

## 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 March 2022, at 10.00 a.m.

Present

Councillors

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

Giles Archibald  
Rupert Audland  
Judy Filmore

Chris Hogg  
John Holmes  
Janette Jenkinson

Kevin Lancaster  
Susanne Long  
David Webster

Apologies for absence were received from Councillors Michael Cornah, Gill Gardner and Vicky Hughes.

Officers

Liz Arnold	Senior Specialist - Development Management
Nick Howard	Team Leader Development Management
Jane McKeon	Case Management Officer (Support Services)
Emma Priest	Legal, Governance and Democracy Specialist (Solicitor)

### **P/51 MINUTES**

RESOLVED – The Chairman authorised to sign, as a correct record, the minutes of the meeting held on 24 February 2022, at 10.00 a.m.

### **P/52 DECLARATIONS OF INTEREST**

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

- (1) Councillors Pete McSweeney and Rupert Audland with regards to Minute No. P/55 (Planning Application No. SL/2021/0161 Land at Viver Green, Viver Lane, Hincaster, Milnthorpe)

In the interests of transparency, the Chairman requested that any other Members who had received any emails or held any other relevant conversations which they believed to be lobbying, in respect to any application to be determined, that they declare them openly at this time. None were received.

### **P/53 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS**

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

### **P/54 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/55 (Planning Application No. SL/2021/0161 – Land at Viver Green, Viver Lane, Hincaster, Milnthorpe)
- (2) Minute No. P/57 (Planning Application No. SL/2021/1077 – Cark Manor, Cark-in-Cartmel, Grange-over-Sands)

**P/55**

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

***NOTE – In the interests of transparency; Councillors Pete McSweeney and Rupert Audland declared that they were approached by Cllr Helen Chaffey in communications in respect of the possible options for this site, however, both confirmed they were not predetermined, biased, or predisposed to consider the following Application.***

The Principal Specialist - Development Management provided a report on the Application. The historical background and review of the site was provided.

The Application was deferred from the February committee in order to seek an update from the Councils independent consultant from Lambert Smith Hampton.

The proposal, as stated within the report, was relayed. The location of the site and layout plan was described. An explanation of the site as it currently stands and the varying stages of completion was explained. Photographs of the properties already approved were illustrated. The Officer described how the first few units have been occupied. The rest of the site is currently left in a state of incomplete construction. Slides illustrating the properties boarded up and in a mixed state of construction were displayed. The viability report from Bailey Venning Associates was referenced as was the later Financial Viability Review Addendum report submitted from Lambert Smith Hampton.

Details of the late representation received from a resident who lives in one of the occupied dwellings on the development was noted. The uncompleted part of the site was described as an 'eye sore'. The letter from the resident is set out in full within Item No. 6 Late Representations for Committee Page 3.

The questions raised previously by members were addressed. The LSH report comments in response followed.

The Officer discussed the revenues, costs, and value of the land. Extensive remedial action is needed for the remaining plots to be rectified or demolished depending on the state of the degradation of the plots. The issues with drainage were explained and how they plan to be undertaken.

An assessment of need for affordable housing in the area was relayed. The viability of affordable housing in the area was discussed. The data for Hincaster doesn't indicate a significant demand for affordable housing.

Following an analysis of the reports the Officer concluded that the development is currently unviable using standard industry inputs, it is LSH's view that a developer might proceed with the development at risk of an underperformance on profit, as the scheme is not likely to make a loss. The recommendation was to approve the application: the revocation and variation of the S106 agreements, resulting in the provision of no affordable housing on-site and no off-site financial contribution for affordable housing.

Paul Tunstall (Agent) spoke in support of the proposal.

The Planning Officer responded questions raised by Members.

Concerns were expressed by Members that a precedent would be set if the application was allowed.

The Officer confirmed that this was an unusual case. The Officer confirmed that each application needs to be weighed up on its own merits and comply with Policy.

