

DEVELOPMENT CONTROL AND REGULATION COMMITTEE

Minutes of a virtual meeting of the Development Control and Regulation Committee held on Tuesday, 19 January 2021 at 10.00 am

PRESENT:

Mr GD Cook (Chair)

Mr RK Bingham
Mr A Bowness
Mrs HF Carrick
Mr F Cassidy
Mr N Cotton
Mrs BC Gray
Mr D English
Mr KR Hamilton

Mr K Hitchen
Mr AJ Markley
Mr W McEwan
Mr FI Morgan
Mr CP Turner
Mr D Wilson
Mr MH Worth

Also in Attendance:-

Mrs S Bainbridge	Commons Registration Officer
Mr M Brennand	Lead Officer - Historic Environment and Commons
Ms P Christie	Solicitor
Mr R Cryer	Lead Officer - Development Control
Mrs J Currie	Professional Lead - Democratic Services
Mr C Drakes	Regulation and Compliance Officer
Mr P Haggin	Manager Development Control and Sustainable Development
Mr D Hughes	Planning Officer
Mr A Sims	Countryside Access Officer
Mr J Weatherill	Commons Officer
Mr C Lasper	By phone (Item 8 - CA14/52 – Application to amend the register to record an historic event – historic severance of a right common (& CR19, Application No 1353 – Application for the amendment of a register in relation to a right of common) Register unit CL3 Eastern Martindale Common (Hallin Fell, Swarth Fells, Fusedale) Entry 5 (Now Entry 31))
Mr G Wilson	By phone (Item 9 - Highways Act 1980 Section 118 – Application to extinguish public footpath no. 302151 in the parish of Alston Moor)

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

203 ROLL CALL AND APOLOGIES FOR ABSENCE

An apology for absence was received from Mr A McGuckin.

204 CHANGES IN MEMBERSHIP

There were no changes in membership to report on this occasion.

205 DISCLOSURES OF INTEREST

There were no disclosures of interest made at the meeting.

206 EXCLUSION OF PRESS AND PUBLIC

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

207 MINUTES

RESOLVED, that, the minutes of the meeting held on 30 November 2020 be agreed with the following amendments:-

Page 8 – Minute 109 – CA10/45 – Application to Correct unit CL20 of the Register of Common Land – Caldbeck Common – in the opening paragraph change Ca10 to CA10, and Cl20 to CL20.

Page 9 - Minute 109 – CA10/45 – Application to Correct unit CL20 of the Register of Common Land – Caldbeck Common – in the resolution replace the words contained within this report to read ‘contained within the report’.

Page 10 – Minute 192 – Highway Act 1980 Section 119 Proposed Diversion of Public Footpath No 105014 Parish of Brampton – in the second paragraph remove the words in the final sentence ‘all costs would be paid for’ as this had been doubly recorded.

Page 13 - Highway Act 1980 Section 119 Proposed Diversion of Public Footpath No 540005 Parish of Kirkby Lonsdale – second paragraph at the end of the second last sentence change Highways Act 198 to Highways Act 1980. In the next paragraph at the start of the third sentence change ‘He that informed’ to ‘He then informed’.

Page 18 – Minute No 197 – Application Reference No 6/20/9004 Erection of Alternative Provision Facilities Building, Site at Channelside, Land off Ironworks Road, Barrow in Furness – the numbering in the resolutions be changed to read (1), (2), (3) etc

Page 19 – Minute No 200 Forward Plan – in the second paragraph take out the space in the third line so the word reads Wigton.

208 CA13/19 APPLICATION TO CORRECT NON-REGISTRATION OF COMMON LAND, LAND AT THIRLMERE

Members considered a report from the Executive Director – Economy and Infrastructure which detailed an application to correct non-registration of common land at Thirlmere.

The applicant claimed that the application land was omitted from registration as part of the register unit CL413 Whelpside, Steel End, West Head, Armboth and Bleaberry Fells and had requested that the application land be added to that register unit.

The applicant also claimed that the application land was not at any time finally registered as common land or as a town or village green under the Commons Registration Act 1965 and that it was recognised or designated as common land by or under an enactment, that enactment being The Manchester Corporation Waterworks Act 1879, and thus satisfied the criteria specified in paragraph 2 of Schedule 2 of the Commons Act 2006.

