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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 SPECIAL MEETING of the **PLANNING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House on Wednesday, 20 April 2016 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 11 May 2016 at 2.15 pm in the Phoenix Chamber, Phoenix House, Tiverton

STEPHEN WALFORD

Chief Executive
12 April 2016

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, 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 3 - 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 **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 (Pages 23 - 56)

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.

6 REVIEW OF PLANNING COMMITTEE PROCEDURES (Pages 57 - 138)

To receive a report of the Head of Planning and Regeneration (deferred from a previous meeting) 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

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MID DEVON DISTRICT COUNCIL

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

Present Councillors

Mrs F J Colthorpe, Mrs H Bainbridge, K Busch,
Mrs C Collis, 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

Also Present Councillor(s)

Mrs J B Binks and R J Chesterton

Present Officers:

Jenny Clifford (Head of Planning and Regeneration),
Tina Maryan (Area Planning Officer), Simon Trafford
(Area Planning Officer), Lucy Hodgson (Area
Planning Officer), Simon Johnson (Legal Services
Manager), Daniel Rance (Principal Planning Officer),
Catherine Marlow (Conservation Officer), Reg
Willing (Enforcement Officer) and Sally Gabriel
(Member Services Manager)

137 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

138 **PUBLIC QUESTION TIME**

Mr Tony White, referring to item 11 on the agenda, asked how confident are the committee that what has been built already and what remains to be built will actually follow any permission granted? An example of this are the two driers, the synopsis of changes states that there will be two dryers of 43m in length, drawings show two drawings end to end which should total 86m, they are next to the silage clamps which are 60m long but the drawing shows the clamps as longer. Which is correct and who is checking on this sort of thing? Given GFL's contempt for the planning process on this site what steps will the planning officer take to ensure that the end result is within the parameters allowed? Also as a large part of the site has been built without planning permission do the Councillors agree with the officers previous assertion that this in no way sets a precedent. Another authority has recently been quoted as saying that a similar situation "a pattern of behaviour has characterised the permissions at this site, essentially the planning process has been treated with contempt and a loss of faith in the public in the planning process makes future planning decisions on biogas plants much harder to achieve".

Mr Peter Robins, referring to item 11 on the agenda, said that given the history of what has gone on local residents have no confidence that Greener for Life will stay within any permission granted. Referring to the report it appears that the original plan for the AD unit can no longer be implemented. Can they explain why this is? If

Greener for Life have created the problem by not providing a coherent report in the first place Members of the Council should not feel responsible for the predicament that the company now finds itself in. Hopefully the Committee Members will vote with their consciences and not how any political party dictates. If it does get approval how long will it take for the trees to grow to give sufficient screen from the site from public view and who is going to monitor this site to ensure that everything is carried out correctly?

Mrs A Vinton, referring to item 11, said that the transport statement provided by the applicant relies heavily on the fact that 251 of the acres to be used for food stocks and digester spreading are accessible land without the use of the public highway. However 119 of these acres, that's over a 3rd, are not part of Hartnoll Farm and lie to the west of Manley Lane and are within the area marked out as part of the Eastern Urban Extension. That is the 26 acres in the amended statement in the additional statement added to the acres in the original document. Can your officers tell us what Greener for Life intend to do if and when this acreage is no longer available and have they supplied your officers with figures for the increased amount of traffic that would be generated on the public highway if alternative sources had to be found? Furthermore can your officers assure us that stringent checks will be made on the recorded number of vehicle movements and when the figure of 1872 vehicle movements per year has been logged the digester will be shut down and no further traffic movements take place.

Mr Goff Welchman had supplied a written question, referring to item 11 on the agenda, which the Chairman read. Does this committee believe that it is right, to allow an approval, then when caught building a larger construction in the wrong location, put in a revised plan, and receive approval? If this application is not rejected and appropriate enforcement action taken then this committee will send a clear message to all developers that they can get away with similar deceptions in future in our area.

Mr K Grantham, referring to item 5 on the plans list, said that the application had been called in by a Ward Member as it was considered that the application, if approved, would constitute over development of the site. The Parish Council and some objectors take the view that apart from over development of the site the visual mass and design of the extension and the additional garage will fail to meet standards of high quality design and look unsightly as described in the Willand Parish Council representation. This view is also shared by another Ward Member. Should not those views be listened to and given due weight when compared with the alternative view of an officer?

Mr B Warren of Willand Parish Council referring to item 5 on the plans list said that in their representation, which is contained in the officer's report, the Parish Council suggested the inclusion of 2 conditions which are set out towards the bottom of page 5 of the plans list. These were suggested if Members were minded to grant approval as by closing off one door of the main house on the ground floor the garage conversion/extension could easily become a separate dwelling. Those conditions have been part of two separate approvals granted by officers in relation to similar applications elsewhere within the parish in the last year.

The suggested inclusion was made by the Parish Council as a way of ensuring there was not a future separate of accommodation and in the interests of the planning process being seen to be consistent. No mention has been made by the officer as to why this representation has been discounted.

If Members approve the application could they please instruct the inclusion of those suggested conditions?

Mr Govett, referring to Gibbet Moor on the agenda asked if the Committee were aware that residents of Nomansland are very surprised that the Highway Authority are prepared to provide/recommend a passing place in Nomansland to accommodate the transport requirements for yet another seemingly small business, which it is not, as it is part of the Greener for Life company. The provision of the proposed passing place will only exacerbate the speed of vehicles on this unclassified lane. Members will already be aware of the problems of vehicles exceeding the legal speed limit in this hamlet which the police, owing to the lack of resources are unable to control.

Would it not be better that any monies available were allocated to the provision of traffic calming measures in our hamlet, through width restrictions, which works well in other villages, before a major road traffic accident occurs where there could be loss of life, and Members were implicit to.

Mrs L Sheppard, referring to the item on the Gibbet Moor application asked are we safe to assume that the committee will bear in mind the recent appeal relating to the increase in the size of the anaerobic digester plant at Menchine, when the inspector stated that the appeal was dismissed because of the effect on increased traffic movements on the local community. Therefore to approve the Gibbett Moor application will by default increase traffic in direct contradiction of the Inspectors decision.

Mrs S Smythe, referring to the Gibbett Moor application asked are Members aware that prior to the Section 50 Order being granted to Greener for Life to drill with the underground mole and lay ducting to carry electricity cables from Menchine to Edgeworthy, down the C308, there had been no problems with it. The surface was acceptable and the ditches well defined and carrying water to its egress. The road is currently closed for a period of up to 18 months. This is as a result of it flooding for the first time in living memory and the ditches eroded resulting in at least 6 vehicles having to be towed from it. We are now told that pipe work carrying the water needs replacing as it is old. It is felt by everyone that the passing place is certainly unnecessary and it is the reconstruction of the pipe work and the reopening of this road which is essential.

Mr David Manley, speaking as the agent for Red Linhay, said that given the response and the implications report with the reasons for refusal proposed at the last planning committee and the fact there was a recommendation for approval for this application can officers please elaborate on the local authorities strength of defence at appeal and related to this could officers in their experience elaborate on the resources required to defend an appeal, not including any appeal costs that may be claimed by the applicant?

Mr Govier, speaking on behalf of the Tiverton Hospital League of Friends, regarding the Alexandra Lodge application asked are the Councillors aware that a considerable number of beds at the hospital are being blocked by medically fit older people with no suitable onwards housing?

Dr O'Kelly, speaking regarding the Alexandra Lodge application, asked if Councillors were aware that in the 16 years that he had been in the town at least 50 beds had been lost in the community. Charlton Lodge and other homes had closed, in that time

the population had aged considerably and it is expected that of the expected growth in population in the next 5 years 4000 will be over 60. If you are going to turn down the application at Alexandra Lodge what alternative accommodation have you got in place that you can deliver in the same timescales?

Mr Sam Tabiner, regarding Alexandra Lodge asked are Councillors aware that Alexandra Lodge is specifically stated in the Councils Older Person Strategy that they will vigorously pursue the scheme at this site and find a suitable registered provider and fund the facility. Under the current proposal the scheme will be delivered without any of this funding which can be used elsewhere.

Mrs E Fathi, regarding Alexandra Lodge, asked are Councillors aware that Alexandra Lodge has been used institutionally for at least 60 years, is in a very poor state of repair and requires substantial investment to refurbish it. If this application is not approved today Tivertons Almshouse Trust, as landowner, will need to consider its position. Given the high demand for this type of accommodation in this area could Councillors please explain which town centre site will meet the policy of this council if this site were not approved?

Mrs S Herniman, regarding Alexandra Lodge asked are Members aware that the proposals for Alexandra Lodge are supported by a number of local organisations including Clare House Surgery, Senior Voice, Tiverton Hospital League of Friends, Neil Parish MP and the NHS Trust.

Cllr Mrs J Binks, regarding Gibbett Moor asked if the committee were convinced beyond all reasonable doubt that the traffic calming measures for the C308 are robust enough to mitigate the impact of the additional traffic movement caused by the development to the local residents and will the proposed passing space address the road safety and amenity issues for residents and why the contribution by the applicants towards this has been dropped? Could you ensure that all breaches of conditions are met with the strictest of enforcement?

Mr T Payne, referring to item 11 on the agenda said that Greener for Life have submitted plans for AD plants which appear, as they have not been built within the planning permissions granted, to be built to deceive local councils from the outset. Councillors will no doubt remember that in January 2016 the planning inspector heard an appeal for an AD at Menchine Farm where an attempt was made to double the capacity of the AD plant. There seems to be a pattern emerging where small plants are applied for and then when permission is granted application is made for a larger plant. In the case of the site in Halberton a retrospective application was made only after work had started. I wish to ask how many site visits have been made by Councillors and if they have seen recent aerial photographs and given that the Inspector dismissed the appeal at Menchine Farm and ruled in Mid Devon's favour last month will this give Members encouragement to stand against this application and support the local residents who have written more than a hundred letters of objection, to protect the environment and in particular the canal.

Mr B Cordon, referring to agenda item 11, said that the original plans showed a gas line running from Red Linhay to Willand but that local farmers had refused permission for this and those plans had now changed. When the LPA was asked about the proposed pipe line they informed the Parish Council that they had no idea that such a pipe line had ever been planned. Therefore this application is a totally new application and explains why all the new buildings are needed, the flare is needed and the site has changed. Locals are aware of this. This site is called Red Linhay but

it is part of Hartnoll Farm. Does this mean that material cannot be kept on Hartnoll Farm if it is not part of the site? It is deception to call the site Red Linhay. Also people travelling on Crown Hill are complaining about the state of the road and it will not be able to cope with further traffic.

Mr A Pilgrim, referring to item 11 on the agenda, asked that Members consider thinking about the correctness morally on voting on an application that has a very poor foundation, would you be voting for the best thing for local people?

Mr C Lloyd, referring to the Gibbett Moor application, asked referring to page 17 on the application which said that there was no significant problem as far as the Environmental Health officer was concerned regarding chicken waste passing through Nomansland. He said that he could not see how they could have arrived at that decision, could the officer explain what chicken waste units had been transported to date.

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

139 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 9 March 2016 were approved as a correct record and signed by the Chairman.

140 CHAIRMAN'S ANNOUNCEMENTS (00-30-57)

The Chairman had the following announcements to make:

- A special meeting of the Committee would take place on 20 April 2016 to discuss the Planning Procedures report deferred from a previous meeting.
- The Planning Advisory Service training day that had been provisionally arranged for 14th April had been postponed and would be rescheduled.

141 ENFORCEMENT LIST (00-31-34)

Consideration was given to the cases in the Enforcement List *.

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

Arising thereon:

- (i) No. 1 in the Enforcement List (***Enforcement Case ENF/15/00075/BRE – failure to comply with Condition 1 and Condition 4 on appeal decision in relation to Planning Application 10/00160/FULL – Willtown Mobile Home, Clayhidon***).

The Enforcement Officer outlined the contents of the report highlighting the history of the site and the fact that an application granted at appeal had added a personal condition naming the applicant. Following the death of the original applicant, enforcement was now proposed. The issue of a Breach of Condition Enforcement Notice was proposed which would allow the widow to appeal any decision.

Consideration was given to personal circumstances of the widow and her previous work on the land.

RESOLVED that the Legal Services Manager be authorised to take any appropriate legal action including the service of a Notice or Notices, seeking compliance with a residency condition imposed at appeal following the refusal to grant planning permission by the Local Planning Authority, in respect of planning reference 10/00160/FULL. In addition, in the event of a failure to comply with any Notice issued authority to prosecute, take direct action and/or authority to seek a court injunction.

