

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 22 November 2023 at 2.15 pm

Present

Councillors

L J Cruwys (Chairman)
G Cochran (Vice Chairman), F J Colthorpe,
G Duchesne, R Gilmour, B Holdman,
M Jenkins, F W Letch, N Letch and D Wulff

Apologies

Councillor(s)

S J Clist

Also Present

Councillor(s)

D Broom, C Connor, J Poynton, A Glover

Also Present

Officer(s):

Philip Langdon (Solicitor), Dr Stephen Carr (Corporate Performance & Improvement Manager), Angharad Williams (Development Management Manager), Christie McCombe (Area Planning Officer), Jake Choules (Planning Officer), Tim Jarrett (Arboricultural Officer), Janet Wallace (Public Health), Brian Hensley (Devon County Council Highway Authority), Angie Howell (Democratic Services Officer) and Sarah Lees (Democratic Services Officer)

Councillors

Online

J Buczkowski

51 APOLOGIES AND SUBSTITUTE MEMBERS (03:37)

Apologies were received from Cllr S Clist who was substituted by Cllr D Wulff.

52 PUBLIC QUESTION TIME (04:00)

Robert Theed referred to Application 23/00636/FULL)

Q1. Why was the Public Health comment from July 13th not mentioned in the officers report. This comment includes important information regarding the expected background noise level in rural locations, which is contrary to that of the Noise Report. Specifically the following sentence:

“We know that in remote rural areas the background noise level during the evenings and into the night is around 18-22dBa, not the assumed 25-30dBa in the report.”

The latest Noise report did amend the assumed noise level to 20-25dB, but this is still contrary to those from Public Health. Whilst there is an overlap between the noise report and those stated by Public Health, it is the high estimate of 25dB that the Noise report uses in its assumptions on expected sound levels above background which lies outside those stated by Public Health.

The assumed level of sound attenuation (insulation) of the barn used in the Noise Report analysis are “likely to be limited to circa 5-10dB.” However it appears to be the maximum level of 10dB that is used in subsequent calculations to arrive at the final sound level at the sensitive receptors. In the comments from the 10th May Public Health state “building itself affords little or no noise insulation properties.” and clearly a value of 0dB is used in the calculations done as part of the 13th of July comments from Public Health. The 85dB Internal sound level limit from the latest Noise Report still results in a sound level of 33dB at the nearest sensitive receptor when using the 0dB attenuation assumption. Even at a more generous value of 5dB for attenuation which wasn't previously used by Public Health we would expect a value of 28dB at the nearest sensitive receptor. Note that at the top of the aforementioned background sound level assumption of 22dB, both of these estimates are more than 5dB above background which is the guideline limit mentioned in the Noise Report itself, specifically the following.

“The most appropriate UK guidance document for the control of music noise at events is c, produced by The Noise Council. This document states the following at Note 5 of Table 1, at Section 3.1: ‘For indoor venues used for up to about 30 events per calendar year an MNL (music noise level) not exceeding the background noise by more than 5dB(A) over a fifteen minute period is recommended for events finishing no later than 2300 hours.’”

Q2. Why were Public Health and the planning officer happy to accept the sound limit of 85dB at the venue when it clearly results in more than 5dB above background sound levels when using assumptions they themselves have stated? Specifically more likely between 6-15dB above background under those assumptions or a more than doubling of the perceived sound level at the nearest sensitive receptor.

Jo Treweek referred to Application 23/00636FULL

Q1. Horseriding is a really important local activity and access to quiet lanes with low levels of traffic is a particular feature of this area (increasingly rare) that has attracted many horseriders and equestrian businesses to base themselves here. As Chair of our local riding club (Kentisbeare Riding Club), I want to know what consideration has been given to risk of accidents when wedding guests' vehicles on assumed/ planned access routes to the venue meet horseriders on the narrow and currently quiet lanes our members are accustomed to use, as well as other local equestrian businesses, including a racing yard?

Q2. When deciding on conditions to limit disturbance, what consideration has been given to the local Serotine bat roost at Stowford. This is a priority species. Under the provisions of the Environment Act, national and local priority species and habitats should be a material consideration when determining planning applications. Has disturbance been considered at all or commented on by ecologists?

