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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 6 July 2016 at 2.15 pm

Present

Councillors

Mrs H Bainbridge, Mrs C Collis,
Mrs F J Colthorpe, R J Dolley, P J Heal,
D J Knowles, F W Letch, B A Moore,
R F Radford, J D Squire and R L Stanley

Also Present

Councillors

Mrs J B Binks and Mrs J Roach

Present

Officers

Jenny Clifford (Head of Planning and Regeneration), Tina Maryan (Area Planning Officer), Christie McCombe (Area Planning Officer), Daniel Rance (Principal Planning Officer), Keith Palmer (Senior Enforcement Officer), Jo Cavill (Enforcement Officer), Joanna Williams (Enforcement Officer) and Sally Gabriel (Member Services Manager)

35 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

36 **PUBLIC QUESTION TIME 00-03-00**

Mrs Vinton referring to Item 5 (Red Linhay) on the agenda spoke regarding traffic monitoring, I understand that difficulty of monitoring traffic to the site as the traffic statement refers only to the number of loads being delivered and not to traffic as a whole, thus excluding general farm traffic. The number of proposed traffic movements per annum is given by the applicant as 784 but nowhere can I see this figure in Condition 10. Surely, without this figure, monitoring of log books or weighbridge records is futile? And, if this figure were to be exceeded, what enforcement action would be taken?

Energy Output – GFL have expressed concern regarding Condition 23 relating to the output from the plant. As it stands, an exceedance of just one kw would put them in breach. If the wording was changed to “an average output of 500kw” over a given period, surely this would allow for any day to day fluctuations? During a recent conversation with Mr Clapp he told me that he will be responsible for the day to day operation of the plant and that he can easily increase the energy output up to 1MW using feedstock from his own farm. This is, apparently, why the plan is the size it is and why 2 CHP units are on site. GFL, however state that the second CHP unit is only for back up and maintenance purposes. If the second unit remains onsite, is there anyway that it could be made impossible to use both units simultaneously?

Mr White again referring to Item 5 (Red Linhay) on the agenda stated that at the last meeting we were shown a drawing, number WIN01_RED LINHAY2_e10V_001 Fig 3 south elevation overlay. It was explained that this drawing was an overlay of the original granted permission (shown in black) compared with the new application (shown in red). The purpose being to show how moving the digester to its new position down the slope would result in the overall height of the digester being lower despite its increased size to allow for a 1000kw capacity. Unfortunately, what has been built does not match the drawing. Yet again, the application does not match the actual.

In the drawing the proposed dome is a shallow arc, unlike the original application which is a hemisphere. What has been built is clearly a hemisphere as all the photo's taken by the planning officer clearly show. This results in the final height being greater than claimed in the application.

The technical report presented at the last meeting confirmed this, saying that the dome was at least equal to or higher than the adjacent farm buildings, despite the application claiming that it would be lower. This is clearly yet another example of GFL's cynical and deceitful approach to planning applications. Will the committee confirm that GFL will be asked to ensure the finished construction will match the application.

Cllr Mrs J B Binks referring to Item 6 (Enforcement), Item 5 Furzeland stated that the landowners were desperate to comply with the planning permission but that things had got in the way including bats. She asked whether the committee could exercise some discretion with regard to the period of compliance for a further 4-6 weeks. The reason for the building being higher than expected was that the two historic vents had been incorporated into rather than out of the construction, they have been rather foolish but this was not deliberate. Please consider extending the period of compliance so th at the bat issue can be dealt with.

Dr Bratby referring to item 5 (Red Linhay) on the agenda stated that at the previous meeting reference had been made to report by Steve Quartermaine regarding planning policy to clamp down on unauthorised development, and that unauthorised development was a material consideration, however within the report I find no reference to this material consideration. (1) Have the officers given weight to this material planning consideration, (2) if not why not. (3) if the answer to questions (1) is no should be officer's recommendation be reconsidered? (4) with regard to Condition 22 can it be clarified what the first operation is, as there has been hundreds of movements before the operations of the plant commences.

Mr Scott again referring to Item 5 on the agenda referred to a recent court case regarding pollution from AD plants and the fines/costs that had been incurred. He stated that GFL had total disregard to the management of other sites and had ignored the planning permission at Red Linhay. If an incident occurred in this location there were concerns regarding the canal. How can the company be trusted to build any plant, there is disregard for any record keeping, how can the company be trusted. In view of this modified application, please refuse.

Mr Pilgrim referring to Item 5 on the agenda stated that it is difficult to challenge figures that keep changing and considering the trustworthiness of the applicant over

the last 7 months, it is difficult to make a sound decision on proposals that are changeable, I therefore ask you to consider not approving this application.

Mr Wright referring to Item 12 (Exeter Road Silverton) on the agenda stated that he had spent a lot of time trying to get the application right and had had several meetings with planning officers, the reason there were 2 properties proposed on the site was that a single dwelling would have been expensive to purchase. He had noted the concerns of the Conservation Officer and requested that he be allowed to revise the scheme to take into consideration the Conservation Officer's remarks.

The Chairman read a set of questions from Dr Bell referring to Item 15 (Waddeton Park) on the agenda:

This application implies that a specific section of land is involved for purchase by MDDC whereas the original outline application sought to spread affordable housing throughout this development.

Has MDDC's policy changed concerning locations for affordable housing?
If so, which specific section of land on the Waddeton Park site is required by MDDC?

What will be the total cost of the land to MDDC including the £120,000 contribution?