(Proposed by Cllr P J Heal and seconded by Cllr B A Moore)

Note: Mr Brown (Agent) spoke.

(ii) No. 2 in the Enforcement List (***Enforcement Case ENF/16/00064/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 – Green Acres, Coldridge, Crediton***).

The Enforcement Officer outlined the contents of the report explaining the history of the site and that permitted development allowed a mobile home to be placed on site for the purpose of carrying out the development of the shed, this would have to be removed once the structure was complete. He outlined the works that had taken place to date and how slow the process was; he felt that the erection of the shed was now a secondary matter and therefore proposed enforcement action seeking the cessation of the land for human habitation.

Consideration was given to:

- Recent bad weather
- Whether the landowner owned another dwelling
- The period of compliance

RESOLVED that the Legal Services Manager be authorised to take any appropriate enforcement action including the service of a Notice or Notices seeking the cessation of the use of the land for human habitation, the removal of any caravans and any associated containers used in connection with the human habitation of the land and the restoration of the land to agricultural use. In addition, in the event of a failure to comply with any Notice issued authority to prosecute, take direct action and/or authority to seek a court injunction.

(Proposed by Cllr R L Stanley and seconded by Cllr B A Moore)

Note: Mr Claye (Landowner) spoke.

(iii) No. 3 in the Enforcement List (***Enforcement Case ENF/16/00075/UNLD – failure to properly maintain land at Corner House. Wall has collapsed and is now adversely affecting the amenity of the area - Corner Close, Morchard Bishop***).

The Enforcement Officer outlined the contents of the report highlighting the development at Corner Close and the fact that part of the wall had collapsed. Initial

enquires had suggested that the wall was the responsibility of the Management Committee requested as a requirement of one of the conditions on the original approval. Investigations had suggested that the Management Committee had never been successfully formed and therefore the responsibility fell back on to the developer.

Consideration was given to other possible enforcement issues on the site.

RESOLVED that:

- (a) The Legal Services Manager be authorised to take any appropriate legal action including the service of a Notice or Notices, seeking the repair of the boundary wall at Corner Close. In addition in the event of a failure to comply with any Notice served, authorisation for prosecution, direct action and/or authority to seek a court injunction.
- (b) The steps required be amended to read "Rebuild the breach in the wall, using stone which has remained on site, matching in height and width and all other aspects with the undamaged wall on either side of the breach.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr J D Squire)

Notes:

- (i) Cllr P J Heal declared a personal interest as the developer was known to him and he had a relation who lived on the site;
- (ii) Cllr J D Squire declared a personal interest as his daughter in law was a member of the Parish Council;
- (iii) Cllr Mrs J B Binks spoke as Ward Member.

142 **DEFERRALS FROM THE PLANS LIST**

There were no deferrals from the Plans List.

143 **THE PLANS LIST (1-05-15)**

The Committee considered the applications in the plans list *.

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

- (a) No 1 on the Plans List (***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.***)

The Area Planning Officer outlined the contents of the report by way of presentation highlighting 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. He explained the proposed route

outlined in the Waste Management Strategy for the movement of the waste to Menchine Farm. Members viewed photographs from various aspects of the site.

Referring to the questions posed in public question time:

- With regard to the proposed passing place, the Highway officer had felt that it would help the management of the traffic along that section of the network
- Members were well aware of the appeal decision for Menchine Farm
- With regard to the provision of the passing bay, initially the Highway Authority were seeking a financial contribution, however the Highway Authority considered that a passing bay would suffice. We are now bound by the legislation and cannot take money unless there was a specific need and the passing bay had been proposed
- With regard to the Environmental Health comments, the Environmental Health Officer had been involved with discussions
- With regard to the condition of the roads in the area, there were outstanding issues with drainage problems, but these were pre-existing, therefore the LPA could not require the applicant to address the issues, however highway improvements were proposed within the application with the inclusion of a passing place

Consideration was given to:

- The minimum width of vehicles on the roads in question
- The cumulative effect of applications in the area feeding the AD plant at Menchine Farm and the incremental increase in traffic flows as a result of the chicken houses being erected in the area.
- The impact of the appeal decision at Menchine
- If the amount of birds were increased to 95,000 what would the impact be with regard to environmental health issues
- Concerns regarding the information being received from the applicant
- Concerns that the conditions put in place for the Tollgate application and why such conditions were not being requested for this application
- The impact of the application on the local road network and possible highway safety
- Visual impact on the landscape

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:

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

(Proposed by Cllr R L Stanley and seconded by Cllr B A Moore)

Notes:

- (i) Cllr R F Radford declared a Disclosable Pecuniary Interest as a chicken farmer and therefore left the meeting during the discussion thereon;
- (ii) 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;
- (iii) Ms Lyus (Clarke Willmott – on behalf of the local residents) spoke in objection to the application;
- (iv) Cllr Miss Coffin spoke on behalf of Templeton Parish Council;
- (v) Cllrs B A Moore and R L Stanley spoke as Ward Members;
- (vi) The following late information was reported:

Four additional objections have been since the report was completed. The further representation raise concern about the proposed passing bay within Nomansland. In response to comment these concerns, the following points are considered relevant for members to consider.

Objectors have commented that the proposed passing bay within Nomansland would encourage HGV's to use the village as a cut through for HGV traffic. It is also commented that a passing bay in this location would negatively impact on neighbouring amenity and could create flooding issues. Copies of photographs have been circulated which show the C308 flooded and a lorry stuck within a side ditch.

It is not considered that the proposed layby is likely to cause any additional flooding issues, or encourage additional use of the lane by HGVs. It is clear from the representations and submitted photographs that the existing section highway is effectively a narrow part of the network and it is problematic for vehicles to pass safely without using the verge, and on a passing bay in this location is therefore considered to be a beneficial addition to the local road infrastructure. Due to the reasonably low speed of the road, the nature of a passing bay (vehicles will only pull into it temporarily), and the existing location of the road in relation to nearby neighbouring dwellings, it is not considered that the proposed passing bay would have a negative impact the amenity of neighbouring properties. Discussions with the Highways Authority confirm this passing bay is a necessary improvement to the highway, and approval of the proposed scheme with the recommended offsite highways works is advised.

Comments have also made regarding the recent appeal decision to refuse planning permission to increase the capacity of the Menchine AD. It is considered by local residents that the existing Menchine AD plant will not have the capacity to utilise the waste as feedstock for the AD plant if 90,000 chickens are grown each cycle. As members are aware the Menchine AD plant was granted planning permission on the basis that the feedstock would be for 6,545 tonnes of arable crop and 3,000 tonnes of poultry litter. The supporting information suggests that each of the new units at Menchine, Edgeworthy and

Gibbet Moor will supply on average 820 tonnes of poultry litter, which in conjunction with the litter generated on the existing Menchine unit would be close to this proposed annual figure, however would not exceed the 3000 tonnes. Taking into account this information the existing AD plant at Menchine is deemed to be adequate for the disposal of chicken waste from this proposed unit, and the other applications recently submitted by the applicant and approved..

No additional issues have been raised that have not already been considered by the LPA and covered within the officer report.

Templeton Parish Council submitted an additional comment on the 04/04/2016. This is set below:

We write to confirm our original objections to this above application and to agree with other objectors comments, in that we have no confidence in the authenticity of the additional information supplied by the Applicant's Consultants.

Highways/Traffic -

No accumulative consideration given to other existing farms whose agricultural traffic is also serviced by the same rural sub-standard roads in both Mid Devon District and North Devon District areas.

No accumulative consideration given to traffic servicing other existing businesses in Mid Devon and North Devon for which the same sub-standard infrastructure often defines parish and district boundaries.

No account taken of the accumulative residential and service traffic that utilises the affected local infrastructure as the most direct access to Nomansland, Thelbridge, Puddington, Cruwys Morchard, Pennymoor and Witheridge from the 4361 and vice versa.

Environmental Protection against pollution of air, water and soil-

No effective planning control to prevent the number of chickens kept within the described units being increased from 60,000 to 95,000 per cycle. The applicant has neither assessed nor recognised any consequential increases in manure/waste/traffic/nuisance within the documents provided with this Application.

No comprehensive Waste & Manure Plan provided by applicant. Does the applicant have enough access to suitable safe storage/land to facilitate the waste/manure produced by this development? (This is particularly relevant and important as the applicant does not appear to have clear title to the site and associated lands which are in administration). According to this application the disposal of all manures/slurries to be spread as fertilizers, appear to be totally reliant on the availability of rented seasonal/short term agricultural business lets. The disposal of any waste is to go to Menchine Anaerobic Digester (which applicant does not own or operate).

Templeton as a Parish Council respectfully request the LPA to pay particular attention to the problems related to Manure/Slurry/Waste disposal as we and

some of our neighbouring parishes, have been and still are experiencing numerous and considerable problems with inappropriate storage and over spreading of superfluous Manures and Wastes crossing Parish/District and County borders.

Failure to have unambiguous clarity on the responsible and safe disposal of all Industrial/Factory farmed waste/manures creates an unacceptable Bio-security risk for the general well-being of our entire Environment, to include all other livestock farmers.

We therefore repeat our request that the Planning Committee refuse this application.

In response to this consultation, the following comments are considered relevant.

- The highway impacts of the proposed scheme of development are considered with the officer report. An adequate assessment of the vehicle movements associated with this application is considered to have been made, including in relation to cumulative impacts. There will be 54 annual vehicle movements from Gibbett Moor Farm to Menchine AD annually to deliver chicken waste. This is not considered to create any significantly negative impacts on the residents of Nomansland.
- As noted above, the LPA are required to consider the application on its merits. Waste will be disposed of at Menchine Farm AD. The application will be controlled by an environmental permit, therefore if waste disposal arrangements change adequate procedures are in place to prevent any significant environmental impacts.

The LPA maintain a recommendation of approval.

Conditions 3, 4, 5, 6, 12 and 13 have been amended as follows:

CONDITIONS

3. No development shall be commenced until details of the surface water drainage system based on the surface water being piped to a swale and then discharged as shown on the approved development area plan, have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the approved drainage scheme shall be fully implemented in accordance with the approved scheme before any part of the development is occupied, and be so retained.

Condition 3 has been amended to include the clause “in accordance with the approved scheme”

4. Prior to the commencement of the development the site accesses and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with drawings which shall have been submitted to

and agreed in writing by the Local Planning Authority. The development shall be completed and retained in accordance with the approved details.

Condition 4 has been amended to provide a pre-commencement timescale.

5. Prior to the commencement of the development the site access road shall be hardened, surfaced, drained and maintained thereafter, for a distance of not less than 6.00 metres back from its junction with the public highway

Condition 5 has been amended to include the clause “prior to commencement of the development”

6. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway. The approved surface water drainage scheme shall be provided on site prior to the commencement of the development.

Condition 6 has been amended to include the clause “The approved surface water drainage scheme shall be provided on site prior to the commencement of the development.”

12. Prior to their installation, details of the underground water storage tanks shall be submitted to and approved in writing by the Local Planning Authority. The tanks shall be installed in accordance with the approved details and shall be so retained.

Condition 12 has been updated to include “The tanks shall be installed in accordance with the approved details and shall be so retained.”

13. No development shall begin until there has been submitted to and approved in writing by the Local Planning Authority, a landscaping scheme which includes details of all existing hedgerows, hedgerow removal, new planting, seeding, turfing or earth reprofiling. The details approved in the landscaping scheme shall be carried out within 9 months of the substantial completion of the development, and 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. Once provided, the landscaping scheme shall be so retained.

The term “(or phase thereof)” has been deleted from condition 13.

(b) No 2 on the Plans List (***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***).

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, the layout of the scheme, the listed buildings, gardens and trees, the distances between the proposed development and nearby residences in The Avenue, the proposed elevations identified from different aspects

of the site, the works proposed to the listed building and photographs from various aspects of the site.