The Officer confirmed that there was a S73 application that was yet to be determined. Members expressed a wish to consider this application as they were interested in what was being proposed. The Officer confirmed that this could be brought back to Committee.

Tretonia's position was clarified as was the ownership of the land.

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

Officers confirmed that Members should only consider the application as it appeared before them. Some concern was raised by Members as to future use for the site if the application was allowed. Upon Members request, Officers confirmed that any application put forward for this site would come before this Committee.

The Legal, Governance and Democracy Specialist responded to questions surrounding the application and confirmed that Members were being asked to consider the application to revoke and vary the 106 Agreements in place. They could not impose conditions upon the Applicant and any variation to the 106 Agreement before Committee would have to be with the Applicants agreement.

Members asked whether the Applicant could be asked to consider varying the 106 Agreement to include provision for them to provide a cost analysis, after the actual costs were known, and if profits were higher than envisaged, could a clause be in place requiring the Applicant to pay a proportion of the additional profit towards affordable housing in the District. The Legal, Governance and Democracy Specialist confirmed that Officers could have that discussion but the Applicant could refuse. Accordingly, if a motion to approve the application, based on Officers recommendation, is made, Members must note that this is on the basis of that recommendation without any requirement for such a clause to be inserted.

Members noted the response, and requested that if such a motion was made, to approve the application following the Officers recommendation that they would ask Officers to make such a request to the Applicant, as outlined above, to consider such a clause whilst noting that the motion was not dependent upon this.

A motion to approve the application based on the Officers recommendation was made and seconded and a vote was taken on the application and it was:

**RESOLVED** – That the application be approved, the variation and revocation of the S106 agreements as required, resulting in the provision of no affordable housing on-site and no off-site financial contribution for affordable housing.

**NOTE** – The Committee adjourned for a break at 11:45.a.m. and reconvened at 11:55.a.m.

P/56

**PLANNING APPLICATION NO. SL/2022/0013 ABBOT HALL ART GALLERY, KIRKLAND, KENDAL, LA9 5AJ**

***NOTE – Cllr Janette Jenkinson requested that it be recorded that in light of SLDCs role as land owner and potential funder of the scheme, and for transparency, that it be noted Members were not biased or pre-determined and upon Members being asked to confirm if they had any declaration of interest, none was forthcoming.***

The Senior Specialist - Development Management delivered a report explaining the general maintenance works proposed. Essentially these are upgrades and adjustments that require consent. The works planned utilise the existing fabric of the building, with nothing structurally invasive.

The removal and disposal of the storage shed has already been agreed as outlined within the report.

The Officer drew Members' attention to consider the aesthetic value of the coping stones using slides illustrating the restoration works planned. The Officer informed Members that the environment agency is being collaborated with on the issue of flooding. They were reassured that there are no concerns reported or issues raised.

Images of the shed which is planned to be demolished were shown.

The proposal was described as a relatively straightforward application akin to 'TLC to the Abbot Hall'.

The Planning Officer responded to questions raised by Members.

Members raised the flooding issue of Peppercorn Cottages. The Officer reassured Members that the EA was collaborating on the measures to protect the Abbott Hall development to ensure the drainage should not interfere with these properties. The Officer clarified that this a proposal for works to a listed building not a planning application. The flooding issue cannot in fact be applied to this application.

Members noted the above and requested that Officers notify the Peppercorn Cottage residents to reassure them and let them know that the EA will be informing this flood defence plan and that it should not affect residents.