How much does MDDC expect to spend on the 70 houses they wish to build?
When does MDDC propose to commence the work to build the properties?

Can we, the tax payers, afford this approach at this present time?

When the answers to the above are provided, does the Planning Committee believe it is a good idea to support this approach to the provision of affordable housing?

The Chairman stated that answers to questions would be provided when the items were discussed.

37 MINUTES OF THE PREVIOUS MEETING (00-20-04)

The minutes of the meeting held on 8 June 2016 were approved as a correct record and signed by the Chairman.

38 CHAIRMAN'S ANNOUNCEMENTS (00-20-35)

The Chairman had the following announcements to make:

- Item 14 (Chettiscombe Estate) had been deferred to allow further consultation to take place.
- She welcomed Mr Keith Palmer (Senior Enforcement Officer) to his first meeting.
- She reminded Members that the planning tour of the district would take place on 14 July.

39 **APPLICATION 15/01034/MFUL - ERECTION OF A 500KW ANAEROBIC DIGESTER AND ASSOCIATED WORKS WITH 4 SILAGE CLAMPS. REVISED SCHEME TO INCLUDE THE CHANGE OF ORIENTATION OF THE LAYOUT AND INSTALLATION OF 2 DRIERS AT LAND AT NGR 299621 112764 (RED LINHAY) CROWN HILL, HALBERTON**

The Committee had before it a further *report of the Head of Planning and Regeneration following discussions at the previous meetings where Members had requested that a full set of conditions be produced to include monitoring arrangements as follows:

- Records of Power output to be provided quarterly
- Vehicle movement and weight recording to be provided quarterly
- The installation of vehicle monitoring equipment
- Control of digestate destination
- The applicant required to contribute to a permission/condition monitoring liaison group (based on DCC minerals Liaison Group)
- Access to a metering system

She outlined the contents of the report highlighting the site location plan and the additional conditions that had been proposed and that how they must meet all 6 tests as set out in the National Planning Policy Framework, she also highlighted a previous appeal decision which stated that all conditions must be seen to be reasonable and to not require an intolerable level of supervision. With regard to vehicle movement and weight recording she highlighted the amendments made to Condition 10 which considered the weighbridge data. Vehicle monitoring equipment was addressed through an additional condition 22, she added that the entrance did not just serve the AD plant but also an agricultural building and therefore there could be some confusion as to the vehicle movement on the site. Control of digestate destination was addressed through Condition 10. With regard to records of power output, she had visited the site and there were 2 CHP units on site, the application was for only 1 unit, the second plant on the plan was where the office and containers should be. The applicant had stated that a second unit was on site in order that maintenance could take place on the original CHP unit. She felt that the second CHP unit was unnecessary and therefore this had been covered by a separate enforcement recommendation to service a notice to remove the 2nd CHP unit. With regard to access to the monitoring systems, there was a need to consider necessity and reasonableness. A monitoring liaison group would have be voluntary and should not be conditioned, the applicant had been contacted and was willing to set up such a group.

In response to questions posed in Public Question Time:

- Traffic movements and the number of loads, this was covered within condition 2 and 10.
- Energy Output of the plant – condition wording was provided, nut Members would need to consider if this met the test for conditions.
- The overlay plan, this was the plan prepared by the Council’s consultants. She considered the profile of the dome to appear flatter due to its base being shown on drawings as obscured behind a gantry. The drawing was therefore unclear, however she had no issue with the profile of the dome. The levels

were different as the ground levels had been reduced, therefore that was the difference on the plan. However she would expect compliance with the details.

- With regard to unauthorised development being a material planning consideration, Dr Bratby was right it is a material planning consideration, but that the policy as set out in the Chief Planner's letter applied to all new applications received from August 2015, the current application was dated 17 July 2015. It therefore predated that advice and was rightly not taken into account in this application.
- With regard to what the first operation is, that would be the firing up of the AD plant and the generation of power.
- Pollution issues, she was aware of this information and informed the meeting that the Environment Agency were the investigating body and that any issues with regard to pollution would be covered until the Environmental permit.
- Trustworthiness of the applicant, planning permission was granted for the development and not to the applicant.

Discussion took place regarding:

- The positioning of a barrier to funnel vehicles to go over the weighbridge.
- The 2 CHP units on the site and whether 1 additional unit would be required to cover maintenance downtime.
- Ultimate destination and original source of feedstuff for the plant
- Total movements to and from the site
- Recording of outputs
- Additional access to the site and notice required for spot checks.

RESOLVED that planning permission be granted subject to:

- a) Conditions set out within the report with amendments and additional conditions sought by Members; to include:
 - (i) Condition 10 as amended with additional amendments to refer to original source and ultimate destination, gross and net weights;
 - (ii) Additional conditions 22, 23 and 24;
 - (iii) Condition 23 be amended to require power output not to exceed and average of 500kw over a quarterly period;
 - (iv) Conditions to be further amended to include the erection of a physical barrier to funnel any traffic over the weighbridge.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr B A Moore)

(Vote 6 for: 5 against)

- b) That the Legal Services Manager be authorised to take any appropriate legal action, including the service of an enforcement notice or notices seeking the removal of the second combined heat and power plant (CHP) from the site. In addition, in the event of the failure to comply with any notice served, to authorise prosecution, direct action and/or authority to seek a court injunction.

(Proposed by Cllr R F Radford and seconded by Cllr R L Stanley)

- c) That Officers assist in the establishment of a monitoring liaison group and that the applicant facilitate the setting up of such a group.