She addressed the questions posed in public question time:

- The Local Planning Authority were aware of the lack of care available for the elderly
- There was no alternative provision in Mid Devon
- The 2011 strategy did require review
- There were no allocated sites within the Mid Devon Local Plan
- Representations from various people had been received and reported
- Because of the setting of the listed building the application was considered to be unacceptable

Consideration was given to:

- The impact of the development on the listed building
- The need for elderly social and health care
- The detail of the scheme
- The lack of other sites in the area
- The size of the development and the impact on the neighbouring properties, specifically the residents of The Avenue
- The distance between the proposed development and the houses backing onto the site
- Access over the driveway to the Glades
- The need to do something with the building
- The proposed landscaping

RESOLVED that planning permission be granted for the following reason: that the public benefits outweighed the impact on the setting of the listed building and that delegated authority be given to the Head of Planning and Regeneration to draft an appropriate set of conditions.

(Proposed by Cllr B A Moore and seconded by Cllr R L Stanley)

Notes:

- (i) Cllr D J Knowles declared a Disclosable Pecuniary Interest with regard to the application as he was a resident of the Almshouse Trust and paid rent to the Trust, he therefore left the meeting during the discussion thereon;
- (ii) Cllr Mrs F J Colthorpe declared a personal interest as she knew both supporters and objectors to the application;
- (iii) Cllr R L Stanley declared a personal interest as he knew both supporters and objectors to the application and that his wife was a director of the Almshouse Trust;
- (iv) Cllr J M Downes declared a personal interest as his wife used to work at Alexandra Lodge;

- (v) Cllrs Mrs H Bainbridge, K I Busch, Mrs C A Collis, Mrs F J Colthorpe, J M Downes, S G Flaws, P J Heal, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good practice for Councillor dealing in planning matters as they had received correspondence regarding this application;
 - (vi) Mr Kearley spoke in support of the application;
 - (vii) Mr Morgan spoke on behalf of the objectors;
 - (viii) The Chairman read a letter from Cllr Mrs C P Daw (Ward Member);
 - (ix) Cllr Mrs F J Colthorpe requested that her abstention from voting be recorded.
- (c) No 3 on the Plans List ***(15/01824/LBC – Listed Building Consent for the 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).***

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, the layout of the scheme: the listed buildings, gardens and trees, the distances between the proposed the development and nearby residences in The Avenue, the proposed elevations identified from different aspects of the site, the works proposed to the listed building and photographs from various aspects of the site.

She addressed the questions posed in public question time:

- The Local Planning Authority were aware of the lack of care available for the elderly
- There was no alternative provision in Mid Devon
- The 2011 strategy did require review
- There were no allocated sites within the Mid Devon Local Plan
- Representations from various people had been received and reported
- Because of the setting of the listed building the application was considered to be unacceptable

Consideration was given to:

- The impact of the development on the listed building
- The need for elderly social and health care
- The detail of the scheme
- The lack of other sites in the area
- The size of the development and the impact on the neighbouring properties, specifically the residents of The Avenue
- The distance between the proposed development and the houses backing onto the site
- Access over the driveway to the Glades
- The need to do something with the building
- The proposed landscaping

RESOLVED that listed building consent be granted for the following reason: that the public benefits outweighed the impact on the setting of the listed building and that delegated authority be given to the Head of Planning and Regeneration to draft an appropriate set of conditions.

(Proposed by Cllr J M Downes and seconded by Cllr P J Heal)

Notes:

- (i) Cllr D J Knowles declared a Disclosable Pecuniary Interest with regard to the application as he was a resident of the Almshouse Trust and paid rent to the Trust, he therefore left the meeting during the discussion thereon;
- (ii) Cllr Mrs F J Colthorpe declared a personal interest as she knew both supporters and objectors to the application;
- (iii) Cllr R L Stanley declared a personal interest as he knew both supporters and objectors to the application and that his wife was a director of the Almshouse Trust;
- (iv) Cllr J M Downes declared a personal interest as his wife used to work at Alexandra Lodge;
- (v) Cllrs Mrs H Bainbridge, K I Busch, Mrs C A Collis, Mrs F J Colthorpe, J M Downes, S G Flaws, P J Heal, F W Letch, B A Moore, R F Radford, 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 this application;
- (vi) Mr Tabiner spoke in support of the application;
- (vii) Mr Morgan spoke on behalf of the objectors;
- (viii) The Chairman read a letter from Cllr Mrs C P Daw (Ward Member);
- (ix) Cllr Mrs F J Colthorpe requested that her abstention from voting be recorded.

(d) No 4 on the Plans List (**15/02004/FULL – Conversion of redundant building to dwelling – Holes Cottage, Bary Close, Cheriton Fitzpaine**).

The Area Planning Officer outlined the contents of the report by way of presentation identifying the block plan of the proposal along with parking arrangements, floor plans and existing and proposed elevations. He explained an issue that had arisen with regard to the kitchen window and Members viewed photographs from various aspects of the site which considered overlooking issues.

Consideration was given to:

- The parking and privacy issues
- The ground floor window would be obscured

- Possible soundproofing of the kitchen window
- A request to block the window up.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with an amendment to Condition 3 to state that the kitchen window be soundproofed as well as being of obscured glazing and non-opening.

(Proposed by Cllr F W Letch and seconded by Cllr J M Downes)

Notes:

- (i) Cllr Mrs F J Colthorpe declared a personal interest as the Ward Member who had called the application to Committee;
- (ii) Mr Garside spoke as agent to the application;
- (iii) Mrs Walls spoke in objection to the application;
- (iv) The following late information was provided: The EH consultation response as set out in the report suggests that the windows in the bedroom do not provide adequate lighting and the staircase is unprotected which therefore does not provide a satisfactory means of escape in the event of a fire. The applicant's agent revised the plans to address these issues in relation to the planning application proposals.

It should be noted that the comments set out raise some matters (internal arrangements) that would be addressed through the building regulations process should planning permission be granted.

(e) No 5 on the Plans List (***16/00030/FULL – Conversion of garage to reception room, erection of first floor extension above the erection of detached garage – 6 Blenheim Court, Willand***).

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the block plan and existing and proposed floor plans, photographs were shown from various aspects of the site which also identified other extensions in the immediate area.

She answered the questions posed in public question time:

- Planning permission had been previously granted for a detached garage
- Privacy would be addressed through fixed and non-openable, obscure glazed windows
- Regarding an additional condition requiring the connecting door to be retained, it was felt that because of the close connected relationship between the extension and the main house it was unlikely to be used individually, however Members may feel the need to add the condition.

Consideration was given to the design of the extension, parking issues in the area and the overall massing of the proposal.

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration, with two additional conditions stating:

" 5. The garage conversion and first floor extension hereby approved shall be occupied only for purposes ancillary to the occupation of the dwelling currently known as 6 Blenheim Court, Willand, EX15 2TE, and shall not be used, let, sold, or otherwise disposed of separately from the main dwelling.

Reason: To ensure that the garage conversion and first floor extension remains ancillary to the existing dwelling and is not sold or occupied separately from the main dwelling. The application has been considered as an extension only and there are inadequate parking and amenity facilities for an additional dwelling on the site."

6. The internal ground floor door between the proposed converted garage and the main dwelling currently known as 6 Blenheim Court, Willand, EX15 2TE, as shown on the proposed floor plans drawing number 003, dated and received by the Local Planning Authority on 22.01.16, shall at all times be retained as a door capable of opening.

Reason: To ensure that the garage conversion and first floor extension is not separated from the main dwelling, and remains accessible from the main dwelling at all times. The application has been considered as an extension only and there are inadequate parking and amenity facilities for an additional dwelling on the site."

(Proposed by Cllr R L Stanley and seconded by Cllr J M Downes)

Notes:

- (i) Cllr Warren (Willand Parish Council) spoke in objection to the application;
- (ii) Cllr R J Chesterton spoke as Ward Member.

144 **THE DELEGATED LIST (3-55-49)**

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

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

145 **MAJOR APPLICATIONS WITH NO DECISION (3-56-45)**

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

It was **AGREED** that application 16/00352/MFUL (Castle Primary School) be determined by the Committee and that a site visit take place.

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

146 **APPEAL DECISIONS (3-58-14)**

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.

147 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 (3-58-48)

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

The Principal Planning Officer outlined the contents of the report highlighting by way of presentation the original application that had been approved and the revised application which showed the reorientation and slightly larger site, the bund and the additional planting. He outlined the area from which the silage feedstock would be sourced, the proposed layout of the site, the 2 driers and silage clamps, the planting plan and general photographs were shown taken from the canal and bridges at different times of the year. The two site plans were also identified, the original approved application and the revised scheme. He outlined the Committee's reasons for refusal and the supporting evidence outlined in the report along with legal advice that had been received.

Answers to questions posed in public question time were provided:

- The site had been visited by officers at least three times and by the Committee twice
- With regard to the gas line, this had been referred to at a previous meeting but had not formed part of the application
- Road issues at Crown Hill were a highway issue
- The overlapping of land to be used as part of the Eastern Urban Extension; this was highlighted within the report
- The fact that the application was retrospective, Members/Officers would not advocate a retrospective application but there was an opportunity for the applicant to seek to regularise the scheme
- Planting issues – yes it would take time to screen the application site, possibly multiple years
- How could the original plan be implemented and the condition monitored, the Enforcement Team would monitor any conditions alongside the Environment Agency with regard to permitting aspects
- The appeal decision for Menchine Farm, Members and officers were aware of the Menchine appeal which was dismissed on the impact on the local amenity and transport issues
- With regard to resources to defend an appeal, the Local Planning Authority would put the necessary resources into defending any reasons for refusal.

The Legal Services Manager explained the information received from Counsel and requested that Members focus on the difference between the two schemes, if the application was to be refused it would be necessary to gain expert advice.

Consideration was given to:

- Whether the applicant was continuing work at his own risk; the Head of Planning and Regeneration stated that the applicant was not complying with the previous application and had been advised as such, works had taken place and Members needed to look at the application on its merits
- The gas pipe line between Red Linhay and Willand and because this had not been progressed, the plans had had to be changed
- The impact of the application on the canal and the local area
- The legal advice received
- The need for expert advice on the proposed reasons for refusal
- The need to write again to the applicant advising that they were working on the site at their own risk.

RESOLVED that

- a) The application be deferred to seek expert advice on all four of the reasons proposed for refusal;
- b) The Head of Planning and Regeneration be requested to write a further letter to the applicant informing them that they were proceeding at their own risk.

(Proposed by Cllr J M Downes and seconded by Cllr F W Letch)

Notes:

- (i) Cllrs K I Busch, D J Knowles, R F Radford and R L Stanley declared personal interests as applicant/objectors were known to them;
- (ii) Cllr Mrs F J Colthorpe requested that her abstention from voting be recorded;
- (iii) *Report previously circulated copy attached to minutes.

(The meeting ended at 7.32 pm)

CHAIRMAN

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AGENDA ITEM

PLANNING COMMITTEE
20 April 2016

REPORT OF JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

16/01604/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.

Description of Development:

The proposed development is on undeveloped agricultural land covering approximately 7 hectares in area, and is approximately 250metres south of the existing farmstead (Gibbett Moor). The site is 3.5km east of the village of Rackenford, 3.5km north of Templeton, 6.3Km north of Nomansland (approximately 15 minute drive time) and 350metres to the south of the A361. The site is accessed via a single track unclassified road to the east. Gibbett Moor Farm includes an existing dairy unit, as well as associated agricultural facilities.

The application site consists of two fields separated by approximately 240metres of hedgerow and 80metres of fence. The site slopes gently from east to west, and is surrounded by well-established hedgerow including a small amount of native woodland to the west. The nearest development to the site is an agricultural livestock building, 20metres to the south east of the site. The nearest residential dwellings which are not associated with the application are 300metres to the west and 320metres to north east of the site. The site is 110 metres from a scheduled ancient monument, described by Historic England as Three Bowl Barrows.

The description of development is as follows:

- Each of the five poultry rearing sheds shall measure 80 metres in length by 12.6 metre width. This gives a floor area of 1008 square metres per building. The buildings have a proposed eaves height of 2.9 metres and a maximum ridge height of 4.2 metres. The sheds are to be constructed using a steel frame system with a timber roof structure to support a pitched roof. Walls will be insulated panels and will extend to 1 metre above ground level, incorporating polycarbonate sections with an open section above. Double opening doors are proposed in each gable end and underground tanks are proposed to hold dirty water which is collected from the clean out of each shed. Each shed will sit on a concrete base with an apron beyond the building dimensions
- A Biomass plant room designed with a mono pitch roof with dimensions of 11.4 metres by 3.8 metres with a maximum height of 3.9 metres.
- Two feed silos are proposed at the end of each shed. They will have a footprint of 3.5 metres by 3.5 metres with a height of just less than 7 metres.
- A small site office building is proposed with a gable roof. The dimensions of which are 6 metres by 3 metres and just under 3 metres in height.