Q3. Please explain how introducing a new and significant source of noise and light pollution can possibly be considered compatible with DM22 and the need to safeguard the special features of the Blackdown Hills AONB, including peaceful enjoyment of the landscape and dark night skies? Health and safety provisions to limit noise after 11 are irrelevant in this regard.

Q4. If we are to accept un-necessary noise and light pollution affecting the AONB, shouldn't we expect strict controls on both? Where are the conditions requiring modern, downward directed lighting or restricting outside lighting, even light displays? It is concerning that we are expected to take this on trust.

Q5. For those of us who enjoy walking in the AONB, taking in the views, this building is already a disruptive element, visible from miles around, hence the level of objection. It stands out starkly on entering Kentisbeare Village and is also an obvious intrusion from most of the footpaths along the Blackdown Hills escarpment. It couldn't be more prominent, and this is without its attendant traffic, noise and light during events.

Please explain, therefore, how it is possible to conclude it is inconspicuous and should be considered innocuous in the landscape?

Q6. Given its impacts on the AONB, why is this proposal being treated as if it is a standard application, without any special consideration being given to safeguarding the AONB? In this context is not appropriate for the planning system to take tangible action to limit cumulative impacts of noise and light pollution?

Godfrey Whitehouse referred to Application 22/02374/MFUL

Thank you for the opportunity to ask a question in relation to the Dean Hill Two Tree Solar Farm application Ref 22/02374/MFUL.

I am a retired chartered engineer who specialised in energy efficiency and renewable energy.

I refer you to the short supporting comment that I submitted on 1st November. If it is not included in the reports pack, I have copies here if needed.

My question is as follows:

The Energy and Climate Intelligence Unit (ECIU) states that

“Between 24GW and 39GW of the Government's 70GW solar energy target is likely to be generated by ground mounted panels, compared to between 7GW and 22GW that is expected to be delivered by rooftop solar installations.”

Would you agree that roof mounted solar cannot deliver the scale of solar energy that we require and that field scale installations such as the Dean Hill proposal are an essential part of the energy mix for tackling climate change?

Nick Smith referred to Application 23/00636/FULL

Were permission to be given for the change of use and events take place based on the restriction applied to the application, e.g. limits on number of events per year, noise levels, time limitation on noise etc., what safeguards are in place to ensure

these restrictions are adhered to, where is the onus to demonstrate the restrictions are kept to and what redress is there should the restrictions be broken?

Carrie Martindale referred to Application 23/00636/FULL

Q1: Why hasn't a proper noise survey been carried out?

All we have as residents to go on is a biased 'Noise Management Plan' that has been bought and paid for by the applicant and is therefore in favour of the change of venue going ahead; and the experience of an event held there by the applicant last summer.

I live in the hamlet of Stowford Water, 500km away from the proposed venue, and we found the wedding held at the venue during last summer extremely disruptive and an unacceptable level of noise.

Was it tranquil? No. Was it an acceptable level of noise for a family with 3 very small children? No. Would I be happy to accept this kind of noise (and possibly worse) on a weekly basis throughout the summer? Absolutely not.

The level of noise that emanated from that barn to our house was such that we could hear conversations, along with banging music.

Q2: Why is it presumed to be acceptable that local residents can put up with this level of noise up until 11pm throughout the summer months? Does this presume that we are not able to spend time in our (currently) peaceful gardens on a summer afternoon and evening? Are we not allowed to sleep with our windows open? A one-off event is one thing but the prospect of having to put up with this every weekend is heartbreaking.

Stuart McFadzean referred to Application 23/00636/FULL

Q1 Do you accept that DM9 is not met? Your report is ambiguous on this point.

Q2 We are told that DM22 sets a higher bar than DM9. What does this mean?

Q3 What features of the character and appearance of this location are relevant if we are to judge whether the proposal respects them?

The proposal affects the AONB. The Blackdown Hills Partnership reminds us that tranquillity and remoteness of the AONB are some of the special qualities for which it was designated.

Q4. Is the tranquillity of the setting of this proposal a relevant aspect of the character of this location and therefore an aspect of its character that must be respected in order for DM22 to be satisfied?

Q5. What acoustic numeric parameters define tranquillity?

