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**25 June 2021**

Dear Member

## **Council – 1 July 2021**

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.

- The minutes of the meeting of the Scrutiny Committee held on 21 June 2021
- The minutes of the meeting of the Planning Committee held on 23 June 2021

Yours sincerely

**Sally Gabriel**  
**Member Services Manager**

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **SCRUTINY COMMITTEE** held on 21 June 2021 at 2.15 pm

### **Present**

#### **Councillors**

B G J Warren (Chairman)  
G Barnell, E J Berry, W Burke,  
Mrs F J Colthorpe, L J Cruwys,  
Mrs S Griggs, P J Heal, F W Letch,  
R F Radford, Ms E J Wainwright and  
A Wilce

### **Also Present**

#### **Councillor(s)**

S J Clist, Mrs C P Daw, R M Deed, R Evans and  
C R Slade

### **Also Present**

#### **Officer(s):**

Stephen Walford (Chief Executive), Jill May (Director of Business Improvement and Operations), Maria De Leiburne (Operations Manager Legal and Monitoring), Matthew Page (Corporate Manager for People, Governance and Waste), Darren Beer (Operations Manager for Street Scene), Catherine Yandle (Operations Manager for Performance, Governance and Health & Safety), Vicky Lowman (Environment and Enforcement Manager), Sarah Lees (Member Services Officer) and Sally Gabriel (Member Services Manager)

## **1 WELCOME (00-05-00)**

The Chairman welcomed new members to the committee and thanked previous members of the committee for their work.

## **2 APOLOGIES AND SUBSTITUTE MEMBERS (00-05-15)**

There were no apologies.

## **3 HYBRID MEETING PROTOCOL (00-05-28)**

The protocol for hybrid meetings was noted.

## **4 ELECTION OF VICE CHAIRMAN (00-05-40)**

Cllr Mrs F J Colthorpe proposed, seconded by Cllr E J Berry that Cllr P J Heal be elected Vice Chairman of the Scrutiny Committee.

Cllr L J Cruwys proposed, seconded by Cllr F W Letch that Cllr A Wilce be elected Vice Chairman of the Scrutiny Committee.

Upon a vote being taken Cllr A Wilce was elected Vice Chairman of the Scrutiny Committee.

**5 START TIME OF MEETINGS (00-07-57)**

It was **AGREED** that the start time of meetings remain at 2.15pm for the remainder of the municipal year.

**6 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00-08-30)**

Members were reminded of the need to make declarations of interests where appropriate.

**7 PUBLIC QUESTION TIME (00-08-30)**

There were no questions from members of the public present.

**8 MINUTES OF THE PREVIOUS MEETING (00-09-01)**

The minutes of the last meeting were approved as a correct record and **SIGNED** by the Chairman.

**9 DECISIONS OF THE CABINET (00-09-53)**

The Committee **NOTED** that none of the decisions made by the Cabinet on 8 June 2021 had been called in.

**10 CHAIRMAN'S ANNOUNCEMENTS (-00-10-14)**

The Chairman had the following announcements to make:

- He had already welcomed new members to the Committee
- The agenda before members today, looked a little different, it was hoped that the work planning item at the end of the agenda would be helpful to members

**11 LEADERS ANNUAL REPORT (00-11-22)**

The Committee had before it a \*report of the Chief Executive providing members with an update on performance against the Corporate Plan and local service targets for 2020/21.

The Leader addressed the committee stating that although the Council had been impacted by the Coronavirus pandemic it had achieved much of what it had set out to do in line with the Corporate Plan.

Consideration was given to:

- Plans for social and affordable rented housing – 50 dwellings over 3 years, details were requested of social and rented housing plans over the next year – the Leader agreed to provide a written response.

- Town Centre Regeneration – the Tiverton Town Centre Plan had been full of aspirations but with no investment – what investment would be put into the Tiverton Town Centre Masterplan - the Leader responded stating that the authority would continue to bid for funding, again a written response would be provided.
- Whether the report should identify clear priorities for the coming year.
- Covid grant funding to businesses throughout the pandemic and whether local businesses had received the funding that they required – the Leader stated that there had been various schemes with various criteria, £36m had been distributed.
- SW Mutual Bank and whether regular updates would be provided – progress in the project had been delayed but regular updates would be provided when the scheme was progressed further.
- The delay in the town centre Wi-Fi project - an update would be provided.
- The redeployment of leisure staff during several periods of the pandemic – the versatility of the staff was commended and Members’ appreciation was recorded.
- Household waste had increased during the pandemic, had residual business waste reduced – this information was not collected, however a response would be provided.
- The increase in waste during lockdown and the fact that waste was just being put in black bags and not recycled and the need for a better education programme – it was felt that the 3 weekly waste trial would incorporate those issues and would be addressed as part of the trial.
- Climate Change and the corporate planting scheme to include replanting and maintenance and that the key performance indicators may need to be amended.
- The need for a tree planting scheme to be ready for the autumn – the Cabinet Member for the Environment stated that a plan was being worked up and highlighted the area near Morrisons in Tiverton where a piece of land had been identified.
- The need to advertise electric charging points for vehicles – on street charging facilities for domestic use was being looked into - an update would be provided.
- Whether electric charging points could be used for local buses – information would be sought with regard to this.
- Information was requested on the Tiverton Hydro Scheme,
- Targets for new social rented council houses – targets would be provided in the 2021/22 to 2023/24 performance indicators going to Cabinet
- The number of voids had been removed from the corporate performance targets but were being monitored by the Housing Service.

Note: \*Report previously circulated, copy attached to minutes.

## 12 **DRAFT MDDC LITTER STRATEGY (00-54-07)**

The Committee had before it a \*report of the Operations Manager for Street Scene inviting comment and feedback on the content and proposal of the draft Litter Strategy prior to the report and draft strategy being presented to the Environment Policy Development Group.

The Chairman indicated that he had spoken to several Members with regard to the content of the Litter Strategy and had passed his concerns on to officers.

The officer outlined the contents of the report stating that it was now common place for grants in respect of street cleansing and environmental initiatives to require a litter strategy to be supplied as part of the grant process. The council had a clear role to play and currently dedicated a large resource to providing and emptying bins and picking up litter in general. The Litter Strategy in line with national strategies covered:

- Education and awareness
- Better cleaning and litter infrastructure
- Improving enforcement.

