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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 20 April 2016 at 2.15 pm

Present Councillors

Mrs H Bainbridge, Mrs C Collis,
Mrs F J Colthorpe, Mrs G Doe, 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

**Apologies
Councillor(s)** K Busch and R F Radford

**Also Present
Councillor(s)** C J Eginton and Mrs J Roach

**Present
Officers:** Jenny Clifford (Head of Planning and Regeneration), Simon Trafford (Area Planning Officer), Amy Tregellas (Head of Communities and Governance and Monitoring Officer) and Julia Stuckey (Member Services Officer)

148 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr R F Radford and from Cllr K Busch who was substituted by Cllr Mrs G Doe.

149 **PUBLIC QUESTION TIME**

Referring to item 5 on the agenda Mr B Govett, a resident of Nomansland, said I would like to firstly correct a statement made by your planning officer Mr S Trafford at the planning meeting on April 6th. It was stated that lorries have been going off the lane into the ditch for the last 18 months. This is a totally incorrect statement and misleading to you all. Photo A (provided to Chair) shows the ditch bank undamaged. In fact the problem only started as a result of damage and bank eradication caused by the large lorry unit which undertook the laser pipe installation for connecting Edgeworthy Farm to Menchine farm (photos B and C). Note ditch bank still intact at commencement of the work.

The road verge was destroyed by the large unit and as a result, lorries have gone off the road into the ditch as it was continually filled with water. As the road had no denotation drivers assumed it was a puddle, not a ditch and tried to drive through it (photos d and e) illustrates.

As there have not been problems in the past the only works necessary is the reinstatement of the ditch bank. It must be appreciated the installation of a passing bay has never been and is not required now or in the future. The only thing the passing bay will do is to encourage vehicles to drive faster down the lane which will result in further eradication of our quality of life. It will also exacerbate the probability of a road traffic collision which could be overcome.

Members should be aware of their responsibility to ensure the safety of rate payers and visitors using the facilities, the countryside, in the district which must not be overridden by profit for a company.

Any monies available from the county council should be used to introduce road calming measures by width restrictions in Nomansland. Members should already be aware that there is a perpetual problem of traffic illegally speeding through our hamlet. This can, and should, be overcome by reducing the road width in places similar to those used and work well in other villages in Devon. Regrettably, the police do not have the resources to continually monitor and therefore overcome speeding in locations. Therefore installing a passing bay will not solve any problems, only exacerbate them.

Members, please be aware, if a road traffic collision occurs as a result of an incorrect decision, you will be morally responsible. Therefore I would like my comments recorded in the minutes please as I may refer to them if a traffic collision does occur in the future.

Mrs K Govett, referring to item 5 on the agenda asked why is there is a need for the proposed passing bay in the back lane if there are only going to be 9 tractor units going to Menchine per cycle, from Gibbett Moor? Could the Planning Department please make it clear as to how many units we could accurately expect if this planning application is allowed to go ahead? I suspect it may be more than 9.

Our lane leads down to a very dangerous junction on the Rackenford road which doubles back on itself as you can see from the map on the overhead. Putting in a passing bay will only speed tractors up making this junction even more dangerous. You cannot exit the lane in the Tiverton direction at the opposite end, as you will see from the map the junction on to the B3137 does not allow a left hand turn without turning across the road onto oncoming traffic and towards the obscured bend. The only safe route to Tiverton is via the junction onto the Rackenford road and turning right towards the pub. This junction not only turns back on itself as the map shows but is made even more blind by the hedgerow which obscures oncoming traffic. Photo a shows the visibility when stopping in a driving position before turning out of the lane. Photo b shows the visibility having pulled out of the junction by about 2m. You will note the skid marks showing on the road, the photo was taken this morning.

If additional movements in the form of tractor trailer units to and from Menchine Farm are allowed to use the route through our hamlet there will be an accident without doubt – how serious? Do you really want to wait and see?