Q6. Do these parameters have the same value at 9 pm, 10 pm, 11 pm and 12am?

Q7. Do the noise conditions recommended by your public health team ensure that Tranquillity is measurably achieved?

Q8. If Tranquillity cannot be measurably achieved, how is it to be respected? How can this be conditioned and enforced? Your plan requires this if DM22 is to be met.

Para 4.91 supporting Policy DM27 Protected Landscapes states that 'Development should not in any way undermine the special qualities that led to the designation of this landscape as AONB. We thus therefore have the requirements to promote (DM9), respect (DM22) and not in any way undermine the special qualities (DM27) of the place in which this building sits.

Q9. How do you judge if the special qualities of the AONB are not in any way going to be undermined by this development if your report provides you with no analysis of this question.

Q10. Is the Vision in your local plan material to the determination of this application?

Q11. Your Vision requires you to 'maintain attractive countryside'. What are the attractive features of this countryside location and how does this proposal maintain them?

Q12. Do the attractive features of this location include this shed?

Your Vision requires you to 'ensure that social and environmental benefits of development are optimised'.

Q13. Could a development in this location that harms the special qualities of the AONB have optimal environmental benefits?

Q14. Could a development that harms successful neighbouring businesses have optimal social benefits?

Q15. Could a development that diminishes the integrity of the asset of the AONB for future generations have optimal social benefits?

Policy S1k requires that landscapes including the Blackdown Hills AONB are protected and enhanced and that there is no noise or visual harm to the natural environment.

Q16. Does this proposal cause no noise or visual harm to the natural environment?

Q17. Does this proposal cause some noise or visual harm to the natural environment?

Q18. Policy S1h requires good sustainable design that respects local character, heritage, surroundings and materials. What design features of this proposal satisfy these requirements? Are these features 'good'?

Q19 How are the Design Principles of DM1 met when DM 9 is not met?

Justin Gillett – referred to Application 23/00636/FULL

I have heard that there will be measures put in place to stop noise beyond 11pm. How will this be policed effectively?

The Chair advised that the questions would be answered during the application.

53 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (24:56)**

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

54 **MINUTES OF THE PREVIOUS MEETING (26:00)**

The minutes of the previous meeting held on 8th November 2023 were agreed as a true record and duly signed by the Chairman.

55 **CHAIRMAN'S ANNOUNCEMENTS (26:20)**

The Chair congratulated Angharad Williams, Development Management Manager in being shortlisted for the "Inspiration Leader of the Year" National Award by the Royal Town Planning Institute.

56 **WITHDRAWALS FROM THE AGENDA (27:08)**

There were no withdrawals from the Plans List.

57 **THE PLANS LIST (27:24)**

The Committee considered the application in the *Plans List.

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

- a) 23/00523/HOUSE - Erection of two storey extension at 10 Willow Walk, Crediton, Devon.

There being no discussion on this item it was **RESOLVED** that planning permission be granted subject to conditions.

(Moved by the Chairman)

- b) 23/00636/FULL - Change of use of barn to wedding/events venue and retention of access track at Land and Buildings at NGR 307827 108901, Pirzwell Ponds, Kentisbeare.

The Principal Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The proposed development was for the change of use of agricultural barn to wedding/events venue and retention of an access track.

- The site was in the open countryside approximately 300m outside of the Blackdown Hills Area of Outstanding Natural Beauty (AONB) and 1km from the village of Kentisbeare.
- The Application was called in by Cllr A Glover to assess the impacts on noise, traffic and visual impacts.
- Car parking had been provided which met the requirements of Policy DM5 and the Highways Authority. Planting was considered to screen the parking area however as there would only be 25 events per year the car park would rarely be used and it was felt that this would detract from the open nature of the landscape.
- A revised Noise Management Plan had been received which Public Health were satisfied with.
- The number of events had been restricted to 25 per annum, prevented music after 11pm, prevented amplified music outside and it was stated that the barn must be vacated by midnight.
- Fireworks or camping would not be permitted.
- There were no physical changes proposed to the building and given the constraints of the Noise Management Plan, the character of the AONB was also considered as protected.

In response to the public questions the Principal Planning Officer answered as follows:-

There were numerous related questions which have been grouped together to give answers.

