

Public Document Pack

Committee Administrator

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PLEASE NOTE: Members of the public wishing to speak to a planning application are requested to contact the Committee Administrator at least 24 hours before the meeting starts. We are unable to accommodate public speakers who have not pre registered but members of the public are welcome to attend and observe the meeting virtually.

Important - this meeting will be conducted and recorded by Zoom only. Please do not attend Phoenix House. The attached Protocol for Remote Meetings explains how this will work.

Join Zoom Meeting

<https://zoom.us/j/92162374631?pwd=OU1VaWxZZzJGREc2MFAzQ0gxSlk2dz09>

Meeting ID: 921 6237 4631

Passcode: 488593

One tap mobile

08002605801,,92162374631#,,,,,0#,,488593# United Kingdom Toll-free

08003582817,,92162374631#,,,,,0#,,488593# United Kingdom Toll-free

Dial by your location

0 800 260 5801 United Kingdom Toll-free

0 800 358 2817 United Kingdom Toll-free

0 800 031 5717 United Kingdom Toll-free Meeting ID: 921 6237 4631

Passcode: 488593

Find your local number: <https://zoom.us/u/aWPIUAlgJ>

Join by Skype for Business

<https://zoom.us/skype/92162374631>

MID DEVON DISTRICT COUNCIL

PLANNING COMMITTEE

A MEETING of the **PLANNING COMMITTEE** will be held in the Remote Meeting on Friday, 13 November 2020 at 1.00 pm

The next ordinary meeting of the Committee will take place on Wednesday, 2 December 2020 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive

5 November 2020

Councillors: Mrs F J Colthorpe (Chairman), G Barnell, E J Berry, Mrs C P Daw, L J Cruwys, S J Clist, F W Letch, D J Knowles, S J Penny, R F Radford and B G J Warren

A G E N D A

MEMBERS ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of substitute.
- 2 **REMOTE MEETINGS PROTOCOL** *(Pages 3 - 8)*
Members to note the protocol for remote meetings.
- 3 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.
- 4 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest at each item.
- 5 **MINUTES OF THE PREVIOUS MEETING**
Members to consider whether to approve the minutes as a correct record of the meeting held on 4 November 2020 (to follow)
- 6 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.
- 7 **APPEAL - APPLICATION 17/01359/MOUT - OUTLINE FOR THE ERECTION OF 60 DWELLINGS AND CONSTRUCTION OF NEW VEHICULAR ACCESS ONTO HIGHWAY TO THE WEST OF THE SITE - LAND AND BUILDINGS AT NGR 302469 114078, HIGHER TOWN, SAMPFORD PEVERELL** *(Pages 9 - 18)*
To consider a report of the Head of Legal Services (Monitoring Officer) providing an update and advice to Members with regard to the forthcoming appeal inquiry against refusal of planning permission and to seek further instructions.

Covid-19 and meetings

The Council will be holding some meetings in the next few weeks, but these will not be in person at Phoenix House until the Covid-19 crisis eases. Instead, the meetings will be held remotely via Zoom and you will be able to join these meetings via the internet. Please see the instructions on each agenda and read the Protocol on Remote Meetings before you join.

If you want to ask a question or speak, email your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed – as you can imagine, it is easier to see and manage public speaking when everyone is physically present in the same room. Notification in this way will ensure the meeting runs as smoothly as possible.

If you require any further information please contact Carole Oliphant on:
E-Mail: coliphant@middevon.gov.uk

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Mid Devon District Council - Remote Meetings Protocol

1. Introduction

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations permit remote attendance in Local Authority meetings.

Remote attendance is permitted as long as certain conditions are satisfied. These include that the Member is able to hear and be heard by the other Members in attendance. Also, being able to hear and be heard by any members of the public entitled to attend the meeting (in line with the public participation scheme). A visual solution is preferred, but audio is sufficient.

This also relates to members of the public attending the meeting also being heard. The regulations are clear that a meeting is not limited to those present in the same place, but includes electronic, digital or virtual locations (internet locations, web addresses or conference call telephone numbers).

