

Public Document Pack

Committee Administrator
Sally Gabriel
Tel: 01884 234229
E-Mail: sgabriel@middevon.gov.uk

PLEASE NOTE: Members of the public wishing to speak to a planning application are requested to contact the Committee Administrator before the meeting starts.

MID DEVON DISTRICT COUNCIL

PLANNING COMMITTEE

A MEETING of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House on Wednesday, 9 March 2016 at 2.15 pm.

Prior to the meeting at 12.30pm, Members will receive a pre-application presentation from the developers for the Pedlerspool (Crediton) application.

The next ordinary meeting of the Committee will take place on Wednesday, 6 April 2016 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
1 March 2016

Councillors: Mrs H Bainbridge, K Busch, Mrs C Collis, Mrs F J Colthorpe, R J Dolley, J M Downes, S G Flaws, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley

A G E N D A

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

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**
To receive any apologies for absence and notices of appointment of substitute.
- 2 **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.

- 3 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 22*)
To receive the minutes of the previous meeting (attached).
- 4 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements the Chairman may wish to make.

- 5 **DEFERRALS FROM THE PLANS LIST**
To report any items appearing in the Plans List which have been deferred.
- 6 **THE PLANS LIST** *(Pages 23 - 32)*
To consider the planning applications contained in the list.
- 7 **THE DELEGATED LIST** *(Pages 33 - 48)*
To be noted.
- 8 **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 49 - 50)*
List attached for consideration of major applications and potential site visits.
- 9 **APPEAL DECISIONS** *(Pages 51 - 54)*
To receive for information a list of recent appeal decisions.
- 10 **APPLICATION 15/01622/FULL - ERECTION OF AN AGRICULTURAL WORKS DWELLING AND AN AGRICULTURAL LIVESTOCK BUILDING AT LAND AT NGR 316711 110152 (TEN OAKS FARM) CLAYHIDON** *(Pages 55 - 82)*
To receive an implications report from the Head of Planning and Regeneration following discussions at the previous meeting where Members were minded to refuse the application.
- 11 **APPLICATION 15/01808/MFUL ERECTION OF 3 REPLACEMENT POULTRY BUILDINGS (8071SQ.M) FOLLOWING DEMOLITION OF EXISTING AND PROVISION OF ASSOCIATED INFRASTRUCTURE INCLUDING FEED BINS AND HARDSTANDING AT LAND AND BUILDINGS AT NGR 285916 112907, TOLLGATE FARM NOMANSLAND** *(Pages 83 - 100)*
Report of the Head of Planning and Regeneration regarding this application.
- 12 **APPLICATION 15/01996/MFUL - ERECTION OF PARLOUR, CUBICLE AND COVERED FEED BUILDING (1876 SQ.M) AT LAND AT NGR 269824 104236 (SW OF LOWER NEWTON FARM) ZEAL MONACHORUM** *(Pages 101 - 122)*
To receive a report of the Head of Planning and Regeneration regarding this application.
- 13 **APPLICATION 15/01994/FULL - ERECTION OF A COVERED SLURRY STORE (760 SQ.M) AT LAND AT NGR 269824 104236) LOWER NEWTON FARM, ZEAL MONACHORUM** *(Pages 123 - 142)*
To receive a report of the Head of Planning and Regeneration regarding this application.
- 14 **TIVERTON EASTERN URBAN EXTENSION: CONSTRUCTION OF NEW HIGHWAY JUNCTION TO A361.** *(Pages 143 - 156)*
To report back on investigations over whether revisions to the approved highway junction design for the new A361 junction can be delivered and the implications of the revised scheme.

15 **REVIEW OF PLANNING COMMITTEE PROCEDURES** *(Pages 157 - 238)*

To receive a report of the Head of Planning and Regeneration requesting Members to review Planning Committee procedures in light of issues that have arisen and following visits to other Local Planning Authorities undertaken in 2012/13.

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. The reports within this agenda have 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.

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Sally Gabriel on:

Tel: 01884 234229

Fax:

E-Mail: sgabriel@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 10 February 2016 at 2.15 pm

Present Councillors

Mrs H Bainbridge, K Busch, Mrs C Collis,
Mrs F J Colthorpe, J M Downes, S G Flaws,
P J Heal, D J Knowles, F W Letch,
B A Moore, J D Squire, R L Stanley and
Mrs B M Hull

**Apologies
Councillor(s)** R F Radford

**Also Present
Councillor(s)** F J Rosamond

**Present
Officers:** Jenny Clifford (Head of Planning and
Regeneration), Simon Trafford (Area
Planning Officer), Daniel Rance (Principal
Planning Officer), Reg Willing (Enforcement
Officer), Hannah Cameron (Planning
Officer) and Sally Gabriel (Member Services
Manager)

108 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr R F Radford who was substituted by Cllr Mrs B M Hull.

109 **PUBLIC QUESTION TIME**

With regard to the following questions the Head of Planning and Regeneration provided answers later in the meeting however for clarity the answers have been provided underneath the questions.

Mr Byron referring to Item 11 (Land west of Paultett) stated that in 2013 outline planning permission was given for development on this site with 3 dwellings and 2 cars each (6 vehicles). At that point Highways described access arrangements as not ideal. The Chair of this committee said at that time that access was suitable for a maximum of three dwellings; it was approved on that basis. In 2015 Reserved Matters on the 2013 outline permission accepted 3 dwellings but with 3 cars each (9 vehicles): an increase of 50% on the 2013 expected traffic. Worse than not ideal. This 2015 application seeks to allow 4 dwellings with 3 cars each (12 vehicles). This is an increase of 33% on the Reserved Matters and a 100% increase on the original outline application where access was not ideal. From not ideal to worse than not

ideal to even worse than worse than not ideal. Members will see the direction of travel in this application.

How is this incremental lowering of standards from something that started as not ideal a sign of Mid Devon's commitment to high quality design?

Are Members happy to allow a fourth dwelling that allows 100% more traffic to use the access road than was first accepted in the 2013 outline plan.

The Head of Planning and Regeneration stated that as the Local Planning Authority it was necessary to decide why not to approve planning permission. Therefore not ideal was not necessarily not high quality design or unacceptable. The question has to be asked, is it bad enough to refuse and you have to justify refusal.

The Highway Authority had considered the access to the site, the length of the access, the width and whether vehicles would meet. The update provides further information on this.

In terms of highway issues we take advice from Devon County Council Highways Authority. The Highways officer had visited the site, we have had a response and he had discussed the issues with local residents. He had no objection to the proposal.

Mr Byrom continued stating that officers have told Members that the National Planning Policy Framework (NPPF) advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. But the context is developments that generate significant amounts of movement and the focus of the bullet is traffic flow and queues, not safety, which is our chief concern. An extra dwelling does, however increase by 33% from Reserved Matters, the likelihood of cars having to reverse into Paultett. The increase is 100% from 2013. Severe. Officers choose not to quote the more relevant previous bullet point that says plans and decisions should take accounts of whether.....safe and suitable access to the site can be achieved for all people. How do officers justify quoting a NPPF bullet point whose context is for a development that generates significant amounts of movement?

If officers contend that their quoted bullet point still applies, will they equally insist that Members should demonstrate that there is safe and suitable access....for all people, if they wish to approve the application?

Are Members satisfied that they would be fulfilling their duties under the Equalities Act if they allow at least a 33% increase in traffic along a narrow private drive without the required passing places and with a mere 55cm strip at each side as shown in the application plans?

The Head of Planning and Regeneration in response stated that the Highways Authority responses should be referred to. The Highways Authority is the statutory consultee. The NPPF should be taken in its entirety. If Highways had concerns regarding safety then they would have said so.

Mr Byrom stated that the Highway Authority insists that the visibility splays at the junction meet the Manual for Streets regulations. This is only true if the lowest standards are applied i.e. traffic travelling at 10 mph and in forward gear. The

Highways advice fails to acknowledge that the junction is in a 30mph area and that vehicles will be reversing into the junction from the new access road and from three other private driveways. Visibility to the south east is impaired by shrubbery even when cut back from the foot way. In those circumstances the splays do not meet the requirements. Highways have commented that ...a share surface style route is also acceptable for disabled access from a highways perspective. But the plans do not propose a shared surface style route as it has narrow foot ways/verges, each 55cm in width. If highways are right to say that the design style for the access route is shared surface, will officers show how the applicants have met the requirements in Manual for Streets paragraph 7.2.12 that says consultation with the community and users, particularly with disability groups and access officers is essential when any shared surface scheme is developed?

Please would officers explain to Members what are they expected to do should they believe that Highways have made a mistake or inappropriate assumption in their judgements about visibility splays or the design of the access road?

The Head of Planning and Regeneration stated that the DCC response and update should be considered. Members had the ability to refuse the application if they did not agree with the Highway Authority, good planning reasons for refusal and justification would be required.

Mr Preston (Agent for the Applicant) referring to Item 1 (Paultett) on the agenda stated that the site already had planning permission for 3 dwellings and Reserved Matters for this had already been granted. The current application sought to add one affordable dwelling to meet the local need. The first suggestion for refusal had been the impact on 9 Turnpike, officers view was that the impact was not unacceptable and could be mitigated with landscaping and fencing. Following this there had not been any further concerns for the residents at 9 Turnpike. With regard to the highway issues, 3 dwellings had already received planning permission, 1 additional dwelling could not be described as severe. With regard to the bin storage, 3 dwellings had been approved, would bins and boxes from one additional dwelling warrant refusal? With regard to drainage issues an onsite drainage strategy has been approved by the County Drainage Engineer. Are Members aware that if on site drainage is not acceptable access to the combined sewerage system is acceptable.

Mr Bond again referring to Item 11 stated that when considering the impact on neighbouring properties, Members, officers and the subsequent report of focuses solely on No 9 Turnpike, had ignored the greater impact on other properties, notably 13 Paultett. Overlooking and window to window distances are not the issue here. The issues are loss of privacy, loss of amenity, noise and fumes, and reduced security created by a driveway immediately adjacent to a back garden and within 10 m of a conservatory that is still not represented correctly on the plan. The Manual for Streets states the basic tenet of public fronts and private backs and that ideally back gardens should adjoin other back gardens or a secure communal space. When considering the question of the impact of plot 1 on the amenity of existing property, why was the impact on 13 Paultett not considered? Given the importance stressed by others of following guidance in Manual for Streets, why is it not being followed in this case?

The Head of Planning and Regeneration stated that the impact of Plot 1 had been considered by officers. Window to window the distance was 26 metres. It was not felt that there was significant loss of privacy or amenity. The relationships between all of the properties had been considered and it was felt that this was not sufficient to refuse planning permission.

Mrs Bond again referring to Item 11 on the agenda stated that the officers report recognises that bin collection arrangements are to quote not ideal, do not meet Mid Devon Waste Storage Guidance and are not in accordance with Building Regulations 2010 Drainage and Waste disposal document H. Why are officers considering allowing a 33% increase in the number of refuse bins and recycling containers making a not ideal situation, even more not ideal? And where exactly on the plan would officers expect the refuse bins and recycling containers to be placed on collection days and how would this affect highway and pedestrian safety? As residents of the new properties will have to carry waste between 60 and 85 metres to the nearest safe collection point, how would Members justify approving this application in light of the Equalities Act?

The Head of Planning and Regeneration stated that refuse collection is not ideal, It was recognised that Development Guidance states that there should be a highway pickup point. Paultett is an adopted highway, the collection point would be on the pavement, but the edge of the private access could be used. This would be the same for 3 or 4 dwellings. Carrying waste to the collection point was not considered to breach the Equalities Act; the assisted collection bin scheme could be used if required.

Mr Fisher again referring to Item 11 stated that at the committee meeting on 16 December Councillor Radford stated and this issue is about going from 3 houses to 4. We aren't talking an extra area.....it's all within the development area. The above statement was not corrected by Planning Officers at the time. Would they please clarify to the committee and by reference to a site plan that the land area is increased from that approved by outline planning permission and that the extended land area falls entirely within Conservation land?

The Head of Planning and Regeneration stated that the plan identified the Conservation Area; the Conservation Officer had no objections. The fact that the previous scheme did not include the Conservation Area was not considered to be able to sustain a refusal.

Mr Martin, referring to Item 11 on the agenda stated that the various plans presented at different stages of this application had shown inaccuracies and omissions. Conservation land had not been shown; neither has conservatories on adjacent properties, nor walls and landscaping details, all of which caused misleading interpretations of the actual situation. Why had officers not insisted on the correction of all inaccuracies and omissions so that Members could today be looking at an up to date and accurate plan?

The Head of Planning and Regeneration stated that we were giving you up to date information in the presentation with photots of the site to allow an assessment to be made. Window to window distances, loss of amenity or overlooking had been assessed and could not be considered to be able to be sustained as a reason for refusal.

Mr Dinnage referring to Item 11 stated that an affordable home had been identified on this site as Plot 1. Could Planning Officers explain how 1 affordable home was greater public benefit than the 3 affordable homes recently approved under reserved matters for this site which do not lead to the expansion of the development area onto conservation land.

The Head of Planning and Regeneration stated that permission for the 3 houses did not include an affordable home but a financial contribution towards offsite affordable housing. The application for 4 dwellings included 1 of affordable dwelling on site.

Mr Dumble referring to Item 11 stated that the developer had agreed to implement in full the recommendations of the Ecology Report. This included provisions of a continuous bio diverse hedging around the entire boundary perimeter linked to that between houses. But to date a plan showing this continuous hedge had not been produced. The need for this was to conserve existing foraging and migration routes of small mammals, and notably hedgehogs who nest and breed in surrounding gardens. Would Planning Officers please show to Councillors on the site plan the proposed position of the continuous double hedging on the northern and western side boundary? Could they then state how a continuous bio diverse hedge as recommended in the ecology report can be planted between the bungalow on Plot 4 and the northern boundary without moving the position of the bungalow?

The Head of Planning and Regeneration stated that on the northern boundary it would be difficult to provide a hedge along the full boundary on Plot 4 and on Plot 2 because of the position of the back of the property to the boundary.

Mr Dumble continued by stating that the draft consultancy report on the SUDS drainage design for the Poullett site had been accepted without question by the Planning Officers. It was demonstrably in error in many respects when compared to current SUDS guidance. For example the depth to water table was not identified and the design on the soakaways was significantly undersized by using average rather than a worst case infiltration rate. Given increased rainfall and flood risk, this was of real concern. Can Planning Officers explain the process they use for critical review of expert reports? Are independent advisors ever consulted when technical issues fall beyond the professional expertise available within the council or when issues are highlighted by objectors? And if so, when was this last done? Will the drainage report be reassessed and corrected?

The Head of Planning and Regeneration stated that Devon County Council were the Lead local Flood Authority, the drainage scheme had been conditioned, Devon County Council would provide the expert advice.

Mr Dumble stated that we had learnt in the course of this application that technical advice and policy published on Mid Devon and Devon County Council websites is contradictory to and over-ridden by the guidance in the NPPF. This inconsistency, lack of explanation of these issues by officers in the course of this application and unfortunately in our experience, a sometimes patronising approach to objectors valid concerns, does this council no credit and wastes an overwhelming amount of everyone's time. My question refers to guidance in the NPPF and in particular the Ministerial Forward, Sections 66, 189 and 190. Could Planning Officers explain when the principles expressed in the Ministerial Forward to the NPPF i.e. for planning

to be a collective enterprise which includes people and communities in planning issues will be taken seriously by this Council? What steps have they taken since 2012 when the NPPF was published to implement these policies? Can officers indicate what plans are in place to improve public information on their and DCC websites, to correct discrepancies in guidance and remove or update those documents which no longer have any validity or application?

The Head of Planning and Regeneration stated that the Statement of Community Involvement outlines the consultation process with neighbours and local residents. Local residents had also had the opportunity to speak today. Information was placed on Public Access on the website, if this was out of date or particular documents are considered no longer relevant then please let us know.

110 MINUTES OF THE PREVIOUS MEETING (00-24-53)

Subject to the following amendment to the first paragraph of public question time by removing the wording: "If you refuse permission it is likely that an appeal will lead to costs, the credibility and diligence of the officer will be judged; and replacing it with "If you refuse permission for the Planning Application, the Applicant is likely to Appeal against that decision and MDDC risks the very unwelcome costs involved in addressing the Appeal process. The Officer's scrutiny of the Planning Applications would be called into question if the Appeal is upheld. In that event the credibility and diligence of the Planning Officers would be seriously challenged together with your integrity as Decision maker".

The minutes of the meeting held on 13 January 2016 were approved as a correct record and signed by the Chairman.

111 CHAIRMAN'S ANNOUNCEMENTS (00-27-19)

The Chairman had the following announcements to make:

- a) Prior to the committee meeting on 9 March there would be a pre-application presentation from the agents for the Pedlerspool site (Creedy Bridge) on the edge of Crediton.
- b) The meeting of the Scrutiny Committee on 22 February would be looking at enforcement issues, Members may like to attend.

112 ENFORCEMENT LIST (00-29-16)

Consideration was given to a case in the Enforcement List *.

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

Arising thereon:

- a) No. 1 in the Enforcement List (***Enforcement Case ENF/11/00034/UCU – unauthorised material change of use of land for private park to mixed use of private parks and use for the siting of caravans for human habitation – Langford Park Limited, Langford Road, Langford, Newton St Cyres***).

The Enforcement Officer outlined the contents of the report highlighting the issues of caravans being used to accommodate staff without the required permission, there was the possibility that an application may be received to rectify the issue, however there was a need to control the situation.

RESOLVED that the Legal Services Manager be given delegated authority to take any appropriate legal action including the service of a notice or notices seeking the removal of the caravans and the cessation of the use of the land for the unauthorised siting of caravans for human habitation. In addition, in the event of a failure to comply with any notice issued authority be given to prosecute, take direct action and/or authority to seek a court injunction.

(Proposed Cllr P H Heal and seconded by Cllr S G Flaws)

113 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

114 THE PLANS LIST (00-34-39)

The Committee considered the applications in the plans list *.

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

(a) Applications dealt with without debate.

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

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

(i) No 2 on the Plans List (***15//01672/FULL – Removal of Condition 3 (holiday occupancy condition) of planning permission 05/01218/FULL – The Barn, Pugham Farm, Westleigh, Tiverton***) be refused as recommended by the Head of Planning and Regeneration

(Proposed by the Chairman)

(b) No 1 on the Plans List (***15//01622/FULL – Erection of an agricultural work's dwelling and an agricultural livestock building at land at NGR 316711 110152 (Ten Oaks farm), Clayhidon***).

The Principal Planning Officer outlined the contents of the report which had been deferred from a previous meeting so that further information could be obtained with regard to financial sustainability, the water supply and the sufficiency of the land area available for the enterprise. He highlighted the block plan and proposed elevations of the dwelling and additional barn and provided photographs from various aspects of the site.

Consideration was given:

- To the possible use of a borehole and whether this was feasible
- Whether there was a need for the applicant to live on site
- Concerns of the local residents with regard to whether the business was financially viable
- The absence of effective business plans and financial data
- The cost of a borehole
- The need for stock movement information to be made available

RESOLVED that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out the implications for the proposed reasons for refusal based on the following issues:

- Insufficient size of holding to sustain the proposed activity upon which the need for a dwelling was based.
- Information to support the applications did not adequately demonstrate that the business will be sustained and financially viable.

Members also requested receipt on a confidential basis of the applicant's stock movement records for the past two years and any audited accounts or financial information in support of the application.

(Proposed by Cllr R L Stanley and seconded by Cllr Mrs B M Hull)

Notes:

- i) Cllrs Mrs H Bainbridge, K I Busch, Mrs C Collis, Mrs F J Colthorpe, J M Downes, S G Flaws, P J Heal, D J Knowles, F W Letch, B A Moore, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as they had all received additional information from the applicant;
- ii) Mr Greenhill (Applicant) spoke;
- iii) Mr Catley (Objector) spoke;
- iv) Cllr Langford (Clayhidon Parish Council) spoke;
- v) Cllr F J Rosamond spoke as Ward Member;
- vi) Cllr Mrs H Bainbridge requested that her vote against the decision be recorded;
- vii) The following late information was reported: Regarding the relevance of disclosing the 'Stock register', Committee members may find the following information helpful.

Paragraph 11 of the inspector's decision letter:

"More significantly, in the case of a temporary dwelling, the key element of the functional test is not the amount of labour required but whether it is essential for a worker to be readily available at most times day and night".

The inspector, having thoroughly examined the need concluded, *"I accept it is necessary for a worker to be on hand day and night"*.

Thus, it is not the quantity of stock at any one time, but the 'need' that is decisive.

Quantity and how long the stock are kept on site varies e.g. at present only a few stock have been moved off site, as the majority of farmers do not want to take them because they cannot put them out to graze owing to waterlogged pasture. Other factors, as with any business, are commercial market conditions. This was acknowledged by the Inspector at the time of the site visit when the stock were 6 months old (Paragraph 10).

115 THE DELEGATED LIST (1-20-00)

The Committee **NOTED** the decisions contained in the Delegated List *.

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

116 MAJOR APPLICATIONS WITH NO DECISION (1-20-53)

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

It was **AGREED** that application 15/01996/MFUL Lower Newton Farm, Zeal Monachorum be determined by the Committee and that a site visit take place.

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

117 APPEAL DECISIONS (1-23-00)

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

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

118 APPLICATION 15/01422/FULL - ERECTION OF 4 DWELLINGS WITH GARAGES AND ALTERATIONS TO ACCESS (REVISED SCHEME) AT LAND AT NGR 302666 114116 (WEST PAULLET), TURNPIKE, SAMPFORD PEVERELL ((1-24-08)

The Committee had before it an * implications report of the Head of Planning and Regeneration following discussions at the previous meeting where Members were minded to refuse the application.

The Planning Officer outlined the contents of the report by way of presentation highlighting the site plan and the proposal for 4 dwellings one of which would be affordable compared to the approved application for 3 dwellings on the site. Consideration was given to the main difference in the applications that of Plot 1, the

affordable dwelling. The proposed floor plans and elevations were explained and photographs were shown from various aspects of the site.

The Head of Planning and Regeneration provided answers to the questions posed in Public Question Time (answers available in Minute 109)

Consideration was given to:

- Additional traffic caused by the additional dwelling
- The collection point for waste and the additional waste being presented
- Access issues and whether the private drive would be adopted
- The number of dwellings off a private drive
- The transfer of the affordable dwelling to a Registered Social Provider
- Possible screening of the development
- The National Planning Policy Framework and the Manual for Streets

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration

(Proposed by Cllr K I Busch and seconded by Cllr R L Stanley)

Notes:-

- i) Cllrs Mrs H Bainbridge, K I Busch, Mrs C Collis, Mrs F J Colthorpe, J M Downes, S G Flaws, P J Heal, D J Knowles, F W Letch, B A Moore, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as they had all received additional information from the applicant;
- ii) Cllr R L Stanley declared a personal interest as the former landowner was known to him;
- iii) Cllr F W Letch declared a personal interest as he knew residents in Paullett;
- iv) Cllr Mrs H Bainbridge made an additional declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as she had provided procedural advice to local residents;
- v) Cllr Mrs H Bainbridge spoke as Ward Member;
- vi) Cllrs Mrs H Bainbridge and Mrs C Collis requested that their vote against the decision be recorded;
- vii) Cllr F W Letch requested that his abstention from voting be recorded;
- (viii) The following late information was reported: Since the Committee on the 16th of December, reserved matters have been granted for three dwellings, application reference 15/01899/ARM following the previous outline permission 12/01213/OUT.

Summary of additional objections:

- After taking the decision to refuse the application at the December committee members were given little time to summarise their reasons and the loss of the conservation area was overlooked.
- The loss of amenity of existing properties was focussed solely on 9 Turnpike, this ignores the impact on the properties in Paullet. It is unsustainable and misleading to focus on this property only in terms of overlooking.
- The submitted plans do not accurately show the true extent of the conservatories at 12 and 13 Paullet.
- The proximity of Plot 1 to 13 Paullet is 2 metres (Officer note: this measurement is incorrect, the garage of Plot 1 is 1metre from the proposed hedge and 3 metres from the site boundary)
- Parked cars on the driveway of Plot 1 will be 11 metres from number 13 (Officer note: this measurement is incorrect and should be 13 metres at their closest)
- The proposed garage on Plot 1 will overshadow much of the garden and cause loss of sunlight and amenity.
- The driveway and car movements will cause considerable noise nuisance and loss of amenity.
- The development will significantly affect outlook, light, sunlight and privacy of the occupiers of 12 and 13 Paullet.
- The proximity of Plot 1 to number 13 is out of context with the surrounding pattern of residential development. Nowhere else has a building and driveway end on to a rear garden boundary in such close proximity to another dwelling. This is unacceptable, not commensurate with the quality of dwellings or neighbourhood character.
- The outline permission had no buildings along the eastern boundary.
- Development fails to meet the criteria in the Manual for Streets, and is not in accordance with Highways Standing Advice, and is therefore inadequate, the road width should be a minimum of 3 metres with 1 metre either side, and should have a passing place as it is longer than 25 metres. The visibility splays are also inadequate as the neighbouring driveways have features obscuring the view. Dangerous for reversing vehicles out of the driveway.
- Concern over vehicular and pedestrian safety, and the lack of visibility at the junction, inadequate road width and no footpath or passing place. Should be limited to three dwellings under the outline permission.
- Outline application granted erroneously in terms of highway safety with an unsafe access width.
- Lack of designated area for bin collection, no satisfactory solution for dealing with waste disposal and recycling. Will have an adverse impact on the street scene, particularly due to the multiple containers now used, a fourth set of containers will add to the uncontrolled three sets of containers under the outline permission with a 33% increase.
- The distance from the collection point is up to 80 metres, will likely result in containers being transported by car, it is impractical to park cars at the end of the driveway and will add to safety concerns at the junction.
- Likelihood bins will be positioned unsafely on the highway and access over night and during the day exacerbating safety and visibility issues at the junction with the highway.
- This application is inappropriate in terms of scale, proximity, waste management, highway and pedestrian safety.
- Lack of concern for wildlife

- Executive bungalows are not small and affordable, misrepresented.
- Concerns the draft SUDs scheme does not address all of the issues on site, the soakaway to the rear of Plot 1 needs to be repositioned since the garage has moved on the plans, and will likely be even closer to the site boundary.
- The soakaway overspill levels should be positioned lower than the base of the adjacent gardens so drainage is directed elsewhere in high rainfall events.
- The building regulations referred to by the drainage engineer have now been superseded. The new CIRIA report 753 sets details of infiltration testing and design calculations. It is stated: The tests for the site appeared to be within argued boreholes, borehole tests are a last resort when construction pits is not possible, and such tests should be interpreted more cautiously, due to the lower water volume added to the ground. It is rare that sufficient tests are carried out on a site to allow statistical analysis. The worst case infiltration capacity value should be used, unless sound justification for doing otherwise is demonstrated. The design calculations use average values only and do not apply worst case. Applying worst case ensures a greater margin of safety than is presently provided and reduces over spilling in high rainfall events.
- The ground water level has not been recorded or estimated, the base of the soakaways needs to be at least 1 metre above the highest possible water table level in the underlying strata. There are wells in the village and other hydrological information publically available online from which estimates could be reasonably made.
- No information on siltation or future maintenance needs. Given the lack of future access due to soakaways located in back gardens this should be provided.
- Current drainage arrangements insufficiently evaluated.

Drainage responses from Chris Yalden AWP Engineer shown in relation to the concerns raised by objectors:

- Concerns the draft SUDs scheme does not address all of the issues on site, the soakaway to the rear of Plot 1 needs to be repositioned since the garage has moved on the plans, and will likely be even closer to the site boundary.
There is ample space within the rear garden of Plot 01 to accommodate a relocated soakaway which suits the latest site layout
- The soakaway overspill levels should be positioned lower than the base of the adjacent gardens so drainage is directed elsewhere in high rainfall events.
The soakaways are design to accommodate rainfall from all storm events up to the 100 year critical return period with 30% allowance for climate change. They do not have overflows.
 - The building regulations referred to by the drainage engineer have now been superseded. The new CIRIA report 753 sets details of infiltration testing and design calculations. It is stated: The tests for the site appeared to be within argued boreholes, borehole tests are a last resort when construction pits is not possible, and such tests should be interpreted more cautiously, due to the lower water volume added to the ground. It is rare that sufficient tests are carried out on a site to allow statistical analysis. The worst case infiltration capacity value should be used, unless sound justification for doing otherwise is demonstrated. The design calculations use average values only and do

not apply worst case. Applying worst case ensures a greater margin of safety than is presently provided and reduces over spilling in high rainfall events.

The application of soakaway testing in accordance with the guidance set by Building Regulations Part H was agreed with Richard Rainbow, DCC's Flood and Coastal Risk Engineer (who leads their Flood Risk Management team). It was considered that this method of testing was appropriate for a small scale development such as this. The use of average values is set out within the guidance document.

- The ground water level has not been recorded or estimated, the base of the soakaways needs to be at least 1 metre above the highest possible water table level in the underlying strata. There are wells in the village and other hydrological information publically available online from which estimates could be reasonably made. **By review of the BGS Borehole Scans, local records identify groundwater depths between 4-10m deep. Our soakaways are only 0.6m deep with minimal cover so are unlikely to be affected by groundwater. If there are residual concerns regarding groundwater then presumably this can be covered by a suitable condition?**
- No information on siltation or future maintenance needs. Given the lack of future access due to soakaways located in back gardens this should be provided.

We have applied a Factor of Safety of 3 for each soakaway which provides an oversized system to compensate for any losses in performance. At the detailed design stage there are measures available to prevent siltation of soakaways and ease of maintenance.

If there are residual concerns relating to future maintenance of the soakaways then a condition could be prepared which requires an O&M schedule to be offered to each future homeowner.

- Current drainage arrangements insufficiently evaluated.
The strategy has been undertaken in accordance with the requirements set by DCC. Their technical experts are satisfied that the strategy sufficiently demonstrates the scheme can be delivered. The strategy does not present the final design of the scheme and further investigations or supplementary information can be provided in due course, if and as necessary. Fundamentally, if the scheme is considered unsuitable for infiltration then a storm discharge to the public sewerage network has already been permitted by South West Water.

Highways update:

Summary of an additional letter of objection regarding Highway concerns:

1 – Visibility splays at the junction of the new private driveway and Paulet
The applicant's plans are faulty and do not show existing hedges and the position of private driveways where cars are always parked. These do obstruct the view within the visibility splay outlined for slow moving vehicles in the Manual for Streets and other relevant documents.

2 – Standing Advice

The development is not in accordance with Standing Advice, which sets out

Paragraph 3.10.1 says "Private drives may serve up to three dwellings ... private drives serving more than 3 dwellings **are not acceptable**".

Paragraph 3.10.7 says that "... where the private drive serves three dwellings, a **minimum width of 4.1 metres** should be provided between the highway boundary and the access to the first dwelling" and requires that "**1m wide edge clearance strips should be provided on both sides** of the access drive".

It also requires that "Intervisible **passing bays should be provided** for drives longer than 25 m".

The application falls short of this criteria, and is not acceptable for four dwellings. How does the proposed design of the access road allow for disabled access?

Summary of the response from Ian Sorenson, Highways Development Management Officer:

The original application for three dwellings advised Standing Advice applied, subsequently the site was revisited, it was concluded that "while the visibility to the east is not ideal, I could not sustain a reason for refusal" based upon the existing traffic generations and the increase in traffic that the development would attract. The principle of development has been established by the granting of planning permission. In terms of the current application, the Highway Authority has responded and view each site on its own merits and work in line with Manual for Streets and The National Planning Policy Framework, our Highway Design guide is just that a guide.

With regard to the access from Paulet into the site the observed speed of vehicles was upto 10mph and Manual for streets accepts visibility splays of 9 m and 11m adjusted for bonnet length. Generally these will be taken from a point 2.4m back along the centre line of the access and extend to the near carriageway edge. It also allow for a reduction to 2.0m from the carriageway edge in certain circumstances. The Cul-de-Sac of Paulet would fall within these criteria. The existing footway is 1.8m in width and 2.4m back the visibility distance are just met, at 2.0m back they are exceeded.

The Proximity of the neighbouring drives are not within the splays and any vehicles overhanging the footway, and overhanging vegetation is not a

planning consideration as these are subject to other legislation. The overhanging vehicles would be considered an obstruction of the public Highway and can be prosecuted by the police should they be considered a safety issue, likewise under the highways act the Highway Authority can compel the adjoining land owners to cut back their vegetation so it does not overhangs the Public highway and should this not be complied with by the land owner, the Highway Authority can undertake the works and recharge the owner accordingly.

The principle and visibility splays of the access have already been accepted as part of the already consented development under 12/01213/OUT. Additionally under the National Planning Policy Framework, the impacts of the development should be considered for its severity and the uplift from an already consented application of only 7 additional movements per day with the configuration proposed could not be considered as severe. The Highway Authority could not sustain a reason for refusal, nor would it be reasonable given this site already has consent.

With regard to the number of dwellings off a private drive, under manual for streets this is no longer a strict criteria and the overall package must be considered. It is however common practice to accept more from a single lane access drive particularly onto quiet, roads with slow speeds.

Strict adherence to design guide dimensions are no longer considered appropriate. The additional distance of the access drive from the desired guide of 25m to the 30m distance given the slow speeds and low frequency of movement would not be a material consideration. The width of the drive and verges are also acceptable given the relaxation from a prescriptive adherence to the guidance, and as a shared surface style route is also acceptable for disabled access from a highway perspective. I have visited the site on several occasions and the design and layout have been a matter of pre application advice.

xi) *Report previously circulated copy attached to minutes.

119 APPLICATION 15/01613/FULL - VARIATION TO CONDITION 1 OF PLANNING PERMISSION 12/01376/MFUL TO READ THE SOLAR PV FACILITY SHALL CEASE TO GENERATE ELECTRICITY ON OR BEFORE 30 JUNE 2043 AT LIGHTSOURCE S P V 52 LTD, SOLAR FARM AT NGR 296542 118012 (PALFREYS BARTON) COVE (2-26-09)

The Committee had before it a report * of the Head of Planning and Regeneration regarding the above application which had been deferred at an earlier meeting to allow for information regarding case histories of such applications at appeal.

The Area Planning Officer outlined the contents of the report stating that both Palfreys Barton and the application at Ellicombe Farm, Morchard Bishop were applications to extend the life of the granted planning permission by 5 years. Both schemes were well contained within the landscape and this was confirmed by way of photographic evidence. The applications had been deferred from a previous meeting to allow investigation of comparable appeals that had taken place. One had been identified in Bodmin which had been overturned by the inspectorate. The inspector had recognised that output may reduce overtime, land had been of moderate quality and that there was no evidence that the PV arrays would affect agricultural

production of the site in 30 years. An additional 5 years would not alter the benefits in line with Policy DM5.

Consideration was given to:

- Why an extension of time could not be requested nearer the expiration date
- The screening at the sites
- The lack of objection from local residents
- Panels were now under warranty for 30 years and the applicant did not have this information in 2012 when the previous application was discussed.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr P J Heal)

Notes:

- i) Cllrs Mrs H Bainbridge, K I Busch, Mrs C Collis, Mrs F J Colthorpe, S G Flaws, P J Heal, D J Knowles, F W Letch, B A Moore, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as they had all received additional information from the applicant;
- ii) Miss Gullen spoke on behalf of the applicant;
- iii) Cllrs Mrs C Collis, B A Moore and R L Stanley requested that their vote against the decision be recorded;
- iv) *Report previously circulated copy attached to signed minutes.

120 APPLICATION 15/01612/FULL - VARIATION OF CONDITION 1 OF PLANNING PERMISSION 12/01306/MFUL THE SOLAR PV FACILITY SHALL CEASE TO GENERATE ELECTRICITY ON OR BEFORE 28 MARCH 2043 AT SOLAR FARM AT NGR 274160 105292, ELLICOMBE FARM, MORCHARD ROAD (2-26-09)

The Committee had before it a report * of the Head of Planning and Regeneration regarding the above application which had been deferred at an earlier meeting to allow for information regarding case histories of such applications at appeal.

The Area Planning Officer outlined the contents of the report stating that both Palfreys Barton and the application at Ellicombe Farm, Morchard Bishop were applications to extend the life of the granted planning permission by 5 years. Both schemes were well contained within the landscape and this was confirmed by way of photographic evidence. The applications had been deferred from a previous meeting to allow investigation of comparable appeals that had taken place. One had been identified in Bodmin which had been overturned by the inspectorate. The inspector had recognised that output may reduce overtime, land had been of moderate quality and that there was no evidence that the PV arrays would affect agricultural production of the site in 30 years. An additional 5 years would not alter the benefits in line with Policy DM5.

Consideration was given to:

- Why an extension of time could not be requested nearer the expiration date
- The screening at the sites
- The lack of objection from local residents
- Panels were now under warranty for 30 years and the applicant did not have this information in 2012 when the previous application was discussed.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr DJ Knowles)

Notes:

- i) Cllrs Mrs H Bainbridge, K I Busch, Mrs C Collis, Mrs F J Colthorpe, S G Flaws, P J Heal, D J Knowles, F W Letch, B A Moore, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as they had all received additional information from the applicant;
- ii) Miss Gullen spoke on behalf of the applicant;
- iii) Cllrs Mrs C Collis, B A Moore and R L Stanley requested that their vote against the decision be recorded;
- iv) *Report previously circulated copy attached to signed minutes.

121 **PERFORMANCE REPORT (2-58-00)**

The Committee had before it and **NOTED** a report * of the Head of Planning and Regeneration providing information on the performance of the Planning Services for quarter 3 within the 2015-16 financial year and how it related to previous quarters.

She outlined the contents of the report stating that major applications were exceeding the target and was an improvement on the previous quarter, other applications had slipped and would require monitoring and that performance with regard to listed buildings had shown an improvement. The Government had indicated its wish to increase the performance requirement with regard to major applications and this would have to be carefully monitored.

There continued to be issues with staffing due to maternity leave.

Note: *Report previously circulated copy attached to minutes.

Update Sheet

(The meeting ended at 5.35 pm)

CHAIRMAN

PLANNING COMMITTEE AGENDA - 9th March 2016

Applications of a non-delegated nature

<u>Item No.</u>	Description
1.	15/01871/FULL - Erection of a two storey extension at 1 Aspen Way, Tiverton, Devon. RECOMMENDATION Refuse permission.
2.	15/01993/TPO - Application to carry out works to 2 Oak trees protected by Tree Preservation Order 02/00005/TPO at Footpath Rear of 3 & 4 Aspen Way, Willand, Devon. RECOMMENDATION Grant consent.

Application No. 15/01871/FULL

Plans List No. 1

Grid Ref: 296190 : 114048

Applicant: Mr Joe Corkery

Location: 1 Aspen Way Tiverton
Devon EX16 6UJ

Proposal: Erection of a two
storey extension

Date Valid: 25th November 2015



Application No. 15/01871/FULL

RECOMMENDATION

Refuse permission.

MEMBERS ARE ASKED TO NOTE THAT THIS IS A HOUSEHOLDER APPLICATION

CLLR DENNIS KNOWLES HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASONS:

1. To consider whether the proposal is overbearing on the neighbouring property
2. To consider if the design of the proposal is appropriate for the surrounding area.

PROPOSED DEVELOPMENT

What: Erection of two storey side extension. The extension will accommodate a garage, utility and first floor bedroom and en-suite.

Where: The proposal will extend north of the existing building, using space originally used as a driveway.

How big: The proposal will extend approximately 3.9metres from the side of the original dwelling, with a width of approximately 8.1metres. The extension is two storeys; with an eaves height of 5metres and a height to ridge of 8metres (the eaves and ridge line will be unbroken from the existing dwelling). The proposed roof is dual pitched and hipped.

Materials: The proposal will be constructed from materials to match those used on the existing dwellinghouse, including brick walls, a tiled roof, and brown Upvc fenestration.

APPLICANT'S SUPPORTING INFORMATION

None

PLANNING HISTORY

97/00201/ARM Reserved matters for the erection of 68 no. dwellings and associated infrastructure - PERMIT

15/01339/FULL Erection of a two storey extension - REFUSE (This refusal was for a very similar 2 storey, side extension, but unlike the current application did not incorporate a hipped roof).

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR13 - Tiverton

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design

DM8 - Parking

DM13 - Residential extensions and ancillary development

CONSULTATIONS

HIGHWAY AUTHORITY - 1st December 2015
standing advice applies
<http://www.devon.gov.uk/highways-standingadvice.pdf>

TIVERTON TOWN COUNCIL - 8th December 2015 - Support

REPRESENTATIONS

One letter of objection has been received. This is summarised below;

- The extension will be overwhelming to the existing property
- Damage to the boundary treatment will be caused
- Construction works will cause disruption to the surrounding dwellings

MATERIAL CONSIDERATIONS AND OBSERVATIONS

Description of existing site layout, building materials, boundary details:

The existing dwelling has two storeys and is end-of-terrace. The exterior of the property has brick walls, a tiled roof and uPVC windows and doors. The property benefits from a reasonable curtilage, including front and rear garden and a driveway. The existing driveway is gated, and a parking area is provided forward of these gates. The driveway was being used for domestic storage, with a marquee erected for cover.

The site is on a modern housing estate, and the design and layout of the surrounding properties reflects this. The application will be visible from the highway and the surrounding properties.

The main issues in the determination of this application are:

1. **Design and Visual Impact**
2. **Impact on neighbouring occupants**
3. **Impact on the future amenities of the existing dwelling**
4. **Parking**

1. Design and Visual Impact

Policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies), notes that new developments should be well designed, respecting the character scale setting and design of the existing dwelling, whilst creating visually attractive places that are well integrated with surrounding buildings, streets, and landscapes.

The proposal introduces a hipped roof to a terrace of 3 houses, which currently has gable ends at either end of the terrace. A previous application for a similar proposal on the site (15/01339/FULL) was refused in 2015, although this earlier proposal included a gable ended roof on the proposed extension. The previous reasons for refusal referred to the overbearing impact that the proposed gable ended extension (which would be built on the property boundary) would have on the occupants of the neighbouring properties. While the currently proposed hipped roof would reduce the mass of the extension it is considered this will leave the terrace with an unbalanced appearance, resulting in harm to the character and appearance of the building and the surrounding street scene. It should also be noted gable ended buildings are a feature of the surrounding development, with no hipped roofs being visible within the street scene. The proposal is considered to cause harm to the character and appearance of existing dwelling and the surrounding area, and conflicts with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies).

2. Impact on neighbouring occupants

Policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) requires new development to respect the privacy and amenity of neighbouring dwellings. The existing dwelling has a window on the northern elevation overlooking number 12 and 13 Gardenia Drive. The proposal removes this window, and it is unlikely the development will create any significant loss of privacy.

One letter of objection was received, which notes that the extension will be overwhelming. This point was considered on a previous application, and the applicant endeavoured to overcome this with the addition of a hipped roof. The proposal extends to the rear garden boundary of 12 and 13 Gardenia Drive and due to the modern nature of the estate; the amenity space afforded to these properties is small. While the current scheme is an improvement to the previously refused scheme (in terms of the impacts on the neighbour), it is considered the proposal will on balance still have an unacceptably overbearing impact on the occupiers of 12 and 13 Gardenia Drive, in particular, impact on the enjoyment of their rear gardens and outlook from the rear windows of these properties. The proposal is therefore contrary to Policies DM2 and DM13 Local Plan Part 3 (Development Management Policies). This impact is exacerbated by the location of the application property on the southern side of existing dwellings.

3. Impacts on the future amenities of the existing dwelling

A reasonable amount of amenity space is retained, and the future amenities and services of the dwelling are unlikely to be harmed by the proposal. It is deemed that the proposal will not harm the amenities and services of the dwelling and will not result in over-development and therefore meets with Policy DM13 of Local Plan Part 3 (Development Management Policies).

4. Parking

Although the proposal results in the loss of driveway space, it will retain adequate parking for two vehicles. Policy DM8 of the Local Plan Part 3 (Development Management Policies) requires small scale development to provide or retain a minimum of two parking spaces. This proposal is in accordance with Policy DM8 of the Local Plan Part 3 (Development Management Policies).

Conclusion

In the opinion of the local planning authority, the proposed extension does not respect the scale, character, setting and design of the existing dwelling or its surroundings. Furthermore, the proposal will result in overbearing effects on the neighbouring dwelling, and is contrary to Policies COR2 and COR13 of the Mid Devon Core Strategy (Local Plan Part 1), and Policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies). The application is therefore recommended for refusal.

REASONS FOR REFUSAL

1. The proposed extension due to its scale and proximity to the neighbouring properties to the north, is considered to have an overbearing impact on the occupiers of two adjoining properties, 12 and 13 Gardenia Drive and likely to result in demonstrable harm to their amenity. The proposal is therefore contrary to the Policies DM2 and DM13 of the Local Plan Part 3 (Development Management Policies) and advice in the National Planning Policy Framework.
2. The design of the proposal, which includes a hipped roof, is considered to be out of character with the surrounding area, and causes harm by unbalancing the appearance of the terrace within the street scene. The proposal is therefore contrary to Policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1), DM2 and DM13 of the Local Plan Part 3 (Development Management Policies), and advice in the National Planning Policy Framework.

Application No. 15/01993/TPO

Plans List No. 2

Grid Ref: 304136 : 111123

Applicant: Mrs J Wood

Location: Footpath Rear of 3 & 4
Aspen Way Willand
Devon

Proposal: Application to carry out
works to 2 Oak trees
protected by Tree
Preservation Order
02/00005/TPO

Date Valid: 11th January 2016



Application No. 15/01993/TPO

RECOMMENDATION

Grant consent.

PROPOSED DEVELOPMENT

Application to carry out works to 2 Oak trees protected by Tree Preservation Order 02/00005/TPO. The trees subject to this application are located on the footpath to the rear of 3 and 4 Aspen Way, Willand. It is proposed to prune the trees by 2 to 3 metres, to reduce the overall crown of the trees as they are currently growing excessively over the garden and garage of the neighbouring property.

APPLICANT'S SUPPORTING INFORMATION

Forms
Photographs
Site Plan

PLANNING HISTORY

None

CONSULTATIONS

WILLAND PARISH COUNCIL - 2nd February 2016 - No objections as the trees are not individually protected or significant specimens.

REPRESENTATIONS

None

MATERIAL CONSIDERATIONS AND OBSERVATIONS

Mid Devon District Councils tree officer has undertaken a site visit of the site, and her consultation response informs the following report:

The application has been received to carry out works to 2 Oak trees situated on the boundary of the property. 02/00005/TPO is a large area TPO which runs along the boundary where the trees are situated. The trees are not individually special specimens and would probably not be worthy of protection as individual specimen trees.

The trees line the edge of a right of way which is currently unused. They are encroaching significantly and have the potential to cause damage to the property's garage. Due to the low amenity value of the trees and the potential for damage, there is no objection to the pruning back of the trees to the boundary. It will incorporate a 2-3 metre partial crown reduction.

CONDITIONS

1. The works hereby permitted shall be carried out within two years of the date of this consent.
2. All works shall be carried out in accordance with BS3998:2010 Tree Work Recommendations and/or European Pruning Guide (AA guidance Note No. 5) by an appropriately experienced and qualified tree surgeon.
3. The works hereby permitted shall consist solely of the following:
 - a) Prune 2 x Oak trees back to the boundary of the applicants and neighbouring property, a 2-3m partial crown reduction.

REASONS FOR CONDITIONS

1. To ensure the works carried out remain appropriate to the condition of the tree(s) and in the interests of visual amenity and having regard to the Town and Country Planning (Tree Preservation)(England) Regulations 2012.
2. To ensure the works are carried out in accordance with best Arboricultural practice.
3. To preserve the continued contribution of the trees to the local character and amenity whilst enabling such works as are required to manage the trees and having regard to the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The two Oak trees subject to this application are not individually special specimens and are subject to a group Tree Preservation Order. The trees have a low amenity value and have potential to cause damage to the neighbouring property. The proposed works are considered to be sufficiently justified.

Mrs Jenny Clifford
Head of Planning and Regeneration

PLANNING COMMITTEE - 9 March 2016

REPORT OF HEAD OF PLANNING AND REGENERATION - APPLICATIONS DETERMINED UNDER DELEGATED POWERS

PURPOSE OF REPORT

To inform Members of those applications which have been determined under the officer delegation scheme since your last meeting. These decisions are made in accordance with the Authority's powers contained in the Town and Country Planning Act 1990 and have no financial implications.

RECOMMENDATION

That the report be noted.