The strategy would be a living document and reviewed on a yearly basis and key performance indicators would be monitored regularly.

Consideration was given to:

- The objectives as set out in the strategy
- The work of the District Officers and the number of officers available to take part in this type of work and the number of fixed penalty notices served in the last year
- The work taking place with Clean Devon Partnership
- The need for a unified strategy across Devon and the partnerships that were already in place
- The need to keep Devon tidy for local residents and tourists
- The use of the word 'continue' which was obviously not working and for the strategy to be precise so that all issues were covered
- The need for behavioural changes and that current messages with regard to recycling and litter were falling on deaf ears
- Schemes being run in different parts of the country which rewarded good behaviour with regard to littering and where charities could benefit, the use of bright coloured bins in town centres, opportunities for recycling on the go and reducing plastic packaging by working with local supermarkets
- The opportunity to put conditions on litter control in new developments
- There was no mention of overt cameras or the hours of patrol within the strategy - although overt cameras was discussed in the report
- The lack of resources to facilitate the strategy
- Issues with local takeaways and the amount of litter that arose from those premises
- Existing prosecution powers should be named and included in the strategy as well as who and how with regard to education
- The need to empower the public and the need for the strategy to have more detail
- Issues with litter beside the link road and that the officers were now aware of the schedule for cutting the verges, so that a litter pick could take place prior to cutting.

It was **AGREED** that all of the issues that had been raised would be considered and incorporated into a revised strategy to go before the Environment Policy Development Group.

Note: \*Report previously circulated, copy attached to minutes.

### 13 **FORWARD PLAN (1-30-03)**

The Committee had before it and **NOTED** the \*Forward Plan.

Discussion took place with regard to:

- The scrutiny of the Treasury Management Strategy and 3 Rivers Annual Accounts, it was agreed that this was a role for the Audit Committee
- The Housing Strategy and the formation of a Teckal Company was requested to be considered by the Scrutiny Committee. It was **AGREED** that a member briefing would be organised with regard to the formation of a Teckal Company prior to a report being worked up and any report would then be considered by the Scrutiny Committee. The Housing Strategy would be considered by the Homes Policy Development Group and Cabinet in its first round and then be considered by the Scrutiny Committee prior to it returning to the Homes Policy Development Group for recommendation to Cabinet.

Cllr G Barnell moved, seconded by Cllr A Wilce that the Housing Strategy be brought before the Scrutiny Committee following initial consideration by the Homes Policy Development Group and Cabinet and prior to the second round of consideration. Upon a vote being taken, this was **AGREED**

Note: \*Plan previously circulated, copy attached to minutes.

### 14 **CURRENT MANAGEMENT CHANGES**

At the request of Cllr Barnell, the current management changes within the Council was requested to be discussed.

Cllr Barnell addressed the committee stating that he did not want to talk about individual posts but about the role of the Director for Place and the delivery of housing in the future, both in Cullompton (including the Garden Village) and Tiverton (including the Eastern Urban Extension) and affordable housing in the district.

The Chief Executive stated that he submitted a report on the Establishment annually to Council and that he had updated members in the interim with regard to the provision of a Director of Place. He spoke of the need to refocus on activity since the pandemic and that he was looking at a structure for delivery and the need to consider the opportunities for funding. He had addressed the strategic view with the proposed appointment of the new director and the rest of the work would follow, once the officer was in place

Consideration was given to the need to deliver affordable housing across the district and suggestions that had been made by the Chairman with regard to an overview of the Tiverton Eastern Urban Extension that was being considered by the Scrutiny Officer.

## 15 SCRUTINY OFFICER UPDATE (2-00-45)

In the absence of the Scrutiny Officer, the Member Services Manager reported the following:

- The **Programming Panel** had met to discuss how to agree a coordinated work programme for Scrutiny, Audit and the PDGs so that we ensure coordination between the 6 bodies, avoid duplication and consider where issues might sit best. The meeting had been very productive and Members agreed to go away and hold work programming sessions, before coming back together to discuss where issues should best sit. The slides put together from that session would be made available to the Scrutiny Committee
- **Work Programme Planning:** a date for a work programme planning session was being considered and this may take place in early July. Members were asked to think about items that they may like to bring to the session for discussion.
- **Menopause Working Group:** an update on the progress of the menopause recommendations would be brought to the next Scrutiny meeting. [this has since been corrected and an update will be available for the August committee]
- **Spotlight Review on Motion 564:** work was ongoing on the Spotlight Review on Motion 564. A date would be finalised and members informed.
- **Scrutiny training:** the officer had been in contact with the Centre for Governance and Scrutiny with regard to training for Scrutiny Members. A date for a remote training session in July was being considered.

## 16 WORK PLAN (2-02-53)

The Committee had before it a \*proposed work plan for future meetings.

The Chairman indicated that the S106 Monitoring report had been delayed but would be available for the next meeting. The work programme set out a timetable of work and he would very much like to keep to the timetable. The Scrutiny Officer had developed a simple form which members could use to identify issues for discussion which would need to include clear outcomes

The following ideas were raised:

- Air quality actions plans for the towns and how the funding connected through S106 agreements led to investment in the towns rather than for example cycle paths for rural areas.
- A heritage policy and the need to reconcile the need for the conservation of listed buildings with increasing urgent climate goals.
- The Housing Strategy and the formation of a Teckal Company as considered earlier in the meeting
- Broadband issues
- Anaerobic Digesters and the need for a joint scrutiny approach across several district councils, rather than each local authority working in isolation on this issue.