(Proposed by Cllr R F Radford and seconded by Cllr P J Heal)

Notes:

- (i) Cllrs Mrs F J Colthorpe declared a personal interest as she had recently met Mr Clapp at a social event;
- (ii) Cllr D J Knowles and R F Radford declared personal interests as the landowner and some of the objectors were known to them;
- (iii) Cllrs R J Dolley, B A Moore and R L Stanley made declarations in accordance with the protocol of Good Practice for Councillors in dealing with Planning Matters as they had received correspondence regarding the application;
- (iv) Cllrs Mrs C Collis, R J Dolley, F W Letch, R F Radford and R L Stanley requested that their vote against the decision in (a) be recorded;
- (v) The following late information was reported: Reference: Conditions Planning Application 15/01034/MFUL

On behalf of Greener for Life Energy, the applicant for the above planning application, I would like to express our objections to the proposed additional planning conditions (Numbers 22, 23 and 24) contained within your report to the Planning Committee 6th July 2016.

These additional conditions do not fully meet the tests required for conditions these being:

Necessary
Relevant to planning
Relevant to the development to be permitted
Enforceable
Precise
Reasonable in all other respects.

Condition 22:

Within 1 month from the date of approval, details are to be provided in writing to the Local Planning Authority of the location and type of electronic system to be installed to monitor the number and type of vehicles entering and leaving the anaerobic digester site. Such approved system is to be installed and operational prior to the first operation of the anaerobic digester site. Such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained for the duration of the operation of the site.

Reason – In the interest of highway safety and consideration of the impacts on the environment, neighboring residents due to the number of

movements to and from the site and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).

We do not feel that this condition meets the necessary or reasonable tests required for planning conditions.

The proposed changes to condition 10, which we offered at our site visit on the 16th June 2016 and is contained in your proposed conditions as condition 10, provide full control of the feed stocks arriving into the site and digestate being removed by road - through the use of weighbridge and log book records. These records can be compared to the Triolet weight records (item V condition 10) to ensure that imported tonnage of feed stock match those being processed. In addition the inclusion of the planning statement and transport plan contained in Condition 2 - *approved reports and statements listed in the schedule on the decision notice* detail the number, type and location of all feedstock and digestate vehicle movements.

As such condition 22 is not necessary as conditions 2 and 10 detail and monitor all transport movements. Due to the discussed layout of the site in relation to the farm storage buildings and their operations and the adjacent farmhouse, all of which use the same site entrance and farmyard, the installation of an electronic monitoring system is impractical, onerous and unreasonable to implement.

It would not be appropriate to impose such a condition in the determination of the application

Condition 23:

The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw. Records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.

Reason - To ensure the power generation from the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.

Given that there are no changes in transport movements proposed in this application, from the current consent, the addition of this condition does not control or affect any impact on local amenity.

Moreover the condition runs counter to local and national policy on producing energy from renewable sources. The impacts of the development have been identified and controlled, the level of power generation is not a planning consideration. The output of the digester should not be restricted by condition, as its output is effectively controlled by the restrictions on the feedstock materials imported. If on the basis of the agreed feedstock the plant can operate more efficiently and generate more electricity based on the same material being imported then this should be supported as it is a more effective means of creating renewable energy.

This and the fact that the condition restricts the commercial viability of the development mean that it does not meet the reasonable test or is it supporting planning policy.

Condition 24:

The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.

Reason - To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.

The reason for the inclusion of this condition is not clear which parameters and limitation it refers to. Given the concerns of local residents and committee members we assume that it relates again to the impact of transport and the output of the plant. The former is monitored, controlled and can be enforced through conditions 2 and 10 (as detailed above) and the later has no relevance to the impact on local residents and is therefore not reasonable to impose. As such this condition represents a further unnecessary and burdensome required on the operator and the local planning authority.

Overall

With the inclusion of these three conditions (22,23,24) there are a total of 24 attached to this application. Our discussions with Mr Rance have indicated that the Council has a policy of keeping the number of conditions for planning applications a low as possible - generally below 5. Given the relatively small size of this developed this large number of condition is, in our view, unnecessary and onerous on both Greener for Life as an operator and the LPA as the enforcement body. As highlighted in the statement these new conditions duplicate the conditions and controls already proposed and as such are not required.

The committee report refers to a recent appeal case (appeal ref APP/T4210/A14/2224754) where both the inspector and Secretary of State concluded that a number of proposed conditions were unreasonable and did not meet all six tests. A number of similar conditions to those proposed in 23, 24 and 25 were rejected because they would be difficult for the local planning authority to monitor and require an intolerable level of supervision.

In the committee report it states that officers have been mindful of this appeal decision and the comments within it on conditions in drawing up their recommended list of conditions. However in our view these three additional conditions do represent an intolerable level of supervision and, in places, duplicate other conditions. If conditions 23, 24 and 25 are imposed we will be applying for them to be removed.

(vi) *Report previously circulated copy attached to minutes.

40 ENFORCEMENT LIST (1-37-00)

Consideration was given to the cases 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/15/00100/UCU – Unauthorised material change of use of land from agriculture to a mixed use comprising agriculture and use as a caravan site for human habitation – land and buildings at NGR 306655 224226 (Kerrells), Burlescombe***).

The Enforcement Officer outlined the contents of the report providing Members with photographs from the site and stating that the landowner had applied for a certificate of lawful use which had been refused and appealed. Consideration was given to the period for compliance which would allow those in residence to seek alternative accommodation.