DETAILS OF DECISIONS

DATE RECEIVED	DATE DETERMINED/ DECISION	REF NUMBER	APPLICANT PROPOSED DEVELOPMENT	PARISH/AREA
06.05.2015	01.02.2016 Withdrawn	15/00744/OUT	Mr I Coren Land at NGR 277116 97573 (Mill Farm) Yeoford Outline for erection of an agricultural workers dwelling	Crediton Hamlets 19
21.05.2015	28.01.2016 Grant permission	15/00807/FULL	Miss Ann Barradine Land at NGR 277211 93978 (Horselake Farm) Erection of a recreation building to be used by occupiers of holiday homes	Cheriton Bishop 11

			and office/storage area on first floor	
25.08.2015	08.02.2016 Permitted with Conditions to Discharge	15/01357/FULL	Mr & Mrs D Snell Land and Buildings at NGR 307932 107348 (Orway Porch Farm) Kentisbeare Erection of an agricultural workers dwelling	Kentisbeare 32
03.09.2015	25.01.2016 Grant permission	15/01417/FULL	Mrs Elaine Harland Coombehead Meadow Bow Erection of an agricultural workers building	Colebrooke 17
15.09.2015	02.02.2016 Grant permission	15/01503/FULL	Mr J Burrow Land at NGR 272058 103846 (Waie Inn) Zeal Monachorum Erection of extension to existing workshop to provide store for garden and landscaping machinery	Zeal Monachorum 61
30.09.2015	28.01.2016 Permitted with Conditions to Discharge	15/01599/FULL	Mr D Disney Land at NGR 304444 114510 (Jersey Farm) Westleigh Variation of condition (2) and removal of conditions (3) and (5) of planning permission 13/00404/FULL to allow the substitution of previously approved plans	Burlescombe 06
06.10.2015	11.02.2016 Grant permission	15/01639/FULL	Mr Simon Kingston 26 Newport Street & 64-68A Bampton Street Tiverton Change of use from shop to flat including replacement of existing shopfront with new entrance door and	Tiverton 52

			window, alteration to existing garden to provide revised garden layouts for 64-68A Bampton Street	
13.10.2015	10.02.2016 Grant permission	15/01640/FULL	Mr & Mrs R Stoneman Land and Buildings at NGR 273778 107425 (Bugford Mill) Conversion of derelict water mill and associated linhay to form 1 dwelling	Morchard Bishop 35
20.10.2015	28.01.2016 Refuse permission	15/01688/FULL	Mr R Lazarus Land Rear of 65 Tidcombe Lane Tiverton Erection of dwelling	Tiverton 52
22.10.2015	03.02.2016 Permitted with Conditions to Discharge	15/01704/ARM	Mr J Sanders Land at NGR 278786 103130 (Endfield Farm) New Buildings Reserved Matters for the erection of an agricultural worker's dwelling following Outline approval 14/01756/OUT	Sandford 43
23.10.2015	01.02.2016 Grant permission	15/01717/LBC	The Huntsham Estate Huntsham Court Lodge Huntsham Listed Building Consent for the replacement of existing windows with slim line aluminium frame windows	Huntsham 30
29.10.2015	28.01.2016 Permitted with Conditions to Discharge	15/01747/FULL	Mr & Mrs R Guppy 25 Fairway Tiverton Erection of extension	Tiverton 52
04.11.2015	11.02.2016 Grant permission	15/01788/FULL	Mr P Stanbrook 5 Countess Mead Chettiscombe Retention of lean-to shed	Tiverton 52

05.11.2015	02.02.2016 Grant permission	15/01780/CLU	Mr M Holyoak Rooks Farm West Leigh Certificate of Lawfulness to retain use of building as a dwelling	Coldridge 16
05.11.2015	10.02.2016 Refuse permission	15/01789/FULL	M C & D E Pipe Partnership Land and Building at NGR 310131 116908 (Pond House) Conversion of agricultural building to dwelling	Culmstock 22
05.11.2015	01.02.2016 Grant permission	15/01795/ADVERT	Mrs T Worley South Western Ambulance Services Ambulance Station Advertisement Consent to display 1 non-illuminated sign	Cullompton 21
10.11.2015	01.02.2016 Withdrawn	15/01821/FULL	Mr M Smith Whipcott Farm Holcombe Rogus Retention of change of use of agricultural building to storage and office use	Holcombe Rogus 29
10.11.2015	03.02.2016 Permitted with Conditions to Discharge	15/01827/LBC	Mr Wayne Gale 24 Fore Street Cullompton Listed Building Consent for the removal of two internal walls, erection of a supporting pier, levelling of a section of floor, painting of external facade and internal alterations	Cullompton 21
12.11.2015	12.02.2016 Grant permission	15/01830/FULL	Mr J Littlefield Cleave Farm Lapford Erection of conservatory following demolition of existing conservatory, demolition of sheds and re-building	Lapford 33

			and repairs to agricultural buildings	
12.11.2015	12.02.2016 Grant permission	15/01831/LBC	Mr J Littlefield Cleave Farm Lapford Listed Building Consent for erection of conservatory following demolition of existing conservatory, demolition of sheds and re-building and repairs to agricultural buildings	Lapford 33
12.11.2015	29.01.2016 Grant permission	15/01838/FULL	Mr Peter Grandfield Land at NGR 305418 104604(House Button Farm) Kentisbeare Erection of 2 holiday units	Cullompton 21
17.11.2015	02.02.2016 Permitted with Conditions to Discharge	15/01859/FULL	Ms C Devenish Barns at NGR 291423 107880 (Opera House) Cadeleigh Conversion of barn to dwelling	Cadeleigh 09
19.11.2015	28.01.2016 Grant permission	15/01872/FULL	Mr T Sweeney South Farm Blackborough Change of use of agricultural land to allow enlargement of existing fishing lake with additional fishing positions and seating areas	Uffculme 53
23.11.2015	29.01.2016 Grant permission	15/01883/FULL	Mr Stephen Shaw Goodiford Barn Kentisbeare Erection of a garage, erection of an oil storage tank and minor alterations to converted barn including entrance steps, cladding, 2 flues and roof windows	Kentisbeare 32

27.11.2015	10.02.2016 Refuse permission	15/01891/FULL	Mrs Gail Board Wiltown Mobile Home Clayhidon Variation of condition 1 of Planning Permission 10/00160/FULL to allow occupation of the caravan by Mrs G Board	Clayhidon 15
01.12.2015	24.02.2016 Grant permission	15/01915/FULL	Mr William Elworthy Land at NGR 300479 105981 Adj Colebrooke Court Variation of conditions 2 (approved drawings) and 8 (site location plan) of planning permission 04/00888/FULL	Cullompton 21
01.12.2015	12.02.2016 Grant permission	15/01916/CLU	Mr Martin Petherick Racier Down St Mary Certificate of lawfulness for the existing occupation of a dwelling in non compliance with agricultural occupancy condition (f) of Planning Permission 4/23/79/1789 in excess of 10 years	Down St Mary 23
01.12.2015	09.02.2016 Grant permission	15/01919/CLP	Ms H Lawson Harefields Jericho Street Certificate of lawfulness for the proposed installation of replacement windows and doors, re-instatement of blocked-up window, erection of slate roof over existing lean-to, and demolition of timber lean-to	Thorverton 51
01.12.2015	09.02.2016 Permitted with Conditions to Discharge	15/01922/LBC	Ms H Lawson Harefields Jericho Street Listed Building Consent for internal and external alterations including installation of replacement windows	Thorverton 51

			and doors, re-instatement of blocked-up window, erection of slate roof over existing lean-to, and demolition of timber lean-to	
02.12.2015	25.01.2016 Grant permission	15/01901/TPO	Mr J Day 1 Norwood Road Tiverton Application to carry out works to 1 Sycamore and 13 Oak trees protected by Tree Preservation Order 12/00001/TPO	Tiverton 52
02.12.2015	25.01.2016 Development Acceptance	15/01906/PNCOU	Mr S Parish Premier Luxury Loos Tanyard Farm Prior Notification for the proposed change of use of an agricultural building to Storage and Distribution (Use Class B8) under Class R	Willand 59
02.12.2015	25.01.2016 Development Acceptance	15/01918/PNCOU	Mr M Bulled Land and Buildings at NGR 285442 107561 (New House Farm) Poughill Prior notification for the change of use of agricultural building to dwelling under Class Q	Poughill 40
02.12.2015	25.01.2016 Grant permission	15/01924/FULL	Mr G Stoneman 13 Lower Town Halberton Erection of replacement garage	Halberton 25
03.12.2015	28.01.2016 Grant permission	15/01923/FULL	Mr M Christie 16 Aubyns Wood Rise Tiverton Erection of conservatory	Tiverton 52

07.12.2015	28.01.2016 Permitted with Conditions to Discharge	15/01941/FULL	Dr & Mrs I Goodrick Holly Cottage East Village Erection of a replacement dwelling (Revised Scheme)	Sandford 43
07.12.2015	29.01.2016 Grant permission	15/01942/TPO	Mr Ian Kendrick 5 Aubyns Wood Avenue Tiverton Application to remove 3-5m from large north west facing limb and 1-2m from north west facing branches of one Oak tree protected by Tree Preservation Order 06/00016/TPO	Tiverton 52
08.12.2015	29.01.2016 Grant permission	15/01946/TPO	Mr G Nurse, Taylor Wimpey Land at NGR 294688 113515 (Rackenford Meadow) Tiverton Application to reduce upper crown to west side of 1 Oak tree (T2) by 2m protected by Tree Preservation Order 73/00017/TPO	Tiverton 52
09.12.2015	01.02.2016 Withdrawn	15/01956/PNCOU	Mr & Mrs D Wheeler Land and Building at NGR 305623 108363 (Goodiford Mill) Kentisbeare Prior notification for the change of use of an agricultural building to a dwellinghouse under Class Q	Kentisbeare 32
10.12.2015	04.02.2016 Grant permission	15/01955/TPO	Mr E Perry 31 The Glebe Thorverton Application to reduce the crown height by 3m and reshape the crown by up to 3m of 1 Oak tree protected by Tree Preservation Order 70/00010/TPO	Thorverton 51
10.12.2015	05.02.2016 Grant permission	15/01959/FULL	Mr Ben Huggins Hare House Sandford	Sandford 43

			Erection of extension, garage and studio annex	
11.12.2015	11.02.2016 Grant permission	15/01960/FULL	Mr William Webber Land at NGR 289224 115916 (Land Adjacent to Mayfield House) Erection of agricultural building	Tiverton 52
14.12.2015	08.02.2016 Refuse permission	15/01961/FULL	Mr I P Yelland & Ms V C Platt Land at NGR 308788 111087 Batts Park Removal of condition 3 of planning permission 06/00012/FULL relating to the building being used for agricultural purposes	Uffculme 53
14.12.2015	11.02.2016 Grant permission	15/01964/FULL	Mr & Mrs P Sagar 49 Tidcombe Lane Tiverton Erection of single storey garden room and two storey side extension after demolition of garage and utility, and enlargement of front porch	Tiverton 52
14.12.2015	05.02.2016 Permitted with Conditions to Discharge	15/01968/FULL	Mr C Cridland The Old Mill Down St Mary Conversion of former winery to two dwellings, erection of garage/car port after demolition of existing car port, enclose existing plant room and demolition of existing storage building	Down St Mary 23
14.12.2015	05.02.2016 Grant permission	15/01969/LBC	Mr C Cridland The Old Mill Down St Mary Listed Building Consent for the conversion of former winery to two dwellings, erection of garage/car port after demolition of existing car port,	Down St Mary 23

			enclose existing plant room and demolition of existing storage building	
15.12.2015	04.02.2016 Grant permission	15/01966/FULL	Mrs I Frost Ford House Nicholashayne Erection of two storey rear extension	Culmstock 22
15.12.2015	01.02.2016 Grant permission	15/01967/FULL	Mr & Mrs M Saunders 12 George Hill Crediton Erection of an extension	Crediton Town 18
15.12.2015	11.02.2016 Development Acceptance	15/01973/PNCOU	Mr R Eyles Land and Buildings at NGR 288485 115831 (Middle North Coombe) Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Templeton 49
17.12.2015	18.02.2016 Permitted with Conditions to Discharge	15/01995/LBC	Mr G F Ramsey Land and Buildings at NGR 273110 97299 (Easterbrook) Hittisleigh Listed Building Consent for conversion of barn to dwelling (Revised Scheme)	Bow 03
17.12.2015	08.02.2016 Grant permission	15/01997/ADVERT	IDH Limited, T/A My Dentist Crediton Dental Care 110 High Street Advertisement Consent to display 1 non-illuminated projecting sign and 1 non-illuminated staff information sign	Crediton Town 18
18.12.2015	28.01.2016 No Objection	15/01988/CAT	Mr G Davies Salama 15 Blundells Avenue Notification of intention to reduce 1 Conifer by 2m; reduce 1 Holm Oak by 3m; raise canopy by 4-5m of 1 Oak; fell 2 Conifers and 1 Lombardy Poplar	Tiverton 52

			within the Conservation Area	
18.12.2015	17.02.2016 Grant permission	15/01990/FULL	Mr P Main 12 Church Street Tiverton Retention of change of use of shop (Class A1) to residential (Class C3)	Tiverton 52
18.12.2015	08.02.2016 Grant permission	15/02000/LBC	IDH Limited, T/A My Dentist Crediton Dental Care 110 High Street Listed Building Consent to display 1 non-illuminated projecting sign and 1 non-illuminated staff information sign	Crediton Town 18
21.12.2015	08.02.2016 Grant permission	15/02001/FULL	Mr & Mrs N Bedford Barn Meadow Hollacombe Conversion of garage to living accommodation, erection of porch and garage	Crediton Hamlets 19
21.12.2015	12.02.2016 Grant permission	15/02009/FULL	Mr N Moorland Craddock Cleve Craddock Conversion of garage and erection of an extension to form granny annexe, erection of single storey extension and erection of a garage	Uffculme 53
22.12.2015	24.02.2016 Grant permission	16/00006/FULL	Mr G Huntington-Whiteley Hillcrest Down St Mary Erection of garage	Zeal Monachorum 61
22.12.2015	24.02.2016 Grant permission	16/00008/LBC	Mr & Mrs P De Teissier Lower Gatehouse Farm Black Dog Listed Building Consent for alterations to outbuilding	Washford Pyne 57

23.12.2015	17.02.2016 Approval of Prior Approval	15/02006/PNCOU	Mr J Pryce Land and Buildings at NGR 290426 114135 (Adjacent To Uptop) Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Tiverton 52
23.12.2015	12.02.2016 Withdrawn	16/00010/HOUSE	Mr & Mrs Richard Gowen 20 Upcott Mead Road Tiverton Erection of an extension	Tiverton 52
23.12.2015	17.02.2016 Grant permission	16/00011/HOUSE	Mrs Sinead Berry Moorhayes Farm Uffculme Erection of replacement extension	Burlescombe 06
24.12.2015	18.02.2016 Development Acceptance	15/02007/PNCOU	Mr A Shere Land and Buildings at NGR 303733 105268 Chaldon Lane Prior notification for the change of use of agricultural buildings to 1 dwelling under Class Q	Cullompton 21
24.12.2015	18.02.2016 Grant permission	16/00016/FULL	Ms Jan Clark Post Office 7 Market Street Installation of ATM	Crediton Town 18
24.12.2015	18.02.2016 Grant permission	16/00017/ADVERT	Ms Jan Clark Post Office 7 Market Street Advertisement consent for the installation of ATM fascia with internally illuminated lettering	Crediton Town 18
04.01.2016	18.02.2016 Grant permission	16/00021/FULL	Miss M Walford Land at NGR 317906 109716(Smeatharpe) Clayhidon Erection of cabinet to house observation borehole measuring	Clayhidon 15

			groundwater levels, and surrounding fence	
04.01.2016	25.02.2016 Application Part Granted/Part Refused	16/00022/TPO	Mrs G Alford 1 Harpitt Close Willand Application to fell 1 Ash tree and reduce crown of 1 Ash tree protected by Tree Preservation Order 94/00009/TPO	Willand 59
05.01.2016	11.02.2016 Grant permission	16/00027/CLU	Mrs F Christopher Higher Yeadbury Farm Pennymoor Certificate of Lawfulness for existing residential dwelling and associated use of land as residential garden for a period in excess of 10 years	Cruwys Morchard 20
06.01.2016	16.02.2016 Grant permission	16/00044/HOUSE	Mrs T Carver Leigh Cottage Kennerleigh Erection of single storey extension following demolition of existing extension	Kennerleigh 31
06.01.2016	16.02.2016 Grant permission	16/00045/LBC	Mrs T Carver Leigh Cottage Kennerleigh Listed Building Consent for erection of single story extension following demolition of existing extension	Kennerleigh 31
08.01.2016	16.02.2016 Grant permission	16/00064/HOUSE	Mr & Mrs J Huntly Westlake Bungalow Stockleigh Pomeroy Erection of extension	Stockleigh Pomeroy 47
11.01.2016	17.02.2016 Grant permission	16/00066/HOUSE	Mr A C Gittins 9 Jubilee Road Bradninch Erection of a conservatory	Bradninch 04

11.01.2016	29.01.2016 Grant permission	16/00068/CLP	Mr Ian Hay Tree Tops Moxeys Close Certificate of lawfulness for the proposed erection of a conservatory	Cheriton Fitzpaine 12
12.01.2016	10.02.2016 Approval of Prior Approval	16/00058/PNCOU	Mrs M Reed Land and Building at NGR 288903 107272 (Hayne Farm) Cheriton Fitzpaine Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Cheriton Fitzpaine 12
12.01.2016	10.02.2016 Approval of Prior Approval	16/00059/PNCOU	Mrs M Reed Land and Buildings at NGR 288943 107278 (Hayne Farm) Cheriton Fitzpaine Prior notification for the change of use of an agricultural building to a dwelling under Class Q	Cheriton Fitzpaine 12
13.01.2016	17.02.2016 Grant permission	16/00081/HOUSE	Mr D Butt 122 The Walronds Tiverton Erection of two-storey rear extension following removal of conservatory	Tiverton 52
14.01.2016	28.01.2016 Withdrawn	16/00084/PNAG	Mr B H Spiller Land at NGR 313027 116671 Blackdown Hill Road Prior Notification for the erection of an agricultural livestock building	Hemyock 26
15.01.2016	22.02.2016 No Objection	16/00097/CAT	Mr James Brough 28 Crow Green Cullompton Notification of intention to carry out crown reduction work to 1 no. Ginkgo	Cullompton 21

			Bilbao tree within a Conservation Area	
15.01.2016	23.02.2016 Grant permission	16/00103/FULL	Mr V Bennett Land and Buildings at NGR 272250 98701 (Littlecombe Farm) Bow Construction of roof over existing dung midden	Bow 03
15.01.2016	23.02.2016 Grant permission	16/00104/FULL	Mr V Bennett Land and Buildings at NGR 272250 98701 (Littlecombe Farm) Erection of roof over existing silage clamp	Bow 03
19.01.2016	22.02.2016 No Objection	16/00116/CAT	Mr Mark Gabriel Churchwalls Cottage South Street Notification of intention to pollard one Hornbeam tree and trim sides/reduce height by 0.91m of one Leylandii within a Conservation Area	Holcombe Rogus 29
19.01.2016	22.02.2016 Grant permission	16/00126/CLU	Mr J Hyson Woodcote Western Road Certificate of lawfulness for the continued use of Woodcote as 2 separate residential dwellings with associated gardens (Use Class C3)	Crediton Town 18
20.01.2016	25.02.2016 No Objection	16/00124/CAT	Mr C Voaden St Thomas A Becketts Church Lapford Notification of intention to crown thin and crown lift 4 Horse Chestnuts to a height of 2.5 metres from ground level	Lapford 33
25.01.2016	22.02.2016 No Objection	16/00153/CAT	Mr M Aspray, Sampford Peverell Parish Council	Sampford Peverell 42

			Recreation Ground Lower Town Notification of intention to fell 1 willow tree in a Conservation Area	
28.01.2016	25.02.2016 No Objection	16/00150/CAT	Mr S Hooper Land at NGR 282855 100630 (Peoples Park) Peoples Park Road Notification of intention to crown reduce 1 Common Lime tree by 2 metres within the Conservation Area	Crediton Town 18
01.02.2016	17.02.2016 Development Acceptance	16/00176/PNFG	Mr M Simmons Champles Wood and The Clift Stoodleigh Prior notification for the erection of a forestry storage building	Stoodleigh 48
10.02.2016	16.02.2016 Grant permission	16/00227/CLP	Mr Brown 16 Beech Croft Cullompton Certificate of lawfulness for the proposed erection of a conservatory	Cullompton 21
16.02.2016	23.02.2016 Grant permission	16/00258/CLP	Mr P Kitcherside 19 Bilbie Close Cullompton Certificate of Lawfulness for the proposed erection of a single storey extension	Cullompton 21

Background Papers: Contained in application files referred to.

Major Applications with no Decision

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 20th February 2013 that any ground mounted solar PV schemes recommended for approval will be brought to Planning Committee for determination.

Item No.	Weeks	TARGET DATE	REFVAL	PROPOSAL	LOCATION	NAME	Expected Decision Level	
							Delegated	Committee
1	2	05/05/2016	16/00015/MFUL	Erection of an 83 bedroom 'Premier Inn' hotel and integral restaurant with associated access and landscaping	Multi Storey Car Park Phoenix Lane Tiverton Devon	Miss Lucy Hodgson	COMM	COMM
2	4	26/04/2016	16/00101/MFUL	Change of use of land from agricultural to children's education adventure trail facility with all associated play structures and parking	Land at NGR 301873 104192 (Land Opposite The Merry Harriers Inn) Bradninch Devon	Miss Lucy Hodgson	DEL	
3	9	23/03/2016	15/01996/MFUL	Erection of parlour, cubicle and covered feed building (1876sqm)	Land at NGR 269824 104236 (SW of Lower Newton Farm) Zeal Monachorum Devon	Mr Delwyn Matthews	COMM	COMM
4	10	10/03/2016	15/01822/MFUL	Erection of 45 Extracare apartments and provision of associated communal facilities, car parking and landscaping, renovation of Alexandra Lodge following demolition of former stable block and extensions	Alexandra Lodge 5 Old Road Tiverton Devon EX16 4HQ	Miss Lucy Hodgson	COMM	COMM
5	15	02/03/2016	15/01808/MFUL	Erection of 3 replacement poultry buildings (7071 sq m) following demolition of existing, and provision of associated infrastructure including feed bins and hardstanding	Land and Buildings at NGR 285916 112901 Tollgate Farm Nomansland Devon	Miss Lucy Hodgson	COMM	COMM
6	15	25/02/2016	15/01604/MFUL	Erection of 5 poultry units (5040 sq. m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure	Land at NGR 288027 116786 (Gibbett Moor Farm) Templeton Devon	Mr Kristian Evely	COMM	COMM
7	23	11/12/2015	15/01332/MOUT	Outline application with access for an employment development of up to 5,256m2 of B1, 2,651m2 of B2 and 4,919m2 of B8 units together with internal access roads, parking and associated infrastructure	Land at NGR 303681 111677 (North Of Mid Devon Business Park) Muxbeare Lane Willand Devon	Ms Tina Maryan	DEL	DEL

<i>Item</i>									<i>Expected Decision Level</i>	
<i>No.</i>	<i>Weeks</i>	<i>TARGET DATE</i>	<i>REFVAL</i>	<i>PROPOSAL</i>	<i>LOCATION</i>	<i>NAME</i>			<i>Delegated</i>	<i>Committee</i>
8	31	16/10/2015	15/01034/MFUL	Erection of a 500kW anaerobic digester and associated works with 2 silage clamps. Revised Scheme to include the change of orientation of the layout and installation of 2 driers	Land at NGR 299621 112764 (Red Linhay) Crown Hill Halberton Devon	Mr Daniel Rance			COMM	COMM
9	81	04/11/2014	14/01332/MOUT	Outline for a mixed use development comprising of a primary school and pre-school with ancillary facilities including sports pitch and parking and turning area; erection of up to 25 dwellings with parking and open space	Land at NGR 288080 098230 East of Station Road Newton St Cyres Devon	Mr Simon Trafford			COMM	COMM
10	90	24/09/2014	14/00881/MOUT	Outline for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road	Land East of Tiverton, South of A361, and Both North and South of Blundells Road Upplowman Road Tiverton Devon	Mr Simon Trafford			COMM	COMM
11	91	27/08/2014	14/00830/MOUT	Outline for the erection of up to 185 dwellings and 1935m2 of employment uses (B1 and B8) together with structural landscaping, sustainable drainage and ancillary open and play space	Land at NGR 284242 99827 (Wellparks) Exeter Road Crediton Devon	Mr Simon Trafford			COMM	COMM
12	95	28/07/2014	14/00604/MFUL	Erection of care home and 12 apartments with associated access, parking and landscaping, following demolition of existing hospital buildings (Revised Scheme)	Post Hill Nursing Home 36 Post Hill Tiverton Devon EX16 4ND	Miss Lucy Hodgson			COMM	COMM
13	149	16/07/2013	13/00525/MFUL	Application to replace extant planning permission 09/01870/MFUL (to extend time limit). A mixed development of 13 open market eco-houses and 6 affordable eco-houses; new access and estate road; additional car parking facilities for the Village Hall; closure of the existing Parish Hall Car Park entrance; provision of a children's play area for the Parish Hall; highway improvements to Fanny's Lane; footpath link to Snows and Meadowside Road (Revised Scheme)	Land at NGR 282973 102485 (East of Oxford Terrace) Fanny's Lane Sandford Devon	Mr Simon Trafford			COMM	COMM

LIST OF APPEAL DECISIONS FROM 29 JANUARY to 25 FEBRUARY 2016

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
14/02122/FULL	Conversion of redundant building to dwelling (Revised scheme)	Dairy Cottage Crazelowman Tiverton Devon EX16 7DG	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Allow with Conditions

Summary of Inspectors Comments

-The main issue in this application is whether adequate information has been provided to assess the likely effect upon bats.
 The 2015 Bat Survey report noted a bat licence and further surveys would be required before any development could commence
 Mid Devons argument was appropriate mitigation could not be provided without these surveys first being completed
 The inspector concluded adequate information had been provided to assess to likely effect on bats and the appeal was allowed subject to condition

15/00450/FULL	Installation of balcony and access ramp	Yellow Hammer Brewing Limited Hanlons Brewery Hill Farm Newton St Cyres Devon	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

The appeal decision relates to the installation of a balcony and external access ramp that would effectively provide an extension to the existing function room area. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties. The inspector noted the presence of the trees, shrubs and the close boarded fence at the boundary of the site. However he still found that there would be a clear line of sight between the proposed balcony and significant parts of the garden of the neighbouring property that would give rise to an unacceptable loss of privacy for the occupiers of that property. The inspector found that it had not been adequately demonstrated that there would not be an unacceptable amount of noise that would affect the occupiers of the neighbouring property. The inspector concluded that the proposal would be likely to give rise to an unacceptable degree of harm to the living conditions of the occupiers of the neighbouring properties in terms of noise and loss of privacy that would be contrary to guidance in the National Planning Policy Framework and policy DM2 of Local Plan Part 3 (Development Management Policies). The appeal is dismissed.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
14/01949/MFUL	Change of use of land from agriculture to the installation and operation of a solar PV park to generate up to 5MW of power (site area 12.26 hectares) to include associated infrastructure (Revised Scheme)	Land at NGR 302663 109953 (Stoneshill Farm) Willand Road Cullompton Devon	Refuse permission	Committee Decision	Refuse permission	Written Representations	Allow with Conditions

Summary of Inspectors Comments

Decision

The appeal is allowed and planning permission granted for a 5MW solar array complete with inverter, substation, deer fencing, infra red CCTV, switch gear, landscaping and all necessary ancillary equipment at Stoneshill farm Willand.

The main issue is whether the benefits of the scheme outweighs any harmful effects, having particular regard to the impacts upon the best and most versatile agricultural land and the character and appearance of the area.

Benefits

Installed capacity of 5mw, equivalent to 1,250 homes, and reduce CO2 emissions by about 2,100 tonnes PA. It will assist tackling climate change, and help meet renewable energy obligations. Guaranteed farm income, and support local community. Substantial new hedge planting.

Agricultural land

The land is shown as grade 1 agricultural land, Following soil samples it has been established the land is Grade 3a and falls within available land. It is considered that significant in terms of development is triggered by 20ha for consulting purposes, and as this is 5mw it is on the cusp of classification of a large-scale solar farm. Therefore the assessment of significant depends of circumstances of the case.

Limited agricultural use would be continue.

Character and Appearance

Gently rolling hills with low lying flood plains, pastoral landscape and meadows. The appeal site is a large open field with some boundary hedges. Whilst not an unattractive rural area, urban influences are evident. There would be a marked change to the character of the area. Greatest impact would be from the B3131. There would be direct adverse visual impact. But this would be restricted to the local area. There would be no risk of flooding.

Planning Balance

The moderate adverse effects to the character and appearance of the area weighed against the benefits of tackling climate change, it is found on balance the proposal would satisfy the environmental dimension to sustainable development as defined in the framework., along with economic and social benefits. Therefore it is considered to be sustainable development.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/00771/FULL	Formation of layby for parking of vehicles/access to woodland	Land at NGR 268282 111909 (North Of Higher Ford House) Chawleigh Devon	Grant permission subject to conditions.	Committee Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

The inspector dismissed the appeal on the basis that the harm to the character and appearance of the area would be unacceptable. The site, by virtue of the lack of footways, well-vegetated low banks, extensive tree cover and general lack of visible development is described by the inspector as strongly secluded rural character. The inspector found that the harsh, engineered appearance of the layby would appear incongruous and an obviously man made feature in an otherwise largely undeveloped rural setting which would harm the character and appearance of the surrounding area. The inspector also noted that he was not convinced that the layby would be the only practicable means of accessing the woodland to undertake forestry works.

Page 53	15/00284/FULL	Removal of Condition 6 (occupancy condition) of Planning Permission 4/32/95/0274 to allow flexible use of the main house and annexe	Old Golden Lion Fore Street Kentisbeare Cullompton Devon EX15 2AD	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed
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Summary of Inspectors Comments

In dismissing the appeal, the inspector concluded that although the courtyard could be divided to create separate private amenity spaces for the two dwellings that would be created by the removal of the ancillary occupation condition, the courtyard is small and it would be impractical for two properties to share this space. High fencing to divide this space would harm the setting of the listed building and the Conservation Area, as this courtyard has historically been an open functioning area connecting the house and its outbuildings, and would introduce an inappropriately suburban feature. The main house is a generously family home and would have no direct access to the large rear garden, the external amenity space of the main house would be confined to the courtyard, which would be shared with the occupiers of the ban and the associated vehicles for both dwellings; this would result in unacceptably poor living conditions in terms of amenity space and privacy for the occupiers of the principal listed building contrary to policies DM2 and DM14. The inspector considered that the removal of the condition would prejudice the long term viability of the listed building as a family home, its optimal use, due to the loss of its amenity space; the building is in good condition and the proposal could not be justified to supplement the cost of maintaining the building. The proposal was not considered to be in the best interest of the listed building and there was no public benefit recognised, contrary to DM27 and the NPPF.

Application No	Description	Location	Officer Recommendation	Committee or Delegated	Decision	Appeal Type	Inspector Decision
15/00979/OUT	Outline for the erection of a dwelling	Little Chace Upplowman Tiverton Devon EX16 7DW	Refuse permission	Delegated Decision	Refuse permission	Written Representations	Appeal Dismissed

Summary of Inspectors Comments

- The proposal for a new dwelling within Upplowman should be considered in accordance with COR18, i.e. the proposal should be treated as being within the countryside
- The application has not provided adequate justification for a new dwelling within the countryside, and therefore the application is refused and the appeal is dismissed

PLANNING COMMITTEE
9th March 2016

REPORT OF THE HEAD OF PLANNING AND REGENERATION – MRS JENNY CLIFFORD

15/01622/FULL - ERECTION OF AN AGRICULTURAL WORKER'S DWELLING AND AN AGRICULTURAL LIVESTOCK BUILDING - LAND AT NGR 316711 110152 (TEN OAKS FARM) CLAYHIDON DEVON

Description of Development:

The Application seeks the erection of a permanent agricultural worker's dwelling and an agricultural livestock building. This application follows the approval of a temporary mobile agricultural worker's dwelling under appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012.

The previous application and approval established on similar numbers of stock that there was an essential need for on-site accommodation to support the developing livestock enterprise. The Inspector concluded that with the information provided this was sufficiently demonstrated and so the proposal did not conflict with Mid Devon Core Strategy Policy COR18 or with the National Planning Policy Framework (The Framework).

Where essential need for an agricultural worker to live on site is established standard national policy is to provide in the first instance a temporary unit of accommodation over a 3 year time period to establish the viability of the unit.

In this case a temporary consent was granted through a planning appeal. During this appeal questions arose in relation to the size to which the enterprise might ultimately grow, the current absence of any mains services and the likely costs of providing these in due course. Nonetheless, the Inspector considered that given the clear support in the Framework for the development (and not just the diversification) of agricultural businesses, allowing the dwelling on a temporary basis was justified to facilitate the further establishment and development of the livestock enterprise.

The current application seeks a permanent dwelling to save the holding, together with a further livestock building to expand the agricultural operation. Your officers have been advised by the agent that an appeal has now been made on the basis of non-determination although appeal notification has yet to be received by the Inspectorate. Members will be updated at the meeting. If appeal paperwork has been received, Members will be asked to indicate the decision they would have made on the application had they the ability to do so. If appealed, justification passes to the Planning Inspectorate.

REASON FOR REPORT:

At the meeting on 10th February 2016, it was resolved that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out the implications for the proposed reasons for refusal based on the following issues:

- Insufficient size of holding to sustain the proposed activity upon which the need for a dwelling was based.
- Information to support the applications did not adequately demonstrate that the business will be sustained and financially viable.

Members also requested receipt on a confidential basis of the applicant's stock movement records for the past two years and any audited accounts or financial information in support of the application.

Relationship to Corporate Plan:

None

Financial Implications:

The applicant may make an application for costs on any appeal against the Council and such costs claims are made by demonstrating that there has been unreasonable behaviour resulting in unnecessary expense. The Council must be in a position to defend and substantiate each of its reason for refusal.

Legal Implications:

None

Risk Assessment:

If Committee decide to refuse the application for reasons that cannot be sustained at appeal there is a risk of a successful appeal costs claim against the Council.

REASONS FOR REFUSAL AND IMPLICATIONS:

It was resolved that members were minded to refuse the application for two reasons

- 1 Insufficient size of holding to sustain the proposed activity upon which the need for a dwelling is based.
- 2 Information to support the application does not adequately demonstrate that the business will be sustained and financially viable.

Members also requested receipt on a confidential basis of the applicant's stock movement records for the past two years and any audited accounts or financial information in support of the application.

With regard to the request for the stock movement records the applicant has stated that DEFRA would not allow the details of these stock records to be given to or viewed by the Committee as it would breach Data Protection protocols. Therefore the applicant is not willing to provide any further information in respect of this. Despite this report, no further information has been provided.

Members also asked for audited accounts. The applicant has advised that as the agricultural business is small scale, the accounts are undertaken by the applicant himself and there are no audited accounts available. The figures already supplied are those which represent the business and is the full extent of the financial information available.

Suggested wording for reasons for refusal:

1. In the opinion of the Local Planning Authority it is considered that the size of the holding is considered insufficient to sustain the level of agricultural activity upon which the need for a dwelling to provide accommodation for an agricultural worker is based. This is contrary to Policies COR18 of the Mid Devon Core Strategy and DM10 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
2. In the opinion of the Local Planning Authority the financial information submitted in support of the application is insufficient to demonstrate that the enterprise is either currently financially sound or has a clear prospect of remaining so and accordingly is contrary to Policy DM10 of the Local Plan Part 3 (Development Management Policies).

First reason for refusal.

The erection of agricultural workers dwellings is required to demonstrate that the nature and demands of the existing rural business are such that there is an essential need for a full time worker to be permanently resident at or near the place of work so that they are available at most times (policy DM10). Planning permission was initially granted for the siting of a temporary agricultural dwelling on this holding at appeal under application 11/01618/FULL with the Inspector identifying that the main issue for the appeal was whether there was an essential need for an agricultural worker to live on site. This necessitated an assessment of the holding and agricultural operations on it. The land holding at that time was just over 5 ha (as now), but had only been operating for approximately 12 months. The Inspector did not see this time period as being sufficient to demonstrate the likelihood of long-term success. Assessment of need was based upon a yearly throughput of 200 calves, but took into account hand rearing together with other necessary tasks identified by the Inspector as general maintenance and grassland management. He concluded that the labour requirement amounted to at least a full time worker and that it was

necessary for the worker to be on hand at night and that that this functional test was met.

This earlier appeal decision therefore accepted that there was a need for a dwelling on site, based upon the holding and agricultural operations at that time. The farm business has now been operational for four years and through the erection of a second livestock building is proposed to expand. A condition is proposed to ensure that the new agricultural livestock building that will double the calf throughput is built and brought into use before the occupation of the dwelling. This is intended to ensure that the degree of agricultural activity on the holding and welfare requirements justifying the dwelling are maintained and expanded as set out in the application.

In light of the Inspector's assessment of the holding in 2012 which also took into account its 5ha size and that the current application increases stock throughput, it would be difficult to sustain this reason for refusal.

Second reason for refusal.

Policy DM10 requires that in the case of permanent agricultural workers dwellings that the rural enterprise has been established for at least three years, is currently financially sound and has a clear prospect of remaining so (the financial test). Financial information submitted with the application seeks to demonstrate this. Should Members consider that this test has not been met, it may form a reason for refusal.

The appeal Inspector commented that at the stage of considering the temporary dwelling that on balance there were sufficient grounds to conclude that the enterprise was planned on a sound financial basis. She took into account sales figures for the initial batch of 26 calves. However he also commented that questions arose over the size to which the enterprise might ultimately grow, given the absence of mains services and the likely costs of their provision. The enterprise is not currently served by either a mains water supply or borehole. She stated that 'The appellant however should bear in mind that in due course the Council is likely to expect comprehensive and detailed information to demonstrate the sustained continuation and / or development of the enterprise throughout the period of the temporary permission'.

An appeal for costs against the Council was made by the applicant in relation to the appeal for the temporary dwelling. Costs were not granted as the Inspector considered that the Council had adequately substantiated its reasons for refusal however she added that for this particular type of proposal there was more onus upon the appellant to demonstrate the need for the dwelling. The Inspector comments within this and the preceding paragraph lead to an expectation of the submission of detailed and persuasive financial information to accompany the application in order to demonstrate that the financial test has been met. Members will need to consider the financial information submitted and whether it meets this

financial test. Whilst further financial information was requested, none has been submitted.

Financial information submitted takes the form of a simple breakdown of income and expenditure for the business over the past 4 financial years together with a forecast to the end of the current financial year. A modest profit is indicated for the last 3 financial years and is also forecast for the current financial year. In addition financial forecast information has been submitted for years 15/16 and 16/17 assuming the second livestock building is erected. This too takes the form of a simple list of income and expenditure resulting in a surplus.

Members will need to consider whether this information is sufficiently detailed and accurate taking into account the financial test, whether the indicated profit levels returned / forecast are sufficient to indicate that the enterprise is financially sound and capable of remaining so. If Members conclude that it is not and are able to demonstrate why, it is capable of forming a reason for refusal. Member must be sure that there is sufficient lack of detail, accuracy or omissions in the submitted information or that the profits indicated are insufficient to indicate soundness and be able to substantiate this. An appeal is expected.

Contact for any more information

Daniel Rance Principal Planning Officer
01884 234929

Background Papers

File Reference

15/01622/FULL

Circulation of the Report

Cllrs Richard Chesterton
Members of the Planning Committee

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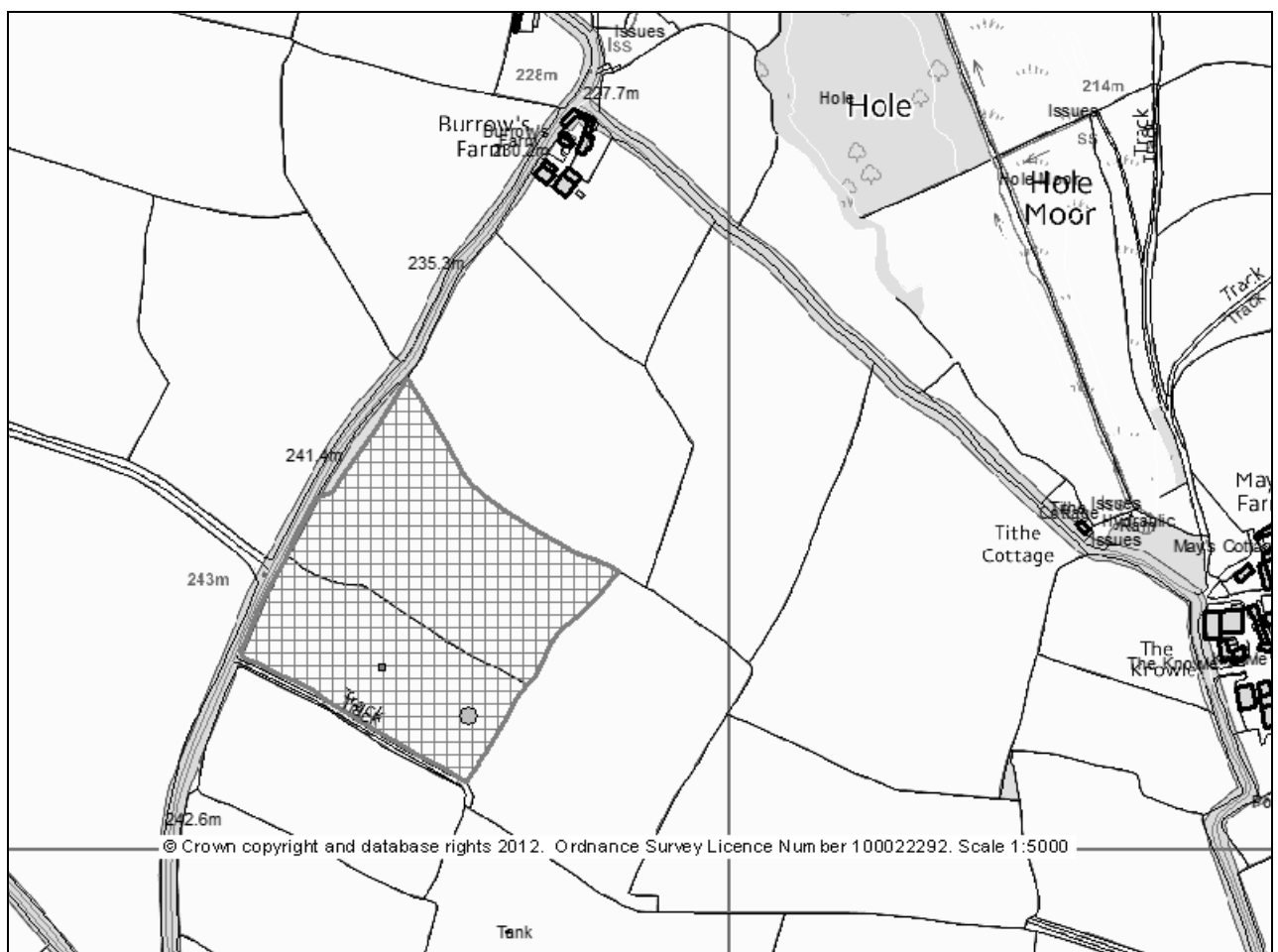
Grid Ref: 316711 : 110152

Applicant: Mr R Greenhill

Location: Land at NGR 316711 110152 (Ten Oaks Farm)
Clayhidon Devon

Proposal: Erection of an agricultural worker's dwelling and an
agricultural livestock building

Date Valid: 20th October 2015



RECOMMENDATION

Subject to the provision of a Section 106 Agreement/Unilateral Undertaking and conditions grant permission.

COUNCILLOR FRANK ROSAMOND HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:

To consider the absence of an effective business plan sufficient to justify the application, allied to concerns in respect of the water supply.

To update Planning Committee following a request for further information at the meeting on 2nd December 2015.

Updated information

At the Planning Committee held on 2nd December 2015 Members of Planning Committee requested officers to obtain additional information on three matters:

- 1 Financial sustainability
- 2 Water supply and sufficiency of the supply, including storage capacity.
- 3 Sufficiency of the land area available for the enterprise. To show the time livestock is in the building is kept outside

As set out by the applicants agent below in response to your officers request for further information.

The Inspector's decision to grant the Appeal was: 'to facilitate the further expansion and development of the agricultural enterprise'. This application is for that further expansion and development.

- 1) The documents supporting this application evidence that the agricultural enterprise is currently financially sound. Moreover, approval will increase income as a result of expansion and improved efficiency as set out with the projected financial returns.

Regarding the request by Members for the applicant to divulge private financial funding information; officers will no doubt advise Members about whether or not proof of capital funding for a development proposal is a prerequisite of approval; and if it fulfils any planning purpose. Adopting a rational approach, 'the proof of the pudding is in the eating'. It is self-evident that if finances are not available the proposed development will not occur.

Officer comment: No additional information has been provided over and above the agent's comments above. Your officers have asked for copies of sales and purchase receipts but these have not yet been supplied, although the applicant is considering this further. Should these be provided, Members will be updated on this. Members have been informed that the financial information already provided as to the viability of the unit is available for scrutiny within the planning office, should they wish to consider these figures, but is not replicated in their public officer report due to its confidential nature.

- 2) Turning to adequacy of 'rainwater harvesting' water supply for the livestock. First and foremost this is a matter that falls under the 'Animal Welfare Act 2006', just as when this Council grants permission for industrial premises the welfare of workers falls under the 'Health and Safety at Work Act'. Thus, the appropriate 'safeguards' exist.

Secondly, 'rainwater harvesting' is recognised as highly sustainable source of both commercial and domestic water supply which should be encouraged, alongside alternative energy sources, independent of 'mains supplies'.

It is evident that this enterprise has successfully operated from the existing 'rainwater harvesting' system and treatment plant for the past four years. The risk of inadequate water supply with this enterprise in comparison to other livestock farms, particularly 'dairy', that employ a private water supply, is low, for the calves are rotated every 10 weeks. Thus all that is required is 10 weeks storage, which can adequately be met, by installing the same system with the second barn.

Current storage capacity is x 2 - 10,000L tanks and 1,000L storage in the existing livestock barn - 21,000L. The current 50 head of young calves consume an average of 5L per day, 1,750L per week over 10 weeks. Allowing for 12 weeks, this equates to 21,000L; adding domestic usage 2,750L over the same period totals 23,750L,- Obviously, this requirement will double to 47,500L with the introduction of the second livestock barn. Adding a contingency of 25% equates to 59,375L storage capacity. This would be met by installing an additional 4no 10,000L tanks. Thus the enterprise could operate for 3 months without any rainfall (frequently, there has been rainfall in excess of requirement, which has been diverted to the nearby ditch). Moreover, in the event of severe drought, incoming stocking can cease. In this regard this enterprise is much less at risk than established beef, dairy or arable farms.

The Inspector during her examination of the current enterprise found no reason to dismiss on the grounds that the water supply system was inadequate. There is no reason to doubt that provided that the same system is employed with the second (applied for) livestock building there would be self-sufficiency of water supply.

Nevertheless, there is a contingency, that of a private 'bore hole' water supply. I attach an email dated the 16th December 2015 from 'Geologic boreholes' stating that the location is suitable for borehole water supply; and attaches data regarding 'Knowle Farm, just 2km distance. Stating that the borehole at 'Knowle Farm produces 2,200L per hr. The geology is consistent, so there is no reason not to conclude that the same volume of water could be extracted. Thus the daily water requirement at Ten Oaks Farm could be met in 20 minutes. Obviously that volume of water is well in excess of the maximum requirement of 706L per day.

Officer comment: It is evident that there is sufficient appropriate water for the number of livestock to be kept on the land at any one time, with a possible alternative source if required by way of a bore hole. The existing livestock business has operated on the basis of rainwater harvesting for the past 4 years.

3) The adequacy of grazing land has to be considered in the specific context of this enterprise. The stock is 2 -12 week old calves rotated. Hence there will be 50 head of 2 week old new arrivals and 50 head of 7 week old calves at a time. The stock are kept within the building until approximately 6-8 weeks of age, when they are weaned over a period of 4-6 weeks and introduced to grazing in addition to continuing being fed prepared feed; after which they leave site. Thus, over a 10 week period 50 head of stock will only graze for a period of 4-6 weeks. Being young calves they only lightly graze the land, hence the need to keep a small flock of 40 ewes to keep the grass under control. The stock being rotated every 10 weeks provides a period of 2 weeks between rotations to sterilise the buildings and carry out maintenance, and leeway in the event of late arrival or departure of stock. For the past four years, one field has been sufficient for grazing, the other providing hay. Thus there is a contingency that both fields could be utilized for grazing. As noted with the water supply, in the event of severe drought depleting grass growth, stocking can cease; or borehole water can be used to irrigate the pasture.

The National Planning Policy Framework advises 'approving development proposals that accord with the development plan without delay'. In the event of your Council deciding to refuse this application or further delay a decision, an appeal together with an application for 'costs' against this Council will ensue.

Officer comment: The above information appears to demonstrate that there is sufficient land available for the intended stock levels.

4) 'All progeny is sold either privately or through Sedgemoor or Exeter Livestock Markets and the applicants have been mentioned within market reports for the quality and prices achieved for their

stock'. This addresses a multitude of objections and concerns raised at the Meeting of the 2nd December 2015.

Conclusion:

Based on the information provided to date, your officers continue to recommend approved, subject to conditions.

PROPOSED DEVELOPMENT

The Application seeks the erection of a permanent agricultural worker's dwelling and an agricultural livestock building. This application follows the approval of a temporary mobile agricultural worker's dwelling under appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012.

The previous application and approval established on similar numbers of stock that there was an essential need for a dwelling to support the developing livestock enterprise was sufficiently demonstrated and thus that the proposal does not conflict with Core Strategy Policy COR18 or with the National Planning Policy Framework. (The Framework).

Where essential need is established standard national policy is to provide in the first instance a temporary unit of accommodation over a 3 year time period to establish the viability of the unit.

In this case a temporary consent was granted through a planning appeal some questions arose in relation to the size to which the enterprise might ultimately grow, given the current absence of any mains services and the likely costs of providing these in due course. Nonetheless, given the clear support in the Framework for the development (and not just the diversification) of agricultural businesses, allowing the dwelling on a temporary basis is justified to facilitate the further establishment and development of the livestock enterprise.

Therefore the main issues with regard to this proposal are:

1. Is the existing enterprise based on sound financial basis
2. Are there sufficient services for the enterprise

APPLICANT'S SUPPORTING INFORMATION

Agricultural Appraisal
Foul drainage Assessment Form
Design and Access Statement
Breakdown of income and expenditure (Confidential)

PLANNING HISTORY

10/01749/FULL Erection of an agricultural livestock/storage building - PERMIT
11/01618/FULL Retention of caravan for occupation by agricultural worker for temporary period of 3 years; and retention of agricultural track and formation of new track and hardstanding- REFUSED (APPEAL ALLOWED 07.09.12)
15/01206/FULL Erection of dwelling and garage to replace existing caravan - Withdrawn

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness
COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design
DM8 - Parking
DM10 - Rural workers dwellings
DM14 - Design of housing
DM22 - Agricultural development
DM29 - Protected landscapes
DM15 - Dwelling sizes

CONSULTATIONS

HIGHWAY AUTHORITY - 30th October 2015
Standing advice applies please see Devon County Council document
<http://www.devon.gov.uk/highways-standingadvice.pdf>

For domestic vehicular accesses from adopted highway into privately owned property (serving up to 3 dwellings) the arrangement must comply with Part One, Sections 3.10, 3.11 and 7.4 of Devon County Council's Highways in Residential and Commercial Estates Design Guide. For driveway gradients a maximum of 10% is preferred although each site must be considered on its merits.

ENVIRONMENT AGENCY - 19th November 2015 - Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

CLAYHIDON PARISH COUNCIL - 13th November 2015
The council does not support the application and makes the following observations.

The parish council has considered the re-submission and remains of the view that there is no viable and sustainable agricultural evidence presented to support the expired temporary permission, let alone the permanent dwelling application.

This would set an unwelcome precedent reference achieving a new dwelling. At just 12 acres, any agricultural tie would be meaningless. The location in open countryside remains a key consideration. Potentially a series of applications would destroy the essential character of this area of the Blackdown Hills.

The information contained in the Agricultural Appraisal shows a standard man day calculation of 1.67 based on 200 calves per annum. This is incorrect. The total number of calves at any one time is currently 50. If the new agricultural building is approved the numbers are proposed to double. This does not equate to 1 full time worker needed to be present at all times of the day and night for the proper functioning of the enterprise.

It has been reported that the Planning Notice was erected for four hours on one day and then removed.

The council has concerns over the water supply on site. The water is being harvested from the roof. Is this sustainable?

ENVIRONMENTAL HEALTH - 3rd November 2015
Contaminated Land - no objections to this proposal
Air Quality - no objections to this proposal
Environmental Permitting N/A
Drainage - no objections to these proposals
Noise & other nuisances - no objections to these proposals

Housing Standards - no objections to these proposals

Licensing - No comment

Food Hygiene - N/A

Private Water Supplies - INFORMATIVE NOTE:

No record is held as being a private supply. However, if a private water supply is to be used together with any other associated property, the supply would become a small private supply, unless a commercial element is involved when it would become a commercial supply. In either circumstance would be subject to the Private Water Supply Regulations 2009. As such a private water risk assessment and sampling regime will need to be undertaken by this Authority prior to any residential or commercial use. Please contact Public Health at Mid Devon District Council to discuss on completion of the proposal.

Health and Safety - no objections to this proposal

REPRESENTATIONS

There have been two representations

- 1) This is inappropriate development within the AONB.
- 2) There are inaccuracies in the application
- 3) Not proved its viability

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The primary material considerations in assessing this application are:-

1) Previous appeal decision for siting of temporary mobile unit

2) Agricultural Workers Dwelling

3) Agricultural Building

1. Previous appeal decision for siting of temporary mobile unit

See attached appeal decision Appendix 1

2. Agricultural Workers Dwelling

The site is within the Blackdown Hills AONB. The holding extends to approximately 5.1 hectares of relatively level pasture land in two fields. The north western boundaries of the two fields front onto an unclassified public highway off which the site is accessed. The caravan which the applicant is residing in (granted temporary consent in 2012 under appeal Ref: APP/ Y1138/A/12/2172238) is located in the northern corner of the southernmost field, close to the south eastern boundary. The existing agricultural building is located further to the south of the caravan with a stone track from the access to the highway and running along the southern boundary of the field. Timber post and rail fencing has been installed around the field in order to separate the pasture land from the recent developments (track, caravan, building).

The proposal is to provide a modest permanent chalet style bungalow, located on the footprint of the existing mobile unit and its veranda. In addition the proposal is to provide a further agricultural building located to the south of the existing building, along with an intervening concrete yard.

The site is in an isolated rural location where prevailing national and local planning policies restrict the provision of new residential dwellings and the residential use of land unless there is a proven need for an agricultural (or other rural) worker to reside on a holding. Policy COR18 of Mid Devon Core Strategy is a relevant policy as is DM10 (rural workers dwellings) of the Local Plan Part 3. In addition the National Planning Policy Framework (NPPF) sets out the criteria or other means of establishing whether or not there is an 'essential' need for such a dwelling. In addition Planning Policy Statement 7 Annex A although superseded is still considered to be a suitable guide/tool to help assess such applications.

Policy DM10 has 4 elements

- 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 most times.

An assessment of the labour requirement for the holding has been provided in support of the application. This states that based on the rearing of 200 calves annually and including some time for maintenance and cutting hay, the annual labour requirement is 501.80 standard man days, with 426 of these days being attributed to the management of the calves. This assessment has been made using The Agriculture Budgeting and Costing Book for derivation of labour requirements. These figures are the same as those provided for the 2011 application and the subsequent appeal. At the time of the appeal the applicant had just reached the 50 calves per quarter.