2. Zoom

Zoom is the system the Council will be using for the time-being to host remote / virtual meetings. It has functionality for audio, video, and screen sharing and you do not need to be a member of the Council or have a Zoom account to join a Zoom meeting.

3. Access to documents

Member Services will publish the agenda and reports for committee meetings on the Council's website in line with usual practice. Paper copies of agendas will only be made available to those who have previously requested this and also the Chair of a virtual meeting.

If any other Member wishes to have a paper copy, they must notify the Member Services before the agenda is published, so they can arrange to post directly – it may take longer to organise printing, so as much notice as possible is appreciated. Printed copies will not be available for inspection at the Council's offices and this requirement was removed by the Regulations.

4. Setting up the Meeting

This will be done by Member Services. They will send a meeting request via Outlook which will appear in Members' Outlook calendar. Members will receive a URL link to click on to join the meeting.

5. Public Access

Members of the public will be able to use a weblink and standard internet browser. This will be displayed on the front of the agenda.

6. Joining the Meeting

Councillors must join the meeting early (i.e. at least five minutes before the scheduled start time) in order to avoid disrupting or delaying the meeting. Councillors should remember that they may be visible and heard by others, including the public, during this time.

7. Starting the Meeting

At the start of the meeting, the Member Services Officer will check all required attendees are present (viewing the participant list) and that there is a quorum. If there is no quorum, the meeting will be adjourned. This applies if, during the meeting, it becomes inquorate for whatever reason.

The Chair will remind all Members, Officers and the Public that **all microphones will be automatically muted**, unless and until they are speaking. This prevents background noise, coughing etc. which is intrusive and disruptive during the meeting. The Hosting Officer will enforce this and will be able to turn off participant mics when they are not in use. Members would then need to turn their microphones back on when they wish to speak.

8. Public Participation

Participation by members of the public will continue in line with the Council's current arrangements as far as is practicable. However, to ensure that the meeting runs smoothly and that no member of the public is missed, all those who wish to speak must register **by 4pm on the day before the meeting**. They should email their full name to Committee@middevon.gov.uk. If they wish to circulate their question in advance, that would be helpful.

At public question time, the Chair will invite the public by name to speak at the appropriate time. At that point, all public microphones will be enabled. This means that, to avoid private conversations being overheard, no member of the public should speak until it is their turn and they should then refrain from speaking until the end of public question time, when all microphones will be muted again. In the normal way, the public should state their full name, the agenda item they wish to speak to **before** they proceed with their question.

Unless they have registered, a member of the public will not be called to speak.

If a member of the public wishes to ask a question but cannot attend the meeting for whatever reason, there is nothing to prevent them from emailing members of the Committee with their question, views or concern in advance. However, if they do so, it would be helpful if a copy could be sent to Committee@middevon.gov.uk as well.

9. Declaration of Interests

Councillors should declare their interests in the usual way. A councillor with a disclosable pecuniary interest is required to leave the room. For remote meetings, this means that they will be moved to a break-out room for the duration

of this item and will only be invited back into the meeting when discussion on the relevant item has finished.

10. The Meeting and Debate

The Council will not be using the Chat function.

The Chair will call each member of the Committee to speak - the Chair can choose to do this either by calling (i) each member in turn and continuing in this way until no member has anything more to add, or (ii) only those members who indicate a wish to speak using the 'raise hand' function within Zoom. This choice will be left entirely to the Chair's discretion depending on how they wish to manage the meeting and how comfortable they are using the one or the other approach.

Members are discouraged from physically raising their hand in the video to indicate a wish to speak – it can be distracting and easily missed/misinterpreted. No decision or outcome will be invalidated by a failure of the Chair to call a member to speak – the remote management of meetings is intensive and it is reasonable to expect that some requests will be inadvertently missed from time to time.

When referring to reports or making specific comments, Councillors should refer to the report and page number, so that all Members of the Committee have a clear understanding of what is being discussed at all times.