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

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

Condition (1) The works hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) 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:

- Location plan, 519/LP01 received 10 January 2022
- Proposed site plan, 519/SP01 received 10 January 2022

- Proposed Museum elevations, 519/21 received 10 January 2022
- Proposed Hall elevations, 519/20 received 10 January 2022
- Proposed Stores and Blind Beck, 519/12 received 10 January 2022
- Proposed Museum/Store Floor Plans, 519/11 received 10 January 2022
- Proposed Main Hall Floor Plans, 519/10 received 10 January 2022
- Design, Access and Heritage Statement

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

Condition (3)

- a) No construction or repair shall commence until details of the materials to be used for the development hereby approved have been submitted to and approved in writing by the Local Planning Authority.
- b) Development shall be carried out in accordance with the approved details of materials and shall be retained as such thereafter, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the development is of a high quality design in accordance with Policies DM2 and DM3 of the Development Management Policies Development Plan Document and Policy CS8.10 of the South Lakeland Core Strategy

**P/57**

**PLANNING APPLICATION NO. SL/2021/1077 CARK MANOR, CARK-IN-CARTMEL, GRANGE-OVER-SANDS, LA11 7PG**

The Senior Specialist - Development Management presented an outline of the retrospective planning application for a 'bandstand' style gazebo. The site location plan was illustrated with photographs. A visual description of the gazebo was provided. A range of photographs were displayed with a diagram of the plan showing the position of the gazebo. Images of the Cark Manor building juxtaposed against the terrace and stairs which have been approved previously were shown. These developments were described as being in a different style and not in keeping with the style or period of the manor, but were nevertheless previously approved. Photographs from the road were shown.

The Officer drew Members' attention to a late representation from a local resident detailing that further works had taken place. An additional wall was reported to have been built around the gazebo.

The Officer requested Members to consider the recent addition of the gazebo in context of original building.

The Officer detailed the neighbours' concerns. The gazebo is a covered outdoor seating area in close proximity to residents' properties. The distance measurements were relayed to Members. This property is to be a holiday let. It was therefore detailed that a condition should be attached to any approval to restrict any external lighting and hours of use, in order to minimise any disruption to neighbouring occupiers. It was noted that the property had a caretaker living on site, so this would not be unreasonable or unenforceable.

The Chairman confirmed the fact that the application was a retrospective application and that this is not a material planning condition.

Public Participation:

Andy Robinson – Spoke in objection to the application

Rachael Leather – Applicant's Agent – Spoke in support of the application.

The Planning Officer responded to questions raised by Members.

Members raised concerns about retrospective planning applications. The Officer confirmed that the planning system is pro-development and it is not an offense to carry out works without planning permission. However Enforcement action could make the Applicant take it down again. The development is at the Applicant's own risk.

Members were reminded to consider the application as it appeared before them; the application was in respect to a holiday let.

The Officer weighed up that, on balance, independently, this is an acceptable proposal however Members were made aware of the objections in the report which were discussed.

The Chairman confirmed that Members should consider this proposal as it appears before them and not base this decision on retrospective historical builds and applications or any concerns that may have been raised about future potential usage of the site.

Members noted in particular the objection of the Councils' Conservation Officer and referenced sections 1.6 and 1.7 of the report, at page 31 within the agenda pack.

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 seeking retrospective consent for the erection of the gazebo building be refused on the following grounds:

Reason:

Members agreed with the Conservation Officer and referenced sections 1.6 and 1.7 of page 31 in the agenda pack. They agreed that:

- (1) The gazebo causes harm to the setting of the listed building, arising in an adverse impact on the significance and appearance of this designated heritage asset, and is out of character with the context of the surrounding landscape.
- (2) With regards to the setting and curtilage, the works do not preserve or enhance the significance of the heritage asset and therefore should not be approved.

Reason for Refusal:

The gazebo causes less than substantial harm to the setting of the listed building arising in an adverse impact on the significance and appearance of the designated heritage asset. The public benefit from the proposal would be limited and therefore the harm to the designated heritage asset would not be outweighed by the public benefits derived from the proposal. The proposal is considered to be out of character with the context of the surrounding landscape and fails to preserve or enhance the significance of the heritage asset. As such the proposal is contrary to the tests of Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies CS1.1 and CS8.6 South Lakeland Core Strategy, Policy DM3 of the Development Management Policies Development Plan Document and Section 16 of the National Planning Policy Framework.

The meeting ended at 12.35 p.m.