



Penrith Town Council

Unit 1, Church House, 19-24 Friargate, Penrith, Cumbria, CA11 7XR

Tel: 01768 899 773 Email: office@penrithtowncouncil.co.uk

Minutes of the meeting

PLANNING COMMITTEE

Held virtually via Zoom video conference on Monday 2 November 2020 at 1.00pm.

PRESENT

Cllr. Kenyon	North Ward
Cllr. Knaggs	West Ward
Cllr. Shepherd	East Ward
Cllr. Snell	West Ward

Deputy Town Clerk

MINUTES FOR THE MEETING OF PLANNING

2 November 2020

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ("the 2020 Regulations") come into force on 4 April 2020.

Section 78 of the 2020 Regulations enable local councils to hold remote meetings (including by video and telephone conferencing) for a specified period until May next year. The Regulations apply to local council meetings, committees, and sub-committees.

PART I

PL20/60 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Jackson.

In Councillor Jackson's absence, the Vice Chair, Councillor Shepherd, took the Chair.

PL20/61 MINUTES

RESOLVED THAT

The Chair be authorised to sign, as a correct record, the minutes of the meeting of the Committee held on Monday 5 October 2020.

The Chair asked that Members receive the response from Councillor Taylor as appended at appendix B, to the committee letter dated 13 October 2020 as appended at appendix A, requesting that Eden District Councils Planning Committee consider all applications submitted by Omega (Leo Group).

It was **RESOLVED THAT** a response should be sent to Eden District Council requesting clarification on the wording of their constitution which was felt to be ambiguous.

PL20/62 DECLARATION OF INTERESTS AND REQUESTS FOR DISPENSATIONS

Members were asked to disclose their interests in matters to be discussed whether disclosable pecuniary or other registrable interest, and to decide requests for dispensations.

Councillor Shepherd declared registrable interests in respect of item 20/0744 as he had responded on behalf of the Ramblers Association, and in item 20/0718, which is close to where he lives.

PL20/63 PUBLIC PARTICIPATION

Members noted that there were no questions or representations from members of the public prior to the meeting.

Members were reminded that prior to the meeting, a copy of a letter of objection relating to applications 20/0667 and 20/0738 which had been submitted by a member of the public to Eden District Council had been circulated to Members.

PI20/64 EXCLUDED ITEM: PUBLIC BODIES (ADMISSION TO MEETINGS) ACT 1960

Members considered whether there were any items on the agenda should be considered without the presence of the press and public, pursuant to Section 1(2) of the Public Bodies (Admission to Meetings) Act, 1960, and agreed that there were no applications to be considered without the press or public present.

PL20/65 COUNCIL PLAN MONITORING PLANNING COMMITTEE WORKPLAN

Members reviewed outturn progress since January 2020 on the Planning Committee Workplan.

RESOLVED THAT:

The revised Work Plan be noted.

PL20/66 PLANNING APPLICATIONS REPORT

a) DELEGATED RESPONSES

Members noted the submitted the Deputy Town Clerks responses submitted under delegated authority on behalf of the committee between the scheduled meetings of the Committee:

Planning application number:	20/0651
Site address:	10 PARK CLOSE PENRITH CA11 8ND
Description:	Proposed alterations to existing driveway.
Response:	No objection

Planning application number:	20/0654
Site address:	31 OAK ROAD PENRITH CA11 8TS
Description:	Demolition and rebuild of existing garage and new garden boundary wall with garden landscaping.
Response:	No objection

Planning application number:	20/0657
Site address:	30 BRENT ROAD PENRITH CA11 8ER
Description:	Extension to side and rear with new oak framed front porch. Raised patio areas, excavation to rear garden with new retaining walls. Internal adaptations to provide wheelchair friendly accommodation.
Response:	No objection

Planning application number:	20/0671
Site address:	REDWOOD GARTH CARLETON HILL ROAD PENRITH CA11 8TZ
Description:	Proposal to demolish redundant dairy cooling house and erect building for staff training and leisure.
Response:	No objection

Planning application number:	20/0679
Site address:	LAND AT CARLTON HILL ROAD PENRITH
Description:	Variation of condition 1 (plans compliance) in respect of updated materials schedule, attached to approval 16/0811.
Response:	No objection