- An attenuation pond is proposed beyond the southernmost poultry shed close the south west boundary. This shall measure 7 metres in width and 20 metres in length.

A total of 60,000 birds are to be housed across the five sheds which will operate on a 56 day cycle, with seven to ten days between cycles reserved for the cleaning of the sheds. This equates to no more than six cycles per year. The proposed poultry sheds will operate on an alternative cycle to the proposed and existing sheds at Menchine and Edgeworthy Farms and will generate waste equivalent to 120 tonnes per cycle, or 820 tonnes each year.

The proposal will result in the generation of additional vehicle trips using the public highway. For each cycle (of up to 66 days) the total number of vehicular trips that can be expected to arrive and depart from the site per cycle is set out in this report during consideration of the proposed reason for refusal 3 below.

The cumulative total of vehicle movements associated with the proposed development would be up to 70 vehicle movements per cycle or 420 movements per annum, and the majority of these movements will be accommodated via the A361, with the exception of the transfer of waste from the site .

Movement of waste: Poultry litter from the proposed poultry sheds will be transported to the AD plant at Menchine Farm via Nomansland. The estimated tonnage of waste produced per cycle per shed is 24 tonnes per shed. As such this equates to 120 tonnes per cycle. The load carrying capabilities of the trailers which will be designated for the transportation of waste from Gibbett Moor Farm to Menchine Farm are tractors and trailers with the capacity to hold 14 tonnes per load. Therefore, at the end of each cycle there would be up to nine vehicular trips (18 movements) associated with the movement of waste between Gibbett Moor Farm and Menchine Farm. This equates to 108 movements per year.

REASON FOR REPORT:

To set out and review potential reasons for refusal identified by Members at the meeting of Planning Committee at the meeting of 6th April 2016.

Relationship to Corporate Plan:

The emerging Corporate Plan sets out four priorities including the economy, community and the environment, upon which this application has a bearing.

Financial Implications:

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

Legal Implications:

Planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The starting point for decision making is therefore the policies within the development plan. Members will need to weigh the impacts of the scheme against the benefits of the proposal. In order to refuse, the impacts will need to be substantiated and outweigh the benefits.

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 for reasons of unreasonable behaviour. Expert advice may be needed to support any reasons for refusal.

REASONS FOR REFUSAL AND IMPLICATIONS:

During the meeting, Members indicated that they were minded to refuse the application for the following proposed reasons:

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.

Suggested wording for reasons for refusal

Your officers suggest the following wording for the reasons for refusal:

1. In the opinion of the Local Planning Authority, from the information supplied it is not possible to undertake an accurate assessment of the potential impacts arising from the development as the information submitted in support of the proposal contains inconsistencies, conflicting and contrasting statements. It has not been adequately demonstrated that the proposal is in accordance with policies COR2 and COR18 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2 and DM22 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

Officer note, if members consider that an adequate assessment of the application cannot be made, then they should not attach reasons which state the impacts of the proposal cause unacceptable harm (as the impacts are not clear)

2. 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.
3. In the opinion of the Local Planning Authority, the proposed access arrangements do not result in the creation of a safe and accessible place and the increase in heavy goods vehicular movements on the surrounding road network would lead an unacceptable impact on highway safety. 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).
4. 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).
5. In the opinion of the Local Planning Authority, insufficient information has been submitted to adequately assess the cumulative impact of the proposal in terms of highway safety and residential and visual amenity when considered in conjunction

with other proposals for poultry housing recently considered by the Local Planning Authority (Tollgate Farm, Menchine Farm, and Edgeworthy Farm), together with other existing poultry units within the local area. It has therefore not been adequately demonstrated that the proposal is in accordance with policies COR2 and COR18 of the Mid Devon Core Strategy 2007 (Local Plan Part 1), DM2 and DM22 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

Implications: reason for refusal 1.

Members identified during Planning Committee on 06th April 2016 that the application documents contain inconsistent information. This is also a point raised by Clarke Willmott and in various objection letters.

Examples of the inconsistencies within the application documents relates to the number of chickens kept on the site (ranging from 60,000 birds to 95,000 birds), and the length of the breeding cycle. At various stages within the application period the applicant has been asked to clarify inconsistencies, and it is ascertained that the application relates to a total of 60,000 birds to be housed across five sheds which will operate on a 56 day cycle.

Your officers can relate to Members concerns, however, it should be noted a condition could be used to restrict the number of birds to 60,000. If a condition is considered appropriate by Members, it is considered it would meet with the six tests set out in paragraph 206 of the National Planning Policy Framework as shown below:

Planning conditions should only be imposed where they are:

1. Necessary;
2. Relevant to planning and;
3. To the development to be permitted;
4. Enforceable;
5. Precise and;
6. Reasonable in all other respects.

If Members consider the application documentation to be inaccurate, inconsistent and/or insufficient, they should highlight the deficiencies and the implications of them upon the assessment of the application and the impacts of the development when considered against policies and other material planning considerations (for example if the number of chickens significantly exceed 60,000, the transport and environmental impacts associated with the development could not be ascertained). Members will need to establish that as result the application has not demonstrated compliance with development plan policies and other material planning consideration such as the National Planning Policy Framework. Reference in detail to the submitted documentation will be required.

Implications: reason for refusal 2.

Your officers identified in their report to Planning Committee on 06th April 2016 that the proposed development could cause some harm to the site's landscape character and visual appearance, however, as noted in the officer report this harm could be considered limited, due to the natural screening surrounding the site which provides a degree of containment to short distance views, and the limited visibility of the site from surrounding public vantage points.

Members may wish to consider themselves the visual and landscape impact and make an alternative assessments over the level of harm the proposal creates. Policy DM22 'Agricultural Development' notes that the development should be 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.

Members are advised to consider whether a proposal of this size and scale is respectful to the character of the area, and wherever the existing hedgerows and/or proposed mitigation will adequately militate against the proposals visual impact.

Implications: reason for refusal 3

The Highway Authority has not objected to the application, subject to mitigation being provided in the form of passing bays and junction improvements. The potential transport movements associated with the application were set out within the earlier officer report and is as follows:

The proposal will result in the generation of additional vehicle trips using the public highway. For each cycle (of up to 66 days) the total number of vehicular trips that can be expected to arrive and depart from the site per cycle is set out below:

- At the beginning of each cycle, there would be two deliveries to the site for the delivery of chicks from the hatchery in Kentisbere. These deliveries would be undertaken over two days, generating one trip to the site per day or two vehicular movements per day (4 vehicular movements per cycle).
- Up to ten articulated vehicles delivering feed to the site throughout each cycle. This will generate a maximum of two vehicular trips to site each week (20 vehicular movements per cycle).
- It is expected there would be nine loads required to transport birds to the processing plant at the end of each cycle, generating nine trips. This is to be undertaken overnight, however, it should be noted that the farmer has no control over these collection times because they are set by the processing plant's requirements (18 vehicular movements per cycle).
- At the end of the cycle, cleaners would visit the site to clear, wash and disinfect the sheds. Over a period of two days they will use a 12 metre rigid HGV to transport their equipment onto site, resulting in a maximum of two trips (4 vehicular movements per cycle).
- A tanker will transfer waste water from the holding tanks after clean out resulting in an additional two vehicular movements (2 per cycle).
- Vets and maintenance teams are expected to visit the sheds with three trips (6 movements per cycle). In addition, a site manager will also generate an additional but small number of movements.
- There will be three deliveries of bedding per year and 12 deliveries of wood chip to run the boiler heating system (30 movements per annum).
- In each cycle there will be nine deliveries of poultry litter from Gibbett Moor Farm to the Menchine Farm AD plant to be used as feedstock. This equates to 54 deliveries annually. Note: The TPA Technical Note received on the 8th January 2015 confirms these trips will already be on the network because they relate to an existing process

for another site. As such they are not considered to be additional, new trips relating to Menchine.

The cumulative total of vehicle movements associated with the proposed development would be up to 70 vehicle movements per cycle (66 days) or 420 movements per annum, and the majority of these movements will be accommodated via the A361, with the exception of the transfer of waste from the site.

In this case the main issues outlined by members were the site access, and the vehicle movements between the site and Menchine Farm AD. These two issues are discussed below:

Transport movements from the proposed site to Menchine

The applicant’s justification for the proposal is that there would be no additional vehicle movements on the highway travelling to the Menchine Farm AD, as this application would replace existing movements from alternative farms which transport waste to the AD. The Menchine Farm AD has a capacity to take 3,000 tonnes of poultry litter, and it is likely that if this application was approved the capacity would be reached. Vehicle movements associated with this 3,000 tonnes of poultry litter were taken into account in the grant of planning permission for the AD plant. It is considered by your officers that the vehicle movements associated with transporting waste from Gibbet Moor to the Menchine Farm AD can be considered as a substitution for other allowable movements within the 3,00 tonnes of litter, and may create some level of control (or at least clarification), over where some of this waste being delivered to Menchine AD is being transported from.

The applicant has outlined within a transport assessment the likely vehicular movements from the site to the Menchine Farm AD. This equates to 54 deliveries annually. In support of this the applicant has submitted an assessment of the cumulative impacts of the proposal, set out within the Transport Planning Associates Technical Note, December 2015. A summary of the cumulative vehicular movements accessing the Menchine AD is shown in table 5.1 below.

Table 5.1 - Cumulative Impact of Proposals

		Baseline Total Traffic Flow*	With Dev Total Traffic Flow	Additional Two-Way Trips		% age Increase		Magnitude of Impact (Table 8.3 of ES)	
				Total Vehs	HGVs	Total Vehs	HGVs	Total Vehs	HGVs
B3137	Mon- Fri	1915 [80 HGVs; 4.2%]	1935 (100 HGVs; 4.7%)	20	20	1%	25%	Negligible	Minor

* 5 day annual average daily flow

This table includes transport figures from Edgeworthy, Gibbett Moor and Menchine Farm. Table 5.1 portrays a ‘worst case scenario’ and shows a potential increase of 20 vehicular movements on the busiest day during the cycle creates a minor impact on the local road network. As noted within Paragraph 32 of the National Planning Policy Framework, “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.” If members accept the above figures as an acceptable assessment of cumulative impact, then it is clear in this case the proposals impacts are not ‘severe’. The cumulative impacts of the scheme are discussed in implication 5 of this report.

A letter received from Clarke Willmott, and representation from Templeton Parish Council and neighbours suggest the applicant could potentially increase the number of chickens at the site from 60,000 to 95,000. This has already been discussed within implication 1 of this report; however this could impact on the number of vehicle movements using the local highway network, which have not been considered. To control this, the members could condition the number of bird spaces on the site. This would be enforceable, as the applicant has to make this figure public as part of any environmental permit, and considering the potential impacts associated with an increase in birds, is considered necessary, reasonable and relevant.

If the existing assessment of cumulative impacts is deemed by Members as acceptable, then your officers consider that some harm will be produced by the proposal, however this harm in the view of officers would not be so significant as to render the proposal unacceptable, due to mitigation and conditions restricting the number of birds and controlling the proposed HGV route.

Site access

It is acknowledged that the access road (S1614) between the site and Bulworthy Knapp is narrow, and has limited passing opportunities. To militate against this, the applicant has agreed to provide a passing opportunity along this road in addition to making improvements to the field access and the access onto Bulworthy Knapp.

Following these infrastructure improvements, the Highway Authority considers the access to be acceptable, subject to conditions concerning surfacing and drainage. As above, your officers have carefully considered and weighed the advice from the Highway Authority and the impact the proposal may cause on the S1614, and concluded that the impact will not be so significant to render the proposal unacceptable. To conclude differently on highway /access impact, Members will need to demonstrate that severe harm will still result following mitigation measures.

Implications: reason for refusal 4.

In addition to the above highways technical data, the applicant also submitted an assessment of likely significant impacts on pedestrian amenity (including fear and intimidation). The assessment accepts that due to a lack of footpaths on the local highway network, pedestrians may be forced to walk on the carriageway, however, concludes that the level of pedestrian activity along the proposed route when compared to the number of potential vehicles results in insignificant impacts.

