

Public Document Pack

Committee Administrator
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Important - this meeting will take place at Phoenix House, but members of the Public and Press can and should attend via Zoom only. Please do not attend Phoenix House without prior agreement. The attached Protocol for Hybrid Meetings explains how this will work.

Join Zoom Meeting

<https://zoom.us/j/91389720794?pwd=bnNYZFpXVnVIU0FyWS9rVkJFNl2VRZz09>

Meeting ID: 913 8972 0794

Passcode: 586402

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MID DEVON DISTRICT COUNCIL

PLANNING COMMITTEE

A MEETING of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Wednesday, 26 May 2021 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 16 June 2021 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive

18 May 2021

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, D J Knowles, F W Letch 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 **ELECTION OF CHAIRMAN (CHAIRMAN OF THE COUNCIL IN THE CHAIR)**
To elect a Chairman for the municipal year 2021-2022

- 2 **ELECTION OF VICE CHAIRMAN**
To elect a Vice Chairman for the municipal year 2021-2022

- 3 **HYBRID MEETINGS PROTOCOL** *(Pages 5 - 12)*
Members to note the Hybrid Meetings protocol

- 4 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of substitute.

- 5 **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.

- 6 **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.

- 7 **MINUTES OF THE PREVIOUS MEETING** *(Pages 13 - 28)*
Members to consider whether to approve the minutes as a correct record of the meeting held on 14th April 2021.

- 8 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.

- 9 **DEFERRALS FROM THE PLANS LIST**
To report any items appearing in the Plans List which have been deferred.

- 10 **THE PLANS LIST** *(Pages 29 - 42)*
To consider the planning applications contained in the list.

- 11 **TREE PRESERVATION ORDER- 21/00001/TPO - Bethany, Bell Meadow, Bickleigh, Tiverton** *(Pages 43 - 48)*
To receive a report of the Head of Planning, Economy and Regeneration regarding this Tree Preservation Order

- 12 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 49 - 50)*
List attached for consideration of major applications and potential site visits.

- 13 **APPEAL DECISIONS** (Pages 51 - 52)
To receive for information a list of recent appeal decisions.
- 14 **APPEALS PERFORMANCE** (Pages 53 - 76)
To receive a report of the Head of Planning, Economy and Regeneration regarding appeals performance.
- 15 **DECISIONS CONTRARY TO RECOMMENDATIONS** (Pages 77 - 80)
To receive a report of the Head of Planning, Economy and Regeneration regarding decisions contrary to officer recommendations.
- 16 **PLANNING PERFORMANCE** (Pages 81 - 90)
To receive a report of the Head of Planning, Economy and Regeneration presenting Planning and Building Control performance.
- 17 **START TIME OF MEETINGS**
To agree the start time of meetings for the remainder of the municipal year.

Covid-19 and meetings

From 7 May 2021, the law requires all councils to hold formal meetings in person. However, the Council is also required to follow government guidance about safety during the pandemic. For a short period – probably until 30 June – the Council will enable all people to continue to participate in meetings via Zoom.

You are strongly encouraged to participate via Zoom to keep everyone safe - there is limited capacity in meeting rooms if safety requirements are to be met. There are restrictions and conditions which apply to those in the building and the use of the building. You must not attend a meeting at Phoenix House without complying with the requirements in the new protocol for meetings. You must follow any directions you are given.

Please read the new meeting protocol which is available here: <https://democracy.middevon.gov.uk/documents/s21866/aaaaHybridMeetingProtocolMay2021.pdf>

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 would like a copy of the Agenda in another format (for example in large print) please contact Carole Oliphant on:

Tel: 01884 234209

Fax:

E-Mail: coliphant@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

Mid Devon District Council – Hybrid Meeting Protocol

1. Introduction

Remote meetings via Zoom have been used during the Covid-19 pandemic in accordance with the temporary legislation. That legislation ceases to apply from 7 May 2021. However, Covid-19 legislation and guidance continues in place and this places specific requirements for meetings in relation to health and safety, risk assessments and related matters.

The Council has therefore put in place temporary arrangements which will enable meetings to take place in compliance with legislation, whilst providing alternative participation opportunities to maintain a Covid-19 safe environment. All are asked to remember that the Council's offices at Phoenix House are not just meeting rooms – they are the place of employment for many and there are implications beyond just how the meetings are held.

The arrangements set out in this Protocol will apply to meetings from 7 May 2021 to (and including) 30 June 2021, unless the Council decides to change, curtail or extend them. At the date of this Protocol, it is expected that arrangements may change later this year – because the Government may change the law, the Covid-19 pandemic may have further receded and/or the Council makes alternative arrangements.

2. Hybrid arrangements – how will they work?

The primary objective is to ensure that meetings can continue as safely as possible and that the rights of Members and the Public are not diminished simply because the meeting is being held through a mix of online and face-to-face means. The Chairman will retain control and discretion over the conduct of the meeting and the Zoom host will provide administrative support to facilitate the meeting.

Please note that, exceptionally, meeting arrangements may change – in response to legislation, court decisions, or risk. This may include a meeting being postponed, or the hybrid arrangements changing or being withdrawn. We ask that you check the arrangements in advance of joining or attending the meeting.

(a) Members (councillors) entitled to vote

All Members entitled to vote in a meeting must be present in the same room – if they are to be classed as 'present' (count towards the quorum) and to cast a vote. If a Member entitled to vote is not in the room, they may still participate via Zoom (see below), but they will not be present (quorum) nor be able to vote.

(b) Other Members, Officers and the Public

The Council will use Zoom to enable all other Members, officers and the Public to attend and participate in meetings safely. Zoom will be enabled in all public meetings. Those attending the meeting physically will be able to see and hear Zoom participants via the existing large TV/monitor screens in the meeting rooms.

Those on Zoom will be able to hear Members in the room and see them – although this will be a whole room view and there will be no zooming in on individual members. It is essential therefore those Members present in the room use the microphones at all times and identify themselves before speaking.

There will be some Officers in the room – the Committee Administrator, the Zoom host and, at times, an additional support officer. There may also be a meeting room host to manage the safety of the meeting. All other Officers should use Zoom, unless they are specifically invited into the room by the Chairman of the meeting.

3. Zoom

Zoom is the system the Council will be using for those attending Hybrid meetings remotely. 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.

4. 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 meeting.

If any other Member wishes to have a paper copy, they must notify 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.

The Public should continue to access agendas via the Council's website - and are encouraged to do so even after the offices at Phoenix House are open again.

5. Setting up the Meeting for Zoom attendance

This will be done by Member Services. They will send a meeting request via Outlook which will appear in Members' Outlook calendar. Members and Officers will receive a URL link to click on to join the meeting. The Public will use the Zoom details on the front of the agenda. The telephone dial-in via Zoom will also be available.

6. Public Access and Participation

(a) Public Access:

Members of the Public will be able to use a web link and standard internet browser. This will be displayed on the front of the agenda. Members of the Public should attend a meeting via Zoom, unless there are exceptional circumstances justifying attendance in person.

If any member of the Public still wishes to attend in person, they must notify Member Services **at least 3 working days before the meeting**. Notifications must be sent by email to:

Committee@middevon.gov.uk

Day of meeting	Notice given by
Monday	Previous Wednesday
Tuesday	Previous Thursday
Wednesday	Previous Friday
Thursday	Monday
Friday	Tuesday

The meeting risk assessment may need to be updated. Member Services will liaise with the Chief Executive, Monitoring Officer and the Chairman of the meeting. A decision will be taken on whether attendance in person can be safely accommodated.

(b) Public Participation (speaking):

Public questions 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 ask each registered person to speak at the appropriate time. 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 may not be called to speak, except at the discretion of the Chairman.

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.

7. Arrangements for any person attending meetings at Phoenix House

Anyone attending a meeting in person must observe the following requirements:

- (a) For non-voting members, officers and the Public – are there exceptional circumstances to justify attending? If so, please notify in advance and in paragraph 6 above. It is essential that the Council knows who is attending and how many will be in the room, so that the meeting risk assessment can be updated.

- (b) Do not attend if you: have any symptoms of Covid-19; are self-isolating (with or without a positive Covid-19 test); or are in a period of post-travel quarantine.
- (c) Wear a mask at all times except when invited to speak by the Chairman of the meeting. If you have a medical exemption for wearing a mask, please attend via Zoom unless you are a Member who must attend to vote.
- (d) Use the hand sanitiser which is available in the building.
- (e) Follow the directions for entering, moving around and exiting the building. Follow the instructions of any Officer present to manage the safety of the meeting and/or the Chairman.
- (f) Sign into the meeting if requested to do so – you may be asked to leave contact details
- (g) Enter and leave the building promptly – do not gather inside after the meeting has finished, or during any break in the meeting
- (h) Bring your own water/refreshments, as these will not be available for the time being.
- (i) Maintain social distancing throughout – this is 2 metres apart, or 1 metre with additional safeguards (e.g. face masks).

8. Starting the Meeting

At the start of the meeting, the Member Services Officer will check all required attendees are present 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 attending via Zoom that **all microphones must be 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.

9. Declaration of Interests

Members should declare their interests in the usual way. A Member with a disclosable pecuniary interest is required to leave the room. If they are attending via Zoom, they will be moved to the waiting room for the duration of the item.

10. The Meeting and Debate

- (a) For Members and Officers physically present

Each member should raise their hand to indicate a request to speak. When called, they must identify themselves for the recording and for the benefit of those attending via Zoom. The microphone must be used when speaking – standing will make it difficult for those on Zoom to hear and is discouraged, including at meetings of Full Council.

(b) For any person attending via Zoom

The Council will not be using the Chat function. The Chairman will call speakers in accordance with the usual rules i.e. either at Public Question Time, or for Members and Officers, when they raise their Zoom hand to speak.

No decision or outcome will be invalidated by a failure of the Chair to call a member to speak – remote management of meetings is intensive and the Hybrid arrangements are likely to be more so. It is reasonable to expect that some requests will be inadvertently missed from time to time.

When referring to reports or making specific comments, Members and Officers should refer to the report and page number whenever possible. This will help all present or in attendance to have a clear understanding of what is being discussed.

11. Voting

Voting for meetings in person is normally through a show of hands. The Member Services Officer will announce the numerical result of the vote for the benefit of those attending via Zoom.

12. Meeting Etiquette Reminder for Zoom attendees

- 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.

If there are members of the public and press attending the meeting, then the Member Services Officer will, at the appropriate time, remove them to a waiting 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 Chairman is required to interpret the Council's Constitution and procedural rules and how they apply to remote attendance, 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 (if attending via Zoom) 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 Chairman will warn them accordingly. If that person continues to interrupt or disrupt proceedings the Chairman may ask the Member Services Officer to remove them as a participant from the meeting.

17. Technical issues – meeting management

If the Chairman, the Hosting Officer or the Member Services Officer identifies a problem with the systems from the Council's side, the Chairman 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, the meeting will be adjourned until such time as it can be reconvened.

If the meeting was due to determine an urgent matter 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.

Where any Member, Officer or the Public experience their own technical problems during the course of a meeting e.g. through internet connectivity or otherwise, the meeting will not be automatically suspended or adjourned.

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

Many members, officers and the Public 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.

- 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.)
- Have to hand the telephone number of someone attending 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)

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.

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 14 April 2021 at 2.15 pm

Present

Councillors

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

Apologies

Councillor(s)

E J Berry

Also Present

Councillor(s)

R M Deed and W Burke

Present

Officers:

Eileen Paterson (Development Management Manager), Maria De Leburne (Legal Services Team Leader), Angharad Williams (Area Team Leader), John Millar (Principal Planning Officer), Oliver Dorrell (Planning Officer), Christie McCombe (Area Planning Officer), Sally Gabriel (Member Services Manager) and Carole Oliphant (Member Services Officer)

148 **HRH, THE PRINCE PHILIP DUKE OF EDINBURGH AND COUNCILLOR GLANMOR HUGHES**

A minute silence took place in memory of HRH, The Prince Philip Duke of Edinburgh and Councillor Glanmor Hughes at the start of the meeting.

149 **APOLOGIES AND SUBSTITUTE MEMBERS (0.03.25)**

Apologies were received from Cllr E J Berry.

150 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.03.38)**

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

151 **REMOTE MEETINGS PROTOCOL (0.03.45)**

The Committee had before it, and **NOTED**, the *Remote Meetings Protocol.

Note: *Protocol previously circulated and attached to the Minutes

152 **PUBLIC QUESTION TIME (0.03.59)**

Mr Winter referring to Item 12 (Duvale Barton) on the agenda stated that - the input from Environmental Health seems very hypothetical to me and ignores the real problem we have with sound historically and the issues we have had with enforcement historically and really bears no weight whatsoever in my opinion. Obviously they only apply if passed.

Yesterday, I did send into the committee a satellite picture of the barn in question, this rather begs the question why the planning conditions set to have doors and windows shut with the large agricultural vents in the roof to allow livestock to breath - this seems rather strange. This also begs the question as to what survey the planning department performed on the building. I didn't have to leave my office to discover this.

Mrs Jacobs referring to Item 1 on the Plans List (Tumbling Fields) stated that she lived at 12 Tumbling Fields and asked whether the committee had been to visit the site where they are proposing to build these houses at the access to the back of my property up into Hamblin Close, where there are disabled people, OAPs and small children and lots of traffic already going in on this site and also on Tumbling Fields Lane where there is also a lot of traffic, particularly agricultural traffic coming down. I am very frightened about my personal safety and the safety of small children and a very disabled young man who lives on that site.

Miss Chee Wong representing Angela Clyburn again referring to Item 1 on the Plans List stated that there is a report that there are a number of legally protected species on the site, so surely it is illegal for the applicant to deliberately go out of their way to disturb and disrupt breeding and frighten species away. Surely the requirements protecting these are already being broken, they should be protected under the statutory obligations in the species protection law. We need to be sure that if this building goes ahead that the wildlife will be adequately protected without further disruption to their habitat and their breeding.

Mr Baker referring to Item 12 on the agenda stated: can the committee explain why both agricultural buildings/barns were not demolished when 6 units were granted permission on the condition that both barns were to be taken down and removed from the site. This I believe to be a failure by the enforcement team. Can the committee confirm if any members have visited the site to see if the barns are fit for purpose, if not please show the members the photos that you have had presented to you. Can the committee explain why the planning officer is concentrating on door slamming and movements when the issue has always been the loud music and the noise of people escalating from the function hall?

Gill Hookins again referring to Item 12 stated that she was the immediate neighbour to Duvale Priory, how does the committee perceive the inherent risk of overturning the planning condition for residents use only stipulated by the Planning Inspector on appeal 7 years ago and does the committee think that the volume of noise from the music at a function for 30 be any different from the volume of noise for a function for 130. I don't think so.

Cllr William Knowles again referring to item 12 stated: I am a little confused in the minutes about the emphasis on car door slamming, when actually it is the noise of

the music. I was also going to ask about whether someone had been to inspect the site from the relevant authorities and if not, is it not possible that rather than make a decision today, if there is still a lot of indecision, would it not be possible to defer the decision until more information is brought to hand.

Mrs Pratley referring to item 1 on the Plans List asked the following questions –

Question 1

The Mid Devon Local Plan Review 2013-33 adopted by full Council on 9 July 2019 and the Tiverton Central Area Local Plan Review map shows the land the subject of this planning application is outside the settlement area. Furthermore, Local Plan Policy S10 states amongst its principles retention of “the green setting provided by the steep open hillsides, particularly to the west and south of the town”. This development is precisely the type of development which Policy S10 was written to protect. I believe the recommendation to approve fails to have due regard to the strategic context of this site on the setting and settlement limit to the south of the town. Will the committee please explain why breaching the settlement limit and failure to demonstrate adherence to Policy S10 are not material considerations in determining this application?

Policy S10 is not relevant as outside settlement boundary. As such Policy S14 applies where affordable housing is allowed and rural exceptions policy. The application is therefore subject to separate policy consideration as outlined in the report.

Question 2

The Mid Devon Local Plan makes provision for 17% more housing than required presumably based on the current settlement limit of the town. 74% of the required dwellings for Tiverton have either been completed or committed with still 12 years of the Local Plan to run. The Local Plan states “a significant proportion of the towns outstanding housing needs will be delivered as part of the Eastern Urban Extension”. Will the committee please explain why it believes that the delivery of the proposed 22 dwellings on this recreational space cannot be delivered elsewhere within the existing settlement limit?

Question 3

The land subject to the application is described as allotments and by officers as ‘former MDDC allotments’. The land is therefore subject to the provisions of Planning Policy DM26 (previously DM24). Will the committee please confirm that an assessment of need prior to disposal was undertaken, when the site disposal took place and who approved the disposal? Will the committee further confirm whether or not the allotments were afforded protection under the 1925 Allotment Act which requires permission from the Secretary of State before development can take place?

Question 4

Three years after the tragedy of Grenfell Tower it seems hard to comprehend that fire safety is not a material consideration when considering a planning application. The officer report and recommendation to approve makes no comment on the concerns raised by Housing Standards regarding the fire safety design of some plots. This is of concern if, for no other reason, because 4 dwellings will be wheel chair accessible. If minded to approve the application, will the committee consider it being a condition of approval that full plans will have building control approval?

Not inside the control of planning. Building regulations are a separate requirement which will happen without the need for condition.

Comley Payne again referring to Item 12 on the agenda stated: can the committee please explain why the case officer recommends approval for this application as in 2013, Members voted 8-1 to refuse. The appeal inspectorate clearly ruled it to be used solely for residents only and no other use. Now in 2021, the majority of members again voted to refuse this application on issues raised. One being that the volume of music noise would be the same for 30 people as it would for 130 and I feel that this application is no more than an attempt to revert back to times prior to the 2014 appeal decision, understandably, the committee is aware of the cost of appeal, but I am assured that this will have no bearing on the decision, is this correct?

Cllr Steve Bush (Tiverton Town Council) referring to item 1 on the Plans List stated: that he was speaking on behalf of various constituents from Cranmore and beyond. I believe that the development of this site is not required and not desirable in any way. The Local Plan was adopted only last year allocating sufficient sites and even contingency sites to provide ample housing to meet the statutory requirements of the authority. This development would be outside the boundary of the settlement agreed on the plan and I can see no compelling reason to extend that boundary in order to grant permission. Furthermore, I believe that it contradicts many of the strategic policies laid out in that plan as it does not assist in conserving or enhancing the area adjacent to the town centre. In the plan, it states clearly the strategic aims for countryside, environment and heritage assets, to conserve and enhance for the retention of attractive countryside providing for biodiversity. This site sits alongside a particularly attractive and well used footpath which links the town centre to Deymans Hill and also Canal Hill. The hedgerows and trees within and surrounding the site have an abundance of biodiversity including 9 species of bat and dormice, both of which are protected by the Habitats Directive of 1992. This authority has also pledged to retain the views of green hill sites in Tiverton Town centre and this development will impinge upon the views from Phoenix Lane and Fore Street, further eating into the views of green countryside enjoyed by residents and visitors alike. The Local Plan also promises that the market town will be protected and enhance their environmental assets including their character, biodiversity, heritage, setting and air quality. The loss on this site of mature trees, the habitat of protected species, biodiversity and attractive countryside is not in keeping with this particular policy. When viewed in the round with all due material considerations taken into account, I firmly believe that there are no grounds for granting this development planning permission and I would urge the committee to reject the application.