Planning application number:	20/0693
Site address:	1 ROWCLIFFE LANE PENRITH CA11 7BH
Description:	Change of use of 2nd and 3rd floor of building from residential use to commercial use.
Response:	No objection

Planning application number:	20/0687
Site address:	112 BRENTFIELD WAY PENRITH CA11 8DR
Description:	Extension of dwelling.
Response:	No objection

Planning application number:	20/0646
Site address:	14 PENNINE WAY PENRITH CA11 8EF
Description:	Rear extension and alterations.
Response:	No objection

Planning application number:	20/0678
Site address:	ABBOTTS BANK FRIARGATE PENRITH CA11 7XR
Description:	Removal of Rowan tree due to poor vitality, crown die back and structural decline. The stump of the tree will be cut to ground level and have eco plugs installed to prevent regrowth.
Response:	No objection Request planting of an indigenous bush / tree to take its place

Planning application number:	20/0729
Site address:	15 RIMINGTON WAY PENRITH CA11 8TG
Description:	Single storey orangery extension to rear.
Response:	No objection

Planning application number:	20/0743
Site address:	MYERS LANE BUSINESS PARK MYERS LANE PENRITH CA11 9DP
Description:	Erection of a building and siting of shipping containers.
Response:	No objection but would request the following conditions: <ul style="list-style-type: none"> i. The operation of the site should be limited between 7am and 8pm Monday to Saturday and 8am to 6pm on Sunday so as the residential amenity of the adjoining houses to the west is not reduced due to noise and disturbance. ii. The condition related to a previous application concerning vehicle movements should be included.

b) PLANNING APPLICATIONS FOR MEMBERS CONSIDERATION

Members considered the following applications that had been received and required a committee decision. Further information can be found on the Eden District Council Website <http://eforms.eden.gov.uk/fastweb/search.asp> by inserting the appropriate planning reference number:

Planning application number:	20/0667
Site address:	LAND AT RAISELANDS FARM SCOTLAND ROAD PENRITH CA11 9JW
Description:	Variation of condition 2 (plans compliance) to replace the Construction Method Statement, attached to approval 14/0504
Response:	RESOLVED THAT a response be returned to: <ul style="list-style-type: none">i. Advise Eden District Council that the Council noted the significant difference in lorry movements that should have been anticipated.ii. Request that frequent (fortnightly), and regular joint inspections be undertaken between the developer, the District Council and the residents association if there is one. The inspections should consider issues relating to noise, dust, vibration etc.iii. Request that Eden District Council should consider enforcement and pausing any work until all conditions are met.

Planning application number:	20/0738
Site address:	LAND AT RAISELANDS FARM SCOTLAND ROAD PENRITH CA11 9JW
Description:	Variation of conditions 10 (surface water drainage scheme) and 17 (foul drainage scheme) for the replacement of approved Highways and Drainage Layout plan with revision I, attached to approval 14/0405.
Response:	RESOLVED THAT a response be returned to Eden District Council objecting to the application on the grounds that the revisions are not clearly stated and that the application refers to street lighting and verges rather than drainage.

Planning application number:	20/0708
Site address:	FIGARO BARBER SHOP 5 MARKET SQUARE PENRITH CA11 7AU
Description:	Listed Building Consent for retention of alterations and replacement of shop front and access door.
Response:	RESOLVED THAT a response be returned to Eden District Council objecting to listed building consent for retention of alterations.

Planning application number:	20/0710
Site address:	FIGARO BARBER SHOP 5 MARKET SQUARE PENRITH CA11 7AU
Description:	Retrospective alterations and replacement of shop front and access door.
Response:	<p>RESOLVED THAT a response be returned to Eden District Council objecting to the application on the following grounds:</p> <ul style="list-style-type: none"> i. The new aluminium shopfront is out of character with surrounding shops in the conservation area. The surrounding shopfronts are predominantly of wood with recessed doorways. ii. The style of the new shop front does not harmonise with the adjoining shop fronts and those close by in the street scene. iii. The application does not accord to Eden District Council's 'Shopfront and Advertisement Design SPD'. iv. As a listed building within a conservation area (surrounded by other listed buildings), it is expected that traditional materials would be used. Aluminium is not considered to be appropriate in a listed building within a conservation area.