Miss Coffin referring to Item 5 (Gibbett Moor) on the agenda stated that: Do Members believe that the implications report answers the concerns raised at 6th April meeting, I refer: lack of clarity in the number of birds to be farmed in

consequential difference to all figures supplied, officers suggest it will be controlled by Environment Permit, it will not. The planning application before you can accommodate 60,000 or 95,000 chickens per cycle as it stands dependant only on the method of welfare utilised, waste plan should encompass the term manure, if Menchine AD plant does not take the manure from the site via its intake shed and dispose of it as waste, it will mean it being disposed of as manure fertiliser on farmland. The site is not big enough and is under the control of an administrator, we already have a serious problem with proper manure storage and disposal in this area. How will any route or vehicle journey be monitored and enforced? Traffic assessment has not encompassed the cumulative impact and safety of all existing and affected businesses and residents and other types of farms on what are substandard roads, I respectfully ask do the council feel that the officer's report has fully discharged its responsibility to the local and wider environment as well as local tax payers and residents.

Mrs E Collie, referring to item 5 on the agenda, asked why there is such an acceptance by the planning officers of the biased information in the Transport Planning Associates report and a total disregard of the views of the inhabitants who live on the roads concerned. They completely fail to accept that irrespective of whether the chicken manure is going to Menchine or any other local farm, Gibbett Moor is a new development and will produce an additional 820 tons of manure to be disposed of via the local rural network. I would ask that Members disregard the figures in table 5.1 of the report. Are Members aware that on page 29 in the implications report under reason for refusal 4 there is misleading information? The Planning Officer in his report on page 29 states "within a recent appeal decision to allow the capacity of Menchine AD to be increased the planning officer etc". This is a completely misleading statement suggesting the appeal was successful when the appeal was actually dismissed. The same paragraph also refers to the 'improved infrastructure on the B3137'. Again this is misleading as an assumption is being made that another poultry unit in the hamlet will be built, at Edgeworthy Farm, to which this statement relates.

The Chairman indicated that the answer to questions raised would be provided at the agenda item.

150 MINUTES OF THE PREVIOUS MEETING

The Minutes of the last meeting were approved as a true record and signed by the Chairman.

151 CHAIRMAN'S ANNOUNCEMENTS

The Chairman informed the Committee that Mr R Willing, Enforcement Officer, was leaving the authority and that she wished to thank him for all the work that he had done with this committee and to wish him the best for the future.

The Chairman reminded Members that there would be a pre-application presentation on Monday 25th April at 3.30pm for Members and the public to receive a presentation from potential developers explaining what they hoped to provide at Well Parks, Crediton and asking for comment and advice.

152 **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 AT LAND AT NGR 288027 116786 (GIBBETT MOOR FARM), TEMPLETON, DEVON**

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

The Area Planning Officer outlined the contents of the report, highlighting the application by way of presentation outlining the site location plan, the details of the development, the access route to the site and the proposed passing place, the site layout, attenuation ponds, proposed elevations and dimensions of the office buildings. Members viewed photographs from various aspects of the site.

The Officer set out potential reasons for refusal identified by Members at the meeting of Planning Committee at the meeting of 6th April 2016. Which were:

1. Cumulative impact of the number of operations in the area particularly in respect of traffic generation.
2. Insufficient, inconsistent and inaccurate information in order for the Local Planning Authority to adequately assess the impact of the application.
3. Access and traffic – the unacceptable impact of traffic generation and on highway safety
4. Landscape and visual impact.

The officer informed the Committee that, in the opinion of officers, although not risk free, there were 2 reasons which could be promoted as reasons to refuse the application.

