

## **DEVELOPMENT CONTROL AND REGULATION COMMITTEE**

Minutes of a Meeting of the Development Control and Regulation Committee held on Monday, 1 July 2019 at 10.00 am at Council Chamber - County Offices, Kendal, LA9 4RQ

### **PRESENT:**

Mr GD Cook (Chair)

Mr A McGuckin (Vice-Chair)	Mr LN Fisher
Mr RK Bingham	Mr AJ Markley
Mr A Bowness	Mr FI Morgan
Mrs HF Carrick	Mr D Wilson
Mr F Cassidy	Mr MH Worth
Mrs BC Gray	Mr CP Turner
Mr D English	Mr M Wilson

### **Also in Attendance:-**

Mark Brennand	-	Lead Officer - Historic Environment and Commons
Philippa Christie	-	Solicitor
Richard Cryer	-	Lead Officer - Development Control
Paul Haggin	-	Manager - Development Control and Countryside Management
Jayne Petersen	-	Planning Officer
Jason Weatherill	-	Commons Officer
Geoff Fewkes	-	Countryside Access Officer
Mrs Fox	-	Public Participation
Ms Saunders	-	Public Participation

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

#### **19 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Mr N Cotton, Mr K Hamilton, Mr J Holliday and Mr B McEwan.

#### **20 CHANGES IN MEMBERSHIP**

It was noted that Mr M Wilson replaced Mr Hamilton as a member of the Committee for this meeting only.

#### **21 DISCLOSURES OF INTEREST**

There were no disclosures of interest made.

## **22 EXCLUSION OF PRESS AND PUBLIC**

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

## **23 MINUTES**

Page 8, Minute 3, 4<sup>th</sup> paragraph: add in to the last sentence 'as she would be speaking on the item'.

Page 8, Minute 3, 3<sup>rd</sup> paragraph. Capitalise G on Great Urswick.

Page 12, Minute 11, Resolution 2, to read 'If there are no objections to the made order, the Chief Legal Officer confirm the order'

RESOLVED that, subject to the corrections above, the minutes of the meeting held on 23 May 2019 be confirmed as a correct record and signed by the Chairman.

A short discussion took place on the decision which had been delegated to officers made at the previous meeting regarding the position and number of disabled parking spaces in the development of County Hall, Buser Walk, Kendal.

## **24 NL0064: - APPLICATION FOR REGISTRATION OF LAND AT SCAWS DRIVE FIELD, PENRITH AS A NEW TOWN OR VILLAGE GREEN**

A report was considered from the Acting Executive Director – Economy and Infrastructure regarding NL0064:- Application for registration of land at Scaws Drive Field, Penrith as a new town or village green. An application had been received from Mrs Belinda Fox, Mrs Catherine Fenton and Mr Christopher Castle to register an area of land at Scaws Drive, Penrith as a new town or village green. The application was made under section 15(2) of the Commons Act 2006.

The Commons Officer introduced the report, showing a map of Penrith and the location of the site and photographs of the land at Scaws Drive. He presented the legal criteria and legislation that the recommendation was based on. He recommended that the application be accepted by the Committee.

Mrs Fox, the applicant made the following statement:

You will have before you much documentation pertaining to our application leading up to our last representation to the Commons Registration in November 2017, so I will not repeat this information.

My hope today is to bring the Committee fully up to date with important developments that have and are being put in place since then.

At the beginning of this year Penrith Town Council undertook a consultation of the residents of Eden based on the draft Neighbourhood Development Plan. The summary of responses will be utilised to form part of Eden's Development Plan and will be used by the District Council and Town Council to help determine planning applications. Within this, Scaws Drive Field was again suggested to be identified as 'Protected Green Space' due to being important to both wellbeing and the local community and to be protected from inappropriate development. Other areas on the list include churchyards, allotments, nature reserves, cemetery and woods meaning that Scaws Drive Field is one of the few that is and can continue to be used for unprescribed recreational outdoor use such as dog exercising, ball games and picnics. It has long been used by the local community in this way and the strength of opinion to keeping this field protected in perpetuity was recognised during the consultation.