Miss Chee Wong again referring to Item 1 on the Plans List stated: I wanted to point out that there are many natural springs along that hill side, that already collects water in the area and if there is any more building there, this will cause further flooding problems in the area or be diverted to existing properties, which is a danger both environmentally and with walking, it is a hazard and will freeze during bad weather, as there are slopes there, it really isn't ideal. The sight lines are bad coming out of that entrance from where they propose to have the entrance to the building site and it is just going to be an increased hazard all round.

The Chairman stated that answers to questions would be given when the item as debated.

153 MINUTES OF THE PREVIOUS MEETING (0.23.29)

The minutes of the meetings held on 10th and 31st March were agreed as a true record subject to some typographical amendments (minute no 138) and the inclusion of correspondence received from applicants and developers for application 19/01679/MFUL (minute no 147).

154 CHAIRMAN'S ANNOUNCEMENTS (0.26.47)

The Chairman announced that this was the last Planning Committee for the Development Management Manager, Eileen Paterson, who was leaving the authority. She thanked her for her time and service to the Planning Committee.

155 DEFERRALS FROM THE PLANS LIST (0.28.04)

There were no deferrals from the plans list.

156 THE PLANS LIST (0.28.16)

The Committee considered the applications in the *Plans List.

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

- a) Application 20/01263/MFUL - Erection of 22 dwellings with parking, landscaping and construction of new access at Allotments, Tumbling Field Lane, Tiverton.**

The Area Team Leader outlined the application by way of a presentation detailing the site location plan, site layout, accommodation and tenure, elevations and photographs of the site and the access.

In response to questions asked by the public she explained:

- Members had not undertaken a site visit due to current Covid 19 restrictions
- The Highways Authority had been consulted and had confirmed there had been no incidents since 2015 and that the visibility splay was adequate and recommended a number of conditions
- Protected species are afforded protection under The Habitat and Species Regulations and therefore it is the applicant's responsibility as much as the LPA to ensure protection. An Ecological Survey had been commissioned and harm had also been mitigated by way of conditions to specifically rehome reptiles prior to any development. The application was supported by an Ecological Survey which advised that if scrub land was to be removed on site then a European Protected Species Licence would be required. The competent authority was therefore required to undertake 3 tests of the development
- Condition 18 protected ecology
- Policy S10 was not considered relevant as the site was outside of the settlement boundary
- Policy S14 was relevant and allowed development outside of the settlement if it provided predominately affordable housing

- The site was considered as it was a rural exception site which allowed development of affordable housing in the open countryside
- The previous allotments were privately owned and rented to Tiverton Town Council. As they were not owned by MDDC they were not classed as statutory allotments
- Planners did not have control over internal finishes to ensure fire safety
- Four units would be wheelchair accessible
- Building regulations would be required but that was a post decision process
- The report detailed why Planning Officers had considered the development to be appropriate
- The footpath would remain in place and if diverted in the future would need permission from Devon County
- The site was in flood zone 1 with the access only being within flood zone 3 and conditions stipulated full drainage details be provided to alleviate risk of flooding
- The Highways Authority stated the visibility was adequate for the site

The Area Team Leader confirmed that the Planning Committee at its meeting of 9th September 2020 agreed to bring the application to Committee if officers were minded to approve the application.

The officer explained that the application was for 22 units, 12 of which would be affordable housing. The applicant had submitted a viability assessment and the Local Planning Authority had commissioned an independent assessment which had agreed with the proposal.

The S106 agreement would outline who could accommodate the units and applicants would need to apply through legal channels to prove local links to the area.

The development was not in the conservation area and officers felt that the affordable housing benefit outweighed the loss of pastureland.

She provided responses to Members questions as follows:

- The LPA only had limited powers to ensure that the developers was complying with the Ecological Survey but it was conditioned in such a manner that as many reptiles as possible would be captured and rehomed before development commenced
- Members were being asked to consider an application for 22 units, 12 of which were to be affordable. The applicant was an affordable housing provider who had secured funding for 12 of the units to be affordable. Nevertheless, the applicant was hopeful to provide all 22 units affordable
- The access road would be adopted by the Highways Authority and would be maintained by them
- 40 car parking spaces would be provided
- There was a condition to undertake further assessment if any contaminated land was apparent on the site and this was a means of protection for future occupants
- If bat roosts had been found on the site it was a legal requirement that the bats be rehomed before development. The site did not have bat roosts but

harm the potential for harm to bats was mitigated by the imposition of a condition to control outside lighting

- The Housing Needs Survey was up to date and had indicated that there was a real need for affordable housing in the area
- The affordable housing consisted of 7 social rented units and 5 shared ownership and would be available to only those with a local connection
- Policy S10 did not apply as the site was outside of the settlement and its excellent connectivity to the town would encourage walking which was favourable
- Policy S14 was specific for sites which were outside of the settlement and as the site was outside of the settlement boundary Policy S14 did apply
- Safety was part of the planning process and therefore the Area Team Leader had undertaken a site visit to view the access for herself. The Highways Authority had not insisted on a footpath but if they had, this could have been considered
- The landscaping management plan would be for the lifetime of the development and the condition could be amended to specify this if necessary
- Planning Officers felt that the development complied with Policy DM5 and that the parking arrangements were adequate. Electric car charging points were provided
- The flood evacuation plan was for pedestrians not vehicles

Consideration was given to:

- The views of the objector who stated that because the LPA did not have a Tree Officer it was not known if there were TPO's on the site. Any houses would disturb the wildlife and more houses would mean more dogs on the footpath. The applicants reputation for dealing with tenants was not good
- The views of the agent who stated that their client was an affordable housing company which was actively investing in Mid Devon. They were seeking to secure funding from Homes England to make all 22 units affordable. The proposal had been refined during discussions, the site was in flood zone 1 and was in a sustainable location
- The views of the Town Council who strongly objected to the proposal as it was over development in a green area. The land was wet and not suitable for development
- The views of a Ward Member who strongly objected to the proposal as it was an historic site on the Exe Valley Way and was outside of the settlement area. The LPA already had 5 sites allocated to affordable housing and felt that this site was not required. That there were deer, badgers and foxes on the site and emergency vehicles would have difficulty servicing the development. That there was a disabled resident living in accommodation next to the site who would have difficulty entering and exiting because of the development
- The views of another Ward Member who stated that any development would lead to ribbon development down Deymans Hill and that he was surprised that no archaeological material had been found on the site. That the area was already cramped with parking and the entrance was in flood zone 3
- The views of Members who felt that Policy DM6 did not apply and that Policy S10 was more appropriate as it was designed to protect the site
- The views of Members who felt that Planning Officers were not interpreting Local Plan Policies as they were designed

- The views of Members who felt that the Housing Needs Survey did not demonstrate that affordable housing was needed in this area
- The views of Members who felt that Councillors were entitled to interpret Local Plan Policies as they saw fit
- The views of Members that the development was contrary to Policy DM5
- The views of Members who felt that there was not a need for affordable housing on this site

It was therefore **RESOLVED** that:

Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal that of:

Policy DM6 was not applicable, Policy S10 was applicable and the Housing Needs Survey was inadequate.

(Proposed by Cllr G Barnell and seconded by Cllr S J Clist)

Reason for the decision: No decision was made as the application was deferred for an implications report

Notes:

- i.) Cllrs Mrs F J Colthorpe, G Barnell, Mrs C P Daw, L J Cruwys, C J Eginton, S J Clist, F W Letch, D J Knowles, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from objectors
- ii.) Cllr Mrs F J Colthorpe requested that her vote against the decision be recorded
- iii.) Mr Frost spoke as the objector
- iv.) Miss Stoate spoke as the agent
- v.) Cllr W Burke spoke on behalf of Tiverton Town Council
- vi.) Cllrs Mrs C P Daw and L J Cruwys spoke as Ward Members
- vii.) The following late information was reported:

A few questions have been put forward by members and include the following:

Query regarding the application call in.

It is understood that at the Committee meeting of the 9th September 2020, Cllr Daw considered the application should go to the planning committee for consideration given the public comments that had been received. This was agreed by Cllr Cruwys and Knowles.

A site visit was discussed, but given the constraints of lockdown has not been able to take place.

The weight concerned with draft Tiverton Neighbourhood Plan

The plan is still within draft format, and as such, only limited weight can be applied to it.

Report or advice from Emergency planners regarding flood risk and access
The updated Flood Risk Assessment (FRA) 17 Feb confirms that emergency vehicles will still be able to reach site is access road (in FZ3) is flooded during 1:100 year event (plus climate change). In addition the evacuation routes plan SK009 also submitted 17 Feb shows alternative pedestrian and vehicular access routes for emergency vehicles.

Limited detail of Waste Audit Statement

The Officer would advise that there is a comprehensive planning conditions associated with the application that requires this further detail to be submitted. Currently within the report as Condition 7. An email from the 18th February to the Case Officer confirms that DCC are content for the information to be given by condition.

Housing Standards and Layout

The concerns raised by the Housing Officer relate to internal changes within the properties. Planning permission is not required for internal alterations and as such there is limited control on this aspect.

Nevertheless, the majority of plots allow for safe fire access, and that of Plot 15 has a means of fire escape via the first floor window. In any case, this would be a matter for building regulations.

Completion of s106 Heads of Terms

There is currently a recommendation to approve the application subject to the conditions and the signing of the s106 with the proposed HOT. As such, this has not yet been completed and will not be until there is a resolution to grant consent.

Other matters

The applicant has requested amendments to the pre-commencement conditions and has sought removal of proposed condition 4. This stated:

“No materials shall be brought onto any part of the site or any development commenced, until the developer has erected tree protective fencing around all trees, hedges or shrubs to be retained on that part of the site, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. The fencing shall be in accordance with Figure 2 of BS 5837 2012. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development has been completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority.”

The officer has agreed to remove this condition subject to it being incorporated into Condition 18 which currently reads:

The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the local planning authority.

Details of soft landscape works shall include [retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass

establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure; boundary and surface treatments; vehicle and pedestrian/cyclist circulation; proposed and existing service lines. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

It is proposed that this condition is amended to include tree protection and would read as follows:

The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the local planning authority.

Details of soft landscape works shall include retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. All retained trees and hedgerows will be protected by tree protective fencing, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. The fencing shall be in accordance with Figure 2 of BS 5837 2012. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development has been completed.

The hard landscape works shall include means of enclosure; boundary and surface treatments; vehicle and pedestrian/cyclist circulation; proposed and existing service lines. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

The applicant has also sought to remove condition 3 concerning the need for a reptile mitigations strategy. The Officer however has explained why this is necessary and the applicant has now agreed.

Ecology matters

The application is supported by an Ecological Survey which advises that if scrub land is to be removed on site then a European Protected Species Licence will be required. The Competent Authority is therefore required to undertake 3 tests of the development and this is appended to this update sheet.

Objections

A further 16 objections have been received since the report was written including a signed petition.

Emails have also been forwarded on from Cllr Chris Daw concerning a further 8 objections to the scheme.

The objections received raise concerns regarding the following:

Wheel chair access and roads. – the objector has asked for their objections to be read out.

Wildlife protection

Climate change and carbon emissions

Concern over increased flooding
Parking and traffic
Concern over increased noise in the area.
Overlooking
Loss of farmland
Loss of the public walkway
Overdevelopment
Setting of a precedent for more development
Lack of affordable housing proposed
Impact on visual amenity
Loss of the allotments

Some questions have been raised in respect to the development from one of the objectors:

Question 1

The Mid Devon Local Plan Review 2013-33 adopted by full Council on 9 July 2019 and the Tiverton Central Area Local Plan Review map shows the land the subject of this planning application is outside the settlement area. Furthermore, Local Plan Policy S10 states amongst its principles retention of “the green setting provided by the steep open hillsides, particularly to the west and south of the town”. This development is precisely the type of development which Policy S10 was written to protect. I believe the recommendation to approve fails to have due regard to the strategic context of this site on the setting and settlement limit to the south of the town. Will the committee please explain why breaching the settlement limit and failure to demonstrate adherence to Policy S10 are not material considerations in determining this application?

Policy S10 is not relevant as outside settlement boundary. As such Policy S14 applies where affordable housing is allowed and rural exceptions policy. The application is therefore subject to separate policy consideration as outlined in the report.

Question 2

The Mid Devon Local Plan makes provision for 17% more housing than required presumably based on the current settlement limit of the town. 74% of the required dwellings for Tiverton have either been completed or committed with still 12 years of the Local Plan to run. The Local Plan states “a significant proportion of the towns outstanding housing needs will be delivered as part of the Eastern Urban Extension”. Will the committee please explain why it believes that the delivery of the proposed 22 dwellings on this recreational space cannot be delivered elsewhere within the existing settlement limit?

As above.

Question 3

The land subject to the application is described as allotments and by officers as ‘former MDDC allotments’. The land is therefore subject to the provisions of Planning Policy DM26 (previously DM24). Will the committee please confirm that an assessment of need prior to disposal was undertaken, when the site disposal took place and who approved the disposal? Will the committee further confirm whether or not the allotments were afforded protection under the 1925

Allotment Act which requires permission from the Secretary of State before development can take place?

Email from Officer to Chris Daw 12th April:

Dear Cllr Daw

Thank you for your email. The site in question formally contained allotments. The allotments were privately owned and rented to the Tiverton Town Council. In March 2006 the Town Council was given 12 months' notice to vacate the site. The site was vacated in March 2007.

The site is not ever known to be under the ownership or control of Mid Devon District Council.

On the basis of the above officers do not consider that the former use of the site as allotments to fall within the definition of 'statutory allotments' and therefore an assessment under the Policy DM24 of the MDDC Local Plan is not required for the purposes of this planning application

Question 4

Three years after the tragedy of Grenfell Tower it seems hard to comprehend that fire safety is not a material consideration when considering a planning application. The officer report and recommendation to approve makes no comment on the concerns raised by Housing Standards regarding the fire safety design of some plots. This is of concern if, for no other reason, because 4 dwellings will be wheel chair accessible. If minded to approve the application, will the committee consider it being a condition of approval that full plans will have building control approval?

Not inside the control of planning. Building regulations are a separate requirement which will happen without the need for condition.

NHS

It is considered on this occasion that the NHS contribution sought on the application does not meet the CIL 122 test given the nature of the development proposed.

It is a rural exception site where affordable housing is largely proposed and there is already a Viability Appraisal submitted with the scheme which suggests it is already bordering on unviable even with the 12 affordable units proposed. Furthermore, any S106 agreement would require only those with a local connection to apply for the affordable housing, which means there will not be a significant addition on the NHS capacity in the area.

Please also see the Ecological Assessment (attached)

Letter has been received from PCL Planning Ltd on behalf of Rotolok (Holdings) Ltd.- planning officer's response to points raised:

The owner/occupier of Tumbling Field House was sent a standard notification letter on 8 August 2020. The access to the property is also past the entrance to the site where the site notice was posted.

In respect of point 4. Historic England (HE) require consultation on development likely to affect the site of a scheduled monument (Cranmore Castle). DCC Historic Environment Team were consulted and on 20 October

advised that proposed development will not have impact on known heritage assets. On this basis a consultation with HE was not deemed necessary.

In respect of the points 1, 2, 3, 5 & 6 these are addressed in the report.

In respect of the ownership query the Council do not hold those records; it would be for the developer to advise.

157 **MAJOR APPLICATIONS WITH NO DECISION (2.51.07)**

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

It was **AGREED** that:

- a) 21/00454/MARM Reserved Matters (appearance, landscaping, layout and scale) for 166 dwellings with the provision of public open space, vehicular and pedestrian access, landscaping, drainage and related infrastructure and engineering works following Outline approval 14/00881/MOUT be brought before the committee for determination and that a site visit take place if the officers recommendation was one of approval.
- b) 21/00374/MARM Reserved Matters in respect of (appearance, landscaping, layout and scale) for infrastructure associated with initial phases of development, following Outline approval 14/00881/MOUT be brought before the committee for determination and that a site visit take place if the officers recommendation was one of approval.

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

158 **APPEAL DECISIONS (02.58.03)**

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 minutes.

159 **APPLICATION 18/01814/MFUL - CHANGE OF USE OF AGRICULTURAL LAND FOR THE SITING OF 3 HOLIDAY LODGES AND ALTERATIONS TO EXISTING ACCESS - LAND AT NGR 299526 113232, CROWN HILL, HALBERTON (3.01.59)**

At the Planning Committee meeting on 10th March 2021, Members advised that they were minded to refuse the above application and invited an implications report for further consideration. The Committee therefore had before it a *report of the Head of Planning, Economy and Regeneration setting out the implications of refusal.

The Development Management Manager reminded Members of the application by way of a presentation outlining the site location, site plan, block plan, elevations, internal plans and photographs of the site and access.

The officer explained to Members that Planning Officers had looked at the initial reasons for refusal agreed by the Committee and had felt that reasons 2 and 3 could not be supported on appeal.

Consideration was given to:

- Members views that the Local Plan Policies should be encouraging people to walk
- The Highways Authority had looked at the safety aspect of the application and had reported that they were satisfied with the proposals

It was therefore **RESOLVED** that: the application be refused on the following grounds:

1. In the opinion of the Local Planning Authority, the submitted 'business plan' and 'marketing strategy' do not provide sufficient detail to adequately demonstrate that there is a market for the holiday lodges in this location nor demonstrate its financial viability. To this end, the Local Planning Authority are not satisfied that a countryside location is appropriate and necessary for this development, contrary to policies S14 and DM22 of the adopted Mid Devon Local Plan 2013-2033
2. The proposal would result in additional pedestrians seeking to use the main road due to the lack of a pedestrian footpath in order to access the canal and other facilities. This would be to the detriment of public safety thereby contrary to policies S1 and DM1 of the adopted Mid Devon Local Plan 2013-2033

(Proposed by Cllr B G J Warren and seconded by Cllr Mrs C P Daw)

Reason for the decision: As set out in the report

Notes:

- i.) Cllr Mrs F J Colthorpe requested that her vote against the decision be recorded
- ii.) The following late information was reported:

Letter received from a member of the public advising:

'When this comes to the Committee for final decision, following the March 11th deferral, can you please correct the implication in the original officers' report that users of the lodges would be able to safely use the bus to get into Tiverton.

There is no bus stop between Halberton Court Farm shop (half a mile to the East), and the top of Post Hill (half a mile to the West). Buses passing at 40 mph along this road with no verge would therefore add to the hazard of access to the site, not mitigate it.'