Question on DM9/DM22

There was a difference between positively contributing to the area's character and not being harmful, it was considered that whilst the building was not necessarily positive, it was neutral and not harmful. There was some policy conflict with DM9 due to this but officers consider DM22 it more relevant and sets a higher bar for development by requiring a business plan for example. We therefore considered that the balance weighs in favour of granting permission.

Question about the vision of the Local Plan and whether the development maintains an attractive countryside and protects landscapes

As set out in the officer report, officers were satisfied that this was the case.

Similarly, questions on visual impact and design

The building was already in situ and there were no physical changes proposed, officers were satisfied that the proposal would not result in a significantly adverse visual impact.

Question on features of the area/AONB

The impact upon the AONB had been considered despite the site not actually being within the AONB area and this was addressed in detail in the officer report and in the AONB Officer comments.

The site was outside of the AONB but the features including the tranquillity of the area and dark skies had been considered hence the conditions relating to noise assessments and external lighting.

There was a question about what acoustic parameters define tranquillity, this was not objectively defined in the policy by decibel levels or similar.

Question on enforceability of conditions

Officers were satisfied that the conditions met the tests set out in the National Planning Policy Framework (NPPF). There was a question about who the onus was on to demonstrate compliance with the conditions and the wording of the conditions puts the onus on the applicants but the Local Planning Authority would have the ability to make checks.

Question about traffic and the highway network including impact on horse riding

The Highway Authority were satisfied that the development was acceptable in terms of impacts on the local highway network. The conditions had been used to secure visibility spays and the transport assessment.

Question on working with the Parish Council

The Parish Council and public were consulted on the application and the comments had been taken into account.

Question on ecology and lighting

There was a condition ensuring the development proceeds in accordance with the ecology survey which was undertaken by a suitably qualified ecologist and as mentioned before there was a condition controlling any external lighting.

Why was Public Health's comment of 13th July not in the report?

This was a mistake on my part, it was missed because the comment did not pull through on our system but the comment is publically viewable on the portal. However, the most recent Public Health comments were in the report.

Specific question about the decibel levels within the noise report and the credulity of the noise report

From the Planning Officer perspective, we were guided by the relevant qualified professionals in these departments and note that Public Health had no objections.

The Public Health Officer also advised the following:-

- A Noise Management Plan was submitted by the applicant which was scrutinised by Public Health.
- The Environment Health Team would be the first port of call should there be any complaints.

The County Highways Officer advised the following:-

- There was little difference between a Transport Assessment and a Transport Statement but an Assessment was generally more detailed and used for major schemes.

Consideration was given to:

- The number of car parking spaces that would be required.
- Noise management and possible insulation of the barn or screening to reduce the noise.
- The traffic impact due to the increased vehicles attending each event.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr F J Colthorpe and seconded by Cllr G Cochran)

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

Notes:-

- (i) Katie Parsons spoke as the Objector.
 - (ii) Mr Webber and James Webber spoke as the Applicant.
 - (iii) Cllr Edd Southerden spoke on behalf of Kentisbeare Parish Council.
 - (iv) Cllrs J Poynton, A Glover and C Connor spoke as Ward Members.
 - (v) Cllr B Holdman declared he had received correspondence.
- (c) 23/01141/FULL - Variation of condition 13 of planning permission 22/00868/MFUL (Removal of condition 13 of planning permission 17/01142/FULL - further noise assessments) relating to the submission of a noise assessment at Land at NGR 299621 112764 (Red Linhay), Crown Hill, Halberton

The Principal Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The proposed development was for the variation of condition 13 which required a noise assessment to be submitted.
- Initially the applicant sought to remove Condition 13 entirely but through negotiations with the applicant it had been agreed that the condition wording be varied.
- The LPA and applicant did not agree to the exact wording of the condition but it was down to the LPA to impose conditions where necessary.
- There was some disagreement about the exact wording of the condition.
- The conditions gave the applicant one month to submit a Noise Assessment.

Cllr G Duchesne read out questions from a member of the public which the Case Officer answered by explaining:-

- Officers were satisfied that the suggested conditions met the six tests of planning conditions as set out in the NPPF.
- If a complaint was submitted then the Enforcement Team would investigate if the time limits had not been adhered with and action could be taken.