Note \* Plan previously circulated, copy attached to minutes

(The meeting ended at 4.34 pm)

**CHAIRMAN**

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 23 June 2021 at 2.15 pm

### **Present**

#### **Councillors**

Mrs F J Colthorpe (Chairman)  
G Barnell, E J Berry, S J Clist, L J Cruwys,  
Mrs C P Daw, C J Eginton, P J Heal,  
F W Letch, B G J Warren and R J Dolley

### **Apologies**

#### **Councillor(s)**

D J Knowles

### **Also Present**

#### **Councillor(s)**

R M Deed and Mrs S Griggs

### **Present**

#### **Officers:**

Jenny Clifford (Head of Planning, Economy and Regeneration), Kathryn Tebbey (Head of Legal (Monitoring Officer)), Myles Joyce (Interim Development Management Manager), Christie McCombe (Area Planning Officer), Adrian Devereaux (Area Team Leader), Dean Emery (Corporate Manager for Revenues, Benefits and Recovery), Helen Govier (Principal Planning Officer), Sarah Lees (Member Services Officer) and Sally Gabriel (Member Services Manager)

### **31 APOLOGIES AND SUBSTITUTE MEMBERS (00-04-10)**

Apologies were received from Cllr D J Knowles who was substituted by Cllr R J Dolley.

### **32 HYBRID MEETING PROTOCOL (00-04-26)**

The protocol for hybrid meetings was noted.

### **33 PUBLIC QUESTION TIME (00-04-53)**

Referring to item one on the Plans List Tidcombe Hall, Barbara Downs asked.....what are the councillors doing to redress the very real risk of flooding that increased rain fall and the building of 179 new dwellings will pose. This major concern should cause this application to be rejected. The area around the canal is vulnerable to flooding as has been seen in recent times.

The pictures in front of you should show severe and prolonged damage caused by the collapse of the canal bed when heavy rainfall and raging torrents led to the canal

bursting its banks on 22nd November 2012 with water falls cascading into nearby fields. Devon County Council said the sheer volume of rain water meant the breach could not be avoided. The Canal did not re-open until the 19th March 2014 costing in excess of £1m. This was not an isolated incident, in November last year, heavy rainfall caused above ankle deep flooding, down Newts Hill, Tidcombe Lane and Lime Tree Mead. The three pictures show you water and debris everywhere

And as recently as last month the water reached dangerously high levels. Building 179 dwellings, with much of the field disappearing under concrete, the water will find its way down into the canal, a huge concern. With climate change, rainfall has increased 100% over the last 12 months and flooding is a real worry to residents whose properties back onto the canal. Insurance premiums would significantly increase. Many bungalows whose back gardens adjoin the towpath have been and are up for sale. New owners might struggle to get insured as not all underwriters insure property where there has been flooding. For underwriters who would insure, the cost would be much higher. The vendors could be in a position where they cannot sell their property because the buyer cannot get insurance.

LVA cannot give complete re-assurance because they cannot control climate change. If another flood occurs up this end of the canal it could put Mr Brind with the horse drawn barge out of business.

Everything is wrong about this application. Closure of Tidcombe Bridge, which has been in use to traffic for over a century, and alternative rabbit warren routes clogging up other residential areas and diverting traffic down The Avenue makes me wonder if LVA have ever tried to get on to Canal Hill from The Avenue? It's very dangerous now. With extra traffic it's an accident waiting to happen.

All of this just for some greedy developer to ruin our canal and countryside. For all these reasons I recommend the Council to reject this proposal. Thank you.

**David Randell** speaking in relation to the same application stated.....my point relates to the comment 'ultra low carbon homes'....is the committee aware that the applicant's claim is based on Government guidance for standards proposed to be reached by 2010 and not the Government proposed target with the legislation delayed by the pandemic that by 2020 all new housing should achieve code level 6? This Council has proposed that Mid Devon be carbon neutral by 2030 but developments of this nature can bypass that target as they are being built below the required standards to achieve it. Due to the pandemic the changes to the Building Regulations to enforce this have been delayed but that doesn't stop this Council from requiring a policy to achieve carbon neutrality. With the emphasis on increasing the energy efficiency of housing the largest difficulty is in improving the existing housing stock.

When practicing as an architect my practice was working to code level 4 in 2008. By 2010 we were designing to code level 5 and aiming for code level 6 by 2012. In fact some of my last designs before retiring were code level 6 achievable. Here we have developers still proposing to build houses that will add to the problem which this application proposes.

Again the Government has proposed that all petrol and diesel cars be phased out by 2030 so why is the applicant only proposing 6 electrical vehicle charging points, 12%

of the need to satisfy the development as designed when in reality it is closer to 45%. If not provided to meet the 2030 deadline which is only 8.5 years away then who will pay for the additional charging points? Again we have a development proposed that will require the occupants to spend to improve their homes within 10 years. So back to the question, why is the applicant asking Mid Devon District Council to accept the development that will add to the issue of global warming to the detriment of all and especially the young who will suffer from climate change and which severely breaches local and national policy?

Victoria Pugh again referring to the Tidcombe Hall application stated that ....I'd like to ask a question about road safety and to ask the members of the Planning Committee to consider road safety as the principal reason for refusing planning permission.

In order to be able to build 179 new homes, the developer's latest plans include a proposal to close Tidcombe Bridge to vehicles and divert traffic through the Wilcombe estate. Not only would this split the thriving community of Tidcombe in half. It would also pose a significant danger to pedestrians, most notably children.

As a school inspector for 20 years, I've been used to assessing and mitigating the risk to children arriving and leaving school because councils have a statutory obligation to keep these areas as safe as possible.

With 4 schools within half a mile of Tidcombe Lane, road safety is at the very heart of this proposal. Any decision regarding this application will directly impact on Tidcombe Primary, Wilcombe Primary, Blundells Junior and Blundells Senior Schools.

1,309 children currently attend these schools from age 3. Many walk to and from school. Many more are dropped off by car and a few arrive by bus. All do so at peak times.

The closure of Tidcombe Bridge will push extra traffic through the school routes including onto narrow and hazardous roads where parked cars and other dangers impede visibility.

Highways conservatively estimates an extra 60 vehicles per hour at peak times travelling through the Wilcombe Estate alone. The proposed diversion involves Ford Road, Branscombe Road and Temple Crescent. These streets were built in the 1960s and not as wide as modern equivalents. Most residents have no drives or garages, so cars are routinely parked on both sides of the road, sometimes partially blocking pavements and impeding visibility. Children walking to school or playing on skateboards and bikes in these streets as they frequently do, with the expected increased traffic, would be put at an unacceptably high risk given the characteristics of these streets.