The Commons Registration Officer took members through the report in detail.

One objection was received from United Utilities who was the owner of the application land. The Objection was duly served on the applicant in accordance with the 2014 Regulations and a response was provided by the applicant.

The officer took members through the objection and the grounds on which it was made.

The Commons Registration Officer reminded members that in line with Regulation 27 (7) an application may not be refused without first offering the applicant an opportunity to make oral representations.

On 5 November 2019 the officer wrote to the Applicant informing him that she was minded to recommend that the two applications concerning land at Thirlmere (CA13/19 and CA13/20) be rejected, outlining the reasons and inviting the Applicant to make oral representations.

The oral representations meeting took place on 21 November in the presence of Commons Registration and Legal Officers.

Following this meeting the applicant submitted further written evidence in support of his application. However, having considered the contents of oral representations and further written evidence, it was the officer's opinion that, despite there being some evidence that suggested that at some point in the past the application land was common land, there was still insufficient evidence to prove a direct relationship between the application land and the 1879 Act.

The Commons Registration Officer was of the opinion that the evidence provided by the Applicant does not show on the balance of probabilities that the application land

was recognised or designated by or under the Manchester Corporation Waterworks Act 1879 and therefore it should not be registered as common land under paragraph 2 of Schedule 2 to the Commons Act 2006.

Members asked for clarity on whether if the public continued to enjoy access to the land, and had done for a number of years, this gave it a status of common land.

The officer responded to say the this does not automatically mean the land was common land. She confirmed that she had considered all the appendices and a maps submitted and she could find no evidence that any of the land in question was recognised under the Act as common land.

One of the members asked whether access to the public was open all the way around Thirlmere, as he understood that some of the access was closed.

The officer replied to say that as far as she was aware that was a path around Thirlmere which could be accessed by the public, but that some of the land mentioned in this application that was currently fenced off.

One of the members said he had always been led to believe that there was no public footpaths around Thirlmere, due to the fact that this water was to be used for drinking water for Manchester. He was aware that there was a public viewing area at the top end and that it was possible to drive around the lake but he was not aware that it had public access to walk around the lake. He asked for clarification.

The Development Control Manager reminded members that there were separate tests, laws and legislation to deal with footpaths. The application before members today was only dealing with the Common Land aspect. The Lead Lawyer confirmed this was correct.

Upon conclusion of the debate the officer recommendation was moved, seconded, and put to a vote.

A roll call vote was taken with 15 votes for, 0 against and no abstentions.

RESOLVED, that the Committee rejects the application on the grounds that the land in question does not satisfy the criteria specified in paragraph 2 of Schedule 2 of the Commons Act 2006. It is considered that the Manchester Corporation Waterworks Act does not recognise or designate the land which is subject to this application as common land.

209 CA13/20 - APPLICATION TO CORRECT NON-REGISTRATION OF COMMON LAND; LAND AT GREAT HOW, THIRLMERE

Members had before them a report from the Executive Director – Economy and Infrastructure which detailed an application received to correct non-registration of common land at Great How, Thirlmere.

The Applicant claimed that the land which was subject to this application was omitted from registration as part of the register unit CL123 St. John's Common and had requested that the application land was added to that register unit.

The Applicant also claimed that the application land was not at any time finally registered as common land or as a town or village green under the Commons Registration Act 1965 and that it was recognised or designated as common land by or under an enactment, that enactment being The Manchester Corporation Waterworks Act 1879, and thus satisfied the criteria specified in paragraph 2 of Schedule 2 of the Commons Act 2006.

The officer took members through the report in detail.

One objection was received from United Utilities who was the owner of the application land.

The officer detailed the objection and response of the applicant to members.

The Commons Registration Officer reminded members that in line with Regulation 27 (7) an application may not be refused without first offering the applicant an opportunity to make oral representations.

On 5 November 2019 the Commons Registration Officer wrote the applicant informing him that she was minded to recommend that the two applications concerning land at Thirlmere (CA13/19 and CA13/20) be rejected, outlining the reasons and inviting the applicant to make oral representations.

The meeting took place on 21 November in the presence of Commons Registration and Legal Officers.