Notwithstanding the above, within a recent appeal decision (3003677) to allow the capacity of the Menchine AD to be increased, the Planning Inspector acknowledged that harm would be caused to the amenity of local residents within Nomansland, in terms of the noise and disturbance increases arising from heavy goods vehicles associated with that development. Your officers acknowledge the proposal may cause some harm to the amenity of local residents by encouraging the use of the proposed route through Nomansland and surrounding narrow rural roads (C308 and S2302), in comparison with a chicken unit situated in a different location and utilising the improved infrastructure of the B3137. The latter being likely to cause less harm to the amenity of local residents. It is considered by your officers that a case could be made against the proposal in terms of the waste disposal transport movements causing an increase in harm to the amenity of local residents. Members should consider if the level of harm to local amenity is so severe as to warrant refusal.

Implications: reason for refusal 5.

During the Planning Committee meeting on the 06th April 2016, Members considered that the cumulative impact of the proposal with other poultry operations in the area had the potential

to be unacceptable, particularly with regard to traffic generation and its impact upon the local highway network and local amenity.. This is supported by an objection made by Clarke Willmott, dated 07th March 2016.

This application was screened by the Local Planning Authority under the Environmental Impact Assessment Regulations 2011, where it was ascertained there may be cumulative impacts arising from the proposal in terms of transport, waste handling at Menchine Farm, and increased level of odours. To support the application the applicant submitted an Environmental Statement; however, this did not adequately consider the cumulative impacts of the transport impacts, in particular for the handling of waste at Menchine Farm.

Following a request from the Local Planning Authority, the applicant submitted an amendment to the environmental statement produced by Transport Planning Associates, named 'Technical Note' and dated December 2015. As discussed within implication 3 of this report, the technical note makes a consideration of the cumulative highways impacts of the proposal, including with Edgeworthy and Menchine Farms.

Representations from Clarke Willmott, Rackenford & Creacombe Parish Council, and local residents do not consider that an adequate assessment of the cumulative impacts of the development has been made. Following a search on the Environment Agency's website, the following farms within 10Km of Rackenford have been identified as requiring environmental permits for the management of waste/manure (with the exception of Stourton Lodge).

Search Results

'All' by 'Town Search' - '10 km' - 'Rackenford'

Environmental Permits (Industrial Installations)

6 Results

Name	Distance ▲	Address
GW Frankpitt & Sons	1.18 Km	Little Rackenford Farm, Rackenford, Tiverton, Devon
Cole	4.88 Km	Menchine Farm, Nomansland, Devon
Hook 2 Sisters Limited	5.33 Km	Tollgate Farm, Nomansland, Tiverton, Devon
Hook 2 Sisters Limited	6.96 Km	Stourton Lodge, Witheridge, Devon
Hutchings	7.46 Km	Stourton Barton Farm, Witheridge, Devon
Hook 2 Sisters Limited	7.77 Km	Horseford Farm, East Worlington, Devon

It was acknowledged by the LPA during the screening process that the proposal has the potential to cause cumulative impacts regarding the waste handling arrangements at Menchine Farm. In this case the issue is the whether other sites surrounding the proposal use similar transport routes to those proposed within this application. Limited information has been submitted by the applicant regarding the cumulative impact of existing chicken installations nearby. **Appendix 1** of this report maps the farms within 10km of Rackenford which require an environmental permit, including the farms detailed by Rackenford and Creacombe Parish Council within their consultation response.

The map at **Appendix 1** shows that the majority of the above farms requiring Environmental Permits are unlikely to use the route proposed in this application, as they are predominantly based on the B3137. The Environment Agency was asked where the chicken waste from these permitted sites was transported to, however; unfortunately they do not hold this information. The Environment Agency did comment that Stourton Lodge is not a site requiring permit for the disposal of poultry litter. At the time of writing this report no information has been identified regarding waste disposal arrangements for these units, with the exception of Menchine and Tollgate Farms.

North Devon Council's website includes information regarding waste arrangements for Higher Thorne Farm, Rackenford. In this case the waste will be spread on surrounding farmland. It is unlikely waste disposal arrangements at Higher Thorne Farm will impact on the highways network associated with this.

Beech Farm and Hollyfield are situated approximately 1km to the south west of Gibbett Moor. Again, at the time of writing this report it has not been possible to establish the waste arrangements for these units, however transport associated with them has the potential to use similar transport routes. As these proposals are not controlled by Environmental Permit, the numbers of chickens on the sites are likely to be modest and it may be possible for these farms to dispose of manure on the surrounding farmland. Notwithstanding this, if Members consider the application for Gibbett Moor is acceptable, then the capacity for disposing of waste at Menchine AD is diminished. Taking this into consideration, it unlikely these schemes will result in cumulative transport movements to the Menchine Anaerobic Digester and/or through Nomansland. Discussions have been held with the Highway Authority who are also of this view. More information is being sought on waste disposal arrangements from these other sites. Members will be updated at the meeting.

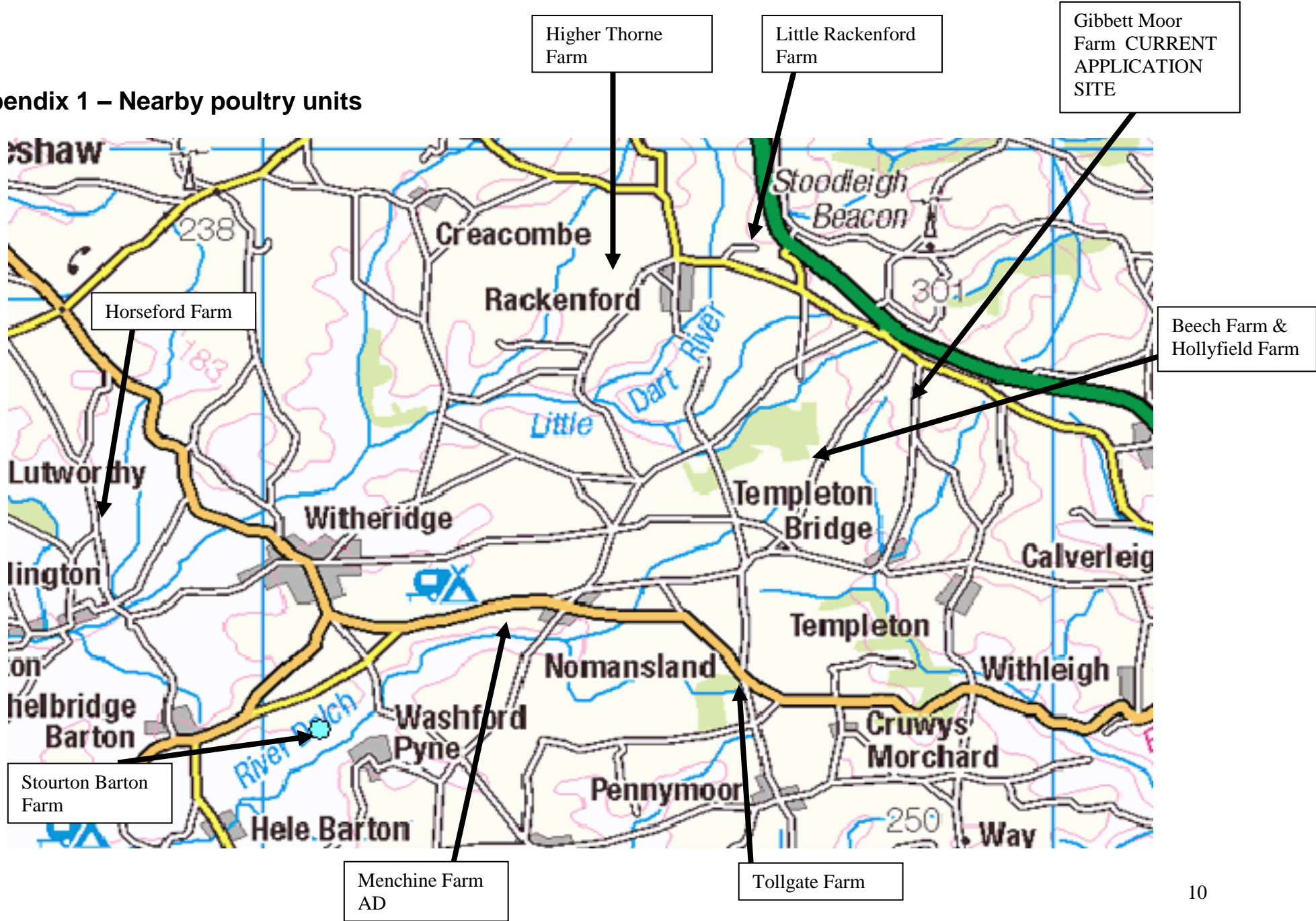
Members should be mindful that there are no outstanding objections from any Statutory Consultees, and that the Highway Authority has raised no objections to the proposed transport arrangements, including the cumulative impacts. It is the opinion of your officers, that although the information submitted regarding cumulative transport impacts (in particular for the disposal of waste at Menchine AD) is limited, a decision on the proposal can be made. Members should carefully consider refusing the application based upon cumulative impacts and will need to clearly demonstrate unacceptability.

CONCLUSIONS

Your officers urge caution over proposed reasons for refusal 1, 3 and 5 as set out above. Reasons for refusal 2 and 4 may be considered to be stronger, however, they are not without risk.

Contact for any more information	Kristian Evely 01884 234218
Background Papers	Supporting documents of 15/01604/MFUL
File Reference	16/01604/FULL
Circulation of the Report	Members of Planning Committee Councillor Richard Chesterton

Appendix 1 – Nearby poultry units



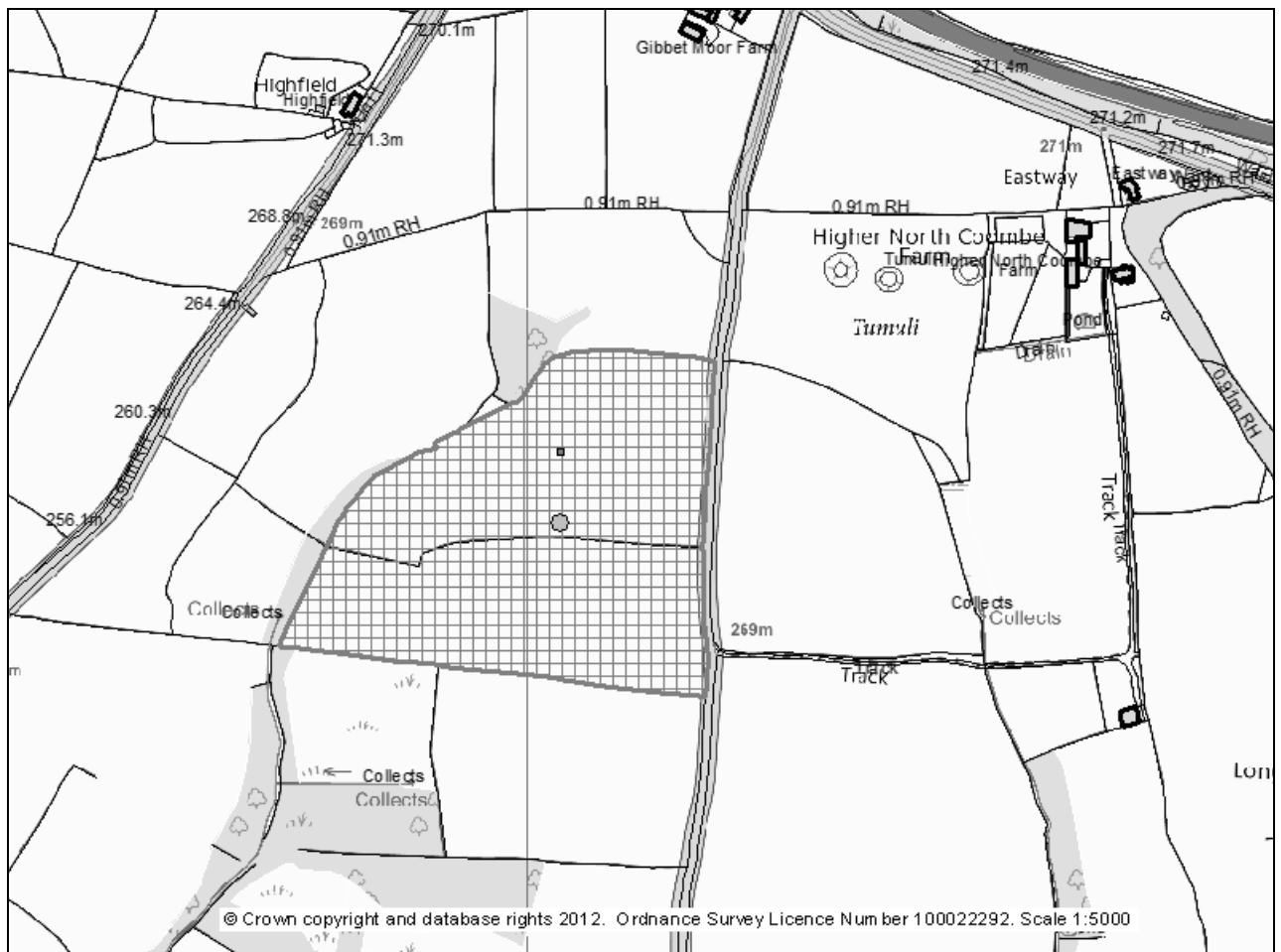
Grid Ref: 288027 : 116787

Applicant: Greener For Life

Location: Land at NGR 288027 116786
(Gibbett Moor Farm) Templeton
Devon

Proposal: Erection of 5 poultry units (5040 sq. m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure

Date Valid: 5th November 2015



Application No. 15/01604/MFUL

RECOMMENDATION

Grant permission subject to conditions.