The proposal also involves extra traffic being diverted onto the junction of Tidcombe Lane and Blundells Road. Students moving about Blundells School campus regularly cross the single track lane from concealed crossing points with extremely limited visibility and there are no pavements here. Highways initially highlighted this as a significant concern and recommended refusal.

There are a number of possible ways of making these school routes safer. However, in my view, none of them involves building 179 homes on Tidcombe Lane and

diverting the traffic as proposed, pushing more vehicles in the direction of the four schools

My question to the officers is....Has a traffic survey been undertaken to assess the suitability of the roads, in particular Ford Road, Temple Crescent and Branscombe Road, to cope with the extra traffic?

Has Devon County Council carried out a full risk assessment of the likely increased risk to children arriving at and leaving their schools resulting from the diversion should this planning proposal be accepted and have the four schools been consulted as part of that process?

Ray Rice, again referring to the Tidcombe Hall application and in particular to the preservation of Tidcombe as a conservation area, stated that.....with regard to the unique Grand Western Canal and the heritage asset, having spent the last 30 years living on the banks of the Grand Western Canal I am perhaps more aware of the amenity value of this priceless heritage asset than many local people are. Daily I see the use made of the canal towpath where walkers, families, runners, cyclists, fishermen, charity fund raisers, canoeists, paddle boarders, house boat users plus of course the irreplaceable horse drawn barge facility. The latter is undervalued by many locals I fear. During the normal operating season, of course this is not operating at the moment because of Covid, it normally brings in on a weekly basis several hundred coach, car and cycle tourists for trips on the Grand Western Canal. The value of this to the town is huge and probably underestimated. The current support of local authorities of the canal helps but if this proposal is allowed to proceed it will negate much of the value of that support. It is the amenity value of this heritage asset which is threatened by the proposal being considered here today.

Members will be aware of the statutory duties regarding applications which include a conservation area, listed building or significant heritage assets. The Listed Building and Conservation Areas Act of 1990 requires that 'Special attention is paid in the exercise of the planning function to the desirability of preserving and enhancing the character or appearance of the conservation area'. The Court of Appeal has made it absolutely clear that this is not a mere material consideration. The law requires that when an authority finds, as Mid Devon has, that a development would indeed harm such a setting there is "A strong presumption against planning permission being granted." This obligation is also stated in policy DM25 of Mid Devon's Local Plan review hence Mid Devon's planning officers have correctly recommended refusal. Nonetheless the developers have already stated they will appeal.

To safeguard the countryside at Tidcombe it is very important that this committee unanimously agrees with the officers recommendations regarding harm to the Grand Western Canal conservation area itself and stresses the need to protect the landscape for the future of Tiverton.

Historic England states that this development would "...obliterate a large portion of the rural scene as seen from the canal". Mid Devon District Council concludes that the development would be a visually intrusive feature within the rural area. This is because much of the proposed site is elevated and highly visible from the Grand Western Canal towpath. The land here rises by 27 metres up to the Devon hills beyond which are themselves identified as important to preserve. Given the conclusions drawn by Historic England this development would be harmful to the area so do you not agree that this proposal must be rejected?

Dermot Elworthy spoke again in relation to the Tidcombe Hall application.....my question to the Committee is to ask if it is aware that at least until week or a couple of days ago, the Mid Devon Council had received 412 formal letters of objections submitted by nearly 400 members of the public profoundly unhappy about the implications made by LVA in respect of the proposed Tidcombe Hall development. Also is the committee aware that this is the largest numerical reaction to any proposal made for development in our area and that includes the Eastern Urban Extension and J27?

Given the general level of empathy following consultation that must signify a record number of very upset people. The Council officers have received no indication of public support for the LVA scheme, not one. It is common practice in matters such as this for developers to come back with changes and amendments to the rejected proposition hoping that a revised application would find increased favour with the planners. I submit that in this case no amount of fine tuning will disguise what must be obvious. The problem lies not in the detail, although there are plenty of problems that can be found in the detail, but in the fundamental unsuitability of this scheme in this place.

Therefore, Madam Chairman, may I respectfully ask that rather than side with a land speculator having no ties to this community and offering nothing of any value to the community that the Planning Committee should heed the considered advice given by the Council and refuse this application. Given the obvious strength of public resistance and official rejection of this scheme there can be no justification for accepting this proposal.

I very hope that those elected to represent us will do exactly that and throw out this meritless application preferably unanimously and also to add significant weight to the argument in the event of an appeal. For the Committee to do otherwise would be a shameful rejection of local democracy. Thank you Madam Chairman.

Mr Adam Pilgrim spoke also in relation to the Tidcombe Hall application.....I have been asked by the Grand Western Canal Joint Advisory Committee to speak about its Objection to the Tidcombe Hall Application.

Other speakers have already covered the points about the potential damage to the Conservation Area and the risk of flooding to the canal and properties below the canal.

I am very worried by surface water from the developed site carrying silt down to block the only culvert under the canal. If the culvert is blocked there is a risk of flooding on the site spilling into the canal, polluting the canal and risking its level rising to threaten another breach anywhere along the eleven miles.

At present, I suspect that the grass in the existing pasture may trap silt far better than the hard surfaces of the proposed housing, so reducing the risk of the culvert's being blocked. If the siphon culvert is blocked by run-off silt, clearing it is very expensive and dangerous for those working on it.

The Joint Advisory Committee is also worried about the Developer's proposed public access to canal side parkland. The canal owns a three metre wide strip along the

offside of the whole canal which is a nature buffer zone. The parkland proposal creates the risk of the public disturbing this wildlife strip.

Returning to the issue of visual damage to the Conservation Area, I note that the applicant has omitted critical viewpoints from his assessment.

Speaking as a representative from the Devon CPRE, Mr Sanderson spoke with regard to the same application.....as many of you know CPRE was founded by Government planner Abercrombie in 1926 to control ribbon development such as that between Tiverton and Halberton. The Tidcombe Hall application is one of the worse cases of manipulation of planning that I have ever seen.