11. Voting

On a recommendation or motion being put to the vote, the Chair will go round the virtual room and ask each member entitled to vote to say whether they are for or against or whether they abstain. The Member Services Officer will announce the numerical result of the vote.

12. Meeting Etiquette Reminder

- Mute your microphone – you will still be able to hear what is being said.
- Only speak when invited to do so by the Chair.
- Speak clearly and please state your name each time you speak
- If you're referring to a specific page, mention the page number.

13. Part 2 Reports and Debate

There are times when council meetings are not open to the public, when confidential, or "exempt" issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration. It is important to ensure that there are no members of the public at remote locations able to hear or see the proceedings during such meetings.

Any Councillor in remote attendance must ensure that there is no other person present – a failure to do so could be in breach of the Council's Code of Conduct.

If there are members of the public and press listening to the open part of the meeting, then the Member Services Officer will, at the appropriate time, remove them to a break-out room for the duration of that item. They can then be invited back in when the business returns to Part 1.

Please turn off smart speakers such as Amazon Echo (Alexa), Google Home or smart music devices. These could inadvertently record phone or video conversations, which would not be appropriate during the consideration of confidential items.

14. Interpretation of standing orders

Where the Chair is required to interpret the Council's Constitution and procedural rules in light of the requirements of remote participation, they may take advice from the Member Services Officer or Monitoring Officer prior to making a ruling. However, the Chair's decision shall be final.

15. Disorderly Conduct by Members

If a Member behaves in the manner as outlined in the Constitution (persistently ignoring or disobeying the ruling of the Chair or behaving irregularly, improperly or offensively or deliberately obstructs the business of the meeting), any other Member may move 'That the member named be not further heard' which, if seconded, must be put to the vote without discussion.

If the same behaviour persists and a Motion is approved 'that the member named do leave the meeting', then they will be removed as a participant by the Member Services Officer.

16. Disturbance from Members of the Public

If any member of the public interrupts a meeting the Chair will warn them accordingly. If that person continues to interrupt or disrupt proceedings the Chair will ask the Member Services Officer to remove them as a participant from the meeting.

17. After the meeting

Please ensure you leave the meeting promptly by clicking on the red phone button to hang up.

18. Technical issues – meeting management

If the Chair, the Hosting Officer or the Member Services Officer identifies a problem with the systems from the Council's side, the Chair should either declare a recess while the fault is addressed or, if the fault is minor (e.g. unable to bring up a presentation), it may be appropriate to move onto the next item of business in order to progress through the agenda. If it is not possible to address the fault and the meeting becomes inquorate through this fault, the meeting will be adjourned until such time as it can be reconvened.

If the meeting was due to determine an urgent matter or one which is time-limited and it has not been possible to continue because of technical difficulties, the Chief Executive, Leader and relevant Cabinet Member, in consultation with the Monitoring Officer, shall explore such other means of taking the decision as may be permitted by the Council's constitution.

For members of the public and press who experience problems during the course of a meeting e.g. through internet connectivity or otherwise, the meeting will not be suspended or adjourned.

19. Technical issues – Individual Responsibility (Members and Officers)

Many members and officers live in places where broadband speeds are poor, but technical issues can arise at any time for a number of reasons. The following guidelines, if followed, should help reduce disruption. Separate guidance will be issued on how to manage connectivity – this paragraph focusses on the procedural steps. Joining early will help identify problems – see paragraph 6.

- Join public Zoom meetings by telephone if there is a problem with the internet. Before all meetings, note down or take a photograph of the front page of the agenda which has the necessary telephone numbers. Annex 1 to this protocol contains a brief step-by-step guide to what to expect
- Consider an alternative location from which to join the meeting, but staying safe and keeping confidential information secure. For officers, this may mean considering whether to come into the office, subject to this being safe and practicable (childcare etc.)
- If hosting a meeting via Zoom (briefings etc.), consider creating an additional host when setting up the meeting. The additional host can step in if the main host has problems – remember that without a host, the meeting cannot close and any information on the screens will remain on view
- Have to hand the telephone number of another member or officer expected in the meeting – and contact them if necessary to explain the problem in connecting
- Officers should have an 'understudy' or deputy briefed and on standby to attend and present as needed (and their telephone numbers to hand)
- For informal meetings and as a last resort, members and officers may be able to call another member or officer in the meeting who can put the 'phone on loudspeaker for all to hear – not ideal, but it ensures some degree of participation and continuity
- Member Services will hold a list of contact details for all senior officers

