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23 April 2018

Dear Member

Council – 25 April 2018

I am now able to enclose, for consideration at the next meeting of the **Council**, the following reports that were unavailable when the agenda was printed.

Agenda. No 9 – Committee reports – Planning Committee Minutes – 18 April 2018

Yours sincerely

Sally Gabriel
Member Services Meeting

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 18 April 2018 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs H Bainbridge, Mrs C Collis, Mrs G Doe,
R J Dolley, P J Heal, F W Letch, B A Moore,
R F Radford, J D Squire and R L Stanley

Present

Officers:

David Green (Group Manager for Development), Simon Trafford (Area Team Leader), Lucy Hodgson (Area Team Leader), Alison Fish (Area Team Leader) and Sally Gabriel (Member Services Manager)

141 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

142 **PUBLIC QUESTION TIME (00-03-08)**

Miss Coffin referring to Item 2 on the Plans List (Mardles, Colebrooke) stated:

I question the effectiveness of the conditions put forward to ensure no statutory nuisance will occur if this lagoon is approved for the following reasons:-

- No standard of cover specified by your officer these vary in quality and can easily be damaged.
- Inlet and outlet points to lagoon cannot rely on gravity feed as slurry has solid content and requires mixing/diluting prior to pumping - what method is to be used? If tractor PTO's rather than inbuilt structured system, your Council already has issues with noise problems this causes at another site, where dwellings are 80 to 120 metres distance.
- Will installation of the underground pipeline be a condition prior to the pit being used and will you be able to enforce it?
- No mention of fly control. If to be used as a slurry store for winter months then the lagoon will be emptied during the warmer weather when people like to be outside - disturbance and odour from the pit will be worse and will create fly infestations to nearby houses.
- Are Councillors aware that if approved you are also permitting the use of this pit for storing, mixing, spreading digestate waste from biogas anaerobic digesters. The applicant would not require a permit from EA (which recommends a 200 metre distance from dwellings) nor change of use for planning consent.

- The applicant does not have an AD so this will mean importing digestate as an additional transport movement, has this been assessed by your officer?
- Given the fact that the disposal of digestate from the larger industrial agriculturally fed AD's is a relatively new problem for farming in the UK and bearing in mind the ensuing problems being experienced by other residents living up to 500 metres away from a slurry/digestate pit; how would Councillors justify approving this application?
- Finally, bearing in mind the constant threat of possible litigation costs from appeals, may I respectfully remind Councillors that last year when faced with a similar situation regarding a farmer flouting the planning system and digging a large lagoon for storing digestate/slurry close to nearby residents at Pennymoor, they took action which ensured that the pit was filled in and the land fully re-instated with no ensuing costs to the Council incurred.

The Chairman indicated that questions would be answered when the item was debated.

143 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

Members were reminded of the need to declare any interests when appropriate.

144 **MINUTES OF THE PREVIOUS MEETING (00-06-29)**

The minutes of the meeting held on 21 March 2018 were approved as a correct record and signed by the Chairman.

145 **CHAIRMAN'S ANNOUNCEMENTS (00-07-07)**

The Chairman stated that as this was the last meeting of the municipal year, she would like to thank Members and Officers for their efforts during the year.

146 **DEFERRALS FROM THE PLANS LIST (00-07-41)**

The Chairman informed the meeting that Item 1 on the Plans List (School Lane, Thorverton) had been deferred for further consideration.

147 **THE PLANS LIST (00-10-00)**

The Committee considered the applications in the plans list *.

Note: *List previously circulated; copy attached to the signed Minutes.

(a) Applications dealt with without debate.

In accordance with its agreed procedure the Committee identified those applications contained in the Plans List which could be dealt with without debate.

RESOLVED that the following application be determined or otherwise dealt with in accordance with the various recommendations contained in the list namely:

(i) No 4 on the Plans *List No 4 on the Plans List (18/00302/FULL – Change of use for car park to storage (Class B8) and installation of weighbridge and control room at Carlu Close and change of use of land to car park on land adjacent to Lucas Yard – Unit 3 Carlu Close, Hitchcocks, Business park, Willand)* be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

(b) No 1 on the Plans *List (17/01716/FULL – Reinstate access and farm track to agricultural land – Land at NGR 292482 101905 School Lane, Thorverton)*.