My question is twofold, on what basis was this application ever allowed to go forward when the Tidcombe Hall site was a contingency site in the Local Plan 2013 – 2033 which was only adopted on 29<sup>th</sup> July 2020? The planning department had already stated that there was no need as the 5 year land supply had already been satisfied.

My second question is very simply where and from whom did the pressure come from on the planning department to pursue this application from the LVA. Madam Chairman, thank you very much.

Mr Elstone....stated that he had three questions to ask in respect of the wording that appears in the draft minutes of the Planning meeting on 16<sup>th</sup> June 2021. Draft minutes to be signed off by committee members as per item 5 on the agenda. Question one, the draft minutes quote word for word two important questions I asked at the meeting of 16<sup>th</sup> June, questions I asked of the planning officers in regard of the Redrow Homes Tiverton Reserve Matters application 21/00374 that's for the Tiverton EUE. I received no response to either of these two questions at the Planning Committee meeting. Similarly no written reply to my questions is recorded in the minutes of that meeting, therefore these questions remain unanswered. Madam Chair, for good order could I please ask that written answers to my questions be provided by the planning officers and promptly? That the answers will be made available to Members as well as myself?

Question two, at the same meeting I made the case that I be allowed a further 15 questions but was prevented from doing so. I have since provided the full details of the further 15 questions to be answered. This is to every Planning Committee member including yourself, it is in clear form. As will be seen from these questions several relate to the very real road safety concerns I have plus related planning questions. Safety concerns and planning issues warrant full examination by the committee members, all again related to the Redrow Homes Tiverton EUE Reserve Matters application. Madam Chair could I please ask that you ensure written answers to these questions be made available to committee members as well as myself.

Question three, the Mid Devon District Council Complaints and Feedback Policy dated September 2018 states, section 6, titled 'Confidentiality' that all complaints would be dealt with in the strictest confidence. Therefore it was with a real disbelief that the MDDC Operations Manager for Legal and Monitoring very publically stated in your meeting that not only had I raised complaints but also that I'd asked for a deferral of the Redrow Homes planning application. I consider that the MDDC legal officer stating this in the meeting had no basis for doing so.

The Chairman stated that the questions Mr Elstone was asking were beyond the scope of this committee and suggested that if he had complaints they be made direct either to the Chief Executive or to the Head of the Legal Department This afternoons meeting was about determining the applications which were on the agenda for today. Mr Elstone responded by saying that he was asking questions in relation to the agenda item to do with the minutes from the previous meeting, however, if the questions raised today are not accepted then could she please accept his request to get a response to the 17 questions I have already asked and in writing and made available to the Planning Committee. They were very straight forward questions and at least two of them should have been answered last time but were not. The Chairman stated that if they were questions relating directly to the planning application they would be answered probably by the case officer and they could certainly be made available to all members of the committee.

Mr David Barnes speaking in relation to the Tidcombe Hall application stated that.....we have a Local Plan. We have an excellent Local Plan. It is **our** Local Plan. The product of years of hard work from Mid Devon Officers, Councillors and local residents. It is a plan we can be proud of you. It has cost tens of thousands of Mid Devon tax payers' money to produce. Today's meeting will determine whether all the years of deliberation, consultation and money invested in the Plan was worth it.

Our Local Plan was deemed sound by a Government Inspector in July last year and was subsequently adopted by Mid Devon. At the same time the planning application being considered today for a housing estate beside the Grand Western Canal was submitted. This planning application flies in the face of our Local Plan. The majority of the land in question has not been identified for development in our Local Plan Review. The rest is identified as contingency. This contingency land is to be considered for housing if future targets are not being met. It is an important strategic element of our Local Plan. A safety net. Not something that can be moved from one category to another to suit a developer.

The Local Government Association/Planning Advisory Service publication 'Probity in Planning' for councillors and officers states on page 14: 'All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications.'

I was reassured when, in response to a query I made dated 28th August 2020 to Mrs Clifford, Head of Planning, Economy and Regeneration, she confirmed that, 'the application is not in accordance with the Local Plan Review'. It goes on to state that councils must have clear justification for agreeing any departure application.

This planning application is a direct challenge to our Local Plan Review. It was submitted within days of the Local Plan Review being endorsed by the Government's representative and adopted by our Local Council. Polite circles might refer to it as 'a bit of a nerve'. I can think of less generous descriptions.

It is difficult, if not impossible, to imagine on what grounds such a brazen deviation could be justified. Our Local Plan is our vision for Mid Devon up to 2033. Are we to abandon it at the first challenge by a speculative developer?

My questions to the committee are: 'Was all that effort and expense involved in delivering our Local Plan Review for nothing? Have we the courage of our convictions? Will you as a committee back our Local Plan Review?'

Regarding the Tidcombe Hall application Mr Jeremy Salter stated that.....my question relates to the protection of Tidcombe as a Conservation Area, the unique Grand Western Canal and the heritage assets.

The members will be aware of the statutory duties regarding applications which include a Conservation Area, Listed Buildings and significant Heritage assets.

The Listed Building and Conservation Areas Act of 1990 requires that "special attention is paid in the exercise of Planning Functions to the desirability of Preserving and Enhancing the character or appearance of a Conservation Area". The Court of Appeal has made it absolutely clear that this is not a mere material consideration. The law requires that when an authority finds, as Mid Devon has, that a development would indeed harm such a setting there is, to quote, "a strong presumption against planning permission being granted". This obligation is also stated in policy DM25 of Mid Devon's Local Plan Review.

Hence, Mid Devon planning officers have correctly recommended refusal.

Nonetheless, the developer has already stated they will appeal To safeguard the countryside at Tidcombe it is very important that this committee unanimously agrees with the officers' recommendations regarding harm to the Grand Western Canal Conservation Area itself and stresses the need to protect the landscape for the future of Tiverton.

Historic England states that this development, to quote, "would obliterate a large proportion of the rural scene, as seen from the canal". And Mid Devon concludes that the development would be "a visually intrusive feature within the rural area". This is because much of the proposed site is elevated and highly visible from the Grand Western Canal towpath. The land here rises by 27 metres up to the Devon hills beyond which are themselves identified, in the Local Plan, as important to preserve.

Given this, do you agree that the elevated rural landscape south of the Grand Western Canal should be protected from future development which, it has been agreed, would be significantly harmful to the Conservation Area?'