Planning application number:	20/0744
Site address:	UNIT 7B MARDALE ROAD PENRITH INDUSTRIAL ESTATE PENRITH CA11 9EH
Description:	Erection of concrete batching plant with aggregate bays; retention of existing storage and welfare buildings; and installation of interceptor.
Response:	<p>RESOLVED THAT a response be returned to Eden District Council objecting to the application on the following grounds:</p> <ol style="list-style-type: none"> 1. The application goes against a provision in Policy EC3 as the operation, noise and disturbance would adversely affect the local amenity of local residents only 90m away and those using the adjoining amenity land and footpath. This will be exacerbated by the working hours proposed. 2. The application goes against Policy ENV9 as a concrete batching plant creates dust, odour and vibration. The prevailing wind direction in the area is from the west and will therefore drift across the residential area close by thereby affecting further the residential amenity of residents. <p>Should Eden District Council be minded to approve the application, Penrith Town Council would wish there to be conditions relating to noise and dust repression, working hours and screening from the houses and adjoining footpath.</p>

Planning application number:	20/0718
Site address:	THE GARTH BEACON STREET PENRITH CA11 7TY
Description:	Fell T1 Cypress, Fell T2 Golden Cypress and replace with smaller more ornamental version, Fell T3-T7 Cypress to be replaced by smaller more ornamental version. Reduce crown of T8 by approx 2-3 meters to maintain shape and current aesthetics.
Response:	RESOLVED THAT a response of No objection be returned to Eden District Council with a request that Trees T3 – T7 be replaced by native species of trees or bushes in order to help maintain carbon retention and help mitigate the effects on the environment.

Planning application number:	20/0720
Site address:	BEACONSFIELD BEACON EDGE PENRITH CA11 7SF
Description:	T1 - Cypress Fir - Crown raise over drive. G1 - Crown raise line of Beech trees to approx. 4 meters and 2.5 meters away from house. G2 - Fell 2x Beech trees. T2 - Crown raise 1 Beech tree. T3 - crown raise 1x Beech tree over neighbours shed. T4 - Crown raise 1x Maple tree slightly over Acer. T5 - Crown raise 1x Yew tree to approx. 2.5 meters over footpath. T6 - Crown raise 1x Beech tree to approx. 2.5 meters over footpath.
Response:	RESOLVED THAT a response of No objection be returned to Eden District Council with a request that they be replaced by native species of trees or bushes in order to help maintain carbon retention and help mitigate the effects on the environment.

Planning application number:	20/0721
Site address:	OAKVILLE BEACON EDGE PENRITH CA11 7SF
Description:	T1 - Fell 1x multi stemmed ash tree showing minor signs of Ash die back - with predominant lean into neighbour's property. T2 - Fell 1x dead Fir tree. G1 - Fell group of small trees - mix of Fir and Silver Birch.
Response:	RESOLVED THAT a response of No objection be returned to Eden District Council with a request that they be replaced by native species of trees or bushes in order to help maintain carbon retention and help mitigate the effects on the environment.

Planning application number:	20/0728
Site address:	9 JUBILEE LODGE BEACON EDGE PENRITH CA11 7SQ
Description:	Fell tree in garden of property.
Response:	RESOLVED THAT a response of No objection be returned to Eden District Council with a request that the tree be replaced by native species of tree or bush in order to help maintain carbon retention and help mitigate the effects on the environment.

Planning application number:	20/0748
Site address:	132 GRAHAM STREET PENRITH CA11 9LG
Description:	1. Remove Willow tree; 2. Remove tree on boundary between gardens of No 132 and No 133; Reasons: trees grown out of control; roots are raising garden flags; Penrith New Streets Conservation Area.
Response:	RESOLVED THAT a response of No objection be returned to Eden District Council with a request that the tree be replaced by native species of tree or bush in order to help maintain carbon retention and help mitigate the effects on the environment.

PTC20/67 NEXT MEETING

Members noted that the next meeting was scheduled for 7 December 2020 at 1.00pm, Unit 2, Church House, 19-24 Friargate, Penrith, Cumbria, CA11 7XR or that the meeting may be convened on this date via video conferencing.