PROPOSED DEVELOPMENT

The application seeks planning permission for the erection of 5 poultry units (5040 sq. m), a biomass boiler unit, formation of attenuation pond, an access track, hardstanding, landscaping and associated infrastructure on land to the south of Gibbett Moor farm, Templeton (NGR 288027 116786). The proposed development is on undeveloped agricultural land covering approximately 7 hectares in area, and is approximately 250metres south of the existing farmstead (Gibbett Moor). The site is 3.5km east of the village of Rackenford, 3.5km north of Templeton, 6.3Km north of Nomansland (approximately 15 minute drive time) and 350metres to the south of the A361. The site is accessed via a single track unclassified road to the east. Gibbett Moor Farm includes an existing dairy unit, as well as associated agricultural facilities.

The application site consists of two fields separated by approximately 240metres of hedgerow and 80metres of fence. The site slopes gently from east to west, and is surrounded by well-established hedgerow including a small amount of native woodland to the west. The nearest development to the site is an agricultural livestock building, 20metres to the south east of the site. The nearest residential dwellings which are not associated with the application are 300metres to the west and 320metres to north east of the site. The site is 110 metres from a scheduled ancient monument, described by Historic England as Three Bowl Barrows.

The description of development is as follows:

- Each of the five poultry rearing sheds shall measure 80 metres in length by 12.6 metre width. This gives a floor area of 1008 square metres per building. The buildings have a proposed eaves height of 2.9 metres and a maximum ridge height of 4.2 metres. The sheds are to be constructed using a steel frame system with a timber roof structure to support a pitched roof. Walls will be insulated panels and will extend to 1 metre above ground level, incorporating polycarbonate sections with an open section above. Double opening doors are proposed in each gable end and underground tanks are proposed to hold dirty water which is collected from the clean out of each shed. Each shed will sit on a concrete base with an apron beyond the building dimensions
- A Biomass plant room designed with a mono pitch roof with dimensions of 11.4 metres by 3.8 metres with a maximum height of 3.9 metres.
- Two feed silos are proposed at the end of each shed. They will have a footprint of 3.5 metres by 3.5 metres with a height of just less than 7 metres.
- A small site office building is proposed with a gable roof. The dimensions of which are 6 metres by 3 metres and just under 3 metres in height.
- An attenuation pond is proposed beyond the southernmost poultry shed close the south west boundary. This shall measure 7 metres in width and 20 metres in length.

A total of 60,000 birds are to be housed across the five sheds which will operate on a 56 day cycle, with seven to ten days between cycles reserved for the cleaning of the sheds. This equates to no more than six cycles per year. The proposed poultry sheds will operate on an alternative cycle to the proposed and existing sheds at Menchine and Edgeworthy Farms and will generate waste equivalent to 120 tonnes per cycle, or 820 tonnes each year.

The proposal will result in the generation of additional vehicle trips using the public highway. For each cycle (of up to 66 days) the total number of vehicular trips that can be expected to arrive and depart from the site per cycle is set out below:

- At the beginning of each cycle, there would be two deliveries to the site for the delivery of chicks from the hatchery in Kentisbere. These deliveries would be undertaken over two days, generating one trip to the site per day or two vehicular movements per day (4 vehicular movements per cycle).
- Up to ten articulated vehicles delivering feed to the site throughout each cycle. This will generate a maximum of two vehicular trips to site each week (20 vehicular movements per cycle).

- It is expected there would be nine loads required to transport birds to the processing plant at the end of each cycle, generating nine trips. This is to be undertaken overnight, however, it should be noted that the farmer has no control over these collection times because they are set by the processing plant's requirements (18 vehicular movements per cycle).
- At the end of the cycle, cleaners would visit the site to clear, wash and disinfect the sheds. Over a period of two days they will use a 12 metre rigid HGV to transport their equipment onto site, resulting in a maximum of two trips (4 vehicular movements per cycle).
- A tanker will transfer waste water from the holding tanks after clean out resulting in an additional two vehicular movements (2 per cycle).
- Vets and maintenance teams are expected to visit the sheds with three trips (6 movements per cycle). In addition, a site manager will also generate an additional but small number of movements.
- There will be three deliveries of bedding per year and 12 deliveries of wood chip to run the boiler heating system (30 movements per annum).
- In each cycle there will be nine deliveries of poultry litter from Gibbett Moor Farm to the Menchine Farm AD plant to be used as feedstock. This equates to 54 deliveries annually. Note: The TPA Technical Note received on the 8th January 2015 confirms these trips will already be on the network because they relate to an existing process for another site. As such they are not considered to be additional, new trips to and from the site (see additional comment below).

The cumulative total of vehicle movements associated with the proposed development would be up to 70 vehicle movements per cycle or 420 movements per annum, and the majority of these movements will be accommodated via the A361, with the exception of the transfer of waste from the site.

Movement of waste: Poultry litter from the proposed poultry sheds will be transported to the AD plant at Menchine Farm via Nomansland. The estimated tonnage of waste produced per cycle per shed is 24 tonnes per shed. As such this equates to 120 tonnes per cycle. The load carrying capabilities of the trailers which will be designated for the transportation of waste from Gibbett Moor Farm to Menchine Farm are tractors and trailers with the capacity to hold 14 tonnes per load. Therefore, at the end of each cycle there would be up to nine vehicular trips (18 movements) associated with the movement of waste between Gibbett Moor Farm and Menchine Farm. This equates to 108 movements per year.

The application has been submitted by Pegasus Group on behalf of the Greener for Life group (GFL).

APPLICANT'S SUPPORTING INFORMATION

Statement of Community Engagement

Drainage Information

Erratum Notice

Wildlife Checklist

Addendum to Historic setting assessment

Design and Access Statement

Environmental Statement - Non Technical Summary

Heritage Desk Based Assessment

Planning Statement

Environmental Statement Vol 1

Environmental Statement Vol 2

Environmental Statement Vol 3

EA screening report Land at NGR 285047 114124 (Edgeworthy Farm) Nomansland Devon

Transport Technical Note

Ammonia Assessment

Archaeological Trench Evaluation

TPA Transport Technical Note: December 2015

PLANNING HISTORY

15/00867/SCR Environmental Impact Assessment Screening Opinion for the erection of 5 poultry sheds - CLOSED

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR5 - Climate Change
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
DM5 - Renewable and low carbon energy
DM6 - Transport and air quality
DM7 - Pollution
DM8 - Parking
DM22 - Agricultural development
DM30 - Other protected sites

CONSULTATIONS

HIGHWAY AUTHORITY - 12th January 2016 (the comments as set out below are the final comments provided by DCC – Highways, updating earlier comments submitted on 10th December 2015 which are set out below for the sakes of completeness)

The Highway Authority are in receipt of the technical note dated 9th December 2015 received by the Highway Authority on the 8th January 2016.

The applicant has agreed to the passing bay on the C308 in item 4.4 and details of this and the junction improvement of the S1614 with Bulworthy Knap will need to be submitted and approved in writing by the Local Planning Authority prior to commencement on site. The applicant in their route description have identified " the route forks to the southwest onto the S2302 before turning west onto the B3137" for the avoidance of doubt the route from Bulworthy Knap south towards the B3137 is the S2302 and where vehicles turn right to the southwest before joining the B3137 is, according to Highway records, the C308. The Highway Authority has previously shown the location of the passing bays and the junction improvements on a plan and this is resubmitted for clarity. The Highway Authority has also sought the improvement to an existing agricultural gateway in the control of the applicant and such improvements should also form part of the details submitted such an improvement is considered necessary to provide suitable passing opportunity along the S1614.

The applicant has made representation over the additional contributions (£10,000) as originally requested to improve the network, and the Highway Authority has considered the applicants arguments and accept the applicants position and will withdraw the contribution requirement. The applicant has taken on board the Highway Authority advice for the return route of the vehicles to the chicken farm and while this represents best endeavours this should be included as part of their traffic management plan.

Therefore subject to the approval of the two passing place details and junction improvements, and the submission of a traffic management plan which the Local Planning Authority may wish to securer by legal means the Highway Authority will raise no objections and the conditions previously requested should be imposed – set out below.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, MAY WISH TO RECOMMEND CONDITIONS ON ANY GRANT OF PLANNING PERMISSION

1. The site accesses and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with the a drawing which should be submitted to , and agreed in writing by the Local Planning Authority prior to commencement on site where the visibility splays provide intervisibility between any points on the X and Y axes at a height of 1.00 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway (identified as X) shall be 2.40 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 25.00 metres in both directions.

REASON: To provide a satisfactory access to the site and to provide adequate visibility from and of emerging vehicles.

2. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway.

REASON: To prevent mud and other debris being carried onto the public highway

3. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway

REASON: In the interest of public safety and to prevent damage to the highway

4. Off-Site Highway Works No development shall take place on site until the off-site highway works for the improved accesses, provision of passing bay(s), Junction improvements has been 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 policy 32.

5. 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) details of operational routes

10th December 2015

Observations:

The Highway Authority (HA) has visited the site and in particular the route to be taken for the waste material to serve the AD plant at Menchine. The Highway Authority has considered this route along roads which are substandard in terms of width and visibilities and would recommend a number of mitigation measures that are considered necessary to accommodate the increased traffic which would exacerbate existing issues along the route.

The access into the field will need to be brought up to a suitable layout and construction. The HA would wish to see the access constructed as a minimum of 3.0m in width set back from the carriageway edge and with radii suitable to accommodate the swept path of the articulated lorries accessing the site, this would nominally be 10m. Visibility splays of 2.4m by 25m in either direction with no obstruction greater than 1.0m should be provided at the junction with the rural lane S1614. The Highway Authority disagree with the applicant over the forward visibility of rural lane and the available visibility at Bulworthy Knap and would wish to see an additional passing opportunity between the access and the existing passing bay and junction improvements. The location of this passing can be accommodated by an improvement to the existing agricultural gateway by setting back the gates to 4.5 and splaying the access at 45 degrees. this will provide passing opportunities for smaller vehicles and improve the substandard visibilities of the farm gate. The junction of Bulworthy Knap can achieve the visibilities shown on the plan but will require the removal of several small saplings carriageway side of the ditch and this work will need to be undertaken before construction begins. In addition to which the northwestern radii should be improved to cater for the swept path of articulated lorries and other construction and operational vehicles so that vehicles do not cross to the opposite carriageway. this will require an improvement to the radii and necessitating protection of the ditch and culvert; details of which should be approved in writing by the Local planning Authority.

The route between Bulworthy Knap and Nomansland has the benefit of passing bays but onsite evidence shows that there is still issues of conflict, verge and edge of carriageway damage. The traffic generated by the site in terms of tractor and trailer while limited to 9 loads per cycle will exacerbate the current situation and the HA would seek a contribution to the improvement of the existing bays a nominal sum of £10,000.00 towards this cost is requested.

At the junction of the S2302 and C308 the routing of the vehicles is to turn right along the C308. The C308 is narrow with limited passing relying solely on Private access drives. The HA would seek the provision of a passing bay along the route on verge in the control of the HA this will necessitate curvetting of the ditch and inclusion of headwalls and possibly additional drainage requirements. The Local planning Authority should seek to approve the design, construction details, and its implementation prior to the use of the Chicken farm first being brought into use.