#### **34 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-45-02)**

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

#### **35 MINUTES OF PREVIOUS MEETING (00-45-17)**

The minutes of the meeting held on 16 June 2021 were agreed as a true record and signed by the Chairman.

#### **36 CHAIRMAN'S ANNOUNCEMENTS (00-46-48)**

The Chairman had the following announcements to make:

- Consideration of the items after No 1 on the Plans List would not be discussed until after 4pm
- A special meeting of the Planning Committee would take place on 28 July 2021
- Kathryn Tebbey (Head of Legal and Monitoring Officer) would be leaving the authority at the end of the week and the Chairman thanked her for all her hard work in supporting the committee (and members generally) and wished her well for the future.

### 37 DEFERRALS FROM THE PLANS LIST (00-46-48)

There were no deferrals from the Plans List.

### 38 THE PLANS LIST (00-49-09)

The Committee considered the applications in the \*Plans List.

Note: \*List previously circulated and attached to the minutes.

- a) Application 20/01174/MOUT – (Outline for the erection of up to 179 dwellings, including the conversion of Tidcombe Hall and outbuildings to 12 dwellings, a shop, café, an open sided shelter, community allotments, community orchards, public open space, associated infrastructure and access with all other matters reserved) - Tidcombe Hall, Tidcombe Lane, Tiverton***

The Principal Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, the proposed site area and the area outlined in Policy TIV13 (the contingency site within the Local Plan) for 100 dwellings on 8.4ha, an aerial photograph of the site, an illustrative indicative masterplan of the proposal which included the area of green infrastructure, the proposed access and pedestrian and emergency access. Individual plans were also shown of the access points and photographs were supplied indicating the main access to Tidcombe Hall, the location of the proposed access, views from Tidcombe Bridge looking into the proposed access, Tidcombe Hall itself and the outbuildings, the 2<sup>nd</sup> access point from Warnicombe Lane, views down the lane and from various locations looking into the site.

The officer then outlined her recommendation for refusal and highlighted the 4 additional letters of representation and the response from the applicant as shown on the update sheet.

Referring to the questions raised in Public Question Time – with regard to the flooding issues, the Lead Local Flood Authority had confirmed that the discharge from the site could be managed appropriately to prevent increased flood risk elsewhere and that the detailed drainage scheme could be managed by conditions; the low carbon element proposed a 75% improvement upon current Building Regulations; the vehicle charging points were in line with policy DM5 (1 charging point per 10 dwellings) and could be controlled by condition;. With regard to the highway issues, these had been surveyed and modelled and included a safety audit, Highways had felt that the proposal was acceptable; the 4 schools had not been

consulted, but one had commented. With regard to the number of letters of objection received, 412 letters had been received from 293 different contributors. With regard to the issues raised by the CPRE, the Local Planning Authority had to consider all applications that it received – it could not choose which applications to determine.

The following questions were posed by members of the committee:

- Issues with regard to the Environmental Impact Assessment and the process which involved the Secretary of State and the pre application process which had been covered by the applicant providing a technical note.
- The proposed closure of Tidcombe Bridge and the fact that the Highway Authority would have to close it by way of a Traffic Regulation Order
- Human ashes were scattered on the site (when the hall was a hospice), had there been a designated area on the site which had been recorded – the case officer was unaware of this.
- The protection of trees on the south bank of the canal – would those trees be protected by the Tree Preservation Orders on the site – the trees in the Conservation Area had some protection and conditions could include a tree protection plan.
- Reason for refusal 4 – the lack of a S106 agreement – had the authority not entered into an agreement with the developer and if the application went to appeal, could a S106 agreement be submitted at that stage – the case officer stated that because the recommendation was one of refusal, a S106 agreement had not been progressed, however such an agreement could form part of an appeal.
- The impact of the proposal on the setting of the historic building (Tidcombe Hall) and whether any architectural works had been undertaken – this was referred to in reason for refusal 2. It was believed that the hall had at one point been listed, but had been delisted but was still a non-designated heritage asset.
- The statement of the Secretary of State with regard to the Environmental Impact Assessment (EIA) – this was to do with the EIA Regulations, rather than the determination of the planning application.
- With regard to the highways assessment, had there been any impact assessment of the proposal and had a route plan for traffic been considered – a survey had taken place following objection and traffic flows had been predicted with regard to impact and capacity on the road network.

Consideration was given to:

- The views of the objector with regard to the number of objections received for the application; the impact of closing Tidcombe Bridge which would generate a number of detours for traffic through residential development and the risk to the school children in the area on safety grounds; one of the routes was crossed by the barge horses for the canal and who would be accountable if someone was hurt by the increased traffic on those routes; the flood risk of the proposal and the impact on Glebelands with examples of flooding issues in North Devon following a particular development and the willingness to fight an appeal.
- The views of the agent for the application with regard to the unique opportunity for development in this area, the low carbon scheme which would provide an exemplary development. The community benefit of the scheme with regard to

the canal park land, the green infrastructure, the renovation of Tidcombe Hall and the community facilities that would be provided which were highlighted in the indicative masterplan. The fact that the applicant sought to enhance Tidcombe Hall, this was high quality sustainable development and had the support of the Highway Authority.

- The views of the Ward Members with regard to: the application being in the wrong location, the impact of the development on local residents, the additional traffic, the burden of traffic on Tidcombe Lane, the impact on the canal, concerns with regard to heavy rainfall and the impact of this on the homes below the hill, the application was not compliant with the Local Plan and the preservation of the green space should be a priority. The setting of Tidcombe Hall and the views from the canal, the impact on the original street scene in the areas, the impact of the traffic travelling through the Wilcombe estate and the parking problems in that area; air quality issues for residents of Wilcombe, and the disturbance to the natural habitat. Further concerns with regard to flooding caused by heavy rainfall from the hills surrounding the site, the indicative plans provided, the maintenance of the retention ponds proposed, the impact of the closure of the bridge, the lack of space for a second bridge.