Phone only access to zoom meetings

(Before you start **make sure you know the Meeting ID and the Meeting Password**) – Both of these are available on the agenda for the meeting

Call the toll free number either on the meeting agenda or on the Outlook appointment (this will start with 0800 --- ----)

(Ensure your phone is on 'speaker' if you can)

A message will sound saying *"Welcome to Zoom, enter your meeting ID followed by the hash button"*

- **Enter Meeting ID followed by #**

Wait for next message which will say *"If you are a participant, please press hash to continue"*

- **Press #**

Wait for next message which will say *"Enter Meeting Password followed by hash"*

- **Enter 6 digit Meeting Password followed by #**

Wait for the following two messages:

"You are currently being held in a waiting room, the Host will release you from 'hold' in a minute"

Wait.....

"You have now entered the meeting"

Important notes for participating in meetings

Press ***6** to toggle between **'mute'** and **'unmute'** (you should always ensure you are muted until you are called upon to speak)

If you wish to speak you can **'raise your hand'** by pressing ***9**. Wait for the Chairman to call you to speak. The Host will lower your hand after you have spoken. Make sure you mute yourself afterwards.

PLANNING COMMITTEE 13 NOVEMBER 2020

APPEAL - APPLICATION 17/01359/MOUT - OUTLINE FOR THE ERECTION OF 60 DWELLINGS AND CONSTRUCTION OF NEW VEHICULAR ACCESS ONTO HIGHWAY TO THE WEST OF THE SITE - LAND AND BUILDINGS AT NGR 302469 114078, HIGHER TOWN, SAMPFORD PEVERELL (1-57-30), HIGHER TOWN, SAMPFORD PEVERELL

Cabinet Member(s): Cllr Richard Chesterton, Cabinet Member for Planning and Economic Regeneration

Responsible Officer: Kathryn Tebbey, Head of Legal (Monitoring Officer)

Reason for Report and Recommendations: to provide an update and advice to Members with regard to the forthcoming appeal inquiry against refusal of planning permission and to seek further instructions.

RECOMMENDATION: that Members of the Planning Committee –

- (a) consider the summary background and update in this report and the advice set out in the confidential (exempt) appendix 1; and
- (b) advise officers, in light of that advice, how they wish to proceed

Financial Implications: These are referred to in Appendix 1.

Legal Implications: These are referred to in Appendix 1.

Risk Assessment: The risks are referred to in Appendix 1.

Equality Impact Assessment: None directly arising.

Relationship to Corporate Plan: Homes: facilitating housing growth and working with developers to ensure that sites in the Local Plan come forward; housing to meet the needs of our population; delivery 360 homes per annum. Environment: protecting the natural environment; ensuring that special landscape assets are considered during the planning process; development which works to enhance the character of the local planning process.

Impact on Climate Change: None directly arising from this report, although the principle of sustainable development is embedded in national and local planning policy.

1.0 Introduction

- 1.1 On 31 July 2019, the Planning Committee adopted the reasons of the previous committee and refused the application. The reasons for refusal were:

Reason 1

The proposed outline application for 60 dwellings on this prominent site will have a significant adverse visual impact on the surrounding landscape character and appearance.

Reason 2

The site is not considered to be a sustainable location for this scale of housing development due to poor pedestrian access. 60 dwellings would be a significant increase in the population of the village, which has little employment and which would result in an unsustainable pattern of car-based commuting.

Reason 3

The introduction of the substandard pedestrian footway at Sampford Peverell and the associated crossing points are considered to be unacceptable and unsafe. The introduction of 60 dwellings on this site will create a substantial increase in the numbers of cars which will need to access Sampford Peverell.