160 **APPLICATION 20/01789/FULL - CHANGE OF USE OF HALL SOLELY FOR USE BY HOLIDAY MAKERS TO PUBLIC USE - BUILDINGS AT NGR 2944462 120596 DUVALE PRIORY, BAMPTON (3.33.29)**

At the Planning Committee meeting on 10th March 2021, Members advised that they were minded to refuse the above application and invited an implications report for further consideration. The Committee therefore had before it a *report of the Head of Planning, Economy and Regeneration setting out the implications of refusal.

The Principal Planning Officer reminded the Committee of the application by way of a presentation which highlighted the existing plans, elevations, photographs of the site, existing buildings and the driveway.

He provided the following answers to questions asked by the public:

- Environmental Health Officers had considered the previous history of the site
- Conditions did cover ventilation in the original consent and the vents had been sealed
- No sound surveys had been carried out but the level of noise had been conditioned
- The venue had been operating for a number of years and no noise complaints had been received
- Applications in 1989 and 1992 which required the removal of the buildings had been superseded by the appeal in 2013 which granted them permission
- All aspects of noise were debated at the previous committee meeting and car noise was stated as the reason for refusal
- There were two permitted uses already on site
- Members could decide to defer for further information if required
- Members needed to make clear and informed decisions for refusal and the implications of the costs of an appeal were a consideration

Consideration was given to:

- Members views that enforcement of noise issues was impossible in the evenings
- Enforcement and flooding were separate issues from the application in front of Members
- Members views that members of the public would make more noise than holidaymakers on site

It was therefore **RESOLVED** that: the application be refused on the following grounds:

1. The proposed use of the premises as a function room for public use by up to 30 people, and not solely for use by holiday makers, is deemed to be unacceptable and likely to cause unacceptable harm to the amenities of local residents living within the Exe Valley and the enjoyment of their homes late at night. In particular, there is a potential for increased noise and disturbance as a result of increased levels of traffic, associated with members of the public travelling to and from the site, who are not guests at the existing on site holiday accommodation. The suggested controls are not considered to overcome or remove or adequately control the noise and disturbance to the area arising from the use of the premises as a function room for public use and as such would be contrary to policies DM1, DM4 and DM22 of the Mid Devon Local Plan 2013-2033.

(Proposed by Cllr S J Clist and seconded by Cllr G Barnell)

Reason for the decision: as set out in the report

Notes:

- i.) Cllr Mrs F J Colthorpe declared a personal interest as she knew Cllr Knowles from Stoodleigh Parish Council
- ii.) Cllrs S J Clist, Mrs C P Daw, E J Berry and R F Radford made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from objectors
- iii.) Cllrs Mrs F J Colthorpe and D J Knowles requested that their vote against the decision be recorded
- iv.) Cllrs L J Cruwys, Mrs C P Daw and R F Radford requested that their abstention from voting was recorded
- v.) The proposer and seconder and Cllr C Eginton confirmed that they would defend the decision at appeal if necessary
- vi.) The following late information was reported:

1. Duvale Priory already has planning permission for 30 people to come on and off the site to attend functions/ yoga etc in our Small Function Room.

2. The current planning application is exactly the same as we all already have but we wanted to give people the option to have more space by using the main hall which is significantly larger, this to me seems extremely sensible given the current situation with the coronavirus and it's likely hood for it to be around for many years.

3. There would be NO change in any amount of traffic coming to and from the site that people are concerned about, we can already have 30 people coming in and out we are just requesting that they are able to use a different building.

(The meeting ended at 6.38 pm)

CHAIRMAN

PLANNING COMMITTEE AGENDA - 26th May 2021

Applications of a non-delegated nature

<u>Item No.</u>	Description
01.	20/01991/FULL - Erection of an agricultural workers dwelling at Land at NGR 288335 107070, Road from Redyeates Cross to Hayne Cross, Cheriton Fitzpaine. RECOMMENDATION Grant permission subject to conditions.

Application No. 20/01991/FULL

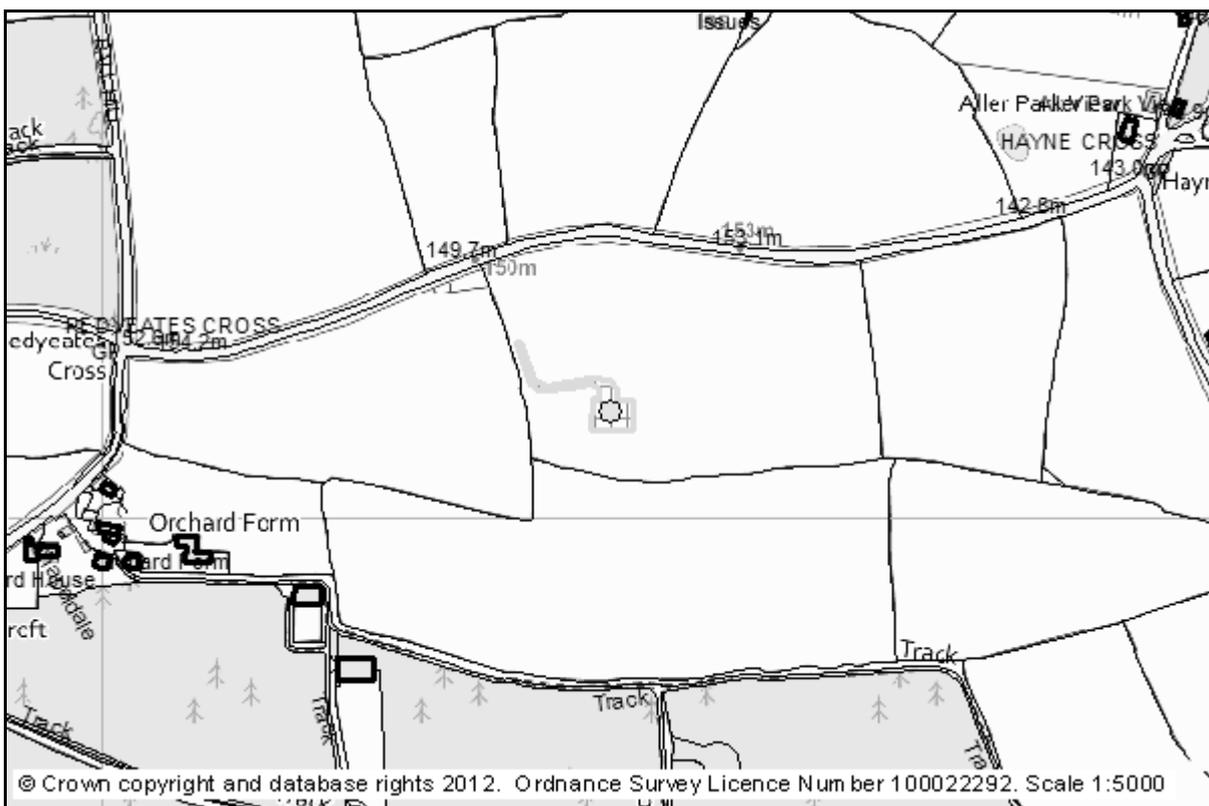
Grid Ref: 288383 : 107104

Applicant: Mr and Mrs Thorne

Location: Land at NGR 288335 107070
Road from Redyeates Cross to Hayne Cross
Cheriton Fitzpaine
Devon

Proposal: Erection of an agricultural workers dwelling

Date Valid: 30th November 2020



APPLICATION NO: 20/01991/FULL

MEMBER CALL-IN

This application has been called in by Councillor Colthorpe on the following grounds:

To consider whether the development is contrary to policy, the justification for the dwelling and whether it is commensurate with the scale of the agricultural operation.

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

The applicant seeks planning permission for the erection of an agricultural workers dwelling on land at NGR 288335 107070, Road from Redyeates Cross to Hayne Cross, Cheriton Fitzpaine. The proposal includes the creation of an extended entrance drive and a private garden space. The dwelling would be constructed with the front elevation facing north, with vehicle parking to the side with a garden curtilage proposed.

The two storey dwelling would be in the form of two wings with a central link, having 4 bedrooms and an internal floor area of 180 square metres with accommodation over the two floors. The dwelling would have a height to eaves of 4.5m and an overall height of approximately 6.9 metres. In terms of materials for the dwelling, there would be natural stone walls up to the first floor and after the use of Larch/ Cedar/ Cedral horizontal weatherboarding on the exterior finish. The proposed materials would include Velfrac (or similar) windows and doors and a natural slate roof.

It has been outlined in the submission that the applicant is a mixed arable and livestock farmer, currently growing fruit, vegetables and cereals, rearing sheep and cattle and operating from Thornes Farm.

APPLICANT'S SUPPORTING INFORMATION

Completed application form, Plans, Agricultural Appraisal, Supplementary Justification to Agricultural Appraisal, Design and Access Statement, Foul Drainage Assessment Form, Wildlife Trigger List, Surface Water Drainage Strategy.

RELEVANT PLANNING HISTORY

18/01450/FULL - PERMIT date 13th December 2018

Retention of engineering works for improved site access; construction of access track and hard surfaced yard

18/01530/FULL - PERMIT date 13th December 2018

Erection of an agricultural storage building

21/00461/FULL - PCO date

Erection of extensions to existing agricultural storage building 660sqm

DEVELOPMENT PLAN POLICIES

Mid Devon Local Plan Review 2013 – 2033

S1 - Sustainable development priorities

S8 - Infrastructure

S9 - Environment

S14 - Countryside

DM1 - High quality design

DM3 – Transport and Air Quality

DM5 - Parking

DM8 - Rural workers' dwellings

CONSULTATIONS

Cheriton Fitzpaine Parish Council - 26th April 2021:

The Parish Council do not feel that the changes made to the application materially address the objections raised and so we continue to object to the development on the grounds previously stated below:-

The Parish Council wishes to Object to the Planning application. The size and location of the development not in keeping with the requirement, the requirement is not current, the requirement is at a future date if the developments are made there may be a requirement to have someone on the site, nothing we can see within the document have been made available to us would make us believe that this is a genuine requirement for the business to continue. New housing, including affordable housing, currently being built with more already given permission, so the statement that local housing options are very limited and too costly is not the case.

Cheriton Fitzpaine Parish Council – 17th March 2021:

The Parish Council wishes to Object to the Planning application. The size and location of the development not in keeping with the requirement, the requirement is not current, the requirement is at a future date if the developments are made there may be a requirement to have someone on the site, nothing we can see within the document have been made available to us would make us believe that this is a genuine requirement for the business to continue. New housing, including affordable housing, currently being built with more already given permission, so the statement that local housing options are very limited and too costly is not the case.

Cheriton Fitzpaine Parish Council – 5th February 2021:

The Parish Council wishes to Object to the Planning application 20/01991/FULL

Reasons : The size and location of the development not in keeping with the requirement, the requirement is not current, the requirement is at a future date if the developments are made there may be a requirement to have someone on the site, nothing we can see within the document have been made available to us would make us believe that this is a genuine requirement for the business to continue. Also, new housing, including affordable housing, currently being built with more already given permission, so the statement that local housing options are very limited and too costly is not the case.

Highway Authority – 6th April 2021

The County Highway Authority has no further comments to make

Highway Authority – 7th December 2020:

The County Highway Authority recommends that the Standing Advice issued to Mid Devon District Council is used to assess the highway impacts, on this application.

Public Health – 16th December 2020
Contaminated Land: No comment. (11.12.20).

Air Quality: No comment. (11.12.20).

Environmental Permitting: No objection to this proposal. (01.12.20).

Drainage: No comment. (11.12.20).

Noise & other nuisances: No comment. (11.12.20).

Housing Standards: No comment. (14.12.20).

Licensing: No comments. (30.11.20).

Food Hygiene: No comments. (01.12.20).

Private Water Supplies: If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use.

You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence.

Please contact Public Health at Mid Devon District Council on completion of proposal.

If mains water is to be used, would have no comment. (30.11.20).

Health and Safety: No comments. (01.12.20).

Environment Agency - Operational development less than 1 ha within Flood Zone 1 - no EA consultation required - see surface water management good practice advice - see standard comment

REPRESENTATIONS

Nine letters of representation were received objecting to the development. The objections are summarised as follows:

- The site is not located in Stockleigh Pomeroy but at Redyeates Cross.
- The agricultural appraisal has not been uploaded to the planning website.
- The agricultural appraisal is an inaccurate and misleading document.
- Questions raised to the writer of report for agricultural appraisal who appears to be Leader of West Devon Borough Council.
- Only 9% of labour requirements relate to livestock farming.
- The functional need works out at less than one full time worker based on the current livestock levels.

- There are plenty of examples of farms where the owner or workers do not live on site without issues.
- The existing farmhouse is only a mile away, and many farmers do not live as close to their land as the applicant.
- There are affordable 4 bedroom properties available below £300k within 5 miles of the site, such as Cheriton Fitzpaine.
- 13 sheep would only be seasonal during lambing season where a caravan could meet this need.
- Daily operations in winter months for animals does not take place on this site as there is no livestock building, only a general store building.
- There is only one other building on site so the dwelling will be in an isolated location.
- Whilst the appraisal refers to 'The Farm' there is only a general store barn at Redyates Cross site with all other buildings and facilities based on the Stockleigh Pomeroy site which could provide the site for the dwelling, possibly through Class Q rights.
- The Stockleigh Pomeroy site is the site where the major animal activity such as lambing and calving is carried out and where the least travel will be involved.
- Is the applicant planning to build this house to sell to his future farm worker and if so is he going to sell such a large house in the open countryside for as little as £300k?
- Applicant's future intentions questioned as this is more about building a retirement home for the applicant in a very desirable green field plot.
- The design is a substantial house far larger than one would expect for a workers dwelling being in a "green area", in a prominent position having significant detrimental visual impact.
- The design is not of the architectural quality that would justify an isolated new rural development.
- Would be surprised if the applicant could provide a business case to justify this development.
- The size of the development raises suspicion that this is an attempt to get permission for a development by the backdoor unless there is a valid business or access need.
- Potential light pollution and the impact on the dark night sky and on insects, particularly bees. Contrary to Policy S9 - protecting and enhancing environmental assets.
- The proposed house has extremely large windows on the North and South. This may provide a wonderful vista for the agricultural worker who will inhabit the house, but it takes no account of the environmental impact and potential damage.
- The amount of light that will beam from the house when the lights are on in the evening may have the following potential affects, lighting of dark night sky with the house being a beacon, shining light in all directions from the hill onto the lower hillsides, seen from the surrounding hills which are at a higher altitude.
- The traditional farmhouses and cottages in this rural locality of mid Devon were built with small windows and the light pollution is therefore minimised.
- There are apple orchards based directly to the south of the proposed house, there is one field between the proposed development and the orchards. The light pollution may have a negative impact on the bees which live in those orchards, reducing pollination at night and daytime. Scientific research shows this to be the case.
- No planning notice was seen to be displayed.
- The lane has seen increased traffic due to the increased numbers of existing barn conversions under Q, and is in a poor state and cannot sustain any further damage.
- Environmental impact and flooding concerns.
- This development does not comply with the District Council's policies DM20 and S14 which state that agricultural development must be sensitively located and appropriately scaled and designed.
- The current small landholding does not justify a new agricultural tied house.

- The plans show there is a utility room and an office on the ground floor, but no kitchen. If approved would there be a further application to extend the property.
- Why does this agricultural worker require a 4 bedroom house with a glass linking bridge and a glazed balcony and how much is it going to cost to build this property?
- This could be a trojan horse to set the standard for other farmers to drive a coach and horses, or other livestock, through the planning applications.
- The floor area of the modified house plan is 181 square metres. The Planning Officer stated that agricultural workers dwelling should be in the band of 140 - 160 square metres floor area. Therefore, this new plan is still proposing a house 13% larger than the upper end of what is deemed acceptable and should be rejected.
- The livestock activity being used to justify this new build house is not an ongoing activity at this site.
- This new build house development does not adhere to planning policies DM20, DM8, DM6, S14, S9 and S1.
- The bulk of the other land is rented and one assumes that much of it would be for grazing with no on-site dwelling. Therefore the issues of travel to check stock will apply to the majority of the business.
- The applicant has not provided evidence that the existing business requires such a dwelling in order to remain viable, only that he would like to expand his livestock to a level he claims requires a full time worker on the site.
- While the current enterprise forms approximately 250 acres, only 70 acres is actually in the applicant's ownership; the rest is leased, largely seasonally. This does not therefore constitute a permanent holding for which there might be some argument for a further permanent dwelling.
- To allow a new dwelling in the countryside on the basis of future projections on unsecured land simply cannot be acceptable under current national and local policy.

MATERIAL CONSIDERATIONS AND OBSERVATIONS

With respect to the background of the agricultural enterprise subject to this application, it has been explained that the Applicant farms approximately 250 acres of land, used either for grazing, grassland or for growing fruit and vegetables. The core of the farm comprises 17 acres held owned by the Applicant with a farmhouse, farm shop with pick-your-own crops adjacent, newly built cold store and restaurant. Approximately 1 mile away is a freehold site of 53 acres where there can be up to 100 animals (shorthorn beef, calves, ewes and lambs) and this is where the new property would be sited. The balance is made up of around 160 acres of grassland, used for grazing and silage, and 20 acres used for growing potatoes, cauliflowers and cabbages. This ground is held on short term cropping licences.

The Applicant has been operating the farming business since 1986 and has expanded the business adding the shop, the pick-your-own area, a restaurant and a cold store on the original site. Due to the nature of modern farming and the ever-increasing difficulty of making the margins required to stay profitable, it has been outlined that the farm must expand and diversify and at the same time, the Applicant would like assistance with managing of the farm and planning for the future. That is the reason behind the application for an agricultural workers dwelling on site.

The main issues in respect of the application scheme are:

- 1. Policy – essential need**
- 2. Highways**
- 3. Design issues**
- 4. Other issues**

1. Policy – essential need.

In March 2012, the direction of national planning policy changed with the introduction of the Framework (revised later in 2018 and 2019). This revoked a previous raft of national planning policy documents, including Planning Policy Statement (PPS) 7 Sustainable Development in Rural Areas. Whilst national policy encourages innovation and economic growth in the countryside (and elsewhere), it is clear from reading the Framework as a whole that this is not to be achieved irrespective of any environmental cost. The Framework gives support to economic growth in rural areas in order to create jobs and prosperity. The proliferation of dwellings in attractive landscapes, such as in Mid Devon, would, if unchecked, result in visual harm and prejudice this core principle. The Framework (paragraph 79) also states that new, isolated homes in the countryside should be avoided, unless there are special circumstances, one of which is the essential need for a rural worker to live permanently at or near their place of work. This forms the basis of the applicant's case.