Referring to the questions posed in public question time:

- Reference was made within the report to vehicles passing down Back Lane and driving into the ditches was a reference to information passed on by local people and was not the reason for the bay to be included;
- Road calming measures to slow traffic – as part of the assessment the views of Devon County Council Highways (DCC) had been sought and in its view the network would be safe with the incorporation of the passing bay and they had not recommended any other road safety measures;
- With regard to how many road trips would be taken this was set out on page 27 of the report which stated 9 per cycle and 54 per year in respect to the removal of chicken waste;
- Due to timing of the report some information had been shared on the update sheet. This advice was with regard to the cumulative impact on the highway and the response from DCC did not uphold this.
- Enforceability of the route – a condition could be imposed to give control and if conditions were breached this would be enforceable;

- A waste management plan could be imposed as a condition if permission was granted;
- Page 29 of the report highlighted the appeal decision for Menchine Farm which could be used to support the reasons for refusal;
- The Head of Planning and Regeneration apologised that the information regarding the Menchine Farm appeal gave the impression that the appeal had been allowed which was not the case;

Consideration was given to:

- The location of the passing bays;
- Site visits and the volume of traffic witnessed;
- The size of farm vehicles;
- Locations that chicken waste was being transported from;
- The impact on the landscape of industrial style farming;
- The need for reasons for refusal to be robust;
- Increases in traffic on the road network could be due to any number of reasons;
- The impact on tourism and local business.

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

- Due to the scale and siting of the proposed poultry units and associated infrastructure, the development is considered by the Local Planning Authority to have a harmful effect on the rural landscape character and visual amenities of the area, and it has not been demonstrated that this harm could be satisfactorily mitigated. The application is considered to be contrary to policies COR2 and COR18 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2, and DM22 of the Local Plan 3 Development Management Policies and the National Planning Policy Framework.
- In the opinion of the Local Planning Authority, due to the number and size of vehicular movements associated with the application travelling on the local highway network, in particular within the hamlet of Nomansland and the surrounding narrow rural roads, is likely to cause significant impact upon residential and pedestrian amenity. The application is considered to be contrary to policies COR9 of the Mid Devon Core Strategy and policies DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).

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

Notes: i) Cllrs Mrs F J Colthorpe, R L Stanley, B A Moore and S G Flaws all declared personal interests as they either knew the applicant and/or local residents;

ii) Cllr Mrs G Doe declared a personal interest as she had family members living in the area;

iii) Cllrs Mrs H Bainbridge, Mrs C Collis, Mrs F J Colthorpe, J M Downes, P J Heal, Mrs B M Hull, D J Knowles, F W Letch, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good practice for Councillors dealing in planning matters as they had received correspondence regarding the application;

iv) A proposal to refuse the application on all five reasons for refusal was not supported.

v) The following late information was reported:

The following statements are an update to the Gibbett Moor Implications Report (12/04/2014), reason for refusal 5 'Cumulative Impacts' Page 8.

Following a request from Mid Devon District Council, Devon County Councils Highways Officer has consulted with colleagues covering North Devon, Exmoor National Park and Torridge regarding the cumulative impact of this proposal. Following discussions with these officers, Devon County Council had informally advised the existing chicken sheds within the area are not considered to produce transport movements that exceed that of normal agricultural practices, such as keeping cattle with fields. A formal response was received on the 18/04/2016, which is shown at the bottom of this update. Devon County Council Highways conclude that it would be unreasonable to assess the cumulative impact of this scheme, more than has already been considered.

The planning office received a call on the 15/04/16 requesting consideration was made to a further chicken installation on Land adjacent to Fernley Farm as shown on the updated map Appendix 1. This site accommodates approximately 6000 chickens (per cycle). Chicken waste is removed from the site at the end of the cycle and spread on surrounding farmland. The site of this chicken installation is not on the proposed waste disposal route associated with Gibbett Moor Farm. It is considered by your officers that due to the small scale of the enterprise, it is unlikely to cause any cumulative impacts in relation to Gibbett Moor Farm.

Considering the above information, the recommendations set out within the implications report remain unchanged.

HIGHWAY AUTHORITY 18TH APRIL 2016 (By email)

I have spoken to colleagues in the north area and can confirm that we would not look at the cumulative impact of the chicken farms on the area. It was also felt that to do so would necessitate that all applications would need to be considered for the cumulative impacts in the area not just Chicken farms but other development too both commercial and residential. This would be a significant undertaking and possibly unreasonable Therefore my comments below stand.