This item had been deferred as outlined in Minute 146.

(c) No 2 on the Plans *List (17/01411/FULL – Retention of slurry lagoon, - land at NGR 276429 99746 (adjacent to Mardles Gate), Colebrooke)*.

The Area Team Leader outlined the contents of the report explaining that the development had been implemented and that the application not only sought approval for the development but also sought to mitigate the impact of the development on local residents. He highlighted the location of the development, the proximity of neighbouring properties, the pipe plan, the sections which outlined the depth and surface of the area of the lagoon and photographs from various aspects of the site.

Answering questions posed in public question time, he stated that most of the issues raised had been covered in the Operational Management Plan, the proposals for the cover had been considered by the Environmental Health Officer who had deemed it to be fit for purpose. The lagoon would accept dirty water from the dairy unit and the applicant had confirmed that the dirty water would be pumped in and out of the lagoon. The underground pipe had been conditioned. With regard to fly control, the lagoon would be filled and emptied with the cover on, the scope of mitigation had been checked with the Environmental Health Officer, if there was a nuisance with fly control, the Council had environmental health powers to take action. With regard to using the lagoon for anything other than dirty water, if the application were approved then an additional condition could be added.

Consideration was given to:

- The distance of 250 metres from the dairy unit to the slurry lagoon
- The reasons for refusal of the previous application
- The impact of the lagoon on the neighbouring property
- Odour and noise issues and the mitigation outlined within the report
- Access and traffic movements
- Safety issues (in that the gates had been left open overnight) and any fencing requirements
- Overflowing issues following bad weather
- The views of the objector who lived in the neighbouring property
- The views of the Parish Council
- The impact of the retaining bank (bund) which loomed over the bungalow
- The huge impact of the development on local people

RESOLVED that

- a) Members were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the reasons for refusal to include: The slurry lagoon and earth bank surrounding, by reason of its size, scale and siting in close proximity to the neighbouring properties at Mardles Gate and Manor Croft is considered to adversely affect the residential amenity and the living conditions of these neighbouring occupants. Furthermore, and given the close proximity to the aforementioned residential properties, the members of the Planning Committee remain unconvinced that the scope of the mitigation measures as proposed as part of the planning application proposal were sufficient to address the odour nuisance and air quality impact in a robust and satisfactory manner and would therefore continue to contribute to the scope of the un-neighbourly impacts that would arise from the scheme as it is proposed. Therefore the application scheme was considered to be contrary to Policies DM2, DM7 and DM22 of Mid Devon Local Plan Part 3 (Development Management Policies) and guidance in the National Planning Policy Framework.
- b) Any necessary enforcement proceedings be set in motion.

(Proposed by Cllr P J Heal and seconded by Cllr J D Squire)

Notes:

- i) Cllr F W Letch declared a personal interest as he knew the objector;
- ii) Cllr J D Squire made a declaration in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as he was the Ward Member and had had discussions at Parish Council level and knew local residents;
- iii) Cllr Mrs H Bainbridge and P J Heal made declarations in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters they had received correspondence;
- iv) Mrs Turner (Objector) spoke;
- v) Cllr Graham Shepherd (Colebrooke Parish Council) spoke;
- vi) Cllr J D Squire spoke as Ward Member;
- vii) Mr Winter (Environmental Health Officer) was present.
- (d) No 3 on the Plans *List (18/00088/FULL – Conversion of a public toilet to a food outlet/kiosk, including retention of one toilet cubicle for use by the public – public conveniences, St Lawrence Green, Crediton).*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the history of the building, the location of the site, the dedicated hard surface through the green that was already in place, an aerial overview of the area, a

detailed site plan and floor plan. He explained that the Highway Authority had some concerns regarding the position of the serving hatch and that this had been addressed by the applicant. Members viewed the proposed elevations and photographs from various aspects of the site.

Consideration was given to:

- The good use of an unsightly building
- The need for a public convenience at that end of the town
- Possible litter issues in the area
- Delivery issues

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration with an amendment to Condition 5 to include that the whole of St Laurence Green be highlighted within the Little Management and Collection Method and that additional signage be included.