Further consideration was given to:

- The traffic being diverted through high development housing estates
- The closure of Tidcombe bridge
- The contingency site as set out in the Local Plan
- The number of objections to the application

It was therefore **RESOLVED** that: planning permission be refused as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr F W Letch and seconded by Cllr B G J Warren)

**Reason for the Decision** – as set out in the report

Notes:

- i.) Cllrs Mrs F J Colthorpe, G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had all received correspondence with regard to the application;
- ii.) Cllr F W Letch declared a personal interest as an active member of the National Trust;
- iii.) Cllr Mrs C P Daw stated that she was a member of Tiverton Town Council and the Grand Western Canal Joint Advisory Committee;
- iv.) Cllr G Barnell stated that he had visited the site but retained an open mind on the application;
- v.) Mr Welchman spoke as an objector;

- vi.) Mr Chick spoke as the agent on behalf of the applicant;
- vii.) Cllrs Mrs S Griggs, Mrs C P Daw and L J Cruwys spoke as Ward Members;
- viii.) The following late information was provided:
  - Since the officer report was finalised a further 4 letters of representation have been received. However it is not considered that these raise any issues that are additional to those already summarised within the representations section of the report.
  - The applicant has also submitted a further letter (dated 21st June 2021) which queries the number of letters of objections that have been received. The figures that are referred to in their letter are taken from the Council's website, these do not take account of where more than one letter has been received from one member of the public, for example where a further representation has been made following submission of further information. To clarify, at 21st June 412 letters of representation have been received from 293 contributors.
  - The other matters raised in the applicant's letter include;
    - The applicants have undertaken extensive pre-application discussions and a comprehensive public consultation exercise
    - Positive discussions were had in relation to how the site could act as a show case for low carbon place making
    - The scheme includes significant community benefits including the canal parkland, green infrastructure and renovation of Tidcombe Hall which should be given substantial weight
    - The location of the access was agreed with the Highway Authority at pre-application stage
    - Issues from the Tree Consultant and Landscape Consultant have been raised late in the day and were not previously raised by the Council.

***b) Application 21/00128/MFUL – (Erection of 86 dwellings to include public open space, landscape planting, pedestrian, cycle and vehicular links; and associated infrastructure at land at NGR 298634 113714 (Braid Park), Uplowman Road, Tiverton.***

The Area Planning Officer outlined the contents of the report explaining that the application formed part of the Eastern Urban Extension development, the details of the approved outline application and that the current application sought to make changes with the introduction of a further 18 units. Members viewed the site location plan and the existing development to the west of the site, the illustrative framework plan of the urban extension, the aerial view of the site, the proposed site layout which included the road infrastructure, the building plots, the attenuation ponds and the dwelling mix. The officer explained the difference in the current application from the

reserved matters application and that the application accorded with the NPPF with regard to the increase in the number of dwellings. The presentation outlined the material plan, the landscape details, access points, elevations of house types, sections and street scenes and photographs from surrounding areas looking into the site. The officer further explained the S106 contributions required and the deed of variation

Questions were then raised by members of the committee with regard to:

- The location of the gypsy and traveller site and the speed limits in the area
- The detail of the deed of variation compared to the original S106 agreement and the sums involved with the amendment to the number of dwellings
- The formula used for the education contributions
- The design principles for the development
- Biodiversity on the site
- The timing of the phases and the need for a phasing plan to be received
- The number of amended drawings and the delay in loading them to the public access site
- Consultation with the Lead Local Flood Authority

The views of the agent for the applicant were heard which included information with regard to the re-planned areas, the success and popularity of the site, the rebranding exercise that had taken place with a greater mix of housing, the trigger for the gypsy and traveller site and the submission of a phasing plan.

It was therefore **RESOLVED** that: subject to the prior signing of a deed of variation S106 agreement to include:

- Affordable housing off-site contribution: £80,000 (£40,000 per dwelling).
- Community facilities contribution: £13,811 (£1,973 per dwelling).
- 5 Custom and self-build plots
- 3 Gypsy and Traveller pitches to be provided prior to the occupation of the two hundredth and ninety third (293) open market dwelling within the wider site of 13/01616/MOUT
- Education contribution:
  - Primary School Land: £3,773 (£539 per dwelling)
  - Primary School Education: £12,453 (£1,779 per dwelling)
  - Secondary School Education: £10,717 (£1,531 per dwelling)
  - Special Education: £3,584 (£512 per dwelling)
  - Early Years: £1,750 (£250 per dwelling)
  - NHS contributions: £3,654 (£522 per dwelling)
- Pro rata increase in prior financial contributions in the original S106 agreement to reflect the uplift in the number of dwellings

Planning permission be granted as recommended by the Head of Planning, Economy and Regeneration with an additional condition to state:

First occupation of any dwelling in any agreed phase of the development shall not take place until details of the fencing to be provided alongside the boundary with No. 18 Uplowman Road has previously been submitted to and approved in writing by Local Planning Authority. The approved details shall be thereafter installed prior to

the occupation of any dwelling in any agreed phase of the development and shall be permanently retained and maintained thereafter.

REASON: To ensure a good standard of residential amenity and security for residents.

(Proposed by Cllr P J Heal and seconded by Cllr E J Berry)

**Reason for the Decision** – as set out in the report

Notes:

- i) Cllrs Mrs F J Colthorpe, G Barnell, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley C J Eginton, P J Heal, F W Letch and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had all received correspondence with regard to the application;
- ii) Mr Matthew spoke on behalf of the applicant;
- iii) The following late information was reported:

1. Background

The number of additional units that will be generated by this application will be seven (7) and not six (6) as detailed in the report. The number of additional units arises through the calculation from the affordable housing on the original outline planning application. The outline planning application (13/01616/MOUT) granted planning consent with a signed S106 for 330 dwellings. All contributions agreed through the S106 were calculated according to the construction of 330 dwellings. The outline application required 21.5% affordable housing contribution:

$21.5\% \text{ of } 330 = 70.95 = 71 \text{ affordable housing units}$

This translates into the following number of additional housing units in terms of calculating financial contributions for this application (21/00128/MFUL) as follows:

330 units (Outline Planning application 13/01616/MOUT) – 180 units (the number of units south of Uplowman Rd, Reserved Matters Application 18/00133/MARM) – 86 (the number of units north of Uplowman Road sought through this application, 21/00128/MFUL) – 71 units (the number of affordable housing units to be constructed south of Uplowman Road, 13/01616/MOUT) = 7 additional units.