HIGHWAY AUTHORITY 11TH APRIL 2016 (By email)

The only ones I am aware of personally are Gibbets moor, Menchine, Tollgate and Edgeworthy. (albeit it is not on the map) I do not know about Beech Farm and Hollyfield, perhaps you can let me know the history. The question with this one is how long has it been in operation as to whether it was part and parcel of the transport assessment considerations of Menchine etc. Tollgate is a redesign and a lesser number of units than consented and will not impact, Menchine will be serviced from the B3137, as will Edgeworthy. The other farms will need to be looked into as to whether or not they are connected to Menchine or the other AD plants, if they are not then the routes to their end user may be different and more over being separate applicants may not be reasonable for other developments to consider. For an example Little Rackenford, Higher Thorne Farm may use the link to A361 and not impact Nomansland, Horseford, and Stourton Barton and Stourton Lodge would be likely to use the B3137. The latter two would impact on Nomansland along the B3137 but not the wider network in the Templeton /Nomansland area. In which case the only consideration would be the cumulative impact of amenity on the B3137 and given the small number of movement chicken farms generate over the roads, general traffic generations may not be severe or significant. My initial thoughts are that from a highway movements perspective they would not be considered as cumulative, and unlikely to be a capacity issue and only amenity would be considered.

HIGHWAY AUTHORITY (NORTH DEVON AND EXMOOR NATIONAL PARK) 12TH APRIL 2016 (by email)

I recollect dealing with Higher Thorne, Rackenford (57838) and the subsequent discharge of conditions application (59081) which included a constriction management plan. It probably comes as no surprise to say I found the proposals acceptable as there is considered to be minimal traffic movements, contrary to local objector's views. Both applications were approved by the Local Planning Authority and are on north Devon's website.

Most of these applications I have dealt with in the past appear to be quite consistent with their operations and resultant vehicle movements which show no adverse movement and what we would typically expect for an agricultural type industrial process.

HIGHWAY AUTHORITY (TORRIDGE AND NORTH DEVON) 11TH APRIL 2016 (by email)

I've not dealt with any of these 4, but others closer to South Molton have very few traffic movements as you know – a few staff vehicles a day and large vehicles every few months. In general we deal with these using standing advice because they are so low generators and impact is no more that the agricultural use that the land would have if part of a farm.

153 **REVIEW OF PLANNING COMMITTEE PROCEDURES**

The Committee had before it a report * of the Head of Planning and Regeneration requesting that Members review Planning Committee Procedures in light of issues that have arisen and following visits to other Local Planning Authorities undertaken in 2012/13.

The Chairman introduced the report, reminding Members that it has been instigated at the request of Members of the Planning Committee in 2013.

Cllr Mrs J Roach raised some matters that had come to her attention when she was Chair of the Scrutiny Committee. She informed the Committee that issues regarding planning and enforcement had been raised at Scrutiny over a period of time but had not been looked at individually as the Committee had been informed that the review being undertaken would encompass these areas. The report subsequently took a long time and would now appear to have addressed most issues that were reported. However following consultation, which involved town and parish councils, other issues were raised that had not been addressed. She also considered that Ward Members on Planning Committee had an advantage in being able to vote on applications in their ward. Single Member wards were disadvantaged when extra meetings were called as they could not always be available to attend. Councillor Roach suggested that Special Meetings were held on the morning of a scheduled meeting to avoid this problem. She also raised the matter of the lack of dimensions on plans, stating that it was not easy to see from plans the dimensions of what was being put forward. She raised the matter of validity of information given to support business plans, referring to a previous application where she had not believed the business plan to be accurate. At committee, photographs were used to support applications which were not available on line and therefore the public did not get to see them.

The Head of Planning and Regeneration responded that there had been a wide range of issues raised but the scope of the report was set by the Planning Committee. She said that pertinent issues had been raised by Cllr Roach but that those concerns fell outside of the remit of this report.

The Chairman thanked Cllr Mrs Roach for her comments.

The Head of Planning and Regeneration outlined the contents of the report, reminding Members that the review of the operational procedures in connection with Planning Committee was requested by Members of that Committee. Members of Committee had defined the scope of that review. A report was considered at the meeting of 19th June 2013. 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 indicated that they are minded to determine an application differently from the officer recommendation were also included in the scope of this report on procedures.