- In this particular case the Case Officer would check if the noise assessment had been submitted.
- If details were to be submitted to discharge the conditions, they would be publically viewable on the portal under that application.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr F Letch and seconded by Cllr G Duchesne)

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

Notes:-

- (i) Cllr G Duchesne spoke as the Ward Member.
 - (ii) Cllr M Jenkins arrived at 16:35.
- (d) 02374/MFUL - Construction and operation of a solar photovoltaic (PV) farm together with associated works, equipment and infrastructure at Land at NGR 301974 110937, Dean Hill Road, Willand.

The Area Planning Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- The site measured 60.37ha and comprises agricultural land near Dean Hill Road, Willand with the village of Halberton located approximately 1.3km to the west of the site.
- A site visit was undertaken on 14 November 2023.
- Queries and issues had been raised through the application process all of which had been addressed.

Susan Grant a member of the public asked if a site visit had been arranged for Members.

The Area Planning Officer confirmed that a site visit had recently taken place by all Members of the Planning Committee.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr R Gilmore and seconded by F Letch)

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

Notes:-

- (i) Nicola Whittingham spoke as the Objector.
- (iii) Max Lomax, Low Carbon spoke as the Applicant.
- (iv) Cllr A Glover spoke as the Ward Member.
- (v) Cllr B Holdman declared he had received correspondence.

- (vi) Cllr F Letch declared he was a member of the Devon Wildlife Trust.
- (vii) Cllr G Duchesne declared she was a member Halberton Parish Council.
Cllr F J Colthorpe declared she had received various emails.
- (viii) Cllr G Duchesne abstained from voting.

58 **MEETING MANAGEMENT (03:02:47)**

The Chair announced that the Committee would be discussing Item 11 on the agenda next.

59 **PERFORMANCE DASHBOARD (03:02:58)**

The Corporate Performance and Improvement Manager provided the Planning Committee with a verbal update on performance for Quarter 2.

The information presented was **NOTED**.

60 **TREE PRESERVATION ORDER - 23/00003/TPO - STRATHCULM ROAD, HELE, DEVON (03:05:30)**

The Committee had before it a *report presenting the Tree Preservation Order (TPO) 23/00003/TPO for land at Strathculm Road, Hele, Devon. Devon

The Arboricultural Officer outlined the contents of the report by way of a presentation which highlighted the site location plan and photographs of the site and the tree. He also outlined the following:-

- The Tree Preservation Order (TPO) was for 1 copper beech tree.
- This was requested from the Hele Conservation Society following the recent sale of land.
- The tree was growing within a green space on the corner of Station Road and Hele Road and was very visible when approached from both directions.
- An objection had been received from the land owner as the land had recently been sold free of TPOs.
- The points raised in the objection were not sufficient to outweigh the contribution from the tree.

It was **RESOLVED** that: the Tree Preservation Order be confirmed.

(Proposed by Cllr F Letch and seconded by Cllr F J Colthorpe)

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

Notes:-

*Report previously circulated copy attached to the minutes.

- (ii) Jonathan Hall spoke as the Objector.

61 MAJOR APPLICATIONS WITH NO DECISION (PART B 16:39)

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

The Committee agreed that:

- (i) Application 23/01406/MFUL, Land at NGR 271242 108982 (South Of Nymet Mill Farm), Nymet Rowland to remain as determined by Committee.
- (ii) Application 23/01440/MOUT, Land at NGR 304098 107284, Newlands Farm, Cullompton Devon to be determined by Committee and a Committee site visit to be arranged.
- (iii) Application 23/01446/MFUL, Ashmoor Stud Ashfields, Stoodleigh Tiverton Devon, EX16 9QF to remain as delegated.
- (iv) Application 23/01351/MFUL, Land at NGR 304444 114510, North of A361, Junction 27 Westleigh, Devon to remain as determined by Committee.

Note: *List previously circulated, copy attached to the minutes.

62 APPEAL DECISIONS (PART B 22:38)

The Committee had before it, and **NOTED**, a list of appeal decisions.

Note: *List previously circulated, copy attached to the minutes.

(The meeting ended at 5.44 pm)

CHAIRMAN