On this basis, the report needs updating as follows:

- Page 63 (reports pack): Recommendation. Bullet point 2: Amend to £13,811. (£1,973 / dwelling)
- Page 63 (reports pack): Recommendation. Bullet point 4: 3 Gypsy and traveller pitches to be provided prior to the occupation of the two hundredth and ninety third (293) open market dwelling within the sites of the 13/01616/MOUT.
- Page 63 (reports pack): Recommendation. Bullet point 5: Special Education: Amend to £3,584 (£512 per dwelling)

- Page 95 (reports pack): para 10.4: Amend text to: 71 affordable dwellings.
- Page 95 (reports pack): para 10.5: Amend text to: 71 affordable housing units.
- Page 95 (reports pack): para 10.5: Amend text to: this equates to 337 units, 7 dwellings in excess of the outline planning permission.
- Page 95 (reports pack): para 10.6: Amend text to: 7 additional units.
- Page 95 (reports pack): para 11.1: Amend text to: 7 dwellings in excess.
- Page 95 (reports pack): para 11.2: Amend text to: two hundredth and ninety third (293).
- Page 96 (reports pack): para 12.3: Amend text to: 7 units in excess of the outline planning application.
- Page 96 (reports pack): para 12.4: Amend text to:  
 Bullet point 2: £13,811. (£1,973 per dwelling).  
 Bullet point 4: 3 Gypsy and traveller pitches to be provided prior to the occupation of the two hundredth and ninety third (293) open market dwelling within the sites of the 13/01616/MOUT.  
 Bullet point 5: Special Education: £3,584 (£512 / dwelling)

2. During the course of the application process a number of revised drawings have been submitted. The following drawing numbers referenced in the report need amending:

Page 87. Para 3.6: Amend Drawing Number GL0735 19E to GL0735 20D

Page 89. Para 3.12: Amend Drawing Number 1931 1111 Rev D to 1931 1111 Rev F

Page 89. Para 3.14: Amend Drawing Number 1931 1100 Rev G to 1931 1111 Rev I

Page 90. Para 3.17: Amend Drawing Number 1931 1114 Rev C to 1931 1114D

Page 90. Para 3.17: Amend Drawing Number 1213 PL03 to 1213 PL04 and 1214 PL03 to 1214 PL04

Page 93. Para 7.4: Amend Drawing number GL0735 19E to GL0735 19D

Page 99. Condition 11. Amend drawing number 1203 PL04 to 1203 PL03 and 1204 PL03 to 1204 PL02

#### Updated New Condition

First occupation of any dwelling in any agreed phase of the development shall not take place until details of the fencing to be provided alongside the boundary with No. 18 Uplowman Road has previously been submitted to and approved in writing by Local Planning Authority. The approved details shall be thereafter installed prior to the occupation of any dwelling in any agreed phase of the development and shall be permanently retained and maintained thereafter.

REASON: To ensure a good standard of residential amenity and security for residents.

- c) Application 20/01483/TPO – (application to shorten the lowest branches on the south and south east side of 1 oak tree by 2m and reduce regrowth from previous pruning back to old pruning points, protected by Tree Preservation Order 99/00002/TPO) 4 Cornflower Close, Willand.**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the tree in question, the aerial view of the location of the tree and photographs from various locations. He outlined the proposed works and reported that the application had been justified by the tree consultant.

Consideration was given to the timing of the works.

It was therefore **RESOLVED** that: the application be approved as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr E J Berry and seconded by Cllr S J Clist)

**Reason for the Decision** – as set out in the report

- d) Application 20/01484/TPO – (application to shorten the lowest branches overhanging the garden(s) on the south side of 1 oak tree to give approximately 4m clearance above ground level; reduce the canopy over the garden(s) by 2-3m and reduce branch on north side by 1-2m protected by Tree Preservation Order 88/00004/TPO) 9 Hawthorne Road, Tiverton**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the tree and providing photographs from various aspects looking towards the tree which also highlighted the footpath clearance that was required.

It was therefore **RESOLVED** that: the application be approved as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr E J Berry and seconded by Cllr R J Dolley)

**Reason for the Decision** – as set out in the report

- e) Application 21/00678/TPO – (application to reduce overhanging branches by 1.5m and 2m of 1 Oak Tree protected by Tree Preservation Order 88/00004/TPO) east of 7 Jasmine Close, Tiverton**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the tree and providing an aerial view along with photographs from various locations looking towards the tree. He outlined the proposed works and reported that the application had been justified by the tree consultant.

It was therefore **RESOLVED** that: the application be approved as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

**Reason for the Decision** – as set out in the report

***f) Application 20/01825/TPO – (application to fell 1 Ash and 2 Oaks and remove deadwood/limbs from 2 Ash and 2 oak trees protected by Tree Preservation Order 96/00006/TPO – land at NGR 305855 112143 (Woodland East of Harvesters), Uffculme.***

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the trees in question and the works proposed and provided photographs from various locations looking towards the trees. He then explained the views of the tree consultant and that he was proposing a split decision on the application and outlined the reasons for refusal and those of approval.

Consideration was given to:

- The initial works that had already taken place which involved unsympathetic pruning
- Possible enforcement action
- The detail of the tree consultant's report
- The views of the Ward Member (statement read by the Chairman) who had called in the application to committee – which included the history of issues on the site and the need to protect the surrounding woodland.

It was therefore **RESOLVED** that:

- i) Consent be **refused** for the proposed felling of trees T3, T4 and G2
- ii) Consent be **granted** for the proposed felling of tree T1 Ash in the application and for the removal of deadwood from the trees referred to as G2 and the proposed pruning of T5, Ash and T6, Oak to remove branch stubs (subject to informative notes)

(Proposed by Cllr B G J Warren and seconded by Cllr G Barnell)

**Reason for the Decision** – as set out in the report

Notes:

- i) Cllrs S J Clist and B G J Warren made declarations made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence with regard to the application;

(The meeting ended at 6.00 pm)

**CHAIRMAN**