RESOLVED that the Legal Services Manager be given delegated authority to issue a change of use enforcement notice, requiring the cessation of use as a caravan site and the removal of 2 x caravans from the land, together with all domestic paraphernalia associated with the use of the land as a caravan site. In addition, that legal action deemed appropriate be taken including prosecution or Direct Action in the event of non-compliance with the notice.

(Proposed Cllr P J Heal and seconded by Cllr J D Squire)

- b) No. 2 in the Enforcement List (***Enforcement Case ENF/13/00036/UDUR – unauthorised removal of timber windows and replacement with uPVC windows in a Grade II listed building – 5 Ways Lane, Cullompton***).

The Enforcement Officer outlined the contents of the report stating that this issue had previously been discussed in November 2013, at that time, the issue had been deferred to allow the property owner to submit an application, an application was submitted but not implemented and had now lapsed. The previous authority did not cover this and therefore permission was now sought to issue a listed building enforcement notice.

RESOLVED that the Legal Services Manager be given delegated authority to issue a listed building enforcement notice, requiring the removal of the two uPVC windows on the elevation, and the replacement with wooden windows to a specification provided by the Local Planning Authority. In addition that legal action deemed appropriate be taken to include prosecution or direct action in the event of non-compliance with the notice.

(Proposed by the Chairman)

c) No. 3 in the Enforcement List (***Enforcement Case ENF/15/00042/UNLD – the condition of the land has been allowed to deteriorate causing adverse effect on the visual amenity of the area – Land at NGR 295600 102934, Fore Street, Silverton.***)

The Enforcement Officer outlined the contents of the report stating that she had been working with the landowner and local residents to rectify the situation, which had been successful. Most of the works that would be required had been completed. The appearance of the site would be monitored.

It was therefore

RESOLVED that no further action take place at the present time.

(Proposed by the Chairman

Note: Cllr Mrs J Roach (Ward Member) stated that she was satisfied that no further action be taken and praised the work of the Enforcement Officer.

d) No. 4 in the Enforcement List (***Enforcement Case ENF/11/0034/UCU – Unauthorised material change of use of the land from use as a Care Home (Use Class C2) to a mixed use comprising Care Home and use as a caravan site – Langford Park Ltd, Langford Road, Langford, Newton St Cyres.***)

The Enforcement Officer outlined the contents of the report stating that the matter had been discussed by the Committee in February 2016, when authorisation had been granted for the issue of an enforcement notice requiring the removal of the four caravans. A recent review of the site had highlighted the fact that structures and domestic paraphernalia had not been included in the original report and therefore required additional authorisation.

RESOLVED that the Legal Services Manager be given delegated authority to take any appropriate legal action, including the issuing of a change of use enforcement notice, requiring the cessation of the use of the land as a caravan site and for the removal from the land of x 4 caravans, shed(s), decking/veranda, roads and domestic paraphernalia associated with the use of the land as a caravan site.

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

e) No. 5 in the Enforcement List (***Enforcement Case ENF/16/0132/LIS – without listed building content the execution of works for the alteration and extension of the listed building namely the erection of a single storey extension and alterations to the exterior of the building – Curtilage listed barn at NGR 278425 103453 (Barn Orchard) adjacent to Higher Furzeland, Furzeland Lane, Coplestone.***)

The Enforcement Officer outlined the contents of the report stating that in February 2015 Planning permission and listed building consent had been granted for the conversion of the former threshing barn to a dwelling and the erection of a replacement extension. He outlined the works that had taken place informing the meeting that non of the conditions had been discharged, his attention had also been

drawn to the fact that the extension had been erected on one side of the former threshing barn which was not the one shown on the approved plans.

Consideration was given to:

- the unauthorised works and whether an extension of time would allow for the works to comply with the original permission.
- The issue of the bats

RESOLVED to grant authority for the issuing of a Listed Building Enforcement Notice to remove the unauthorised extension from the cob barn, including the wall plate and the means by which it was attached to the barn and in the event of failure to comply with any notice served, to authorise prosecution, or direct action.

(Proposed Cllr P J Heal and seconded by Cllr Mrs C A Collis)

Note: Mr Hotton, landowner spoke.

41 **DEFERRALS FROM THE PLANS LIST**

There were no deferrals from the Plans List.

42 **THE PLANS LIST (2-24-00)**

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 applications be determined or otherwise dealt with in accordance with the various recommendations contained in the list namely:

(i) No 2 on the Plans *List (16/00665/HOUSE – Erection of single storey rear extension – 11 Chinon Place, Tiverton)* be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

(ii) No 3 on the Plans *List (16/00712/HOUSE – Erection of single storey rear extension – 5 St Johns Close Tiverton)* be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

(iii) No 4 on the Plans *List (16/00756/FULL – Erection of gates across existing drive entrance, Old Bartows, Bartows Causeway, Tiverton)* be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

Note: Cllr D J Knowles declared a personal interest as the applicant was known to him.

(iv) No 5 on the Plans List **(16/00757/LBC – Listed Building Consent for erection of gates across existing drive entrance, installation of ground floor window and other internal alterations –Old Bartows, Bartows Causeway, Tiverton)** be approved subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

Note: Cllr D J Knowles declared a personal interest as the applicant was known to him.