The appeal established "the key element of the functional test is not the amount of labour required but whether it is essential for a worker to be readily available at most times, including at night. Very young calves are susceptible to infection, such that regular monitoring and prompt intervention are required for the success of the enterprise, and I heard that other emergencies can also arise during the night-time period. Given the nature and scale of the enterprise, I accept it is necessary for a worker to be on hand at night. The security benefits of an on-site presence also weigh in favour of the proposal. I conclude therefore that the functional test is met". Therefore the functional/essential need has been established through the previous appeal. That there is a requirement for at least one worker to be present at most times and therefore there is an essential need. This has not changed from this appeal date, with regard to the essential need.

In the appeal decision, the Inspector noted that given the clear support in the Framework for the development of agricultural businesses, allowing the dwelling on a temporary basis was justified to facilitate the further establishment and development of the livestock enterprise. He stated that in due course, the Council is likely to expect comprehensive and detailed information to demonstrate the sustained continuation and/or development of the enterprise throughout the period of the temporary permission. The applicant has sustained the enterprise at the level on which the appeal Inspector established there was an essential need to live on site, and intends to develop the business further by an increase in the numbers of calves on site. In this respect, the applicant is also applying for a further livestock building as part of this application.

Officers requested further information on the water supply as the cost of mains water installation would negatively affect the finances of the farm holding.

The present water supply by way of rain water harvesting has operated sufficiently for the last 4 years, the additional agricultural building will provide further water supply for the needs of the expanding unit. The agent has therefore commented that the sufficiency of this approach has been proven and with the roof area of the new historic building, rainwater harvesting will continue to be sufficient to secure the needs of the expanded holding in the future. No details of water use or storage in terms of volume have been provided. Sufficiency of water for stock is covered by other welfare standards. Given the arrangement has been demonstrated over the last 4 years, on balance it is considered acceptable.

- 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.

It was agreed between the Local Authority and the applicant at the time of the appeal that there is no other suitable and available dwelling in the immediate locality. Having undertaken a search on the Internet there are still no available properties within very close proximity to the site either to rent or buy. Therefore the need established within the appeal approval is

unable to be satisfied by external means. Therefore the application meets this test of the Local Plan DM10.

- 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.

The inspector stated in paragraph 13 of the appeal that - With regard to the proposal's visual impact on the character and natural beauty of the AONB surroundings, the caravan, tract are well screened by existing hedging. Moreover the surrounding countryside is relatively flat, such that the development has little long range views. Thus no harm is caused to the character of the AONB landscape.

The application proposes a modest 2/3bedroomed chalet bungalow with a main foot print of 9.35m x 8.5m with an attached single storey section measuring 5.6m x 3.3m, the overall floor area being 130sqm measured externally. It is considered that this size of dwelling is appropriate for the size of unit and will have no major impact on the AONB or neighbouring properties. The change from a mobile unit to this modest dwelling will provide a more appropriate scheme for the AONB. The design is simple and will sit in the landscape appropriately and is close to the calf sheds to provide security and observation. In addition the size of the dwelling complies with space requirements set out at DM15 and the recent technical housing standards - nationally described space standard. There are no details as to the proposed materials therefore these will be conditioned. It is considered the proposed modest dwelling meets with Local Plan Part 3 policy DM10 and policy DM14 which relates to the design of new housing.

- 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 business has been running for a period of 4 years and details have been provided of accounts over this time period which detail income and outgoings. These are commercially sensitive and are not within the public domain. Net and gross Income is shown to be stable over the period, and providing a small but acceptable income for the size of the unit. The intention is to double the number of calves following the installation of the new agricultural building. Financial projections of the business following the erection and stocking of the sound agricultural building have been provided. They show an increasing business profit. On balance it is considered that this element has been met and is compliant with DM10.

The appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012 raised some questions with regard to the lack of main services and in particular if the proposed enterprise could grow without it. The applicant has now provided a septic tank for the use of the caravan and continues to use water collected from rain sources, in addition electricity is now by mains supply with a backup generator. Although there is no specific mains water it is concluded that the increase in the number of buildings will provide additional water for the use of the site through rainwater harvesting. Potable water will need to be monitored and checked by the Environmental Health section of this Authority. The intention is to double the output of the unit hence the inclusion within the application for a new barn to cater for this. The essential benefit of this additional building is that of efficiency of the calf rearing enterprise, to allow rotation of stock from one building to another at 6-8 weeks. This will save time of dismantling, storing and re-erecting the pens. It will also allow more flexibility in the time periods for keeping stock.

It has been confirmed by the applicant that the cost of providing the agricultural workers dwelling and livestock building are not dependent upon the income from the agricultural enterprise itself. Therefore there are no perceived issues with regard to the sustainability and financial operation of the unit.

Policy AL/IN/3 makes clear that new housing developments will provide at least 60sqm of equipped and landscaped public open space per market dwelling, or a contribution per dwelling in accordance with the SPD. The SPD makes clear in paragraph 14 that the scheme for collecting contributions for off-site provision applies to all new housing, including single

dwellings, whether built as tied accommodation, conversions of existing buildings, flats, maisonettes or permanent mobile homes. There is therefore a clear policy justification for this contribution.

A financial contribution of £1442 towards public open space provision is still to be made in respect of Policy AL/IN/3 and a unilateral undertaking has been sent for signature.

Any Positive decision will need to be withheld until payment has been received or alternatively a legal basis established to secure it via S106.

New Homes Bonus

Consideration should be given to the New Homes Bonus that would be generated by this application. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 6 years. The amount of New Homes Bonus that would be generated from the proposal over a period of 6 years is therefore estimated to be £6,168

For the reasons given above, the proposed development is considered to comply with the policies of the adopted Development Plan, and therefore approval is recommended.

3. Agricultural Building

This application also seeks planning permission for the erection of an agricultural livestock building measuring 12 metres x 30.5 metres x 4.2 metres to eaves and 5.5 metres to ridge. The southeast elevation is proposed to be entirely open to the three bays with the provision of galvanized steel feed barriers on the remaining two bays; the remaining three elevations are proposed to have 1.5 metre high horizontal tongue and groove dung boarding with Yorkshire boarding above and with the additional provision of a galvanized sheeted gate on the south west elevation. The building is proposed to be roofed in steel metal sheeting. The overall design of the building adequately reflects the intended agricultural nature of its use.

The agricultural barn is to be provided immediately to the west of the existing barn and to be constructed in similar materials and of a size similar to that of the existing barn. Between the two barns a concrete hard standing is to be provided. The primary purpose is to support farming activities related to the land holding and the building is needed for that purpose. The new barn will also allow the enterprise to develop further.

The site lies within the Blackdown Hills AONB where new development should not harm the special beauty of the area. The building is proposed to be located at the furthest point from the public highway, which is approximately 170 metres. Although the building will be visible from the public highway, it is not felt that the proposal will harm the overall beauty of the locality and will largely preserve the unspoilt and rural character of the area, as the building will be seen in context with the existing agricultural building. It will provide needed additional cover for the expanding business. In appropriate cases the Council will consider the need to require that the building be removed when it is no longer required for agricultural purposes and the site reinstated to its former use. Given the location of the site within the sensitive Blackdown Hills AONB and the relatively large size of the building (in conjunction with the previous approval) in relation to the overall size of the current land holding, a condition to this effect is considered to be reasonable and necessary and is therefore recommended for imposition.

The proposal is for a building which will be seen in context of the existing agricultural building and as such will meet with the requirements of DM29 in particular the character and setting within the special qualities of the landscape. The building will only be seen from the immediate highway. The biodiversity will not be impacted and linking habitats will be retained.

It is considered that the proposal meets and complies with the appropriate policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan 1) and DM2, DM22, and DM29 of the Local Plan 3 of the (Development Management Policies).

CONDITIONS

1. The Agricultural Workers dwelling and agricultural livestock building hereby permitted shall be begun before the expiration of 1 year 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. No development shall begin until details or samples of the colour and finish of the materials to be used for the external surfaces of the dwelling and agricultural livestock building have been submitted to and approved in writing by the Local Planning Authority, such approved details or samples shall be so retained.
4. The agricultural livestock building hereby approved will be brought into its intended use prior to the occupation of the agricultural workers dwelling.
5. The occupation of the dwelling 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 of such a person, or to any dependants.
6. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes [A, B, C, and E of Part 1 relating to the enlargement of a dwellinghouse or addition or alteration to the roof of a dwellinghouse or the provision of any building or enclosure, swimming or other pool within the dwelling curtilage.
7. On the agricultural livestock building becoming redundant for the use applied for or any agricultural use, it shall be demolished and all resultant materials removed from site within 3 years of redundancy.
8. To safeguard the rural character of the area & special qualities of the Area of Outstanding Natural Beauty in accordance with Policy COR18 of Mid Devon Core Strategy (Local Plan 1) and Policy DM22 of Local Plan Part 3 (Development Management Policies).

REASONS FOR CONDITIONS

1. To ensure that the accommodation continues to meet with the needs of an essential rural worker in connection with the existing agricultural enterprise where it has been established that there will be a functional need for permanent accommodation on the site and for the business to develop in the way envisaged.
2. For the avoidance of doubt and in the interests of proper planning.
3. To protect the visual amenities of the area in accordance with policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and DM2 and DM29 of the Local Plan Part 3 of the (Development Management Policies).
4. To ensure the farm holding is able to continue to expand, to be financially sound meeting projections and to ensure the barn is built in accordance with the scheme proposed.
5. The site is located outside defined settlement limits in the open countryside, where national and local planning policy resists the erection of new dwellings without special agricultural/occupational justification in accordance with Policy COR18 of Mid Devon Core Strategy (Local Plan 1) and guidance in National Planning Policy Framework (NPPF).
6. To safeguard the visual amenities of the area 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 policy DM10 of the Local Plan Part 3 of the (Development Management Policies).

INFORMATIVE NOTE

1. The applicant is advised that the Local Planning Authority is unlikely to view favourably any future applications to enlarge the size of this agricultural worker's dwelling.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The current proposal is acceptable in that the applicant has demonstrated an essential need for a rural worker to live at or near their place of work in the countryside and that there are no existing dwellings available to fulfil that need. The siting, layout, scale and massing of the dwelling is considered to be acceptable and there will not be any unreasonable impacts on the visual or other environmental amenities of the area, highways safety or any neighbouring occupiers.

The proposed agricultural building is considered to be reasonably necessary for the purposes of agriculture on the holding and is sited in an appropriate location on the land. Its design adequately reflects the agricultural nature of the development. The site is located within the Area of Outstanding Natural Beauty and the proposal is acceptable in the respect of the impact on its character, appearance or other aspects of its natural beauty. Accordingly the application complies with policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM2, DM22, and DM29 of the Local Plan Part 3 of the Development Management Policies).

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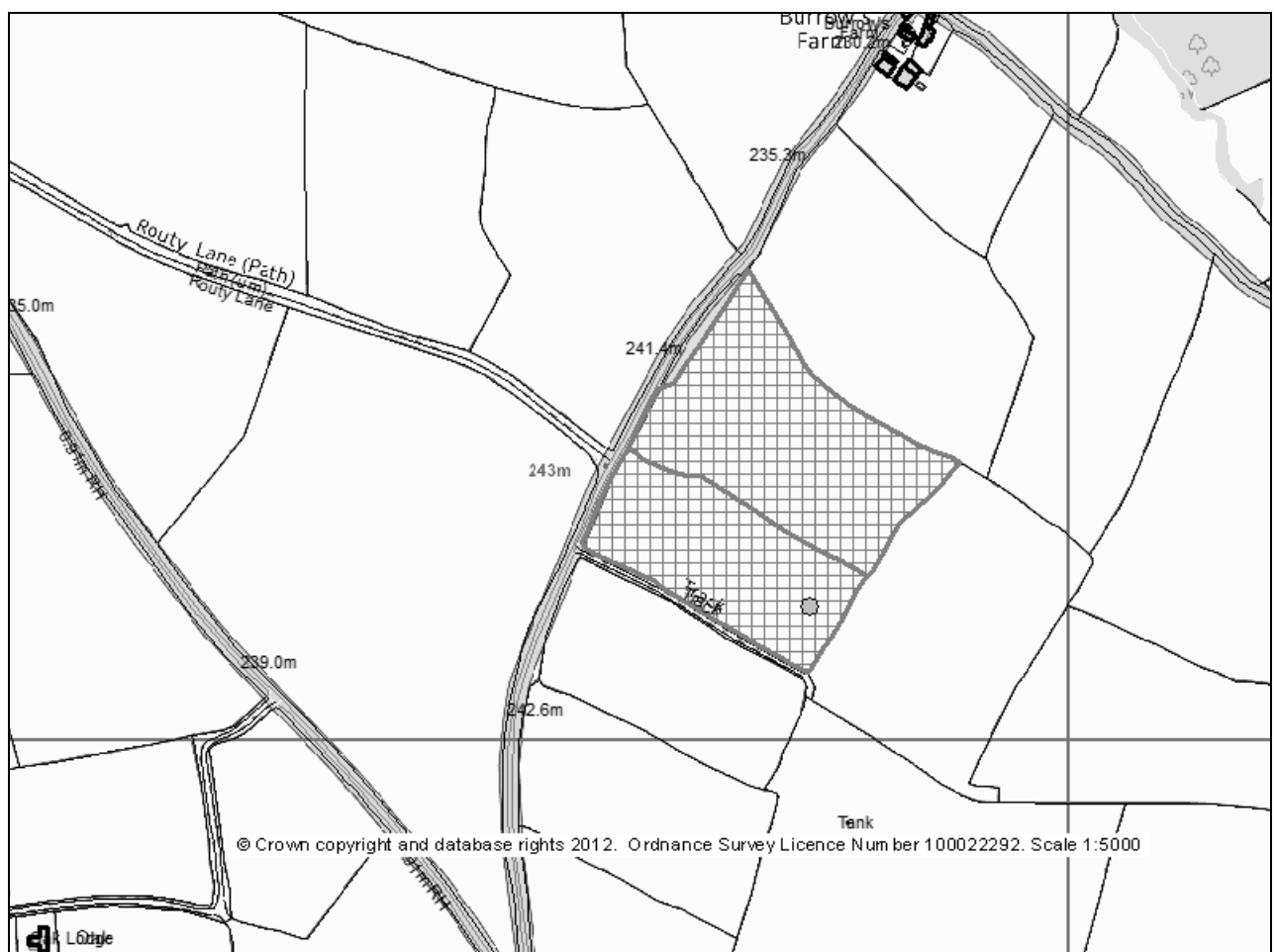
Grid Ref: 316711 : 110152

Applicant: Mr R Greenhill

Location: Land at NGR 316711 110152
(Ten Oaks Farm) Clayhidon
Devon

Proposal: Erection of an agricultural
worker's dwelling and an
agricultural livestock building

Date Valid: 20th October 2015



Application No. 15/01622/FULL

RECOMMENDATION

Grant Consent subject to conditions and to the prior signing of a Section 106 agreement/unilateral undertaking to secure financial contribution of £1442 towards public open space.

COUNCILLOR FRANK ROSAMOND HAS REQUESTED THAT THIS APPLICATION BE DETERMINED BY THE PLANNING COMMITTEE FOR THE FOLLOWING REASON:

To consider the absence of an effective business plan sufficient to justify the application, allied to concerns in respect of the water supply.

PROPOSED DEVELOPMENT

The Application seeks the erection of a permanent agricultural worker's dwelling and an agricultural livestock building. This application follows the approval of a temporary mobile agricultural worker's dwelling under appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012.

The previous application and approval established on similar numbers of stock that there was an essential need for a dwelling to support the developing livestock enterprise was sufficiently demonstrated and thus that the proposal does not conflict with Core Strategy Policy COR18 or with the National Planning Policy Framework. (The Framework).

Where essential need is established standard national policy is to provide in the first instance a temporary unit of accommodation over a 3 year time period to establish the viability of the unit.

In this case a temporary consent was granted through a planning appeal some questions arose in relation to the size to which the enterprise might ultimately grow, given the current absence of any mains services and the likely costs of providing these in due course. Nonetheless, given the clear support in the Framework for the development (and not just the diversification) of agricultural businesses, allowing the dwelling on a temporary basis is justified to facilitate the further establishment and development of the livestock enterprise.

Therefore the main issues with regard to this proposal are:

1. Is the existing enterprise based on sound financial basis
2. Are there sufficient services for the enterprise

APPLICANT'S SUPPORTING INFORMATION

Agricultural Appraisal
Foul drainage Assessment Form
Design and Access Statement
Breakdown of income and expenditure (Confidential)

PLANNING HISTORY

10/01749/FULL Erection of an agricultural livestock/storage building - PERMIT
11/01618/FULL Retention of caravan for occupation by agricultural worker for temporary period of 3 years; and retention of agricultural track and formation of new track and hardstanding- REFUSED (APPEAL ALLOWED 07.09.12)
15/01206/FULL Erection of dwelling and garage to replace existing caravan - Withdrawn

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR2 - Local Distinctiveness

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM2 - High quality design

DM8 - Parking

DM10 - Rural workers dwellings

DM14 - Design of housing

DM22 - Agricultural development

DM29 - Protected landscapes

DM15 - Dwelling sizes Technical housing standards – nationally described space standard

CONSULTATIONS

HIGHWAY AUTHORITY - 30th October 2015

Standing advice applies please see Devon County Council document

<http://www.devon.gov.uk/highways-standingadvice.pdf>

For domestic vehicular accesses from adopted highway into privately owned property (serving up to 3 dwellings) the arrangement must comply with Part One, Sections 3.10, 3.11 and 7.4 of Devon County Council's Highways in Residential and Commercial Estates Design Guide. For driveway gradients a maximum of 10% is preferred although each site must be considered on its merits.

ENVIRONMENT AGENCY - 19th November 2015 - Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

CLAYHIDON PARISH COUNCIL - 13th November 2015

The council does not support the application and makes the following observations.

The parish council has considered the re-submission and remains of the view that there is no viable and sustainable agricultural evidence presented to support the expired temporary permission, let alone the permanent dwelling application.

This would set an unwelcome precedent reference achieving a new dwelling. At just 12 acres, any agricultural tie would be meaningless. The location in open countryside remains a key consideration. Potentially a series of applications would destroy the essential character of this area of the Blackdown Hills.

The information contained in the Agricultural Appraisal shows a standard man day calculation of 1.67 based on 200 calves per annum. This is incorrect. The total number of calves at any one time is currently 50. If the new agricultural building is approved the numbers are proposed to double. This does not equate to 1 full time worker needed to be present at all times of the day and night for the proper functioning of the enterprise.

It has been reported that the Planning Notice was erected for four hours on one day and then removed.

The council has concerns over the water supply on site. The water is being harvested from the roof. Is this sustainable?

ENVIRONMENTAL HEALTH - 3rd November 2015

Contaminated Land - no objections to this proposal

Air Quality - no objections to this proposal

Environmental Permitting N/A

Drainage - no objections to these proposals

Noise & other nuisances - no objections to these proposals

Housing Standards - no objections to these proposals

Licensing - No comment

Food Hygiene - N/A

Private Water Supplies - INFORMATIVE NOTE:

No record is held as being a private supply. However, if a private water supply is to be used together with any other associated property, the supply would become a small private supply, unless a commercial element is involved when it would become a commercial supply. In either circumstance would be subject to the Private Water Supply Regulations 2009. As such a private water risk assessment and sampling regime will need to be undertaken by this Authority prior to any residential or commercial use. Please contact Public Health at Mid Devon District Council to discuss on completion of the proposal.

Health and Safety - no objections to this proposal

REPRESENTATIONS

There have been two representations

- 1) This is inappropriate development within the Area of Outstanding Natural Beauty.
- 2) There are inaccuracies in the application
- 3) Not proved its viability

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The primary material considerations in assessing this application are:-

1) Previous appeal decision for siting of temporary mobile unit

2) Agricultural Workers Dwelling

3) Agricultural Building

1. Previous appeal decision for siting of temporary mobile unit

See attached appeal decision **Appendix 1**

2. Agricultural Workers Dwelling

The site is within the Blackdown Hills AONB. The holding extends to approximately 5.1 hectares of relatively level pasture land in two fields. The north western boundaries of the two fields front onto an unclassified public highway off which the site is accessed. The caravan which the applicant is residing in (granted temporary consent in 2012 under appeal Ref: APP/ Y1138/A/12/2172238) is located in the northern corner of the southernmost field, close to the south eastern boundary. The existing agricultural building is located further to the south of the caravan with a stone track from the access to the highway and running along the southern boundary of the field. Timber post and rail fencing has been installed around the field in order to separate the pasture land from the recent developments (track, caravan, building).

The proposal is to provide a modest permanent chalet style bungalow, located on the footprint of the existing mobile unit and its veranda. In addition the proposal is to provide a further agricultural building located to the south of the existing building, along with an intervening concrete yard.

The site is in an isolated rural location where prevailing national and local planning policies restrict the provision of new residential dwellings and the residential use of land unless there is a proven need for an agricultural (or other rural) worker to reside on a holding. Policy COR18 of Mid Devon Core Strategy is a relevant policy as is DM10 (rural workers dwellings) of the Local Plan Part 3. In addition the National Planning Policy Framework (NPPF) sets out the criteria or other means of establishing whether or not there is an 'essential' need for such a dwelling. In addition Planning Policy Statement 7 Annex A although superseded is still considered to be a suitable guide/tool to help assess such applications.

Policy DM10 has 4 elements

- 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 most times.

An assessment of the labour requirement for the holding has been provided in support of the application. This states that based on the rearing of 200 calves annually and including some time for maintenance and cutting hay, the annual labour requirement is 501.80 standard man days, with 426 of these days being attributed to the management of the calves. This assessment has been made using The Agriculture Budgeting and Costing Book for derivation of labour requirements. These figures are the same as those provided for the 2011 application and the subsequent appeal. At the time of the appeal the applicant had just reached the 50 calves per quarter. The appeal established "the key element of the functional test is not the amount of labour required but whether it is essential for a worker to be readily available at most times, including at night. Very young calves are susceptible to infection, such that regular monitoring and prompt intervention are required for the success of the enterprise, and I heard that other emergencies can also arise during the night-time period. Given the nature and scale of the enterprise, I accept it is necessary for a worker to be on hand at night. The security benefits of an on-site presence also weigh in favour of the proposal. I conclude therefore that the functional test is met". Therefore the functional/essential need has been established through the previous appeal. That there is a requirement for at least one worker to be present at most times and therefore there is an essential need. This has not changed from this appeal date, with regard to the essential need.

In the appeal decision, the Inspector noted that given the clear support in the Framework for the development of agricultural businesses, allowing the dwelling on a temporary basis was justified to facilitate the further establishment and development of the livestock enterprise. He stated that in due course, the Council is likely to expect comprehensive and detailed information to demonstrate the sustained continuation and/or development of the enterprise throughout the period of the temporary permission. The applicant has sustained the enterprise at the level on which the appeal Inspector established there was an essential need to live on site, and intends to develop the business further by an increase in the numbers of calves on site. In this respect, the applicant is also applying for a further livestock building as part of this application.

Officers requested further information on the water supply as the cost of mains water installation would negatively affect the finances of the farm holding.

The present water supply by way of rain water harvesting has operated sufficiently for the last 4 years, the additional agricultural building will provide further water supply for the needs of the expanding unit. The agent has therefore commented that the sufficiency of this approach has been proven and with the roof area of the new historic building, rainwater harvesting will continue to be sufficient to secure the needs of the expanded holding in the future. No details of water use or storage in terms of volume have been provided. Sufficiency of water for stock is covered by other welfare standards. Given the arrangement has been demonstrated over the last 4 years, on balance it is considered acceptable.

- 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.

It was agreed between the Local Authority and the applicant at the time of the appeal that there is no other suitable and available dwelling in the immediate locality. Having undertaken a search on the Internet there are still no available properties within very close proximity to the site either to rent or buy. Therefore the need established within the appeal approval is unable to be satisfied by external means. Therefore the application meets this test of the Local Plan DM10.

- 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.

The inspector stated in paragraph 13 of the appeal that - *With regard to the proposal's visual impact on the character and natural beauty of the AONB surroundings, the caravan, tract are well screened by existing hedging. Moreover the surrounding countryside is relatively flat, such that the development has little long range views. Thus no harm is caused to the character of the AONB landscape.*

The application proposes a modest 2/3bedroomed chalet bungalow with a main foot print of 9.35m x 8.5m with an attached single storey section measuring 5.6m x 3.3m, the overall floor area being 130sqm measured externally. It is considered that this size of dwelling is appropriate for the size of unit and will have no major impact on the AONB or neighbouring properties. The change from a mobile unit to this modest dwelling will provide a more appropriate scheme for the AONB. The design is simple and will sit in the landscape appropriately and is close to the calf sheds to provide security and observation. In addition the size of the dwelling complies with space requirements set out at DM15 and the recent technical housing standards - nationally described space standard. There are no details as to the proposed materials therefore these will be conditioned. It is considered the proposed modest dwelling meets with Local Plan Part 3 policy DM10 and policy DM14 which relates to the design of new housing.

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 business has been running for a period of 4 years and details have been provided of accounts over this time period which detail income and outgoings. These are commercially sensitive and are not within the public domain. Net and gross Income is shown to be stable over the period, and providing a small but acceptable income for the size of the unit. The intention is to double the number of calves following the installation of the new agricultural building. Financial projections of the business following the erection and stocking of the sound agricultural building have been provided. They show an increasing business profit. On balance it is considered that this element has been met and is compliant with DM10.

The appeal Ref: APP/ Y1138/A/12/2172238 on 7th September 2012 raised some questions with regard to the lack of main services and in particular if the proposed enterprise could grow without it. The applicant has now provided a septic tank for the use of the caravan and continues to use water collected from rain sources, in addition electricity is now by mains supply with a backup generator. Although there is no specific mains water it is concluded that the increase in the number of buildings will provide additional water for the use of the site through rainwater harvesting. Potable water will need to be monitored and checked by the Environmental Health section of this Authority. The intention is to double the output of the unit hence the inclusion within the application for a new barn to cater for this. The essential benefit of this additional building is that of efficiency of the calf rearing enterprise, to allow rotation of stock from one building to another at 6-8 weeks. This will save time of dismantling, storing and re-erecting the pens. It will also allow more flexibility in the time periods for keeping stock.

It has been confirmed by the applicant that the cost of providing the agricultural workers dwelling and livestock building are not dependent upon the income from the agricultural enterprise itself. Therefore there are no perceived issues with regard to the sustainability and financial operation of the unit.

Policy AL/IN/3 makes clear that new housing developments will provide at least 60sqm of equipped and landscaped public open space per market dwelling, or a contribution per dwelling in accordance with the SPD. The SPD makes clear in paragraph 14 that the scheme for collecting contributions for off-site provision applies to all new housing, including single dwellings, whether built as tied accommodation, conversions of existing buildings, flats, maisonettes or permanent mobile homes. There is therefore a clear policy justification for this contribution.

A financial contribution of £1442 towards public open space provision is still to be made in respect of Policy AL/IN/3 and a unilateral undertaking has been sent for signature. Any Positive decision will need to be withheld until payment has been received or alternatively a legal basis established to secure it via S106.

New Homes Bonus

Consideration should be given to the New Homes Bonus that would be generated by this application. If New Homes Bonus is distributed across the Council Tax bands in the same way as last year, the award for each market house is estimated to be £1,028 per year, paid for a period of 6 years. The amount of New Homes Bonus that would be generated from the proposal over a period of 6 years is therefore estimated to be £6,168

For the reasons given above, the proposed development is considered to comply with the policies of the adopted Development Plan, and therefore approval is recommended.

3. Agricultural Building

This application also seeks planning permission for the erection of an agricultural livestock building measuring 12 metres x 30.5 metres x 4.2 metres to eaves and 5.5 metres to ridge. The southeast elevation is proposed to be entirely open to the three bays with the provision of galvanized steel feed barriers on the remaining two bays; the remaining three elevations are proposed to have 1.5 metre high horizontal tongue and groove dung boarding with Yorkshire boarding above and with the additional provision of a galvanized sheeted gate on the south west elevation. The building is proposed to be roofed in steel metal sheeting. The overall design of the building adequately reflects the intended agricultural nature of its use.

The agricultural barn is to be provided immediately to the west of the existing barn and to be constructed in similar materials and of a size similar to that of the existing barn. Between the two barns a concrete hard standing is to be provided. The primary purpose is to support farming activities related to the land holding and the building is needed for that purpose. The new barn will also allow the enterprise to develop further.

The site lies within the Blackdown Hills AONB where new development should not harm the special beauty of the area. The building is proposed to be located at the furthest point from the public highway, which is approximately 170 metres. Although the building will be visible from the public highway, it is not felt that the proposal will harm the overall beauty of the locality and will largely preserve the unspoilt and rural character of the area, as the building will be seen in context with the existing agricultural building. It will provide needed additional cover for the expanding business. In appropriate cases the Council will consider the need to require that the building be removed when it is no longer required for agricultural purposes and the site reinstated to its former use. Given the location of the site within the sensitive Blackdown Hills AONB and the relatively large size of the building (in conjunction with the previous approval) in relation to the overall size of the current land holding, a condition to this effect is considered to be reasonable and necessary and is therefore recommended for imposition.

The proposal is for a building which will be seen in context of the existing agricultural building and as such will meet with the requirements of DM29 in particular the character and setting within the special qualities of the landscape. The building will only be seen from the immediate highway. The biodiversity will not be impacted and linking habitats will be retained.

It is considered that the proposal meets and complies with the appropriate policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan 1) and DM2, DM22, and DM29 of the Local Plan 3 of the (Development Management Policies).

CONDITIONS

1. The Agricultural Workers dwelling and agricultural livestock building hereby permitted shall be begun before the expiration of 1 year 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. No development shall begin until details or samples of the colour and finish of the materials to be used for the external surfaces of the dwelling and agricultural livestock building have been submitted to and approved in writing by the Local Planning Authority, such approved details or samples shall be so retained.
4. The agricultural livestock building hereby approved will be brought into its intended use prior to the occupation of the agricultural workers dwelling.
5. The occupation of the dwelling 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 of such a person, or to any dependants.
6. Notwithstanding the provisions of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development of the types referred to in Classes [A, B, C, and E of Part 1 relating to the enlargement of a dwellinghouse or addition or alteration to the roof of a dwellinghouse or the provision of any building or enclosure, swimming or other pool within the dwelling curtilage.
7. On the agricultural livestock building becoming redundant for the use applied for or any agricultural use, it shall be demolished and all resultant materials removed from site within 3 years of redundancy.

REASONS FOR CONDITIONS

1. To ensure that the accommodation continues to meet with the needs of an essential rural worker in connection with the existing agricultural enterprise where it has been established that there will be a functional need for permanent accommodation on the site and for the business to develop in the way envisaged.
2. For the avoidance of doubt and in the interests of proper planning.
3. To protect the visual amenities of the area in accordance with policies COR2 of the MDCS 2007 and DM2 and DM29 of the Local Plan Part 3 of the (Development Management Policies).
4. To ensure the farm holding is able to continue to expand, to be financially sound meeting projections and to ensure the barn is built in accordance with the scheme proposed.
5. The site is located outside defined settlement limits in the open countryside, where national and local planning policy resists the erection of new dwellings without special agricultural/occupational justification in accordance with Policy COR18 of Mid Devon Core Strategy (Local Plan 1) and guidance in National Planning Policy Framework (NPPF).
6. To safeguard the visual amenities of the area 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 policy DM10 of the Local Plan Part 3 of the (Development Management Policies).
7. To safeguard the rural character of the area & special qualities of the Area of Outstanding Natural Beauty in accordance with Policy COR18 of Mid Devon Core Strategy (Local Plan 1) and Policy DM22 of Local Plan Part 3 (Development Management Policies).

INFORMATIVE NOTE

1. The applicant is advised that the Local Planning Authority is unlikely to view favourably any future applications to enlarge the size of this agricultural worker's dwelling.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The current proposal is acceptable in that the applicant has demonstrated an essential need for a rural worker to live at or near their place of work in the countryside and that there are no existing dwellings available to fulfil that need. The siting, layout, scale and massing of the dwelling is considered to be acceptable and there will not be any unreasonable impacts on the visual or other environmental amenities of the area, highways safety or any neighbouring occupiers.

The proposed agricultural building is considered to be reasonably necessary for the purposes of agriculture on the holding and is sited in an appropriate location on the land. Its design adequately reflects the agricultural nature of the development. The site is located within the Area of Outstanding Natural Beauty and the proposal is acceptable in the respect of the impact on its character, appearance or other aspects of its natural beauty. Accordingly the application complies with policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM2, DM22, and DM29 of the Local Plan Part 3 of the Development Management Policies).

Application No. 15/01808/MFUL

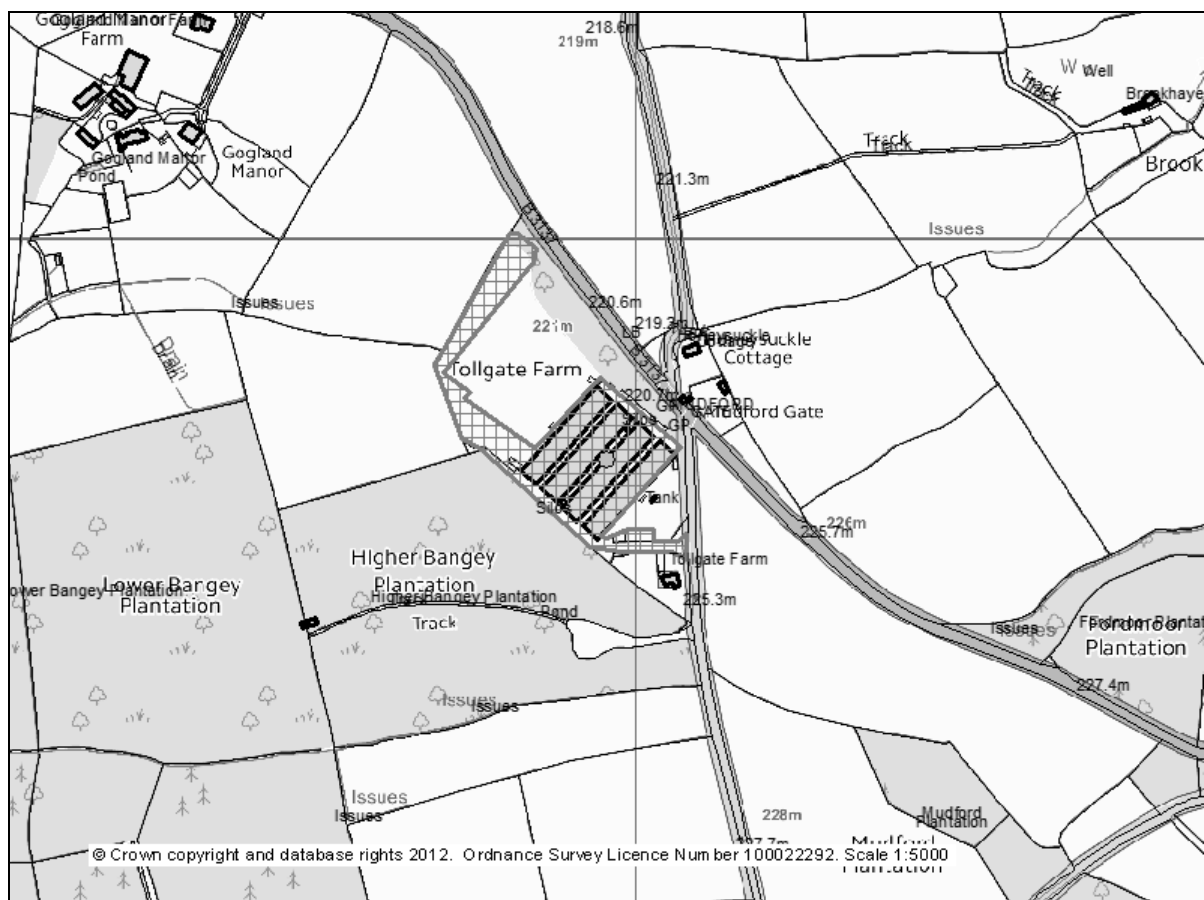
Grid Ref: 112901 : 285916

Applicant: Amber Real Estate Investments Ltd

Location: Land and Buildings at NGR 285916 112901 Tollgate Farm Nomansland Devon

Proposal: Erection of 3 replacement poultry buildings (7071 sq m) following demolition of existing, and provision of associated infrastructure including feed bins and hardstanding

Date Valid: 11th November 2015



REPORT OF THE HEAD OF PLANNING AND REGENERATION - MRS JENNY CLIFFORD

15/01808/MFUL - ERECTION OF 3 REPLACEMENT POULTRY BUILDINGS (7071 SQ M) FOLLOWING DEMOLITION OF EXISTING, AND PROVISION OF ASSOCIATED INFRASTRUCTURE INCLUDING FEED BINS AND HARDSTANDING - LAND AND BUILDINGS AT NGR 285916 112901 TOLLGATE FARM NOMANSLAND DEVON

Reason for Report:

Members of the Planning Committee have requested that this Major application be determined by the Planning Committee.

RECOMMENDATION

Grant planning permission subject to conditions

Relationship to Corporate Plan:

Managing the environment

Financial Implications:

Should the application be refused and an appeal lodged with the Planning Inspectorate there is a risk of an award of costs against the Local Planning Authority if it were found to have behaved unreasonably

Legal Implications:

None

Risk Assessment:

None identified

Consultation carried out with:

1. Templeton Parish Council
2. Cruwys Morchard Parish Council
3. Highway Authority
4. Environmental Health
5. Natural England

6. Tiverton Town Council
7. Cadeleigh Parish Meeting
8. Cheriton Fitzpaine Parish Council
9. Puddington Parish Council
10. Poughill Parish Council
11. Thelbridge Parish Council
12. North Devon District Council

1.0 PROPOSED DEVELOPMENT

Erection of 3 replacement poultry buildings (7071 sqm) following the demolition of 4 existing poultry buildings and the provision of associated infrastructure including feed bins and hardstanding at Tollgate Farm, Nomansland.

The four existing poultry buildings provide 155,000 bird places for broiler rearing. It is proposed to demolish these four buildings and erect three new poultry buildings (on the site of the demolished buildings) that will provide 148,000 bird places for broiler rearing. Two of the proposed buildings measure 100.6m x 23.2m and one measures 103.6m x 23.2m. The height of the buildings to ridge is 5.3m and the highest part of the ventilation chimneys on the south western end of the buildings (furthest from nearest off site dwelling) is 8m.

The buildings are proposed to be sited on new concrete slabs and will be timber framed construction, clad with box profile polyester coated steel sheeting. It will be coloured merlin grey on the gable and side elevations and goosewing grey on the roof. On either side elevation, close to the eaves there are a number of small windows fitted with blackout blinds.

Development also includes associated site infrastructure such as clean and dirty water handling facilities, control room, concrete yard areas and feed bins.

The broiler chicken rearing production at Tollgate Farm takes place over a 34-40 day cycle and approximately 7 batches of chicken are reared per annum. There is a 5-7 day clean out period at the end of each cycle. Following the rearing process at Tollgate the chicken are transferred to a facility at Willand for processing. The traffic generation of the 3 new units would be equal to that of the existing 4 units and the Highway Authority have raised no objection.

Although the use of the existing buildings stopped in December 2015, until that time farm litter waste was being transported to the Anaerobic Digester (AD) at Menchine Farm, Nomansland by tractor and trailer (28-35 trips at end of each cycle/crop). Farm litter waste from the replacement buildings will be transported to the AD at Menchine farm. It will be transported to this AD by 26 tonne, 6 wheel, rigid skip lorries that are able to carry 13 tonnes of waste. Approximately 15 trips would be needed per crop of chicken. Traffic generation would therefore be reduced as a result of the development.

Waste water from washing out the buildings would be contained in the dirty water catchment tank in front of the poultry buildings (on south western side of the site). The tank is emptied by specialist contractors when required and taken to registered disposal points. It does not go into an AD.

The site is already registered under Integrated Pollution Prevention and Control legislation with the Environment Agency which ensures controls are met and Best Available Techniques are adhered to at all times.

2.0 APPLICANT'S SUPPORTING INFORMATION

Environmental Statement – chapters included: Background, Details of proposal, farm waste and clean water management, flood risk, airbourne pollution, ecology, landscape, highways, other potential impacts, carbon reduction, alternatives, community involvement

Environmental Statement appendices – Scoping opinion, existing and proposed layouts, Extended Phase 1 Habitat Assessment, Environment Agency Ammonia Screening, Existing IPPC Licence, Flood Risk Assessment, Odour Impact Assessment.

Design and Access Statement

3.0 PLANNING HISTORY

96/01580/FULL Erection of four 19.8 metres x 100 metres poultry houses with associated feed silos (8 no.), underground slurry storage tanks (2 no.) and associated concrete access, parking and turning area - REFUSE

97/01089/FULL Erection of four new poultry houses and feed silos - PERMIT

11/01350/MFUL Erection of 4 additional poultry buildings and provision of associated infrastructure including feed bins and hardstanding - PERMIT

15/00848/SCR Request for scoping opinion in respect of demolition and rebuilding of poultry buildings - CLOSED

4.0 DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable communities

COR2 – Local distinctiveness

COR9 – Access

COR18 - Countryside

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 – Presumption in favour of sustainable development

DM2 – High quality design

DM3 -Sustainable design

DM4 -Waste management in major development

DM6 – Transport and air quality

DM7 – Pollution

DM8 – Parking

DM22 – Agricultural developments

DM30 – Other protected sites

5.0 CONSULTATION RESPONSES

TEMPLETON PARISH COUNCIL - 30th November 2015

It was felt that although no one would wish stand in the way of better welfare conditions for the chicken housed at Tollgate - the granting of previous applications on this site did not specify all the chicken litter going to Menchine AD as it was not operating.

Now we have a large Application to increase Menchine Farm chicken numbers and two new applications for industrial chicken farms at Edgeworthy and Gibbett Moor Farm. Extreme concern was raised with regard to this chicken litter also going through the small hamlet of Nomansland to access the Menchine Farm AD for disposal.

In particular the increased traffic danger to the residents of Nomansland which has no footpath for pedestrians at all. It was also felt that more detailed information needed to be supplied regarding the volume of chicken litter produced and where and how it will be disposed of in conjunction with the three other applications. Would the Menchine AD presently at 500kw be able to process and safely dispose of all this chicken manure? If to be utilised as fertiliser sufficient safe agricultural land needs to be identified and proper manure records kept.

CRUWYS MORCHARD PARISH COUNCIL - 18th December 2015

I refer to Cruwys Morchard Parish Council's meeting on 10th January where it was unanimously recommended that the above planning application be refused for the following reasons:

The neighbouring residents lives are severely effected by the current operation of Tollgate Farm, Nomansland as follows:

- The smell emitted at certain times is unacceptable together with the dust when the existing buildings are being cleaned out. The proposals for the new poultry buildings states that cleaning out will be staggered which effectively means that the cleaning out process will be continuous.
- When cleaning out there is constant noise which normally goes onto to around 1 a.m. in the morning.
- The current screening is inadequate with the Leylandi trees not being managed properly.
- There was no consultation about the changes with neighbours.
- The current large lorries are not suitable for use of this narrow lane and entrance and exit to the lane is dangerous.
- The planning application does not specify where the chicken manure will be stored and would be hazardous. There are restrictions on when the manure can be scattered on fields and therefore would need to be stored somewhere at certain times

The Campaign to Protect Rural England raise the following the points:

- This would be deemed to be industrialisation/factory farming.
- Too much traffic on a large scale will occur on rural lanes which are not able to cope with the effect.
- It is too close to residential property.
- Consideration must be given to the accumulative effect of all the other chicken houses and proposed chicken houses in what is a relatively small area.

HIGHWAY AUTHORITY - 19th November 2015

The proposed developments a replacement of existing units and the traffic generation of the 3 new units would be equal to that of the existing 4 units Therefore the Highway Authority would raise no objection.

However the applicant is advised to maintain the visibility splay from the junction of the unclassified road onto the B3137 and aim to provide 2.4m back along the centre line of the side road and extend to a point west of the junction on the near side kerb 150m with no obstruction greater than 600mm. This can be achieved by raising the canopy of the evergreen trees to a height of 2.0m above the verge.

In addition the unofficial passing bay on the west verge on the side road between the access and the junction would benefit from being formalised.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, HAS NO OBJECTION TO THE PROPOSED DEVELOPMENT

DEVON & CORNWALL POLICE AUTHORITY - 12th November 2015 - There are no crime and disorder issues that I can identify, If you wish a response from the police could you please be more specific.

NATURAL ENGLAND - 1st December 2015

We have considered the proposal against the full range of Natural England's interests in the natural environment and have the following comments.

Designated sites

Internationally and nationally designated sites – no objection

The proposed development is within 7km of the following designated sites:

- The Culm Grasslands Special Area of Conservation (SAC) – a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').
- Hare's Down, Knowstone and Rackenford Moors Site of Special Scientific Interest (SSSI) - notified at a national level and a component site of the Culm Grasslands SAC

These sites are special because of their grassland and heathland habitats and their butterflies. Further information can be found at www.magic.gov.uk

Natural England's Impact Risk Zones² have identified the sites as being sensitive to impacts from aerial pollutants, such as ammonia, due to the scale, nature and location of the proposal.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

The Culm Grasslands Special Area of Conservation (SAC)

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats regulations Assessment and to assist you in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:

- the proposal is not necessary for the management of the European site
- the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment

When recording your HRA we recommend you refer to the following information to justify your conclusions regarding the likelihood of significant effects:

- ES Appendix 4 Environment Agency Ammonia screening 2015
- Hare's Down, Knowstone and Rackenford Moors Site of Special Scientific Interest (SSSI)

Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(I) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Landscape

This proposal does not appear to be either located within, or within the setting of, any nationally designated landscape. All proposals however should complement and where possible enhance local distinctiveness and be guided by your Authority's landscape character assessment where available, and the policies protecting landscape character in your local plan or development framework.

Local Sites

Natural England does not hold locally specific information relating to local sites, but we are aware of Witheridge and Great Moor CWS 2km to the north of the proposal. Local sites remain material considerations in the determination of a planning application and your LPA may like to seek further information from the appropriate bodies such as Devon County Council and the Devon Biodiversity Records Centre (DBRC) to ensure your authority has sufficient information to fully understand the impact of the proposal before it determines the application.

Protected Species

We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

Biodiversity Enhancements

Your authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

Any design layout for the site should work towards a net gain in biodiversity (NPPF paragraph 9). We welcome the tree planting as part of the proposal and would suggest that if Sustainable Drainage Systems (SUDs) are proposed guidance on the design of SUDs for wildlife by the RSPB is followed.

The guidance can be found at www.rspb.org.uk/sustainabledevelopment

Additional matters

In accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England expects to be consulted on any additional matters, as determined by Mid Devon District Council, that may arise as a result of, or are related to, the present proposal. This includes alterations to the application that could affect its impact on the natural environment. Natural England retains its statutory discretion to modify its present advice or opinion in view of any and all such additional matters or any additional information related to this consultation that may come to our attention.

THELBRIDGE PARISH COUNCIL - 29th January 2016

At the last meeting of Thelbridge Parish Council the planning proposal 15/01808/MFUL was discussed. Members expressed concern about the over proliferation of chicken litter if the new buildings go up, the augmented traffic which will inevitably result in the greater amount of business and the possible over production of chicken in the area.

6.0 REPRESENTATIONS

Letters of notification were sent to 16 addresses in close proximity to the site and publicity was given to the application via a notice in the Mid Devon Star and erection of site notices both at the gates to the premises and at the nearest cross roads with the B3137. In total 5 letters have been received raising concerns/objections regarding the current application. A summary of the comments made is below:

- Odour/smell from the site is unacceptable;

- Additional traffic generation not acceptable;
- Increased use of Mudford Gate cross roads is unacceptable;
- Noise levels are unacceptable;
- Cumulative impact of chicken farm developments in local area needs to be taken into account;
- Leylandii trees on the boundary of site and not managed and are too high, blocking light;
- Pictures submitted with the ES are unrepresentative;
- NVZ in the area and chicken waste cannot therefore be spread on fields all year round;
- Waste water from the farm has been spread on fields in the past;
- Menchine AD plant may not be able to take all the chicken litter waste;
- Staggering of cleaning out the poultry buildings on local farms will exacerbate problems;
- Improvements to existing buildings would have improved living conditions for nearby residents

7.0 MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main considerations in the assessment of this application are:

1. Relevant planning policies
2. Planning history and current poultry buildings
3. Design
4. Impact on amenity of local residents
5. Highways (deliveries etc and waste removal...location of etc)
6. Visual impact
7. Environmental impact
8. Waste water and surface water drainage

1. Relevant Planning Policies

The key policy used to determine the application is policy DM22 (Agricultural development) of the Local Plan Part 3 (Development Management Policies). This states that agricultural development will be permitted where: *The development is reasonably necessary to support farming activity on that farm or in the immediate agricultural community; The development is sensitively located to limit any adverse effects on the living conditions of local residents and is well-designed, respecting the character and appearance of the area; and the development will not have an unacceptable adverse impact on the environment. The development will not have an unacceptable traffic impact on the local road network.*

Relevant assessment of the policy is given under Sections 3, 4, 5, 6 and 8 of the report.

Policy DM20 (Rural employment development) is also relevant. This states that in countryside locations, planning permission will be granted for new build employment development or expansion of existing businesses, provided that the development is of an appropriate use and scale for its location. Proposals must demonstrate that:

- a) *The development would not lead to an unacceptable impact on the local road network;*
- b) *There would not be an unacceptable adverse impact to the character and appearance of the countryside; and*
- c) *There are insufficient suitable sites or premises in the immediate area to meet the needs of the proposal.*

The assessment of this policy is made under Sections 3, 4, 5, 6 and 8 of the report.

Policy DM30 (Other protected sites) considers the impact of development proposals likely to have an individual or cumulative adverse impact on important sites including Sites of Special Scientific Interest (SSSI) Ancient Woodland and Special Areas of Conservation.

There are no sites in Mid Devon that are designated at European level for wildlife protection or special conservation, however the proposed development is within 7km of the Culm Grasslands Special Area of Conservation (SAC) and Hare's Down, Knowstone and Rackenford Moors SSSI. Policy DM30 states that planning permission will only be granted where:

The benefits of and need for the development clearly outweigh the direct and indirect impact of the protected site and the ecosystem it provides;

The development could not be located in an alternative, less harmful location

Appropriate mitigation measures have been put in place.

The relevant assessment is set out under Section 5 of this report.

Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) requires development proposals to sustain the distinctive quality, character and diversity of Mid Devon's environmental assets through high quality design and preservation of the distinctive qualities of the natural landscape. Design is also measured under policy DM2 of the Local Plan Part 3 (Development Management Policies).

Policy COR4 (Meeting Employment Needs) seeks measures to diversify the agricultural and rural economy in ways which protect countryside character. The policy recognises that employment development should be distributed across towns, villages and the countryside to support a strong and sustainable rural economy.

Policy COR9 (Access) of the Mid Devon Core Strategy (Local Plan Part 1) seeks to manage travel demand from development and reduce air pollution whilst enhancing road safety. Significant development must be accompanied by Transport plans.

Policy COR18 (Countryside) of the Mid Devon Core Strategy (Local Plan Part 1) seeks to control development outside of settlement limits in order to protect the character, appearance and biodiversity of the countryside while promoting sustainable diversification of the rural economy but is permissive of agricultural buildings in principle.

2. Planning history and current poultry buildings

The existing poultry buildings have been on the site for 40 + years. Due to the age and condition of the buildings further works to improve them would be unviable and ineffective so it is proposed to demolish them and erect three new buildings.

In 2012 (under application 11/01350/MFUL) planning permission was granted for the erection of 4 additional poultry buildings. The pre-commencement conditions for this permission were discharged and the permission was commenced, although the buildings have not yet been erected. Therefore, there is extant planning permission for the erection of 4 additional poultry buildings at Tollgate Farm. The permission applies to an area of land immediately adjacent to the existing buildings.

Condition 3 of this earlier consent states "None of the new poultry buildings hereby granted shall be brought into first use until such time as the modification and refurbishment works to the existing poultry buildings has been completed in accordance with details that shall have

previously have been submitted to and agreed in writing by the Local Planning Authority and such works shall be so retained”.