Following this meeting the Applicant submitted further written evidence in support of his application, based on the applicant's research and outlined the history of Thirlmere commons and the debates relating to common land in the period leading to the passing of the 1879 Act.

Having considered the contents of oral representations and further written evidence, it was the officer's opinion that, despite there being some evidence that suggested that at some point in the past the Application Land may have been common land, there was still insufficient evidence to prove a direct relationship between the Application Land and the 1879 Act.

The evidence provided by the Applicant does not show on the balance of probabilities that the Application Land was recognised or designated by or under the Manchester Corporation Waterworks Act 1879 and therefore it should not be registered as common land under paragraph 2 of Schedule 2 to the Commons Act 2006.

Upon conclusion of the debate the officer recommendation was moved, seconded, and put to a vote.

With 15 for, 0 against and 0 abstentions it was

RESOLVED, that the application be rejected on the grounds that the land in question does not satisfy the criteria specified in paragraph 2 of Schedule 2 of the Commons Act 2006. It is considered that the Manchester Corporation Waterworks Act does not recognise or designate the land which is subject to this application as common land.

210 CA14/52 - APPLICATION TO AMEND THE REGISTER TO RECORD AN HISTORIC EVENT - HISTORIC SEVERANCE OF A RIGHT OF COMMON (& CR19, APPLICATION NUMBER 1353 - APPLICATION FOR THE AMENDMENT OF A REGISTER IN RELATION TO A RIGHT OF COMMON) REGISTER UNIT CL3 EASTERN MARTINDALE COMMON (HALLIN FELL, SWARTH FELLS, FUSEDAL) ENTRY 5 (NOW ENTRY 31)

Mrs Gray attended the meeting at this point, but abstained from the vote as she had not been present for the whole of the discussion.

Mr Hamilton left the meeting part way through this item and did not take part in the vote.

The Development Control and Regulation Committee considered a report from the Executive Director – Economy and Infrastructure which detailed two applications received from Gillian Margaret Hedworth to amend the register of common land at entry 5 of register unit CL3 Eastern Martindale Common (Hallin Fell, Swarth Fells, Fusedale (“CL3”), in consequence of an historic severance of a right of common.

Members were asked to determine whether, when Hause Farm and some of its associated land was repossessed by the bank, did the common rights that attached to a section of that land also transfer, or were retained by the previous owner.

The purpose of the report was to request Members make a decision as to whether the applications should be granted and amendments made to the Council’s register of common land.

The Commons Officer took members through the detailed and complex report.

The Officer explained how both applications centred upon the same key issue, the effect of a Charge by which land at Hause Farm was charged to UCB Bank by Mrs Hedworth and her husband. More specifically, both applications contended that the right of common was not included in the Charge and thereby ceased to attach to the Charged Land, so that, in other words, the right of common was severed.

The Officer further explained that it had been pragmatic to consider the material received across both applications when coming to a recommendation for each application. Members were reminded that each application was still independent and that two separate votes would need to be carried out.

Members were informed that two objections were received, one from the Rowleys, and one from a Mr Christopher Lasper, who had no legal interest in the land.

The Rowleys' objection involved a dispute between themselves and Mrs Hedworth as to the ownership of the right to graze 135 sheep on register unit CL3. The Officer explained that this dispute largely came down to the Charge document, which itself did not mention the common rights. Members were shown extracts from Section 62 of The Law of Property Act 1925 which indicated that a conveyance would be deemed to include any attached rights unless a contrary intention was expressed within the document itself. Members were told of correspondence made prior to the Charge which suggested that the intention was to exclude the grazing rights, but were reminded that this exclusion was not mentioned in the Charge itself.

Members were reminded that further details of these contentions were provided within the report and within the bundle of documents that were available by request, and that whilst the position put forward by the applicant was an arguable one, the Officer found that on balance the rights were not included within the Charge.

Mr Lasper's argument was that common rights were attached to the farm as a whole, and not any part. Therefore, Mr Lasper argued that all 350 of the grazing rights became severed from the land when the Charge was entered into and therefore all of the grazing rights were held in gross as a separately tradeable asset from that point.