The Framework requires a convincing case for essential need to be made, which implies the need for criteria. Although the tests in PPS7 Annex A no longer have the weight of Government policy, they remain, in the Council's view, appropriate for assessing whether an essential need can be demonstrated. Various appeal decisions made since the Framework was published suggest that the PPS7 tests could be a material consideration when determining whether a worker's dwelling would meet an essential need. This is reflected in policies S14 and DM8 of the Mid Devon Local Plan 2013-2033 which both allow for agricultural/forestry/rural workers dwellings in the countryside where, amongst other things, an essential need has been shown.

The site is in the open countryside where policy requires that development be strictly controlled. An exception can be made for an agricultural workers dwelling if an essential need can be proved as advocated in the NPPF and policy DM8. DM8 (Rural workers' dwellings) of the Mid Devon Local Plan 2013-2033 states that:

'Applications for rural workers' dwellings will be permitted where:

- a) It can be demonstrated that the nature and demands of an existing rural business are such that a full time worker has an essential need to be permanently resident at or near their place of work so they are available at most times;**
- b) The need cannot be met within a nearby settlement, or by existing housing at or near the site or through the conversion of a suitable redundant or disused rural building at the site;**
- c) The size and scale of rural workers dwellings will be commensurate with the scale of the operation and designed to reflect the location and setting of the proposed site; and**
- d) The rural enterprise has been established for at least three years, is currently financially sound, and has a clear prospect of remaining so.'**

The application is accompanied by an appraisal, financial statement and accounts which provide justification to support this second dwelling on the agricultural holding in line with Policy DM8. The policy requires that the business should be financially sound and has the prospects of remaining so. It is also recognised that any such assessment needs to take into account the individual circumstances of the applicant and it remains paramount that any application is considered on its own individual merit, when set against any such general 'tests'.

Policy S1 of the Mid Devon Local Plan 2013-2033 relates to the provision of development in a sustainable manner. With this current application, the applicant has confirmed the scope of the holding area which the occupiers will farm and which presents the essential need for the dwelling. The Applicant currently resides in a farmhouse which is sited on his original farm holding, a site of 17 acres in Stockleigh Pomeroy. The farm business owns a further 53 acres approximately 1 mile away from the original holding. A permanent agricultural worker's dwelling is proposed to be

developed on this site. It has been outlined that there are some farm buildings, but no residence, on the larger site and the Applicant currently travels between the two sites, and other land rented by the business, several times during the day and night, seven days a week to feed, to monitor the welfare of the animals and carrying out all the other tasks on the farm. The land to the north of the proposed dwelling includes a barn which has recently been the subject of a planning application for extensions to provide livestock sheds. The extensions once completed will maintain the necessary infrastructure on the holding.

As referred to above Policy DM8 requires that it can be demonstrated that the nature and demands of an existing rural business are such that a full time worker has an essential need to be permanently resident at or near their place of work. The documentation submitted as part of this application would appear to indicate that the beef and sheep enterprise that the applicants intend to operate on site will continue to meet the test in criterion (a) of Policy DM8 in this regard.

The agricultural appraisal outlines that the estimated FTE (Full Time Equivalent) of labour would work out as 1,900 hours per year. The agricultural assessment submitted for the combined agricultural enterprise demonstrates an FTE need for as many as 14 full time members of staff. However, it was noted initially that the enterprise in part relates to the Thorne Farm shop site and farming operation with the proposed dwelling the subject of this application being required on another part of an established holding in order to be within site and sound of the livestock farming element. The overall functional need for the holding within the appraisal is based on a combination of fruit/vegetable growing/picking and livestock rearing (cows/sheep). Therefore, the first assessment carried out was based on how much of the farming activities listed would generate a need to live onsite for the livestock farming.

With regard to the current farming enterprise, as noted it extends in total to approximately 250 acres, upon which there can be up to 100 animals (shorthorn beef, calves, ewes and lambs) at any one time. The main case put forward is for someone to live onsite for the sheep and cattle operation with the calculation for the sum of the hours that the livestock elements would generate being based on the 13 sheep/80 cattle in the appraisal. The rough calculation carried out by officers identified the need being below 1 full time worker in association with the livestock farming.

This matter was therefore questioned further, as it needs to be demonstrated that these calculations would satisfy the requirement that the nature and demands of an existing rural business are such that a fulltime worker has an essential need to be permanently resident at or near their place of work. As noted in some of the objections received, generally sheep farming would generate an essential need around lambing being seasonal and in this case this part of the enterprise only amounts to 13 sheep which includes the rams. The appraisal originally submitted did not comment on how many calves there would be each year which was needed to be known given that this is the main element of the enterprise which would generate an essential need.

A further supplementary justification to the agricultural appraisal has been provided which comments that the proposed property is situated at a site away from the main farm complex and the justification for the residential building is twofold:

1. Care of the livestock, with both lambing and calving requiring attendance which, at present, involves travel from the main farm complex 1 mile away;
2. Improved security on the site – there have been recent thefts of equipment from the site, one of which was reported to the Police.

The figures of the first appraisal submission have also been expanded upon with standard labour requirements for this part of the farm shown as those recorded in the original document as: Ewes and rams 13 animals at an SLR of 5.2 = 68, Beef cows 80 at an SLR of 26 = 2,080 and Overhead activities @ 15% of the above = 380. Therefore the total hours would be 2,528 hours. As noted

above, the estimated FTE (Full Time Equivalent) of labour is 1,900 hours per year. Accordingly, if we viewed this physically separate and distinct part of the farm holding as a business unit in its own right, the workload on this site accounts for more than one full time job.

It was commented upon that increased attention to expanded animal numbers would produce additional pressures especially during the lambing season whereby the lambing ewes require virtually constant supervision. Outside the lambing period, additional livestock management duties would include foot-trimming, worming, drenching, shearing, and other activities which focus on animal health and ensuring the sheep do not succumb to illness or infection. The applicant comments that if the application were to be successful, the Shorthorn herd could be expanded where there would be an increased number of calves at Thornes Farm all year round. This aspect of the business would require constant supervision as calves are susceptible to pneumonia. In cases where there is an outbreak, staff would be required to attend the farm several times each night to administer medication.

The supplementary justification outlines that if permission to develop a suitable residential property onsite is approved the plan would be to increase the numbers of animals as follows: Ewes and rams 47 animals at an SLR of 5.2 = 244, Shorthorn beef cows 15 at an SLR of 26 = 390 and overhead activities at 15% of the above = 95. This would equate to an additional 729 hours. Assuming an FTE of labour of 1,900 hours per year this is an additional 0.4 position in its own right, much of which the applicant claims can only safely and realistically be carried out by a dedicated individual living on site.

In support of the application, the applicant comments that one of the reasons for increasing the size of the shorthorn herd is demand with the farm having an excellent reputation for producing this breed and currently has more customers than it is able to supply. The setup at the moment is, as explained in the appraisal, far from ideal from an animal husbandry perspective. The farm's view at the moment is that risk when calving can only be offset by having suitably experienced staff available and on hand. At the moment some 35 to 40 animals are being calved and they anticipate that this would rise to 50 to 60 animals in due course. 60 calving cows would, exclusively, generate an SLR requirement of around 1,800 hours and therefore this part of the operation justifies a resident full time worker in its own right.

The Applicant states that they would like to expand the livestock operation but cannot justify further investment on the farm, or risk the well-being of calves and lambs, without suitable staff living on site. The person responsible for the welfare and successful rearing of the animals could not spend 1-2 hours every day travelling to and from the farm, and not being on hand immediately should any of the animals require assistance or treatment. The applicant farms a herd of 35 shorthorn beef cattle plus followers which he judges to be the top 10% in the breed. At present bulls and heifers are sold but the herd could be expanded. The applicant also has a flock of 13 sheep which, again, he would like to expand. The case is made that developing the livestock aspects of Thornes Farm would help to reduce the risk of market uncertainty in any one enterprise via a policy of diversification. Expanding and further diversifying on-farm income streams would help to secure the future of the farm, however, it is not possible to do so without a dwelling onsite as the Applicant will not be able to personally provide care at short notice required for additional numbers of animals. There is the additional benefit to the security of the remote site from having staff resident.

Criterion (b) of the same policy notes that that need shouldn't be capable of being met in a nearby settlement or existing housing at or near the site or through the conversion of a suitable redundant or disused rural building at the site. There are no redundant or disused buildings on this part of the farm holding. In terms of size of the proposed dwelling, policy generally requires that the dwelling

should be commensurate with the scale of the operation and designed to reflect the location and setting of the site.

In terms of alternative accommodation, as noted there are no other dwellings on this part of the holding and there are no agricultural tied dwellings for sale in the vicinity with the nearest affordable housing possibly being available in the village of Cheriton Fitzpaine once constructed on the allocated sites within the Local Plan, but not yet available. Therefore the closer available affordable units are likely to be Crediton some 4 miles away. The other matter to take into account is the statement within the appraisal that most available affordable housing is likely to be smaller units/apartments and not suitable for the occupant that the business would like to attract with the preferred profile to be an experienced farm manager, probably with a young family or aspirations to put down roots.

In terms of alternative locations even if a dwelling in the nearest village at Cheriton Fitzpaine became available it would not provide an acceptable relationship in terms of being in sight and sound of operations on site. As outlined the agricultural enterprise operates as two separate units. The farm could not be easily reached from alternative accommodation close by in the event of an emergency. This being so, and given that it remains a reasonable conclusion that there remains an essential need for a dwelling at the holding. The dwelling would be ideally located to meet the functional need of this particular unit and it would have the added benefit of providing security and a deterrent for potential intruders, although this in itself does not justify a dwelling it strengthens the applicant's case.

With respect to the size of the dwelling, the applicant's agent has confirmed that the internal floor area would be 180 square metres with it being noted that the dwelling includes a farm office. There is no policy within the Local Plan specifying the size of an agricultural dwelling with a rule of thumb being to aim around 140-160 square metres with the upper end being where an office is proposed. However it should be noted the Local Planning Authority has approved dwellings up to 200 square metres where they have been considered to be commensurate to the holding so the applicant would be able to find examples where larger dwellings were approved within the district.

Whilst the overall floor area of the dwelling is 180 square metres, in respect to the requirements of policy, on balance, it is considered to be in line with general practice guidance for agricultural workers dwellings. The dwelling was reduced down from the original submission and on this basis it is considered reasonable to conclude that the scale and size of the dwelling as now proposed is commensurate with the scale of the operation with the location and setting of the proposed site, in accordance with criterion (c) of Policy DM8.

Evidence has been submitted to demonstrate the business is financially sound and that the long term viability of the enterprise is not in question. Within the three year accounts, it has been demonstrated that the enterprise has been profitable to the extent where it could support a farm worker. In summary therefore, the proposal for a dwelling at the site, is considered to be necessary and in compliance with policy DM8. The essential need for a resident worker relates to an operating livestock unit and as such a condition to restrict occupancy to an agricultural worker and resident dependents is recommended. In addition to this, to ensure that the dwelling remains affordable in the long term, permitted development rights have been removed which would also limit the impact on the amenities of the area.

2. Highways

Access to the proposed agriculture workers dwelling is to be off an existing farm track from the main access off the country lane which is considered acceptable in terms of providing a satisfactory means of access (Local Plan Policies DM3/S8) and will not adversely affect the visual

amenities of this part of the open countryside. Sufficient provision/space within the curtilage is made for parking to ensure compliance with the LPA's adopted standards of 2 spaces. Although the site is remote, provided the house is occupied as an agricultural workers dwelling then Policy S14 and DM8 override the fact the site is in an unsustainable location. No objections were received from the Local Highway Authority on the grounds of highway safety.

3. Design issues

The floor area of the dwelling at 180 square metres with the height of the building kept low through the roof design, which in this instance is considered reasonable and commensurate with the scale of the operation, i.e. to provide a house for a manager (and their family), providing 4 bedrooms on first floor with a living room, kitchen, dining area on the ground floor with utility room.

The house is located to the rear of the existing barn on site which has is subject to a separate planning application for permission to be extended to provide livestock housing. The materials of the dwelling being stone to lower part of wall and timber cladding/weatherboard to upper part with slate roof are considered to be acceptable. The site is not within a designated landscape. All development has some visual impact on the countryside, and that is why such proposals have to justify the need for an exception to the policy of protecting the countryside for its own sake. The proposed dwelling would have a visual impact on the landscape. In this instance, the impact on the visual amenity of the area and the rural character is not considered significant to warrant refusal of the application.

In terms of the impact on the amenity of occupiers of neighbouring property, the dwelling proposed would be located over 200m away from the nearest residential property. Therefore it is not considered that there would be any significant detrimental impact on amenity of neighbouring occupiers. A main concern of neighbours relates to light pollution given the amount of glazing mainly within the north and south elevation although it could be argued that the glazed link is of most concern as other windows could have screens/curtains which could be closed in the evening. A condition is recommended so that no external lighting shall be provided unless an application in that regard is first submitted to and approved by the Local Planning Authority.

With respect to internal lighting, it is considered that the topography and position of the dwelling would be such that views to the north of the dwelling would help screen the dwelling from public vantage points. The south elevation could be more open but with longer range views across the valley. However it is not considered that development would be such that it would create a beacon resulting in substantial light pollution within the area.

With regard to drainage, a package sewage treatment system is proposed to deal with foul drainage and a soakaway is proposed for surface water drainage. Given the area of land controlled by the applicant it is not considered necessary to require further details to be submitted for approval by the planning authority as the technical details for surface water disposal and foul will be controlled by building regulations. The proposals are considered to accord with the requirements of policy S9 and DM1.

4. Other issues

Given that this is an application for a new dwelling in the open countryside and the planning justification for it is to support the agricultural activity on the site, it is necessary to consider if it is necessary to prevent the dwelling from being sold off separately to the land within the holding. Given the location of the house directly to the rear of the agricultural building, it is not considered that it would be readily occupied not in connection with the activity on the holding. As stated above the applicant has confirmed the ongoing viability of the business by submitting trading accounts

and the farming enterprise has been established for a long period of time. Taking the above into account it is considered that an occupancy condition on the new dwelling will be sufficient to ensure the necessary controls regards future occupation in order to comply with policy DM8 and S14 of the Mid Devon Local Plan 2013-2033.

There are no other materials considerations to weigh against the grant of planning permission, and approval subject to conditions is recommended.

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between different people when carrying out their activities. This is called the Public Sector Equality Duty or "PSED". No persons that could be affected by the development have been identified as sharing any protected characteristic.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Prior to their use within the development hereby approved, details and/or samples of the materials to be used for all the external surfaces of the building have been submitted to and approved in writing by the Local Planning Authority. Such approved materials shall be so used and retained.
4. The occupation of the dwelling hereby approved shall be limited to a person solely or mainly working, or last working, in the locality in agriculture (as defined by Section 336(i) of The Town and Country Planning Act 1990), or in forestry or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
5. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) Order 2015 as amended by the Town and Country Planning (General Permitted Development) Amendment (No.2) Order 2016 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes A, AA, B, C and E of Part 1 of Schedule 2, relating to extensions, dormers, alterations to roof and outbuildings shall be undertaken within the dwelling curtilage without the Local Planning Authority first granting planning permission.
6. No external lighting shall be provided unless an application in that regard is first submitted to and approved by the Local Planning Authority.

REASONS FOR CONDITIONS

1. RD1 in accordance with provisions of Section 51 of the Planning and Compulsory Purchase Act 2004
2. RD7A for the avoidance of doubt in the interests of proper planning.

3. To ensure the use of materials appropriate to the development in order to safeguard the visual amenities of the area in accordance with Policy DM1 of the Mid Devon Local Plan 2013-2033.
4. The site is located outside defined settlement limits in the open countryside, where national and local planning policy requires that there is an 'essential need' for workers to live at or near their place of work in accordance with Policies S14 and DM8 of the Mid Devon Local Plan 2013-2033 and National Policy in the National Planning Policy Framework.
5. To safeguard the visual amenities of the area and character and appearance of the building in accordance with Policy DM1 and to ensure that the dwelling remains of a size commensurate with the needs of the agricultural holding to which it relates in accordance with Policies S9, DM1 and DM8 of the Mid Devon Local Plan 2013-2033 and the NPPF.
6. Having regard to the countryside setting and to safeguard the visual amenities of the area in accordance with Policies S9 and DM1 of the Mid Devon Local Plan 2013-2033.

INFORMATIVE NOTE:

1. If a private supply is to be used by more than one property or has a commercial function, The Private Water Supply (England) Regulations 2016 as amended will apply. A risk assessment and sampling regime will be necessary. The supply must not be used until the Local Authority (Mid Devon District Council) is satisfied that the supply does not constitute a potential danger to human health, including single domestic use. You must also register with the Local Authority (Mid Devon District Council) any private water supply. Failure to do so may result in a Section 85 Notice, with which failure to comply is an offence. Please contact Public Health at Mid Devon District Council on completion of proposal.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The application is for the erection of a permanent agricultural rural worker's dwelling on the holding in the open countryside with access from the existing farm track. An agricultural appraisal has been submitted which demonstrates that the circumstances at the site justify the need for this dwelling on the site and that the site as proposed is a suitable location on the site for the dwelling. The means of access and connectivity back to the agricultural barn is considered acceptable with no highway safety concerns envisaged. The layout, scale, appearance of the dwelling as submitted are considered acceptable in demonstrating that it will be possible to accommodate a dwelling on the site which is considered to be reasonable and commensurate with the scale of the operation undertaken on the holding. It will also be in a manner which is acceptable from a landscape perspective, without adversely affecting the area. A condition is recommended to control the use of the dwelling so that it is not occupied other than for an agricultural worker and other conditions are required to ensure high quality materials are used. On this basis the proposal accords with the following Policies: S8, S9, S14, DM1, DM5 and DM8 of the Mid Devon Local Plan 2013-2033 and policy guidance in the National Planning Policy Framework.