Following the grant of this earlier permission it was established that it would be unviable to improve the existing buildings which has led to the submission of the current application.

The proposed poultry buildings would match the external appearance of the 4 additional buildings that were approved in 2012. Following the demolition of the existing (4) buildings and erection of 3 new buildings, plus the erection of the 4 buildings approved under 11/01350/MFUL there would be a total of 7 poultry buildings at Tollgate Farm.

3. Design

The proposed 3 new poultry buildings would utilise the whole of the footprint of the existing buildings to be demolished. The buildings have a utilitarian appearance but they are considered to be appropriate for the intended use of poultry rearing. They match the appearance of the 4 additional buildings approved under 11/01350/MFUL.

The height of the buildings to ridge is 5.3m and the highest part of the ventilation chimneys on the south western end of the buildings (furthest from nearest off site dwelling) is 8m.

The buildings are proposed to be sited on new concrete slabs and will be timber framed construction, clad with box profile polyester coated steel sheeting. It will be coloured merlin grey on the gable and side elevations and goosewing grey on the roof. On either side elevation, close to the eaves there are multiple small windows fitted with blackout blinds. The buildings will not be any more noticeable on the site than the current buildings. There is some existing screening at Mudford Gate cross roads (to north east corner of the site) which help to filter views into the site from the B3137 and Honeysuckle Cottage (nearest off site dwelling at Mudford Gate cross roads

Development also includes associated site infrastructure such as clean and dirty water handling facilities, control room, concrete yard areas and feed bins. These additional elements will sit comfortably alongside the new buildings.

The proposed development is considered to comply with COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), DM2 and DM22 of the Local Plan Part 3 (Development Management Policies). The application states that surface water will be disposed of through a sustainable drainage system which attracts further policy support from criteria F of Policy DM2.

4. Impact on amenity of local residents

The main issues for consideration are the potential impacts arising from odour, noise, Leylandii trees of north east boundary and traffic movements/generation.

Environmental Health have been consulted on the application but at the time of writing this report no response had been received. This section of the report will therefore be updated at the Planning Committee.

Concerns have been raised regarding the smell and odour associated with the operation of the chicken farm at Tollgate. This has been raised by nearby residents as well as by Parish Councils. However, the odour associated with the operation of the site should be significantly reduced as a result of replacing the old buildings with new. The new buildings

will contain modern high speed ventilation fans that help to reduce odours. An odour model submitted with the 2011 application at Tollgate concluded that as a result of the replacement of the old buildings with new, the air quality at the receptors (including Honeysuckle Cottage approximately 65m to the north) would be considerably improved. While the Applicants are not prevented from utilising the existing old sheds, they have chosen to cease their use and to replace the buildings. This is considered to be a positive step in terms of managing odour from the operation of the site as a chicken rearing facility.

In relation to noise, the replacement of the old buildings with modern poultry buildings will not increase noise levels generated via operation of the site. The new buildings are better insulated and the local of high speed ventilation fans on the south western end of the buildings will both assist in reducing noise levels when compared with the use of the existing buildings. This is considered to be compliant with Policy DM7 (Pollution) in the Local Plan Part 3 (Development Management Policies).

With regard to the leylandii trees on the north east boundary of Tollgate Farm, these are tall and would benefit from some management as they now appear a little misshapen. However, these trees do, fairly effectively, assist in screening the existing poultry buildings from Honeysuckle Cottage to the north and partially from the B3137 and adjoining rural lanes. It is acknowledged that the screening from Honeysuckle Cottage could be improved in supplemental planting was carried out to fill gaps between the lower branches of these trees, but additional planting to further screen the site is not considered to be an essential element of the current proposal. Should the applicant wish to provide supplemental screening on this or other boundaries of the site then they would be able to do and this is likely to be welcomed by the occupiers of Honeysuckle Cottage. With regards to the tall leylandii trees, the plans do not include that these trees are to be removed and the Local Planning Authority would not wish to encourage their removal if the site would not then be screened to the same extent as at present. As the existing trees do provide acceptable visual screening it is not considered reasonable to impose a condition requiring their removal and replacement with alternative screening. However, this does not prevent the Applicant's from reaching a private agreement with regards to the management of these trees with the occupiers of Honeysuckle Cottage who have comments that the light levels to their garden and living room would be improved if the trees were reduced in height.

The demolition of the existing 4 poultry buildings and replacement with 3 new poultry buildings will not increase traffic movements to and from the site. Slightly less chicken would be reared in the new building as opposed to the old and chicken waste is proposed to be disposed of (to AD) by lorry rather than tractor and trailer – these changes would help to reduce traffic movements. The Highway Authority have raised no objection to the proposal on the basis that there would be no additional traffic generation. With this in mind and because the site could still be operational without any changes to logistics/traffic movements or type, it is not considered to be reasonable to impose a condition that restricts traffic movements or the type of vehicle that can be used in the operation of the business. There are not considered to be any additional traffic impacts as a result of replacing the existing buildings, and if the use of tractor and trailer to transport chicken waste is replaced by use of lorries then traffic movements should be slightly reduced in number.

While the concerns/objections of local residents have been taken into account, it is not considered that the current proposal will result in any additional environmental impacts that will have a detrimental impact on the amenity of local residents, in particular the residents of Honeysuckle Cottage.

The site operation would remain subject an environmental permit to control impacts on the wider area. The Officer considers that the proposed development would receive support

under Policies DM2, DM7 and DM22 of the Local Plan Part 3 (Development Management Policies).

5. Highways

The Highways Authority have raised no objection to the development as they agree that traffic generation from the 3 replacement units would be equal to that from the 4 existing buildings.

Paragraph 32 of the National Planning Policy Framework relates to development likely to generate significant amount of traffic movement and requires a Transport Statement or Transport Assessment to be submitted. This should take into account whether *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development*. This goes on to state that: *Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*.

As the Highway Authority have indicated that the development will not result in additional traffic generation the applicant was not required to submit a Transport Statement or Transport Assessment. The Environmental Statement (ES) submitted with the application does discuss the traffic generation associated with the replacement poultry buildings. This concludes that as the waste from the poultry buildings will be transported from the site by 26 tonne, 6 wheeled rigid skip lorries, instead of by tractor and trailer (as was the case in 2015 when the buildings were last operational), the number of trips generated during the cleaning out phase of the operation of the site will be reduced by approximately 50%. Traffic generation associated with the transportation of chicken, staff arrivals and departures, deliveries etc will not be significantly altered as a result of the development, but will not increase. The traffic generation associated with the proposed development is therefore considered to have a neutral impact.

It is recognised that development of this site has given rise to local concern over transport impacts; however the application is considered to demonstrate that highways impacts from the construction and operation of the site would be acceptable and there would be a reduction in traffic generation during the cleaning out phase of the chicken rearing process. The impact of the development would be less than severe in the context of Paragraph 32 of the NPPF. The proposal is considered to be in accordance with policies COR9 of the Mid Devon Core Strategy (LP1), policy DM8 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework (notably Paragraph 32).

Although the Highway Authority have raised no objection to the development they advised that the visibility splay from the junction of the unclassified road onto the B3137 should be maintained and suggest this could be achieved by raising the canopy of the evergreen trees to a height 2m above the verge. They also suggest that the unofficial passing place on the west side of the unclassified leading from the site access to Mudford Gate cross roads would benefit from being formalised.

6. Visual Impact

The application site already contains 4 poultry buildings and planning permission has previously been granted for an additional 4 buildings on land to the north west. The visual impact of the 3 replacement buildings must therefore be considered in context. The 3 replacement buildings currently proposed will result in a visual change to the site. However, the opportunities for public vantage points into the poultry unit are very limited. The new buildings will include ventilation chimneys and fans on the south western ends. These are

higher than the ridge heights of the main part of the buildings. While this has potential to slightly increase the visibility of the buildings, this taller section is on the end furthest away from the roads and nearest residential property. The ventilation chimneys are not considered to detrimentally affect the overall appearance of the buildings.

Views into the site are limited due to the screening on the perimeter of the site and the surrounding field and roadside hedgerows which help to filter views.

There are some views into the site entrance and of the southern side of the proposed buildings when approaching from Two Post Cross to the south. Views from the south will not be significantly altered following the construction of the 3 replacement buildings. The buildings will look different and new but will not be significantly more visible than the existing buildings.

The trees and hedgerow on the north east and east boundaries of the help to filter views of the poultry buildings from the B3137 and from the nearest off site dwelling, Honeysuckle Cottage at Mudford Gate cross roads (approximately 60 metres to the north east of the site). The occupiers of this property have raised concern about the management of the trees that currently screen the site and it is understood that they wish to seek some agreement from the applicant with regards to the long term management of the boundary screening. In visual terms, the existing boundary trees and hedgerow do assist in limiting the visual impact of the current poultry buildings and would offer the same level of screening for the replacement buildings.

There are no public footpaths crossing the site or close enough to the site to provide views of the proposed buildings.

While there would be a few vantage points within the local area from which there would be short range views of the poultry buildings, it is not considered that the replacement buildings would result in any significant additional visual harm over and above any harm currently caused by the existing buildings. With regard to the visual impact of the development, the application is considered to be in accordance with Policies COR2 of the Mid Devon Core Strategy (Local Plan Part 1), DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).

7. Environmental Impact Assessment (EIA)

An EIA scoping request was submitted to the Local Planning Authority 28th May 2015, and a response issued on 23rd June 2015. The scoping opinion set out the topics to be addressed in the Environmental Statement (ES). An Environmental Statement was required as the development represents **Schedule 1** development as defined in Circular 2/99:

Environmental Impact Assessment. The main environmental impacts likely to arise from the proposed development were identified to be from odour, noise, ammonia, dust and methane and from the production of waste in the form of poultry manure and dirty water. It was noted that this could impact nearby occupants but also the Culm Grassland SAC, and the Haresdown Knowestone and Rackenford Moor SSSI.

When assessing impacts upon the natural environment and habitats, Natural England guidance states that where the effects of development cannot be excluded, an appropriate assessment is required to reach a conclusion as to whether an adverse effect on the integrity of the site can be ruled out. The developer has submitted an ammonia screening report in conjunction with the Environmental Statement, which considers the likelihood of significant environmental impacts.

Mid Devon District Council is the competent authority under the Habitats Regulations 2010, to determine the potential impacts arising from development proposals on the environment including protected sites. The Authority must determine whether the development would be likely to have significant effects.

Natural England has confirmed that the proposal *is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.*

Having regard to the pre-application Environment Agency ammonia screening response, the Local Planning Authority considers that sufficient information has been provided to determine the likely effects upon the Culm SAC and SSSI sites in the area. It is considered that there are sufficient measures set out within the ES to conclude that the development (in construction and operation) would have an acceptable environmental impact without significant harm to the local setting or to protected sites.

It is also concluded that the benefits arising from the development would outweigh the direct and indirect impact of the Culm Grassland SAC and SSSI designations, that the development could not be reasonably located in an alternative, less harmful location and appropriate mitigation measures are proposed to make the development acceptable, in accordance with COR2 of the Mid Devon Core Strategy 2000 and Policy DM30 of the Local Plan Part 3 (Development Management Policies).

An extended phase 1 habitat and protected species survey by Eco-Check Consultancy Ltd was submitted as part of the ES. The survey identified that the development area is dominated by concrete aprons and buildings with some improved and semi improved grassland to the south east and tall rural vegetation across an earth bank to the north. The site is bordered by raised earth banks topped with trees and hedgerows to the north-east and south west and improved and semi improved grassland to the north-west and south east. The most ecologically valuable features of the site are the hedgerows, boundary trees and adjacent woodland, all of which are proposed to be retained. The survey indicated that certain protected species are considered present or likely to occur on the wider site including nesting birds, bats, reptiles and badger. A Construction Ecological Management Plan was produced as part of the 2012 permission for 4 additional buildings. This is to be extended to cover this area of Tollgate farm site, and will be required via a planning condition. With a suitable Construction Ecological management Plan it is considered that the development will not have a detrimental impact on protected species in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).

8. Waste water and surface water drainage

The flood risk assessment submitted with the application identifies that the land around the poultry buildings is fairly impermeable and that an infiltration system approach for surface water is not viable. It is therefore proposed to construct an attenuation tank to manage surface water. Surface water will be piped into the attenuation tank and then discharge controlled by hydro brake into either a ditch on the western boundary of the site or directly into one of the small streams in land to the west (subject to agreement with landowners). The surface water runoff rate will not increase as a result of the development.

Waste water from washing out the buildings would be contained in the dirty water catchment tank in front of the poultry buildings (on south western side of the site away from road and off site residential property). The tank is emptied by specialist contractors when required and taken to registered disposal points. It does not go into an AD.

The provision of surface water drainage system and the waste water catchment tanks is considered to be acceptable under Policies COR2 and DM2, and will mitigate risk of pollution of watercourses, in accordance with Policy DM7 of the Local Plan Part 3 (Development Management Policies).

SUMMARY

The proposed development comprising 3 replacement poultry sheds, attenuation tank and associated development is considered to be without significant detrimental impacts upon the living conditions of local residents. The application provides sufficient information to determine the environmental impact upon the Culm SAC and designated SSSI sites. It is concluded that the development will not have any additional visual impact on the surrounding area. There will be no increase in traffic generation as a result of the replacement of 4 existing poultry buildings with 3 new buildings and slightly less chicken will be reared in the buildings than currently possible. The replacement modern buildings will be an improvement to the current buildings that are 40 + years old and in need of significant improvement to meet modern standards. Chicken waste will be disposed of to a nearby AD plant and this is acceptable. Waste water will be collected and disposed of in accordance with regulations. A suitable surface water strategy can be devised for the site. The application is considered to comply with Policies COR1, COR2, COR5, COR9 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM1, DM2, DM3, DM4, DM7, DM8, DM22 and DM30 of the Local Plan Part 3 (Development Management Policies). Planning Permission is recommended subject to conditions.

INFORMATIVE

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.

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. No development shall be commenced until details of the surface water drainage system based on the surface water being discharged to a ditch on the western boundary of the site as detailed in the Environmental Statement, have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the approved drainage scheme shall be fully implemented before any part of the development is occupied, and be so retained.
4. A management plan, setting out the long term management responsibilities and maintenance schedules for the Sustainable Urban Drainage Systems (SUDS) including pipes, swales, detention areas, and associated flow control devices, shall be submitted to, and approved in writing by, the Local Planning Authority prior to any of the buildings first coming into use. The SUDS approved shall thereafter be managed and maintained in accordance with the agreed details.

5. No development shall be commenced until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Management Plan at all times during the construction phase of the development.
6. The development shall be carried out in accordance with the recommendations set out in the mitigation section of the Phase 1 Habitat survey completed by Eco-Check Consultancy Ltd in July 2015.

REASONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure appropriate measures are taken to manage surface water in accordance with Policies DM2, DM7 and DM22 of the Mid Devon Local Plan Part 3 (Development Management Policies).
4. To ensure an appropriate access to and from the site for use by heavy goods vehicles, in accordance with Policies COR9 of the Mid Devon Core Strategy (Local Plan Part 1), DM6 and DM22 of the Mid Devon Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
5. To ensure the development will not result in unacceptable harm to the amenities of the area, trees hedges, watercourses or wildlife in accordance with Policies DM4, DM7 and DM22 of the Mid Devon Local Plan Part 3 (Development Management Policies).
6. To ensure the development will not result in unacceptable harm to protected species in accordance with Policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies) and habitat regulations.

Contact for any more information	Lucy Hodgson 01884 234905
Background Papers	11/01350/MFUL
File Reference	15/01808/MFUL
Circulation of the Report	Cllr Richard Chesterton Members of Planning Committee

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Application No. 15/01996/MFUL

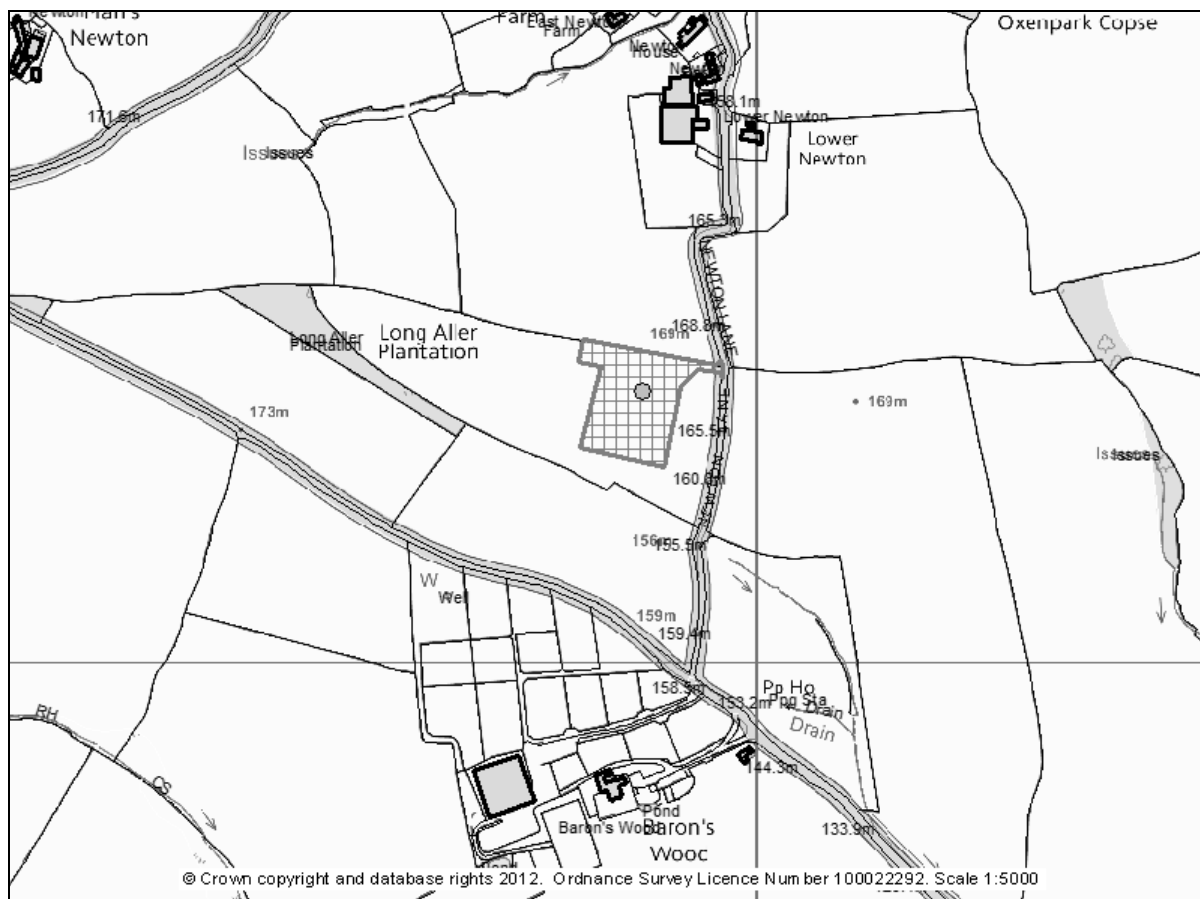
Grid Ref: 104236 : 269824

Applicant: Mr A Lawson

Location: Land at NGR 269824
104236 (SW of Lower
Newton Farm) Zeal
Monachorum Devon

Proposal: Erection of parlour,
cubicle and covered
feed building
(1876sqm)

Date Valid: 23rd December 2015



REPORT OF THE HEAD OF PLANNING AND REGENERATION –MRS JENNY CLIFFORD

15/01996/MFUL - ERECTION OF PARLOUR, CUBICLE AND COVERED FEED BUILDING (1876SQM) - LAND AT NGR 269824 104236 (SW OF LOWER NEWTON FARM) ZEAL MONACHORUM DEVON

Reason for Report:

To consider the above planning application.

RECOMMENDATION(S)

Grant permission subject to conditions

Relationship to Corporate Plan:

The emerging corporate plan recognises the priorities of economy and the environment. Farming forms part of Mid Devon's economy and that there are a higher proportion of people working in agriculture in Mid Devon than other Devon districts. One of the recognised long term visions of the corporate plan is: to create a prosperous economy, secure and well-paid jobs and a sustainable environment; this will make Mid Devon the destination of choice for successful businesses. This includes support for relocation and expansion opportunities for businesses.

The corporate plan recognises the need to maintain the high quality of the natural and built environments whilst meeting the economic and social needs of the residents, and sets out a long term vision to promote and protect our outstanding environment and beautiful countryside.

Financial Implications:

None

Legal Implications:

None

Risk Assessment:

None

Consultation carried out with:

1. Coldridge Parish Council
2. Hittisleigh Parish Council
3. Highway Authority
4. Environment Agency
5. Zeal Monachorum Parish Council
6. Environmental Health

1.0 PROPOSED DEVELOPMENT

1.1 Erection of parlour, cubicle and covered feed building (1876 sq. m)

The proposal is to construct a new agricultural dairy unit building measuring 48.768m x 36.272m (including roof over-sail areas) x 9.558m (maximum height to ridge). The building also includes for a 16.631m x 6.096m x 6m (height) mono-pitched extension at its eastern gable end, to provide separate storage, machine/office room and tank room facilities. The building will be of standard modern steel portal frame agricultural form and construction, with walls being constructed over pre-cast concrete and concrete block walls set under a fibre cement roof (Profile 6 roof sheets in natural grey) with a protected open ventilated ridge, and with use of roof lights. The eastern gable end will be clad down to within 1.85m of ground level with box profile steel walls painted in olive green set over a pre-cast concrete wall 2.0m high to the portal frame. The western gable end will be similarly clad down within 1.85 m of ground level but with Yorkshire spaced boarding set on a 2.0m high pre-cast panel walls below. There will be provision for 2 no. openings at either side of the western gable end.

The lean-to will be clad with 2.44m high pre-cast panels and with use of similar box-profile sheeting. The north and south side elevations will be left open with the exception of galvanised steel feed barriers to the main steel portal frame.

The building is intended to provide a new, relocated, dairy unit for the housing of 132 dairy cows in a purpose built building (and which will include robotic milking equipment). The applicants currently operate a small 114 dairy-herd family farm in the South Hams (Earlscombe Farm, near Ivybridge). Given increasing tenanted land and other constraints now affecting the operation of this farm, the applicants have decided to sell up in favour of now purchasing, and relocating to the Lower Newton Farm, comprising 120 acres with 60 acres to be rented with a future option to purchase. The building will initially accommodate 132 dairy cows.

The slurry from the building will be stored in a slurry store, which is the subject of a separate, though linked, application (15/01994/FULL), and proposed to be located to the immediate south of the new dairy unit.

The site is located within an open sloping field some 200m+ to the south of the existing main farm buildings at Lower Newton Farm, itself some 2 kilometres to the west of the village of Zeal Monachorum. The proposed new building will be set into

the southward facing slope of the field, lying just below the hedge line running west to east across the ridge line and which separates it from of the adjoining north-sloping field. An 11Kv overhead line passes north to south across the field and the new building has been positioned accordingly so as not to interfere with it. Access into the field will be via an existing gated access off the narrow Newton Lane.

This present application follows an earlier application made under 15/01334/MFUL; the earlier application had proposed locating a similar sized new dairy unit (and related slurry store building) immediately adjacent to the existing buildings at Lower Newton Farm. However, due to concerns by your planning officers at the proximity of the new farm buildings to other neighbouring residential dwellings (including heritage assets), the application was withdrawn and a fresh application has now been submitted for the new proposed location.

2.0 APPLICANTS SUPPORTING INFORMATION

Design and Access Statement. Key Points:

- The building is required to house 132 cows in a purpose-built facility offering the best in animal welfare
- The development has been carefully considered and designed to offer the best overall layout, taking into account the day to day management of the building in accordance with the current BS5502
- The layout of the building has been designed to minimise its impact on the site and surrounding area
- There will be additional allowance for landscaping
- Rainwater will be either stored in the underground water tanks or disposed of via soakaway.

Farm Waste Management Plan (FWMP). Key points:

- Approx. 68% of all agricultural land in England is now in a Nitrate Vulnerable Zone (NVZ): although the land in and around Lower Newton Farm is not included in such a zone, the proposal has been designed to accommodate all the regulations.
- The FWMP sets out a proposed 5 month slurry storage requirement of 1,446 cubic metres, in order to comply with 5-month NVZ storage requirements for the proposed dairy herd to be accommodated on the holding
- All slurry produced in the dairy building will be scraped by automated scrapers into the three underground slurry transfer channels, and then onto the (proposed) slurry store.
- There are no external movements of animals as the milking facilities are enclosed under the same roof: therefore there are no dirty yards areas being affect by rainfall
- All wash water from the milking stations and dairy will be piped direct to the (proposed) slurry store where it will be stores as part of the total containment system.
- Organic manure and other wastes will be spread and/or dealt with in accordance with separate Nitrate Pollution Prevention Regulations 2008, restricting when and how this is undertaken.

Wildlife Trigger List:

No significant ecological triggers identified requiring fuller ecological wildlife survey.

Drainage Management Plan. Key points:

- The site is on high ground in Flood Zone 1 and is therefore not at risk of flooding
- The area of hardstanding which will be created consists of 2,636sqm of proposed roof space and another 1,218sqm of concrete yard area; this includes the proposed entrance that runs away from the road into a gulley and joins water storage tank; it is impossible for water to leave the site and get onto the road
- The hard standing area will be made up of concrete yard and tracks that will be drained into water storage tanks through silt raps
- The soakaway has been designed following permeability tests and will cope with the additional run off
- The site of the proposed building is made up of shillet and relatively free draining soil on clay
- No surface water will enter the foul water system given 40,000 litre storage tanks; surface water will be kept separate from foul water
- Purely as a precautionary measure, a further soakaway will be constructed so that there will be no increase in flood risk to adjacent land
- Rainwater harvesting will be incorporated into the scheme
- All construction works will be carried out in accordance with separate EA guidelines relating to works near or liable to affect any watercourses etc.

Additional Supporting Statement. Key points:

- The applicants have been farming for generations and have come to the point with their current farm where there is no longer any room for improvement to continue with their business in the long term; the family are dedicated to continue farming for future generations.
- There are not any suitable farms for sale in the South Devon area and land prices are prohibitive; the family have carried out an extensive search of suitable farms for sale over the past 9 years.
- The Lower Newton Farm site is seen as now meeting with all their required needs:
 - Providing sufficient land to support their business
 - Providing suitable site for expansion
 - Providing existing farm accommodation close by (although it is acknowledged that additional accommodation may be required in the long term and that a mobile home nearer to the proposed dairy unit will also be required in the short term, subject to a separate planning application).
- The existing buildings (at Lower Newton Farm) are not suitable for the milking of cows but are suitable for storage of machinery and fodder and rearing of followers on straw bedding with no slurry
- The proposed site will provide an improved access to and from the proposed buildings and also a more suitable route for transporting the slurry from the site to the surrounding land, using umbilical piping so that no slurry will make contact with the road
- The new site will take away the need for removal of any large sections of hedgerow; just some mechanical realignment of the hedge will provide a larger entrance to the site and provide for improved visibility splays
- There will be a vehicular access to the existing buildings but mostly from the new development via the fields that adjoin the 2 sites to reduce vehicular movements to and from the site by the existing entrance to a minimum; vehicular access will be with small vehicles that are suited to the existing entrance and by tractor
- The propose development is now located a good distance from the Grade 2 listed properties to the north of the site.

- The grading of the proposal into the site will be fully landscaped and grassed over to blend the proposal into its surroundings
- The development will ensure minimal risk of pollution
- The development with its robotic milking equipment will mean that it operates 24 hours/day rather than the more traditional 2 or 3 times/day: the proposed new siting combined with modern design of pumps and sound proofing to the machinery will result in little noise pollution/affect on any surrounding properties
- Feed deliveries will be during the day as well as straw/sand for bedding: the only vehicular movements outside this time will be from milk tankers etc.: projected vehicle movements are milk tanker every other day; feed lorry 2 x /month; 2 miscellaneous lorry delivers/mth; possibly 1 car/day (agricultural reps. etc.).The only other movements would consist of agricultural vehicles that would normally operate as part of a working farm.
- The hard standing surrounding the proposal will provide good turning /movement areas for all lorry movements; the site can be accessed safely by all vehicles visiting the site
- The scale and layout of the site will have no impact on the local ecology wildlife or protected species; the development site is purely on open grassland (the proposal could benefit the ecology with installation of bat and owl boxes to the western elevation of the building).
- No soil will be removed from the site

The location as now proposed follows on from a report (prepared by Savills) which was commissioned by local residents in support of their objections in relation to the withdrawn application 15/01334/MFUL, and following a further site meeting with the planning officer.

3.0 PLANNING HISTORY

15/01334/MFUL Erection of milking parlour, cubicle and covered feed building: This application was withdrawn before it was formally determined.

15/01333/FULL Erection of a covered slurry store: This application was withdrawn before it was formally determined.

15/01994/FULL Erection of roof to provide cover to slurry store (760sqm) – The development proposed by this application is also recommended for approval.

4.0 DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan Part 1): COR1, COR2, COR9, COR18

Local Plan Part 3 (Development Management Policies): DM2, DM4, DM6, DM7, DM8, DM20, DM22, DM27, DM29

National Planning Policy Framework

5.0 CONSULTATIONS

Coldridge Parish Council - 25th January 2016

On Thursday January 21st Coldridge Parish Council held an Open Meeting prior to the scheduled Parish Council Meeting. This attracted 10 parishioners, all of whom are opposed to both the above developments. The Parish Council listened to their concerns, then discussed the issues as a Council and agreed to strongly oppose the two planning applications on the following grounds.

Lack of consultation

The Parish Council was informed that the developers had resisted any meaningful consultation with local residents, which is a requirement of the planning process. This is a

major concern; as such behaviour does not bode well for future relationships or with the developer's adherence to other planning requirements.

Access issues

This is currently an undeveloped agricultural field, and is located a significant way from any main roads.

This means that the 6 or 8-wheel or articulated vehicles required to build both these developments will need to use very narrow roads, which according the Ordnance Survey maps are all less than 4m wide, the equivalent of 13 feet. The road from Zeal Monachorum to Lower Newton Farm via Baron's Wood would be unsuitable as it has a bridge with 7.5 tonne weight limit on it, prohibiting such vehicles. The turn off the road from Farley's Grave would require a very tight turn into the road leading to this proposed development, and is therefore unsuitable. This means that all traffic will approach and leave this site from the north via Leigh Cross. This in itself is a very tight turn and is totally unsuitable for access. It is likely that these large vehicles will cause damage to verges when turning. The road from Blackditch Cross on the B3220 to Leigh Cross is about 2 km with one passing space. When two vehicles meet on this road one of them needs to reverse a significant distance, and possibly cause damage to verges, ditches and hedges. This road also has a steep hill [1 in 7 to 1 in 5] which is likely to cause problems for lorries ascending or descending.

The alternative route through East Leigh is equally unsuitable, and the turn at East Leigh towards Leigh Cross is narrow and blind.

In either case the road south of the existing farm buildings leading to the proposed site there is a very sharp double bend which would be impossible for long and articulated vehicles to negotiate without causing damage to verges and hedgerows.

If these developments do go ahead there would then be the ongoing problems of access for feed vehicles, which tend to be 8-wheelers, and the collection of milk from the parlour, again with large 8-wheel or articulated tankers.

Whilst the roads are not a responsibility of MDDC but of DCC the general state of these highways is poor, with DCC having insufficient funds to maintain the existing network in its current state. This information came from a senior member of DCC Highways. A significant increase in HGV traffic will clearly cause further damage to the road surface and highway edges.

Dangers other highway users

Apart from the added risk to local light traffic this development is also very close to the Devonshire Heartland Way, used by walkers and riders of all ages, it being a Public Bridleway.

In summary this development clearly goes against MDDC Local Plan Part 3, DM22 point d.

Moving onto to the application form submitted for the parlour, cubicle and covered feeding yard there are a number of points the Parish Council wish to raise.

Box 6 states there will not be a new or altered vehicle access to or from a public highway.

This is not the case, as at present it is just a gate into a field, and clearly this development will need a much more substantial entrance, with a fully surfaced road into the site from the public highway. This will cause disruption and damage to existing hedges and verges.

Box 7 can be seen as disingenuous as waste will be stored on this development in the form of slurry, although this slurry pit is the subject of a separate planning application.

Box 10 states there will be no onsite parking. It is hard to understand how this is the case as anyone looking after and checking on these animals will need to travel to the site, as there is no apparent linked accommodation. It is reasonable to assume this will be done using a light goods vehicle at least.

Box 14 states the site is not currently vacant. Whilst the definition of vacant may vary, this is currently an open field, with no development.

Box 24 states the site cannot be seen from a public road, which is not the case. This development will be clearly visible from surrounding roads and footpaths.

At present there is no apparent accommodation linked to this development. If this goes ahead it is reasonable to envisage a planning application being submitted for a dwelling on the site, which should be borne in mind.

The above points indicate this development can be seen to go against MDDC Local Plan Part 3, DM22 points b and c. Point a is open to discussion and without detailed financial information is hard to comment upon.

Coldridge Parish Council suggest very strongly that before any decisions are made on the application the planning committee carry out a site visit and meet with local residents and representatives of Coldridge Parish Council. This will enable them to see first-hand the local environment and access roads.

Hittisleigh Parish Council - 28th January 2016

Not sufficient information to make an informed response.

Highway Authority - 8th February 2016

Observations:

The Highway Authority has visited the site and met with the applicant's agent Mr Rice. The Highway Authority sought confirmation on a number of points and identified some of the concerns. The existing farm is 180 acres and the applicant is purchasing 120 and will be renting the remainder with a view to purchase at a later date.

Concerns were raised at an earlier date that there would be as a result of the application scheme the opportunity for two farms to operate.

This potential remains, and any tenancy agreement should be submitted to support the applicant's application and control over the traffic generations. The existing farm has the ability to run as a dairy farm without the need for planning consent and the traffic generated by the original farm would be equivalent to that of the new holding and subsequently as a single unit would not result in any increase in traffic over that of the original farms potential. As a standalone farm the new holding is 2/3 of the original farm and can be expected to generate a similar movement to that of the whole farm and the remaining portion similar with a potential for doubling the traffic on the network. However with the remaining part of the farm in their control through tenancy, then the likelihood of this is reduced until such time as the tenancy may be given up. Notwithstanding the above the existing buildings and access would have a traffic generation and this can be reasonably expected to be the same as the applications use for the storage and delivery of feed , bedding, veterinary visits and other miscellaneous visits similar to that of a farm of beef cattle. This would result in the additional traffic being that of milk tankers and slurry.

The location of the new unit would allow the slurry to be spread on the holding via umbilical pipe network and the storage facility allows it to be spread at the appropriate time and conditions. I am informed by the agent that the heard is 120 strong and all the slurry will be spread on the holding with no off site movements. This will result in an operational increase in traffic of only the Milk tanker. The applicant has indicated room for an expansion and the Local Planning Authority should seek assurances and or impose conditions that would necessitate further mitigation should the use of Umbilical pipe not be used, and off site spreading take place. The Highway Authority viewed the new location and the point of access from Newton Lane and is happy with the layout plan for the new access and the effective improvements to the existing gateway and road widths.

The roads in the area remain substandard in terms of width and alignment and while construction traffic is temporary it should be controlled by a construction management plan which should details routes, road condition surveys, and will take into account delivery times, vehicle sizes etc. The Highway Authority is equally of concern to some of the bends and their swept paths as is the Parish Council but these will be dependent upon the routing of vehicles. There is the potential of construction vehicles avoiding Newton Lane altogether and access to the site being taken from Essington road between Newton Cross and Leigh cross with a temporary haul road to the site across the applicants land. Such an access will deliver a better farm access to the fields and additional passing opportunities as a result, and will reduce the impact on the residents in Lower Newton.

A concern has been raised over a pedestrian gate on the inside of the bend and an existing safety concern expressed by the residents over the lack of visibility. The speed of traffic along Newton Lane was observed to be 10-20mph and the sight stopping distance to the gate is available. Notwithstanding this application, the necessary improvements to alleviate the existing concern is in the gift of the residents themselves as the garden wall is in excess of a meter in height and a reduction in wall height would afford the appropriate visibilities for pedestrians.

Alternatively the Local Planning Authority may consider the widening of the road at this location to improve the amenity of the resident, but this will necessitate hedge and bank removal.

Concern has been raised over the abuse of the weight restricted bridge that has previously occurred and potential for it to be exacerbated. The Existing Bridge has an axle weight limit of 7.5 tonnes, and at present anomalies to the signing mean it is unenforceable. However desk to studies have indicated that the bridge can take anything from 13 tonnes to 40 tonnes, and is planned to be reassessed and the orders formalised so enforcement can take place. More over the haylage observed traversing the bridge in the past will be used by the applicant and therefore be likely to alleviate the potential abuse.

Therefore given the potential use of the existing farm and the waste management, the potential increase in traffic along this narrow lane would be the introduction of the milk tanker, should this be seen as a standalone without the tenancy. With the tenancy then the traffic is not likely to increase over the potential traffic that can be generated by the existing holding. I would advise that the Local Planning Authority seek confirmation from the applicant in writing of the information I have received, and it will be a matter for the Local Planning Authority to consider whether or not the tenancy can be considered as part of this application.

The Highway Authority would strongly advise that the applicant consider improvements along the highway of Newton Lane, such improvements would include additional passing opportunity at the double bends, at the pedestrian gate, and on the verge to the north of the residential properties.

Also the Highway Authority would seek improvement to the junction visibility at Leigh Cross on land in the control of the applicant and an improvement to visibility from the existing access to the established barns south towards the new unit.

Therefore, should consent be granted the following conditions should be imposed:

Recommendation:

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Traffic Management Plan (TMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- (o) Waste management including Slurry spreading
- (p) details of the access and temporary hall roads have been submitted and approved.

2. A) No other part of the development hereby approved shall be commenced until the

B) access

C) parking facilities

D) commercial vehicle loading/unloading area

E) visibility splays

F) turning area

G) access drive

H) and access drainage

have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.

REASON: To ensure that adequate facilities are available for the traffic attracted to the site.

3. Off-Site Highway Works No use of the development shall take place on site until the off-site highway works for the provision of improved junction and access visibilities, improved passing opportunities, have been designed submitted to and approved in

writing by the Local Planning Authority and have been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with Paragraph 32 of the National planning policy Framework.

Environment Agency

Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

Zeal Monachorum Parish Council - 21st January 2016

Zeal Monachorum Parish Council met on the 14th January 2016 and discussed the above planning application.

Eleven residents of properties nearby the applicant address were in attendance and were very concerned regarding the scale and impact of the development, particularly in regard to the road infrastructure.

The Parish Council noted that there is limited detail within the design and access statement with regard to impact on road structure and traffic movement considering the scale of development.

In view of the lack of that information The Parish Council was unable to form a resolution either in support or opposition to the applications.

Environmental Health - 12th January 2016

Contaminated Land - no objections to these proposals

Air Quality - no objections to these proposals

Environmental Permitting - N/A

Drainage - no objections to these proposals

Noise & other nuisances - no objections to these proposals

Housing Standards - Not applicable

Licensing - No Comments

Food Hygiene - No objections.

Informative: Should applicant wish to pasteurise milk or make dairy products contact Environmental Health for advice as prior approval will most likely be needed.

Private Water Supplies - Not applicable

Health and Safety - no objections to this proposal. Informative: If there is a foreseeable risk of asbestos being present in the existing structure e.g. concrete. A Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive.

6.0 REPRESENTATIONS

Eighteen letters of objection have been received in relation to the application, they are summarised as follows:

- Concern over the traffic impacts and generation of the proposed development and the considerable pressure imposed by the development on the surrounding unclassified road network.

- The access is via narrow, undulating, steep and twisting lanes, they are substandard in terms of width and visibility at junctions, and are unsuitable to serve the development.
- The Black Ditch junction and at Leigh Cross have poor visibility, the increase in the frequency of vehicles will increase the potential for traffic accidents
- Roads are unsuitable for use which is likely to be frequent, by large and multi axel vehicles, access for large vehicles would be essential to serve an intensive indoor dairy herd in the highly competitive industry which relies on large scale machinery, safety concerns over the use of such vehicles. There are generally no passing places and there is a weak bridge nearby that is unsuitable for heavy vehicles. There is only one formal passing place in 1.6 miles, vehicles are forced to reverse up to a mile to give way. There have been a number of previous incidents and a major accident.
- No reference in the application to highways infrastructure, proposed traffic volumes, or parking and turning areas.
- Concern over the disruption caused during the development and inability of vehicles delivering the materials to access the site. No information has been provided as to the types, weights and sizes of the vehicles required, or how the highway will be managed. There is a need for a Traffic Management Statement.
- Lack of detail provided on the plans and anomalies, including about the access arrangements, the use of existing and new entrances is unclear. The entrance is already not fit for purpose and would be subject to intense activity. The route from the existing entrance to the proposed site involves a 180 degree turn on to Newton Lane and two 90 degree bends. Concern it is not possible to police that only more appropriate routes are used by drivers.
- Incorrect labelling of the proposed route, and this is stated in relation to construction phase, clarification needed of the designated route for future traffic.
- Concern over the loss of ancient hedgerow to create a new access and visibility splay.
- Concern for safety of other road users, including pedestrians, cyclers, walkers and horse riders.
- Impact on neighbours, particularly Newton Barn. Safety concerns for those occupying Newton Barn whose garden path enters onto Newton Lane inside a tight corner blind to vehicles approaching from the north, with poor visibility to the south. The gate is 50cm from the lane edge and the lane itself is only 2.8 metres wide, with an ancient Devon bank opposite.
- This revised application does not address the major concerns of the local community that were expressed regarding the previous applications (15/01333/FULL and 15/01334/MFUL)
- Road conditions have further deteriorated due to recent adverse weather, the surface and bank edges are breaking down, neither is suitable. The Devon lanes are already being heavily eroded by the current level of traffic the development will further exacerbate this.
- This is not an expansion/extension to an existing farming enterprise; the applicants are not currently farming in the local area.
- The application form states the development will not be seen from public roads or footpaths, this is incorrect. The site is beside a public land and adjacent to the Devonshire Heartland Way, it will be seen from several angles and from a considerable distance. The Devonshire Heartland Way route is used by most locals and many visitors to the area, the route has fantastic views to Exmoor and Dartmoor, this would be interrupted.
- Wildlife and geology trigger table states the site is less than 0.1 hectares, this is incorrect, and a wildlife report should have been submitted.
- The applicants have not engaged with neighbours.

- The new plans remain unchanged, the industrial scale of the unit is unsuited to this environment.
- Environment impacts, including the impact on the nature reserve immediately down the valley, which will have ponds fed by a rising spring, concern over runoff of the proposed development.
- The proposal is not compatible with Mid Devon's planning aims which include: to protect landscapes strong rural character and dark night skies, and the strong sense of tranquillity within the valleys, retaining their general absence of built development, protecting views from rising valley slopes maintaining the valleys roles as a visual link to other landscape types. The illumination of the buildings throughout the night will impact upon the dark night skies.
- The development will have an unacceptable visual impact within the surrounding landscape due to its location on a skyline, and will not be adjoining to existing farm buildings.
- Concern additional development will likely be required to support the enterprise, including residential accommodation. Additions would substantially enlarge the development footprint that is already considered an industrial scale.
- Concern over expansion of the venture from the currently proposed minimum of 132 dairy cows.
- The development will result in noise, light and odour pollution in this quiet area, from machinery, traffic movements at antisocial hours, slurry spreading, and lighting of buildings.
- Use of other alternative sites, a number of existing dairy units have been sold, including those with good highway access. The current plight of the dairy industry is stated to be due to oversupply; the development will further pressure existing units. A national announcement on the 29/01/16 stated dairy farming had reached a crisis, it was impossible to make a living from it and farms are going out of business at an alarming rate. Concern over the viability of the proposed unit, objectors do not wish the site to become a blot on the landscape if unsuccessful.
- The development will result in the loss of an extensive area of productive pasture land, this land could be better utilised.
- Applicant has not yet purchased the farm
- Despite understanding the need for farming and agriculture to grow, this is inappropriate development for this location and is contrary to planning policy.
- The development will be disastrous for ecology, will pollute the surrounding areas, affecting the quality of life of nearby residents.
- The farm waste management plan has not prepared a risk map of areas where ground conditions are not suitable for the spreading of slurry. This map is also required to indicate a reasonable buffer zone around neighbouring residential properties. This should be agreed and be enforceable to minimise the loss of amenity for neighbours.

7.0 MATERIAL CONSIDERATIONS

The main issues in the determination of this application are:

1. Policy
- 2 Background and principle of development
3. Design and impact on the landscape character
4. Impact on neighbouring properties and uses
5. Access and highways issues
6. Other matters

1. Policy

The site is located in the open countryside where Policy COR18 of the Mid Devon Core Strategy 2026 seeks to control development but permits appropriately scaled employment and farm diversification schemes and agricultural buildings. Policy COR4 seeks to encourage measures to diversify the agricultural and rural economy whilst protecting the character of the countryside. Policy DM22 of the Local Plan Part 3 (Development Management Policies) permits agricultural development where it is reasonably necessary to support the farming activities of the immediate agricultural community provided that it does not affect the living conditions of any nearby residents and does not have an unacceptable adverse impact on the highways network , the wider environment , character and appearance of the area. Other relevant policies include DM2 (dealing with design), DM4 (waste management), DM6 (transport and air quality), DM7 (pollution), DM27 (development affecting heritage assets), and DM29 (protected landscapes).

2. Background and Principle of development

National policy as set out in the NPPF also establishes a presumption in favour of sustainable development and supports farm development and diversification and the erection of new agricultural buildings in the open countryside that contribute to the sustainable growth of the rural economy (para. 28), provided that it does not cause unacceptable harm .

The current proposal is to serve an intended new dairy unit to be located on land at Lower Newton Farm. Active commercial farming activities are understood to have been considerably reduced over the past 8 or 9 years, although the land has continued to be still used/rented out for agricultural purposes (including grazing and other arable farming) . The main farm bungalow and associated buildings were established some 40+ years ago at their present site, which is located some 200+ metres to the north of the proposed new dairy unit, to be located on the other side of the hillside. The existing farm buildings consist mainly of two large agricultural storage/former livestock buildings and some smaller outbuildings.

Although it is understood that these buildings have not been much used by the present owner in recent years, one main building is nevertheless already currently being more actively used by the present applicant for the keeping of some calves and followers, as part of his existing farm operation (based at Ivybridge), and on a separate arrangement with the current owner. A former small dairy milking parlour is also sited within the main farm group of buildings although it is understood this will not form part of any sale of the main farm site itself. The Lower Newton Farm is understood to have last been operated as a dairy farm at least some 15 or more years ago. One former corner farm/rural building was sold off in recent years and has been converted to a dwelling (Lower Newton Barn) now in separate private ownership.

The existing farm buildings on the site are no longer fit for purpose in terms of meeting with modern dairy unit welfare requirements although clearly still have a useful functional agricultural use.

The main farm is closely situated to several other properties in this area, including 2 no. Grade 2 listed dwellings (Newton House and East Newton Farm).

As noted in the earlier section of this report, the application is unusual in that it will involve, effectively, the relocation of an existing farming enterprise from South Devon to a new site at Lower Newton Farm. It will also lead to the renewed active commercial use of the farm, once again, for dairy farming.

The general principle of the development has previously been considered at pre-application advice stage by planning officers, and considered as being generally consistent with planning policy, subject to consideration of all the material circumstances. As has previously been noted, the current application is for a new dairy unit in a revised red-line location, following the withdrawal of an earlier similar scheme which was to have been located immediately adjacent to the existing farm buildings. The site location as now proposed was first suggested by local residents (as set out in a report commissioned by them and prepared by Savills). The objectors have since made clear that the independent views put forward by Savills at that stage, in respect of suggesting possible alternative sites, did not necessarily meet with their own and by no means indicate endorsement by the local community.

Given the proposed modest scale of the dairy unit and bearing in mind the likely positive contribution the scheme will make to the rural economy and its agricultural nature, it is in principle considered to be acceptable.

It remains to consider the application set against all other relevant material planning considerations.

3. Design and impact on the landscape character

Policies DM2 and DM22 of the Local Plan Part 3 (Development Management Policies) seek to ensure that the development is of sufficiently high quality and is one that it is well integrated with, and respectful of, the character and appearance of its surrounding area. Policy DM29 relates to developments affecting protected landscapes and requires the special qualities of the landscape to be conserved or where possible enhanced, and also seeks improvements to biodiversity through appropriate landscaping and habitat creation: the proposed development is within the designated North Devon Biosphere Reserve.

The dairy unit building is intended to be constructed in the western section an open grass field on gently southward sloping ground approximately 250 metres to the north of the existing farm buildings. The field is approached via the narrow Newton Lane which extends from Leigh Cross, to its junction with the unclassified road near Baron's Wood to its south. The land is classified as Grade 3 agricultural land, and sits within a roughly elongated triangular field which is bordered on its western lower and upper edges by a small wooded plantation. The field is otherwise bordered by mainly 2m high hedges (along its northern, southern and western edges). Access is currently via a metalled 5-bar gate at its north easterly corner and close to another existing access serving a larger separate field. The northern boundary edge effectively forms a ridge line, with ground falling gently northwards towards Lower Newton Farm, and southwards, towards the proposed new building; the mapping data shows that the highest point (taken from near the entrance in the adjoining Newton Lane stands at 169m AOD, with the land then descending into the lower small dry valley section to 156m AOD, before then gently rising up near Baron's Wood to 159m AOD.

The proposed dairy unit building will be orientated east to west and positioned approx. 30m southwards into the field as measured from the northern boundary, and some 60m from the existing access gate serving the field. An overhead 11kv electrical line traverses the field, south to north, just under 20m from the eastern gable end of the proposed building.

The landscape is described in the Mid Devon Landscape Character Assessment (October 2011) as forming landscape type LCT 5A, 'inland elevated undulating land'. This landscape type extends across most of the south-western part of the district, and it forms what is described as a 'strong cultural association with the adjacent landscape of Dartmoor that forms part of the setting of the moor and is very important to its value and appreciation'. Key characteristics include a medium to large scale, gently rolling, to steeply rolling, landform

with high points over 220m above the valley bottoms. Permanent grassland is the dominant land use pattern. The traditional and inherent patterns of this landscape type are strongly evident and are considered to have been altered far less over the last century than other landscape types. There is generally a lack of visually prominent buildings, with isolated houses and cottages being generally sited sympathetically into the landscape.

As noted above, another consideration in the assessment of this application relates to its protected landscape status, falling as it does within the transition area for the North Devon Biosphere Reserve. The area is a UNESCO designated reserve covering some 55 square miles of mainly North Devon. Such areas are recognised for their high biodiversity value combined with sustainable use of natural resources for the benefit of local communities. The purpose of the biosphere reserve is stated as being to reconcile the conservation of biodiversity with human development needs. The part of the reserve within this part of Mid Devon does not benefit from the very high levels of environmental protection found in the 'core area' at Braunton Burrows on the North Devon coast, but nevertheless contains agricultural activities that are recognised for their progress towards achieving an environmental and economic balance.

In this instance, given the nature and type of development, the applicants have not submitted – nor been asked to submit – a full Landscape and Visual Impact Assessment and detailed ecological report. The requirements of this policy are considered to have been satisfactorily met by the submissions contained within the Applicants Supporting Information, as outlined above, including the Design and Access Statement. Note has been taken of the statement made by the applicants to support biodiversity through installing bat and owl boxes within the new building. Consideration has also been given by your officers to SSSI Impact Risk Zone mapping analysis (as provided by Defra/MAGIC 'mapping'), and which has confirmed that there are no protected species or habitats within the development site area. The nearest designated SSSI is shown as Staddon Moor, located some 2.4kms to the south west of the site. The vision for farming in the Biosphere Reserve area is stated as being farming that produces the agricultural products the community needs but in a way that supports the 3 key aims of conservation, sustainability and learning: it also requires farmers to create strong businesses producing good quality produce in way that fully recognises the environmental impacts on the farm and in the wider environment. The current applicant has provided evidence in the form of farm waste management plans and other information which supports his intentions to farm responsibly, and for the benefit of the wider environment.