The Officer explained that there was some force in Mr Lasper's arguments and talked Members through some of the relevant case law on the subject, including a brief analysis of the Wyat Wild's Case and the White V Taylor case. Members were also shown extracts taken from DEFRA's Guidance to Commons Registration Authorities 2014 which provided some anecdotal evidence of partial severance being possible.

The Officer stated that, in his opinion, the relevant case law showed that, on the balance of probabilities, Officers' established view that an apportionment of a dominant tenement would not result in the severance of a right of common was correct (unless there was a clause reserving, assigning or apportioning the right).

Upon conclusion of the report the Officer's opinion was that the applications had been validly made and that the purported severance of the grazing rights attached to the Charged Land was potentially lawful.

Despite correspondence prior to the Charge being created suggesting that the common rights were to be excluded, the Charge itself was silent on the matter. Officers were therefore of the opinion that the common rights were included within the Charge placed over the Charged Land.

If the rights were intended to be excluded at the time of the final execution of the Charge, then the omission of a clause excluding them was a mistake of law, and one that was not picked up at the time.

Officers believed that the grazing rights further passed automatically with the Charged Land under the order made by the Court of Appeal on 4 December 2003 and the consequential sale.

After carefully reviewing Mr Lasper's representations, Officers concluded that the Council's current position should be maintained, in that an apportionment of a dominant tenement would not result (in the absence of any clause reserving, assigning or apportioning the right), in the severance of the entire right of common.

Officers found that the 135 grazing rights (assigned to the Charged Land and calculated via a rateable apportionment) were not severed and remained attached to the Charged Land.

It was recommended that this Committee resolve to reject each application and to leave the commons register unaltered.

Members asked for clarification on whether the grazing rights were something that was tangible and could be sold, dedicated or transferred, or only applicable to the land in question.

The Officer said in the past it was possible to sever rights from the land and hold them in gross as a separately tradeable asset, but that this had been prohibited since June 2005.

Members asked for confirmation of the split in numbers of sheep attached to each property, and whether these had been disputed.

The Officer responded to say there were 350 sheep in total, spread across 17 fields. He understood that the rights had been split proportionally based upon acreage and that there had been no dispute over this split, apart from the contentions made by Mr Lasper. He was not aware of any dispute over the rights in any of the other fields.

One of the members asked for clarification on the information contained within the update sheet, and the letter received from Tait Farrier Graham. She asked for clarification about the significance of this in terms of the Committee's consideration of this. She wanted to ensure all views were considered before a decision was taken on this.

The Commons Officer informed the member that the applicant had requested that the report be released to them earlier than the legal requirement of 5 clear days before the meeting. However, this had not been possible.

The Lead Lawyer reassured members that the applicant and their solicitor had had ample opportunities to make representation before the report was published.

The 2010 application, which was still outstanding, had been unknown to exist by all the current Officers. As soon as officers became aware of it the application was added into the system. The Commons Officer did not believe that the delay would have any impact on the decision making process as the same fundamental issue is being assessed.

The Chair reminded members that this item would be dealt with under two separate votes.

Members wondered whether the changes in legislation referred to throughout the report had any impact on the decision making process.

The Commons Officer responded to say application CR19 had been received in 2010 when the previous legislation was in place, and CA14/52 was under the new Act and regulations. Fundamentally though, it was the same issue, just covered by different legislation.

The Chair then opened the meeting up to public participation.

Mr Christopher Lasper had requested the opportunity to address the committee and he was rung into the meeting.

Mr Lasper wanted to stress something which he felt had been left singularly unclear by Officers. There were two distinct applications before members today but Mr Lasper was only concerned with the earlier application CR19, from 2010. This was not affected in any way by the 2006 Act, nor the regulations made under it. This was governed exclusively by the 1965 Act and Regulation 29 of the Commons General Regulations 1966.

He spoke to say that in his opinion the only issue for members to consider was to read Entry 5 and decide what it meant.

The only evidence given in relation to the attachment of the 350 grazing rights appeared in Entry 5, and he read this out for members.

Mr Lasper felt that Mr Weatherill had failed to point out to members that Haise Farm and the reference to the OS numbers not only comprised fields but also buildings. He wondered how it would be possible to attribute any grazing rights to buildings. Unless the objection was overcome then he felt that the theory being used by the officers was an impossible one.