The current route plan has empty vehicles returning via the same route, the HA has concerns with a return movement along the C308 in particular the substandard nature of the junction visibility with the S2302. The HA would recommend that the return route should take vehicles to the junction of the C308 with the B3137 adjacent to the Mount Pleasant Inn which would afford greater visibility. The Highway Authority will forward sketch plans to indicate the works separately to this response. While the proposal is acceptable to the highway Authority subject to the conditions set out above it is for the Local Planning Authority to consider the amenity, Fear and intimidation of the additional movements along the roads which are residential in nature. In addition the Local Planning Authority may wish to secure the off site highway works and contributions via an appropriate legal agreement.

ENVIRONMENTAL HEALTH - 23rd November 2015

Contaminated Land - no objection to this proposal

Air Quality - no objection to this proposal

Environmental Permitting - Environment Agency A1 Permit required

Drainage - no objections to these proposals

Noise & other nuisances – (11/03/2016) There should not be an increase in the transportation of chicken litter and in essence there should be a reduction in the amount of transport movements per year resulting from the expansion of Menchine farm and having to import less chicken litter from other

sites. Taking this information into consideration I have no further objections to each of the three planning applications and I would recommend approval of all three.

Housing Standards - N/a

Food Hygiene - N/A

Private Water Supplies - Not Applicable

Health and Safety - no objections to this proposal

HISTORIC ENVIRONMENT SERVICE – the comments as set out below are the final comments provided by HSC, updating earlier comments submitted)

17th March 2016

The archaeological evaluation of the above site has been completed and no archaeological features other than an undated pit or posthole was revealed. A copy of the report has been received by this office from the applicant's agent and I understand that the archaeological contractor - Cotswold Archaeology - is in the process of preparing an OASIS entry and will be uploading a copy of the report.

In the light of this new information and the absence of any archaeological or artefactual evidence for significant heritage assets being present on the site I would like to withdraw the Historic Environment Team previous objection and request for additional information.

HISTORIC ENGLAND - 11th March 2016 - Thank you for your letter of 19 November 2015 notifying us of the application for planning permission relating to the above site. We do not wish to comment in detail, but offer the following general observations.

Historic England Advice

We can confirm that Historic England consider any impact on designated heritage assets to be 'less than substantial' and that, as recommended previously, it will be for the LPA to determine the case with reference to the planning balance as recommended in NPPF .134.

Our only additional comment relates to the layout of the development and the benefits of ensuring that the sheds closest to the minor road are far enough downslope away from the hedge to ensure that they are not visible over the hedge.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request.

LEAD LOCAL FLOOD AUTHORITY - 8th March 2016 - Although I have provided an e-mail response to the Consultant Drainage Engineer in respect of the surface water drainage aspects of the above planning application, I have not provided one formally to the Planning Case Officer.

Further to my previous correspondence (FRM/2015/230) dated 26th November 2015, the applicant has provided additional information by e-mail, for which I am grateful. This addresses all of my concerns and I am satisfied that the downslope intercepting swale which is now proposed is satisfactory in terms of its location and design.

I would request that if the Planning Case Officer is minded to grant planning permission in this instance, a pre-commencement condition should be imposed to secure the final detailed design of the surface water drainage management plan. The condition could be worded as follows:

The development hereby permitted shall not be commenced until a detailed surface water drainage management plan has been submitted to, and approved in writing by, the Local Planning Authority. This detailed surface water drainage management plan will be in accordance with the principles set out in the additional information provided by the Consultant Drainage Engineer for this application in an e-mail dated 1st December 2015.

For continuity purposes, I would advise that the aforementioned email is submitted to the Planning Case Officer in order for it to be formally registered as part of this planning application.

NATURAL ENGLAND - 24th February 2016

Designated sites - no objection

Internationally and nationally designated sites

The proposed development is within 4km of 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') and 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 Zones identified these sites as being sensitive to impacts from aerial pollutants, such as ammonia, due to the scale, nature and location of the development proposal.

The Culm Grasslands SAC

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 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 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.

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

The Environment Agency pre application screening May 2015

The Conservation Objectives for the Culm Grasslands SAC

<http://publications.naturalengland.org.uk/publication/5051046850199552?category=5374002071601152> which explain how the site should be restored and/or maintained

Hare's Down, Knowstone and Rackenford Moors 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 Hare's Down, Knowstone and Rackenford Moors SSSI 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(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Local Sites

We recommend that the Environment Agency is consulted for permitting advice in parallel with the planning application to ensure that there are no permitting concerns that are relevant to the design of the proposal or the determination of the planning decision.

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.

ENVIRONMENT AGENCY - 25th November 2015

No objection to the proposal subject to the following comments.

The poultry units having an appropriate IPPC Environmental Permit. The wash water from the cleaning of the poultry units will be classified as contaminated waste water and will need to be disposed of at a South West Water Treatment plant or via a site with an appropriately Environmental Permit.

Waste wash water cannot legally be disposed of via at an On Farm Anaerobic Digester (AD) plant as set out within the application documents. On farm AD plants have specific waste acceptance criteria and waste wash water would be considered a non permitted waste.

The biomass boiler would need to be fed with virgin / non waste materials. The use of any waste materials would require the biomass boiler to be appropriately regulated by either the Environment Agency or Local Authority depending upon the biomass boilers overall net thermal output.

The proposed attenuation pond would need to be appropriately sized to manage the expected volume of surface water from the site buildings and the free range chicken areas so as to minimise any environmental impact from the proposed development. Appropriate determinate levels will need to be agreed and complied with regards the discharge from the pond.

The application mentions the poultry litter being processed by an onsite AD plant. This planning application does not reference any AD plant as part of its stated proposals. Any AD plant at this site would need to be appropriately permitted by the Environment Agency.

The application mentions digestate being dried as a fertilizer in fibre or pelleted form but doesn't mention how or where this digestate will be sourced. In addition this proposed activity is currently not legally permissible. Should the regulatory regime change the activity would require an appropriate Environmental Permit.

Can the applicant please provide details with regards the disposal of the chicken litter stating where this material will be disposed at together with confirmation the proposed receiving site has sufficient capacity to accept the material and stay within the conditions of its Environmental Permit.

DEVON & CORNWALL POLICE AUTHORITY - 6th November 2015

I cannot think of any crime and disorder issues with this application, however I have forwarded it to the Road Safety Accident Reduction Officer in case he has any issues.

NORTH DEVON DISTRICT COUNCIL - 2nd March 2016

Having reviewed the additional information and consultee responses North Devon Council has no additional comments to make but would wish for appropriate noise, odour and traffic management conditions to be included in any approval to minimise the impact on the surrounding locality and neighbours.

RACKENFORD & CREACOMBE PARISH COUNCIL - 10th March 2016 –

I write to update the previous letter of objection on behalf of this Parish Council to the above application, which is for a site, which is within a few metres of the boundary of this parish and a little over 3 km from Rackenford village.

Cumulative impact. Since we responded in January and since the responses by the Environmental Agency a new very large poultry farm (36,000 birds in 4 sheds) has been completed at Higher Thorne, which is less than 1 km to the west of Rackenford village. The application in its Environmental Impact statement did not of course take account of this, nor of the two existing large poultry enterprises at Beech Farm, 1km to the south of Gibbet Moor, nor Little Rackenford 3km to the north west at Bulworthy Knap. If this development is allowed there would thus be four large enterprises circling the village and all within some 5 sq km. This council did not object to Higher Thorne, but a

fourth development is expected to result in unacceptable cumulative impact in terms of the environment and transport.

Transport. Local concerns are primarily to do with transport, as has been the case for various previous applications for development at Gibbet Moor. The Highways consultation reply still concentrates on the impact on the A361 and the B3137; it does not take into account the nature of the network of very narrow lanes running between the C784 and the B3137, which is wholly unsuitable for HGVs and large tractors with trailers. The applicants propose a route via the C 308/S2302 on which they would provide one passing place at Nomansland; this hardly begins to address the problem. The suggestion that a maximum effect of 20HGV a day on the busiest days would have a minor effect on this route is clearly wholly inaccurate. However in the event that permission is granted we would want to see an enforceable condition of this traffic plan as at least the lesser evil to the alternative via Templeton Bridge.

TEMPLETON PARISH COUNCIL - 1st December 2015

As this application is from the same Consultants Pegasus it appears to have been cut and pasted from other previous documents.

This application is inextricably linked to Edgeworthy Farm, Nomansland / Menchine Farm / Tollgate Farm, Nomansland all of which service 2Sisters and Greener For Life Anaerobic Digester operations and should be considered as part of an accumulative development. Recommended refusal (Local Plan DM5, DM7, DM23 Core Strategy 2, 5 and 18).

This erroneous document does nothing to alleviate the concerns raised by individual objectors and agencies alike so we submit a selection of glaring errors and missing information as raised at our Parish Council meeting on 18/11/15 and as below:-

Refers to the milk transfer operations already at the site (Not present)

- a) Refers to AD present on site (Not present)
- b) Refers to existing poultry sheds (None present)
- c) Refers to alterations made to the junction accessing/existing the A361 (NDLR) at Stoneland Cross. (Never been done).
- d) There is no recognition of the accumulative disease risk to the wildlife from so many intensively farmed chicken in the immediate vicinity Witheridge Moor, part of the Culm Grass corridor linking with the SSSI sites identified. Witheridge Moor has skylarks, snipe, cuckoo and curlew to name a few.
- e) Two different access points described for the chicken house site neither of them complete and one proposed off the unnamed extremely narrow single track road leading to Templeton Bridge at Temple Bottom (posted as Unsuitable for HGV).
- f) No application for the alteration to present field gate entrance for this preferred proposed access. Nor mention of the ancient bank and road hedgerow that will have to be removed either side of the small field gates (present access) nor the decimation of the dividing boundary ancient bank and hedgerow dividing the proposed site.
- g) No mention of the high water and the four river tributaries (to include the source of the River Dart) rising on and in close proximity of Gibbet Moor land. Quite a few of the surrounding and lower properties have only well or borehole water supplies.
- h) No mention of the two free range chicken farms already in situation within just over 1 kilometer and no reference to the four other chicken farms in the contiguous parish of Rackenford.
- i) No application for suitable changes to the entrance junction of the unnamed road for safe HGV access and exit.
- j) The preferred access (via the unnamed road) is on a blind bend on the B3227 which runs parallel to the A361 (NDLR) and has no speed restriction other than the standard 60 mph. All the servicing heavy traffic for the site is stated as utilising th3 A361 (NDLR) exiting Stoneland Cross which will entail crossing the flow of oncoming traffic on the blind bend on the B3227 to access the site.
- k) There are no enforcement measures available to MDDC to ensure any stated routes between associated sites.
- i) Chicken manure to be disposed of two different ways after the cyclic cleaning out according to this application.

- a) By tractor and trailer twice a week to Menchine Farm AD (5.7 km distance from site). Where will it be stored awaiting export from site and where it will be stored upon import to Menchine AD? The shorter journey length infers this will be via anyone of three sub-standard inter-linking single track rural lanes via Templeton Bridge - Horestone Cross and Horestone Lane or via Bulworthy Cross and Five Crosses ALL ENTERING NOMANSLAND HAMLET TO ACCESS THE MENCHINE AD and all assessing dangerous junctions onto the B3137 as previously stated.
- b) Sealed container (environmental statement Non Technical 3.6 and Design & Access 2.17). The principal route stated in Table 7 via the A361 and B3137 we presume?
- c) No mention of the woodchip for the Biomass plant. This may be prepared locally but our area is already experiencing huge timber lorries coming in via A361 (NDLR) and utilising the sub-standard single track roads leading to the B3137 and Menchine AD.

As none of the above have been satisfactorily mitigated in the associated documents submitted, indeed many have not even been acknowledged and there is no clarity of intent or due diligence in respect of the accumulated affects as set out; we feel this Application should be refused. In view of the potential financial burden of increased Enforcement on various agencies and road maintenance on Highways representing an unacceptable burden on taxpayers; we feel this Application is incomplete/unsafe and comprises a serious threat to the local and wider Environment/water quality/ tourism/local jobs and small businesses/other farmers livelihood, an increased danger and intimidation to other road users which will be a considerable threat to the well-being of the affected residents in numerous parishes, as well as the many visitors to this much loved glorious part of Devon.

STOODLEIGH PARISH COUNCIL - 1st December 2015

I am writing to advise you that this application was considered at a meeting of the Stoodleigh Parish Council held earlier this evening. Although the application site is situated within the parish of Templeton, Gibbet Moor Farm itself is, of course, within the parish of Stoodleigh.