- 1.2 Cllrs Warren, Radford and Mrs Collis were appointed by the Planning Committee to provide support during the course of an appeal – in line with convention, as the decision had been made contrary to officer advice.
- 1.3 In October 2019, the Planning Committee reviewed its position in light of advice and the submitted appeal. It decided not to pursue/defend reason for refusal 2. On 15 July 2020, a further update was provided to the Planning Committee, reflecting on the receipt of the Local Plan Inspector's report and the implications for the appeal in the event that the Local Plan was adopted.
- 1.4 As has been stated previously, in many appeals, particularly those going to public inquiry, there is always a moment when the local planning authority (whether officers for a delegated decision or members for a committee decision) should take the opportunity to reflect, review and confirm its position in light of any change of circumstance or events. This is both good practice and reasonable behaviour.

2.0 Update on events since July 2020 (last report)

- 2.1 On 19 July 2020, the Council adopted the Local Plan Review 2013-2033 (Local Plan). In doing so, it also changed the map for Policy SP2. This resulted in that part of the allocated site set aside for Green Infrastructure being placed outside the settlement limit.
- 2.2 The Council received a pre-action letter on 13 August 2020 setting out the grounds of challenge to the inclusion of Policy SP2 in the adopted Local Plan. A robust and detailed reply was sent and subsequently it was confirmed that the challenge was not going to be made. The period for such challenge then expired in mid-September. There is no underlying doubt, therefore, about the Local Plan and its validity.
- 2.3 The public inquiry had originally been scheduled for April 2020. With lockdown, that had to be cancelled – the Planning Inspectorate had to work up a plan to conduct appeals, including inquiries, virtually and has been catching up since. The re-scheduled virtual public inquiry was due to be conducted by an inspector (the second inspector appointed) in mid-August 2020. Due to illness, that second inspector had to step down the week before the scheduled opening of the Inquiry and a third inspector was appointed. However, that inspector was not able to sit on all of the scheduled dates, with the consequence that there would have been a lengthy gap between opening, sitting for a couple of days and then re-convening later in the year. Joint representations were made that this was not a satisfactory way of proceeding.
- 2.4 The Planning Inspectorate imposed a new inquiry start date of 1 December 2020. It is currently scheduled to last 8 days. Appointed counsel, Melissa Murphy, will now be assisted by Caroline Daly, due to a prior scheduled court appearance which overlaps with the start of the inquiry.

3.0 The Planning Committee to confirm instructions

- 3.1 There is a matter on which all those involved in the Council's case (Counsel, consultants, members and officers) now require further instructions from the Planning Committee. This is set out in the exempt appendix 1. The information in that appendix (and the annex to it) is considered to be exempt for the following reasons:

Paragraph 3 (financial affairs of the Council) and Paragraph 5 (legal professional privilege) of Schedule 12A to the Local Government Act 1972

- 3.2 If Members wish to discuss the contents of appendix 1, they are invited to move into Part 2 in order to do so. Further information about this is given in Appendix 1. Members need to be satisfied that it is in the public interest. Accordingly, the usual proposal paragraph on agendas is as follows:

Members to consider whether to pass the following resolution to exclude the press and public having reflected on Article 12 12.02(d) (a presumption in favour of openness) of the Constitution. This decision may be required because consideration of this matter in public may disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. The Planning Committee will need to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information.

Members then need to proceed to vote on the following recommendation:

Recommended that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information) and paragraph 5, information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Contact for more Information: Kathryn Tebbey, Head of Legal (Monitoring Officer) ktebbey@middevon.gov.uk

Circulation of the Report: Cabinet Member – Cllr Richard Chesterton, Leadership Team – but circulated shortly before publication due to urgency

List of Background Papers:

Part 2 report – Planning Committee 15 July 2020

Part 2 report - Planning Committee 23 October 2019

Implications Report to meeting on 31 July 2019

Committee Report to meeting on 11 July 2018

By virtue of paragraph(s) 3, 5 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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