(b) No 1 on the Plans List **(16/00588/HOUSE – Erection of first floor extension with Juliet balcony, detached garage and formation of new access to replace existing – 22 Turnpike, Sampford Peverell)**

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the proposed site plan, the new access and proposed parking, the existing and proposed elevations, floor plans and sections. Photographs were shown from various aspects of the site emphasising the impact of the development on the neighbouring property.

Consideration was given to:

- The need for the property to be modernised
- The scale and massing of properties in the area and relationship between them
- Amendments that had been made to the proposal to lessen the effect on the neighbouring property
- The concerns of the neighbour objecting to the application

RESOLVED that planning permission be granted for the following reasons:

- The proposal was in keeping with the surrounding area
- The proposal did not detract from the overall visual appearance of the property
- The relationship with the adjacent property was acceptable

And that delegated authority be given to the Head of Planning and Regeneration to create a set of conditions for the development.

(Proposed by Cllr R L Stanley and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Cllr Mrs C A Collis declared a personal interest in the application as she had spoken to both parties and chose to leave the meeting during the discussion thereon;
- (ii) Cllr R J Dolley declared a personal interest in that he knew the applicant and the agent;

- (iii) Cllr D J Knowles declared a personal interest as the agent was known to him;
- (iv) Cllrs Mrs H Bainbridge, Mrs F J Colthorpe, R J Dolley, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley made declarations in accordance with Protocol of Good Practice for Councillors in deal with Planning matters as they had received correspondence regarding the application;
- (v) Mr Bryant (Agent) spoke;
- (vi) Mrs Woodman spoke on behalf of the objector;
- (vii) Cllr Mrs H Bainbridge spoke as Ward Member;
- (viii) Cllr P J Heal requested that his vote against the decision be recorded.

43 **THE DELEGATED LIST (2-59-49)**

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

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

44 **MAJOR APPLICATIONS WITH NO DECISION (3-00-39)**

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

It was **AGREED** that

Application 16/00918/MOUT - Culmstock Roaad, Hemyock, be brought before the committee for determination but that no site visit take place.

Application 16/00924/MOUT – Dulings Farm, Copplestone be brought before committee for determination and that a site visit take place.

Application 16/00825/MFUL – Lords Meadow Industrial Estate be brought before committee for determination and that a site visit take place.

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

45 **APPEAL DECISIONS (3-05-51)**

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.

46 **APPLICATION 16/00180/FULL - ERECTION OF 2 DWELLINGS FOLLOWING DEMOLITION OF EXISTING DWELLING (REVISED SCHEME) AT 19 EXETER ROAD, SILVERTON (3-07-22)**

The Committee had before it a report of the Head of Planning and Regeneration regarding the above application which had been deferred from the previous meeting so that a site visit could be made by the Planning Working Group.

The Area Planning Officer outlined the contents of the report highlighting the site location plan, the proposal for the siting of 2 dwellings and photographs from various aspects of the site.

Consideration was given to:

- The recent views of the Conservation officer and the impact of the proposal on the conservation area
- Possible overdevelopment of the site
- The impact on the street scene
- The removal of the hedge and wall
- The views of Members of the Planning Working Group
- The applicant's wish to defer the decision to allow for revisions to be made to the scheme in line with the Conservation Officer's report.

RESOLVED that members were minded to refuse the application and deferred the application to allow for the receipt of a report setting out the implications of the proposed reasons for refusal based on the following issues:

- Overdevelopment of the site.
- That the development was not in keeping with the street scene.
- The impact of the development on the setting of the conservation area.
- Parking arrangements were insufficient.

(Proposed by Cllr P J Heal and seconded by Cllr R F Radford)

Notes-:

- (i) Cllrs Mrs H Bainbridge, Mrs C A Collis, Mrs F J Colthorpe, R J Dolley, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley made declarations in accordance with Protocol of Good Practice for Councillors in deal with Planning matters as they had received correspondence regarding the application;
- (ii) Mrs Woodman (Agent) spoke;
- (iii) Mr Higman spoke on behalf of the objectors;
- (iv) Cllr Mrs J Roach spoke as Ward Member;
- (v) The following late information was reported: MDDC Conservation: The character is one of transition between the rural fields and the denser housing of the historic village. The house itself has no historic merit and I have no objection to its demolition. The plot is not large and fitting two properties into the site along with parking creates negative impacts, especially on the street scene. Because the majority of the low boundary wall and hedging will be removed to create parking spaces, a large open frontage with 'porous tarmac' as a surface creates a very suburban feel and leads to a loss of enclosure. Whilst other properties on the row have visibility splays they also have a hard boundary - with fencing and planting or the small hedge banks which helps create character. I therefore think that the frontage / open boundary is a

negative impact and does not preserve or enhance the setting of the conservation area. The house design is reasonable but I do think that the gable end facing the road brings the sense of height and dominance a lot closer to the boundary – other properties have ridges running parallel to the road and set further into the plot. My feeling is that the resulting appearance will therefore look more dominant and ‘busier’ in the plot than is ideal. Orchard Jeffreys is a very good quality property in the conservation area lying to the north. It faces towards this plot and whilst it is a reasonable distance away from the boundary I think that the proximity of the new house to the boundary along with the additional height and a very plain elevation with one obscured window will detract from its setting, albeit a private one.

Summary

The plot is not in the conservation area but I find that the development proposed does not ‘preserve or enhance’ its wider setting and in fact creates a degree of less than substantial harm. For that reason I recommend refusal.

(vi) *Report previously circulated copy attached to minutes.