He wondered how anyone would have supposed that any of the grazing rights passed to the owners of the "2nd home" and were not all retained by the owners of the farmland. He felt that the officers had not address this but also succeeded in blurring it.

He believed that the Officers could point to no statute, nor decided case, nor textbook, that compelled (or even favoured) that solution.

Mr Lasper concluded that if the Committee chose to deprive Mrs Hedworth of one third of her grazing rights then members needed to be satisfied that there were clear legal grounds to do so.

Mr Lasper urged the Committee to remit this case to the Officers for their reconsideration of the law consistently.

The Chair thanked Mr Lasper for his statement and there were no questions from members.

The Chair accepted that issue was extremely complex, however, he moved the Officer recommendation, and this was duly seconded. He reminded members of the need to conduct two separate votes on the recommendations.

The first vote was taken in relation to application CR19 number 1353 , with 13 for, 0 against and 2 abstentions it was

RESOLVED, that the Committee reject the application for CR19 number 1353 for the reasons contained within the report, and on the specific grounds that, on the balance of probabilities, severance of a right of common did not take place and the disputed common rights remain attached to the land in question.

A vote then took place on CA14/52. With 13 for, 0 against and 2 abstentions it was

RESOLVED, that the Committee reject the application for CA14/52 for the reasons contained within the report, and on the specific grounds that, on the balance of probabilities, severance of a right of common did not take place and the disputed common rights remain attached to the land in question.

211 HIGHWAYS ACT 1980 SECTION 118 - APPLICATION TO EXTINGUISH PUBLIC FOOTPATH NO 302151 IN THE PARISH OF ALSTON MOOR: DISTRICT OF EDEN

The Committee considered a report from the Executive Director – Economy and Environment which proposed that the County Council extinguish public footpath no 302151 at Hags Bank in the parish of Alston Moor District of Eden.

The route of public footpath no 302151 passed through the curtilage of the property at Hags Bank before ascending steep rough pasture that was being developed as a bunkhouse and camping area.

The applicant landowner had applied to extinguish the whole length (126 metres) of the footpath, for the reasons of security and safety.

The Countryside Access Officer took members through the report in detail.

Members recalled that this item was presented to them at their previous meeting where it was deferred to a future meeting because it appeared the wrong District Council had been consulted. Officers had investigated the situation and found that it was an error in the report and the correct authority had been consulted.

As a result of consultations Cumbria and Lakes Joint Local Access Forum had commented that this proposal was not supported by them as the alternative existing routes would be far less convenient, direct and user-friendly than that created by a diverted FP 302151 passing through the camping ground.

Members noted that in the update sheet the local member for Alston and East Fellside had submitted a statement supporting the application to extinguish this route.

The pasture crossed by footpath no 302151 was bordered on three sides by other public rights of way, so the extinguishment of this short length of footpath would not detract from the convenience or enjoyment of the footpath network in the area. The alternative paths had similar or better surfaces than the path to be extinguished and were visibly more obvious on the ground.

The Countryside Access Officer reminded members that there was only one reason that the County Council could make a legal order to extinguish a path and that was that it was expedient on the ground that it was not needed for public use.

The officer was satisfied that the proposed extinguishment met the legal tests set out in Section 118 of the Act and, if Members approve the recommendation in this report, the order would be made in the interests of the landowner.

One of the members asked whether there were any footways/pavements along the A689. If any of the alternative routes passed along a busy highway they did not feel as if this was a practical alternative. Officers confirmed that there was no pavement in this location and there was no segregated footpath.

The Lead Lawyer reminded members that the interests of the landowner should not be taken into consideration. The only test to be applied was that the footpath was not needed for public use.

A question was asked about the accessibility of the proposed routes and whether the route proposed for extinguishment was less accessible than the others. The officer confirmed that the current route 302151 was not as accessible to less able users as one of the alternatives.

Members wondered how often the path proposed for extinguishment was used. The officer said the County Council did not hold usage figures for this route.

One of the members asked for clarification on the safety aspect of this application. Was the decision based on the safety and security of users of the footpath or of the property where the footpath bounded.