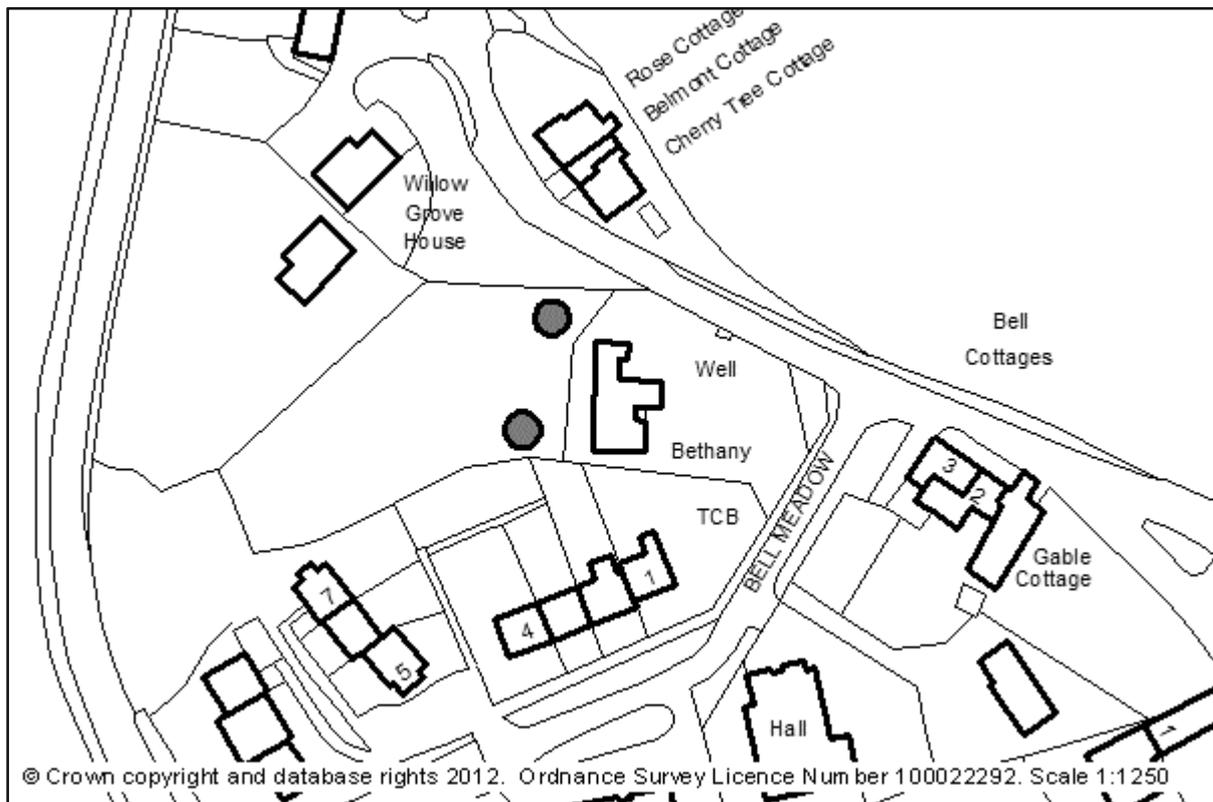
The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

Tree Preservation Order: 21/00001/TPO

Grid Ref: 294020 : 107201

Location: Bethany
Bell Meadow
Bickleigh
Tiverton

Proposal: Tree Preservation Order for 1 Silver Birch and 1 Fir tree



TREE PRESERVATION ORDER: 21/00001/TPO

REPORT OF THE HEAD OF PLANNING AND REGENERATION

Reason for Report:

To consider whether a Tree Preservation Order should be confirmed in light of the objection that has been received.

RECOMMENDATION

That the Tree Preservation Order 21/00001/TPO is confirmed.

Relationship to Corporate Plan:

The proposal impacts upon the Corporate aim of 'Protecting the natural environment'

Financial Implications:

None

Legal Implications:

Tree Preservation Orders are made under the Town and Country Planning Act 1990 as amended by the Town and Country Planning (Tree Preservation) (England) Regulations 2012. Local Planning Authorities can make a Tree Preservation Order if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area.

Risk Assessment:

None

Consultation carried out with:

1. The landowners have been notified of the imposition of the Tree Preservation Order and provided with the opportunity to object to its confirmation.

PROPOSAL:

Tree Preservation Order for 1 Silver Birch and 1 Fir tree

RELEVANT SITE HISTORY/DESCRIPTION:

This Tree Preservation Order was made following an assessment undertaken by the Tree Consultant acting for the Local Authority of the Silver Birch Tree and Fir Tree following submission of a Section 211 notice for works to trees on a site within the Bickleigh Conservation Area. One letter of objection has been received in relation to Tree Preservation Order 21/00001/TPO from the owners of the site.

The relevant history of the site is as follows:

17/00308/CAT - NOBJ date 29th March 2017

Notification of intention to fell 1 Oak tree, remove dead and diseased wood from 1 Oak tree and reduce height of a mixed hedgerow within the Conservation Area

20/02031/CAT - NOBJ date 28th January 2021

Notification of intention to dismantle 1 Lawsons Cypress and 11 Ash within the Conservation Area

21/00480/CAT - NOBJ date 21st April 2021

Notification of intention to fell 1 Ash tree and reduce overhanging limbs of 1 Ash tree within the Conservation Area

AMENITY EVALUATION:

The silver birch and the fir both make a significant contribution to local public amenity. Amenity evaluations undertaken by the Tree Consultant for the Council gave the trees a score of 17 and 16 respectively. Following this amenity evaluation, it was deemed necessary to place further protection on these trees in the form of a Tree Preservation Order.

REPRESENTATIONS:

One objection to the TPO has been made from site owner Mr Vautier on the following grounds:

1. Tree T1 (Silver Birch) is less than 20 feet from our house. It significantly shades the property, it is covered in ivy with numerous dead branches and was identified by a professional tree surgeon (Four Seasons Tree Services) to pose a risk to our home;
2. Tree T2 as a fir tree is of particular concern: Spruce trees are naturally planted or seeded in groups; this provides the group of trees with an interlocking roots system and ensures that wind loads are shared. The Spruce (T2) is fast growing with a shallow root base, is non-indigenous and it was originally planted as an ornamental tree in the garden many years ago. It has not been maintained and grown above the surrounding tree canopy fully exposed to high winds from all directions with no other trees to interlock its roots and taking the full brunt of high winds. It should also be noted that the land falls away to the north east of the tree, it is most likely that the whole tree will be uprooted due to shallow root base and fall toward the houses below us (the prevailing winds are south westerly).
3. The proposed TPO is against the professional advice we sought and intended to follow to make the trees safe, the Order prevents any action and is the reason we believe you are exposing the Council to possible compensation claims.
4. We have spoken to our neighbours who fully support our wish to remove both trees and question either tree provides 'amenity value' which we understand is a significant basis for placing a tree under a preservation order.

MATERIAL CONSIDERATIONS AND RESPONSE TO THE OBJECTIONS:

Background

A notification for works to trees within a conservation area was submitted to the Council on 3 December 2020. The Council's tree consultant carried out a site visit and evaluations in respect of T1 (Silver Birch) and T2 (Fir) were carried out. The standard evaluation form (Poole System) was completed on the 14/01/21. An evaluation score of 17 was recorded in respect of T1; an evaluation score of 16 was recorded in respect of T2. (>15 merits consideration for a Tree Preservation Order).

The Silver Birch (T1) tree is located in the rear of the property, is 18m high with a good form and a life expectancy of between 15-40 years. It is considered to have an insignificant influence on structures. Tree easily visible from Bell Meadow, and from the road on the north side, and is also visible from the main A396 road. It is considered that the tree has a positive impact in terms on the character and appearance of the locality.

The Fir (T2) tree is located in the rear of the property, is 22m high with a good form and a life expectancy of between 40-100 years. It is considered to have an insignificant influence on structures. The health and vitality of this tree appears normal. The tree is easily seen from Bell Meadow, from the road to the north and can be seen at longer range from the A396

road to the west. This tree also has a positive impact on the character and appearance of the locality

A Tree Preservation Order (TPO) was served on the 19/01/21 in respect of trees T1 and T2.

Objection

A formal objection of the tree preservation order was submitted by Mr Vautier on 12/02/21.

The objection to the TPO by Mr Vautier can be summarised in terms of the Silver Birch (T1) being within 20 feet of the house and shades the property. The tree is colonised by ivy and there are a number of dead branches. A tree consultant has advised that the tree is a risk to property and people. In terms of the Fir tree (T2) the objection can be summarised as the tree is a non indigenous tree and should be within a group rather than a single ornamental tree. The tree is fast growing with shallow roots and exposure to high winds could cause the tree to fall on the neighbouring property.

Review of the Objection and Appraisal

The Tree Consultant has reviewed the objections from Mr Vautier and has concluded that a Silver Birch of this size is not so close to the house to create excessive shading to the windows of the house. Silver Birches cast a light dappled shade due to their shape and foliage and some minor pruning and management of the Silver Birch tree would alleviate the canopy encroachment on the house. This would reduce the shading issue. Furthermore under Regulation 14 of the Town and Country (Tree Preservation) (England) Regulations 2012 the ivy could be removed from the tree and any dead wood could be removed. Neither of these would require a formal approval under the Regulations. In addition there is little evidence submitted to support the contention that the tree is a risk to people and property.

In regards to the Fir tree, the Tree Consultant has commented that a Fir tree is a hardy tree and will adapt to the prevailing wind conditions to be stable even when it is a planted as a single tree. No evidence has been submitted to support the contention that the tree has such shallow roots that could not support the crown of the tree, making it unstable. Furthermore no evidence has been submitted to show why the height of the tree combined with its position in the garden would pose an unusually high risk to the house.

It should be noted that it is not a requirement for a TPO to be served for the tree to be a native tree to the UK. Many varieties of native and non native trees are protected by a TPO and these trees make an important contribution to the public amenity of towns and villages. The amenity value is not low as suggested in the objection and was found to be 17 for the Silver Birch Tree and 16 for the Fir Tree as part of the evaluation; these scores indicate that both trees have a high value and are worthy of consideration for a TPO.

Overall both trees have a strong amenity value and contribute to the character and appearance of the local area

CONCLUSION:

A structured and consistent evaluation method was carried out by the Council which clearly indicated that both trees merit protection under a Tree Preservation Order. Overall both trees have a strong amenity value and contribute to the character and appearance of the local area.

The objection by Mr Vautier notes a number of reasons why the tree should not merit protection. It is considered that the reasons given are not sufficient to reject the confirmation of the TPO.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.

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Major Applications with no Decision (Since last Committee Close Date)

Members are asked to note that some major applications will be dealt with under the delegation scheme. Members are also requested to direct any questions about these applications to the relevant case officer. It was resolved at the meeting of Planning Committee on 21st March 2018 that with the exception of small scale proposals, applications for ground mounted solar PV arrays recommended for approval be brought before the Committee for determination.

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	1	31/07/2021	21/00871/MARM	Variation of condition 1 of planning permission 19/00364/MARM to allow substitution of plans for relocation of parking spaces adjacent to Block B to provide storage compound/service yard and reduce size of Block A to accommodate relocation of parking spaces	Land at NGR 303681 111677 (North Of Mid Devon Business Park) Muxbeare Lane Willand Devon	Mr Daniel Rance	DEL	
2	3	20/07/2021	21/00614/MFUL	Erection of an agricultural livestock cubicle (1219 sq. m.)	Land and Buildings at NGR 269140 104602 (Manns Newton) Zeal Monachorum Devon	Miss Helen Govier	DEL	
3	3	15/07/2021	21/00710/MFUL	Extension of existing business park and erection of 2 industrial buildings Class B2 (2395sqm)	Land at NGR 305748 107208 Post Cross Business Park Kentisbeare Devon	Mr Daniel Rance	DEL	
4	4	14/07/2021	21/00451/MFUL	Erection of vehicle maintenance workshops and MOT Testing Station with new access	Gregory Distribution Ltd Saunders Way Kingsmill Industrial Estate Cullompton Devon EX15 1BS	Mr Daniel Rance	DEL	
5	4	08/07/2021	21/00445/MARM	Reserved Matters for the erection of 26 dwellings with associated access, parking, open space, landscaping and supporting infrastructure, following Outline approval 17/01090/MOUT	Land and Buildings at NGR 281938 100425 (Adjacent Brookdale, Threshers) Hollacombe Devon	Miss Helen Govier	DEL	
6	5	01/07/2021	21/00276/MFUL	Erection of 13 dwellings to include associated landscaping, public open space and infrastructure	Land at NGR 283084 102432 (Fanny's Lane) Sandford Devon	Mr Adrian Devereaux	DEL	

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LIST OF APPEAL DECISIONS FROM 24 March 2021 to 12 May 2021

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
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 Devon	Subject to the provision of a S106 Com	Committee Decision	Refuse permission	Written Representations	Appeal Allowed
19/00846/FULL	Re-positioning of access	Land at NGR 282674 103423 (Lot 4 Bawdenhayes) Sandford Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
20/01459/FULL	Erection of a dwelling following demolition of existing redundant building	The Store Morchard Road Crediton Devon EX17 5LR	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Allow with Conditions
19/02116/FULL	Removal of conditions 3 and 6 of planning permission 19/00304/FULL and variation of condition 5 relating to hours of use of the courtyard	Cleave Barton Bickleigh Tiverton Devon EX16 8RG	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Allow with Conditions

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
20/00808/FULL	Erection of 5 dwellings	Land at NGR 306812 113167 (Allotment Gardens) Clay Lane Uffculme Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

PLANNING COMMITTEE
26TH MAY 2021

AGENDA ITEM

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

APPEAL DECISIONS AND PERFORMANCE 19/20, 20/21 AND 21/22 TO DATE

Cabinet Member Cllr Richard Chesterton, Cabinet Member for Planning and Economic Regeneration
Responsible Officer Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

Reason for Report:

To provide information on the outcome of planning appeals over the last two financial years and to date.

RECOMMENDATION: That Members consider the contents of the report.

Financial Implications:

A proportion of planning applications that have been refused (or conditions applied) will always be subject to the appeal process. However it can have financial implications to the Council in terms of:

- Staff resources within both the Planning Service and other sections such as Legal.
- Financially if specialist consultant assistance, expert witnesses and external legal advocacy are required. The need for this will depend upon the application in question, the reasons for refusal and the format of the appeal.
- There are also financial implications for the Council at appeal if an appellant makes a claim for costs against the Council and can prove the Council has acted unreasonably and the appellant has been put to unnecessary expense. If so, the Planning Inspectorate can require that the Council pay the appellant's appeal costs. The Council does not budget for successful cost awards against it as it would always seek to defend such claims, seeking to demonstrate the robustness of its decision-making and that it has acted reasonably.

Budget and Policy Framework:

None directly in terms of the policy framework, however in relation to budget, the defence of appeals may incur cost, including officer time and as required, expert witnesses and legal representation. A modest budget allowance is made for consultancy. The award of costs against the Council at appeal will also had financial and hence budget implications.

Legal Implications:

By their nature appeals involve independent assessment by the Planning Inspectorate of the case and the Council's decision. The Council needs to ensure that its planning decision-making is robust in order to reduce risk of challenge, maximise appeal success and reduce the impact of appeals on budgets. To this end, decision-making should always be based on the legal requirement to determine applications in accordance with the development plan unless material considerations

indicate otherwise. Reasons for refusal should be able to be substantiated with appropriate evidence.

Risk Assessment:

Appeal statistics provide 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.

A risk to the Council are the thresholds that the Government is seeking to apply over appeal performance as an indicator of the quality of planning application decision making, particularly in respect of major applications. The service is currently meeting these threshold requirements for both major and non-major applications. The indicators are as follows:

- 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 2021 was 5.7%.
- 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 2021 was 4.55%.

Equality Impact Assessment:

No equality issues identified for this report.

Relationship to Corporate Plan: The effective operation of the planning function of the Planning, Economy and Regeneration Service including the processing of applications is central to achieving priorities in the Corporate Plan.

Impact upon Climate Change: No climate change issues are identified arising from this report on service performance.

1.0 APPEAL PERFORMANCE AND NATIONAL COMPARISON.

1.1 Attached at **Appendix 1** is a summary of planning appeals determined between 1st April 2019 – 31st March 2020 37 appeals were determined within that period.

1	(3%)	Withdrawn
11	(30%)	Allowed
25	(67%)	Dismissed

Appendix 2 shows the equivalent information for appeal decisions between 1st April 2020 – 31st March 2021 with 21 appeals in total determined during this period.

8	(38%)	Allowed
13	(62%)	Dismissed

Appendix 3 indicates the appeal decisions between 1st April 2021 – 15th May 2021 (at time of report preparation). There have been 5 in total within this period.

3	(60%)	Allowed
2	(40%)	Dismissed

- 1.2 19/20 saw a larger number of overall appeals than in previous years. However there was considerably less appeal activity during 20/21 which is attributed to the COVID-19 pandemic, including the cessation of appeal activity by the Planning Inspectorate for a time in early 20/21. Planning Inspectorate statistics for the whole of the financial year 2020/21 are not yet available. Reference to Inspectorate data from 2019/20 indicates nationally between 23-27% of planning application allowed, with the figures for the first three quarters for 20/21 being between 22-26% planning appeals allowed. The figures for all allowed appeals in Mid Devon over the last 2 years by financial year are therefore higher than the national (England) average being between 30-38% allowed.
- 1.3 Of the appeal decisions over this period (19/20, 20/21 and 21/22 to date) 10 related to major applications with 6 appeals dismissed and 4 allowed.