One of the key considerations in selecting the revised location for the proposed new building has been to minimise its overall impact on the landscape: it will be located on the southward side of the gentle hill slope, just below the ridgeline, which will help to reduce the overall visual impact by being part cut into the land. The building will however still be partially visible above that ridgeline (given its overall height), by likely up to 3 or possibly 4 metres, although the general massing will be further screened from view by the existing hedge lines and treelines; additional landscaping can also help further mitigate (though not completely hide) such visual impacts.

Views will however be largely hidden from those residents living near Lower Newton Farm approx. 300m, to the north, and will also be hidden from view, given the local topography, by the other nearest property, at Baron's Wood, some 280m+ to the south.

Note has been taken of the fact that the Devonshire Heartland (long distance footpath) passes along the unclassified lane to the south and runs up Newton Lane to cross into the field directly opposite the access into the proposed site. There will inevitably be broken glimpses and some more direct views of the building by walkers along this section of the route and from other more distant views from the surrounding countryside. However, the overall scale, massing and design of the building will read as another modern agricultural

building within the landscape. The building has a clearly functional modern agricultural appearance, being open sided and clad in profiled metal and timber boarding under a grey roof.

It will be of standard portal farm-type construction, sitting under a shallow (10-15 degree) roof pitch. The large eaves height, at over 5.6 metres, is required to accommodate modern machinery and also to ensure sufficient ventilation throughout the building. The siting of the building has also taken into account the topographical setting of the building, to help avoid any excessive wind draught or 'wind tunnel' effects.

Whilst the proposed building is undoubtedly significant in terms of its bulk and massing within this area of open countryside, it does not have a significant detrimental impact on the character and appearance of the area sufficient to warrant a refusal (subject to landscaping conditions).

4. Impact on neighbouring properties and uses

Policies DM2 and DM22 also draw attention to the need for the development to limit any adverse effects on the living conditions of local residents. This is further supported by Policy DM7, relating to pollution, which states that development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health, the natural environment and general amenity.

With regard to noise and possible other pollution effects, the building will be housing livestock but the closest residential properties are at least some 280m away and there have been no objections raised by Environmental Health Officers (EHOs) following consultations. The proposed re-siting of the building from the previous proposed site near Lower Newton's Farm site to the present site has been supported by EHOs in terms of dealing with their previous environmental concerns. The current site is now sufficiently geographically removed from other residential properties such that any previous considered possible problems relating to smells, noise and other nuisances will be greatly reduced in nature and will be no more than would be expected of such an agricultural enterprise in the countryside, even allowing for the intended 24 hour operation of the unit with robotic equipment.

Overall, it is not considered that the development will cause harm to the privacy or amenity of any neighbouring properties and meets with the required policy commitments in terms of planning policy: should any future issues arise in terms of noise or smells etc., then these can be addressed by Environmental Health under separate Environmental Protection legislation.

5. Access and Highways issues

Policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1) relates to access proposals and seeks a coordinated approach with a need to assess transport impacts of significant developments and to provide necessary infrastructure where necessary.

From the various letters of objection that have been received, including from Parish Councils, it is evident that particular concerns relate to the potential impacts of the development in terms of highways safety given the narrow lanes serving the area, and the development site, along Newtons Lane.

The application has been the subject of detailed consideration by the Highway Authority. As set out in his response above, the roads in the area are presently substandard in terms of their width and alignment. However, subject to the applicant undertaking various improvements along the approaching road along Newton Lane, to include passing

opportunities at the double bends, at the pedestrian gate (Newton Barn) and on the verge to the north of the existing residential properties near Lower Newton Farm, the HA would have no objections. The HA would also require other improvements to junction visibility at Leigh Cross on land in the control of the applicant, and on further improvement to visibility from the existing access to the established barns, south towards the new unit.

Further concerns of the Highway Authority have related to the question of whether there might ultimately still be 2 farm units operating, given that the current owner is only intending to sell 120 acres of his 180 acre holding at this stage. However since the Highway Authority submitted the comments as set out above, the applicant has provided further clarification confirming the intended long term tenancy arrangement relating to the remaining 60 acres, and providing for potential for their ultimate purchase. Given this information it is considered reasonable to conclude that the development proposals will generate a level of traffic that will be commensurate with the operation of a single dairy farm unit, and as already outlined earlier in this report, and not 2 dairy farm units which is the concern that has generated the local concerns in terms of predicted traffic flows along the network.

Other concerns have related to temporary construction traffic and the Highways Officer has suggested a temporary haul road be created across the fields to the site, via the nearby Essington Road to the north, and which will reduce the impact on residents in Lower Newton.

Subject to such conditions as outlined, the HA now offers no further objections to the development proposal. Given the relatively modest scale of the dairy unit (and even allowing for some possible future expansion to occupy the remaining 60 acres) the proportional level of increased traffic forecast is unlikely to be significant. Therefore subject to the required works and improvements as set out it is not considered that the application scheme would lead to demonstrable harm to highway safety as a result of the likely traffic flows associated with the proposed development.

6. Other matters

Potential impacts on heritage assets/listed buildings: Having regard to Policy DM27, the previous application was withdrawn, in part due to concerns expressed by the Conservation Officer that the proposed new buildings would cause harm to the setting of the heritage assets located nearby to Lower Newton Farm. The revised siting of the dairy unit (and associated slurry store building) has now clearly significantly distanced the development from these buildings and such that no further such negative impacts arise. No concerns are therefore raised regarding these matters.

Waste management and drainage: This application has been supported by appropriate waste management plan and drainage information. It is proposed to drain surface water into underground tanks and with an additional soakaway as backup/for any overflow if needed. The proposed new dairy unit is some distance from the nearest properties and the road, so surface water is not likely to cause problems for neighbouring occupiers or the road network. In addition, a rainwater harvesting scheme will be implemented which will allow for watering the animals and washing down the parlour/dairy unit building.

In terms of waste management, although the land is not within a Nitrate Vulnerable Zone, a full NVZ compliant waste management plan has been submitted which satisfactorily addresses the issue of storage and disposal of slurry and dirty water generated by the new dairy unit. The Environment Agency has raised no objection. The proposed arrangements would appear to be adequate, although further note has been taken of the comments made by the DCC Highways Officer relating to possible further mitigation requirements should the use of an umbilical pipe to spread waste onto the land not subsequently be used, e.g. in the

event of further farm expansion, and resulting possibly in some other form of off-site spreading taking place. This is made the subject of condition.

There are otherwise considered to be no reasonable grounds for refusing the application on waste management/drainage grounds.

Trees and hedges: the present scheme will not result in any significant loss of hedges or trees. The scheme envisages moving a small section of existing hedgerow backwards from its current opposition near the farm gate entrance to the field to improve visibility. This will be done in such a way as to retain the hedge viability and not lose its biodiversity; such hedges do provide the opportunity for continuing to provide nesting and sheltering opportunities for birds and small mammals, and also will help to further screen the development in the landscape. Additional tree planting will be required by means of a landscaping condition.

Other objector concerns: note has been made of the concerns that the development may lead to other additional development (in addition to the separate slurry storage building, considered under 15/01994/FULL) as the farm expands, and which might include possible residential accommodation. The LPA understands such concerns, and the applicant has himself declared that in the short term given the separation of the new dairy unit from the other main farm buildings and existing accommodation, that an application initially for a temporary mobile home within more immediate sight and sound of the new unit will be submitted for consideration. In the longer term an application for more permanent accommodation is likely to be made. However, any such applications will be required to be treated on their individual planning merits, at that stage and do not provide an adequate basis for refusal of the current application as it stands.

Viability/agricultural need: Concerns have related to the considered lack of viability of dairy farms, generally, and objectors have questioned the need for such a new unit at this location at this time.

Whilst the views of some individuals are acknowledged the National Planning Policy Guidance makes clear however that decision making on individual planning applications does not normally require consideration of viability of this nature. It is also clear that the development has been a long time in the planning, by the applicant, in terms of carrying out a thorough site search, and the scheme will require considerable capital investment to secure its implementation.

Reference has also been made to possible light pollution. The uncluttered and undeveloped character of the area should, it is recognised, be protected and in particular, light pollution and light spillage from the new development should be prevented or minimised. This is therefore made the subject of a condition.

Note has been taken of the concerns expressed by Zeal Monachorum and Coldridge Parish Councils to the considered lack of information provided by the applicant and on which to base a recommendation. On this point the applicant has since provided additional supporting information, as outlined in this report, including providing further clarification of his current and proposed future farming operations.

Conclusion/Reason for decision

The application scheme is for the erection of a dairy parlour, cubicle and covered feed building, and has been submitted in conjunction with an application for a covered slurry store under Local Planning Authority ref: 15/01994/FULL. This location of the development complex (as now revised) will result in a modest new dairy farm enterprise that will be capable of being accommodated within a complex of purpose built buildings (modern in

appearance in appearance yet traditional is style), will be of benefit to the local rural economy without resulting in any demonstrable harm to landscape character and visual amenity, highway safety or the environment. The development is considered reasonably necessary to support farming activity on the farm. Furthermore the proposed buildings, in conjunction with the proposed covered slurry store building separately proposed, by virtue of their scale, massing, design and location are not considered to harm the privacy or amenity of local residents. As such the proposal, subject to the conditions as recommended, is considered acceptable and in compliance with Policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM2, DM4, DM6, DM7, DM22, DM27 and DM29 of the Local Plan Part 3 (Development Management Policies) and guidance in the National Planning Policy Framework.

CONDITIONS

1. CD1 Time limit - full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. CD7 Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

REASON: For the avoidance of doubt and in the interests of proper planning.

3. CL1 Landscaping scheme (specific details)

No development shall begin until there has been submitted to, and approved in writing by the Local Planning Authority, a landscaping scheme, including details of any changes proposed in existing ground levels. All planting, seeding, turfing or earth reprofiling comprised shall be in accordance with the approved details of landscaping and shall be carried out within 9 months of the substantial completion of the development, (or phase thereof) and so retained. Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

REASON: To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2, DM22 and DM29 of the Local Plan Part 3 (Development Management Policies).

4. No external lighting

No external lighting shall be provided within the site without details of the lighting having first been submitted to and agreed in writing by the Local Planning Authority. Thereafter there shall be no other external illumination/lighting other than that set out within the approved external lighting scheme.

REASON: To safeguard the rural character of the area and to prevent light pollution having regard to Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2, DM22 and DM29 of the Local Plan Part 3 (Development Management Policies).

5. Traffic Management Plan

Prior to commencement of any part of the site, a Traffic Management Plan (TMP) shall have been submitted to and approved in writing by the Local Planning Authority and shall include:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- (o) Waste management including Slurry spreading
- (p) details of the access and temporary hall roads have been submitted and approved

Works shall take place in accordance with the approved details.

REASON: In the interests of highway safety and to ensure that adequate facilities are available for the traffic attracted to the site during construction works having regard to Policy DM2 of the Local Plan Part 3 (Development Management Policies) and guidance in National Planning Policy Framework.

6. Highways

No other part of the development hereby approved shall be commenced until the

- a) access
- b) parking facilities
- c) commercial vehicle loading/unloading area
- d) visibility splays
- e) turning area
- f) access drive
- g) and access drainage

have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and shall thereafter be retained for that purpose at all times.

REASON: To ensure that adequate facilities are available for the traffic attracted to the site having regard to Policy DM2 of the Local Plan Part 3 (Development Management Policies) and guidance in National Planning Policy Framework.

7. Highways: off-site works

Prior to the development being brought into first use, details of off-site highway works for the provision of improved junction and access visibilities, improved passing opportunities , shall

be submitted to and approved in writing by the Local Planning Authority and shall have been constructed in accordance with the agreed details and made available for use. They shall thereafter be so retained.

REASON: To minimise the impact of the development on the highway network in accordance with Paragraph 32 of the National Planning Policy Framework.

8. Waste Management Plan

Not less than two months prior to a cessation in the use of the umbilical pipe arrangements for the spreading of waste in favour of off-site spreading, a revised and updated Farm Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Waste Management shall subsequently be implemented and so retained in accordance with the approved details and agreed timetable.

REASON: To prevent pollution to the water environment and also to minimise the impact of the development on the highway network in accordance with Paragraph 32 of the National Planning Policy Framework.

9. Environmental enhancement/biodiversity

Prior to first operational use of the building hereby approved, the applicants shall submit details to the Local Planning Authority of proposed environmental enhancement/biodiversity measures to be carried out within the site, and to include provision of bird and owl boxes, for its agreement in writing. Thereafter such measures shall be implemented within an agreed timescale and so retained.

REASON: In the interests of conserving and enhancing the biodiversity of the site through appropriate habitat creation having regard to Policy DM29 of the Local Plan Part 3 (Development Management Policies) and guidance in the National Planning Policy Framework.

Contact for any more information	Delwyn Matthews, Principal Planning Officer 01884 234394
Background Papers	None
File Reference	15/01996/MFUL
Circulation of the Report	Cllrs Richard Chesterton Members of Planning Committee

Application No. 15/01994/FULL

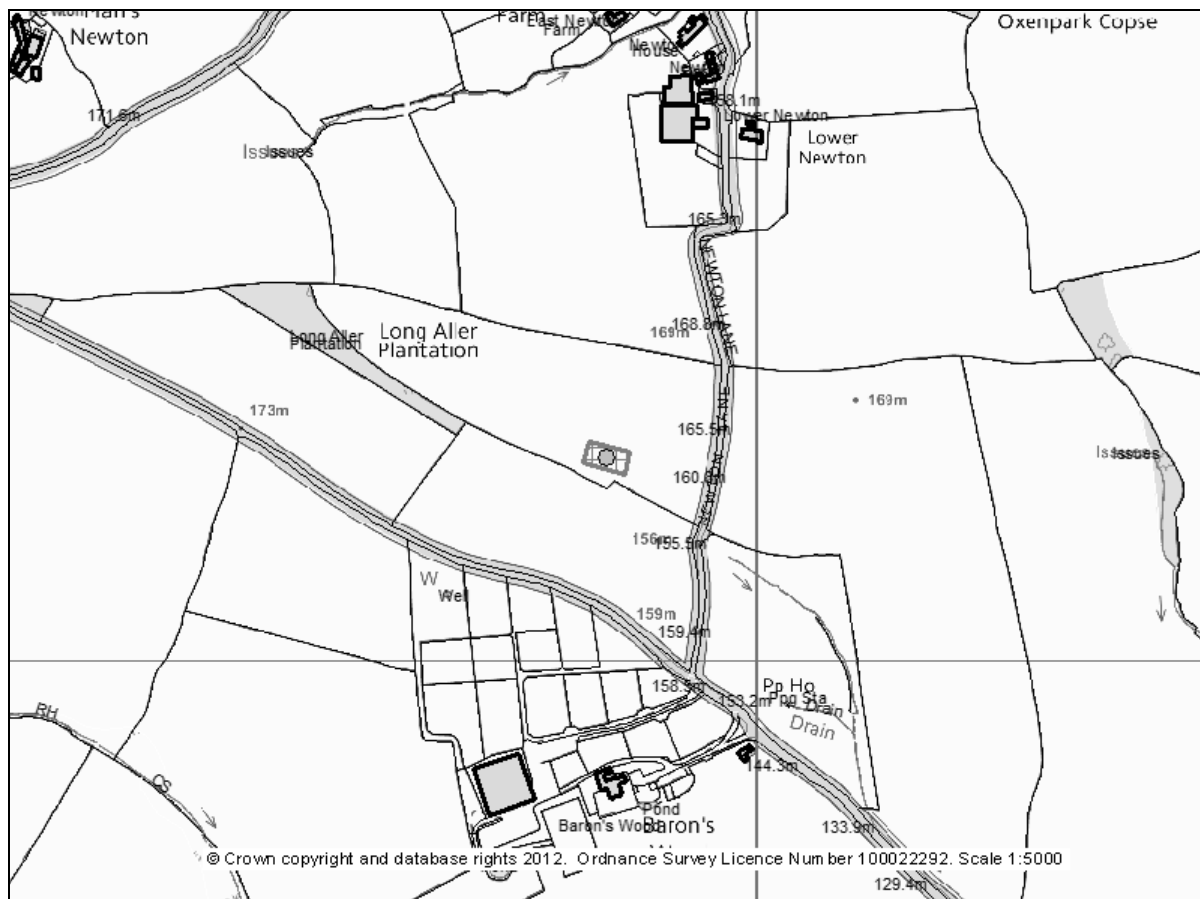
Grid Ref: 104236 : 269824

Applicant: Mr A Lawson

Location: Land at NGR 269824
104236 Lower Newton Farm
Zeal Monachorum Devon

Proposal: Erection of a covered slurry
store (760 sq. m)

Date Valid: 22nd December 2015



REPORT OF THE HEAD OF PLANNING AND REGENERATION – MRS JENNY CLIFFORD

15/01994/FULL - ERECTION OF A COVERED SLURRY STORE (760 SQ. M) - LAND AT NGR 269824 104236 LOWER NEWTON FARM ZEAL MONACHORUM DEVON

Reason for Report:

To consider the above planning application.

RECOMMENDATION(S)

Grant Planning permission subject to conditions.

Relationship to Corporate Plan:

The emerging corporate plan recognises the priorities of economy and the environment. Farming forms part of Mid Devon's economy and that there are a higher proportion of people working in agriculture in Mid Devon than other Devon districts. One of the recognised long term visions of the corporate plan is: to create a prosperous economy, secure and well-paid jobs and a sustainable environment; this will make Mid Devon the destination of choice for successful businesses. This includes support for relocation and expansion opportunities for businesses.

The corporate plan recognises the need to maintain the high quality of the natural and built environments whilst meeting the economic and social needs of the residents, and sets out a long term vision to promote and protect our outstanding environment and beautiful countryside.

Financial Implications:

None

Legal Implications:

None

Risk Assessment:

None

Consultation carried out with:

1. Coldridge Parish Council
2. Highway Authority
3. Environment Agency
4. Zeal Monachorum Parish Council
3. Environmental Health

1.0 PROPOSED DEVELOPMENT

Proposed is the erection of a pitch- roofed slurry store at Lower Newton Farm, Zeal Monachorum.

The application scheme has been submitted in conjunction with an application for the erection of a dairy parlour, cubicle and covered feed building under application 15/01996/MFUL. It is therefore functionally linked to that development: the slurry store will be located to the immediate south of a proposed new dairy unit building and will be positioned on the same general site located within an open gently sloping field some 200m+ to the south of the existing main farm buildings at Lower Newton Farm, some 2kms to the west of the village of Zeal Monachorum. The site is surrounded by fields being within open, rolling countryside and is bounded on its east by Newton Lane, an unclassified road.

The proposed slurry store building will have a length of 38 metres, a width of 20 metres, and a height above ground level of 4 metres to the eaves of the building and 6.178 metres to the ridge. The building will have profile 6 fibre cement roofing sheets in natural grey with roof lights and with natural grey fibre cement roll top barge boards. The building will be open sided save for tanalised timber space boarding on the west elevation. The slurry store will be constructed from reinforced mass poured concrete, and will go to a depth of 3 metres below ground level. Internally the store will have a ramp that is 4 metres wide and 20 metres in length.

The slurry store building has been designed to meet the Nitrate Vulnerable Zone (NVZ) requirements for storage and will, as noted, directly support the milking parlour, cubicle and covered feed building as proposed under application 15/01996/MFUL.

The site itself is not located within a NVZ the design proposed accommodates all of the regulations, taking into account that 68% of agricultural land in England is in an NVZ. The NVZ regulations require storage capacity of slurry for at least 5 months to accommodate for the restrictions on close spreading periods. The size of the slurry store building has been designed with some extra storage capacity to allow room for possible future expansion and will allow for any alterations or extensions of the Nitrate Vulnerable Zone restrictions. The building has been designed to provide below ground waste transfer channels. The submitted Farm Waste Management Plan sets out that the proposal will be in accordance with all of the relevant legislations.

The existing buildings at Lower Newton Farm are not considered suitable for milking of cows, but are suitable for and will be reused for machinery and fodder storage, and to rear followers bedded on straw.

This current submission in conjunction with 15/01996/MFUL follows on from earlier applications which had proposed locating a similar sized new dairy unit and related slurry store building immediately adjacent to the existing buildings at Lower Newton Farm. However, due to concerns by your planning officers at the proximity of the new farm buildings to other neighbouring residential dwellings (including heritage assets), the application was withdrawn and a fresh application has now been submitted for the new proposed location.

The revised field site location is intended to provide an improved access to the proposed buildings and also to allow for more suitable arrangements for the transporting of slurry from the site to the surrounding land, via umbilical pumping.

Separate hardstanding area surrounding the proposed dairy unit site (to be considered under 15/01996/MFUL) will provide a parking and turning area for all vehicles visiting the site.

2.0 APPLICANTS SUPPORTING INFORMATION

Design and Access Statement
Supporting Statement
Farm Waste Management Plan
Drainage Management Plan
Wildlife and Geology Trigger Table
Plans

3.0 PLANNING HISTORY

15/01334/MFUL Erection of milking parlour, cubicle and covered feed building: This application was withdrawn before it was formally determined.

15/01333/FULL Erection of a covered slurry store: This application was withdrawn before it was formally determined.

15/01996/MFUL Erection of parlour, cubicle and covered feed building (1876sqm) - The development proposed by this application is also recommended for approval

4.0 DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan Part 1): COR1, COR2, COR9, COR18
Local Plan Part 3 (Development Management Policies): DM2, DM4, DM6, DM7, DM8, DM22, DM27, DM29
National Planning Policy Framework

5.0 CONSULTATIONS

Although submitted as a separate 'stand-alone' application, the application for the slurry store effectively forms part of a combined application dealing with the creation of a single planning unit, namely a new dairy unit for 132 cows on land at Lower Newton Farm. The slurry storage building, as noted above, is seen as integral to the operation of the proposed new dairy unit. Consultations have therefore tended to deal with both schemes concurrently, and restate many of the comments as submitted under 15/01996/MFUL. They are:

Coldridge Parish Council - 25th January 2016

On Thursday January 21st Coldridge Parish Council held an Open Meeting prior to the scheduled Parish Council Meeting. This attracted 10 parishioners, all of whom are opposed to both the above developments. The Parish Council listened to their concerns, then discussed the issues as a Council and agreed to strongly oppose the two planning applications on the following grounds.

Lack of consultation

The Parish Council was informed that the developers had resisted any meaningful consultation with local residents, which is a requirement of the planning process. This is a major concern; as such behaviour does not bode well for future relationships or with the developer's adherence to other planning requirements.

Access issues

This is currently an undeveloped agricultural field, and is located a significant way from any main roads.

This means that the 6 or 8-wheel or articulated vehicles required to build both these developments will need to use very narrow roads, which according the Ordnance Survey maps are all less than 4m wide, the equivalent of 13 feet. The road from Zeal Monachorum to Lower Newton Farm via Baron's Wood would be unsuitable as it has a bridge with 7.5 tonne weight limit on it, prohibiting such vehicles. The turn off the road from Farley's Grave would require a very tight turn into the road leading to this proposed development, and is therefore unsuitable. This means that all traffic will approach and leave this site from the north via Leigh Cross. This in itself is a very tight turn and is totally unsuitable for access. It is likely that these large vehicles will cause damage to verges when turning. The road from Blackditch Cross on the B3220 to Leigh Cross is about 2 km with one passing space. When two vehicles meet on this road one of them needs to reverse a significant distance, and possibly cause damage to verges, ditches and hedges. This road also has a steep hill [1 in 7 to 1 in 5] which is likely to cause problems for lorries ascending or descending.

The alternative route through East Leigh is equally unsuitable, and the turn at East Leigh towards Leigh Cross is narrow and blind.

In either case the road south of the existing farm buildings leading to the proposed site there is a very sharp double bend which would be impossible for long and articulated vehicles to negotiate without causing damage to verges and hedgerows.

If these developments do go ahead there would then be the ongoing problems of access for feed vehicles, which tend to be 8-wheelers, and the collection of milk from the parlour, again with large 8-wheel or articulated tankers.

Whilst the roads are not a responsibility of MDDC but of DCC the general state of these highways is poor, with DCC having insufficient funds to maintain the existing network in its current state. This information came from a senior member of DCC Highways. A significant increase in HGV traffic will clearly cause further damage to the road surface and highway edges.

Dangers other highway users

Apart from the added risk to local light traffic this development is also very close to the Devonshire Heartland Way, used by walkers and riders of all ages, it being a Public Bridleway.

In summary this development clearly goes against MDDC Local Plan Part 3, DM22 point d.

Moving onto to the application form submitted for the parlour, cubicle and covered feeding yard there are a number of points the Parish Council wish to raise.

Box 6 states there will not be a new or altered vehicle access to or from a public highway. This is not the case, as at present it is just a gate into a field, and clearly this development will need a much more substantial entrance, with a fully surfaced road into the site from the public highway. This will cause disruption and damage to existing hedges and verges.

Box 7 can be seen as disingenuous as waste will be stored on this development in the form of slurry, although this slurry pit is the subject of a separate planning application.

Box 10 states there will be no onsite parking. It is hard to understand how this is the case as anyone looking after and checking on these animals will need to travel to the site, as there is no apparent linked accommodation. It is reasonable to assume this will be done using a light goods vehicle at least.

Box 14 states the site is not currently vacant. Whilst the definition of vacant may vary, this is currently an open field, with no development.

Box 24 states the site cannot be seen from a public road, which is not the case. This development will be clearly visible from surrounding roads and footpaths.

At present there is no apparent accommodation linked to this development. If this goes ahead it is reasonable to envisage a planning application being submitted for a dwelling on the site, which should be borne in mind.

The above points indicate this development can be seen to go against MDDC Local Plan Part 3, DM22 points b and c. Point a is open to discussion and without detailed financial information is hard to comment upon.

Coldridge Parish Council suggest very strongly that before any decisions are made on the application the planning committee carry out a site visit and meet with local residents and representatives of Coldridge Parish Council. This will enable them to see first-hand the local environment and access roads.

Highway Authority - 8th February 2016

Observations:

The Highway Authority has visited the site and met with the applicant's agent Mr Rice. The Highway Authority sought confirmation on a number of points and identified some of the concerns. The existing farm is 180 acres and the applicant is purchasing 120 and will be renting the remainder with a view to purchase at a later date.

Concerns were raised at an earlier date that there would be as a result the opportunity for two farms to operate.

This potential remains, and any tenancy agreement should be submitted to support the applicant's application and control over the traffic generations. The existing farm has the ability to run as a dairy farm without the need for planning consent and the traffic generated by the original farm would be equivalent to that of the new holding and subsequently as a single unit would not result in any increase in traffic over that of the original farms potential. As a standalone farm the new holding is 2/3 of the original farm and can be expected to generate a similar movement to that of the whole farm and the remaining portion similar with a potential for doubling the traffic on the network. However with the remaining part of the farm in their control through tenancy, then the likelihood of this is reduced until such time as

the tenancy may be given up. Notwithstanding the above the existing buildings and access would have a traffic generation and this can be reasonably expected to be the same as the applications use for the storage and delivery of Feed , bedding, veterinary visits and other miscellaneous visits similar to that of a farm of beef cattle. This would result in the additional traffic being that of milk tankers and Slurry.

The location of the new unit would allow the slurry to be spread on the holding via umbilical pipe network and the storage facility allows it to be spread at the appropriate time and conditions. I am informed by the agent that the herd is 120 strong and all the slurry will be spread on the holding with no off site movements. This will result in an operational increase in traffic of only the Milk tanker. The applicant has indicated room for an expansion and the Local Planning Authority should seek assurances and or impose conditions that would necessitate further mitigation should the use of Umbilical pipe not be used, and off site spreading take place. The Highway Authority viewed the new location and the point of access from Newton Lane and is happy with the layout plan for the new access and the effective improvements to the existing gateway and road widths.

The roads in the area remain substandard in terms of width and alignment and while construction traffic is temporary it should be controlled by a construction management plan which should details routes, road condition surveys, and will take into account delivery times, vehicle sizes etc. The Highway Authority is equally of concern to some of the bends and their swept paths as is the Parish Council but these will be dependent upon the routing of vehicles. There is the potential of construction vehicles avoiding Newton Lane altogether and access to the site being taken from Essington road between Newton Cross and Leigh cross with a temporary haul road to the site across the applicants land. Such an access will deliver a better farm access to the fields and additional passing opportunities as a result, and will reduce the impact on the residents in Lower Newton.

A concern has been raised over a pedestrian gate on the inside of the bend and an existing safety concern expressed by the residents over the lack of visibility. The speed of traffic along Newton Lane was observed to be 10-20mph and the sight stopping distance to the gate is available. Notwithstanding this application, the necessary improvements to alleviate the existing concern is in the gift of the residents themselves as the garden wall is in excess of a meter in height and a reduction in wall height would afford the appropriate visibilities for pedestrians.

Alternatively the Local Planning Authority may consider the widening of the road at this location to improve the amenity of the resident, but this will necessitate hedge and bank removal.

Concern has been raised over the abuse of the weight restricted bridge that has previously occurred and potential for it to be exacerbated. The Existing bridge has an axle weight limit of 7.5 tonnes, and at present anomalies to the signing mean it is unenforceable. However desk to studies have indicated that the bridge can take anything from 13 tonnes to 40 tonnes, and is planned to be reassessed and the orders formalised so Enforcement can take place. More over the haylage observed traversing the bridge in the past will be used by the applicant and therefore be likely to alleviate the potential abuse.

Therefore given the potential use of the existing farm and the waste management, the potential increase in traffic along this narrow lane would be the introduction of the milk tanker, should this be seen as a standalone without the tenancy. With the tenancy then the traffic is not likely to increase over the potential traffic that can be generated by the existing holding. I would advise that the Local Planning Authority seek confirmation from the applicant in writing of the information I have received, and it will be a matter for the Local

Planning Authority to consider whether or not the tenancy can be considered as part of this application.

The Highway Authority would strongly advise that the applicant consider improvements along the highway of Newton Lane, such improvements would include additional passing opportunity at the double bends, at the pedestrian gate, and on the verge to the north of the residential properties. Also the Highway Authority would seek improvement to the junction visibility at Leigh Cross on land in the control of the applicant and an improvement to visibility from the existing access to the established barns south towards the new unit.

Therefore consent be granted the following conditions should be imposed.

Recommendation:

1. Prior to commencement of any part of the site the Planning Authority shall have received and approved a Traffic Management Plan (TMP) including:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- (o) Waste management including Slurry spreading
- (p) details of the access and temporary haul roads have been submitted and approved.

2. A) No other part of the development hereby approved shall be commenced until the

- B) access
- C) parking facilities
- D) commercial vehicle loading/unloading area
- E) visibility splays
- F) turning area
- G) access drive
- H) and access drainage

have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times

REASON: To ensure that adequate facilities are available for the traffic attracted to the site

3. Off-Site Highway Works No use of the development shall take place on site until the off-site highway works for the provision of improved junction and access visibilities, improved passing opportunities, have been designed submitted to and approved in writing by the Local Planning Authority and have been constructed and made available for use.

REASON: To minimise the impact of the development on the highway network in accordance with Paragraph 32 of the National planning policy Framework

Environment Agency –

Operational development less than 1ha within Flood Zone 1 - No consultation required - see surface water management good practice advice - see standard comment.

Zeal Monachorum Parish Council - 21st January 2016

Zeal Monachorum Parish Council met on the 14th January 2016 and discussed the above planning applications.

Eleven residents of properties nearby the applicant address were in attendance and were very concerned regarding the scale and impact of the development, particularly in regard to the road infrastructure.

The Parish Council noted that there is limited detail within the design and access statement with regard to impact on road structure and traffic movement considering the scale of development.

In view of the lack of that information The Parish Council was unable to form a resolution either in support or opposition to the applications.

Environmental Health - 12th January 2016

Contaminated Land - N/A

Air Quality - N/A

Environmental Permitting - N/A

Drainage - no objections to these proposals

Noise & other nuisances - no objections to these proposals

Housing Standards - Not applicable

Licensing - No comments

Food Hygiene - N/A

Private Water Supplies - Not applicable

Health and Safety - no objection to this proposal. It appears there is a foreseeable risk of asbestos being present in the existing roofing materials. A Refurbishment and Demolition Survey following HSG264 available at <http://www.hse.gov.uk/pUbns/priced/hsg264.pdf> should be carried out before work commences to identify precautions and legal requirements enforced by Health and Safety Executive.

6.0 REPRESENTATIONS

One representation and fourteen letters of objection have been received in relation to the application, they are summarised as follows:

- Concern over the traffic impacts and generation of the proposed development and the considerable pressure imposed by the development on the surrounding unclassified road network.
- The access is via narrow, undulating, steep and twisting lanes, they are substandard in terms of width and visibility at junctions, and are unsuitable to serve the development.
- The Black Ditch junction and at Leigh Cross have poor visibility, the increase in the frequency of vehicles will increase the potential for traffic accidents
- Roads are unsuitable for use which is likely to be frequent, by large and multi axel vehicles, access for large vehicles would be essential to serve an intensive indoor dairy herd in the highly competitive industry which relies on large scale machinery, safety concerns over the use of such vehicles. There are generally no passing places and there is a weak bridge nearby that is unsuitable for heavy vehicles. There is only one formal passing place in 1.6 miles, vehicles are forced to reverse up to a mile to give way. There have been a number of previous incidents and a major accident.
- No reference in the application to highways infrastructure, proposed traffic volumes, or parking and turning areas.
- Concern over the disruption caused during the development and inability of vehicles delivering the materials to access the site. No information has been provided as to the types, weights and sizes of the vehicles required, or how the highway will be managed. There is a need for a Traffic Management Statement.
- Lack of detail provided on the plans and anomalies, including about the access arrangements, the use of existing and new entrances is unclear. The entrance is already not fit for purpose and would be subject to intense activity. The route from the existing entrance to the proposed site involves a 180 degree turn on to Newton Lane and two 90 degree bends. Concern it is not possible to police that only more appropriate routes are used by drivers.
- Incorrect labelling of the proposed route, and this is stated in relation to construction phase, clarification needed of the designated route for future traffic.
- Concern over the loss of ancient hedgerow to create a new access and visibility splay.
- Concern for safety of other road users, including pedestrians, cyclers, walkers and horse riders.
- Impact on neighbours, particularly Newton Barn
- This revised application does not address the major concerns of the local community that were expressed regarding the previous applications (15/01333/FULL and 15/01334/MFUL)
- Road conditions have further deteriorated due to recent adverse weather, the surface and bank edges are breaking down, neither is suitable. The Devon lanes are already being heavily eroded by the current level of traffic the development will further exacerbate this.
- This is not an expansion/extension to an existing farming enterprise; the applicants are not currently farming in the local area.
- The application form states the development will not be seen from public roads or footpaths, this is incorrect. The site is beside a public land and adjacent to the Devonshire Heartland Way, it will be seen from several angles and from a considerable distance. The Devonshire Heartland Way route is used by most locals and many visitors to the area, the route has fantastic views to Exmoor and Dartmoor, and this would be interrupted.
- Wildlife and geology trigger table states the site is less than 0.1 hectares, this is incorrect, and a wildlife report should have been submitted.
- The applicants have not engaged with neighbours.
- The new plans remain unchanged, the industrial scale of the unit is unsuited to this environment.

- Environment impacts, including the impact on the nature reserve immediately down the valley, which will have ponds fed by a rising spring, concern over runoff of the proposed development.
- The proposal is not compatible with Mid Devon's planning aims which include: to protect landscapes strong rural character and dark night skies, and the strong sense of tranquillity within the valleys, retaining their general absence of built development, protecting views from rising valley slopes maintaining the valleys roles as a visual link to other landscape types. The illumination of the buildings throughout the night will impact upon the dark night skies.
- The development will have an unacceptable visual impact within the surrounding landscape due to its location on a skyline, and will not be adjoining to existing farm buildings.
- Concern additional development will likely be required to support the enterprise, including residential accommodation. Additions would substantially enlarge the development footprint that is already considered an industrial scale.
- Concern over expansion of the venture from the currently proposed minimum of 132 dairy cows.
- The development will result in noise, light and odour pollution in this quiet area, from machinery, traffic movements at antisocial hours, slurry spreading, and lighting of buildings.
- Use of other alternative sites, a number of existing dairy units have been sold, including those with good highway access. The current plight of the dairy industry is stated to be due to oversupply; the development will further pressure existing units. A national announcement on the 29/01/16 stated dairy farming had reached a crisis, it was impossible to make a living from it and farms are going out of business at an alarming rate. Concern over the viability of the proposed unit, objectors do not wish the site to become a blot on the landscape if unsuccessful.
- The development will result in the loss of an extensive area of productive pasture land, this land could be better utilised.
- Applicant has not yet purchased the farm
- Despite understanding the need for farming and agriculture to grow, this is inappropriate development for this location and is contrary to planning policy.
- The development will be disastrous for ecology, will pollute the surrounding areas, affecting the quality of life of nearby residents.
- The farm waste management plan has not prepared a risk map of areas where ground conditions are not suitable for the spreading of slurry. This map is also required to indicate a reasonable buffer zone around neighbouring residential properties. This should be agreed and be enforceable to minimise the loss of amenity for neighbours.

7.0 MATERIAL CONSIDERATIONS

The main issues in the determination of this application are:

1. Policy
2. Background and principle of development
3. Visual impact/design/Impact on the street scene
4. Impact on neighbouring properties and uses
5. Access and highways issues
6. Other matters

1. Policy

The site is located in the open countryside where Policy COR18 of the Mid Devon Core Strategy 2026 seeks to control development but permits appropriately scaled employment and farm diversification schemes and agricultural buildings. Policy COR4 seeks to encourage measures to diversify the agricultural and rural economy whilst protecting the character of the countryside. Policy DM22 of the Local Plan Part 3 (Development Management Policies) permits agricultural development where it is reasonably necessary to support the farming activities of the immediate agricultural community provided that it does not affect the living conditions of any nearby residents and does not have an unacceptable adverse impact on the highways network, the wider environment, character and appearance of the area. Other relevant policies include DM2 (dealing with design), DM4 (waste management), DM6 (transport and air quality), DM7 (pollution), DM27 (development affecting heritage assets), and DM29 (protected landscapes).

2. Background and Principle of development

As noted earlier above, and by way of further explanatory background, the current proposal is to serve an intended new dairy unit to be located on land at Lower Newton Farm. Active commercial farming activities are understood to have been considerably reduced over the past 8 or 9 years, although the land has continued to be still used/rented out for agricultural purposes(including for grazing and other arable farming). The main farm bungalow and associated buildings were established some 40+ years ago at their present site, which is located some 200+ metres to the north of the proposed new dairy unit and silage building, to be located on the other side of the hillside. The existing farm buildings consist mainly of two large agricultural storage/former livestock buildings and some smaller outbuildings. Although it is understood that these buildings have not been much used by the present owner in recent years, one main building is nevertheless already currently being more actively used by the present applicant for the keeping of some calves and followers, as part of his existing farm operation (based at Ivybridge), and under a separate arrangement with the current owner. A former small dairy milking parlour is also sited within the main farm group of buildings although it is understood this will not form part of any sale of the main farm site itself. The Lower Newton Farm is understood to have last been operated as a dairy farm at least some 15 or more years ago. One former corner farm/rural building was sold off in recent years and has been converted to a dwelling (Lower Newton Barn), now in separate private ownership.

The existing farm buildings on the site are no longer fit for purpose in terms of meeting with modern dairy unit welfare requirements although clearly still have a useful functional agricultural use.

The main farm is closely situated to several other properties in this area, including 2 no. Grade 2 listed dwellings (Newton House and East Newton Farm).

The application is unusual in that it will involve, effectively, the relocation of an existing farming enterprise from South Devon to a new site at Lower Newton Farm. It will also lead to the renewed active commercial use of the farm, once again, for dairy farming. The current application is intended to provide a suitable facility for dealing with the silage waste that will be produced as a result of the re-commencing of such dairying activities.

The applicant's existing dairy herd comprises of 114 cows; all followers are homebred and reared. The applicant states that the family's own existing farm buildings at Earlscombe farm are themselves also outdated and not fit for purpose. There is no ability to improve and expand buildings on the existing Earlscombe Farm site in order to continue their business long term, due to the topography of their existing farmstead and the immediate surrounding area. In addition, much of the land currently farmed by the applicant in South Devon under

tenancy agreements is no longer available; agreements have been terminated and the loss of approximately 114 acres now leaves the South Devon farm land base at only 60 acres. The applicant further states that there is no opportunity to rent or buy further land in his own area, rendering it impossible to continue the dairy farm at Earlscombe Farm. Relocation is therefore considered necessary and the only option in order to maintain the family business for future generations (the farmer's son is actively engaged in the business and would wish to carry it forward).

The general principle of the development has previously been considered at pre-application advice stage by planning officers, and considered as being generally consistent with planning policy, subject to consideration of all the material circumstances.

The current application is for a new roofed slurry store building in a revised location, following the withdrawal of an earlier similar scheme which was to have been located immediately adjacent to the existing farm buildings. The site location as now proposed was first suggested by local residents (as set out in a report commissioned by them and prepared Savills). The objectors have since made clear that the independent views put forward by Savills at that stage, in respect of suggesting possible alternative sites, did not necessarily meet with their own and by no means indicate endorsement by the local community.

National policy as set out in the NPPF also establishes a presumption in favour of sustainable development and supports farm development and diversification and the erection of new agricultural buildings in the open countryside that contribute to the sustainable growth of the rural economy (para. 28), provided that it does not cause unacceptable harm. Such policies are further taken forward in the Development Plan, as noted above. The proposal would be on a working farm and for the storage of slurry. This development is considered to be for the essential requirements of agriculture. The proposal would therefore be acceptable in principle.

It remains to consider the application scheme for a new roofed slurry store building set against all other relevant material planning considerations.

3. Visual impact/design/Impact on the street scene

Policies DM2 and DM22 of the Local Plan Part 3 (Development Management Policies) seek to ensure that the development is of sufficiently high quality and is one that it is well integrated with, and respectful of, the character and appearance of its surrounding area. Policy DM29 relates to developments affecting protected landscapes and requires the special qualities of the landscape to be conserved or where possible enhanced, and also seeks improvements to biodiversity through appropriate landscaping and habitat creation: the proposed development is within the designated North Devon Biosphere Reserve.

The proposal would be sited close (within approx. 16m) to a proposed relocated modern dairy unit (if approved under 15/01996/MFUL) but positioned at a slightly lower level within the topography (to allow for gravity feed from the main dairy building), in an open field setting on Grade 3 Agricultural Land.

It would therefore be viewed in conjunction with this larger agricultural building and would not be viewed as isolated. The proposal would not result in significant encroachment out into the wider countryside: it would also still be functionally linked to the main farm some 270m to the north. The proposal is designed with a pitched roof and of a typical modern agricultural design, which is considered to be appropriate in this setting. The materials would be cement fibre sheets for the roof, and there would be no cladding to the walls other than tanalised timber boarding to the eastern gable elevation. These materials would be visually appropriate. The proposal would be glimpsed from the surrounding road network and seen

more directly from other more distant views. Note has been taken of the fact that the Devonshire Heartland (long distance footpath) passes along the unclassified lane to the south and runs up Newton Lane to cross into the field directly opposite the access into the proposed site: there will inevitably be broken glimpses and some more direct views of the building, therefore, by walkers along this section of the route and from other more distant views from the surrounding countryside. However, the overall scale, massing and design of the building will read as another modern agricultural building within the landscape. The building has a clearly functional modern agricultural appearance, being open sided and under a grey roof.

The landscape is described in the Mid Devon Landscape Character Assessment (October 2011) as forming landscape type LCT 5A, 'inland elevated undulating land'. This landscape type extends across most of the south-western part of the district, and it forms what is described as a 'strong cultural association with the adjacent landscape of Dartmoor that forms part of the setting of the moor and is very important to its value and appreciation'. Key characteristics include a medium to large scale, gently rolling, to steeply rolling, landform with high points over 220m above the valley bottoms. Permanent grassland is the dominant land use pattern. The traditional and inherent patterns of this landscape type are strongly evident and are considered to have been altered far less over the last century than other landscape types. There is generally a lack of visually prominent buildings, with isolated houses and cottages being generally sited sympathetically into the landscape.

As noted above, another consideration in the assessment of this application relates to its protected landscape status, falling as it does within the transition area for the North Devon Biosphere Reserve. The area is a UNESCO designated reserve covering some 55 square miles of mainly North Devon. Such areas are recognised for their high biodiversity value combined with sustainable use of natural resources for the benefit of local communities. The purpose of the biosphere reserve is stated as being to reconcile the conservation of biodiversity with human development needs. As indicated, the part of the reserve within this part of Mid Devon does not benefit from the very high levels of environmental protection found in the 'core area' at Braunton Burrows on the North Devon coast, but nevertheless contains agricultural activities that are recognised for their progress towards achieving an environmental and economic balance.

In this instance, given the nature and type of development, the applicants have not submitted – nor been asked to submit – a full Landscape and Visual Impact Assessment and detailed ecological report. The requirements of this policy are considered to have been satisfactorily met by the submissions contained within the Applicants Supporting Information, as outlined above, including the Design and Access Statement. Note has been taken of the statement made by the applicants to support biodiversity through installing bat and owl boxes within the new building. Consideration has also been given by your officers to SSSI Impact Risk Zone mapping analysis (as provided by Defra/MAGIC 'mapping'), and which has confirmed that there is not an SSSI or European Protected Site within the development site area, or known records of any other protected birds or species.. The nearest designated SSSI is shown as Staddon Moor, located some 2.4kms to the south west of the site. The proposal would not therefore encroach on a protected site and there is no requirement to consult Natural England on the proposal. As there are no specific ecological features within proximity of the site (ponds, trees etc.) there are no concerns of harm to specific species. An informative note could be added to any planning permission granted, so that the applicant would be aware of the need to preserve any protected species. A further condition has been made under 15/01996/MFUL relating to required measures to improve the general biodiversity and ecological value of the site: it is not felt reasonable or necessary to further duplicate such a condition in relation to this particular scheme: unless the dairy unit is itself separately approved and is implemented, there would be no requirement for the erection of the proposed slurry building.

The vision for farming in the Biosphere Reserve area is stated as being farming that produces the agricultural products the community needs but in a way that supports the 3 key aims of conservation, sustainability and learning: it also requires farmers to create strong businesses producing good quality produce in way that fully recognises the environmental impacts on the farm and in the wider environment. The applicant has provided evidence in the form of farm waste management plans and other information which supports his intentions to farm responsibly, and for the benefit of the wider environment.

Trees: no trees would be impacted on by the proposal.

One of the key considerations in selecting the revised location for the proposed new building (along with the proposed dairy unit building) has been to minimise its overall impact on the landscape: it will be located on the lower southward side of the gentle hill slope, below the ridgeline, which will help to reduce the overall visual impact. Additional landscaping can also help further mitigate (though not completely hide) such visual impacts.

This building will be hidden from those residents living near Lower Newton Farm approx. 300m, to the north, being screened by the larger dairy unit building and also by the topography; it will also be hidden from view, given the local topography, by the other nearest property, at Baron's Wood, some 280m+ to the south.

Note has been taken of the fact that the Devonshire Heartland (long distance footpath) passes along the unclassified lane to the south and runs up Newton Lane to cross into the field directly opposite the access into the proposed site: there will inevitably be broken glimpses and some more direct views of the building, therefore, by walkers along this section of the route and from other more distant views from the surrounding countryside. However, the overall scale, massing and design of the building will read as another modern agricultural building within the landscape. The building has a clearly functional modern agricultural appearance, being open sided and clad in profiled metal and timber boarding under a grey roof.

Whilst the proposed building is undoubtedly reasonably significant in terms of its bulk and massing within this area of open countryside, it does not have a significant detrimental impact on the character and appearance of the area sufficient to warrant a refusal.

4. Impact on neighbouring properties and uses

Policies DM2 and DM22 also draw attention to the need for the development to limit any adverse effects on the living conditions of local residents. This is further supported by Policy DM7 ,relating to pollution, which states that development will be permitted where the direct, indirect and cumulative effects of pollution will not have an unacceptable negative impact on health , the natural environment and general amenity.

With regard to possible smell and any other pollution effects, the closest residential properties are at least some 280m away and there have been no objections raised by Environmental Health Officers (EHOs) following consultations. The proposed re-siting of the silage storage building from the previous proposed site near Lower Newton's Farm site to the present site has been supported by EHOs in terms of dealing with their own previous environmental concerns. The current site is now sufficiently geographically removed from other residential properties such that any previous considered possible problems relating to noxious smells and other nuisances will be much more greatly reduced and will be no more than would be expected of any such similar agricultural enterprise in the countryside.

With regard to related waste management and drainage, the application has been supported by appropriate waste management plan and drainage information. In terms of waste management, although the land is not within a NVZ, a full NVZ compliant waste management plan has been submitted which satisfactorily addresses the issue of storage and disposal of slurry and dirty water generated by the proposed new dairy unit. The Environment Agency has raised no objection. The proposed arrangements would appear to be adequate, although further note has been taken of the comments made by the DCC Highways Officer relating to possible further mitigation requirements should the use of an umbilical pipe to spread waste onto the land not subsequently be used, e.g. in the event of further farm expansion, and resulting possibly in some other form of off-site spreading taking place. This has already been made the subject of a separate condition under 15/01996/MFUL.

There are otherwise considered to be no reasonable grounds for refusing the application on wider environmental/waste management/drainage grounds.

Overall, it is not considered that the development will cause harm to the privacy or amenity of any neighbouring properties and meets with the required policy commitments in terms of planning policy: should any future issues arise in terms of noise or smells etc., then these can be addressed by Environmental Health under separate Environmental Protection legislation. A further Informative note is added about contamination so that the applicant is fully aware of the need to protect the environment and human health

5. Access and Highways issues

Policy COR9 of the Mid Devon Core Strategy (Local Plan Part 1) relates to access proposals and seeks a coordinated approach with a need to assess transport impacts of significant developments and to provide necessary infrastructure where necessary.

From the various letters of objection that have been received , including from Parish councils, it is evident that particular concerns relate to the potential impacts of the development in terms of highways safety given the narrow lanes serving the area, and the development site, along Newton Lane.

The application – along with the related dairy unit application - has been the subject of detailed consideration by the Highway Authority (HA). As set out in his response above, the roads in the area are presently substandard in terms of their width and alignment. However, subject to the applicant undertaking various improvements along the approaching road along Newton Lane, to include passing opportunities at the double bends, at the pedestrian gate (Newton Barn) and on the verge to the north of the existing residential properties near Lower Newton Farm, the HA would have no objections. The HA would also require other improvements to junction visibility at Leigh Cross on land in the control of the applicant, and on further improvement to visibility from the existing access to the established barns, south towards the new unit. However such road improvements relate more specifically to the dairy unit operation itself, and the additional farm traffic that would be generated, rather than specifically with just the slurry storage building. As these matters are already addressed – by condition – under 15/01996/MFUL it is not considered necessary to repeat them again here. It is not felt necessary to duplicate all such conditions in relation to these particular joint schemes: unless the dairy unit is itself separately approved and then implemented, there would be no subsequent requirement for the erection of the proposed slurry building. Those conditions already attached to the recommendation relating to 15/01996/MFUL are therefore considered to also adequately deal with any related highways access/safety issues concerning this particular application.

Other HA concerns relevant to this application have related to temporary construction traffic and the Highways Officer has suggested a temporary haul road be created across the fields to the site, via the nearby Essington Road to the north, and which will reduce the impact on residents in Lower Newton.

Subject to such conditions as outlined, the HA would offer no further objections to the development proposal.

It is concluded that there is no evidence to demonstrate that the development would lead to demonstrable harm to highway safety as a result of any associated traffic increases.

6. Other matters

Potential impacts on heritage assets/listed buildings: having regard to Policy DM27, the previous application was withdrawn, in part due to concerns expressed by the Conservation Officer that the proposed new buildings would cause harm to the setting of the heritage assets located nearby to Lower Newton Farm. The revised siting of the slurry store building (along with the proposed dairy unit) has now clearly significantly distanced the development from these buildings and such that no further such negative impacts arise.