(Proposed by Cllr P H Heal and seconded by Cllr F W Letch)

Notes:

- i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing and did not partake in any of the discussions or vote on the matter;
- ii) Cllr P J Heal declared a personal interest as he knew the applicants;
- iii) Cllr B A Moore requested that his abstention from voting be recorded;
- iv) The following late information was reported: Page 35:

Reorientation of the serving hatch

Reorientation of the serving hatch has been considered by the applicant in order to ensure that customers waiting at the serving hatch do not obstruct the highway. The Highway Authority have suggested that the south elevation may be the most appropriate from a pedestrian safety point of view. This location has been considered by the applicant however it is not suitable due to difference in land levels between the building floor and the external ground level. The applicant considered that the east elevation is the most appropriate from a highway safety perspective as this location is remote from the junction of St Martins Lane, St Lawrence Green, Western Road, and the High Street and there is an existing footpath within the park which will provide a safe location for customers to wait clear from the highway.

Whilst the Highway Authority remain concerned about the proposal with the serving hatch located within the eastern elevation, on balance and for the reasons as set out above the officer conclusion is that the risk to highway safety associated with the development is not considered to be

sufficiently adverse so as to warrant refusal of the planning application on these grounds alone.

Updated Policy Appraisal

In addition to the policies listed in the report policy DM7 is also a relevant policy against which to assess the application, supplementary to criterion (e) of policy DM2 . Policy DM7 specifically relates to pollution and states that development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

Updated Summary

In summary the development proposed is on balance considered acceptable and supportable in policy terms. It is not considered that the development would adversely affect the vitality and viability of Cridton Town Centre, result in harm to the character or appearance of the Cridton Conservation Area or highway safety. Sufficient controls can be put in place to limit the risk of antisocial behaviour associated with the use and other concerns such as noise and litter and as such impacts on residential amenity are not considered to be significantly adverse. Furthermore the proposal would result in a public benefit it that one toilet cubicle will be made available for public use during the Kiosk opening hours and a currently unused building would be brought back into use. The proposal is therefore considered to be in accordance with Mid Devon Core Strategy (Local Plan 1) policies COR1, COR6, COR15 and Mid Devon Local Plan Part 3 (Development Management Policies) DM1, DM2, DM7, DM17, DM25, DM27

(e) No 5 on the Plans *List (17/01323/MOUT – Outline application for the relocation and expansion of Tiverton High School and the integrated development of Tiverton Community Arts Theatre – Tiverton High School and land east of Bolham Road, Bolham Road, Tiverton.*

The Area Team Leader outlined the contents of the report explaining the proposals for the relocation and expansion of Tiverton High School and the integrated development of Tiverton Community Arts Theatre. She highlighted by way of presentation the location of the present school within the Flood Zone 3 Area and the phased relocation proposal. Members viewed the location plan with main vehicular access, a site plan and proposed phasing of the scheme, an indicative junction location for pedestrian, cycle and vehicular access, the additional raised causeway, the potential for cycle parking proposed in two locations, the new sports hall and proposed parking areas. They also considered 3D illustrative model sketches, an indicative plan of the phases of the project and photographs from various aspects of the site.

She further explained that any recommendation from the Committee would need to be made to the National Planning Casework Unit for a decision as to whether the Secretary of State would wish to call in the application, as the application was subject to an outstanding objection from Sport England in relation to some of the sports

pitches being located in Flood Zone 3. Officers considered that the benefits of relocating the school buildings out of the flood zone greatly outweighed the harm identified by Sport England in relation to sports provision within the flood zone. She added that the relocation of the school out of Flood Zone 3 also provided an opportunity for the Environment Agency to consider additional flood prevention measures in the area that could reduce flood risk to the hospital site and Mountbatten Way.