47 **APPLICATION 05/02315/OUT - OUTLINE APPLICATION FOR THE ERECTION OF AN AGRICULTURAL WORKER'S DWELLING (RESUBMISSION) AT LAND AT NGR 316000 114353 (ADJ. SHALOM), CALLER'S LANE, CLAYHIDON (3-49-52)**

The Committee had before it a * report of the Head of Planning and Regeneration regarding an alteration to the Section 106 Agreement tying the dwelling to the holding in respect of substituting two existing parcels of land with two new parcels of land.

The Area Planning Officer outlined the contents of the report identifying the parcels of land in question and clarifying the size of the land involved.

RESOLVED that the alteration to the Section 106 Agreement to substitute land parcels be approved.

(Proposed by the Chairman)

Note: *Report previously circulated copy attached to minutes.

48 **APPLICATION 14/00881/MOUT - OUTLINE APPLICATION 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 AT LAND EAST OF TIVERTON, SOUTH OF A361, AND BOTH NORTH AND SOUTH OF BLUNDELLS ROAD, UPLOWMAN ROAD, TIVERTON**

As reported earlier in the meeting this item had been deferred to allow for further consultation to take place.

49 **APPLICATION 13/01616/MOUT - OUTLINE FOR THE DEVELOPMENT OF UP TO 330 DWELLINGS TOGETHER WITH PUBLIC OPEN SPACE, ASSOCIATED INFRASTRUCTURE AND OTHER WORKS INCLUDING VEHICULAR ACCESS, PEDESTRIAN/CYCLE LINKS AND HIGHWAY IMPROVEMENTS AT LAND AT NGR 298671 113603, UPLOWMAN ROAD, TIVERTON (3-52-47)**

The Committee had before it a report * of the Head of Planning and Regeneration in light of ongoing negotiations over this application post committee, as a result of these discussions to consider several proposed amendments to the draft S106 agreement and planning conditions.

The Area Planning Officer provided answers to the questions posed in public question time:

- With regard to the positioning of the affordable housing, the outline permission stated that the affordable housing be spread across the site, however a commercial decision has been taken by MDDC Housing Service to deliver the affordable housing all on one site due to need and viability.
- The policy with regard to pepper-potting remained unchanged
- She identified the land for affordable housing
- With regard to the total cost of the land, the contribution would be from the developer, any costs would be commercially sensitive.
- The costs of building the affordable housing would not be met by the tax payer but by the Housing Revenue Account.

She outlined the contents of the report stating that the outline application was for the development of up to 330 dwellings,. The application had been granted consent in September 2015. The Housing Service proposed to acquire the land on the site in order to be the affordable housing provider, under the proposed arrangement the Council would deliver the whole of the affordable housing requirement on the site. The percentage of affordable housing had been reduced to 21.5% (70 properties) due to ground water mains on the site. The changes were seen to be acceptable and would release the developer of the market housing from any affordable housing requirements. The golf club contribution would be amended due to lack of contributory funding from the club. No match funding would be required.

Consideration was given to:

- The lack of pepperpotting of affordable housing
- The proposal meant that the Council had control of the delivery of the affordable housing and the quality of the design
- The position of the ground water mains

RESOLVED that:

1. That subject to the Council remaining the affordable housing provider, the agreed terms of the S106 be amended to allow 21.5% affordable housing

together with a financial contribution towards affordable housing of £120,000 which will be delivered through a reduction in the cost of the land to the Council.

2. That the agreed terms of the S106 be amended to discharge market housing developers from all affordable housing requirements upon the completion of the Council's land purchase of part of the site and the grant to the Council of reserved matters or full planning permission for the affordable housing.
3. That subject to the agreement of recommendation 2 above and the Council remaining the affordable housing provider, the agreed terms of the S106 be amended to allow the open market housing to be constructed and occupied independently of the delivery of the affordable housing.
4. The agreed terms of the S106 be amended to allow a contribution of £125,000 from the developer towards the re-alignment of the 12th hole at the Golf Club without the need for match funding being provided by Tiverton Golf Club.

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

Notes:

- (i) Cllr R L Stanley declared a personal interest as he had been involved with negotiations in his role as Cabinet Member for Housing;
- (ii) Cllr D J Knowles declared a personal interest as some of the objectors were known to him;
- (iii) Cllr P J Heal declared a personal interest as the Chairman of the Decent and Affordable Homes Policy Development Group;
- (iv) *Report previously circulated copy attached to signed minutes.

50 PROCEDURES FOR DEALING WITH REQUESTS TO VARY OR DELETE PRE-EXISTING PLANNING OBLIGATIONS (S106 AGREEMENTS) (4-16-00)

The Committee had before it a report * of the Head of Planning and Regeneration in order to amend the way in which proposals to vary or delete planning obligations were dealt with in light of recent requests and to respond to changes introduced by the Government.

She outlined the contents of the report stating that there had recently been several instances where proposed changes to S106 agreements which were either acceptable in planning terms or not considered to be significant had had to come before the Committee purely because the planning application that they related to was determined by the Committee rather than under delegated powers. Provisions to deal with applications made under Section 106BA of the Town and Country Planning Act 1990 may also now be deleted. Under procedure changes introduced in January 2014 certain S106 amendments that related to affordable housing were amended by reference to the Chairman and Vice Chairman of the Planning Committee, the Cabinet Member for Housing and Ward Members without referral to committee it was proposed to extend this approach whilst retaining Member input

and building in an opportunity to call the proposed S106 revisions to the Planning Committee. She highlighted the existing and proposed procedures.