I have been informed from the Town Council Administrator that Eden District Council have not objected to the inclusion of Scaws Drive Field into the Draft Neighbourhood Plan therefore it remains in the Plan and will hopefully be ratified in 2020. Under Eden District Council's recently adopted Local Plan, its principal planning document, the field is designated as Public Open Space and is protected from development under policy COM2, Protection of Open Space, Sport, Leisure and Recreation Facilities.

However as this is definitely not a certainty, as local residents we are keen to continue with this application for Town Green status to afford this valuable space the protection it deserves for the wide community that loves to use it on a daily basis. As there are large swathes of housing development continuing to be built all around Penrith, protecting this valuable recreation space has become even more relevant as it will ultimately become an area which many more new local residents will want to utilise.

Additional to the wishes of the local residents, we have been given wholehearted backing from Cllr. Patricia Bell, County Councillor, Cllr John Lynch and Cllr. Mike Eyles EDC Ward Member and James Fellows, Penrith Town Councillor.

Following member questions, the Commons Officer informed the Committee that Eden District Council was the landowner, clarified that the application related to NL0064 and explained that Eden District Council had not provided oral representations.

In supporting the application, the adjoining division member drew comparisons of the application with an application considered at a previous meeting which had been rejected. The Commons Officer explained the differences between the applications.

Mr McGuckin was not initially minded to support the application, however he noted that as Eden District Council the landowner had not objected, he would abstain from the vote as he was unsure of the 'as of right' aspect of the application.

A short discussion took place on the signage on the land; it was confirmed that it was currently blank.

It was moved by Mrs Carrick and seconded by Mr Fisher that the recommendation as set out in the report be agreed. Following a vote, with 14 members in favour of the motion, 0 against and Mr McGuckin abstaining, it was

RESOLVED that, the Committee accepts the application, on the grounds that the statutory criteria contained at section 15(2) of the Commons Act 2006 has been satisfied.

**25 TOWN AND COUNTRY PLANNING ACT 1990 -SECTION 257 - APPLICATION TO STOP UP PUBLIC FOOTPATH NO 412018 PARISH OF LAMPLUGH DISTRICT OF COPELAND**

A report was considered from the Acting Executive Director – Economy and Infrastructure regarding Town and Country Planning Act 1990 - Section 257 – Application to Stop Up Public Footpath No 412018 Parish of Lamplugh District of Copeland.

The Countryside Access Officer advised that an application had been received to stop up public footpath no 412018 at Eskett Quarry in the Parish of Lamplugh. He showed a map and aerial photograph of the site. He provided the history to the application and on the results of the consultation advising that no objections had been received. He recommended that the Committee agree that the order be made and that all necessary action was taken to confirm the order.

It was moved by Mr Morgan and seconded by Mr Markley that the order be made. Following a unanimous vote in favour of the motion it was,

RESOLVED that, pursuant to the power set out at Part 2G paragraph 2.1(g)(ii) of the Council's Constitution, an order be made under Section 257 of the Town & Country Planning Act 1990 to stop up that section of public footpath no 412018 in the parish of Lamplugh as shown marked on the plan at Appendix A and that all necessary action be taken to confirm the order

**26 HIGHWAYS ACT 1980 SECTION 119 - APPLICATION TO DIVERT PUBLIC FOOTPATH NO 501018 PARISH OF ALDINGHAM: DISTRICT OF SOUTH LAKELAND**

A report was considered from the Acting Executive Director – Economy and Infrastructure regarding Highways Act 1980 Section 119 - Application to Divert Public Footpath no 501018 Parish of Aldingham: District of South Lakeland.

Members were informed by the Countryside Access Officer that an application had been received to divert a section of public footpath in 501018 at Moat Scar in the parish of Aldingham, District of South Lakeland. He showed a map, and an aerial

photograph of the site and the existing boundary crossings. He provided the historical background to the application. He explained the outcome of the consultation process and was satisfied that the diversion was not less convenient than the current route. He recommended that the diversion be made.