Other objector concerns: note has been made of the concerns that the development may lead to other additional development (in addition to the separate slurry storage building, considered under 15/01994/FULL) as the farm expands, and which might include possible residential accommodation. The LPA understands such concerns, and the applicant has himself declared that in the short term – given the separation of the new dairy unit from the other main farm buildings and existing accommodation, that an application – initially for a temporary mobile home within more immediate sight and sound of the new unit – together with possibly a separate application in the longer term for the replacement of the existing farm bungalow with a more modern building. However, any such applications will be required to be treated on their individual planning merits, or otherwise, at that stage and do not provide an adequate basis for refusal of the current application as it stands.

Viability/agricultural need: other concerns have related to the considered lack of viability of dairy farms, generally, and objectors have questioned the need for a new dairy unit at this location at this time and therefore also the related need for such a silage storage building. Such issues have been dealt with in the consideration of 15/01996/MFUL and are not further re-examined here other than to re-state that national planning guidance does not require the Local Planning Authority to make such judgements: the Local Planning Authority is merely required to assess the application in terms of all material planning considerations. It is considered that the proposal would meet with a required agricultural need in relation to the proposed new farming dairy unit to be established.

Reference has also been made to possible light pollution. The uncluttered and undeveloped character of the area should, it is recognised, be protected and in particular, light pollution and light spillage from the new development should be prevented or minimised. This is therefore made the subject of a condition.

Note has been taken of the concerns expressed by Zeal Monachorum and Coldridge Parish Councils to the considered lack of information provided by the applicant and on which to base a recommendation: the applicant has since provided additional supporting information, as outlined in this report, including providing further clarification of his current and proposed future farming operations.

Conclusion/Reason for decision

The application scheme is for the erection of a covered slurry storage building and has been submitted in conjunction with an application for the erection of a dairy parlour, cubicle and covered feed building under Local Planning Authority ref: 15/01996/MFUL. This location of the development complex (as now revised) will result in a modest new dairy farm enterprise that will be capable of being accommodated within a complex of purpose built buildings (modern in appearance yet traditional in style), will be of benefit to the local rural economy without resulting in any demonstrable harm to landscape character and visual amenity, highway safety or the environment. The development is considered reasonably necessary to support farming activity on the farm. Furthermore, the proposed building, in conjunction with the proposed dairy parlour, cubicle and feed building, by virtue of its scale, massing, design and location are not considered to harm the privacy or amenity of local residents. As such the proposal, subject to conditions, is considered acceptable and to comply with Policies COR2 and COR18 of the Mid Devon Core Strategy (Local Plan Part 1), Policies DM2, DM4, DM6, DM7, DM22, DM27 and DM29 of the Local Plan Part 3 (Development Management Policies) and guidance in the National Planning Policy Framework.

CONDITIONS

1. CD1 Time limit - full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. CD7 Approved Plans

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.

REASON: For the avoidance of doubt and in the interests of proper planning.

3. External Lighting

No external lighting shall be provided within the site without details of the lighting having first been submitted to and agreed in writing by the Local Planning Authority. Thereafter there shall be no other external illumination/lighting other than that set out within the approved external lighting scheme.

REASON: To safeguard the rural character of the area and to prevent light pollution having regard to Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2, DM22 and DM29 of the Local Plan Part 3 (Development Management Policies).

4. Traffic Management Plan

Prior to commencement of any part of the site shall have been submitted to and approved in writing a Traffic Management Plan (TMP) and shall include:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) any road closure;
- (d) hours during which delivery and construction traffic will travel to and from the site;
- (e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

- (f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
- (g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes.
- (h) hours during which no construction traffic will be present at the site;
- (i) the means of enclosure of the site during construction works; and
- (j) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (k) details of wheel washing facilities and obligations
- (l) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (m) Details of the amount and location of construction worker parking.
- (n) Photographic evidence of the condition of adjacent public highway prior to commencement of any work;
- (o) Waste management including Slurry spreading
- (p) details of the access and temporary haul roads have been submitted and approved

Works shall take place in accordance with the approved details.

REASON: In the interests of highway safety and to ensure that adequate facilities are available for the traffic attracted to the site during construction works having regard to Policy DM2 of the Local Plan Part 3 (Development Management Policies) and guidance in National Planning Policy Framework.

5. Environmental enhancement/biodiversity

Prior to first operational use of the building hereby approved, the applicants shall submit details to the Local Planning Authority of proposed environmental enhancement/biodiversity measures to be carried out within the site, and to include provision of bird and owl boxes, for its agreement in writing. Thereafter such measures shall be implemented within an agreed timescale and so retained.

REASON: In the interests of conserving and enhancing the biodiversity of the site through appropriate habitat creation having regard to Policy DM29 of the Local Plan Part 3 (Development Management Policies) and guidance in the National Planning Policy Framework.

6. Landscaping Scheme (specific details)

No development shall begin until there has been submitted to, and approved in writing by, the Local Planning Authority, a landscaping scheme, including details of any changes proposed in existing ground levels. All planting, seeding, turfing or earth reprofiling comprised shall in accordance with the approved details of landscaping and shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), and so retained. Any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

REASON: To ensure that the development makes a positive contribution to the character and amenity of the area in accordance with Policy COR2 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM2, DM22 and DM29 of the Local Plan Part 3 (Development Management Policies).

INFORMATIVE NOTES

1. You are advised that if any protected species are discovered during the works, the works should cease and Natural England be contacted for further advice.
2. You are advised that the proposed development must fully comply with the terms of the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) (SSAFO) Regulations 2010 and as amended 2013, and the Code of Good Agricultural Practice (COGAP) for the protection of water, soil and air (produced by Defra).

Contact for any more information	Delwyn Matthews Principal Planning Officer 01884 234934
Background Papers	None
File Reference	15/01994/FULL
Circulation of the Report	Cllrs Richard Chesterton Members of the Planning Committee

AGENDA ITEM

PLANNING COMMITTEE

DATE: 9TH MARCH 2016

REPORT OF JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

TIVERTON EASTERN URBAN EXTENSION: CONSTRUCTION OF NEW HIGHWAY JUNCTION TO A361.

Cabinet Holder Cllr Richard Chesterton
Responsible Officer Head of Planning and Regeneration

Reason for Report: To report back on investigations over whether revisions to the approved highway junction design for the new A361 junction can be delivered and the implications of the revised scheme.

RECOMMENDATION: That the report be noted.

Relationship to Corporate Plan: Planning decision making is relevant to key objectives within the Corporate Plan of thriving economy, better homes, empowering our communities and caring for our environment.

Financial Implications: Revisions to the junction design being sought by nearby residents have been estimated by Devon County Council as resulting in an additional cost of £3 million. The Local Enterprise Partnership has approved up to £7.5 million of funding towards the junction subject to there being no significant change to the scheme or its benefits. The increased cost of the scheme to accommodate the revisions sought by residents are likely to be viewed as a significant change and risk this funding being put in danger.

Legal Implications: Planning permission has been granted for the new A361 highway junction to serve new development on the Tiverton Eastern Urban Extension. Subject to discharging pre-commencement conditions, the applicant is able to build out the approved scheme.

Risk Assessment: The revisions sought to the design of the junction by residents are undeliverable in the absence of the necessary land, would delay the construction of the junction thereby extending the time development traffic from the first phase of development on the urban extension will use Blundell's Road and also place £7.5 million of funding support at risk. Delay in bringing forward development on this strategically important site will also reduce the ability of the Council to demonstrate a 5 year housing land supply.

1.0 INTRODUCTION.

- 1.1 Mid Devon's Core Strategy was adopted in 2007 and sets out a growth strategy that seeks to balance social, environmental and economic objectives and concentrates development within the main settlements of Tiverton, Cullompton and to a lesser extent Crediton and Bampton. The Core Strategy sets out an overall need for 340 dwellings per year, amounting to 6,800 dwellings over the 20 year plan period up to 2026. Important to achieving the level of development (both housing and employment) identified and adopted within the Core Strategy are two urban extensions: to Tiverton and Cullompton respectively.
- 1.2 The Allocations and Infrastructure Development Plan Document (AIDPD) was adopted in January 2010 following extensive public consultation and examination by

a Planning Inspector. It allocates sites for development in order to meet the Core Strategy's growth requirements. The area around Post Hill to the east of Tiverton is allocated for mixed use development in the AIDPD for between 1,550 to 2,000 dwellings and 95,000 to 130,000 square metres of employment floorspace.

- 1.3 As required by policy, a public masterplanning exercise of the site has been carried out resulting in the adoption of a masterplan in April 2014. This masterplan provides for 1550 dwellings and 30,000 sq m of employment floorspace within the urban extension. A further masterplan exercise for part of the site remains to be undertaken.
- 1.4 In order to support the new development and reduce impact upon the existing highway network, particularly Blundell's Road, a new highway junction is required onto the A361 North Devon Link Road. The need for a new junction is set out within the allocation policy for the site with the masterplan providing more indication of the type and location of the junction.

2.0 BACKGROUND: THE NEW A361 JUNCTION.

- 2.1 A full movement, grade separated junction to the A361 east of Gornhay Cross is proposed to serve development at the Tiverton Eastern Urban Extension. Two separate planning applications were received and have since been granted for this junction:

14/00667/MFUL *Construction of a 'left in left out' road junction with associated engineering works, drainage facilities, embankment, soft landscaping and noise barrier.* Applicants Chettiscombe Trust Estate & Waddeton Park Ltd.

This application was granted on 4th September 2014 and relates only to the first phase of works by providing slips roads on the southern side of the A361 only.

14/01168/MFUL *Construction of a 'cloverleaf' road junction with access and egress onto both the eastbound and westbound carriageways of the A361 with associated engineering works, drainage facilities, embankments, road bridge, lighting, soft landscaping and a noise barrier to the rear of houses on Upplowman road, a roundabout, a stretch of connecting highway and a junction and access onto Blundell's road with associated engineering works and landscaping.* Applicant: Devon County Council. Planning permission granted 31st October 2014.

This second application provides for two phases with the second phase introducing slip roads on the northern side of the A361. Together, the two phases provide for a full movement, grade separated junction. A plan of the layout of the junction is attached as **Appendix 1** to this report. A planning condition requires that construction start before 31st October 2016. Devon County Council is currently working on the detailed construction design of the junction, tender documents and will be commissioning the construction of the full access. The following timescales for construction are being worked to:

- Submission of information to satisfy pre-commencement planning conditions
- Technical start of work on site before end of October 2016 (likely August)
- Detailed design work, compilation of tender documents by October 2016
- Tender process starts October 2016

- Tenders back and assessed March 2017
- Tender award May 2017
- Construction start July 2017
- Completion September 2018

2.2 It is intended that the junction will be funded via both the development on the urban extension via S106 agreements and also via the Local Enterprise Partnership (LEP). Up to £7.5 million towards the scheme has been agreed by the LEP on a match funded basis.

2.3 At the time of the consideration of the planning applications, objections were received, primarily from the residents of approximately 10 dwellings closest to the junction. These properties are in Pool Anthony Drive and Uplowmand Road. Mitigation measures to reduce impact upon local residents form part of the approved scheme and include earth bunding, acoustic fencing and the resurfacing of a section of the link road with a quieter surface. The impact of the scheme upon local residents was considered in some detail as part of the planning application process. The impacts were judged to be acceptable and planning permission was granted.

2.4 The nearby local residents maintain objection to the proposed junction and suggested revisions to the design in order to reduce its impact upon their properties. At the time of granting planning permission for the junction, Planning Committee resolved that a letter be written to DCC Highways to request that the suggested design amendments from residents be given serious consideration to see if they are able to be incorporated into the junction scheme. A copy of this letter is attached at **Appendix 2**. This report sets out the outcome of these investigations, together with their deliverability.

3.0 THE RESIDENT REVISED DESIGN.

3.1 The scheme revisions promoted by local residents seek to reduce the height of the southern slip roads and take them further from the property boundaries. This would allow for a reduction in the height of bunding and acoustic fencing. The roundabout connecting the new junction to the road connecting with Blundell's Road would need to move further west and the proposed overbridge across the A361 would be repositioned at a more acute angle. The scheme revisions sought by residents would also necessitate new retaining structure that does not feature in the approved scheme.

3.2 In order to meet the required height for the overbridge across the A361, the height of the roundabout on the western side is fixed. The change to the vertical alignment of the southern on and off slips as sought would require this roundabout to be moved some 70m further west in order for it to achieve the correct height for the overbridge. This would also change the angle of the overbridge across the carriageway to be at more of an acute angle and therefore require a longer bridging structure and amending the embankment to the north of the A361.

4.0 IMPLICATIONS OF THE CHANGES AND RISKS.

- 4.1 Investigations into the scheme indicate that the implications of accommodating the revisions to the design are significant and also attract risk to the delivery of the new junction as a whole. The issues are summarised as follows:
- i) Moving the roundabout further west will take more land requiring the permission of the landowner. Without this additional land being made available the revised design is undeliverable. This is a fundamental issue.
 - ii) The revised roundabout position to the west will take it outside the red line planning application site boundary. A new planning permission would be needed for the works.
 - iii) It is understood from DCC Highways that the revisions to the design of the scheme, in particular the retaining structure and the longer bridging structure are estimated to add a further £3 million in total onto the construction costs of the junction.
 - iv) The movement of the roundabout further west will eat into land proposed for employment development. It is estimated that it would result in the loss of approximately 2,000 sq m of employment floorspace out of a current total of 30,000 sq m for the urban extension as a whole. A reduction in employment floorspace below 30,000 was resisted during the masterplanning process.
 - v) Existing planning permission (14/1168/MFUL) for the A361 junction requires development to be begun before 31st October 2016, or it will lapse. Devon County Council is currently working on a tight timescale in order to achieve a technical start on site before this date in order to preserve the permission. This requires the submission of information for the discharge of pre-commencement conditions well in advance of that date. Detailed design work and completion of tender documents are also required to be complete by October 2016 in order to inform the tender process. This leads towards a main construction start July 2017 with completion September 2018. Any redesign and new planning permission requirement for it would delay the delivery of the road.
 - vi) Up to £7.5 million towards the construction of the junction has been approved by the Local Enterprise Partnership's Local Transport Board. The approval for this funding is subject to there being no significant change to the scheme or its benefits between this stage (programme entry approval) and final approval. The benefits of the urban extension and the junction scheme include the economic growth from the provision of employment floorspace. This benefit would be reduced as a result of the proposed change to the design of the junction. The estimated additional £3 million cost is likely to be viewed as a significant change to the scheme. The increased cost and reduced employment floorspace result in a high risk that the LEP funding would be put in danger. In the absence of this funding the full movement, grade separated junction will either not be delivered, or require alternative funding that will take time to secure.
 - vii) Delay in the delivery of development on the Tiverton Eastern Urban Extension will reduce the ability of the Council to demonstrate the required 5 year housing land supply. This could lead to speculative housing applications elsewhere in the District that are unplanned and locationally less acceptable to the Council.
- 4.2 Extensive discussions have taken place between residents and the Devon County Council Highway Engineers that are drawing up the detailed junction design and are project managing its delivery. These discussions have looked in some detail at

whether the proposed revised scheme is capable of being implemented and its implications. The response from DCC Chief Engineer dated 28th January 2016 in reply to Planning Committee's request that the revision be given serious consideration is attached at **Appendix 3**. It sets out the findings of their investigation of the revised design and identifies several fundamental problems with its delivery.

- 4.3 The owner of the additional land needed to move the roundabout further west has confirmed that he does not intend to accommodate the changes to the scheme. As this land is not being made available, the revisions to the scheme are unable to be delivered. Irrespective of other concerns / project risks set out above, this alone means that the revisions cannot be taken any further.

5.0 CONCLUSIONS.

- 5.1 Junction design revisions suggested by local residents to reduce the impact upon them have been extensively investigated over the last 8 months or so. They have proved to be undeliverable and to also have significant implications upon project timescales, cost and funding support.

Contact for any more information	Head of Planning and Regeneration (Mrs Jenny Clifford) 01884 234346
Background Papers	Planning Committee 1 st April 2015
File Reference	14/00667/MFUL 14/1168/MFUL
Circulation of the Report	Members of Planning Committee, Cllr Richard Chesterton.

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GENERAL NOTES

- This drawing is to be read in conjunction with all other relevant Architect's, Engineers & Specialist drawings and details (as appropriate).
- DO NOT SCALE FROM THIS DRAWING. Use figured dimensions only.
- Proposed noise barrier consists of 2.5m high earth mound with 2.0m high noise barrier wall/fence on top.
- Soft landscaping shown indicatively only and is subject to detailed design.
- Street lighting shown indicatively only and is subject to detailed design.
- Infiltration pond location and size shown indicatively only and is subject to detailed design.
- Junctions into developments are illustrative only and details will be provided as part of the "Reserved Matters" submissions for the Chettiscombe Trust development.

KEY

- Planning Application Boundary.
- Street lighting columns (subject to detailed design).
- Proposed soft landscaping (subject to detailed design).
- Proposed carriageway (subject to detailed design).
- Proposed infiltration ponds (subject to detailed design).

REV.	DATE	DETAILS	WP	DP
P1	11.07.14	Issued FOR PLANNING	WP	DP

PAUL CARPENTER ASSOCIATES
Consulting Civil and Structural Engineers
UNIT 8 SILVERDOWN OFFICE PARK, EXETER, EX5 2UX
TEL: 01392 363 497 FAX: 01392 363 498
E-mail: pca@paulcarpenterassociates.com
Web: www.paulcarpenterassociates.com
KINGSBRIDGE: 01548 853097 LONDON: 0208 940 7810

**A 361 NORTH DEVON LINK
TIVERTON
EASTERN URBAN EXTENSION**

**A 361 GRADE SEPARATED
JUNCTION
HIGHWAY LAYOUT**

SCALE @ A1 1/1000

DRAWING NUMBER	REVISION
11226.554	P1

Drawn by Date	WP July 2014	Checked by Date	DP July 2014
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Mr D. Black
Head of Planning, Transportation and Environment
Devon County Council
County Hall
Topsham Road
Exeter
Devon
EX2 4QD

**Planning Services
Development Management**
Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP

Tel: 01884 234346
Fax: 01884 234235
e-mail: jclifford@middevon.gov.uk

Your Ref:

Date: 14th April 2015

My Ref: 14/00667/MFUL and 14/01168/MFUL

Contact: Mrs Jenny Clifford
Head of Planning and
Regeneration

Dear Mr Black,

Proposal: Construction of cloverleaf road junction with associated engineering works.
Location: Land adjacent to the A361 to the east of Tiverton.

At the meeting of the Planning Committee of Mid Devon District Council on 1st April 2015, it was resolved that I be asked to write to you regarding the proposed cloverleaf junction to the A361 in connection with the Tiverton eastern urban extension.

Members of Planning Committee have become aware that a revised junction design suggestion has been forwarded to you and originates from residents living in close proximity to the site. In particular it suggests changes to the left in left out southern side of the junction in order to improve the relationship between the proposed highway junction and local residents living in Pool Anthony Drive and Uplowman Road.

Mid Devon Planning Committee requests that the suggested design amendments be given serious consideration by the County Council to see if they are able to be incorporated into the junction scheme.

Yours sincerely

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Capital Development & Waste Management

Mrs Jenny Clifford
Head of Planning and Regeneration
Mid Devon District Council
Phoenix House
Phoenix Lane
Tiverton
EX16 6PP

Matford Offices
County Hall
Topsham Road
Exeter
EX2 4QD

Tel: 01392 380000
E-mail: robert.richards@devon.gov.uk
Fax: 01392 382678
My ref: RR/C11017
Your ref: 14/00667/MFUL and
14/01168/MFUL

28th January 2016

Dear Mrs Clifford

Proposal: Construction of cloverleaf road junction with associated engineering works
Location: Land adjacent to the A361 to the east of Tiverton

Thank you for your letter dated 14th April 2015. Following receipt of the residents' junction design proposal on 24th April we have investigated the suggested layout and also held a meeting with the residents on 21st October presenting DCC's findings.

The residents' design included the following items:

1. Maintaining the new westbound on / off-slip road at the lowest elevation for the entire distance along existing properties before rising at 1 in 40 gradient to the new roundabout. This will require the construction of a minimum 4.5m high retaining wall over approximately 400m.
2. Moving the roundabout further west by approximately 70m;
3. Providing a curvature to the south side of the slip road to create more distance between the road and the existing properties;
4. Reducing the height of the bund and acoustic fence appropriately.

DCC's findings are as follows:

1. Constructing a retaining wall is estimated to cost around £1.6M. It will also lead to future maintenance liabilities. At the time of the residents meeting the terms of the S106 agreement had not been finalised and it was agreed that DCC would approach the developer regarding the alternative wall design. The S106 terms are close to being agreed and the retaining wall would now have to be funded by DCC which is outside the scheme budget.
2. Moving the roundabout further west would locate it outside the planning boundary and a new planning application would be required. Additionally the area for employment land would be reduced which may affect the LEP funding bid. The bridge span would also be lengthened and the skew increased creating design and construction challenges. It was

Textphone 0845 1551020 SMS Text 0777 3333 231
www.devon.gov.uk

Strategic Director Place: Heather Barnes

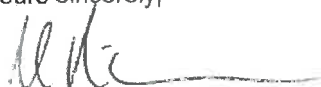


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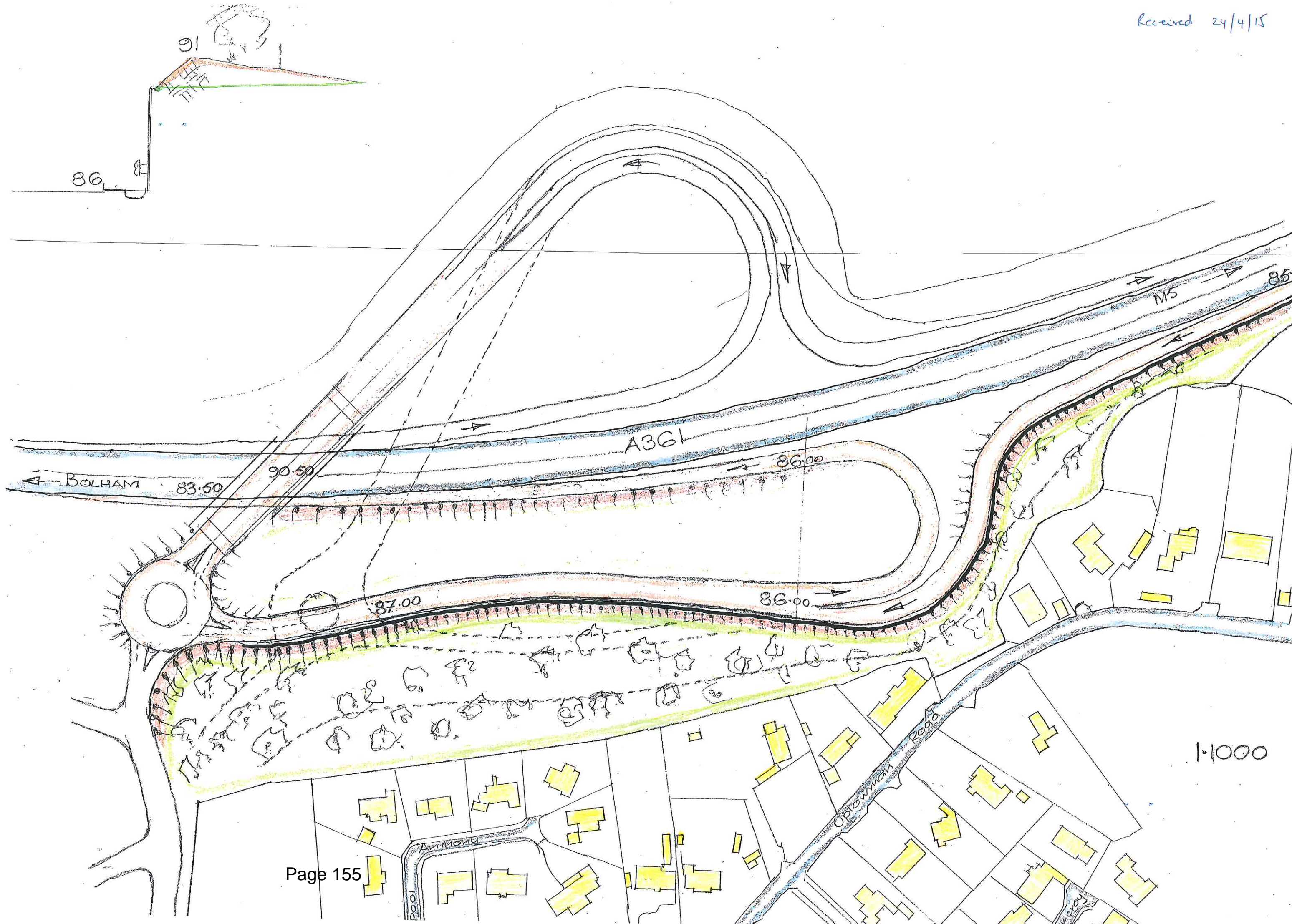
agreed that lowering the slip road would only be beneficial if the roundabout could be located further west. It was also agreed that the residents would meet the landowner to discuss the possibility of moving the roundabout further west.

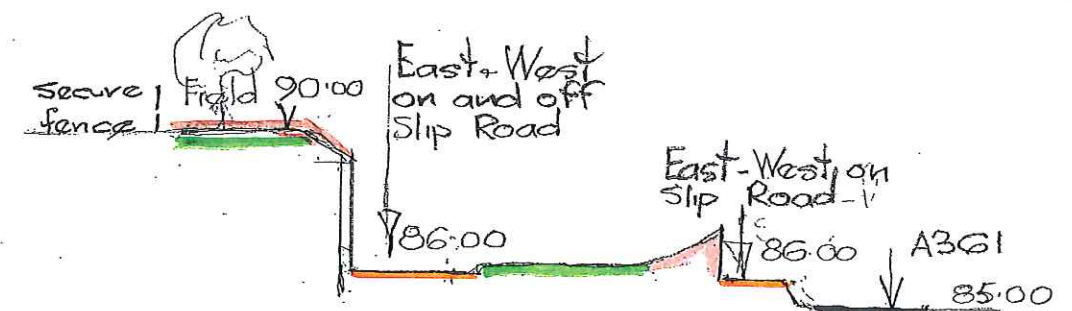
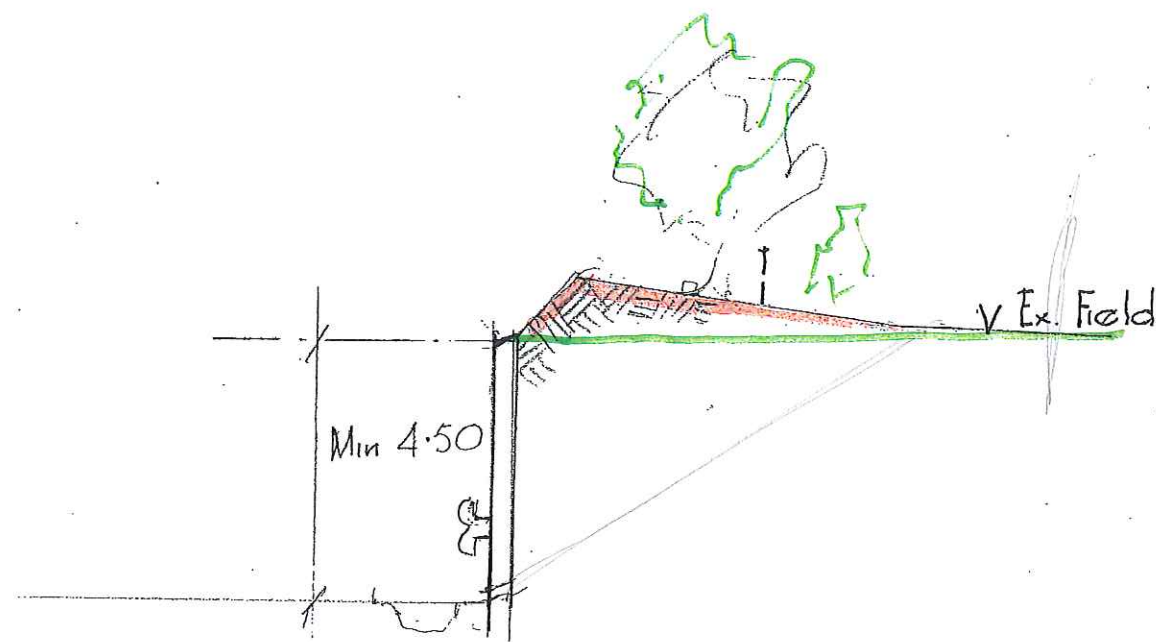
3. Introducing a curvature on the slip road to move the road further away from the residential properties is not possible due to design standards. It was agreed that no further action was required.
4. Reducing the height of the bund and acoustic fence would only be possible for part of the slip road, as the slip road still needs to rise to meet the level of the roundabout. Acoustic modelling is ongoing and the results will be discussed with the residents at a future meeting. In the meantime the approved junction design will be progressed to meet programme deadlines.

Yours sincerely,



Robert Richards
Chief Engineer (Highways)





1:1000
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PLANNING COMMITTEE

DATE: 9TH MARCH 2016

REPORT OF THE HEAD OF PLANNING AND REGENERATION

REVIEW OF PLANNING COMMITTEE PROCEDURES.

Cabinet Holder Cllr R J Chesterton
Responsible Officer Jenny Clifford, Head of Planning and Regeneration

Reason for Report: To review Planning Committee procedures in light of issues that have arisen and following visits to other Local Planning Authorities undertaken in 2012/13.

RECOMMENDATIONS:

1. That Members note the consultation responses and recommendations of the Working Group.
2. That the following be recommended to Standards Committee:
 - i) That a clear guide to Planning Committee procedures is produced to inform the public and other participants together with a parallel guide on the planning system to address any misinformation and misconceptions.
 - ii) That Legal advice for the Council as decision maker is available to assist Planning Committee with legal input as required on a case by case basis and a legal officer 'on call' to assist in person during the meetings if requested.
 - iii) That who speaks, when, the number of speakers, length of speaking and order remain as existing.
 - iv) That the same speaking rights be extended to 'implications' reports.
 - v) That the questioning of speakers for reasons of clarification be allowed through the Chairman.
 - vi) That clear written procedures be put in place regarding voting, that the item description, address and proposition be announced, Members clearly indicate their vote, that the vote is counted out loud and the outcome of the vote be announced.
 - vii) That full committee and Planning Working Group site visits continue as existing, but that clearer written procedures for both be put in place.
 - viii) That the protocol for making decisions that are not in accordance with officer recommendation remains as existing.

- ix) That an annual review of planning decisions be undertaken via Planning Committee site visit.
3. That it be recommended to Standards Committee that the Local Government Association's 'Probity in Planning for Councillors and Officers' 2013 be adopted as best practice.
 4. That final recommendations 2, 4, 5, 6 and 7 relating to venue layout, attendance and advice, agenda format and order, report format and contents and officer presentations be agreed.
 5. That subject to this service continuing to be offered, the Planning Advisory Service be requested to work with the Council in undertaking a peer review of Planning Committee and a further report be presented to Planning Committee following the receipt of recommendations from the Peer Review. The report to approve an action plan incorporating Planning Committee procedure issues.

Relationship to Corporate Plan: The operation of the Planning Committee in the determination of planning and other related applications as direct links to all four of the emerging Corporate Plan priorities: economy, community, homes and the environment.

Financial Implications: Increased efficiency will lead to savings. Changes to Planning Committee procedures may also increase costs if further ICT such as an electronic voting system is proposed.

Legal Implications: The existing procedures for Planning Committee at Mid Devon stem from the Constitution. Recommendations from the Planning Committee on changes to their procedures will need to be approved by Council after consideration by the Standards Committee and the Monitoring Officer.

Risk Assessment: Planning decisions involve balancing many competing interests and works best when officers and Members have a clear understanding of their roles and responsibilities together with the context and constraints within they operate. It is important that the decision making process is fair and transparent and procedural matters are set out clearly. All these factors act to reduce the risk of challenge.

1.0 INTRODUCTION

1.1 The review of the operational procedures in connection with Planning Committee was requested by members of that Committee. Members of Committee defined the scope of that review. A report was considered at the meeting of 19th June 2013. A copy of the report is attached as **Appendix 1**. A review was undertaken by a member working group in 2012/13 in conjunction with an officer. This included visits to a range of other councils to compare and contrast planning committee procedures with the aim of identifying best practice. The report identified a series of issues for consideration within the review of Planning Committee procedures. These were endorsed by Planning Committee:

- Information publicising committee procedures.
- Layout of venue.

- Participants.
- Agenda format and order.
- Report format and contents.
- Officer presentations – content, visuals, format and length.
- Speaking – order, number, time.
- Voting.
- Site visit arrangements.

Planning Committee subsequently also asked that ‘implications’ reports written when Members indicate that they are minded to determine an application differently from the officer recommendation are also included in the scope of this report on procedures.

1.2 On 19th June 2013 Planning Committee resolved that a public consultation exercise be undertaken and that a further report incorporating the results of the consultation be brought before the Committee for consideration. A public consultation exercise took place over a five week period between 17th September and 22nd October 2013. In addition to Parish and Town Councils, Elected Members and agents on the Agent’s Forum contact list were written to and given the opportunity to participate. Members of the public were also asked for their views.

1.3 Consultation responses were received from the following:

- 14 Parish and Town Councils
- 2 Agents
- 3 Members of the public (2 of which were from then current or previous Parish Councillors)
- 1 District Councillor
- Members of MDDC Scrutiny Committee

1.4 Consultation responses were generally arranged in response to the topic areas and recommendations set out in the 19th June report. Some additional comments and feedback were also received. The results of the consultation exercise have been summarised and are set out below. A summary of the consultation responses is attached at **Appendix 2**. Background information on each of the issues should also be referred to provide context and is located within the earlier report attached at **Appendix 1**.

1.5 Following receipt of consultation responses, the Working Group held a further meeting in order to consider the representations and make a series of recommendations to Planning Committee. Further meetings have subsequently been held with the Chair of Planning Committee and the Cabinet Member of Planning and Regeneration.

2.0 GUIDANCE AND ADVICE.

2.1 The Local Government Association has produced guidance on probity issues arising in planning. A copy is attached at **Appendix 3**. This guidance was reissued in 2013 in order to reflect changes introduced within the Localism Act 2011. The guide seeks to clarify how councillors can get involved in planning decisions on behalf of their communities in a fair, impartial and transparent

way. It also provides the guidance in respect of the following issues relevant to the scope of this exercise:

Officer reports to Committee.

'As a result of decisions made by the courts and ombudsman, officer reports on planning applications must have regard to the following:

- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.*
- Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations, and any other material planning considerations.*
- Reports should have a written recommendation for a decision to be made.*
- Reports should contain technical appraisals which clearly justify the recommendation.*
- If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under s38A of the Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990.*

Any oral updates or changes to the report should be recorded.'

Public speaking at planning committees.

'Whether to allow public speaking at a planning committee or not is up to each local authority. Most authorities do allow it. As a result, public confidence is generally enhanced and direct lobbying may be reduced. The disadvantage is that it can make the meetings longer and sometimes harder to manage.

Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.'

In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the council in writing.

New documents should not be circulated to the committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This should be made clear to those who intend to speak.

Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.'

Committee site visits.

'National standards and local codes also apply to site visits. Councils should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device. The following points may be helpful:

- Visits should only be used where the benefit is clear and substantial; officers will have visited the site and assessed the scheme against policies and material considerations already.*
- The purpose, format and conduct should be clear at the outset and adhered to throughout the visit.*
- Where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test should still apply.*
- Keep a record of the reasons why a site visit is called.*

A site visit is only likely to be necessary if:

- The impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers.*
- The comments of the applicant and objectors cannot be expressed adequately in writing or*
- The proposal is particularly contentious.*

Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.

Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.'

- 2.2 The Guide goes wider than the scope of this review to date by also addressing the general role and conduct of councillors and officers in planning matters; the registration and disclosure of interests; predisposition, predetermination or bias; development proposals submitted by councillors and officers and council development; lobbying; pre-application discussions; decisions which differ from a recommendation; annual review of decisions; complaints and record keeping.
- 2.3 The review of Planning Committee procedures undertaken to date offers an opportunity for the contents of the Guide to be considered and adopted as best practice. This will need to be recommended to Standards Committee. The guide has previously been distributed to members of Planning Committee.
- 2.4 The Planning Advisory Service currently provides support to Local Planning Authorities in delivering efficient and effective planning services, to drive improvement in those services and to respond to and deliver changes in the planning system. An opportunity has previously been available for a peer

review of the way Planning Committee operates and the quality of decisions made in order to deliver best practice and improvement. However at the time of writing this report the future availability of such a review is in serious doubt due to uncertainties over the funding of the Planning Advisory Service in the next financial year. However subject to funding being secured and a continuation of the offer of peer review, a request for assistance in this areas could be made of the Planning Advisory Service. Previously such reviews have been undertaken by officer and councillor peers with planning experience. It is purely to be used as a guide as the scope and focus for the review is agreed with each individual authority. The cost of the review has to date been covered by the Planning Advisory Service.

- 2.5 The current authority for procedural rules in relation to public speaking and good practice for Councillors in dealing with planning matters is the constitution. Relevant extracts are attached at **Appendix 4**.

3.0 **RESPONSES TO THE CONSULTATION AND RECOMMENDATIONS.**

- 3.1 A total of 24 responses to the consultation have been received. The consultation was formatted around series of key issues and changes recommended by the Working Group made as a result of the visits to see other Authority's Planning Committees in operation. The responses have been organised according to the issue / change suggested and the nature of the responder in **Appendix 2** attached to this report. **Appendix 2** also sets out comments received on a range of other planning and Planning Committee related issues. Recommendations in this section are identified as those initially made by the Working Group prior to the consultation exercise, followed by a final recommendation taking into account comments received. Main outcomes of the consultation process have been summarised. Officer comment has also been added where applicable.

- 3.2 This section of the report has been formatted to collate information on an issue by issue basis.

3.3 **INFORMATION PUBLICISING COMMITTEE PROCEDURES.**

Initial working group recommended change 1: That a clear guide to Planning Committee procedures is produced to inform the public and other participants.

Consultation responses:
Strongly supported.

Following the receipt of consultation responses, the working group was also keen to ensure that the opportunity was also taken guidance to be produced on the planning system and planning decision making in order to address misinformation and lack of knowledge.

Final recommendation 1: That a clear guide to Planning Committee procedures is produced to inform the public and other participants

together with a parallel guide on the planning system to address any misinformation and misconceptions.

3.4 LAYOUT OF VENUE.

Initial working group recommended change 2: That the layout of the venue is amended to a 'U' shape once display screens have been upgraded in the Council Chamber.

Consultation responses:
Generally supported.

The working group wished to bring to the attention of members of committee the need to be seen to be listening to speakers. The layout of the venue allows the speakers to address the whole committee and for them to interact with committee members while speaking.

Officer comment: The initial recommendation of the working group has now been superseded by the upgrading of display equipment in the Town Hall Council Chamber and more recently by the change in venue of the Planning Committee to the Phoenix Chamber in Phoenix House. In the latter location, visual display equipment has been installed with multiple screens together with a removable desk-based microphone system. The tables and microphone system lend themselves to straight lines rather than a curved arrangement. The layout is also limited by the location of floor boxes providing power and connections to the sound system and computer network. The layout is 'U' shaped with the top row comprising the Chairman, Vice Chair and officers. Members of the Committee are located on either side. Angled seating for Ward Members is located off one side and public speaking space is at the open end of the layout, beyond which is located public seating. Members of Committee are either side on or facing the speakers and public speaking. Multiple screens allow all to see presentations.

Planning Committee has only recently been relocated to the Phoenix Chamber. The current layout in the room is therefore still new. Whilst no change to the layout is currently recommended it would be possible to review this.

Final recommendation 2: That no change is made to the layout of the committee at this time.

3.5 PARTICIPANTS.

Initial working group recommended change 3: That Legal advice is available in the preparation of the agenda, pre committee briefing and in person at the meeting itself.

Consultation responses:
Mixed response: Some support, but there was confusion over the function of legal advice – who the advice is intended to benefit. It was not understood by all that legal advice is intended to assist the Council in its decision making rather than other participants. There was some concern over cost and the

implications on legal resources. It was questioned whether a Legal Adviser needs to be present at every meeting.

Officer comment: The working group raised participation in relation to the availability of legal advice. Such advice is of benefit to the Planning Committee in terms of procedural issues, the legal parameters within which decisions are made and risk to the Council. Most other authorities visited had legal representation at Planning Committee meetings meaning that any issues / queries that arise during the meeting are able to be answered during the debate. Legal representation at Planning Committee as a matter of course has not been available for many years due to its resource implications upon the legal team. However, there remains the ability to brief Legal on the contents of the agenda in advance and arrange for a legal officer to be on call if required or to be present for particular items. This is easier with the Phoenix Chamber venue. (It should be noted that there might be occasions where Legal officers with planning knowledge as not available if on leave or sick. The service will endeavour to provide Legal advice on call, but is unable to guarantee it's availability on all occasions).

Final recommendation 3: That Legal advice for the Council as decision maker is available to assist Planning Committee with legal input as required on a case by case basis and a legal officer 'on call' to assist in person during the meetings if requested.

The working group also wished to ensure that in the case of ward member call in of applications to committee, that the ward member attend the meeting. The working group recognised that a statement could be provided instead in exceptional circumstances.

3.6 ATTENDANCE – AVAILABILITY OF ADVICE.

Initial working group recommendation: There is no change proposed.

Consultation responses:

Few received. One respondent agreed. Another felt that other officers should attend only if there is an identified need for them to be there. A request was made for the Cabinet Member for Planning and Economic Regeneration to be present at all Planning Committee meetings to monitor performance.

Officer comment: Planning Committee meetings are in public with press often present. The issue considered by the working group was whether the right level of advice is available to members of Committee to assist in their decision making. More senior planning officers make presentations and are available to answer questions. A lead planning officer also attends (normally the Head of Planning and Regeneration). This is supplemented by other officers from within the Council, together with those from external consultees such as the Highway Authority and Environment Agency if available and required. Your planning officers often anticipate when the presence of a consultee would assist and make arrangements. Planning Committee has the ability to invite the presence of consultees to assist in decision making.

Final recommendation 4: no change.

3.7 AGENDA FORMAT AND ORDER.

Initial working group recommendation: There is no change proposed.

Responses:

Generally agreed, but it was commented that if no members of the public are present to hear an item there is often little discussion of it and full details should be presented and considered for each case.

Officer comment: Planning Committee agendas follow a set order. In accordance with the constitution and other committees of the Council standard agenda items at the beginning of the meeting are apologies and substitute members, public question time, minutes of the previous meeting and Chairman's announcements. These are then followed by the planning related content with the order being:

- Enforcement items,
- Deferrals from the plans list,
- The plans list (where most of the planning and other related applications are considered),
- The delegated list (list of decisions taken under delegated powers),
- Major applications with no decision (to assist in timely decision making and management of major applications. This was introduced to help performance in terms of the speed of major application decision making),
- Appeal decisions (to report on recent appeal decisions received),
- Other agenda items (larger scale applications if not included in the plans list, 'implication' reports, planning performance and service management reports, legislation changes).

Currently at the beginning of consideration of the plans list, the Chairman establishes which items have speakers or the Committee wish to debate. Where neither of these apply, the items is brought forward and voted upon in order to assist the efficiency of the meeting.

The order of planning related content is open to amendment. Other Councils operate variations of this, in part dependent upon the scheme of delegation. Enforcement action is more widely delegated to officers in other Councils. The running order of the agenda seeks to be logical, with the ability of the Committee to pull items forward if required.

Final recommendation 5: no change.

3.8 REPORT FORMAT AND CONTENTS.

Initial working group recommended change 4: That the case officer name be included and in the case of refusals, the reasons for refusal be moved up to the front of the report to follow the recommendation.

Responses:

Generally agreed. Additional comments about the need for accuracy and precision, reports need to be fair and balanced, reports need to be open to

other material considerations beyond the Development Plan policies, reports are too long, information should not be summarised, major decisions should include an executive summary, where policies, case studies or precedents are referred to they should be available. Comment received that members need to read the reports in full before the meeting.

Officer note – Planning Committee reports are produced using a template that pulls through information from the software system. It's ability to accommodate changes to the format, particularly to distinguish report format between those recommended for approval or refusal is limited. At present the recommendation is included at the front of the officer report, with the reason for approval / refusal and conditions are at the end. The intention behind this is that whilst the recommendation is known from the start, the detail and explanation of how it was arrived at is gained from the main body of the report taking into account planning history, policy, consultations, representations and the officer assessment of the material planning considerations. While the recommendation, reason for approval / refusal and conditions can be pulled to the front of the agenda it is not technically possible to vary the running order dependent upon the recommendation. The scope of change available to the Committee report template are limited.

The inclusion of officer names with reports (except enforcement reports) is able to be accommodated. The name of the case officer for applications is already available on the website in public access. It is proposed that this is not extended to enforcement reports due to the nature of their content and legal action that can arise. The availability of enforcement officer names against individual reports that are on the internet is not recommended.

At present all consultation responses are typed in full in the officer report including where multiple responses have been received from the same consultee on the same proposal. Members may wish to consider whether they would like this to continue as existing so that the full response of a consultee over time may be seen, or whether only the latest, most up to date response is shown. This would delate earlier responses where comments / concerns have been subsequently addressed.

Final recommendation 6: That planning case officer name is included in the officer reports (enforcement reports to be excluded). That Members consider whether all multiple consultation responses on a proposal continue to be included in the report or only the most up to date.

3.9 OFFICER PRESENTATIONS

Initial working group recommended change 5: That officers review the length and content of presentations to make them more focused and succinct.

Consultation responses:

Supported. Comment made that they need to be short and not repeat the contents of the report. Comment also that they should not incorporate content not included in the officer report.

Officer comment: Agree that officer presentations should aim to be focused and succinct with a description of the development and its location / context by reference to the plans and photographs together with concentration on the determining issues. It is assumed that the officer report has been read and does not seek to duplicate it.

Consultation comments suggest that officers should not include information in their presentation that is not in their report. However the agenda is issued five working days in advance of the meeting. New information may subsequently have been received that is material to the making of the decision on an application. It is only right that it is brought to Member's attention before the decision is made and will normally be included in the printed update sheet.

Final recommendation 7: That officers review the length and content of presentations to make them more focused and succinct.

Initial working group recommended change 6: That the content of officer presentations be amended to increase the size/ colour of the cursor, the location of photographs be clearly indicated and the title slide be enlarged.

Consultation responses:

Supported. Photos to include date and time also requested. Comment received from a member of the public that the officer photographs were unrepresentative and biased: speakers should be able to present photos too.

Officer comment: Photos are normally labelled with an inset plan showing where they were taken from and a direction of view. Camera time and time recording can be switched on where available. Font size can be reviewed to improve readability. Efforts can be made to increase cursor size in the powerpoint presentation.

Consultation responses requested the ability for other parties to have their photos or other images be shown on the display screens at the meeting. At present such information is more normally circulated to Members in advance of the meeting rather than displayed on the screens. Such requests and associated material would need to be received by a cut off time of not less than 24 hrs in advance, in order for the material to be checked. The Probity in Planning document at **Appendix 3** recommends that no new documents should be circulated at the meeting as Members will not be able to give it due consideration and officers will not have had the opportunity to check of accuracy or provide considered advice on material considerations arising.

Final recommendation 8: That the content of officer presentations be amended to increase the size/ colour of the cursor, the location of photographs be clearly indicated and the title slide be enlarged.

3.10 PUBLIC SPEAKING

Initial working group recommendation: That views be sought on arrangements for speaking at planning committee in terms of who,

when, how many, how long for and the order of speakers. Should the questioning of speakers by Committee Members be included?

3.10.1 When may public speaking take place?

Consultation responses:

An extensive range of views were received on the arrangements for speaking at Planning Committee. These were not all consistent the importance of adequate speaking opportunity was strongly supported. Representation supported the ability to speak to an application at the time of its consideration in the agenda rather than being restricted to speaking up front as part of public question time. This was seen as being disjointed from the consideration of the application itself. Responses wished in the main to see opportunities for public speaking expanded.

Officer comment: The Council's procedure rules allow for public question time, normally at the beginning of the agenda. Whether to allow further opportunity for public speaking is at the Council's discretion, but is good practice and most councils do. Currently public speaking takes place at the point in the agenda when individual applications are considered.

3.10.2 Who is able to speak and the number of speakers.

Consultation responses:

All interested parties in planning decision making wish to have the right to speak at Planning Committee if they so wish. Consultation responses in the main wished to see the number of speakers allowed extended. Many responses suggested that speaking differentiate between major and non-major applications with more speakers and longer speaking allowed for major applications.

3.10.3 How long to allow for speaking.

Consultation responses:

A wide range of suggestions were made over speaking time, but the general theme in responses was that more time should be allowed with opportunity for 'comeback' to respond to points raised by other speakers and arising from Committee Member debate. A number of responses expressed the wish to see speaking time extended to 5 minutes each.

Officer note – Care will be needed to ensure equality and fairness between scheme promoters / supporters and objectors over time allowed to speak. The probity in planning guidance suggests that speakers be asked to direct their presentation to reinforcing or amplifying representations already made in writing. To assist in the running of the Committee, it is also helpful that comments made by earlier speakers are not repeated. The benefits of allowing additional time to speakers will need to be balanced against the potential to add to the overall length of Planning Committee meetings. Information from other Councils in the area indicates speaking time is usually limited to either 3 or 5 minutes each. It does not appear common practice elsewhere for speaking time to vary between major and non-major applications.

3.10.4 When public speaking takes place and the order of speaking.

Consultation responses:

When public speaking takes place: Representations requested more flexibility over speaker numbers to allow all to be heard at the time of the consideration of the application in question rather than up front during public question time.

Order of speaking: Representations received when considered by group (Parish Council, Agent / applicant / Members of the public /individual Parish Councillors) all wished to be able to address the Planning Committee last in order to address 'inaccuracies' arising from earlier speakers. There was therefore no consistency in the running order of speakers suggested within the consultation responses. Time for 'comeback' from speakers was also requested.

Officer note – At present in accordance with procedure rules, one spokesperson in favour of the application and one spokesperson objecting to an application are allowed to speak, as is a Parish or Town Council representative. Each may speak for up to 3 minutes and is taken in the order of supporter, objector, Parish. The Ward Member(s) is then called to speak and is not time limited. On an exceptional basis when there has been a particularly large, significant or controversial application (that would usually warrant holding a special meeting) at the Chairman's discretion additional speakers have been allowed. Were the length of speaking to be extended, this would need for fairness to be extended for both supporters and objectors to a scheme together with the Parish Council. Members will need to conclude whether this will add benefit to their consideration of applications and balance this against the increase in meeting length.

Whatever order of speakers, there will be disappointed parties that would wish to speak last. At appeal, the Planning Inspectorate operate an order of case that allows the applicant final say by going last.

At present public speaking to an 'implications' report is not allowed other than during public question time. Members are asked to clarify their views on this: whether for reasons of consistency this should be allowed as for applications, or left unchanged.

The working group gave consideration to whether Ward Member speaking should be time limited, but did not come to any conclusions other than noting a need for speaking to be focussed and succinct.

3.10.5 Questioning speakers.

Consultation responses:

Generally there was wide-spread support for the questioning of speakers in order to provide clarification of specific points or queries arising from Committee Member debate.

Officer comment: Allowing questions to be asked of speakers may provide helpful clarification for Committee Members. Such a system is in operation

elsewhere is in generally seen as being beneficial. It will need to take place through the Chairman.

Members will need to consider whether to make any changes to public speaking arrangements at Committee.

Public speaking final recommendations:

- 9. That who speaks, when, the number of speakers, length of speaking and order remain as existing.**
- 10. That the same speaking rights be extended to 'implications' reports.**
- 11. That the questioning of speakers for reasons of clarification be allowed through the Chairman.**

3.11 VOTING

Initial working group recommended change 8: A clearer procedure be put in place regarding voting: that the item description, address and proposition be announced, Members clearly indicate their vote, that the vote is counted out loud and the outcome of the vote be announced.

Consultation responses: Supported to aid understanding of proceedings.

Officer note – Many of these recommended changes are now followed and represent best practice. Electronic voting is not currently operated, although the microphone system in the Phoenix Chamber would be compatible with an electronic voting system should one be implemented in the future. Additional equipment would need to be installed to implement this. It was considered recently when specifying requirements for the new Phoenix Chamber system but was dismissed at this time on cost grounds.