2.0 ALLOWED APPEALS.

- 2.1 Of the 22 appeals allowed, 15 were decided under delegated powers. The remaining 7 were determined or considered by Planning Committee:

18/00175/MOUT Meadow Park, Silver Street, Willand - Outline erection of up to 125 dwellings (officer recommendation overturned)

18/02019/MOUT Silverdale, Silverton – Outline for the erection of up to 20 dwellings (officer recommendation overturned)

19/00118/MOUT West of Siskin Chase, Colebrook Lane, Cullompton – Outline for the erection of up to 105 dwellings (non-determination appeal, Committee indicated would have refused)

19/01862/FULL Bradford Farm, Uplowman – Change of use of farm buildings to mixed B1/B8 use and retention of external works (non-determination appeal, Committee indicated would have refused)

19/01156/FULL Lloyd Maunder Road, Willand – Installation of 24MW reserve power plant with associated infrastructure (officer recommendation overturned)

20/00622/OUT 12 Kabale Close, Tiverton –Outline for the erection of a dwelling (officer recommendation overturned)

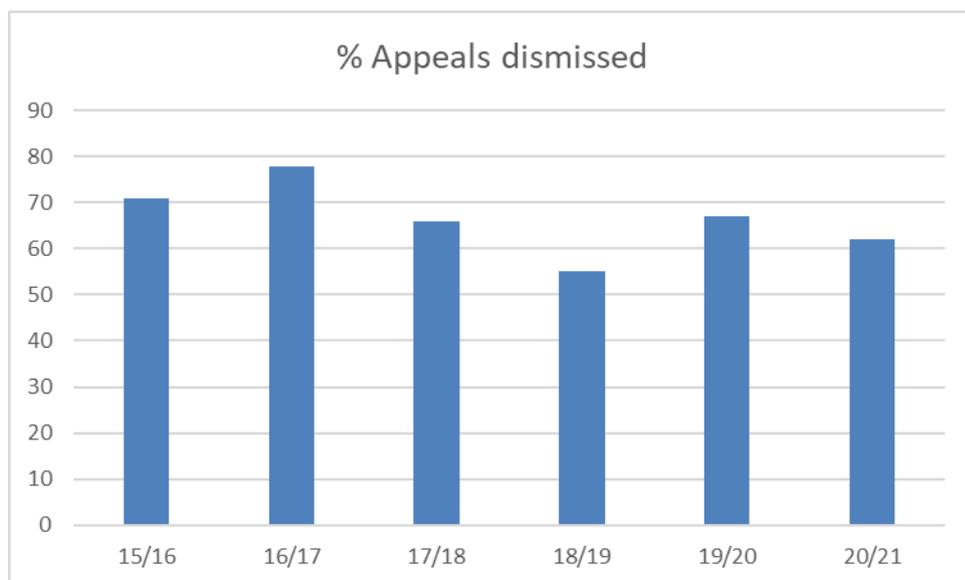
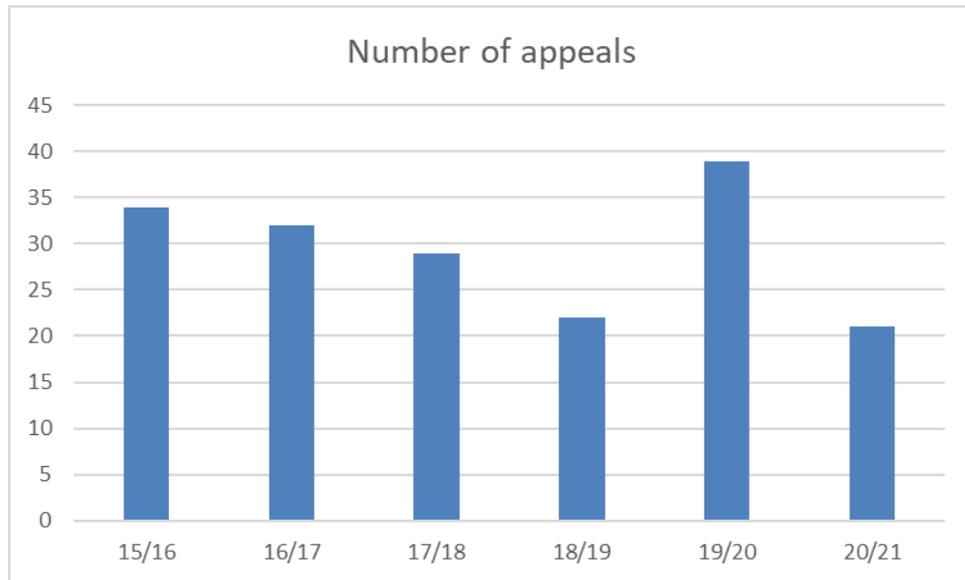
17/01359/MOUT Higher Town, Sampford Peverell – Outline for the erection of 60 dwellings and construction of new vehicular access (officer recommendation overturned)

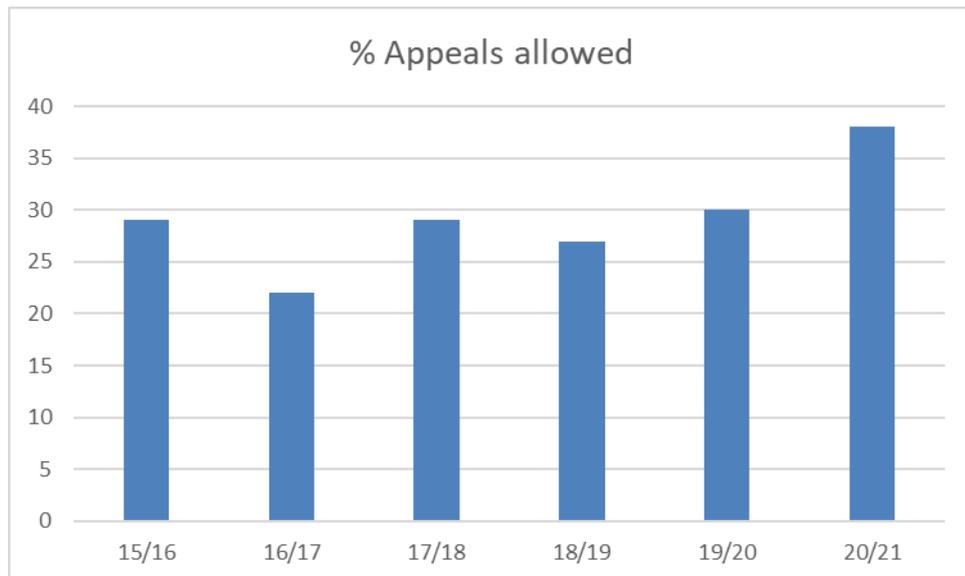
3.0 DISMISSED APPEALS.

3.1 Planning Committee determined application 18/01598/FULL Whitehall Farm, Morebath –Erection of tree house, replacement of summerhouse with cabin and change of use of shed of siting of cabin for holiday use (officer recommendation to approve overturned). The remaining dismissed appeals were determined under delegated powers.

4.0 COMPARISON WITH PREVIOUS PERIODS.

4.1 Comparison with the last reports on this subject giving appeal figures recorded is as follows:



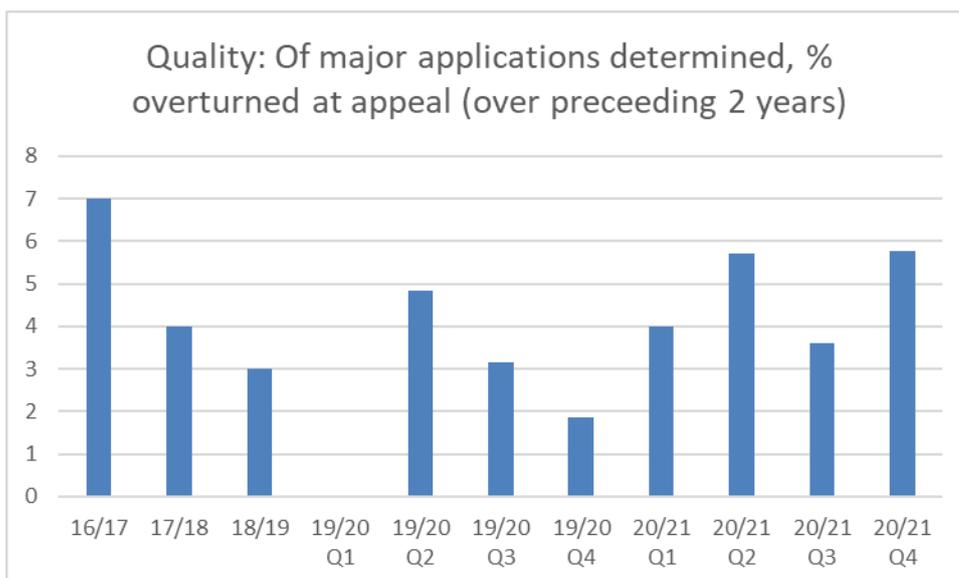


(Note- figures for 21/22 to date not added due to small number of appeals)

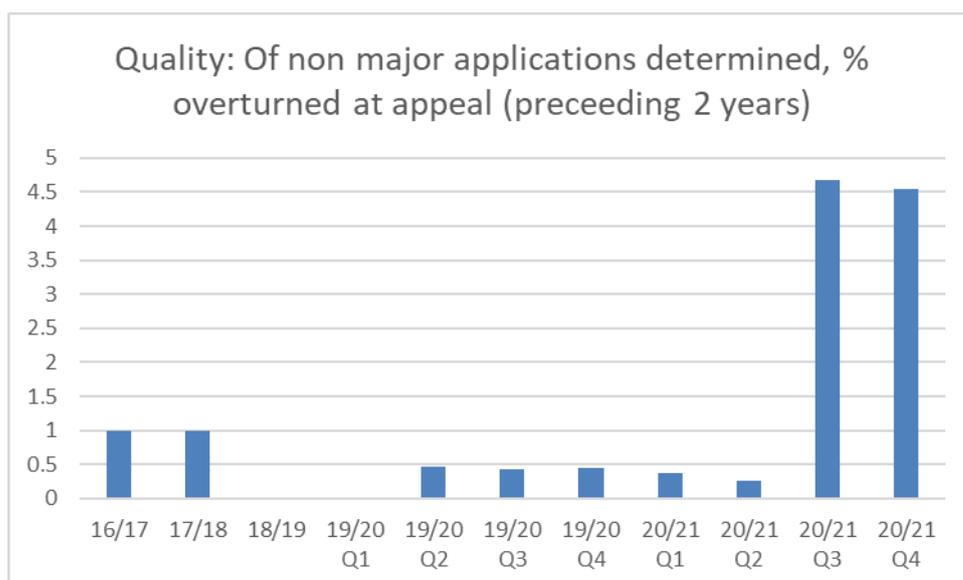
5.0 GOVERNMENT TARGETS FOR APPEAL PERFORMANCE.

- 5.1 The performance of each authority in terms of speed and quality of decision making is monitored. The measure now used to assess the quality of decision making is the average percentage of decisions on applications for all major and non-major development that have been overturned on appeal. The threshold applied by the Government for inadequate performance by a Local Planning Authority in the quality of decision making is if more than 10% of all application decisions made over the previous two years have been overturned at appeal. This is divided into major and non-major categories. The Government's assessment is over a 2 year period. Over the previous two year period the Council's performance against this measure has met the Government's requirements, but is showing an increase in percentage of appeals overturned.
- 5.2 For Members information where a Local Planning Authority is designated as underperforming it is required to produce an action plan to address areas of weakness. Designation also grants applicants for major development a choice over whom to submit their application to. It introduces the ability to apply for planning permission directly to the Planning Inspectorate as an alternative to applying to the Local Planning Authority. Application assessment and decision making is therefore removed from the local level. In these circumstances the Local Planning Authority does not receive an application fee, but is still responsible for certain administration functions associated with the applications.
- 5.3 Performance in respect of these quality of decision-making indicators over a 2 year rolling period, as measured on a quarterly basis are as follows:

Quality of decision-making national indicator: Major applications
National target: less than 10%



Quality of decision-making national indicator: Non-major applications
National target: less than 10%



6.0 COSTS AWARDS

6.1 In addition to the appeal against their application, an appellant may also apply to the Planning Inspectorate for the Council to be liable for their appeal costs. This is the subject to a separate appeal decision. In order to succeed, the Council must have acted unreasonably and have caused the appellant unnecessary expense. The Council may also make a similar costs claim against the appellant. The outcome of such an appeal will be to either refuse or award costs (in full or in part).

6.2 Several claims for costs have been made by appellants over this period. Of the 13 appeals made on these grounds, 5 were successful (38%). The cases

where costs were awarded against the Council on the basis of unreasonable behaviour leading to unnecessary expense on the part of the appellant were:

19/00118/MOUT Siskin Chase, Cullompton – Outline for the erection of up to 105 dwellings. Partial cost award in relation to reason for refusal: impact upon free flow of traffic and parking conflict.

18/02019/MOUT Silverdale, Silverton- residential development of up to 20 dwellings. Partial cost award in relation to cumulative impacts. £1,296 incl VAT

20/00622/OUT 12 Kabale Close, Tiverton - Full award of costs. £1,512 incl VAT

17/01359/MOUT Higher Town, Sampford Peverell – Outline for the erection of 60 dwellings. Partial award of costs over reason for refusal 1- landscape and visual impacts. Amount yet to be finalised.

20/00153/PNC Marchweeke, Witheridge - Prior notification for change of use of building to dwelling under class Q. Full award of costs

(Where financial amount for the cost award is not stated, this will be checked and updated verbally at the meeting).

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jclifford@middevon.gov.uk

Circulation of the Report: Cllr Richard Chesterton
Members of Planning Committee

List of Background Papers: Planning Committee agendas and minutes
DCLG Improving planning performance – Criteria for designation (2020)
DCLG Planning performance and the planning guarantee
Planning Inspectorate Statistical Reports

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Appendix 1 List of Appeal Decisions from 01/04/2019 to 31/03/2020

Application No.	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
18/00998/PNC	Prior notification for the change of use of an agricultural building to a dwelling (Class C3) under Class Q - Appeal	Land and Buildings at NGR 286057 110720 (Eastlands Farm) Pennymoor Devon	Refusal of Prior Approval	Delegated	Refusal of Prior Approval	Written Representations	Appeal Dismissed
18/00011/PNC	Prior notification for the change of use of an agricultural building to a dwelling under Class Q - APPEAL DISMISSED	Land and Building at NGR 295699 122956 (Adjacent To B3190) Bampton Devon	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Dismissed
18/01470/FULL	Erection of dwelling and formation of vehicular access (Revised Scheme)- appeal dismissed 01/05/19 Tidcombe Lane Tiverton	Land at NGR 297304 112448 Rear of 65 Tidcombe Lane Tiverton	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/01682/FULL	Formation of new vehicular access and driveway - APPEAL DISMISSED	Land at NGR 305858 107710 (Yerrishayes) Kentisbeare Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/00939/PNC	Prior Notification for the change of use of an agricultural building to dwelling (Class C3) under Class Q - APPEAL ALLOWED PERMISSION GRANTED	Land and Buildings at NGR 309121 117584 (Henegar Farm) Red Ball Devon	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Allowed
18/00964/MOU	Outline for the erection of 15 dwellings, access, and associated works - APPEAL	Land at NGR 306177 116745 (Moor Lane)	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

	DISMISSED 12.06.19	Westleigh Devon					
18/01281/PNC	Prior notification for the change of use of agricultural barn to dwelling under Class Q - APPEAL DISMISSED 18 June	Land and Buildings at NGR 288969 101209 (West Efford Farm) Efford Shobrooke Devon	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Dismissed
18/01089/PNC	Prior Notification for the change of use of an agricultural building to a dwelling under Class Q - APPEAL ALLOWED - PERMISSION GRANTED 25/06/2019	Land and Buildings at NGR 307104 113338 (East Of Ashley Close) Denners Way Uffculme Devon	Refusal of Prior Approval	Delegated	Refusal of Prior Approval	Written Representations	Appeal Allowed
17/00942/MOU	Outline for the erection of upto 50 dwellings with associated access - APPEAL DISMISSED 10/07/19	Land at NGR 296202 112164 Exeter Hill	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/01102/FULL	Erection of 9 dwellings following demolition of Public House APPEAL DISMISSED 16/07/19 DISMISSED 16/07/19	Yeo Vale Hotel Lapford Crediton Devon EX17 6QT	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/01083/OUT	Outline for the erection of 2 dwellings - APPEAL DISMISSED 16/07/19 107452 (London Inn)	Land at NGR 277002 permission Morchard Bishop Devon	Refuse permission	Delegated	Refuse Representations	Written Representations	Appeal Dismissed

19/00261/PIP	Permission in Principle for the erection of 1 dwelling - APPEAL ALLOWED	Land at NGR 277066 93576 (Fairview) Cheriton Bishop Devon	Refuse permission in principle	Delegated	Refuse permission	Written Representations	Appeal Allowed
18/00175/MOU	Outline for the erection of upto 125 dwellings with public open space and associated infrastructure - APPEAL ALLOWED -PLANNING PERMISSION GRANTED 29/08/19	Land at NGR 303288 110467 Adj Meadow Park Silver Street Willand	Subject to the provision of a S106 Com	Overtaken	Refuse permission	Written Representations	Allow with Conditions
18/01339/PNC	Prior notification for the change of use of agricultural building to dwelling under Class Q - APPEAL ALLOWED - APPROVAL GRANTED 09.09.2019	Land and Buildings at NGR 283737 103454 Hellions Barton Upton Hellions	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Allowed
19/00140/OUT	Outline application for the replacement of an existing lawful mobile home on the site with a permanent dwelling - APPEAL DISMISSED 11.09.2019	The Mobile Home Mill Ash Farm Shobrooke Crediton Devon EX17 1AH	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/01272/FULL	Revised scheme for the erection of a dwelling following Planning Permission 16/00413/FULL - APPEAL ALLOWED - PLANNING PERMISSION GRANTED 16.09.2019	Cepheus Popes Lane Lapford Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Allowed

19/00460/PNC	Prior notification for the change of use of an agricultural building to 1 dwelling under Class Q- APPEAL DISMISSED	Land at NGR 307368 118580 (Whipcott Heights) Holcombe Rogus Devon	Not Permitted Development	Delegated	Not Permitted Developm en	Written Representations	Appeal Dismissed
18/02029/FULL	Conversion of redundant workshop to 2 dwellings - APPEAL DISMISSED	Land and Buildings at NGR 289258 100076 (Commercial Unit, Shute Farm) Shute Shobrooke	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/01598/FULL	Erection of a self supporting tree house, replacement of existing summerhouse with cabin on stilts and change of use of existing shed site/adjoining garden for the siting of one cabin all for holiday use - APPEAL DISMISSED 22.10.19	Land at NGR 295315 124977 (Whitehall Farm) Morebath Devon	Grant permission subject to conditions.	Overtuned	Refuse permission	Written Representations	Appeal Dismissed
17/00072/RUR	Works in a field APPEAL QUASHED 30.10.2019 for MCU Enforcement Notice and APPEAL DISMISSED for OD Enforcement Notice 30.10.2019	Land at NGR 317450 110777 (Tickle Penny) Clayhidon Devon		Delegated		Written Representations	Appeal Allowed Enf Notice Quashed
18/01785/FULL	Removal of condition (b) of planning permission 84/000308/FULL relating to an agricultural tie- APPEAL DISMISSED 31/10/19	Foxlea Cadeleigh Tiverton Devon EX16 8RU	Refuse permission	Delegated	Refuse permission	Informal Hearing	Appeal Dismissed

19/00340/LBC	Listed Building Consent to infill part of open storage area with part glazed door/window units - APPEAL	The Linhay Bow Crediton Devon EX17 6DB	Refuse Listed Building	Delegated	Refuse permission	Written Representations	Appeal Dismissed
17/02053/FULL	Removal of Conditions 3 and 4 of planning appeal APP/Y1138/A/14/2216218 under 13/00777/FULL to allow for permanent	The Paddock Willand Cullompton Devon EX15	Refuse permission	Delegated	Refuse permission	Informal Hearing	Appeal Allowed
18/01675/HOU	Erection of rear extension, retention of store after demolition of outbuildings and the reinstatement of boundary to highway, with a pedestrian access only - APPEAL DIMISSED 6.11.19	58 Higher Street Cullompton Devon EX15	Grant permission subject to conditions.	Delegated	Permitted with Conditions to Discharge	Written Representations	Appeal Dismissed
19/01048/FULL	Removal of condition 2 of planning permission 19/00224/FULL for the fitting of a floating cover -APPEAL	Land at NGR 276531 99245 (Mardles Farm) Colebrooke Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/01948/OUT	Outline for the erection of 5 dwellings - Appeal dismissed 27.11.19	Land and Buildings at NGR 277638 93018 (East of Hill View) Cheriton Bishop	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