A member asked whether the footpath would be subject to erosion as it would be closer to the cliff. The Countryside Access Officer advised that historical maps had been reviewed and there had been very little erosion over the years however, the landowner would place rocks at the bottom of the cliff.

A member reported on the historical settlement of Aldingham and welcomed that the footpath would be moved nearer the castle site. Members considered that walkers may use historical stiles in the area and queried whether cyclists would be encouraged to ride the footpath given the widened gates. The Countryside Access Officer stated that the routes would be way marked, diversion routes would be publicised and cycling the route would be classed as trespassing which was a matter for the landowner.

It was moved by Mr McGuckin and seconded by Mr Fisher that the section of footpath no 501018 as shown in the appendix to the report, be diverted and that all necessary action be taken to confirm the order. Following a unanimous vote in favour of the motion, 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 that section of public footpath no 501018 in the parish of Aldingham shown A-B to a new route A-C-D-E-B as shown on the plan at Appendix A and that all necessary action be taken to confirm the order.

## **27 TOWN AND COUNTRY PLANNING ACT 1990 -SECTION 257 - APPLICATION TO DIVERT PUBLIC FOOTPATH NO 210015 PARISH OF BLINDCRAKE DISTRICT OF ALLERDALE**

A report was considered from the Acting Executive Director – Economy and Infrastructure regarding Town and Country Planning Act 1990 - Section 257 – application to divert public footpath no 210015, in the Parish of Blindcrake in the district of Allerdale.

The Countryside Access Officer advised that an application had been received to divert a section of public footpath no 210015 at Moota Quarry in the Parish of Blindcrake. He presented a map of the area, an aerial photograph and provided the background to the application. He highlighted that following an order granted previously by the Committee, the footpath path had been constructed on an alignment that did not accord with the route on the Order made in 2015. This application would remake the footpath order on the correct alignment and revoke the 2015 Order.

Following a member question, the Committee was reassured that the public right of way would be maintained by the County Council once moved.

It was moved by Mr McGuckin and seconded by Mr Bingham that the order to divert the section of public footpath no 210015 shown on Appendix 1 of the report be made and all necessary action be taken to confirm the order.

Following a unanimous vote in favour of the motion, 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 257 of the Town & Country Planning Act 1990 to divert that section of public footpath no 210015 in the parish of Blindcrake as shown marked A-I to a new route A-B-C-D-E-F-G-H-I on the plan at Appendix A and that all necessary action be taken to confirm the order.

## **28 HIGHWAYS ACT 1980 SECTIONS 119 AND 25 - APPLICATION TO DIVERT PUBLIC BRIDLEWAY NO 138055 PARISH OF WETHERAL AND UPGRADING OF PUBLIC FOOTPATH NO 138065 PARISH OF WETHERAL TO BRIDLEWAY: DISTRICT OF CARLISLE**

A report was considered from the Acting Executive Director – Economy and Infrastructure regarding Highways Act 1980 Sections 119 and 25 – Application to divert public bridleway number 138055 parish of Wetheral and upgrading of public footpath number 138065, parish of Wetheral to bridleway: District of Carlisle.

The Countryside Access Officer advised that an application had been received to divert public bridleway number 138055 in the parish of Wetheral and to upgrade public footpath 138065 to a bridleway. He presented a map and aerial photograph of the area. Members considered the diversion firstly. Photographs of footpath subsidence in 2017 and 2019 were shown and it was reported that an informal diversion had been in place since 2000 to allow use of the bridleway. Aerial images were shown depicting the former mine workings as well as photographs of the existing and proposed route. It was highlighted that the proposed route did not end at the same point as the current route but the proposed route would provide better connectivity to other routes, which were explained in detail to the Committee.

Following member questions, it was confirmed that the Applicant would be entering into an agreement to limit vegetation levels to ensure highway users had a clear view of people exiting the bridleway.

Ms Saunders, on behalf of the Applicant made the following statement:

British Gypsum is seeking permission to permanently divert bridleway 138055 where it crosses directly over the old workings of Cocklakes Mine. The mine was opened in 1898 and was abandoned in the late 1960s.