The officer responded to say that the reasons of security and safety were provided by the applicants for wanting a deletion but these were not grounds on which members could decide to make the order. He reinforced the reasons stated earlier by the Lead Lawyer that the only test to be applied was that the footpath was not needed for public use.

The Chair then opened the meeting up to public participation, and Mr Geoff Wilson was called into the meeting.

Mr Wilson spoke to say that he did not feel that this application for extinguishment met the legal tests, and outlined the reasons why, and that an application to have a public right of way extinguished must not be taken lightly. He felt the Council's presumption should be to not close any paths.

The officer's report correctly quoted the 1980 Highways Act that there was only one reason that may justify the extinguishment of a public right of way, which was that it was expedient that the path or way should be stopped up on the ground that it was not needed for public use. However, the officer report does not advise members as to why the closure of footpath 302151 was expedient.

The expediency of such an extinguishment must be satisfied, and in this case Mr Wilson felt it had not been. The report says that the application was made for reasons of safety and security, but does not explain how the presence of the footpath in question compromised the safety or security of anyone at this location. There were many public paths that passed through camp sites.

Mr Wilson wondered why the committee report failed to explain to members why the other two alternative footpaths were also not deemed to pose risks to the safety and security of the camp site.

Mr Wilson did not feel that because there were other paths in the area which were equally convenient and enjoyable to use, this was a reason for accepting that the path in question was not needed for public use. The act required members to have regard to the extent to which the public would be likely to use the path, but members had been given no indication of the recent levels of use of the path.

Mr Wilson's final point, which he felt was the most significant, was that the officer's report failed to advise members that planning consent had not yet been granted for the development of the camp site. A planning application was made on 30 November 2015 (15/1107), and to date remained undecided. The committee surely cannot grant approval for the extinguishment of a path that was claimed to affect the safety and security of a development for which planning consent had not yet been granted.

The Chair thanked Mr Wilson for his statement, and one of the members asked Mr Wilson whether the alternative routes mentioned were suitable.

Mr Wilson replied to say that there were no additional routes being provided for the extinguishment of the route, only footpaths which were already in existence and being used.

One of the members felt that the fact that planning permission for the development of the campsite had not yet been granted may have a material effect on this decision.

The officer confirmed that the property in question was the camping barn referred to by the Local Member for Alston in the update sheet, and he also confirmed that planning permission had not yet been granted for the development of the campsite. However, he stressed that this was still not grounds for not making the order.

The Development Control Manager reminded members that the extinguishment of public footpaths was rare and the members did not take these lightly. The only real test would be the evidence on the usage of the footpath, which as stated by the officer, the County Council did not hold.

He felt this order was unusual in that if planning permission had been granted and the site had been developed, it would then be easier to understand whether there were issues of safety and security at the campsite. He left that without the planning permission in place the grounds for the order became less concrete.

The Lead Lawyer spoke to say that the basis of the legal decision to be made on a Section 118 order was simply whether the path was needed for public use. With regards to an alternative route the County Council had to be careful not to divert into Section 119 diversion territory. She reiterated the decision to be made today was whether or not this footpath was needed for public use, and whether it was expedient.

Members had a number of concerns about the need to extinguish this route and this was debated in detail, with a number of views being expressed.

Upon conclusion of the discussion it was proposed from the floor that the officer recommendations be moved, and this was seconded and put to a vote.

One of the members took the Committee back to the letter from the local member for Alston, referred to in the update sheet, in which she stated that the extinguishment order would reflect what currently happened on the ground. This was that both residents and visitors in the majority of cases, used the alternative routes already in place. She wondered whether residents already avoided using this route because it was already used as a campsite.

The officer responded to say that he deferred to the local member's experience and views that the route proposed for extinguishment was not as regularly used as the alternative routes. He thought maybe the reason for this was simply that it was less convenient. Users had to cross through properties, across undulating ground of differing levels and it was not as obvious on the ground as the alternative routes.

A proposal was made from the floor to move to defer this application until the outcome of the planning application was known. This was seconded and then put to a vote. With 6 for, 8 against and 1 abstention this motion was lost.