18/00518/MFU	Erection of 40 dwellings, conversion of barns to 7 dwellings, formation of new accesses and car parking areas, with associated works including access and landscaping APPEAL DISMISSED	Halberton Court Farm High Street Halberton Tiverton Devon EX16 7AW	Non-determination, Appeal instigated	Delegated	Closed	Written Representations	Appeal Dismissed
18/00735/OUT	Outline for the erection of 7 dwellings with new access (Revised Scheme) - APPEAL DISMISSED 03.12.19	Land and Buildings at NGR 294119 106891 (Adjacent To Highfield) Bickleigh	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
17/00070/RUR	Building works in field APPEAL DISMISSED for OD Enforcement Notice	Gaddon Down Plantation Ashill Devon		Delegated		Written Representations	Appeal Dismissed
19/00413/MOU	Outline for the erection of up to 37 dwellings with associated vehicular and pedestrian access APPEAL DISMISSED	Land at NGR 295599 122818 (North of Frog Street) Bampton Devon	Non-determination, Appeal instigated	Delegated	Closed	Written Representations	Appeal Dismissed
19/00121/PNC	Prior notification for the change of use of an agricultural building to a dwelling under Class Q - APPEAL ALLOWED	Buildings at NGR 277304 106617 (Meadow Barn) Broadgate Farm Morchard Bishop Devon	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Allowed
19/01205/FULL	Retention of former lagoon for use as a	Land at NGR 276429	Refuse permission	Delegated	Refuse	Written	Allow with

	surface water storage facility - APPEAL ALLOWED PLANNING PERMISSION GRANTED 16/01/20	99746 (Adjacent to Mardles Gate) Colebrooke			permission	Representations	Conditions
19/00182/FULL	Erection of a dwelling and detached garage with associated access, drainage infrastructure and landscaping works - APPEAL DISMISSED 28.01.2020	Land and Buildings at NGR 298492 112504 West Manley Lane Tiverton	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/01669/TPO	Application to reduce the height of 1 Beech tree by 3.5m and reduce the crown by approximately 4m, protected by Tree Preservation Order 88/00002/TPO - APPEAL DISMISSED	The Mews Deep Lane Crediton Devon EX17 2BY	Refuse consent	Delegated	Refuse permission	Written Representations	Appeal Dismissed
19/00216/OUT	Outline for the erection of a dwelling - Appeal Dismissed 27/02/20	Land at NGR 286590 106353 (Adjacent Gray Gables) Cheriton Fitzpaine	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

18/01633/OUT	Outline for the erection of 2 dwellings and alterations to existing vehicular access - APPEAL ALLOWED WITH CONDITIONS - PLANNING PERMISSION GRANTED 17/03/20	Little Mounson Cheriton Bishop Exeter Devon EX6 6HQ	Refuse permission	Delegated	Refuse permission	Public Inquiry	Allow with Conditions
18/00640/CLU	Certificate of lawfulness to establish the lawful implementation of planning permission 15/01357/FULL in compliance with Condition (1) imposed upon that permission - APPEAL	Land and Buildings at NGR 307932 107348 (Orway Porch Farm) Kentisbeare Devon	Refuse Certificate of	Delegated	Refuse permission	Written Representations	Appeal Dismissed

Appendix 2 List of Appeal Decisions from 01/04/2020 to 31/03/21

Application No.	Description	Location	Officer Recommendation or Delegated	Committee Decision	Appeal Type	Inspector Decision
19/00431/TPO	Application to fell a group of Elm trees to approximately 1m, protected by Tree Preservation Order 97/00013/TPO - APPEAL DISMISSED 20.04.2020	26 Manning Avenue Cullompton Devon EX15	Refuse consent	Delegated	Written Representations	Refuse permission Appeal Dismissed
19/00431/TPO	Application to fell a group of Elm trees to approximately 1m, protected by Tree Preservation Order 97/00013/TPO - APPEAL DISMISSED 20.04.2020	26 Manning Avenue Cullompton Devon EX15	Refuse consent	Delegated	Written Representations	Refuse permission Appeal Dismissed
19/00794/FULL	Erection of dwelling and double garage; formation of vehicular access and associated renewable energy systems and landscaping - APPEAL DISMISSED 29/05/20	Land at NGR 308470 112426 (Craddock Lodge) Craddock Devon	Refuse permission	Accepted	Written Representations	Refuse permission Appeal Dismissed
18/02019/MOU	Outline for the erection of up to 20 dwellings and associated access APPEAL ALLOWED - PLANNING PERMISSION GRANTED 11/06/20	Land at NGR 295508 103228 (Silverdale)	Subject to the provision of a S106 Com	Overtured	Written Representations	Refuse permission Appeal Allowed
19/01402/PNC	Prior notification for the change of use of an agricultural building to 3 dwellings under Class Q - APPEAL ALLOWED	Land and Buildings at NGR 269926 104480 (Lower Newton Farm) Zeal Monachorum Devon	Refusal of Prior Approval	Delegated	Written Representations	Refusal of Prior Approval Appeal Allowed

19/00118/MOU	Outline for the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane - APPEAL ALLOWED -PLANNING PERMISSION GRANTED 09-07-20	Land at NGR 301216 106714 (West of Siskin Chase) Colebrooke Lane Cullompton Devon	Non-determination, Appeal instigated		Non-determination, Appeal	Written Representations	Allow with Conditions
18/00786/MOU	Outline for the erection of up to 65 dwellings, public open space, ancillary works and associated infrastructure, including access APPEAL DISMISSED 28.07.20	Land at NGR 282727 100936 Higher Road	Refuse permission	Delegated	Refuse permission	Informal Hearing	Appeal Dismissed
19/01401/PNC	Prior notification for the change of use of an agricultural building to a dwelling under Class Q- Appeal Dismissed	Agricultural Building at NGR 279301 101166 (East Of Home Field) Barnstaple Cross Devon	Refusal of Prior Approval	Delegated	Refusal of Prior Approval	Written Representations	Appeal Dismissed
19/01838/PNC	Prior notification for the change of use of an agricultural building to 1 dwelling under Class Q - APPEAL DISMISSED	Rugglestone Hollacombe Crediton Devon EX17 5BW	Refusal of Prior Approval	Delegated	Refusal of Prior Approval	Written Representations	Appeal Dismissed
20/00153/PNC	Prior notification for the change of use of an agricultural building to 1 dwelling under Class Q- APPEAL ALLOWED - PRIOR APPROVAL GRANTED 08.09.20	Land and Buildings at NGR 279641 111510 (Marchweeke Farm)	Refusal of Prior Approval	Delegated	Refusal of Prior Approval	Written Representations	Appeal Allowed

20/00216/FULL	Change of use of agricultural land for the siting of 4 glamping structures - APPEAL DISMISSED 02.10.20	Land at NGR 289482 107825 (Polka Dot) Cheriton Fitzpaine Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
18/01460/CLU	Certificate of lawfulness for the continued use of building as a single dwelling house not built in accordance with planning permission 02/02248/FULL for a period in excess of 4 years - APPEAL DISMISSED 07/10/20	The Annexe Polford Cottage Cheriton Bishop Exeter Devon EX6 6JG	Refuse Certificate of	Delegated	Refuse permission	Written Representations	Appeal Dismissed
19/00912/OUT	Outline for the erection of 8 dwellings - APPEAL DISMISSED 13.10.20	Land and Buildings at NGR 301416 115145 Crosses Farm Uplowman Devon	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
19/02122/PIP	Permission in Principle for the erection of up to 5 residential units as a rural exceptions site - APPEAL ALLOWED 13.10.20	Land and Buildings at NGR 302056 104022 (Westcott Park) Westcott Devon	Refuse permission in principle	Delegated	Refuse permission	Written Representations	Appeal Allowed
19/01862/FULL	Change of use of farm buildings to mixed B1/B8 use and retention of external works - APPEAL ALLOWED- PLANNING PERMISSION GRANTED subject to conditions 09/12/20	Land and Buildings at NGR 299326 114323 Bradford Farm Uplowman Devon	Grant permission subject to conditions.	Varied	Non-determination, Appeal	Written Representations	Allow with Conditions

20/00801/FULL	Erection of dwelling - APPEAL DISMISSED 29.12.20	Land and Buildings at NGR 295542 125014 (Whitehall Farm) Morebath Devon	Non-determination, Appeal instigated	Delegated	Closed	Written Representations	Appeal Dismissed
19/01156/FULL	Installation of a 24MW Reserve Power Plant with associated infrastructure APPEAL ALLOWED - PLANNING PERMISSION GRANTED WITH CONDITIONS - 28.01.21	Land at NGR 302839 111143 Lloyd Maunder Road Willand Devon	Grant permission subject to conditions.	Overtuned	Refuse permission	Written Representations	Allow with Conditions
20/00707/FULL	Erection of dwelling, change of use of dwellings known as 'Coshes' and 'Cinders' to holiday lets, relinquish 2 approved holiday lodges and improvements to vehicular access - APPEAL DISMISSED 19.02.21	Land at NGR 311415 109428 (South Farm), Cinders Cottage & Coshes Cottage Blackborough	Non-determination, Appeal instigated	Delegated	Non-determination, Appeal	Written Representations	Appeal Dismissed
20/00601/PNC	Prior notification for the change of use of an agricultural building to a dwelling under Class Q - APPEAL DISMISSED	Land and Buildings at NGR 286471 104982 (Dovers Linhay - Barn 2) Cheriton Fitzpaine Devon	Not Permitted Development	Delegated	Not Permitted Development	Written Representations	Appeal Dismissed
20/00249/MOU	Outline for a mixed use development of up to 21 dwellings and 1000 sq. m. of B1 employment space with all matters reserved except for access - APPEAL DISMISSED 19.03.21	Land at NGR 295599 122818 (North of Frog Street) Bampton Devon	Non-determination, Appeal instigated	Delegated	Non-determination, Appeal	Written Representations	Appeal Dismissed

20/00622/OUT

Outline for the erection of 1 dwelling -
APPEAL ALLOWED - PLANNING
PERMISSION GRANTED WITH
CONDITIONS 23.03.21

12 Kabale Close Tiverton
Devon EX16 5QB

Grant permission
subject to
conditions.

Overturned

Refuse
permission

Enf Written Reps

Allow with
Conditions

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Appendix 3 List of Appeal Decisions from 01/04/2021 to 15/05/21

Application No.	Description	Location	Officer Recommendation or Delegated	Committee Decision	Decision	Appeal Type	Inspector Decision
17/01359/MOU	Outline for the erection of 60 dwellings and construction of new vehicular access onto highway to the West of the site APPEAL ALLOWED - PLANNING PERMISSION GRANTED 07/04/21	Land and Buildings at NGR 302469 114078 Higher Town Sampford Peverell	Subject to the provision of a S106 Com	Overturned	Refuse permission	Written Representations	Appeal Allowed
20/00846/FULL	Re-positioning of access - APPEAL DISMISSED 21.04.21	Land at NGR 282674 103423 (Lot 4 Bawdenhayes) Sandford	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed
20/01459/FULL	Erection of a dwelling following demolition of existing redundant building - APPEAL ALLOWED WITH CONDITIONS - PLANNING PERMISSION GRANTED 22.04.21	The Store Morchard Road Crediton Devon EX17 5LR	Refuse permission	Delegated	Refuse permission	Written Representations	Allow with Conditions
19/02116/FULL	Removal of conditions 3 and 6 of planning permission 19/00304/FULL and variation of condition 5 relating to hours of use of the courtyard - APPEAL ALLOWED WITH CONDITIONS - PLANNING PERMISSION GRANTED	Cleave Barton Bickleigh Tiverton Devon EX16 8RG	Refuse permission	Delegated	Refuse permission	Written Representations	Allow with Conditions
20/00808/FULL	Erection of 5 dwellings	Land at NGR 306812 113167 (Allotment Gardens) Clay Lane	Refuse permission	Delegated	Refuse permission	Written Representations	Appeal Dismissed

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**PLANNING COMMITTEE
26TH MAY 2021**

REPORT OF THE HEAD OF PLANNING, ECONOMY AND REGENERATION

COMMITTEE DECISIONS 2020/21 WHICH WERE NOT IN AGREEMENT WITH OFFICER RECOMMENDATION.

Cabinet Holder	Cllr Richard Chesterton, Cabinet Member for planning and Economic Regeneration
Responsible Officer	Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

Reason for Report: To provide information where the Planning Committee has made decisions not in agreement with officer recommendation.

RECOMMENDATION: That Members consider the contents of the report.

Financial Implications: Risk of award of costs against the Council at appeal. See below.

Budget and Policy Framework: None directly

Legal Implications: Planning authorities are not bound to accept the recommendations of their officers. However if officer's professional or technical advice is not followed, authorities need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority at appeal.

Risk Assessment: Risks associated with decisions proposing to refuse planning permission contrary to officer recommendation are set out in an implications report that is brought before Planning Committee before the final decision is made. However, at present no such implications report system is in place where Committee wish to grant planning permission contrary to officer recommendation. Local Planning Authority decision making by both officers under delegated authority and by Planning Committee irrespective of whether permission is refused or granted must be robust, justified and capable of being defended at appeal. There is also a right of appeal against the imposition of conditions.

Equality Impact assessment: No equality issues identified in this report.

- 1.0 Attached at **Appendix 1** is a summary of applications where the Planning Committee have made decisions not in agreement with officer recommendations. The report covers the period from 1st April 2020 until 31st March 2021.
- 2.0 The number of cases during the 20/21 financial year was 6. Comparison with the figures for previous years is as follows:

2010	2011	2012	2013	2014	15/16	16/17	17/18	18/19	19/20	20/21
10	6	11	12	3	7	11	8	7	8	6

1 was granted planning permission with conditions and 5 were refused permission contrary to officer recommendation. Of those refused, 3 have since been allowed at appeal.

- 3.0 In accordance with the agreed protocol, cases where Members wish to refuse permission contrary to an Officer recommendation for approval requires a deferral of the item for the receipt of a report setting out the implications of the proposed decision and the reasons given with Members indicating the decision that they are minded to make. Since April 2016, if Members wish to approve contrary to an officer recommendation to refuse permission, the protocol does not require that the item be deferred. However, Members will need to give clear reasons for granting permission taking into account the requirement for the determination of planning applications to be in accordance with the development plan unless any other material planning considerations indicate otherwise.

Contact for Information: Jenny Clifford, Head of Planning, Economy and Regeneration
jclifford@middevon.gov.uk

List of Background Papers: Planning Committee agendas and minutes

Circulation of the Report: Cllr Richard Chesterton
Members of Planning Committee

Decision Against Officer Recommendation from 01/04/2020

Date of Planning Committee	Application No.	Description	Location	HOP Recom'd	Planning Committee Decision	Member Call-in	Appeal Status
15/07/2020	19/01189/OUT	Outline for the erection of 2 dwellings (Revised Scheme)	Land at NGR 307538 116626 (North of Town Farm) Burlescombe Devon	Subject to the provision of a S106 Com	Refuse permission		
12/08/2020	19/01156/FULL	Installation of a 24MW Reserve Power Plant with associated infrastructure APPEAL ALLOWED - PLANNING PERMISSION GRANTED WITH CONDITIONS - 28.01.21	Land at NGR 302839 111143 Lloyd Maunder Road Willand Devon	Grant permission subject to conditions.	Refuse permission		Allow with Conditions
12/08/2020	19/01156/FULL	Installation of a 24MW Reserve Power Plant with associated infrastructure APPEAL ALLOWED - PLANNING PERMISSION GRANTED WITH CONDITIONS - 28.01.21	Land at NGR 302839 111143 Lloyd Maunder Road Willand Devon	Grant permission subject to conditions.	Refuse permission		Allow with Conditions
09/09/2020	19/01188/FULL	Change of use of agricultural land to allow 1 pitch for the siting of 1 static caravan, 2 touring caravans and associated works for the use of gypsy and traveller family	Land at NGR 276600 96594 (North of Shortacombe Farm) Shortacombe Lane Yeoford Devon	Grant permission subject to conditions.	Refuse permission		
04/11/2020	20/00622/OUT	Outline for the erection of 1 dwelling - APPEAL ALLOWED - PLANNING PERMISSION GRANTED WITH CONDITIONS 23.03.21	12 Kabale Close Tiverton Devon EX16 5QB	Grant permission subject to conditions.	Refuse permission		Allow with Conditions
10/03/2021	20/01874/FULL	Erection of a dwelling	Firway End George Hill Crediton Devon EX17 2DS	Refuse permission	Permitted with Conditions to Discharge		

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PLANNING COMMITTEE

AGENDA ITEM

26TH MAY 2021

REPORT OF MRS JENNY CLIFFORD, THE HEAD OF PLANNING, ECONOMY AND REGENERATION

PLANNING AND BUILDING CONTROL PERFORMANCE

Reason for Report:

To provide the Committee with information updating on the performance of aspects of the planning function of the Council. Building Control performance information is also provided although this is primarily reported to the Building Control Partnership Joint Committee.

Matters for Consideration:

Performance against targets, the Government's performance assessment and resources within the Planning Service.

RECOMMENDATION: For information and discussion.

Financial Implications: Planning performance has the potential for significant financial implications in the event that applications are not determined within 26 weeks or an extension of time negotiated beyond the 26 week date. In that instance if requested, the planning fee is returned. Through the issue of planning permissions for new dwellings the service enables the award of New Homes Bonus money to the Council.

Budget and Policy Framework: None directly.

Legal Implications: The Government monitors planning performance in terms of speed and quality of decision-making. In the event minimum standards are not met, an authority may be designated as underperforming with special measures applied that allow applicants for major development to apply for permission direct from the Planning Inspectorate and bypassing local decision-making.

The speed measure is twofold: firstly, the percentage of major applications determined within 13 weeks as measured over a 2 year period and secondly the percentage of non- major applications determined within 8 weeks as measured over a 2 year period. Accordingly, it is important to continue to meet these targets.

The quality measure is also twofold: firstly the percentage of all major applications determined over a two year period that have been overturned at appeal and secondly, the percentage of all non-major applications determined over a two year period that have been overturned at appeal. The target for both measures is less than 10%. It is important to continue to meet these targets.

Risk Assessment: Financial risk because of fee return and the designation of planning authorities in special measures for underperformance is referred to above. These aspects are actively monitored, to allow priorities to be adjusted as required to reduce the risk. The speed and quality of the determination of major applications has been the subject of Government performance indicators for some time. However, it

should be noted that the application performance data reported does include a significant reliance upon agreeing extensions of time with the applicant. Whilst this is allowed within the performance reporting system requirements of the Government, it is an indication of a service carrying a high number of applications on hand and application assessment being overly protracted. It is proposed that during 2021 that effort is made to systematically reduce the reliance on extensions of time.

Equality Impact Assessment: No equality issues identified for this report.

Relationship to Corporate Plan: The effective operation of the planning function of the Planning, Economy and Regeneration Service including the processing of applications is central to achieving priorities in the Corporate Plan.

Impact upon Climate Change: No climate change issues are identified arising from this report on service performance.

1.0 APPLICATION DETERMINATION PERFORMANCE

1.1 The Government uses speed and quality of decision indicators as the main means of assessing planning application performance. These indicators with performance requirements are set out for major and non-major applications as follows:

Speed:

- **Majors: More than 60% of major applications determined within 13 weeks (over 2 year period).** The Mid Devon figure over the last 2 year period was **73%**.

The most recent national dataset for the 24 month period to the end of December 2020 places the performance for Mid Devon in the 4th quartile nationally (England) over this period.