The southern part of the mine over which the bridleway crosses was worked during a time when the technology and understanding controlling extraction rates and mine designs was not well understood. As such, the sizes of the pillars and roadways in

this part of the mine are not to modern-day standards. In addition, the mine supplied anhydrite (which is a form of gypsum) for use in the manufacture of munitions during World War Two. We suspect there was pressure to increase extraction rates during this period to support the war effort.

Whilst the risk of subsidence from modern-day mine workings is low, there have been a large number of subsidence events in this part of Cocklakes Mine due to the historic extraction rates and very shallow nature of the workings. The subsidence events at Cocklakes can result in deep, and often open holes at the surface and some have the potential to allow access into dangerous old mine workings.

The sole purpose of the application is to remove a bridleway route that could potentially be a very significant safety hazard for members of the public. For example, back in 2000 it was temporarily closed and re-routed due to subsidence on the route. A recent subsidence event also occurred in April this year, only 10 metres from the bridleway. A local resident reported accessing the site to take a closer look at the hole.

The proposed route has been designed to not cross over unstable old mine workings and will continue to pass through an off-road tranquil environment, through an area of mature and semi-mature trees. It will not result in a lower quality of experience or diversity of views for the bridleway users.

The provision of an access point onto Peter Gate will provide an enhancement and more convenient route for its users as this will enable the proposed route to connect to bridleway 138048, which is located on the opposite side of Peter Gate. We have also offered to upgrade footpath 138065 to a bridleway, which will provide a further enhancement to the local network for bridleway users.

In addition to this, we have agreed to:

- provide a 3m wide surfaced path for the entire length of the route;
- fund a road crossing point and surfaced area on the northern side of Peter Gate up to bridleway 138048;
- undertake ongoing maintenance of vegetation adjacent to the new bridleway and the roadside hedge along Peter Gate to maintain the visibility splay.

British Gypsum believes that the health and safety of anyone who may be affected by our operations both past and present is of paramount importance. The proposed diversion and upgrading will provide a safer route of approximately equivalent length, whilst remaining convenient and offering enjoyment to the public.

A member provided his support of the application and reported on his discussions with a local farmer who had been affected by subsidence. In recognising the dangerous conditions, a member who lived near the footpath welcomed the application as it would provide safe access to the countryside.

It was moved by Mr Fisher and seconded by Mr McGuckin that the diversion order be made and the footpath be upgraded to a bridleway. Following a unanimous vote in favour of the motion, it was

RESOLVED that,

- 1 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 that section of public bridleway no 138055 in the parish of Wetheral shown A-B to a new route A-C-D-E-F-G-H-I-J-K-L as shown on the plan at Appendix B to the report and that all necessary actions be taken to confirm the order; and
- 2 That, pursuant to the power set out at Part 2G paragraph 2.1(g) (i) of the County Council's Constitution, the County Council enter into an Agreement with the landowner under Section 25 of the Highways Act 1980 to upgrade public footpath no 138065 in the parish of Wetheral to a bridleway shown A-B on the plan at Appendix C of the report.

A recess began at 10.55am and the meeting reconvened at 11.00am.

**29 APPLICATION REFERENCE NO. 4/19/9003. PROPOSAL: ERECTION OF A NEW 2 STOREY HIGH ARCHIVE STORE TOGETHER WITH A NEW INFILL EXTENSION AND INTERNAL REFURBISHMENT, DEMOLITION WORKS, EXTERNAL WORKS AND THE REMOVAL OF 6 NO. TREES AND ASSOCIATED PLANTING. LOCATION: WEST CUMBRIA RECORD OFFICE, SCOTCH STREET, WHITEHAVEN, CA28 7NL**

A report was considered from the Acting Executive Director – Economy and Infrastructure regarding Application Reference No. 4/19/9003. Proposal: Erection of a new 2 storey high Archive Store together with a new infill extension and internal refurbishment, demolition works, external works and the removal of 6 no. trees and associated planting. Location: West Cumbria Record Office, Scotch Street, Whitehaven, CA28 7NL.

