham stated that he would not vote on this planning application as he had not heard all of the representations made by the Agent for the application. Mr Cook did not vote due to his Pecuniary Interest. Members confirmed if they were present and connected for the whole of the Agenda item. Following a vote cast as follows, in Favour: 15, Against: 0, Abstain: 0 it was

RESOLVED that, planning permission be granted subject to the conditions set out in Appendix 1 to the report and a discussion regarding the future of the

HWRC be undertaken with senior officers.

Mr McGuckin handed the Chair back to Mr Cook.

Mr Cook in the Chair.

155 APPLICATIONS DETERMINED UNDER DELEGATED POWERS

RESOLVED that, the list of applications determined under delegated powers be noted.

156 APPLICATIONS PROPOSED TO BE DETERMINED UNDER DELEGATED POWERS

The Manager - Development Control and Sustainable Development presented the applications proposed to be determined under delegated powers. He drew members' attention to planning application 1/20/9006, Kirkhouse Quarry, Hallbankgate, Brampton, Cumbria CA8 1JS, explaining the application and advising that there had been a number of complaints about the quarry. He stated that if any issues arose, he would bring the application before the Committee.

RESOLVED that, the list of applications proposed to be determined under delegated powers be noted.

157 FORWARD PLAN

The Manager - Development Control and Sustainable Development presented the list of applications to be considered at future meetings.

He reported that the planning application 4/17/9007 West Cumbria Mining would be brought before the Committee on 20 August 2020 and there would be a significant number of speakers on the application.

He advised that there may be a video of the site at Walney as a site visit was out of the question due to COVID 19 lockdown restrictions. He explained that the Committee would likely determine the Gooseholme Bridge in October 2020. The Cumbria Southern Link Road application would likely be considered at the October or November 2020 meeting.

A member raised his concerns about the large number of public participants expected to make representations on the West Cumbria Mining planning application and the ability for a remote meeting with a large number of participants to be conducted successfully using the current technology. He asked if holding such an important meeting remotely was legal. The Manager - Development Control and Sustainable Development talked about the officer discussions on this matter. He would report the response back to members.

A Member queried whether they could take part in determining the West Cumbria Mining planning application to be considered on the 20 August 2020 as they had not taken part in the Committee's determination of earlier West Cumbria Mining planning applications. The Manager - Development Control and Sustainable Development advised that members should keep an open mind and would be able to determine the application even if they had not considered the previous applications.

It was queried whether the Committee's decision on the West Cumbria Mining planning application to be determined on 20 August 2020 could be invalidated should a number of public participants not be heard at the meeting due to a technological failure. The Manager - Development Control and Sustainable Development confirmed that the decision would not be invalidated as should a public participant not be able to speak, their representation which would have been received three working days in advance of the meeting would be read out to the meeting by an officer.

A member asked that a virtual site visit/video be considered for High Close Quarry, High Close Farm, Plumbland, Aspatria, Wigton, CA7 2HF as in previous years, the area had been used as a rubbish dump. There was local concern about the quarry's contents. The Manager - Development Control and Sustainable Development acknowledged the concern of local people and considered a video of the site to be helpful in determining the application. It was confirmed by the Lead Officer - Development Control that at present he could not confirm the date when the application would be determined by the Committee as he was waiting for additional information.

A short discussion took place on the Public Participation Scheme used at a District Council in Cumbria which limited the number of public participation speakers and whether it would apply for the West Cumbria Mining planning application to be determined by the Committee on 20 August 2020. The Manager - Development Control and Sustainable Development advised that a limit was not included in the Committee's Public Participation Scheme and that those who had validly registered to speak were able to address the Committee. He highlighted that it was the Chair who would stop repetition of information by participants.

RESOLVED that, the Forward Plan be noted.

158 DATE AND TIME OF NEXT MEETING

The next meeting of the Committee would be held on 20 August 2020 at 10.00am.

The meeting ended at 11.30 am