Consideration was given to:

- Traffic issues in the area, particularly at the start and end of the school day
- Possible pedestrian access to the rear of the site
- The Lea Road entrance
- The views of the Highway Authority
- The need for a detailed and comprehensive presentation on highway issues at the reserved matters stage
- How the Tiverton Community Arts Theatre had worked alongside the school with regard to the proposals

RECOMMENDED to the National Planning Casework Unit that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr R J Dolley)

Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest as a Trustee of the Tiverton Community Arts Theatre and chose to leave the meeting during the discussions thereon (the Vice Chairman took the Chair);
- ii) Cllr R J Dolley declared a personal interest as a Member of Tiverton Rugby Club;
- iii) Mr Morgan Chairman of the Tiverton Community Arts Theatre spoke in support of the application.

148 **MAJOR APPLICATIONS WITH NO DECISION (2-08-31)**

The Committee had before it, and **NOTED**, a list * of major applications with no decision.

It was **AGREED** that:

Application 18/00504/MOUT – erection of 10 dwellings north of Town Farm, Burlescombe be determined by the Committee and that a site visit take place.

Note: *List previously circulated; copy attached to the Minutes

149 **APPEAL DECISIONS (2-11-15)**

The Committee had before it and **NOTED** a list of appeal decisions * providing information on the outcome of recent planning appeals.

Note: *List previously circulated; copy attached to signed Minutes.

150 **DECISIONS CONTRARY OF OFFICER RECOMMENDATION (2-12-38)**

The Committee had before it and **NOTED** * report of the Head of Planning, Economy and Regeneration, providing information where the Planning Committee had made decisions not in agreement with officer recommendation.

The Group Manager for Development outlined the contents of the report stating that 6 applications were granted planning permission with conditions and 2 were refused permission contrary to officer recommendation. Of the 2 refusals, 1 had been allowed at appeal (17/00300/MOU 30 dwellings Uffculme Road, Uffculme) and 1 was expected to be the subject of an appeal (17/00652/MOUT 30 dwellings land NE Rydon House, Willand).

Note: *Report previously circulated; copy attached to signed Minutes.

151 **ANNUAL APPEAL REPORT (2-14-40)**

The Committee had before it and **NOTED** * report of the Head of Planning, Economy and Regeneration, providing information on the outcome of planning appeals for the financial year 2017/18.

The Group Manager for Development outlined the contents of the report stating that appeal statistics provided a useful check on decision making by comparing appeal outcomes with those nationally, the number of appeals and outcomes with previous years and whether any costs have been awarded against the Council on the basis of unreasonable behaviour.

Majors: Applications determined over a 2 year period, no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was 5%.

Non-majors: Applications determined over a 2 year period, no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was less than 1%.

A summary of appeals was attached at appendix 1 to the report, 28 appeals were determined within that period.

1	(3%)	Withdrawn
8	(29%)	Allowed
19	(68%)	Dismissed

Note: *Report previously circulated; copy attached to signed Minutes.

152 PERFORMANCE FOR QUARTER 4 - 2017/18 (2-16-00)

The Committee had before it and **NOTED** * report of the Head of Planning, Economy and Regeneration, providing information on the performance of aspects of the planning function of the Council for Quarter 4 – 2017/18

The Group Manager for Development outlined the contents of the report stating that the Government set a range of additional performance targets for planning authorities in order to drive performance. Those for planning application decision making were used by the Government as indicators of performance in terms of both speed and quality of decision making. These were as follows:

Speed:

- Majors: More than 60% of major applications determined within 13 weeks (over 2 year period). Mid Devon performance on this for the 2 year period to the end of March 2018 was 84%.
- Non majors: More than 70% of non-major applications determined within 8 weeks (over 2 year period). Mid Devon performance on this for the 2 year period to the end of March 2018 was 81%.

Quality:

- Majors: Previous assessment round - Applications determined over a 2 year period, no more than 20% of decisions to be overturned at appeal. Current assessment period for the 2 years prior to the end of June 2017: no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was 5%.
- Non majors: This indicator of quality of decision making is measured over a 2 year assessment period to the end of June 2017: no more than 10% of decisions to be overturned at appeal. The Mid Devon figure over the 2 year period ending March 2018 was less than 1%.

He outlined the performance figures for south west authorities made available on the Government's website; it showed that Mid Devon was performing well.

With regard to Planning Enforcement 91 new cases had been recorded and 35 cases closed.

Note: *Report previously circulated; copy attached to signed Minutes.

(The meeting ended at 4.48 pm)

CHAIRMAN

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