- **Non majors: More than 70% of non-major applications determined within 8 weeks (over 2 year period).** The Mid Devon figure over the last 2 year period was **91%**.

The most recent national dataset for the 24 month period to the end of December 2020 places the performance for Mid Devon in the 3rd quartile nationally (England) over this period.

Quality:

- **Majors: for applications determined over a 2 year period, no more than 10% of 'major' decisions to be overturned at appeal.** The Mid Devon figure over the last 2 year period was **5.77%**.

The national dataset for the 24 months to the end of March 2019 placed the performance of Mid Devon in the 4th quartile nationally (England) over this period.

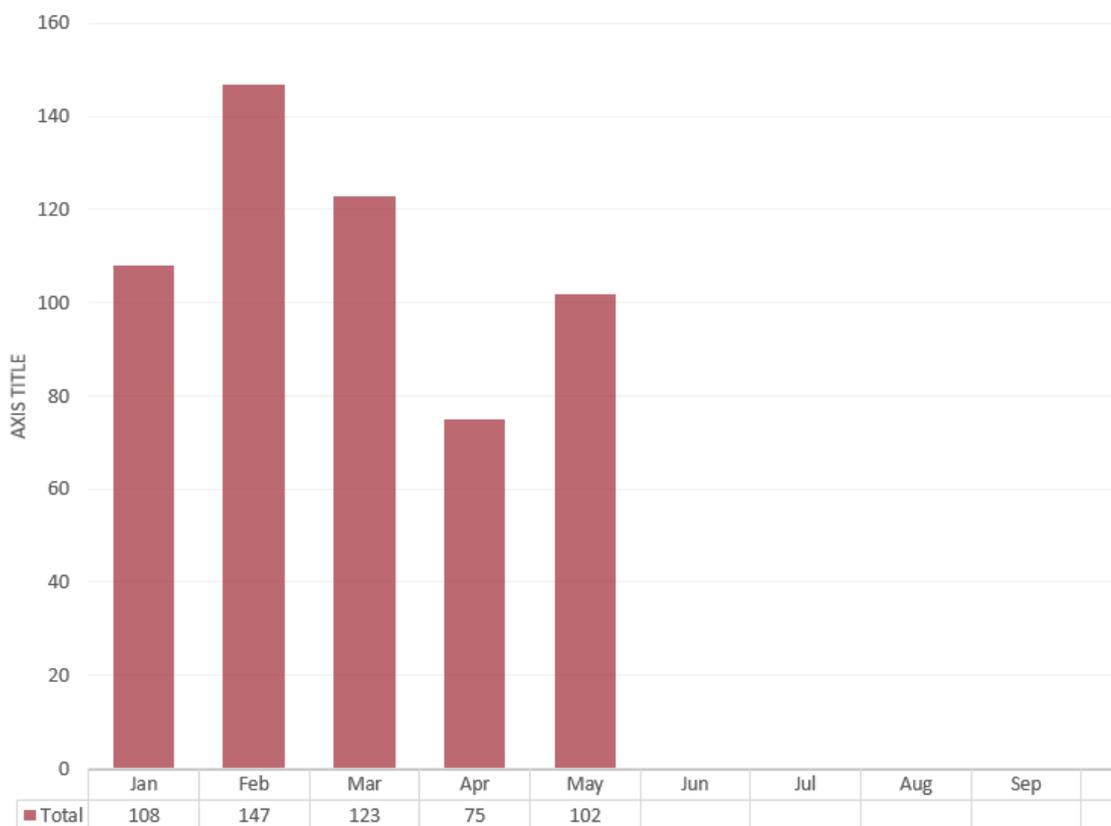
- **Non-majors: This indicator of quality of decision-making is measured over a 2 year assessment period: no more than 10% of**

‘non major’ decisions to be overturned at appeal. The Mid Devon figure over the last 2 year period was **4.55%**.

The national dataset for the 24 months to the end of March 2019 placed the performance of Mid Devon in the 1st or top quartile nationally (England) over this period; however, the percentage overturned has increased since then, with an expected reduction in performance.

- 1.2 Application determination performance data against national and local indicators over the last few years is attached at **Appendix 1**. The latest performance results for quarter 4 of 20/21 indicates that the national planning performance indicators for the speed and quality of planning application decision making have been met and exceeded by the service, but in some areas is not performing favourably when compared with that of others nationally. This is particularly the case with major applications due to a higher percentage being overturned at appeal than other Councils and less emphasis on agreeing extensions of time towards the beginning of the 2 year assessment period which is affecting the speed of decision making performance figure.
- 1.3 For all applications determined within 8 or 13 weeks, the performance figures include those where there has been an agreed extension of time. This is in accordance with the methodology for reporting planning application determination set out by the Government. However, there is significant reliance upon extensions of time in order to meet the Government’s national indicators for speed of decision-making. Whilst the negotiation of extensions of time is allowed within the Government’s methodology, it is masking applications taking a long to be determined, with several extensions of time and with protracted assessment and rounds of negotiation. It is intended that during 2021 progress will be made to significantly improve decision-making so that it is more decisive and to reduce reliance upon extensions of time.
- 1.4 The financial year 20/21 has been highly challenging, with significant changes required to rapidly move to predominantly working from home and electronic means rather than paper plans. The service has been sustained although site visits were temporarily suspended and alternative methods utilised including maps, videos, photographs and the internet. The holding of Planning Committee meetings has also been affected during this period with transfer to virtual meetings and most recently the change to hybrid meetings. This has required careful scheduling of applications on agendas to seek to ensure that their length is manageable. A large number of applications now require scheduling for Planning Committee consideration.
- 1.5 This period has also seen the vacancy of an Area Team Leader post. This has been successfully recruited with the new post holder having joined the Council at the beginning of January 2021. New applications dropped off in the first half of 2020, but have since seen some recovery and higher levels of application receipt in the first few months of this calendar year. The table below shows applications received and valid by month in 2021. Members should note that the May figures show the position at time of 16th May and is therefore not the month end position.

Applications Received & Valid 2021



- 1.6 At time of writing this report there are also several staff vacancies of direct relevance to performance and the increasing number of cases on hand:

Development Management Manager (interim manager due to start 1st June while the permanent post is recruited)

Area Team Leader part time

Planning Officer

Validation Technician

Planning Support

Tree Officer

At time of writing this report, there are some 404 live applications on hand, with new applications received exceeding those issued on a week by week basis. Several officers now have a live caseload of 60-70 applications which is unsustainably high. The service is not currently accepting new pre-application advice requests in order to focus on applications.

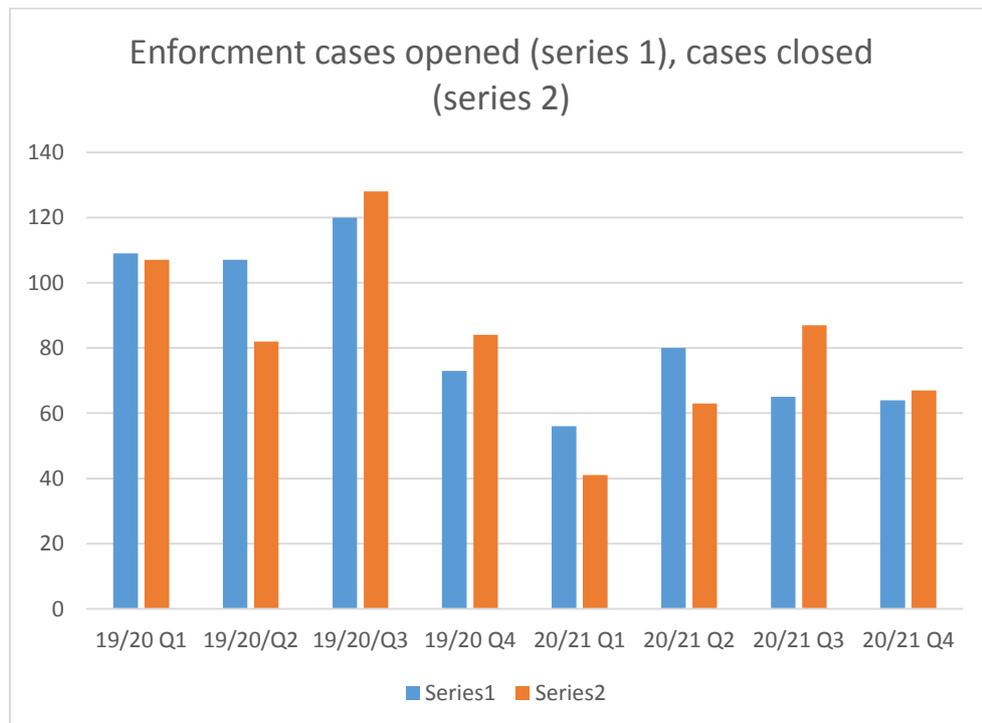
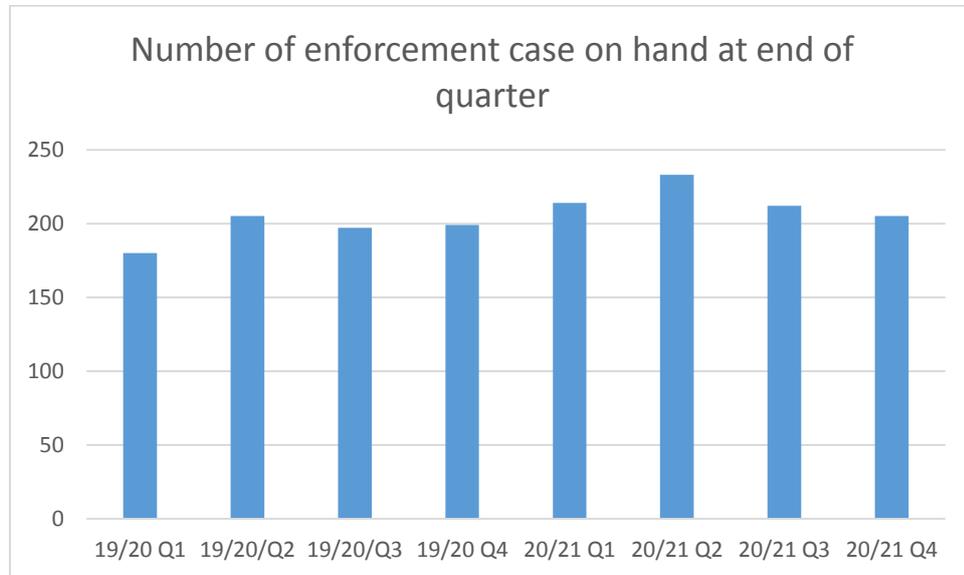
- 1.7 Service managers are currently focussed on recruitment including temporary caseworkers in order to address the backlog, catch up and allow for implementation of a programme of service improvement.

2.0 Planning enforcement

- 2.1 The Local Enforcement Plan was agreed by Council on 21st February 2018. It sets out prioritisation criteria for compliant investigation together with performance standards. Scrutiny Committee considered a report on the

enforcement of planning control at the meeting on 14th September 2020 where it was resolved to set up a working group to consider this area in more detail. The working group is currently holding a programme of meetings prior to formulating a report to Scrutiny Committee.

2.2 Activity within the enforcement part of the planning service by quarter is at **Appendix 1**. The following graphs show enforcement cases:



2.3 One of the Enforcement Officer posts was vacant for part of the quarter 4 period. Following successful recruitment, a new Enforcement Officer started in early May. In addition, efforts are underway to recruit an additional enforcement officer resource on a temporary basis to assist in consideration of outstanding cases, with particular emphasis on undertaking site visits which have backed up during the period of national restrictions in connection with COVID-19.

3.0 BUILDING CONTROL.

3.1 Mid Devon’s Building Control service operates in partnership with North Devon Council as NMD Building Control. The partnership service has been operational since April 2017 and under normal conditions is delivered from offices in South Molton. A Joint Committee oversees the delivery of the functions of the partnership service. 2020 has seen a continued consolidation realising the benefits of the partnership.

3.2 The Building Control service has exceeded the performance target relating to the assessment of full plans applications. Response times for plan checking have improved throughout each of the year and are now consistently above target.

Key performance indicator	Year	2018/19				2019/20			
	Target	Q1	Q2	Q 3	Q4	Q1	Q2	Q3	Q4
Building Regulation Full Plan applications determined in 2 months	95%	99%	96%	100%	100%	98%	99%	99%	97%
Building Regulation Applications examined within 3 weeks	95%	84%	90%	98%	99%	99%	100%	99%	98%

3.3 The graph below indicates the number of applications received per month. Application numbers have recovered strongly from the substantial drop in the first quarter of this financial year, culminating in the highest number of applications in October in the last five years. Activity remains high.

Contact for Information: Jenny Clifford, Head of Planning, Economy and Regeneration
jclifford@middevon.gov.uk

List of Background Papers: PS1 and PS2 returns
 HM Treasury ‘Fixing the foundations – creating a more prosperous nation’ July 2015
 Improving Planning Performance: Criteria for Designation, MHCLG 2020
 Live performance tables P151, P152, P153, P154

Circulation of the Report: Cllr Richard Chesterton
 Members of Planning Committee

Appendix 1 Application performance and enforcement

Planning Service Performance	Target	16/17	17/18	18/19	19/20				20/21			
		Year	Year	Year	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Major applications determined within 13 weeks	60%	90%	82%	77%	33%	75%	75%	100%	None determined	88%	80%	None determined
Minor applications determined within 8 weeks	65%	80%	85%	73%	65%	85%	95%	96%	93%	93%	93%	56%
Other applications determined within 8 weeks	80%	89%	90%	84%	75%	89%	98%	97%	99%	95%	98%	96%
Householder applications determined in 8 weeks	85%	98%	95%	89%	86%	95%	98%	100%	100%	99%	100%	96%
Listed Building Consents	80%	84%	84%	66%	64%	80%	97%	94%	90%	80%	94%	94%
Enforcement site visits undertaken within 15 days of complaint receipt	87%	96%	92%	81%	68%	65%	100%	88%	92%*	93%*	96%*	75%*
Delegated decisions	90%	94%	93%	94%	95%	96%	97%	96%	98%	93%	96%	96%
No of applications over 13 weeks old without a decision	(Less than 45 apps)	29	44	75	82	74	82	76	99	82	86	79
Major applications determined within 13 weeks (over preceding 2 years)	More than 60%	82%	74%	85%	72%	71%	75%	65%	64%	69%	72%	73%
Major applications overturned at appeal as % of all major decisions over	Less than 10%	7%	4%	3%	0%	4.84%	3.16%	1.85%	4%	5.7%	3.61%	5.77%

Appendix 1 Application performance and enforcement

preceding 2 years *												
Non-major applications determined within 8 weeks (over preceding 2 years)	More than 70%	77%	79%	60%	77%	78%	80%	80%	90%	86%	84%	91%
Non-major applications overturned at appeal as % of all non-major decisions over preceding 2 years	Less than 10%	<1%	<1%	0%	0%	0.47%	0.43%	0.44%	0.38%	0.25%	4.68%	4.55%
Determine all applications within 26 weeks or with an extension of time (per annum –Government planning guarantee)	100%	100%	99%	99%	96%	99%	100%	100%	100%	100%	100%	100%
Building Regulations Applications examined within 3 weeks	95%	88%	93%	94%	84%	90%	98%	99%	99%	100%	99%	98%
Building Regulation Full Plan applications determined in 2 months	95%	91%	96%	96%	99%	96%	100%	100%	98%	99%	99%	97%

* 2020 saw several periods of national restrictions with advice not to travel unless essential. Site visits were significantly reduced on a priority basis. Figures reported are where visits took place.

Planning enforcement

2019/2020	2020/2021
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Appendix 1 Application performance and enforcement

Details	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Total Initial Site Visits carried out in the Quarter	113	97	94	83	25	73	90	44
New enforcement cases registered (in quarter)	109	107	120	73	56	80	65	64
Enforcement complaints closed (in quarter)	107	82	128	84	41	63	87	67
Committee authorisations sought	1	0	0	0	0	0	0	0
Total Outstanding cases at end of Quarter	180	205	197	199	214	233	212	205
Enforcement Notices Served					Enforcement Notices Served			
<i>Planning contravention notices served (PCN)</i>	4	4	2	1	1	1	1	0
<i>Breach of condition notices served</i>	0	0	0	0	0	0	1	0
<i>Section 215 (untidy land)</i>	0	0	0	0	0	1	0	0
<i>NOT330</i>	0	0	0	0	0	0	0	0
<i>REPNOT</i>	0	0	0	0	0	0	0	0
<i>ENFCOU</i>	1	0	0	0	0	0	0	0
<i>ENFDEV</i>	1	0	0	0	0	0	0	1
<i>TEMSTO</i>		0	0	0	0	0	1	2
Total Notices Served	6	5	2	1	1	0	3	3

The following table indicates performance against Local Enforcement Plan indicators

Appendix 1 Application performance and enforcement

Indicator	Details	2019/2020	2020/2021				2020/2021				2020/2021				2020/2021			
			April 20 - June 20				July 20 - September 20				October 20 - December 20				January 21 - March 21			
		Q4	Q1	Q1	Q1	Q1	Q2	Q2	Q2	Q2	Q3	Q3	Q3	Q3	Q4	Q4	Q4	Q4
		Achieved	Target	% Achieved	No Rec'd	Achieved	Target	% Achieved	No Rec'd	Achieved	Target	% Achieved	No Rec'd	Achieved	Target	% Achieved	No Rec'd	Achieved
PE01 - within 3 working days	Register and acknowledge all written complaints.	86	100%	97%	70	68	100%	83%	98	81	100%	72%	83	60	100%	63%	72	45
PE02 - 90% of first site visits before the end of the next working day following registration.	Highest priority complaint investigation.	3	90%	100%	0	0	90%	100%	1	1	90%	100%	3	3	90%	100%	0	0
PE03 - Initial site visit within 3 working days of registration.	High priority complaint investigation.	2	100%	100%	1	1	100%	100%	5	5	100%	86%	7	6	100%	50%	2	1
PE04 - Initial site visit within 10 working days of registration.	Medium priority complaint investigation.	4	100%	100%	2	2	100%	92%	13	12	100%	100%	2	2	100%	100%	2	2
PE05 - Initial site visit within 15 working days of registration.	Low priority complaint investigation.	69	100%	95%	22	21	100%	93%	54	50	100%	84%	44	37	100%	72%	47	34
PE06 - Within 5 working days of the date of the initial site visit.	Initial response to complainant setting out progress or informing about a decision in cases where there is no breach.	46	100%	100%	16	16	100%	100%	47	47	100%	48%	27	13	100%	100%	36	36
PE07 - Within 5 working days of the issue of the notice [or decision to take no further action].	Notify complainant that Enforcement Notice has been served or decision that 'no action' will be taken.	46	100%	100%	16	16	100%	100%	47	47	100%	48%	27	13	100%	100%	36	36