Final recommendation 12: That clear written procedures be put in place regarding voting, that the item description, address and proposition be announced, Members clearly indicate their vote, that the vote is counted out loud and the outcome of the vote be announced.

3.12 SITE VISIT ARRANGEMENTS

Initial working group recommended change 9: That the arrangements for site visits be reviewed. Should the Planning Working Group continue or should site visits following a deferral be open to all members of Planning Committee to attend? Clear procedures on the operation of site visit are needed.

Consultation responses:

Respondents considered site visits to be vitally important and favoured them being available as a matter of course to all members of committee to attend together with other interested parties including Parish / Town Councils, objectors, supporters and ward members. It was suggested that they be made mandatory for committee members with concern being expressed in the event of poor attendance. The timing of site visits was raised as an issue, particularly in relation to traffic and parking and availability to attend during the

working day. Some respondents suggested multiple visits at different times of the day.

Officer comment: At present two different forms of site visit take place.

1. Major applications - Members review a list of major applications as part of the agenda and indicate for cases that will be decided by them, which they would like to visit in advance in order to gain familiarity with the proposal, the site and its surroundings. Such site visits are open to Committee members only with an officer present to describe the application and to answer questions. Such pre-committee meeting help with timely decision making on major applications and were introduced as a means to assist committee consider such applications but also to reduce delay.
2. Planning Working Group – Committee may defer an application for a site meeting of the Planning Working Group in order to assess a particular aspect of the site / the application or a particular issue that is identified at time of deferral. It is important that the site visit have a specific purpose. The Planning Working Group comprises the Chairman and 6 other committee members. Ward Members, one representative of each of Parish Councils, applicant / supporter and objector are invited to attend. Members are accompanied by an officer and if specifically requested, a representative of a consultee such as Highway Officer. The officer describes the application and answers questions. Representatives of applicant / supporter, objector and the Parish are asked for their views. The representatives are then asked to withdraw and allowing for a member discussion. Members of the Planning Working Group are asked for their observations when the application is considered at the Planning Committee meeting.

Devon County Council hold a site visit and local meeting at which there is opportunity for the public to attend and ask questions in advance of the final consideration of the application at a separate meeting of the committee. The meeting takes place in a venue local to the application site. Such an arrangement increases public participation in the consideration of the applications, but is resource heavy and takes time to organise. It adds to the cost of considering applications and risks delay. The nature of County Council applications – often waste and mineral proposals together with the lower number of applications is considered more suited to this arrangement. Most Councils some form of site visit arrangements in place.

Members are asked to consider whether any changes should be made to the existing site visit arrangements. It is recognised that clearer procedures need to be put in place.

Final recommendation 13: That full committee and Planning Working Group site visits continue as existing, but that clearer written procedures for both be put in place.

4.0 OTHER ISSUES RAISED WITHIN RESPONSES.

- 4.1 Consultation responses took the opportunity to raise a number of other issues in relation to planning decision making and planning committee. These are listed in **Appendix 2**. Some responses considered that the scope of the consultation to be too narrow with a wider review of planning being required.
- 4.2 It was suggested the planning committee should meet locally to the application (particularly for large scale proposals).
- 4.3 In particular Parish Councils (who made up the majority of respondents) considered that more regard should be had to their comments on applications by officers. They wished less application delegation to officers and therefore more applications to be referred to planning committee. There was a distrust of pre-application meetings between officers and members.
- 4.4 Abstaining from voting by committee members was criticised by the responses. It was even suggested that it should not be allowed and was viewed as ducking out of making a difficult decision.
- 4.5 Several criticisms were made of the enforcement of planning, particularly over condition compliance.
- 4.6 It was suggested that further guidance be given to members over contact with the applicant / objectors, lobbying and the declaration of interests.
- 4.7 It was observed in several responses that those attending the meetings did not feel that they had been listened to. They felt marginalised and that the committee process as a whole did not put the public and community at the heart of decision making. Officers were felt to be too influential in decision making and that committee members should be completely free to make whatever decision they so wish.

Officer comment: A wide range of additional issues were raised within consultation responses. Planning decision making operates within legal constraints which are not always understood by all participants. This can lead to frustration and a lack of understanding of how a decision has been arrived at. This can be improved by incorporating information of planning decision making within guidance. It is important to ensure that procedures for committee allow participation in a meaningful and equitable way that balances different interests so that those participating feel that they have had a chance to have their say. A peer review of the operation of planning committee through the Planning Advisory Service (if it continues to be offered) could provide an external assessment of issues such as public engagement.

5.0 **IMPLICATIONS REPORTS.**

- 5.1 Since work commenced on this review of procedures in relation to Planning Committee, the issue of officer implication reports has also been raised and officers were asked to include it within this report. It was not considered by the working group.

- 5.2 At previous meetings of Planning Committee, a protocol for making handling appeals when the committee decisions not in accordance with officer recommendation and the handling of subsequent appeals was agreed. As agreed at the meeting of 17th July 2013 this protocol states:

In cases where decisions are made which are not in agreement with officer's recommendation, the following protocol will be followed:

The Planning Committee, based on the debate and discussion at the Committee meeting, shall in all cases:

- **Indicate the decision that they are minded to make together with the reasons for doing so and that the item be deferred for the receipt of an officer report at a subsequent meeting setting out the implications for the proposed decision and the reasons given.**
- **Agree the full wording of the reasons for refusal or the conditions to be imposed prior to a decision being taken.**
- **Agree their reasoned justification for reaching the particular decision, which will be set out in the minutes. (Which can be sent with the Committee Report when the initial appeal papers are sent.)**
- **Agree which Members (a minimum of 3) will:**
 1. **Prepare any written statement for written representation appeals, informal hearings or public inquiries.**
 2. **Attend pre appeal meetings with officers, legal advisors and consultants, when necessary.**
 3. **Appear at any Informal Hearing or Public Inquiry to present the Council's case.**
 - **As an appeal proceeds and the form and type of appeal is known consider appointing external planning consultants where necessary. This will only be considered for the more complex Public Inquiry cases).**

Officers will:

- **Provide Members with professional and guidance in preparing cases and statements.**
- **Ensure relevant documents are dispatched and timetables are adhered to.**
- **Arrange venues and all notification documentation and publicity.**
- **Provide support at informal hearings / public inquiries in procedural matters and defend any application for costs.**
- **(Officers will not give evidence or comment on the merits of cases at informal hearings / public inquiries).**
- **Appoint consultants when required and assist the consultants in preparing the Council's case.**
- **Attend site inspections.**

- 5.3 Whilst not at that time specifically requested, some consultation responses referred to this protocol. The deferral of an application when committee is minded to decision it is a way that is not in accordance with officer recommendation was not supported and seen as being undemocratic by giving the applicant a second opportunity. The comments presupposed circumstances only where committee wished to refuse permission rather than approve contrary to officer recommendation. Consultation responses wished

the original decision to reject to be accepted as binding. However Scrutiny Committee commented that there had been occasions where the Council had been vulnerable as Planning Committee were unable to provide reasons for the decision.

- 5.4 The approach within the protocol allows for a more considered assessment of prospective reasons for refusal, including policy context as planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. This is important as there is a right of appeal against the decisions of the local planning authority in the case of refusals, conditions or arising from non-determination. Local planning authorities are expected to be able to justify their decisions, behave reasonably and if not found to have done so, are at risk of a cost award against them at appeal. It is your officer's advice that the approach to decision making as set out above where members are minded to make a decision contrary to officers is retained in order to ensure robust and defensible planning decision making. The alternative is to formulate full reasons for refusal together with policy references relied upon 'on the hoof'.
- 5.5 It is clear that such 'implications' reports must be approached with care – balancing the need to clearly advise members of potential implications of the proposed decision, yet not being seen as undermining the position that members are minded to take in the event that an appeal is lodged. This is a difficult balance to achieve, as officer advice might need to reflect on the likely strength of a reason for refusal and the sufficiency of evidence to support it. Pages 13 and 14 of the Probity in Planning Guidance (**Appendix 3**) apply and refer to either adjourning for potential reasons of difference with officers to be discussed or where there is concern over the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed. The guide refers to detailed reasons being required with Councillors being prepared to explain in full their planning reasons for not agreeing with officers. It states that officers should be given opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome and chances of a successful award of costs against the council, should one be made. Officer advice is of course professional advice and delivered in accordance with the code of practice of the Royal Town Planning Institute – officers cannot be expected to change their recommendation or views based on the approach that members wish to take. However whilst still retaining their professional view, they are able to continue to advise members.
- 5.6 It has been suggested by some members that the implications report should always be written by a different officer to the case officer. This is possible, but it needs to be understood that this will have a resource implication as the second officer will need knowledge of the application and site in order to write the report.

Recommendation: That the protocol for making decisions that are not in accordance with officer recommendation remains as existing.

6.0 ANNUAL REVIEW OF DECISIONS.

- 6.1 Both the constitution and the probity in planning guidance refer to reviewing planning decision making via annual visit to a sample of implemented planning permissions in order to assess the quality of decision making and that of the development. The guide advises that the essential purpose of such a review is to assist planning committee members to refine their understanding of the impact of their decisions.
- 6.2 Such a review normally takes place via a day of site inspections in early summer. However it is dependent upon committee members being fully engaged in the review. The last was held in 2014, when only 5 Members attended.
- 6.3 Committee site visits can also be arranged on an ad hoc basis outside the District as required to see examples of particular application types. The intention is to further Committee's knowledge and decision making. This previously took place in relation to large wind turbines. Members are requested to flag up any such requests with officers.

Recommendation: That procedures remain unchanged with the need for an annual review of decisions to be undertaken by Planning Committee Members via visits to a sample of sites.

7.0 CONCLUSIONS.

- 7.1 Members of the working group welcomed the opportunity to visit other Planning Committee meetings in order to identify best practice and issues for consideration at Mid Devon. The main finding of the working group was the high degree of consistency between Councils in relation to the overall operation of Planning Committees within the local area. However several differences, particularly in public speaking arrangements were found. Detail of the operation of Planning Committee and its associated procedures have been the subject of a public consultation exercise. A range of responses were received, although mainly from Parish and Town Councils. Few comments from applicants, agents, objectors or the wider public were received.
- 7.2 It is clear that the existing written procedures derived from the constitution for the working of this Committee are not clear in several areas and need to be overhauled. The production of clear written procedures is welcomed by all and will be prepared once consideration of these recommendations has been completed including ultimately by Council. This review and associated consultation has taken place with the aim of achieving fair and consistent processes that are easily understood by all present, allowing participation at Planning Committee meetings. Historically, feedback was sought from the public present at meetings via a questionnaire. Although the number of questionnaires completed was small, this approach can be resurrected in order to get an understanding of the experience of the public and how it might be improved.

Contact for any more information	Head of Planning and Regeneration (Mrs Jenny Clifford) 01884 234346
Background Papers	Planning Committee October 2010 (officer reports), 19 th June 2013 Consultation responses Probity in Planning for councillors and officers – Local Government Association and the Planning Advisory Service November 2013 Mid Devon District Council Constitution
File Reference	None.
Circulation of the Report	Members of Planning Committee, Cllr Richard Chesterton.

**PLANNING COMMITTEE
19 JUNE**

AGENDA ITEM: 9

REVIEW OF PLANNING COMMITTEE PROCEDURES

Portfolio Holder Cllr R J Chesterton
Responsible Officer Head of Planning and Regeneration

Reason for Report: To review Planning Committee procedures in light of issues that have arisen and following visits to other Local Planning Authorities.

RECOMMENDATION: That Members approve:

1. That a public consultation exercise be undertaken.
2. That a further report be brought before Planning Committee for consideration incorporating the results of the consultation.

Relationship to Corporate Plan: Links to corporate target of empowering our communities via public participation at Planning Committee meetings.

Financial Implications: Increased efficiency will lead to savings. Changes to Planning Committee procedures may also increase Council costs if further ICT such as an electronic voting system are proposed. Detailed financial implications are not known at this stage, but will become clearer in the proposed follow up report.

Legal Implications: The existing procedures for Planning Committee at Mid Devon stem from the Constitution. Recommendations from the Planning Committee on changes to their procedures will need to be approved by Council after consideration by the Standards Committee and the Monitoring Officer. Prior to this, recommendations for change will also need to be considered by the proposed Constitution Working Group.

Risk Assessment: None.

1.0 INTRODUCTION

- 1.1 Over a 3 month period in late 2011 – early 2012, a working group of 3 members of the Planning Committee including the then Chairman, together with the Professional Services Manager visited 6 other councils. The purpose of these visits was to compare and contrast planning committee procedures and identify best practice. These visits were also to form the basis for a review of planning committee procedures at Mid Devon and to make recommendations.
- 1.2 The Councils visited were Torbay, Teignbridge, Plymouth City, Taunton Deane, East Devon and Dartmoor National Park.
- 1.3 Issues for consideration within the review arising as a result of the visits to other councils are as follows:
 - Information publicising committee procedures.
 - Layout of venue.
 - Participants.
 - Agenda format and order.

- Report format and contents.
- Officer presentations – content, visuals, format and length.
- Speaking – order, number, time.
- Voting.
- Site visit arrangements.

2.0 **INFORMATION PUBLICISING COMMITTEE PROCEDURES.**

- 2.1 Many of the councils visited produce either a guide to Planning Committee (including how members of the public can speak) or include a section at the beginning of the agenda. At present a generic guide to participation at all Mid Devon's committee meetings is available on the website together with information on how the plans list is considered. However neither provide a full guide to Planning Committee including associated site visits. Given the amount of queries currently arising from both the public and Parish Councils regarding Committee procedures, the working group consider that there is a need to produce a comprehensive guide. A copy of the guide produced by East Devon is attached as **Appendix 1**. This approach is favoured over including information at the beginning of the agenda as it can be placed on the website and paper copies made available at the meeting.
- 2.2 The working group proposes that the guide also include clear directions to the venue with a map and identify available parking in the vicinity.

Recommended change 1: That a clear guide to Planning Committee procedures is produced to inform the public and other participants.

3.0 **LAYOUT OF VENUE.**

- 3.1 The layout of the committee venue needs to ensure that all attending can understand the proceedings, hear the debate and clearly see visual material. Those speaking should be visible to the public and members of the Planning Committee should be able to be identified by members of the public. On attending a range of other Planning Committees, it was not always readily apparent who was sitting where, their role in the proceedings nor who was speaking.
- 3.2 The working group favour a 'U' shaped seating arrangement for committee members with the screen located at the top of the 'U'. This change may need to be timed to coincide with proposed upgrading of the visual display screens in the Council Chamber. Members and Officers should be able to be identified by name plates. Speakers are invited to come forward to signed positions. The screens should be located and sized to be readable by all present. The sound system should ensure that all can clearly hear the proceedings. The working group also favour information signs within the venue covering such issues as recording the meeting and phones to be turned off.

Recommended change 2: That the layout of the venue is amended to a 'U' shape once display screens have been upgraded in the Council Chamber.

4.0 PARTICIPANTS

- 4.1 Within recent years a Legal Officer has not attended Planning Committee at Mid Devon as a matter of course, although is available to attend by prior arrangement depending on the content of the agenda. On the day, a Legal Officer is also available by phone. The working group noted that in the other councils visited, a Legal Officer attended as a matter of course and gave legal advice during the proceedings. The working group considered that Mid Devon would benefit from a similar arrangement and that legal input was needed in the preparation of the agenda, pre committee briefing and at the meeting itself.

Recommended change 3: That Legal advice is available in the preparation of the agenda, pre committee briefing and in person at the meeting itself.

- 4.2 Members of the working group noted that committee attendance by other officers of the councils visited varied widely with some reliant upon Senior Planning Officers present, whilst in other authorities this was supplemented by officers from other areas of the council and consultees as needed. Examples of attendance included representatives from Environmental Health and the Highway Authority. The working group considers that the attendance of other officers should be arranged via advance request in order to address specific issues/questions raised in relation to items on the agenda. This is already the practice at Mid Devon. **There is no change proposed in this respect.**

5.0 AGENDA FORMAT AND ORDER

- 5.1 Agenda formats between the different planning authorities visited were very similar, with generally only small variations between them. The working group considered that the existing Mid Devon practice of dealing with enforcement items in advance of planning applications and dealing with member interests item by item rather than in a block up front should be retained.
- 5.2 The format used at Mid Devon considers planning and other applications first (via an itemised list approach) then a range of performance, management and briefing type reports which are later in the agenda (referred to as agenda reports). In that manner the items likely to attract the most public attendance are considered earlier in the proceedings.
- 5.3 During the meeting, the itemised list of applications is reviewed by Committee members before their individual consideration. Where there are members of the public, Parish / Town Councils, Members or Officers that wish to speak to that item, they are reserved for individual consideration by the Committee. All other applications (those with no speakers) are determined in accordance with the recommendation contained within the reports by a single motion for each item moved by the Chairman and subsequent vote. This takes place in advance of the consideration of individual applications where there are speakers. This arrangement allows the meeting to focus on applications where

members specifically wish to have a debate on the issues or where there are speakers who wish to bring particular issues to their attention.

The working group proposes no change in this respect.

6.0 REPORT FORMAT AND CONTENTS

6.1 The format, content and in particular length of officer reports on planning applications has been considered on several previous occasions, most recently in October 2010 as which time it was resolved that no changes be made to the reports being presented to the Planning Committee.

6.2 It is important that consideration of planning applications is open and transparent with reports containing all necessary information to allow for fair and robust determination of applications. Planning matters can also be controversial and subject to challenge via appeal, ombudsman and judicial review. The length of planning reports needs to achieve a careful balance in order to provide sufficient detail in order to ensure robust decision making that takes into account relevant material considerations, consultations and representations but not being over detailed and repetitive.

6.3 Previous legal advice on the content of officer reports was as follows:

- *'There are no specific legal requirements as to what the report to the committee ought to contain and it may be oral rather than written or a combination of part written and part oral. It is the usual practice that all written reports are supplemented by oral advice and explanation at the committee meeting. It is usual for the report to contain the following; a description of the application, the relevant planning history and policies and will summarise the representations received from statutory and other consultees. It is common to refer to matters that are not material planning considerations and to state why these are not material however this could be done orally at the meeting.'*
- *It is important that the officer's report, whether written or oral, is as accurate as possible regarding both the facts and the law and be fair to both the applicants and any objectors. The report will usually contain a recommendation to grant or refuse planning permission, to state any conditions on which permission is granted including whether a legal obligation is required.*
- *The advantage about setting out all relevant matters in a report is that there is clear evidence, in the event of either an appeal or a judicial review application to the High Court, of what matters were considered by the planning committee in arriving at their decision. If parts of the report are given orally then the minutes would need to reflect this and this would present a higher risk that the evidence would be discounted or given less weight by a Planning Inspector or the Court.*
- *It is unusual for costs to be awarded in a planning appeal unless one party has, for example, acted unreasonably. Costs could however be*

awarded against the Council so it is important that the Council presents its evidence clearly, fully and preferably in written form. It is noted that Planning is one of the most contentious areas of the Council's functions, appeals are common and the Council does occasionally face judicial review proceedings.

- *The length of reports will to a large part, depend on the complexity of the application.*

6.4 From the attendance at other planning committees, the working group has concluded that the content of officer reports at other authorities are broadly similar to those produced at Mid Devon. Three issues of detail arose from viewing the reports from other authorities:

- Whether the conditions and reasons / reason(s) for refusal be moved up to the front of the report immediately after the recommendation? However this could be confusing in this position in the report as conditions deal with matters of detail arising from the content of the material considerations section. However in the event of a refusal, members may wish to see the reasons for refusal immediately after the recommendation at the front of the report.
- The inclusion of the name of the case officer to allow members to easily identify the officer to contact in the event of any questions on the application or content of the report in advance of the meeting.
- Whether an executive summary is needed at the front of the report? However, all approvals of planning permission are required to contain a reason for the grant of that permission. This reason already acts as a summary and is included in the report where approval is recommended. For refusals, reasons for refusal are needed and succinctly act to summarise why the proposal is considered unacceptable when considered against relevant policies. Accordingly this is not a recommended change.

Members of the working group were satisfied with the balance of information in the reports.

Recommended change 4: That in the case of refusals, the reasons for refusal be moved up to the front of the report to follow the recommendation and the case officer name be included.

7.0 OFFICER PRESENTATIONS

7.1 Officer presentations should assist those present in their understanding of the site, its surroundings and the determining planning issues. The presentation should support the written report within the agenda, but not repeat it. It should not act as a substitute thereby discouraging the reading of the report in advance of the meeting. Presentations need to be focussed and not overly long. They should act as a tool to assist robust decision making.

- 7.2 The officer presentations currently use powerpoint with plans of the proposal including its location, together with photographs and a summary slide of the determining material considerations. Other local authorities use a variety of methods to achieve the same purpose: video, google maps and streetview, photos and plans. Members of the working group did not consider the format of the officer presentations needed to substantially change, but that more clarity was needed over some matters of detail in terms of clearly marking the location of any photographs, enlarging both the title slide and cursor. Should the site photos come before the detailed application plans?

Recommended change 5: That officers review the length and content of presentations to make them more focussed and succinct.

Recommended change 6: That the content of officer presentations be amended to increase the size/ colour of the cursor, the location of photographs be clearly indicated and the title slide be enlarged.

8.0 PUBLIC SPEAKING

- 8.1 The circumstances under which public speaking takes place at Planning Committee is perhaps the most controversial area of procedure in terms of who is able to speak, when they speak, the number of people able to speak for or against proposals, how long is allowed and the order in which speakers are called. All councils visited offered the opportunity of public speaking at Planning Committee, but great differences were apparent between them.
- 8.2 **When may public speaking take place?** Public speaking is currently accommodated at two points in the agenda; firstly, at public question time of up to 30 minutes at the beginning and secondly, later in the running order in relation to individual planning applications. Speaking to agenda items needs to be clarified and it is suggested that it could take place when the item is dealt with rather than up front during public question time. This could take place for all agenda items, except perhaps those included for information such as the list of major applications or the list of delegated decisions.
- 8.3 **Who is able to speak and the number of speakers.** All Councils visited allowed objector(s), supporter(s) or the applicant / agent, a representative of the Parish or Town Council and the Ward Member to speak. A range of procedures were evident over the number allowed to speak on each application. Some Councils allowed only a single objector and a single supporter or the applicant / agent to speak, one allowed up to 2 of each and others did not limit the number of speakers. Issues to consider on this include the need to give opportunity for a fair, balanced hearing for the different parties whilst avoiding repetition of the same views and allowing the meetings to proceed in a timely manner. The current limit on one speaker for and one against an application is cause for applicant and particularly public frustration. This has been shown by the increasing number of questions being asked at the beginning of planning committee that

relate to individual applications. **The current restriction of the number of speakers should therefore be reviewed and form part of the consultation exercise. This should be considered in conjunction with the amount of time given per speaker.**

- 8.4 Members may wish to consider allowing more speakers, either in all instances or perhaps on major applications only. In the event that more speakers are allowed, Members will also need to consider the length of speaking for each person. For example:

Major applications

1 speaker for and 1 against	5 minutes each	(10 mins)
2 speakers for and 2 against	3 minutes each	(12 mins)
3 speakers for and 3 against	2 minutes each	(12 mins)
+ Parish + Ward Member		

Non major applications

1 speaker for and 1 against	3 minutes each	(6 mins)
2 speakers for and 2 against	2 minutes each	(8 mins)
3 speakers for and 3 against	2 minutes each	(12 mins)
+ Parish + Ward Member		

- 8.5 **How long to allow for speaking.** Most other Council's visited limited the time given for individual speakers to 3 minutes as is currently the case at Mid Devon with the exception of Ward Members who are not time limited. However it was noted that in a few instances this was extended to 5 minutes in the case of major applications. In some other Councils time limits on speaking length applied equally to both Parish Councils and Ward Members. The working group asks that these too be considered. The length given for each speaker should be considered in conjunction with the number of speakers.

- 8.6 **When public speaking takes place and the order of speaking.** Speaking currently takes place in the following order:

- i) Officer report
- ii) Supporter /applicant or agent
- iii) Objector
- iv) Parish or Town Council
- v) Ward Member

Feedback from the Planning Service's Agent's Forum is that agents / applicants request the ability to speak last in order to address comments or to correct any perceived inaccuracies made by others. Feedback from those that have objected to applications and also from Parish and Town Councils is that they too would wish to speak after the agent or the applicant for the same reasons. One party will inevitably be disappointed. When considering this issue one precedent for the order of speaking is that used by the Planning Inspectorate when considering planning appeals. The applicant is given the opportunity to speak last.

It is helpful for those wishing to speak advise Member Services in advance and 'register'. Individuals speaking either for or against an application are registered on a first come, first served basis.

- 8.7 **Questioning speakers.** In several Councils members of the Planning Committee asked questions of the speakers – either directly or through the Chairman. This is favoured by those attending the Agent's Forum and has advantages as a means to clarify issues as they arise. The working group suggest that this too form part of the consultation exercise to see if this change to current procedure has wider support.

Recommendation 7: That views be sought on arrangements for speaking at planning committee in terms of who, when, how many, how long for and the order of speakers. Should the questioning of speakers by Committee Members be included?

9.0 VOTING

- 9.1 At Mid Devon Members currently indicate their vote by a raising a hand. The count is taken out loud by the Member Services Officer. At other councils a range of methods were employed including an electronic system recording the vote from each member. The key in all cases is that it is clearly understood by all present which item is being determined, what the proposition is being voted on and that the result of the vote is clearly announced. This was not all always the case in other councils visited.

- 9.2 The working group considers that there needs to be a clearer procedure for the taking and announcing of votes at planning committee.

Recommended change 8: A clearer procedure be put in place regarding voting: that the item description, address and proposition be announced, Members clearly indicate their vote, that the vote is counted out loud and the outcome of the vote be announced.

10.0 SITE VISIT ARRANGEMENTS

- 10.1 Planning Committee site visits currently take place in two ways: as a visit by the whole of Planning Committee in advance of the meeting (normally on the morning of the meeting) when the application is a major or as a meeting of the Planning Working Group following the deferment of the application.
- 10.2 Normal meetings of Planning Committee (non specials) include a list of up and coming major planning applications. In order to identify such items early and timescale their consideration members are asked to indicate which they wish to visit. This involves all Committee members and takes the form of fact finding in preparation for the meeting. Members are accompanied by a Planning Officer who explains the scheme, points out specific features of the site and its surroundings and answers questions. The merits of the application are not debated and no decision is made during this visit. No other party attends.

- 10.3 Site visits may also take place by the Planning Working Group, a smaller subgroup of Planning Committee Members. This occurs when the application is deferred for a site visit by Planning Committee. Clear reasons for the site visit help members to focus on particular issues that can be seen during the visit. These may then be reported back at the next Planning Committee meeting at which time the application is normally determined. The applicant or the agent, an objector, the Parish or Town Council and the Ward Member are invited to attend and present their views on the application. There is also the opportunity for them to ask / answer questions. Speaking is controlled by the Chairman. The order of speaking is the same as outlined above. Once this has taken place, they are asked to leave. Members of the Planning Working Group then reflect on what they have heard and what they can see on site. No decision is taken. Summarised notes of the meeting are taken and reported back to Planning Committee with the agenda.
- 10.4 Members need to consider whether the Council continues to operate different site visit arrangements for members, particularly in light of recent poor attendance. Should the Planning Working Group be disbanded with deferrals for site visits being open for attendance by all members of Planning Committee? Would video presentation be beneficial and act as a substitute?
- 10.5 **Recommendation : That the arrangements for site visits be reviewed. Should the Planning Working Group continue or should site visits following a deferral be open to all members of Planning committee to attend? Clear procedures on the operation of site visit are needed.**

11.0 CONCLUSIONS

- 11.1 Members of the working group welcomed the opportunity to visit other Planning Committee meetings in order to identify best practice and issues for consideration at Mid Devon. The main finding of the working group was the high degree of consistency between Councils over the operation of Planning Committees. However several differences, particularly in public speaking arrangements were found that need to be considered. Detail of the operation of Planning Committee and its associated procedures are overdue an open and transparent review that takes into account the results of a public consultation exercise. The existing written procedures for the working of this Committee are not clear and need to be overhauled as part of this process. The Government has recently commented that the public needs to be brought back into the planning system and feel able to fully participate. This review and associated consultation will assist in this and will also aid robust, yet fair decision making that is clearly understood by all present.

Contact for Information:	Jenny Clifford, Professional Services Manager 01884 234346
Circulation of the Report:	Cabinet Member Planning Committee
List of Background Papers:	Sample planning committee agendas and guidance from the Council's visited (on their websites) Report to Planning Committee October 2010 on officer reports

Development Management and Planning Inspection Committees How they work

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A guide for anyone who would like to:

- understand how the committee process works
- attend a committee meeting
- speak about an application at a committee meeting

Introduction

This guide is intended to help you to understand how planning applications are decided by the Development Management and the Planning Inspection Committees.

Only about 10% of planning applications come to the Development Management Committee for a decision. Most planning applications are decided by the Head of Planning and Countryside Services, in consultation with the Chairman or Vice Chairman because there is general agreement on the decisions. These applications are decided under delegated powers agreed by the Council.

The role of the two Committees

- The Development Management Committee decides those applications where:

1. The Ward Member(s) disagrees with the Head of Planning's recommendation and has offered planning grounds to support his/her case. For the smallest scale of planning application the Chairman must agree to the request for the Committee to consider the case

2. It is an application submitted by the Council itself for development of its own land or property

3. It is an application submitted by a Councillor, or employee or a family member of either

4. The Head of Planning asks the Committee to decide – usually very large scale or controversial applications

5. The Head of Planning is recommending approval, against adopted policies

- If the Development Management Committee cannot agree and believes that a site visit should take place before a decision is reached, the matter is referred to the Planning Inspection Committee.

The site visit is informal and private, but is followed by the Committee members returning to the Council offices and in a formal committee meeting, deciding the application.

When and where do the Committees meet?

Both planning Committees normally meet in the Council Chamber at Knowle, in Sidmouth. The doors open 15 minutes before the meeting starts.

Very occasionally, a meeting will be held on another day or elsewhere within the District.

This may be for a Special meeting of the Committee and advance notice is always given.

The Development Management Committee usually takes place every four weeks, on a Tuesday, starting at 2.00pm.

The Planning Inspection Committee normally meets 10 days after the Development Management Committee, on a Friday, to consider any applications referred to it.

For a list of meeting dates please visit our website at www.eastdevon.gov.uk or contact our Democratic Services Officers on 01395 517546.

Who is on the Committee?

The Development Management Committee is made up of 16 District Councillors representing the whole of East Devon. Local Ward Members not on the Committee may attend and speak on applications within their ward. These Members do not have a vote.

The Planning Inspection Committee is made up of eight Members drawn

from the Development Management Committee. In the event that a Member of the Committee cannot attend, their place will be taken by an appointed substitute. Ward Members may also address this Committee, but again may not vote.

The names of the Chairman and Vice Chairman along with other members of the committees and their contact details can be found on the Council's website or from the Democratic Services team.

Which Council Officers support the Committee?

The lead officer is either the Chief Executive, or in his absence, a Corporate Director or the Senior Council lawyer. He or she will advise the Chairman on the Committee procedure.

A Democratic Services Officer will also be present to take a record of the meeting. They will also manage the list of anyone wishing to speak at the meeting. For information on how to speak at the Committees, please see the end of this guide.

The Head of Planning and/or the Development Manager will usually be the planning advisor to the Committee –

presenting reports and answering any questions the Chairman refers to them. Other Planning Officers sometimes attend to present specific reports.

Occasionally other officers attend to give specialist advice, such as an Environmental Health Officer on noise, or a County Council Highway Officer on road safety.

There is a diagram at the end of this document setting out the layout of the Committee Chamber and showing who sits where.

Who may attend the meetings?

Any member of the public can attend Committee meetings and listen to the debate. They are not public meetings because the Committee Members don't debate with those present. They are Committee meetings which are held in public and at which public speaking is allowed, subject to rules which are explained later in this guide.

There may be times when the Committee needs to discuss private matters – usually financial information, legal challenges or appeals. This will normally take place at the end of the meeting and the press and public will be asked to leave.

How the Committee meetings work

Both Development Management and Planning Inspection Committee meetings can seem very complicated. It is necessary however for these particular Committees to be formal in their approach as they are often dealing with complex matters.

Although Officers will make a recommendation, the committee has the right to make any decision it chooses as long as it is legally correct.

You may not agree with the end decision, but provided it has been reached taking into account all the relevant planning matters and having dismissed irrelevant points, it is unlikely that the decision can be successfully challenged.

If you wish to have more information on what are and are not material planning grounds please contact the Development Management Team on 01395 516551 or access the Planning section of the Council's website.

Agendas are published 10 days before the meeting takes place. Members are encouraged to look at sites before the meeting.

The agenda is also available on the Council's website, at the District Council Offices in Sidmouth and at Council Information Points. All Town and Parish Councils receive reports for applications in their area.

The Chairman will open the meeting by signing the minutes of the last meeting as a true record of that meeting, take apologies for absent Councillors and hear declarations of interest from Councillors if they relate to the cases to be decided that day. The Committee will also consider if there are to be any private matters which Officers recommend should be dealt with in private (known as Part B items).

This is followed by any urgent items the Chairman has allowed to be presented – usually cases where there is a deadline that has to be met which does not allow the case to await the next meeting.

Reports on planning policy, Government consultation documents, procedural matters and information items are dealt with next, followed by items submitted for information on delegated planning decisions made during the month and any planning or enforcement appeals submitted or decided.

The Chairman will then turn to the individual planning application reports.

Each report will be dealt with as follows:

- The planning Officer will be invited to give a verbal update on the report with any late items received since it was written. In more complex cases they may also summarise the key issues.
- Members of the public, the applicant and any Town or Parish Council representative, who have indicated on arrival at the meeting, that they wish to speak, will be invited by the Chairman to do so. There may be questions from the Committee members.
- The Ward Member(s) will make their contribution at the beginning of the debate and are invited to comment again before a vote is taken.
- The Chairman will open the debate to the Committee Members.

When a Member makes a recommendation (known as a Motion or Proposition) the Chairman will ask Members to

debate it. When, in the Chairman's view, there has been sufficient discussion, the Member who moved the motion will be given the chance to reply. There will then be a vote.

It is often the case that during a debate on a motion another Member will suggest that it should be altered in some way (an "amendment"). If this happens the meeting will also have to discuss this amendment. Only one amendment can be dealt with at a time.

An amendment cannot be the direct opposite of the original motion. The Proposer of the original motion also has the right of reply before the summing up of the amendment proposer.

If an amendment is agreed it then becomes the substantive motion (the original motion is considered to have been defeated). If the amendment is not agreed and there are no further amendments, then the meeting will vote on the original proposal. Decisions can be reached by agreement or by a formal show of hands. In the event of a tied vote, the Chairman has, if he wishes to use it, a second or 'casting' vote.

This becomes the formal decision of the Committee and is recorded in the minutes.

- The voting process may appear confusing especially where Members are voting in favour of a refusal, or where there are various motions or amendments being

raised. However the Chairman and the lead officer of the Committee will ensure that the vote is accurate and the Chairman will confirm the final decision before moving on to the next case.

- Planning applications are either:
 1. approved
 2. approved with conditions and sometimes a Section 106 legal agreement)
 3. deferred with delegated authority (being given to the Head of Planning) to approve in consultation with the Chairman and Ward Member(s)
 4. refused (on specific grounds)
 5. referred to the Planning Inspection Committee for a site visit and final decision
 6. or are Deferred for more information (to come back to a later Committee meeting when the final decision will be made).

Minutes

The minutes of the Committee meetings are available on the Councils website and/or available for inspection at the Council Offices, Knowle, Sidmouth. For these committees the minutes are not a description of the debate, but are a record of the decisions taken and any key action points that may arise.

Public speaking procedure

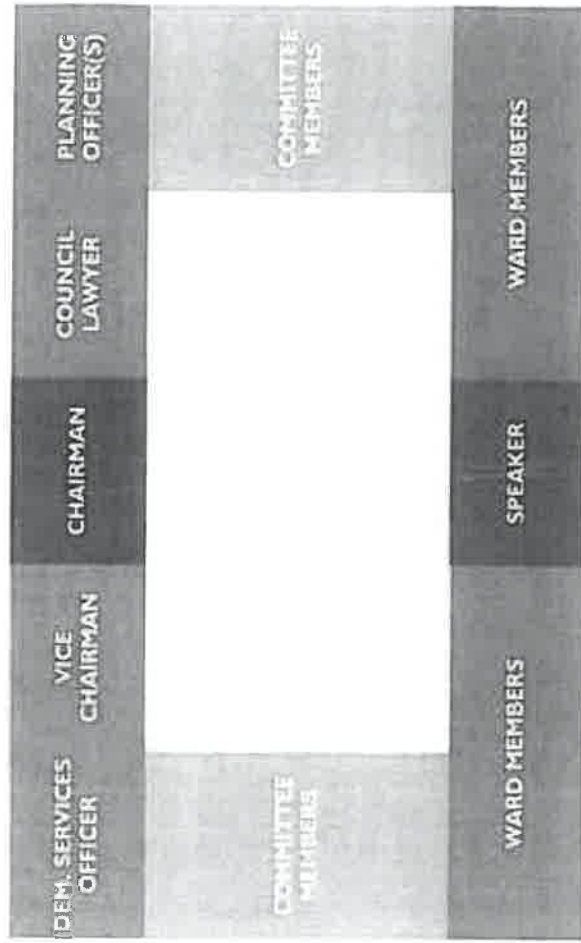
If you wish to speak:

- When you arrive at the meeting please enter your name on the sheet for the application you are interested in.
 - When a matter is discussed the relevant Officer will introduce and outline the item to be discussed. The public will then be able to speak on that matter only.
 - All individual speakers will be limited to a period of three minutes – where there is an interested group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group.
- Extra papers and/or handouts cannot be circulated at the meeting.** There is a timing clock to assist you.

- Speakers should restrict their comments to planning matters only.
- The Chairman has the right to control speaking to avoid disruption, repetition and to make best use of the meeting time.
- There may be occasions at certain meetings when at the Chairman's discretion, the time allowed for each speaker is appropriately adjusted.

- Speakers are asked not to come to the microphone if their points have already been covered.
- After the public speaking period has finished the debate will begin and the public will take no further part in the meeting.
- All attendees at the meeting are asked to offer speakers the courtesy of listening to others' points of view, even if they do not agree with it.
- The Chairman will not tolerate any interruptions from the public and is entitled to exclude people from the meeting if the business of the committee cannot be carried out effectively.
- Members of the public must not pass notes to the Committee Members during the meeting.

Committee seating plan



PUBLIC SEATING AREA

How to get in touch



Post
East Devon District Council
Knowle
Sidmouth
EX10 8HL



Telephone
01395 517546



Email
memberservices@eastdevon.gov.uk

www.eastdevon.gov.uk



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APPENDIX 3: SUMMARY OF CONSULTATION RESPONSES

INFORMATION PUBLICISING COMMITTEE PROCEDURES.

Total responses:

Parish / Town Council: 14

Agent / applicant: 2

Members of the public and individual Parish / Town Councillors: 5

MDDC elected members: 2

MDDC Scrutiny Committee

(NB: Reference to initial working group recommended changes as identified formed the basis for the consultation exercise).

Initial working group recommended change 1: That a clear guide to Planning Committee procedures is produced to inform the public and other participants.

Parish / Town Council responses:

1. Strongly agreed.
2. An advocate service should be available to assist the layman in the presentation of their arguments.
3. This should set out the stages of an application, the responses requested, who decides and actions available if the decision is unacceptable to respondents.

Agent / applicant responses:

1. Support – will improve procedures.

Members of the public and individual Parish / Town Councillor responses:

1. Agree regarding information.
2. Support. Suggest copies are widely publicised, circulated and their existence made known to all Parish Councils.

LAYOUT OF VENUE.

Initial working group recommended change 2: That the layout of the venue is amended to a 'U' shape once display screens have been upgraded in the Council Chamber.

Parish / Town Council responses:

1. Agreed.
2. Strongly support. Before the start of the meeting the Chairman should explain the proceedings and who is who.
3. The room layout has already been altered to make it more inclusive and presentational material more visible to all. Appears to be mostly implemented.
4. Introduce lapel badges in addition to name plates to enable the public to identify everyone involved.
5. If amended as proposed, suggest everything be turned through 90 degrees with a large screen behind the Chairman. This will ensure all can see and be more inclusive.

Agent / applicant responses:

1. Support – will improve procedures.

Members of the public and individual Parish / Town Councillor responses:

1. Speakers are only able to address the Chairman. It would be better to be able to address the Chairman and members rather than the side of their heads and see if they are listening.
2. Great if everything was turned through 90 degrees with a large screen behind the Chairman. The current end to end of room makes the public feel more remote and excluded.
3. Just go ahead with this.

PARTICIPANTS

Initial working group recommended change 3: That Legal advice is available in the preparation of the agenda, pre committee briefing and in person at the meeting itself.

Parish / Town Council responses:

1. Agreed provided that this advice is available on both sides of the argument.
2. Concern over cost and time. Any legal pitfalls should have been researched before this stage.
3. Support – the cost of attendance would be saved in the long run by having answers on tap rather than a delay.
4. Legal attendance at meetings is imperative.
5. Do not object, but concern of performance of legal officers thinking on the hoof (he got it wrong). Support legal input into the preparation of the agenda and pre briefing. Do not see the need for an officer to be there every meeting, but only if there was an identified need. If a legal matter came up during discussion it is more appropriate for the decision to be deferred in order that a legal point can be given proper consideration and if necessary researched, rather than make a rushed and possibly flawed response.

Agent / applicant responses:

1. Support – will improve procedures.

Members of the public and individual Parish / Town Councillor responses:

1. Is this to look after the interests of the /Council and due to fear of being sued?
2. Is Legal Opinion to be made available to all parties? It could aid public transparency.
3. What is the cost and how is it justified?

ATTENDANCE

There is no change proposed.

Parish / Town Council responses:

1. We see no need for other officers to be there unless there is an identified need as their time could be better used. We strongly argue that the Cabinet Member holding the Planning Portfolio be present at most, if not all meetings to monitor performance of committee and officers.

Members of the public and individual Parish / Town Councillor responses:

1. Agreed.

AGENDA FORMAT AND ORDER

The working group proposes no change in this respect.

Members of the public and individual Parish / Town Councillor responses:

1. Agreed.
2. We suggest that enforcement be dealt with after applications as less public are likely to be involved. We support the procedure set out in para 5.3 of the report (Review the list of applications before their individual consideration. Where there are none that wish to speak to an application or debate it, they are the subject of a single motion from the Chair in advance of the individual consideration of applications where there are speakers or a debate is requested by Members of committee).
3. There is no discussion of items where no member of the public is there to oppose. It is assumed each Councillor has fully read and understood all the documents. This is unlikely with so many for each meeting. They will therefore only be guided by the outcome expected from them. Full details should be presented for every case.

REPORT FORMAT AND CONTENTS

Initial working group recommended change 4: That the case officer name be included and in the case of refusals, the reasons for refusal be moved up to the front of the report to follow the recommendation.

Parish / Town Council responses:

1. Agreed.
2. The length and content of reports is a matter for members of Planning Committee and what they feel is needed to help them reach a conclusion. Reports need to be correct in detail and contain reference to all relevant information - not be selective or summarised, thereby not giving the full information intended by the contributor. Some reports and their content currently leave a feeling of bias. We agree with the comments at 6.3 of the report (previous legal advice on the content of officer reports).
3. There are two issues from the legal advice on the content of officer reports that we feel are not regularly observed by officers: firstly, that it is fair to both the applicant and any objectors and secondly, if parts of the report are given orally the minutes need to reflect this and this would present a higher risk that the evidence would be discounted or given less weight by a Planning Inspector or the Court.

Agent / applicant responses:

1. Support – will improve procedures.
2. Reports are too long. The issues should be capable of being summarised rather than including all comments from consultees.
3. I accept that most local authority planning officers consider that their prime responsibility in terms of development control matters is to protect the integrity

of the policies within the Development Plan currently in force. I do detect in the approach of some officers in their reports to Committee a reluctance to fully set out all other material considerations and the weight which could be applied to those matters.

Members of the public and individual Parish / Town Councillor responses:

1. Agreed.
2. Officer recommendations let Councillors off the hook to listen or have a view. It relieves members from more than a cursory reading of the application before the meeting.
3. All the public need from the planning officers is consistent, fair and transparent planning decisions.
4. All planning policies, strategies, decision making criteria should be documented in an easily understood format and held in an online database for instant access by interested members of the public. This will free up the planning officers to focus on their priorities.
5. Where precedence or case studies are used to support a decision they should be should be easily available for public reference and scrutiny.
6. A report template will ensure contents are produced in a consistent manner and designed to reflect quantitative and qualitative needs of Planning Committee.
7. Vital officer name is on each report.
8. Major decisions should be in an executive summary at the front of the report template.
9. The more systemised the process becomes, the more efficient, consistent, fairer, transparent and faster planning decisions may be made with the potential to lower caseload for officers and Committee members.

OFFICER PRESENTATIONS

Initial working group recommended change 5: That officers review the length and content of presentations to make them more focussed and succinct.

Parish / Town Council responses:

1. Agreed. Reduce reference to previous documents and jargon. Should be no longer than 15 mins but discretion applied to larger developments.
2. Be succinct.
3. Improve clarity and ease of comprehension.
4. Agree that presentation should not act as a substitute to or repeat the report thereby discouraging it from being read in advance. Agree presentations need to be focussed and not over long. Verbal presentations have been found to contain information or suggestions which have not been seen in the written report or documents on the website thereby preventing objectors presenting an alternative view. Changes have also been suggested on the hoof during the discussions of Planning Committee for which there is no presented evidential base.

Agent / applicant responses:

1. Support – will improve procedures.
2. MDDC Officers present cases clearly and concisely.

Members of the public and individual Parish / Town Councillor responses:

1. Just go ahead.
2. Supply officers with a standard presentation format / template that they and committee agree to.

Initial working group recommended change 6: That the content of officer presentations be amended to increase the size/ colour of the cursor, the location of photographs be clearly indicated and the title slide be enlarged.

Parish / Town Council responses:

1. Agreed.

Agent / applicant responses:

1. Support – will improve procedures.

Members of the public and individual Parish / Town Councillor responses:

1. Photos should have date and time taken to ensure they are a genuine representation. At the meeting I attended officer photographs were biased and not representative. I circulated photographs myself prior to the meeting other wise members would not have seen a realistic view of the area. Speakers should be able to present photographs too.

PUBLIC SPEAKING

Recommendation 7: That views be sought on arrangements for speaking at planning committee in terms of who, when, how many, how long for and the order of speakers. Should the questioning of speakers by Committee Members be included?

When may public speaking take place?

Who is able to speak and the number of speakers.

How long to allow for speaking.

When public speaking takes place and the order of speaking.

Questioning speakers.

Parish / Town Council responses:

1. Committee should be allowed to question speakers to aid clarity, but that it not be a cross-examination.
2. Agree with questioning of speakers.
3. The Chairman should make a summary statement.
4. The applicant or their agent should be able to speak last.
5. Parishes should have chance to speak last or near the end as they represent all people of the area and usually carry their objections.
6. Objectors should be able to speak last. Statements by applicants / developers may not be accurate. Local knowledge is needed to correct these.

7. There should be more interaction between the Committee members and speakers.
8. Whilst a time limit for public speakers is set, it should be flexible to allow more contributors, if adding value, within the time constraint.
9. Clarification should be given of time allowed for speakers.
10. Time for 'comeback' should be allowed for applicants, supporters / objectors and Parish Councils to respond to possible inaccuracies. Particularly useful for the party that is first in the order of speaking.
11. Speakers should have 5 minutes each.
12. The time allowed to speak should be in proportion to the size of the application.
13. Allow the applicant and public speakers to speak during the individual planning application stage rather than up front in public question time.
14. Suggest: Major applications 2 speakers and 2 against with 3 minutes each. This will allow cases for and against to be made. Minor applications: 2 speakers and 2 against with 2 minutes each.
15. Very important Committee can clarify points with speakers.
16. Our Council involve the applicant in a question and answer session prior to the application being tabled. This is not through the Chairman, but as an open forum. It aids application understanding and the reasons for it.
17. Public speaking at the beginning of the meeting indicates frustration at not being able to speak when the application is considered.
18. It would be better to have speaking to agenda items when the item is dealt with rather than up front in public question time. It would then be relevant to the item being discussed. Currently the question could be asked over 2 hours before the matters is discussed and Committee could then forget the relevance. The recorded answers in the minutes are not in chronological order.
19. The number of people speaking for or against an application will always be contentious. Note a suggested difference between major and non major applications. Surely the reason why it is before Committee in the first place is because it is major. If non major it has probably been called to Committee by the Ward Member as it is controversial and so to those involved it becomes major.
20. Three minutes is very tight – anything less would not be considered viable. If public question time at the beginning of the meeting was restricted to no application questions and public questions taken with the relevant application, the questions could be better managed and restricted to 2 minutes per question. Five minutes could be permitted per speaker: 1 for, 1 against + Parish / Town representative + Ward members, 6 minutes for each.
21. Objectors should speak last as the applicant has had the opportunity to put forward papers in support of the application, has had meetings with officers to put their case and if recommended for approval, even more of the applicant's case is put forward. Objectors and Parish / Town Councils feel disadvantaged by this so need the balance of speaking last. When it gets before an Inspector, the applicant / appellant is on the other side and rightly should have the last word.
22. Support the practice now in place for registering speakers and the order of speaking.
23. Support increasing the number of people being able to have their say when an application is discussed.

24. Support a time restriction for Ward Members and that it be the same as for other speakers.
25. Give applicants the opportunity to speak at the end of this period, following statements by others.
26. Parish Councils should be given 5 minutes to speak as they represent large numbers of people.
27. Ward Members speaking should be restricted to 5 minutes each with a collective time of 15 minutes when more than 1 attends. Ward Members should be able to ask questions at the Chairman's discretion.
28. The length of Parish Council speaking is influenced by whether the Committee participants have read and understood the response of the Parish to the application and how much discussion there is between the case officer and members of Planning Committee in advance of the meeting.
29. If the original documentation and response have been understood there should not be a need for repetition and speeches can be kept short. The key is whether speakers believe Committee members have understood the issues. A summary (perhaps from the Ward Member) would clarify this understanding. Proceedings will shorten if speakers are able to comment on the summary. This is an issue when Committee members make observations during their discussion that do not match local awareness and there is no opportunity for comment or for correction, particularly over factual inaccuracies. If the Ward Member provides an initial summary, an adjustment to interpretation could be offered by them before a vote is taken.
30. Time allocations for speaking should be extended to five minutes for Town and larger Parish Councillors to speak, as they represent large numbers of people.

Agent / applicant responses:

1. Support – will improve procedures.
2. Allowing questions from Members is a good thing and will engage with the issues. A more reasoned debate may result from interaction between the Committee and speakers. The impression currently is that I am going through the motions and what is said will have no effect on member's views whatsoever.

MDDC Councillor responses:

1. There should be a right of reply when inaccurate statements are made by Planning Committee members during their debate. A spokesperson either for or against the application should be given the opportunity to correct this. Fairer decisions will result.
2. Restrictions on Ward Member speaking are too onerous and more speaking time should be given as they represent their constituents.
3. Ward Members that are also on Planning Committee have an unfair advantage as their input is not restricted. In some other authorities Committee members have the same restrictions as non Committee members.
4. I am aware of a Local Authority that prevents a Ward Member on Planning Committee from voting on an application in their ward.

MDDC Scrutiny Committee's response:

1. Members of Planning Committee would like the opportunity to ask questions of speakers to clarify issues. This takes place at some other councils.