CHAIR:

DATE:

**FOR THE INFORMATION OF ALL MEMBERS OF
THE PLANNING COMMITTEE
AND FOR INFORMATION FOR ALL REMAINING MEMBERS OF THE
TOWN COUNCIL**

ACCESS TO INFORMATION

Copies of the agenda are available for members of the public to inspect prior to the meeting.
Agenda and Part I reports are available on the Town Council website:

www.penrithtowncouncil.co.uk

Background Papers

Requests for the background papers to the Part I reports, excluding those papers that contain exempt information, can be made to the Town Clerk address overleaf between the hours of 9.00 am and 3.00 pm, Monday to Wednesday via office@penrithtowncouncil.co.uk.



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13 October 2020

Dear Councillor Taylor

Planning Applications – Omega Proteins

At the meeting of the Planning Committee of Penrith Town Council on Monday 5th October, five applications from Omega were considered. Once again some of the applications were retrospective. We have expressed our annoyance to both EDEN DISTRICT COUNCIL and Omega previously that these retrospective applications come before us and have asked Planning Officers to request a strategic plan from Omega to ensure that retrospective applications do not continue.

Given the sensitivity of the site and the problems faced by the residents of Penrith, we would request that all future applications submitted by Omega be considered by Eden District Council's Planning Committee, rather than being considered under delegated powers.

Yours sincerely

Councillor Scott Jackson
Chair of Planning Committee

BY EMAIL

Appendix B to Minute No PL20/61

From: Virginia Taylor <Virginia.Taylor@eden.gov.uk>

Sent: 28 October 2020 22:37

To: Scott Jackson <cllr.jackson@penrithtowncouncil.co.uk>

Cc

Subject: Response to your email re. planning applications by 'Omega'

Dear Councillor Jackson,

I must apologise for the delay in replying to your letter. The additional and unexpected demands of Local Government Reorganisation has meant other matters have suffered.

Because you wrote to me, I need to reply myself. I would like to query whether in fact the workings of the planning system is a political matter. Perhaps when the planning system was instituted, the intention of local decision-making was indeed that local circumstances would inform the decisions made by members of the planning committee: that is, that an application made in Penrith might be decided quite differently from a comparable one made in Bath or Norwich. The discretion of councillors and their local knowledge, based on their personal experience, was seen as contributing to good decision-making.

While that remains somewhat true, in that the Local Plans in different places will reflect local circumstances, and local knowledge can ask searching questions about sustainability,(for example), nowadays the NPPF, case law, and other matters mean that local discretion in granting or refusing planning permissions is tightly circumscribed and constrained. You may remember a while ago that the judgement of the EDEN DISTRICT COUNCIL Planning committee was that solar array 'farms' were not in keeping with the historic landscape of Eden, and a number of applications were refused. These decisions were overturned at appeal and, indeed, Eden was considered to have acted unreasonably in that the committee were deemed to have prejudged these applications as a class, rather than considering each on its merits in a case by case basis.

All applications that come to the Planning Authority and before the Planning Committee have to be examined on their own merits. Applications from one company cannot be treated differently from applications from others. Therefore I am afraid it would not be possible for EDEN DISTRICT COUNCIL as Planning Authority to impose conditions on Omega which were not universal to all applicants.

Retrospective planning applications are indeed very annoying. It is, however, not illegal to institute development without planning permission. It is equally not possible for the Planning Authority to refuse permission for a development which would have been granted permission had an application been submitted in advance of construction. No element of punishment (albeit enforcement proceedings can commence) is possible for failing to do things in the right order. Only if the development cannot be granted permission, does it have to be removed or returned to its previous state.

I am afraid that Eden as Planning Authority cannot require any applicant to desist from retrospective applications. They are not illegal or against regulations. The Planning Authority cannot ask something from one applicant which doesn't apply to all. The community and politicians can make the request you suggest - 'a strategic plan from Omega to ensure that retrospective applications do not continue' - and one would hope that the company will comply. The community needs to be alert to activities on site. As politicians we did insist on normalising applications, eg for the silos, instituted stop orders on excavations, interrogated the overlapping plans which makes it difficult to keep track, and other matters.

As ward member from 2015 I regularly requested applications to be heard at committee when there were material planning grounds on which to object. I believe that formerly parishes and individuals were able to request that applications be heard by committee. However procedures have changed and your request for *all* applications to be heard at committee is no longer possible. Only applications which can be objected to on material/valid planning grounds can be heard by committee. A recent examination of Eden's Planning Services, carried out by the LGA's Planning Advisory Service, criticised Eden for taking too many applications to committee, above all if No objection s stood no chance of being upheld.