RESOLVED that: the amendments to the procedure and the scheme of delegation to the Head of Planning and Regeneration be agreed.

(Proposed by the Chairman)

Note:- *Report previously circulated copy attached to signed minutes.

Update Sheet

(The meeting ended at 6.55 pm)

CHAIRMAN

Minute Annex

PLANNING COMMITTEE AGENDA - 6th July 2016

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<u>Item No.</u>	Description
	AGENDA ITEM 5
	<p>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 at Land at NGR 299621 112764 (Red Linhay) Crown Hill Halberton</p> <p>Reference: Conditions Planning Application 15/01034/MFUL</p> <p>On behalf of Greener for Life Energy, the applicant for the above planning application, I would like to express our objections to the proposed additional planning conditions (Numbers 22, 23 and 24) contained within your report to the Planning Committee 6th July 2016.</p> <p>These additional conditions do not fully meet the tests required for conditions these being:</p> <ul style="list-style-type: none"> • Necessary • Relevant to planning • Relevant to the development to be permitted • Enforceable • Precise • Reasonable in all other respects. <p>Condition 22: <i>Within 1 month from the date of approval, details are to be provided in writing to the Local Planning Authority of the location and type of electronic system to be installed to monitor the number and type of vehicles entering and leaving the anaerobic digester site. Such approved system is to be installed and operational prior to the first operation of the anaerobic digester site. Such results of the monitoring system shall be submitted to the Local Planning Authority quarterly or within any other frequency as requested by the Local Planning Authority. The approved system is to be so retained for the duration of the operation of the site.</i></p> <p><i>Reason – In the interest of highway safety and consideration of the impacts on the environment, neighboring residents due to the number of movements to and from the site and in order to accord with policies DM5 and DM22 of the Local Plan Part 3 (Development Management Policies).</i></p> <p>We not feel that this condition meets the necessary or reasonable tests required for planning</p>

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	<p>conditions.</p> <p>The proposed changes to condition 10, which we offered at our site visit on the 16th June 2016 and is contained in your proposed conditions as condition 10, provide full control of the feed stocks arriving into the site and digestate being removed by road - through the use of weighbridge and log book records. These records can be compared to the Triolet weight records (item V condition 10) to ensure that imported tonnage of feed stock match those being processed. In addition the inclusion of the planning statement and transport plan contained in Condition 2 - <i>approved reports and statements listed in the schedule on the decision notice</i> detail the number, type and location of all feedstock and digestate vehicle movements.</p> <p>As such condition 22 is not necessary as conditions 2 and 10 detail and monitor all transport movements. Due to the discussed layout of the site in relation to the farm storage buildings and their operations and the adjacent farmhouse, all of which use the same site entrance and farmyard, the installation of an electronic monitoring system is impractical, onerous and unreasonable to implement.</p> <p>It would not be appropriate to impose such a condition in the determination of the application</p> <p>Condition 23: <i>The permission hereby granted is for a 500kw anaerobic digester only. Power generation from the development shall not exceed 500kw. Records of power generation shall be kept and submitted quarterly in writing to the Local Planning Authority.</i></p> <p><i>Reason - To ensure the power generation from the AD plant is in accordance with that as set out in the application and supporting information and in order to ensure that the impacts of the development are acceptable.</i></p> <p>The condition in our view does not meet the planning conditions; necessary, relevant to planning and reasonable tests. The impacts on the local community are clearly dealt with by the other conditions and the import of feedstock and the disposal of the digestate produced, as such the impacts are identified and controlled.</p> <p>Given that there are no changes in transport movements proposed in this application, from the current consent, the addition of this condition does not control or affect any impact on local amenity.</p> <p>Moreover the condition runs counter to local and national policy on producing energy from renewable sources. The impacts of the development have been identified and controlled, the level of power generation is not a planning consideration. The output of the digester should not be restricted by condition, as its output is effectively controlled by the restrictions on the feedstock materials imported. If on the basis of the agreed feedstock the plant can operate more efficiently and generate more electricity based on the same material being imported then this should be supported as it is a more effective means of creating renewable energy.</p> <p>This and the fact that the condition restricts the commercial viability of the development</p>
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	<p>mean that it does not meet the reasonable test or is it supporting planning policy.</p> <p>Condition 24: <i>The Local Planning Authority shall be afforded access at reasonable times to all on site monitoring systems associated with the operation of the AD plant hereby granted.</i></p> <p><i>Reason - To ensure the AD plant operates in accordance with the parameters and limitations as approved and as set out within the application and its supporting information.</i></p> <p>The reason for the inclusion of this condition is not clear which parameters and limitation it refers to. Given the concerns of local residents and committee members we assume that it relates again to the impact of transport and the output of the plant. The former is monitored, controlled and can be enforced through conditions 2 and 10 (as detailed above) and the later has no relevance to the impact on local residents and is therefore not reasonable to impose. As such this condition represents a further unnecessary and burdensome required on the operator and the local planning authority.</p> <p>Overall</p> <p>With the inclusion of these three conditions (22,23,24) there are a total of 24 attached to this application. Our discussions with Mr Rance have indicated that the Council has a policy of keeping the number of conditions for planning applications a low as possible - generally below 5. Given the relatively small size of this developed this large number of condition is, in our view, unnecessary and onerous on both Greener for Life as an operator and the LPA as the enforcement body. As highlighted in the statement these new conditions duplicate the conditions and controls already proposed and as such are not required.</p> <p>The committee report refers to a recent appeal case (appeal ref APP/T4210/A14/2224754) where both the inspector and Secretary of State concluded that a number of proposed conditions were unreasonable and did not meet all six tests. A number of similar conditions to those proposed in 23, 24 and 25 where rejected because they would be difficult for the local planning authority to monitor and require an intolerable level of supervision.</p> <p>In the committee report it states that officers have been mindful of this appeal decision and the comments within it on conditions in drawing up their recommended list of conditions. However in our view these three additional conditions do represent an intolerable level of supervision and, in places, duplicate other conditions. If conditions 23, 24 and 25 are imposed we will be applying for them to be removed.</p>
	<p>ENFORCEMENT LIST</p>
<p>1.</p>	<p>15/00100/UCU – Unauthorised material change of use of land from agriculture to a mixed use of agriculture and use for the siting of a caravan for human habitation at Kerrells, Down Farm Buildings, Burlescombe, Tiverton</p>
<p>2.</p>	<p>13/00036/UDUR – Timber windows replaced with uPVC windows – (Listed Building) – Cullompton Article 4 Direction at 5 Ways Lane Cullompton</p>
<p>3.</p>	<p>15/00042/UNLD – Allegation of untidy land on site on Old Village Hall at land at NGR 295600 102934 Fore Street Silverton</p>