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.

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

There were few responses from agents or the public.

The Officer added that with regard to recommendation 4 the Planning Advisory Service previously had offered a Peer Review service, but a check would be needed to see if this was still available if Members wished to go ahead with this. She further explained that the ordering of list items on the agenda was determined by the computer system that added items in application number order. She acknowledged that agendas were often long and that additional meetings could be added to deal with this but that a balance was required. She explained that targets were in place which meant items needed to go on agendas to meet specified time scales. Options to reduce the length of meetings could include reviewing the length of officer presentations and the length of speaking allowed. She also outlined the challenges faced by officers when putting together implications reports, in that officers had a duty to give professional advice as to whether the reasons for refusal could be upheld at appeal but did not wish to undermine the Committee or the case at appeal.

Discussion took place regarding:

There was no opportunity at Planning Committee to raise any other business;

The need to produce a clear guide to planning system in order that the public could be made aware of procedures and areas that were not material planning considerations

The ordering of speakers and whether or not Members should be able to question supporters and objectors;

It was **AGREED** that the applicant should speak after the objector in order that they could correct any information given.

It was **AGREED** that Ward Members be limited to 5 minutes each.

It was **AGREED** that the Committee could ask questions of the applicant and objectors through the Chair, following their 3 minutes;

The Head of Communities and Governance informed the Committee that an additional Solicitor was being appointed and would be available to attend meetings should the need arise;

Speaking to implications reports and the fact that objectors and supporters had already had opportunity to speak at previous meetings;

It was **AGREED** to maintain the current procedure that public speaking not take place with regard to implication reports;

Site visits and the difficulties in maintaining procedures;

It was **AGREED** that clear written procedures should be in place for site visits;

It was **AGREED** that implication reports were required when Members had gone against officer recommendation for approval but were not necessary when Members had gone against officer recommendation for refusal as conditions were normally delegated to the Head of Planning and Regeneration;

Annual Review of Decisions – The Constitution stated that Members should take part in an annual review of decisions when they would be taken around the district to review application decision making, in order to review the quality of planning in the District. However few Members had been available to attend two years ago and last year there had been no review. Cllr D J Knowles suggested that he could visit sites and video record the development for the Committee to review. It was **AGREED** that a trial be undertaken;

It was **RESOLVED** that Members **NOTE** the consultation responses and recommendations of the Working Group.

(Proposed by the Chairman)

It was **RECOMMENDED** to the Standards Committee that:

- i) That a clear guide to Planning Committee procedures be 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 was available to assist Planning Committee with legal input as required on a case by case basis and a legal officer be '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, with the exception of the limitation of Ward Members to 5 minutes each and alteration to the order of speaking so that the supporter speaks after the objector;

- v) That the questioning of speakers for reasons of clarification be allowed through the Chairman and apply to the applicant and objector only;
- 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 was 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 be amended to apply to situations only when Members wish to refuse permission against officer advice.
- ix) That a video review of planning decisions be trialled and that an annual review of planning decisions be undertaken via Planning Committee site visit and that the Constitution be amended to remove reference to referral of the findings of the review to Scrutiny Committee.

(Proposed by the Chairman)

It was further **RESOLVED**:

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.

(Proposed by the Chairman)

4. That final recommendations 2, 4, 5, 7 and 8 relating to venue layout, attendance and advice, agenda format and order, report format and contents and officer presentations be agreed.

4a That final recommendation 6 be amended to read that Planning Case Officer names be included in officer reports (enforcement reports to be excluded) and that where multiple consultation responses are available the most recent and non-superseded are reported.

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.

(Proposed by the Chairman)

Cllr Mrs J Roach had asked that other issues that had not been considered be incorporated into the report. Discussion took place regarding this.

It was **RESOLVED** that no further detail was required at this stage.

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

Note: - * Report previously circulated and attached to Minutes.

(The meeting ended at 5.15 pm)

CHAIRMAN