The officer recommendation was moved, seconded and then put to a vote, and with 10 for, 4 against and 1 abstention it was

RESOLVED, that, pursuant to the power set out at Part 2G paragraph 2.1(g)(ii) of the County Council's Constitution, an order be made under Section 118 of the Highways Act 1980 to extinguish public footpath no 302151 in the parish of Alston Moor shown A-B as shown on the plan at Appendix A and that all necessary action be taken to confirm the order.

212 APPLICATION REFERENCE 6/19/9007 ERECTION OF A REPLACEMENT TRANSFER BUILDING SINKFALL FARM WASTE TRANSFER STATION, RAKESMOOR LANE, BARROW-IN-FURNESS, LA14 4QE

Members of the Development Control and Regulation Committee had before them a report by the Executive Director – Economy and Infrastructure, which detailed a planning application for the erection of a replacement transfer building at Sinkfall Farm Waste Transfer Station, Rakesmoor Lane, Barrow-In-Furness.

Although the building would be significantly bigger than the current building, the applicant had indicated that they do not intend to increase the amount of waste handled at the site, rather, that they considered the development necessary to operate in a more efficient manner and to increase the separation between bays filled with different materials to more easily meet their fire prevention plan

The Planning Officer took members through the report in detail, and covered a site description, planning history, consultations and representations, planning policy, and the planning assessment.

Two representations to this application had been received, and the Planning Officer detailed these for members.

The Planning Officer shared concerns about the impact of noise on the ability of nearby residents to be able to enjoy their property, however, he felt that the use of a complaints investigation and reporting scheme could lead to measures to address complaints and if necessary, compel the applicant to carry out mitigation for the noisiest aspects of the operation.

The proposed development was in accordance with the development plan, there were no material considerations that indicated the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably be mitigated. The officer was therefore recommending that the application be granted subject to conditions.

The Planning Officer referred members to the information contained in the Updated Sheet, with particular reference to the proposed condition 3. Members noted that it was proposed to delete draft condition 3 and amend draft condition 2.

The officer also referenced a further objection received since the report was published, and took members through the details of the objection.

One of the members raised the issue to vehicular access in and out of the site and whether the proposed extension would increase the amount of vehicles using the site and perhaps increasing traffic along the narrow country lanes.

The officer reassured the member that there would be little or no increase in the amount of waste processed at the site and should have very little effect on vehicular access. He was not aware that wagons did use the narrow roads as all vehicles should turn right when leaving the site. He had not received any complaints about traffic along the narrow lanes and should any be received they would be investigated.

Members asked whether it would be possible to require more landscaping to make the appearance of the building more aesthetic.

The officer responded to say that the lay of the land was such that it would require a substantial amount of material to make this possible.”

The recommendation was moved, seconded and then put to a vote.

With 14 for, 0 against and 0 abstentions the recommendation was carried.

RESOLVED, that Planning Permission be granted subject to conditions set out in Appendix 1 to this report and the amendment proposed in the update sheet.

213 SAFETY AT SPORTS GROUNDS

The Development Control and Regulation Committee considered a report from the Executive Director – Economy and Infrastructure which presented the annual report on the Safety at Sports Grounds,

The report informed the Committee of the work of the Safety of Sports Grounds Team carried out during 2020. It explained the County Council’s statutory obligations under the relevant legislation and outlined the activity carried out to ensure that these duties have been met.

The Regulation and Compliance Officer took members through the report in detail, and specifically highlighted safety audits at the following sports grounds:-

- Carlisle United
- Barrow AFC

- Workington Town
- Barrow Raiders
- Carlisle Racecourse
- Whitehaven RLFC
- Workington AFC

There were no special safety certificates issued during the period covered by the annual report.

RESOLVED, that the report be received and noted.

214 APPLICATIONS DETERMINED UNDER DELEGATED POWERS

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

215 APPLICATIONS PROPOSED TO BE DETERMINED UNDER DELEGATED POWERS

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

216 FORWARD PLAN

The list of applications to be considered at future meetings was discussed.

RESOLVED that, the Forward Plan be noted.

217 DATE AND TIME OF NEXT MEETING

The next meeting of the Committee will be held on 19 February 2021 at 10.00am.

218 UPDATE SHEET FOR DCR 19 JANUARY 2021

The update sheet was noted.

The meeting ended at 1.10 pm