Members of the public and individual Parish / Town Councillor responses:

1. The order of speakers is not well thought out. There is no opportunity to correct wrong statements or to address committee members directly to respond to their comments or questions. Only officers and DCC can do so.
2. Issues were discussed out of context, misdirecting the discussion. Several facts were used to push the application through that were in contrast to MDDC own data i.e car use in Devon.
3. Two members of the public should be allowed to speak for and against – one is not enough.
4. Time allowed for each speaker is long enough.
5. Officers are allowed to speak for too long. The content is lost in a mass of slides and paperwork. Their time should be cut to allow further public representation and real discussion amongst all involved –not just members and officers.
6. Speakers should be allowed to ask questions and to answer them.
7. Public questions should be immediately in front of the relevant items otherwise they are lost in the Committee's minds by the time of the relevant item.
8. Need to remove the ruling that questions cannot directly mention policies but must relate to them by the nature of the question. Most questions are a waste of time as Committee members don't know what they relate to unless they are fully conversant with all policies.
9. Who decides what is a major application – this is arrogant. In many cases an application may have major implications for someone's life. It's not about application size. All applications should have a right to a hearing.
10. The number of speakers and timing is difficult – Majors: 4 minutes is not enough, 5 minutes is too long. 2 public speakers, each with 3 minutes would be more democratic and allow for different points of view and that not all objectors may want to get together. Additional opportunity for the Parish and Ward members should be given. Non-majors: 1 speaker each at 3 minutes.
11. Allowing the planning officer to respond to questions last with no recourse to address inaccuracies is wrong and undemocratic. Opportunity should be given for public response.
12. One supporter, one objector, the Town / Parish Council and the Ward Member should be allowed to speak, each having 3 minutes.
13. Questioning of speakers should be allowed.
14. For both major and non major applications 3 speakers for and 3 against should be the norm with 3 minute allowed for each.
15. Major applications – the applicant is normally a professional, articulate, presents arguments succinctly and convincing in a very short time. Objectors are unused to such situations, anxious, emotional and find it harder to present arguments concisely. The process favours or seems to favour the applicant.
16. Non majors – 3 speakers for each side are unlikely and could be limited to 2 speakers. Who decides what is a major application as non major issues may generate strong feelings for and against.
17. Propose questions be taken at the point of presentation of individual applications with an immediate response discussion. Follow with up to 3 speakers for and against limited to 3 minutes each. Any open session at the beginning should be limited to general issues, not individual plans.
18. If time is a huge constraint, drop public question time at the beginning. These are frustrating as answers are not given immediately. The questioner is not

allowed a discussion if they feel their question has not been properly answered.

19. Attempts to constrain time to speak, cross examination and questioning undermine the planning process and may be considered undemocratic. Is the reason to manage or constrain the amount of discussion or the time availability of committee members?
20. More productive to proactively improve public engagement and information availability and attempt to reduce the need to question in the first place than attempt to restrict public interaction.
21. Consider separating appeals from applications an minor from major applications. Allocate each application category an appropriate amount of time and resource rather than applying the same rules across all applications.
22. Improve communication, community engagement and transparency to keep the number of items referred to committee to a minimum (apart from major applications).
23. Committee should be able to question all speakers, but most information should be gathered by committee prior to the meeting.

VOTING

Initial working group recommended change 8: A clearer procedure be put in place regarding voting: that the item description, address and proposition be announced, Members clearly indicate their vote, that the vote is counted out loud and the outcome of the vote be announced.

Parish / Town Council responses:

1. Agreed.
2. Voting needs to be more visible and accountable to the general public.
3. The vote should be counted aloud.
4. The results of the vote must be clearly announced.
5. The application should be summarised before the vote.
6. Funds permitting, use an electronic voting system as mistakes can be made on a hand count.
7. The vote should be made after clear description of item, address and proposal. The vote taking should continue as now by the raising of hands as it can be seen clearly which way each member votes.

Agent / applicant responses:

1. Support – will improve procedures.

Members of the public and individual Parish / Town Councillor responses:

1. Agreed.
2. Abstaining is a cop out unless there are legitimate (non-political) reasons. Each member should be obliged to vote. If they abstain, the reason must be given. If they wish to hide behind an abstention, they should not be on the committee.
3. Disagree with electronic voting on grounds of cost and members need the exercise to wake them up.
4. The public need to see who is voting which way and that they be under the pressure of public scrutiny to vote honestly and with a conscience.

5. No need to consult on this – go ahead. A record of an individual members vote history should be maintained in the interests of transparency and consistency.

SITE VISIT ARRANGEMENTS

Recommendation 9: That the arrangements for site visits be reviewed. Should the Planning Working Group continue or should site visits following a deferral be open to all members of Planning Committee to attend? Clear procedures on the operation of site visit are needed.

Parish / Town Council responses:

1. Agreed – All members of Committee should be able to attend the site visit together with Ward Members and Parish representative.
2. Parish Council requests for a Committee site visit should be honoured to which Parish Clerks should be invited.
3. No strong feelings on the number of attendees.
4. The relevance of the second visit should be made clear.
5. At least two Parish or Town Councillors should be allowed.
6. There should be opportunity for Parish Council representatives to attend, to reduce the total number of visits.
7. At Committee meetings Officer reports are often read verbatim. This is unnecessary and waste time. Councillors should have read these already and accept officers have based their reports on policies and reasons.
8. It would be helpful for Parish Council to know if a site visit has taken place initially by the case officer and later by Committee members and the findings.
9. An opportunity for Parish Council attendance at a site visit would help understanding and should be an automatic option.
10. Site visits should take place prior to the meeting by all members where the application is major or considered complicated as they will then understand the location and site layout when listening to representations and carrying out their own discussions. These site visits would be with the Committee members and case officer. It is apparent from some meetings that councillors have little idea of the location let alone any other detail. Referrals for site visits would be reduced – our experience of these are not good and these types of visits should be the exception rather than the rule. The format could be as now.

Agent / applicant responses:

1. Support – will improve procedures.
2. I am often told that it is not possible to persuade Councillors to visit. Often a site visit is critically important to the understanding of project context, especially for Councillors who do not know the site. I was previously a Councillor for a different authority. There was a rota system requiring Councillors to attend site inspection panel visits. If they failed to attend, they were removed from the Committee.

Members of the public and individual Parish / Town Councillor responses:

1. Date and time should be agreed with the Town Council and people making representations so the problem under scrutiny is seen.

2. In this case the visit was held mid-morning on a Wednesday. Research from the officer would have informed her that the doctor's surgery was closed and pre-school traffic finished. (Was this why this time and day was chosen?). one members visited outside this time and experienced chaos rather than the quiet lane portrayed by the officer trying to push the application through.
3. All members should attend a site visit if one is needed. A visit on 2 occasions would give a balanced perspective on traffic.
4. Planning Working Group visits – Non-committee speakers / attendees should not be asked to leave after speaking, but should stay in the wings in case other queries arise.
5. Video presentation is not a substitute for a site visit.
6. All committee members should be asked to attend site visits – all will vote so they should all see the site.
7. All site visits should include an invitation to the applicant and one objector. These people will be directly affected by the decision and have close, detailed knowledge of the area. The people who will be affected by the outcome are the only ones able to affectively point this out.
8. Site visits need to see the real situation – morning visits may present a different picture from an evening / night visit.
9. Concerned at reference to poor recent attendance. Committee members should address the need for site visits otherwise the fairness of the planning process is undermined. Members should regularly commit and guarantee their future available time on a regular basis.
10. Why is it left up to Members to decide which to visit? Known number of planning officers, committee members and site visits required to be processed within a particular time frame. Put a process in place where the appropriate quorum is mandated to attend site visits.
11. Planning officers are allocated cases geographically. Also allocate cases to individual committee members who are transparently responsible and accountable for assisting and supporting the planning officer to ensure that together they handle all aspects of their case load up to the final committee meeting.
12. Planning committee needs to allocate the correct level of resources in order to complete the workload to an agreed standard. Case load should be shared equitably between all council members. The methodology should be public and used to measure performance.

OTHER COMMENTS RECEIVED

Parish / Town Council responses:

1. Disappointed and concerned that the consultation has been restricted to Planning Committee procedures when the PC has raised issues with the Chief Executive and Head of Planning and Regeneration over the performance, actions and procedures of the planning department and some of its officers. There was an understanding that we would be involved in any discussions from an early stage (reinforced by the District Councillor and Cabinet Portfolio for Planning). Much of this has not materialised to date. A few concerns have been addressed, but the main ones have not. It has taken so long for the consultation to take place gives concern to the veracity of assurance given to the Parish Council. Facts can be given to support the

concerns –all have been made known to the above Councillor and officer over the past years.

2. The review is welcomed – the operation of the Committee has been source of public concern.
3. If the application is for a large project the Planning Committee should meet in the town or village hall closest to that project if requested.
4. A Parish Council representative should be invited to pre-meetings with applicants.
5. Parish Council sometimes reach a decision (recommendation) subject to proviso or concerns expressed. Officer Reports should explain or detail this. If not, the Parish Council do not feel their voluntary time and effort has been valued. On major submissions with multiple points it would be time consuming to go into detail, but a 'noted' is too casual a reply. Planning guidelines may overrule local comments or wishes, but the principle could be established.
6. Too much power is delegated to Planning Officer, potentially leaving them in a vulnerable position. More power should be with the elected members on the Planning Committee.
7. Voting abstentions should not be allowed. Abstaining Councillors should make room for those who wish to vote. It is a waste of time being on a Committee if abstaining.
8. There is a lack of dimensions on plans making it difficult to know the size.
9. Fixed meeting dates of Parish Councils should be factored in when setting the timetable for an application through the planning process (especially for major applications).
10. When Committee decide to refuse an application against officer recommendation it should not go back to the Officer for clarification of policy and reasoning. The original decision to reject should be accepted as binding. To do otherwise is undemocratic. Once the Committee has made their decision it is for Officers to implement it. Follow up reports should only be required when the officer recommendation is for approval and the Committee decides to refuse. Over-turn decisions from refusal to approval will not be appealed.
11. Conditions on planning approvals are not followed up. A register is required to record conditions and ties to be policed by the Planning Enforcement Officers.
12. The detail of an application is important and any conditions arising. Who has responsibility to make sure conditions are met? Is the Parish Council, being local, expected to oversee the conditions are applied or is there a formal review by the case officer?
13. Lack of consultation with Parish Council when details of an original application are changed or amended before a final decision is made.
14. Closing dates for public comment set from the date of registration and not when published in press or on site (it sometimes becomes flexible).
15. Relevant application pages on website not containing all documents or documents referring to other applications.
16. Planning officers making prior decisions which should rightly be made later by Committee Chair or elected councillors.
17. Meetings take place between the applicant and officers which the Parish are prevented from attending where their input could prevent or reduce potential conflict of misunderstanding.
18. Notes of such meetings are not passed to Parish Council or placed in the public domain leading to suspicions of questionable procedures.

19. After approvals are given or enforcement notices issued by committee conditions are amended or changed completely without reference to Parish Councils, local objectors or the Planning Committee.
20. Instances of misinformation given where certain actions are not challenged and no evidence produced to support or verify information or actions.
21. Information presented to Committee by officers during the hearing which has not been made openly available and no evidence placed in the public domain subsequently to support such information.
22. Concerned at proposal by Planning Department to do all paperwork by email. This would cause great difficulty to small Parish Meetings without access to large, coloured photocopy systems. I hope it is dropped for small parishes.

Agent / applicant responses:

1. At times it appears that Councillors are not fully briefed in their training to understand that a balanced decision has to be reached, taking account of both policies in the Development Plan and **all** other material considerations.
2. There is a troubling impression given by Committee members that they can get out of voting as a result of someone locally mentioning the application to them. Further clarity should be provided to Councillors in training as to what constitutes a conflict of interest. It appears that local objectors who have discussed the matter with their ward councillor suffer a disadvantage later in the process because the councillor is frightened to vote on it.

MDDC Councillor responses:

1. Concerned about the number of special meetings. I avoid being unavailable for scheduled meetings and plan ahead at the start of the year. You should either make provision to the start to meetings in the morning or identify dates that might be needed for extra meetings. Special meetings are more of a problem for members who are the only representative of their patch.

MDDC Scrutiny Committee's response:

1. When the Committee goes against officer recommendation, applications are often deferred. They come back to Committee at a later date giving the applicant a second chance to have their application heard.
2. Where Planning Committee is minded to determine an application against officer advice it is deferred for an officer implications report. On occasion the Committee had been unable to provide reasons for the proposed decision which related to planning policy. This has left the planning authority in a vulnerable position should an appeal take place subsequently.
3. There is a concern over the validity of information provided by applicants and what checks are undertaken.
4. Concern over the enforcement function of planning. Statistics of cases to be provided to Scrutiny Committee members.

Members of the public and individual Parish / Town Councillor responses:

1. I have attended one Planning Committee meeting as a Town Councillor. The impression was not good. The procedure was largely lip service and decisions had been made already.
2. Members (including the Chairman) need to listen to speakers. There was a lack of common decency in not doing this that was appealing behaviour and unacceptable in a formal meeting.

3. Committee members are given advice on how they should vote on an application based on officer's direction and pressure. This makes a mockery of the democratic process. The Committee should be free to make their own informed decision based on balanced, not biased facts.
4. Where a vote is taken and result not desired by the Chair, on no account should members be asked to reconsider without genuine need agreed.
5. Members are advised to be subservient to planning officer recommendations.
6. Minutes should be a proper record of what has occurred. Verbatim records should be available or recording.
7. Support recording and sharing of committee meetings in the interest of transparency and engagement.
8. A Councillor has been denied participation for nearly a year and faced court proceeding for something said in a committee. Councillors must be free to make honest and transparent input.
9. The consultation skates over the surface and avoids the minutia of the proceedings.
10. There is the impression of a very relaxed, cosy relationship between developers and planners.
11. The issues being experienced should be elaborated on and why is the review limited to the committee processes only? Many aspects of the planning process go on outside the committee. How was the subject list arrived at?
12. If community engagement is addressed thoroughly, the number of appeals, arbitrations and workload of the committee may be reduced.
13. Planning Committee's customer and stakeholder is the community. It should move its attention away from attempting to solve internal issues towards becoming an outward (community) facing service capable of delivering added value and efficiencies to all parties.
14. Planning Committee serves the public and has statutory obligations regarding their work – it cannot afford to be found short in any aspect of service provision.
15. In order to improve, there needs to be willingness to consider changing current working methods: where is the Planning Committee today in terms of performance and efficiency? Where does it want to be in the future? – a clear set of statements to define how a new and improved committee could perform.
16. It is difficult to make reliable informed decisions on detailed management aspects without first addressing issues arising from the bigger picture.
17. Proven processes and systems should be used to assist process improvement. (Agree strategic goals that link to objectives, that link to measurements that link to individual goals, budgets and targets. Without a clear Strategy, - how to agree objectives?, without quantifiable objectives, - how to measure performance?, if unable to measure performance, how is it possible to drive improvement?). These are informed by external community engagement (how we perform and look at our community), internal business processes (what should be focus on to improve satisfy our objectives), learning and growth (what does the planning committee need to do to improve performance and service?), investments (what investments are needed to achieve the objectives?)
18. Parish Councils feel marginalised in the planning process (especially with the presumption to approve). Their opinions and those of their parishioners are ignored or overlooked. There is good will and enthusiasm in the Parishes.

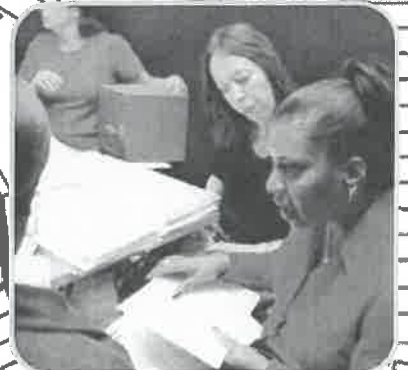
Rather than risk alienating them, explore ways how MDDC may utilise the pool or resource.

19. If MDDC are short of resources, consider co-opting Parish Councillors into the Planning Process.
20. Much time is spent scrutinising and querying applications that are either not accurate or up to a basic minimum standard. Simple changes to the process could ensure a competent qualified officer checks and approves the documents for accuracy prior to being released to the public.

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Probity in planning

for councillors and officers



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This publication was prepared by Trevor Roberts Associates for the Planning Advisory Service. It also includes contributions from officers from various councils.

April 2013

Foreword

This 2013 update to the 2009 version of the Local Government Association's Probity in Planning guide reflects changes introduced by the Localism Act 2011. It clarifies how councillors can get involved in planning discussions on plan making and on applications, on behalf of their communities in a fair, impartial and transparent way.

This guide has been written for officers and councillors involved in planning. Councillors should also be familiar with their own codes of conduct and guidance.

This guide is not intended to nor does it constitute legal advice. Councillors and officers will need to obtain their own legal advice on any matters of a legal nature concerning matters of probity.

Introduction

Planning has a positive and proactive role to play at the heart of local government. It helps councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.

The planning system works best when officers and councillors involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.

Planning decisions involve balancing many competing interests. In doing this, decision makers need an ethos of decision-making in the wider public interest on what can be controversial proposals.

It is recommended that councillors should receive regular training on code of conduct issues, interests and predetermination, as well as on planning matters.

Background

In 1997, the Third Report of the Committee on Standards in Public Life (known as the Nolan Report) resulted in pressures on councillors to avoid contact with developers in the interests of ensuring probity. In today's place-shaping context, early councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need.

This guidance is intended to reinforce councillors' community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.

Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework.

Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the development plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.

One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved.

Whilst councillors must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.

The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.

This guidance is not intended to be prescriptive. Local circumstances may provide reasons for local variations of policy and practice. Every council should regularly review the way in which it conducts its planning business.

This guidance refers mainly to the actions of a local authority planning committee as the principal decision-making forum on planning matters. It is recognised, however, that authorities have a range of forms of decision-making: officer delegations; area committees; planning boards, and full council.

This guidance applies equally to these alternative forms of decision-making. Indeed, it becomes very important if the full council is determining planning applications referred to it, or adopting local plans and other policy documents, that councillors taking those decisions understand the importance of this guidance. The guidance also applies to councillor involvement in planning enforcement cases or the making of compulsory purchase orders.

The general role and conduct of councillors and officers

Councillors and officers have different but complementary roles. Both serve the public but councillors are responsible to the electorate, whilst officers are responsible to the council as a whole. Officers advise councillors and the council and carry out the council's work. They are employed by the council, not by individual councillors. A successful relationship between councillors and officers will be based upon mutual trust, understanding and respect of each other's positions.

Both councillors and officers are guided by codes of conduct. The 2011 Act sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct. All councils had to adopt a local code by August 2012.

The adopted code should be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

It should embrace the standards central to the preservation of an ethical approach to council business, including the need to register and disclose interests, as well as appropriate relationships with other councillors, staff, and the public. Many local authorities have adopted their own, separate codes relating specifically to planning although these should be cross referenced with the substantive code of conduct for the council.

Staff who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. Many authorities will have adopted a code of conduct for employees and incorporated those or equivalent rules of conduct into the contracts of employment of employees.

In addition to these codes, a council's standing orders set down rules which govern the conduct of council business.

Councillors and officers should be cautious about accepting gifts and hospitality and should exercise their discretion. Any councillor or officer receiving any such offers over and above an agreed nominal value should let the council's monitoring officer know, in writing, and seek advice as to whether they should be accepted or declined. Guidance on these issues for both councillors and officers should be included in the local code of conduct

Employees must always act impartially and in a politically neutral manner. The Local Government and Housing Act 1989 enables restrictions to be set on the outside activities of senior officers, such as membership of political parties and serving on another council. Councils should carefully consider which of their officers are subject to such restrictions and review this regularly.

Officers and serving councillors must not act as agents for people pursuing planning matters within their authority even if they are not involved in the decision making on it.

Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the local authority), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.

Finally, as planning can sometimes appear to be complex and as there are currently many changes in planning taking place, the LGA endorses the good practice of many councils which ensures that their councillors receive training on planning when first appointed to the planning committee or local plan steering group, and regularly thereafter. The Planning Advisory Service (PAS) can provide training to councillors (contact pas@local.gov.uk).

Registration and disclosure of interests

Chapter 7 of the 2011 Act places requirements on councillors regarding the registration and disclosure of their pecuniary interests and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests are set out in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest, are criminal offences.

For full guidance on interests, see Openness and transparency on personal interests: guidance for councillors, Department for Communities and Local Government, March 2013. (This guidance note does not seek to replicate the detailed information contained within the DCLG note). Advice should always be sought from the council's monitoring officer. Ultimately, responsibility for fulfilling the requirements rests with each councillor.

The provisions of the Act seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate.

Each council's code of conduct should establish what interests need to be disclosed. All disclosable interests should be registered and a register maintained by the council's monitoring officer and made available to the public. Councillors should also disclose that interest orally at the committee meeting when it relates to an item under discussion.

A councillor must provide the monitoring officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the councillor becoming aware of such changes.

A disclosable pecuniary interest relating to an item under discussion requires the withdrawal of the councillor from the committee. In certain circumstances, a dispensation can be sought from the appropriate body or officer to take part in that particular item of business.

If a councillor has a (non-pecuniary) personal interest, he or she should disclose that interest, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.

It is always best to identify a potential interest early on. If a councillor thinks that they may have an interest in a particular matter to be discussed at planning committee he or she should raise this with their monitoring officer as soon as possible.

See Appendix for a flowchart of how councillors' interests should be handled.

Predisposition, predetermination, or bias

Members of a planning committee, Local Plan steering group (or full Council when the local plan is being considered) need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.

The courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the committee's decision susceptible to challenge by Judicial Review.

Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is alright, the former is not and may result in a Court quashing such planning decisions.

Section 25 of the Act also provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter.

This reflects the common law position that a councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased.

For example, a councillor who states "Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee" will be perceived very differently from a councillor who states: "Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area."

If a councillor has predetermined their position, they should withdraw from being a member of the decision-making body for that matter.

This would apply to any member of the planning committee who wanted to speak for or against a proposal, as a campaigner (for example on a proposal within their ward). If the Council rules allow substitutes to the meeting, this could be an appropriate option.

Authorities will usually have a cabinet/ executive member responsible for development and planning. This councillor is able to be a member of the planning committee. Leading members of a local authority, who have participated in the development of planning policies and proposals, need not and should not, on that ground and in the interests of the good conduct of business, normally exclude themselves from decision making committees.

Development proposals submitted by councillors and officers, and council development

Proposals submitted by serving and former councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.

Such proposals must be handled in a way that gives no grounds for accusations of favouritism. Any local planning protocol or code of good practice should address the following points in relation to proposals submitted by councillors and planning officers:

- if they submit their own proposal to their authority they should play no part in its consideration
- a system should be devised to identify and manage such proposals
- the council's monitoring officer should be informed of such proposals
- such proposals should be reported to the planning committee and not dealt with by officers under delegated powers.

A councillor would undoubtedly have a disclosable pecuniary interest in their own application and should not participate in its consideration. They do have the same rights as any applicant in seeking to explain their proposal to an officer, but the councillor, as applicant, should also not seek to improperly influence the decision.

Proposals for a council's own development should be treated with the same transparency and impartiality as those of private developers.

Lobbying of and by councillors

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.

As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved.

As noted earlier in this guidance note, the common law permits predisposition but nevertheless it remains good practice that, when being lobbied, councillors (members of the planning committee in particular) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.

In such situations, they could restrict themselves to giving advice about the process and what can and can't be taken into account.

Councillors can raise issues which have been raised by their constituents, with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at committee.

If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision-making committee, they would be well advised to withdraw once any public or ward member speaking opportunities had been completed in order to counter any suggestion that members of the committee may have been influenced by their continuing presence. This should be set out in the authority's code of conduct for planning matters.

It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor.

A local code on planning should also address the following more specific issues about lobbying:

- Planning decisions cannot be made on a party political basis in response to lobbying; the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- Planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors.
- Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.
- Call-in procedures, whereby councillors can require a proposal that would normally be determined under the delegated authority to be called in for determination by the planning committee, should require the reasons for call-in to be recorded in writing and to refer solely to matters of material planning concern.

As previously outlined, councillors must always be mindful of their responsibilities and duties under their local codes of conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this guidance.

Pre-application discussions

Pre-application discussions between a potential applicant and a council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.

Some councils have been concerned about probity issues raised by involving councillors in pre-application discussions, worried that councillors would be accused of predetermination when the subsequent application came in for consideration. Now, through the Localism Act and previously the Audit Commission, the LGA and PAS recognise that councillors have an important role to play in pre-application discussions, bringing their local knowledge and expertise, along with an understanding of community views. Involving councillors can help identify issues early on, helps councillors lead on community issues and helps to make sure that issues don't come to light for the first time at committee. PAS recommends a 'no shocks' approach.

The Localism Act, particularly S25, by endorsing this approach, has given councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that councillors might have fettered their discretion, such discussions should take place within clear, published guidelines.

Although the term 'pre-application' has been used, the same considerations should apply to any discussions which occur before a decision is taken. In addition to any specific local circumstances, guidelines should include the following:

- Clarity at the outset that the discussions will not bind a council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- An acknowledgement that consistent advice should be given by officers based upon the development plan and material planning considerations.
- Officers should be present with councillors in pre-application meetings. Councillors should avoid giving separate advice on the development plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the authority's position is co-ordinated.

- Confirmation that a written note should be made of all meetings. An officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.
- A commitment that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.
- The scale of proposals to which these guidelines would apply. Councillors talk regularly to constituents to gauge their views on matters of local concern. The Nolan Committee argued that keeping a register of these conversations would be impractical and unnecessary. Authorities should think about when, however, discussions should be registered and notes written.

Authorities have other mechanisms to involve councillors in pre-application discussions including:

- committee information reports by officers of discussions to enable councillors to raise issues, identify items of interest and seek further information
- developer presentations to committees which have the advantage of transparency if held in public as a committee would normally be (with notes taken)
- ward councillor briefing by officers on pre-application discussions.

Similar arrangements can also be used when authorities are looking at new policy documents and particularly when making new site allocations in emerging development plans and wish to engage with different parties, including councillors, at an early stage in the process.

The Statement of Community Involvement will set out the council's approach to involving communities and other consultees in pre-application discussions. Some authorities have public planning forums to explore major pre-application proposals with the developer outlining their ideas and invited speakers to represent differing interests and consultees. As well as being transparent, these forums allow councillors and consultees to seek information and identify important issues for the proposal to address, although still bearing in mind the need to avoid pre-determination.

Officer reports to committee

As a result of decisions made by the courts and ombudsman, officer reports on planning applications must have regard to the following:

- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
- Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations, and any other material planning considerations.

- Reports should have a written recommendation for a decision to be made.
- Reports should contain technical appraisals which clearly justify the recommendation.
- If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the council's statutory duty under s38A of the Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990.

Any oral updates or changes to the report should be recorded.

Public speaking at planning committees

Whether to allow public speaking at a planning committee or not is up to each local authority. Most authorities do allow it. As a result, public confidence is generally enhanced and direct lobbying may be reduced. The disadvantage is that it can make the meetings longer and sometimes harder to manage.

Where public speaking is allowed, clear protocols should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.

In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the council in writing.

New documents should not be circulated to the committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This should be made clear to those who intend to speak.

Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

Decisions which differ from a recommendation

The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (s38A Planning & Compensation Act 2004 and s70 of the Town and Country Planning Act 1990).

This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.

The courts have expressed the view that the committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.

Planning committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions or terms of a S106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

Planning committees are advised to take the following steps before making a decision which differs from the officer recommendation:

- if a councillor is concerned about an officer recommendation they should discuss their areas of difference and the reasons for that with officers in advance of the committee meeting
- recording the detailed reasons as part of the mover's motion
- adjourning for a few minutes for those reasons to be discussed and then agreed by the committee
- where there is concern about the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.

If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation. Pressure should never be put on officers to 'go away and sort out the planning reasons'.

The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the council, should one be made.

All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.

The application may then have to be referred to the relevant secretary of state, depending upon the type and scale of the development proposed (s77 of the Town and Country Planning Act 1990). If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

Committee site visits

National standards and local codes also apply to site visits. Councils should have a clear and consistent approach on when and why to hold a site visit and how to conduct it. This should avoid accusations that visits are arbitrary, unfair or a covert lobbying device. The following points may be helpful:

- visits should only be used where the benefit is clear and substantial; officers will have visited the site and assessed the scheme against policies and material considerations already
- the purpose, format and conduct should be clear at the outset and adhered to throughout the visit
- where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test should still apply.
- keep a record of the reasons why a site visit is called.

A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- the comments of the applicant and objectors cannot be expressed adequately in writing or
- the proposal is particularly contentious.

Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters.

This should be made clear to any members of the public who are there.

Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

Annual review of decisions

It is good practice for councillors to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision-making, strengthen public confidence in the planning system, and can help with reviews of planning policy.

Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

Scrutiny or standards committees may be able to assist in this process but the essential purpose of these reviews is to assist planning committee members to refine their understanding of the impact of their decisions. Planning committee members should be fully engaged in such reviews.

Complaints and record keeping

All councils should have a complaints procedure which may apply to all council activities. A council should also consider how planning-related complaints will be handled, in relation to the code of conduct adopted by the authority.

So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by committee and under delegated powers, and to applications, enforcement and development plan matters.

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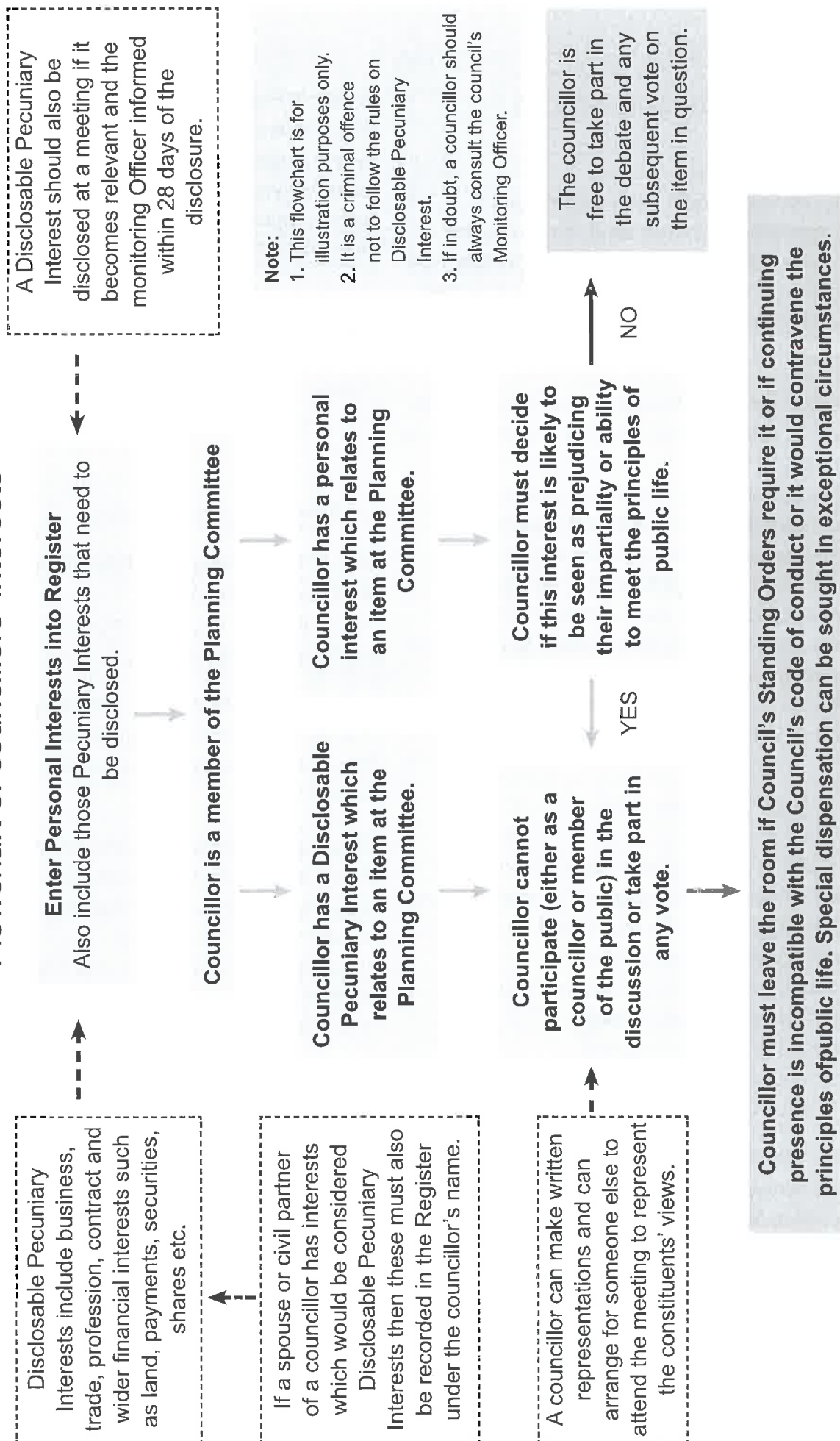
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Flowchart of councillors' interests





Local Government Association

Local Government House
Smith Square
London SW1P 3HZ

Telephone 020 7664 3000

Fax 020 7664 3030

Email info@local.gov.uk

www.local.gov.uk

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Extracts from the Constitution

Rules of Procedure

11. Questions by the Public

11.1 General

- (a) Public Question Time shall apply at all public meetings of the Council with the exception of the Licencing Sub Committee, Licensing Regulatory Sub-committee and Standards Sub Committee.
- (b) Public Question Time shall normally be dealt with at the beginning of the Agenda (i.e. as part of the formal meeting) unless a Committee/Group shall determine otherwise;
- (c) The total time allocated for questions by the public is limited to 30 minutes. In the event that there are no questions, or no further questions, the Chairman shall have the discretion to proceed with the Agenda prior to the expiry of that period. The Chairman also has discretion to extend the time for public questions if he/she deems it to be appropriate
- (d) Residents, electors or business rate payers of the District shall be entitled to ask questions

11.2 Asking a question at the meeting

Ideally persons submitting questions should be present at the meeting. It is preferable that notice is given of the question to be asked at the meeting

However, if a questioner who has submitted a question is unable to be present, they may ask the Chairman to put the question on their behalf.

- (a) Questions will be asked in the order they have been received
- (b) Written questions will be dealt with first
- (c) Questions may be verbal or, preferably written
- (d) A question shall not exceed 3 minutes
- (e) Questions must be relevant to an item on the Agenda for that meeting

- (f) The Chairman, following advice from either the Chief Executive, Monitoring Officer or Member Services Manager, shall have the discretion to reject a question, giving reasons if it:
- Is not about a matter for which the Council has a responsibility or which affects the District
 - Is in his/her opinion scurrilous, improper, capricious, irrelevant or otherwise objectionable
 - Is substantially the same as a question which has been put at a meeting of the Council in the past six months;
 - requires the disclosure of confidential or exempt information.

11.3 Supplementary question

At the discretion of the Chairman of that meeting, questioners may ask one supplementary question

11.4 Answers to questions

The chairman of the meeting, or at meetings of the Council the appropriate committee chairman, shall respond to all questions.

Replies to questions may be verbal, or at the discretion of the Chairman, in writing, or by reference to a published document. Written replies shall be reported to the next meeting of the Committee and published alongside the draft minutes when available. Responses will also be sent to all Councillors.

Protocol of Good Practice for Councillors in Dealing with Planning Matters

1.0 Introduction: The Need For Guidance

- 1.1 This Guidance has been written to inform all parties of Mid Devon District Council's standards in its operation of the town and country planning system within the district. The Guidance applies to all Mid Devon District Councillors and staff involved in operating the planning system within Mid Devon
- 1.2 The successful operation of the planning system in Mid Devon depends upon the Council always acting in a way that is seen to be fair and impartial. This relies upon a shared understanding of the respective roles of Councillors and officers, and upon trust between them. The following quotation from the Local Government Association serves to illustrate the point:-

"The role of an elected member on a planning committee involves balancing representing the needs and interests of individual constituents and the community,

with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals. It is this dual role which, can give rise to great tensions”.
(Source: Probity in Planning, Local Government Association, 2002).

- 1.3 The Local Government Association has advised local planning authorities, such as Mid Devon, to set out clearly their practices and procedures on handling planning matters in a local code of good practice. Much of the guidance set out in this document is derived from the Probity in Planning (Update) issued by the Local Government Association in 2002. Councillors and staff should read this Guidance thoroughly and apply it consistently. Failure to do so without good reason could be taken into account in investigating allegations of breaches of the Members and Officers Codes of Conduct or maladministration.

This Guidance does not form part of the Members or Officers Codes of Conduct- it is a local protocol that compliments those Codes. However, there is an expectation that all members and officers who deal with planning matters in Mid Devon will comply with this Guidance and failure to do so could result in a referral to the Standards Committee (members) or disciplinary action (officers)- see paragraph 12

- 1.4 It is intended to review the Guidance regularly to keep it up-to-date and relevant. If there are points which are unclear or which need review, please contact the Head of Legal and Democratic Services (Council’s Monitoring Officer) or the Head of Legal and Democratic Services (Council’s Deputy Monitoring Officer) as soon as possible. They will be pleased to help you.

2.0 General Role and Conduct of Councillors and Officers

- 2.1 Councillors and officers have different, but complementary, roles. Both serve the public but Councillors are responsible to the electorate, while officers are responsible to the Council as a whole. A successful relationship between Councillors and officers can only be based upon mutual trust and understanding of each other’s position. This relationship, and the trust that underpins it, must not be abused or compromised.
- 2.2 Legislation emphasises the overriding requirement that the public are entitled to expect the highest standards of conduct and probity by all persons holding public office. While this Guidance deals primarily with planning applications, its principles apply equally to consideration of Structure Plans, Local Plans, Development Briefs, enforcement cases and all other planning matters.
- 2.3 An overriding principle is that when local authorities are dealing with planning matters, they should take into account **only material planning considerations**. Section 54A of the Town and Country Planning Act 1990 established a plan-led system whereby all planning applications are determined by primary reference to the Development Plan. Thus, if the Development Plan is material to the application, then the statutory requirement is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 2.4 Officers involved in the processing and determination of Planning matters must also act in accordance with the Council’s Procedure Rules, the Officer Code of Conduct and (for officers who are Chartered Town Planners) with the relevant sections of the

Royal Town Planning Institute's Code of Professional Conduct. This Guidance supplements the provisions referred to above and provides further specific advice and guidance for Councillors and officers involved in planning matters. A key principle is that Councillors should represent their constituents as a body and vote in the interests of the District as a whole. Councillors should take account of all views expressed; they should not be biased towards any person, company, group or locality.

- 2.5 A further key principle is that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is based upon valid planning reasons which can be substantiated.
- 2.6 Councillors and officers should not accept gifts, nor should they accept hospitality. However, it is acknowledged that in certain circumstances the acceptance of a small degree of hospitality, (e.g. receipt of tea, coffee or other light refreshments) may be unavoidable without giving offence.
- 2.7 Officers must always act impartially. They should consider carefully whether any private work or interest that they wish to take up causes an actual or perceived conflict with the Council's interests.
- 2.8 Training will be provided for Councillors to assist them to carry out their planning roles. Only those members who have received training in planning matters will be allowed to sit as members or as substitutes for members on the planning committee.

3.0 *Declaration and Registration of Interests*

3.1 Councillors

The rules concerning the declaration of interests are contained in the Code Of Conduct. Councillors will need to make themselves familiar with the Code and understand the distinction between personal interests which must be declared but which do not lead to the councillor having to withdraw and prejudicial interests that require withdrawal.

3.2 Officers

Where Council Officers become aware that they have a pecuniary, or non-pecuniary interest, in a planning application or other planning matter, they should declare their interest in writing to the Head of Planning and Regeneration immediately. This written record will then be retained on the relevant file. An officer declaring such as interest should subsequently play no part in processing an application, or considering the planning matter, nor in any decision making on it. In determining whether an interest should be declared, officers should use the same tests as Councillors. Examples of interest that should be declared are relatives or friends submitting applications; belonging to a church, club or other social group who has submitted an application; or living in proximity to a site that is at issue.

4.0 Development Applications Submitted By Councillors, Officers and The Council

- 4.1 Serving Councillors who are members of the planning committee and officers involved with the planning process should never act as agents for individuals (including a company, group or body) pursuing a planning matter. This includes not only pursuing development proposals, but also works under related legislation such as works to protected trees. If Councillors or officers (or close family or friends) submit a planning application to the Council, they should take no part in processing the application, nor take part in the decision-making. The Head of Planning and Regeneration should be informed of all such proposals as soon as they become aware that such an application has been submitted.
- 4.2 Proposals submitted by Councillors and officers should be reported to the Planning Committee as written reports and not dealt with by officers under delegated powers. They should never seek improperly to influence a decision about the matter.
- 4.3 Proposals for the Council's own development (or development involving the Council and another party) should be treated strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating all such applications on an equal footing with all other applications, as well as actually doing so.
- 5.0 **Lobbying of and by Councillors, and Attendance at Public Meetings by Officers and Councillors**
- 5.1 When Councillors undertake their constituency roles, it is inevitable that they will be subject to lobbying by interested parties and the public on planning matters and specific planning applications. When Councillors are lobbied, they need to exercise great care to maintain the Council's, and their own integrity, and to uphold the public perception of the town and country planning process.
- 5.2 Councillors who find themselves being lobbied (either in person, over the phone, or by post, fax or e-mail) should take active steps to explain that, whilst they can listen to what is said, it would prejudice their impartiality if they expressed a conclusive point of view or any fixed intention to vote one way or another.
- 5.3 Councillors involved in the determination of planning matters should listen to all points of view about planning proposals and are advised to refer persons who require planning or procedural advice to planning officers. Councillors should not indicate conclusive support or opposition to a proposal, or declare their voting intention before the meeting at which a decision is to be taken. Nor should Councillors advise other parties that permission will be granted or refused for a particular development or that land will, or will not, be allocated for development in a Local Plan. To do so without all relevant information and views, would be unfair, prejudicial and could make the decision open to challenge. Taking account of the need to make decisions impartially, Councillors must weigh up all the material considerations reported at each Committee meeting. They should not be biased towards any person, company, group or locality.
- 5.4 By law, the District Council has to seek comments from the Town/Parish Councils on planning applications and other planning matters so that their comments can be taken into account when the District Council makes planning decisions. Some District Councillors are also Town/Parish Councillors and they take part in Town/Parish

Council debates about planning applications and other planning matters. Merely taking part in Town/Parish Council debates on planning matters does not automatically debar District Councillors from decision-making at the Planning Committee. However, *with few exceptions* Town/Parish Councils do not have professional planning advice or complete information on the application and other planning matters when they make their recommendations to the District Council. Therefore, District Councillors who are also Town/Parish Councillors should be careful not to state that they have reached a conclusive decision when they consider planning issues at their Town/Parish Council meeting. Nor should they declare to the Town/Parish Council what their future voting intention will be when the matter is considered at the District Council.

- 5.5 While Councillors involved in making decisions on planning applications will begin to form a view as more information and options become available, a decision can only be taken at the Planning Committee when all available information is to hand and has been considered. Any relevant papers (including letters, photographs, drawings, petitions etc) passed only to Councillors by applicants or objectors prior to a committee meeting should be notified to officers (preferably the case officer) and reported to the Committee.
- 5.6 Individual Councillors should reach their own conclusions on an application or other planning matter rather than follow the lead of another councillor. In this regard, any political group meetings prior to Committee meetings should not be used to decide how Councillors should vote on planning matters. Decisions can only be taken after full consideration of the officers' report and information and discussion at the Committee.
- 5.7 A Planning Committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the councillor responds to lobbying by deciding to go public in support of a particular outcome - or even campaign actively for it - it will be very difficult for that councillor to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented at Committee. A councillor should avoid organising support for or against a planning application if he or she intends to participate in its determination at Committee. However, it should be possible for a councillor to say that they will make the views of the public known at the Committee whilst themselves waiting until the Committee and hearing all the evidence before making a final decision upon how to vote.
- 5.8 Councillors should not lobby other Councillors on proposals in a way that could lead to their failing to make an impartial judgement on the planning merits of these cases when making decisions at Council Committees. Nor should Councillors put undue pressure on officers for a particular recommendation nor do anything which compromises, or is likely to compromise the impartiality of officers
- 5.9 Officers who are wholly or partly involved in the processing or determination of planning matters should not attend public meetings in connection with pre-application development proposals or submitted planning applications unless their attendance has been agreed by their Head of Service. To do so could lead to allegations of prejudice

or bias to a particular point of view. If put in such a position, officers should avoid prejudicing the Committee's decision.

- 5.10 When attending public meetings, Councillors should take great care to maintain their impartial role, listen to all the points of view expressed by the speakers and public and not state a conclusive decision on any pre-application proposals and submitted planning applications.

6.0 Discussions With Applicants

- 6.1 It is generally recognised that discussions between potential applicants or applicants and the Council prior to the submission of an application can be of considerable benefit to both parties. Discussions can take place for a variety of reasons, for example to establish whether an application can be improved in design, or to overcome planning objections or to meet relevant neighbour concerns. Such discussions will normally take place at District Council offices.
- 6.2 Councillors involved in any discussions should maintain an independent position and avoid committing themselves to either supporting or opposing the application at committee. Planning committee members should not attend meetings on major applications in the absence of a planning officer. If a Councillor feels that they are being put under pressure to support or oppose an application they should suggest to the applicant/objector that they put their views to the planning officer. Planning officers should always make clear at the outset of discussions that they cannot bind the Council to make a particular decision, and that any views expressed are their professional opinions only based upon the information available at that time. Advice given by planning officers will aim to be consistent and based upon the Development Plan (Structure and Local Plan) and other material considerations. Senior officers will make every effort to ensure that there are no significant differences of interpretation of planning policies between planning officers.
- 6.3 Planning officers will ensure that their advice and reports, in the sense that they should not favour any particular applicant or objector, are impartial. This is because a consequent report must not be seen as advocacy for a particular point of view. A written note should be made of pre-application discussions and important telephone conversations and placed on the file. Officers will note the involvement of Councillors in such discussions as a written file record. A follow-up letter should be sent, particularly when material has been left with the Council by the applicant or agent for comment.
- 6.4 Councillors who also serve on Town & Parish Councils should make clear their separate roles in each Council regarding Mid Devon District planning policies. The councillor and other interested parties should be clear at all times when the Councillors are acting as a Town or Parish Councillor, and when they are acting in their role as a District Councillor.

7.0 Reports By Officers To Committees

- 7.1 Many planning applications are determined by the Head of Planning and Regeneration. These are the smaller and less controversial applications. Where

decisions on applications fall to be made by the Planning Committee they will be the subject of full written reports.

- 7.2 Reports on planning matters aim to be accurate and will contain a description of the development proposed in the application (including dimensions and areas). They will refer to the provisions of the Development Plan and all other planning considerations including a full description of the site, any relevant planning history, and the substance of objections and other views received. All reports requiring a decision will have a written recommendation and will normally be the subject of an oral presentation to committee before the debate begins. Other oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur. All reports will contain a technical appraisal that clearly justifies the stated recommendation. All reasons for refusal and conditions to be attached to permissions must be clear and unambiguous.
- 7.3 Any additional information which is material to a planning decision, and which is received after publication of agendas, will be reported to the meeting provided that such information is received by the Head of Planning and Regeneration not less than 24 hours prior to the commencement of the committee at which the matter will be considered. Late information will only be reported to Planning Committee at the discretion of the Chairman. Applicants and objectors should be aware that the provision of late information may lead to a matter being deferred to a later committee so the information can be properly assessed by members by incorporating it into the written report.

8.0 The Decision Making Process and Decisions Contrary To Officer Recommendations and/or The Development Plan

- 8.1 The law requires that, where the Development Plan is relevant, planning decisions must be made in accordance with it unless other material considerations indicate otherwise (Section 54A of the Town and Country Planning Act 1990). The relevant Development Plan, and other material considerations, will be identified in officers' reports. Material considerations will vary from case to case. In arriving at a decision, it is a matter of judgement for the Planning Committee as to the weight to be attached to the various material considerations.
- 8.2 In discussing, and determining a planning application or other planning matter, Councillors should confine themselves to the planning merits of the case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits.
- 8.3 Councillors should consider the advice of the officers but ultimately they are free to vote as they choose. If Councillors wish to determine an application contrary to officer advice, or to impose additional conditions to a permission, an officer should explain the implications of such action. The Councillors' grounds for any contrary determination, or for wishing to impose additional conditions, must be clearly stated at the time the propositions are made and votes taken at the meeting. The personal circumstances of an applicant will rarely provide such grounds.

- 8.4 If a resolution is passed which is contrary to a recommendation of the Head of Planning (whether for approval or refusal) planning reasons should be given. A record of the Committee's reasons will be made, a copy placed on the application file and recorded in the minutes. If the report of the Head of Planning and Regeneration recommends approval of a departure from the Development Plan, the full justification for this recommended departure should be included in the report.
- 8.5 Senior planning officers (and legal officers as necessary) should attend meetings of the Planning Committee to ensure that procedures are properly followed and planning issues properly addressed.
- 8.6 It is important that Councillors who determine planning applications do so only after having considered all material planning considerations. They must take all relevant matters into account and they must disregard irrelevant considerations. It is important that they are seen to do this. For this reason, it is important that Councillors only participate in the debate and vote on a planning application if they have been present throughout the whole of the officers' presentation and the subsequent committee debate. Councillors who arrive at a meeting part-way through consideration of an application or who are absent from the meeting for any part of that consideration may not be aware of all the relevant considerations. In any event, their participation can be seen to be unfair – it could amount to maladministration as well as giving rise to a legal challenge that the decision-making process was flawed.

9.0 Site Visits By Councillors

The need for site visits

- 9.1 It is important for the Planning Committee to have a clear rationale for undertaking organised site visits in connection with planning applications and that any visits are conducted properly and consistently. The purpose of a site visit is for Councillors to gain knowledge of the development proposal, the application site and its surroundings. A decision by a Planning Committee to carry out a site inspection should normally only be taken where the impact of the proposed development is difficult to assess from the plans and any supporting information submitted by the applicant, or additional material provided by officers. Site visits cause delay and additional costs, and should only be carried out where Councillors believe a site visit is necessary to make such an assessment. Reasons should be given for the decision to make a site visit.

Who visits?

- 9.2 Site visits are usually undertaken by the Planning Working Group consisting of the Chair and Vice Chair of the Planning Committee together with 6 members of the Planning Committee. Ward Members, one Parish Council representative, one applicant and one representative from the objectors to the application will be invited to attend the Planning Working Group. Exceptionally the Committee may undertake a site visit. If the site visit is open to all members of the committee then those members who are not able to attend should carefully consider whether they will be in receipt of all relevant facts when the matter comes back before Committee for determination. Technical/professional consultees may exceptionally be asked to

attend a site visit where it is anticipated that their presence on site will assist the Working Group or Committee gain knowledge of the proposal. If technical/professional consultees are requested to attend then reasons for that decision should be recorded.

Procedure on Site

- 9.3 A detailed explanation of the proposals, and a summary of the officers' report and recommendations, will be made by the planning officer. Councillors will then be given the opportunity to ask questions and to view the site and surroundings from all relevant vantage points.
- 9.4 Site visits will normally involve Planning Committee members and officers, except for any consultee whose attendance has been specifically requested by the Planning Committee (e.g. the County Highway Authority or an Environmental Health Officer) to assist their understanding of the proposals.
- 9.5 Councillors should keep together during site visits and not allow themselves to be addressed separately. No decisions are made at site visits although observations may be made to the Committee. An officer will be present to take a written note of the key planning issues and information obtained from the site visit, to be reported to the subsequent meeting of the Planning Committee.
- 9.6 The Head of Planning and Regeneration and the Member Services Manager will ensure that all correspondence in relation to site visits clearly identifies the purpose of a site inspection together with the format and conduct of the inspection, so that applicants/agents and interested parties are aware of it.

Informal Site Visits

- 9.7 There are advantages in Councillors making their own individual site visits to gain knowledge of the development proposal, the application site and its surroundings. In doing so, Councillors should observe sites from public vantage points (highways, rights of way or public open space) and should not enter onto private land without permission. Whilst on individual site visits, Councillors should as far as possible avoid engaging in discussion with applicants, objectors or other interested parties. This can lead to accusations of partiality if the views of one party only are heard. Where application sites are not visible without entering onto private land – for example, rear extensions or country houses in larger plots – officers will make an additional effort to provide appropriate visual information at Committee.

10.0 Review of Planning Decisions

- 10.1 Arrangements will be made for Councillors to visit a sample of implemented planning permissions annually, so that a regular review of the quality of planning decisions can be undertaken. This will include examples from a broad range of categories such as major and minor development, permitted departures, upheld appeals etc.

10.2 The outcome of this review will be reported to the Planning Committee and to the Scrutiny Committee and may lead to identification of possible amendments to existing policies or practice

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