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4.	11/00034/UCU – Unauthorised material change of use of land from nursing home to a mixed use including the siting of caravans at Langford Park Ltd, Langford Road, Langford, Newton St. Cyres
5.	16/00132/LIS – Without listed building consent the execution of works for the alteration and extension to the listed building namely the erection of a single storey extension and alterations to the exterior of the building at Barn Orchard, Higher Furzeland, Copplestone, Crediton
	PLANS LIST
1.	16/00588/HOUSE - Erection of first floor extension with juliet balcony, detached garage and formation of new access to replace existing at 22 Turnpike, Sampford Peverell, Tiverton.
2.	16/00665/HOUSE - Erection of single storey rear extension at 11 Chinon Place, Tiverton, Devon.
3.	16/00712/HOUSE - Erection of a single storey rear extension at 5 St Johns Close, Tiverton, Devon.
4.	16/00756/FULL - Erection of gates across existing drive entrance at Old Bartows, Bartows Causeway, Tiverton.
5.	16/00757/LBC - Listed Building Consent for erection of gates across existing drive entrance, installation of ground floor window, and other internal alterations at Old Bartows, Bartows Causeway, Tiverton.
	AGENDA ITEMS
12.	<p>16/00180/FULL – Erection of 2 dwellings following demolition of existing dwelling (Revised Scheme) at 19 Exeter Road, Silverton</p> <p>MDDC Conservation: The character is one of transition between the rural fields and the denser housing of the historic village. The house itself has no historic merit and I have no objection to its demolition. The plot is not large and fitting two properties into the site along with parking creates negative impacts, especially on the street scene. Because the majority of the low boundary wall and hedging will be removed to create parking spaces, a large open frontage with ‘porous tarmac’ as a surface creates a very suburban feel and leads to a loss of enclosure. Whilst other properties on the row have visibility splays they also have a hard boundary - with fencing and planting or the small hedge banks which helps create character. I therefore think that the frontage / open boundary is a negative impact and does not preserve or enhance the setting of the conservation area. The house design is reasonable but I do think that the gable end facing the road brings the sense of height and dominance a lot closer to the boundary – other properties have ridges running parallel to the road and set further into the plot. My feeling is that the resulting appearance will therefore look more dominant and ‘busier’ in the plot than</p>

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	<p>is ideal. Orchard Jeffreys is a very good quality property in the conservation area lying to the north. It faces towards this plot and whilst it is a reasonable distance away from the boundary I think that the proximity of the new house to the boundary along with the additional height and a very plain elevation with one obscured window will detract from its setting, albeit a private one.</p> <p><u>Summary</u> The plot is not in the conservation area but I find that the development proposed does not 'preserve or enhance' it's wider setting and in fact creates a degree of less than substantial harm. For that reason I recommend refusal.</p>
13.	<p>05/02315/OUT – Outline for the erection of an agricultural worker's dwelling (Re submission) at Land at NGR 316000 114353 (adj Shalom), Caller's Lane, Clayhidon, Cullompton EX15 3PH</p>
14.	<p>14/00881/MOUT – Outline application 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 at land east of Tiverton, South of A361, and both north and south of Blundells Road, Uplowman Road, Tiverton</p> <p>Correspondence received from Bilfinger GVA on behalf of Blundell's School :</p> <p>I would like to formally request that agenda Item No. 14 regarding application 14/00881/MOUT be deferred for the reason that Blundell's School and those presenting them have not been consulted on the changes. The changes, potentially, have a fundamental impact on the safety and operation of the School. There does not appear to have been any robust review of the impacts that might arise from these changes. Given the sensitivity of traffic impact we have provided previous comments and technical evidence in response to this and the other EUE developments. We have raised concerns previously regarding the lack of consideration to the School's comments in the lead up to the previous committee in 2015. Furthermore we issued a specific request in my attached letter of October 2015 to be involved and consulted on any changes or discussions regarding conditions and section 106 matters that would impact upon the School.</p>
15.	<p>13/01616/MOUT – Outline for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, pedestrian/cycle links and highway improvements at land at NGR 298671 113603, Uplowman Road, Tiverton</p>

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