Taking applications to committee means the decision is carried out in the public arena - which may satisfy some democratic principles. However, if there are no material planning reasons to refuse an application, then Planning Officers will recommend acceptance in the report for the meeting. Only robust reference to policy or law would justify refusal.

PAS advised that applications should only be brought to committee if No objection s were material and therefore stood a reasonable chance of being successful. This was to uphold the integrity of the system, as no purpose is served by witnesses and others attending meetings if the outcome cannot be changed. Delegated powers do not represent an abnegation of responsibility.

The committee cannot refuse an application without establishing material planning grounds for doing so, and the sensitivity of the site and the problems faced by residents, although real, are not in themselves material planning grounds on which a new application can be refused. Of their very nature residents' problems are the result of existing plant which cannot be amended retrospectively through the planning system. The problems are a product of industrial processes and the regulator - the Environment Agency - is the body

which can impose changes to practices and limit the nuisance the company undoubtedly causes.

There are indeed often questions to be asked about the design of industrial processes, environmental impact, highways infrastructure, and other matters in applications for new developments. Residents and members can submit these questions as No objection s in the application process. With research these may indeed qualify as material planning considerations and therefore such applications can be brought to committee.

It is not possible for all applications from Omega to be brought to committee: it would not follow the Council's Constitution and would be subject to challenge by the applicant. The Council has limited abilities to defend such a challenge. All applications where an No objection relates to a material planning ground and the objector wishes to address the planning committee may be brought to committee. The sensitivity of the site and the concern of the public is not in doubt, but the planning system cannot vary its decision making in response to anything which cannot be upheld in planning law, policy, or case law.

In short, the constitution was amended last year following the review by the Planning Advisory Service such that applications can only be brought to committee on material (valid) planning grounds. Our constitution does give the rider that these include *but are not limited to*, so there is room for research and argument:

Valid planning grounds include but are not limited to:

- Overlooking / loss of privacy;
- Loss of light or overshadowing;
- Parking;
- Highway safety;
- Traffic;
- Noise;
- Effect on listed building and conservation area;
- Layout and density of building;
- Design, appearance and materials;
- Government policy;
- Disabled persons' access;
- Proposals in the Development Plan;
- Previous planning decisions (including appeal decisions);
- Nature conservation.'

I apologise that I am not empowered to accede to your requests, and only wish that I were able spend as much time interrogating applications as I formerly could. There follows a link to relevant places in the Constitution.

Yours sincerely,

Virginia Taylor

Councillor Dr. Virginia Taylor
Leader of Eden District Council

The following link is to the report put before Council on the 11 April 2019 which authorised the changes -

https://democracy.eden.gov.uk/documents/s13925/G40_19_ReviewOfTheConstitution_CodeOfPlanningConduct_incAppendices_FINAL.docx.pdf

The following are the minutes of that meeting as appear online:

Minutes:

Members considered report G40/19 of the Assistant Director Governance which sought approval of Council to authorise the proposed amendments to be made in the Constitution relating to the delegated officer planning decisions and the questioning of members of the public speaking at Planning Committee.

The Assistant Director Governance reported upon recommendations that had been made to Council by the Accounts and Governance Committee.

Proposed by Councillor Connell
Seconded by Councillor Orchard

and **RESOLVED** that:

1. approval be given for the scheme of delegation as set out in Appendix 1 of the report subject to the following amendments:
 - a. the reinstatement of the wording for previous clause 5 with the addition at the end of the clause of the words 'with valid planning grounds', so that it reads
'3. the approval of applications subject to parish council No objection on valid planning grounds or the refusal of applications which have received a representation in support from a parish council on valid planning grounds;'
 - b. clause i) 5 the insertion of the words 'but are not limited to' so that it reads
'i) 5. Valid planning grounds include but are not limited to:
 - Overlooking / loss of privacy;
 - Loss of light or overshadowing;
 - Parking;
 - Highway safety;
 - Traffic;
 - Noise;
 - Effect on listed building and conservation area;
 - Layout and density of building;
 - Design, appearance and materials;
 - Government policy;
 - Disabled persons' access;

- Proposals in the Development Plan;
- Previous planning decisions (including appeal decisions);
- Nature conservation.