The Planning Officer guided members through the application and referred the Committee to the Update Sheet, circulated before the meeting had commenced, regarding the comments from Historic England and Copeland Borough Council in respect of the application which were duly noted. Maps, plans and photographs showing the proposed development were shown. Current parking provision and the context for the proposal in terms of surrounding buildings was provided. She recommended that planning permission be granted.

Following member questions, the Planning Officer reassured members that visual impact was not significant from Scotch Street looking down the road. In supporting the proposal, a member with knowledge of the current building acknowledged the mix of building styles in the area but raised his concern about current and future parking provision and asked that the size of disabled parking spaces be taken into consideration. The Planning Officer provided a synopsis of parking arrangements

during the construction period. She advised where the Old Magistrate's Court Wall would be located and its planned use for incorporation into wedding photographs. Members were informed that no response had been received from the Local Member. It was noted that the building was not listed but was located in a conservation area.

In moving the recommendation to grant planning permission, subject to the conditions set out in the report, Mr Morgan who was familiar with the surrounding buildings and the site considered the proposal a significant enhancement for the public, met the provision of services in Whitehaven and considered that the disabled parking space issue had been addressed. The motion was seconded by Mr Turner.

Mr Wilson advised that he was a member of the Copeland Borough Council Planning Committee but had not been influenced by any previous decisions nor made any comments in relation to this planning application. He advised that he would abstain from the vote.

Following a vote, with 14 members in favour of the motion, 0 against and Mr Wilson abstaining, it was

RESOLVED that, planning permission be granted subject to conditions set out in Appendix 1 to the report.

**30 APPLICATION REFERENCE NO. 2/19/9004. PROPOSAL: CHANGE OF USE FROM RESIDENTIAL CARETAKER'S BUNGALOW TO EDUCATIONAL USE WITH MEETING ROOMS. LOCATION: ASHFIELD INFANT SCHOOL, NEWLANDS LANE, WORKINGTON, CA14 3JG**

A report was considered from the Acting Executive Director – Economy and Infrastructure regarding Application Reference No. 2/19/9004. Proposal: Change of use from residential caretaker's bungalow to educational use with meeting rooms. Location: Ashfield Infant School, Newlands Lane, Workington, CA14 3JG.

The Lead Officer - Development Control guided members through the report and showed a map of the proposed site, an aerial photograph, plans showing context of the site, photographs of the entrance of the site and of the building and plans of the elevations. He provided the rationale behind the use of the proposed building, the visual impact of the proposal and an explanation of the adjoining properties. It was noted this was a change of use and it was considered to be a good use of the building.

Following a question from a member, it was noted that this building was for teachers' use rather than as provision of a quiet space for children.

It was moved by Mr Morgan and seconded by Mr Cassidy that planning permission be granted subject to the conditions set out in the Appendix to the report. Following a unanimous vote in favour of the motion, it was

RESOLVED that, planning permission be granted subject to the conditions set out in Appendix 1 to the report

### **31 APPLICATIONS DETERMINED UNDER DELEGATED POWERS**

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

### **32 APPLICATIONS PROPOSED TO BE DETERMINED UNDER DELEGATED POWERS**

A member advised that since the last meeting of the Committee where he had raised complaints made to him in relation to Whitehaven Skips and Services Limited and the potential for a site visit, he had spoken to the Enforcement Officer and would be providing him with photographs of the site.

Consideration was given to holding a site visit to North West Recycling Ltd in Carlisle. The Manager Development Control and Countryside Management advised that concerns would need to be reviewed to ascertain if they were material to consideration of the submitted planning applications.

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

### **33 FORWARD PLAN**

RESOLVED that, the Committee's Forward Plan be noted.

### **34 DATE AND TIME OF NEXT MEETING**

The next meeting of the Committee would be held on 13 August 2019 at 10.00am at County Offices, Kendal.

The meeting ended at 11.40 am