The Parish Council wish formally to object to this application, firstly, on the grounds of the impact of the additional traffic that this application, if approved, would have on the surrounding road network.

Secondly, on the grounds that the junction with the A361 is unsuitable and dangerous for HGV's turning from either direction particularly as previously required revisions to that junction have not been carried out.

Thirdly, that the documentation submitted with this application appears to be defective in many respects.

CRUWYS MORCHARD PARISH COUNCIL - 16th November 2015

At the parish council meeting on 12th November 2015 it was recommended to refuse approval for the above planning application for the following reasons:

1. The cumulative impact of this together with other current and proposed development in neighbouring farms.
2. The impact on the B3137 and surrounding road network especially as there is a lack of information regarding transport movements.
3. This application does not support Mid Devon COR policies 5 and 18 or development policies DM7 and DM22.

REPRESENTATIONS

33 Objections were received on the 14/03/2016, they are summarised below:

- 1 The road network is unsuitable for the volume of traffic, including the size of the lorries the application will rely on.
2. Due to the narrow nature of the country lanes the increase in traffic may create dangers to road users.
3. The lane adjoining the site is signed "not suitable for HGV's", showing it to be an unsuitable road.

4. Two vehicles cannot pass down the lane and therefore it is unsuitable for lorries
5. Nomansland has existing transport problems that will be exacerbated by this proposal.
6. The cumulative impact of the traffic produced by this application, including the existing/proposed applications relating to waste at Menchine Farm, will result in unacceptable impacts on the community of Nomansland
7. The local authority will not be able to enforce any route plan to the site
8. The applicant has not included traffic requirements for the chicken bedding or the biomass boiler.
9. The number of vehicular movements have been underestimated
10. The country lanes are already damaged due to large vehicles using them. This will exacerbate the problem.
11. No reference is made to the vehicle tonnage within the ES.
12. Transport for farm workers is not accounted for in the ES.
13. It is unclear from the ES what the proposed transport route will be.
14. The chicken breeding cycle is uncertain within the submitted information
15. The data within the application is conflicting and misleading, meaning the environmental and highways impacts cannot be fully assessed.
16. The ES ignores cumulative impacts of the application, and existing (and proposed) chicken sheds.
17. The information given in the ES, PS and various email strands create an application which is unreliable
18. The planning statement excludes relevant planning history
19. The application notes there are existing poultry sheds and an existing AD plant at the site. This is inaccurate.
20. Smell of the chicken houses will be detrimental to the neighbouring properties quality of life.
21. The site has been identified as environmentally sensitive due to its potential impacts on various protects site (i.e SSSI's).
22. The noise produced by the operation of the chicken houses will harm the neighbours amenity
23. The chicken sheds will cause dust and pollution to the surrounding area.
24. The water runoff from the site may pollute the surrounding river tributaries
25. The application results in a loss of hedgerow causing a loss to local habitats and wildlife.
26. The loss of hedgerow would leave a scar on the country lane.
27. How would the local planning authority prevent the keeping of unhappy chickens?
28. The size of the unit means the welfare of the birds will be poor
29. There is no information regarding the disposal of dead birds
30. The application does not state where manure will be taken that cannot not processed by the Menchine AD plant. This should also be accompanied by a manure management/spreading plan.
31. The proposal will cause harm to the culm grassland and Rackenford SSSI.
32. The application does not state where the waste water be transported.
33. This application will result in a loss of tourism to the area
34. This is the industrialisation of farming and will damage smaller farmers.
35. The proposal will create unacceptable visual impacts on the surrounding area.
36. No information is given as to the biomass boiler, and how it will be fuelled.
37. No quantities are given on the chicken waste produced at the site
38. The development is distanced from its source of chickens and the processing plant.
39. As the proposal is from a large investor there will be no local benefits from the proposal.
40. No pre-app consultation was undertaken with Rackenford
41. The site is of ecological importance due to the species composition.
42. The spreading out of the chicken cycles will create impacts over a longer period of time, rather than having all the transport movements confined to one day.
43. Greener for life do not build what they gain approval for.
44. The submission does not demonstrate how bio-security hazards will be managed
45. Due to the size of the development it is considered to be commercial and not agricultural.
46. Vermin will be attracted to the site
47. The ammonia assessment does not allow a full consultation of the impacts and risks associated with development
48. The process of pollutants being filtered within the sustainable drainage system does not remove the risk that pollutants may reach the county wildlife site
49. The applicants has not done an adequate heritage statement
50. Underground tanks do not appear on the site location plan
51. Winston Reed & GFL are likely to building a different scheme and not keep with conditions, resulting in problems for the council's enforcement team

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1. Relevant Policies**
- 2. Policy in context**
- 3. Design**
- 4. Impact on amenity of local residents (traffic, noise, odour)**
- 5. Highways**
- 6. Landscape and Visual Impact**
- 7. Environmental Impact**
- 8. Waste water and Surface Water Drainage**
- 9. Impacts on heritage assets**
- 10. The Planning Balance**

1. Relevant 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:

- a) The development is reasonably necessary to support farming activity on that farm or in the immediate agricultural community;
- b) 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
- c) The development will not have an unacceptable adverse impact on the environment.
- d) The development will not have an unacceptable traffic impact on the local road network.

Relevant assessment of the policy is given throughout this 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 2, 3, 4, 5 and 6 of the report.

Policy DM27 (Development affecting heritage assets) states that heritage assets are irreplaceable resources, and aims to protect and mitigate against harm which development may cause. DM27 states that the council will:

- a) Apply a presumption in favour of preservation in situ in respect of the most important heritage assets
- b) Require development proposals likely to affect heritage assets and their settings, including new buildings, alterations, extensions, changes of use and demolitions, to consider their significance, character, setting and local distinctiveness, and the opportunities to enhance them.
- c) Only approve proposals that would be likely to substantially harm heritage assets and their settings if substantial public benefit outweighs that harm or the requirements of requirements of paragraph 133 of the National Planning Policy Framework are met.
- d) Where a development proposal would lead to less than substantial harm, that harm will be

- weighed against any public benefit, including securing optimum viable use.
- e) Require developers to make a proportionate but systematic assessment of the impact on setting as set down in the guidance from English Heritage: "The Setting of Heritage Assets".

The assessment of this policy is made under Section 9 of this report.

Policy DM30 (Other protected sites) considers the impact the development proposal is likely to have on important sites including Sites of Special Scientific Interest (SSSI) Ancient Woodland and Special Areas of Conservation. These impacts may be individual impacts or cumulative impacts. 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. There are two County Wildlife Sites (CWS) within 250metres of the site. Policy DM30 states that planning permission will only be granted where:

- a) The benefits of and need for the development clearly outweigh the direct and indirect impact of the protected site and the ecosystem it provides;
- b) The development could not be located in an alternative, less harmful location
- c) Appropriate mitigation measures have been put in place.

The relevant assessment is set out under Section 7 of this report.

Policy COR2 of the Core Strategy 2007 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 COR5 (Climate Change) seeks measures to minimise the impact of development on climate change in order to contribute towards national and regional targets for the reduction of greenhouse gas emissions. Such measures should include the development of renewable energy capacity where there is an acceptable local impact including visual, and on nearby residents and wildlife.

Policy COR9 (Access) of the Core Strategy 2007 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 Core Strategy 2007 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. Policy in context

The National Planning Policy Framework (NPPF) affirms three dimensions to the principle of sustainable development: economic, social and environmental. Part 3 of the Framework seeks to support a prosperous rural economy through the expansion and diversification of all types of rural business. The NPPF applies a presumption in favour of rural development subject to compliance with local planning policies.

The proposed development is said to be reasonably necessary to address a growing demand for free range chicken in a fast growing UK market. It is argued that the development proposal satisfies this need by seeking to develop a sustainable food chain and forms part of a wider strategic partnership between GFL and 2 Sisters in Willand. The application draws on research by the British Poultry Council, which states on average, each job in the poultry meat industry contributes £41,000 in gross value added to the UK GDP.

An economic gain is secured through income diversification to the farming enterprise and the development is argued to safeguard the existing employment at the farm and generate one additional full time employment position. In addition the development will generate additional contractual employment during cleanout times. It will also support further employment within the associated industries within the poultry industry including the processing plant, hatchery, suppliers, contractors and skilled labourers.

Environmental gains will be secured through carbon reduction and local biodiversity enhancements including extensive planting around the buildings in order to secure a suitable range for the poultry. The proposed boiler unit providing the heating for the poultry sheds would also be heated by biomass, providing carbon displacements in comparison to traditional poultry sheds boilers. The poultry litter will be processed off-site at the existing Menchine AD plant and this satisfies a principle for close proximity with regards to the management of waste. The dried digestate would be usable as a fertilizer in fibre or pelleted forms subject to a license being granted.

On this basis the proposed development is considered to comply with part a) of DM22 and the generation of employment on the site would receive policy support under DM20 of the Local Plan Part 3 (Development Management Policies) and COR4 of the Core Strategy (2007).

The Authority has received a letter of objection questioning why the sheds need to be located at Gibbett Moor Farm and why they could not be situated closer to the processing plant in Willand. The LPA considers that it would be unreasonable to require the applicant to justify the siting of these sheds on land away from the main holding, particularly where it is demonstrated that transport, visual and environmental impacts are found to be acceptable. The supporting and environmental statement argues that the field is ideally suited because it is close to the main Gibbett Moor Site, has limited environmental impact, and is well screened from wider views. On this basis the application scheme is considered to comply with part c) of policy DM20.

3. Design

The development spans across two agricultural fields, resulting in the removal of two sections of hedgerow internally within the field layout to facilitate the proposed buildings and structures. Further sections of hedge removal are required to facilitate an improved access into the unit, and a passing bay on country road down from the A361. The design of the structures is considered characteristic of poultry buildings, and is appropriate for the intended use of poultry rearing. The ridge heights of the proposed buildings are modest, and as a result minimises the visual impact of them. A condition is recommended to control the removal of the hedgerow to soften the impact of the new structure of buildings and assist their integration within their immediate setting.

The development also includes a sustainable drainage scheme which has been subject to consultation with Devon County Council. This applies further support under policy DM2. The provision of an onsite biomass heating system in a small housing unit within the site does not result in harm to the rural character of the area and would comply with policies COR2 and COR5 of the Core Strategy 2007, and DM2 and DM5 of the Local Plan Part 3 (Development Management Policies).

Overall, the design of the proposal is considered to be appropriate for the proposed use, without having a detrimental impact on the local environment at Gibbet Moor. The development of the site is considered to comply with COR2 and COR18 of the Core Strategy 2007, DM2 and DM22 of the Local Plan Part 3 (Development Management Policies).

4. Impact on amenity of local residents (traffic, noise, odour)

The main issues for consideration are the noise associated with vehicle movements and the construction/operation of the site, and potential nuisance from odour associated with the poultry units and water storage tanks, and the potential impacts arising from traffic movements between Gibbett Moor and Menchine farm, in particular for residents of Nomansland. As set out earlier in this report it is recognised that traffic, noise and odour are major areas of concern for local residents, and the comments provided by the Local Authority Environmental Health (EH) Team have guided the conclusions reached on this part of the scheme assessment.

The closest residential property is 300 metres away, which is considered to be a sufficient separation distance not to cause noise concerns in terms of site operations. In addition considering the distance of the site from the other Broiler Units recently considered by Mid Devon District Council (namely Tollgate, Menchine and Edgeworthy), it is not considered that there would be any cumulative impacts relating to the onsite operation in terms of noise and odour for the immediate neighbouring dwellings.

The applicant has submitted details regarding the cumulative impacts of the development in terms of the transfer of waste away from the site, as set out in the technical note submitted in addition to the applicant's environmental statement. The statement below is a summary of the conclusions reached by the applicant.

"The cumulative residual impact of the proposals on the local highway network is considered to be of negligible to minor significance as measures will be in place to reduce the impact of the proposals. This includes ensuring that none of the sheds operate on the same cycle and the transferral of chickens to the processing plant during an overnight period to reduce the impact on the local highway network. As all the sheds supply the same processing plant the cycle times are unlikely to change."

The Environmental Health officer has confirmed that in considering the impact of the development in terms of road traffic emissions and the odour impacts associated with transporting chicken waste no significant concerns are raised as effectively these transport movements will be replacing existing transport movements already on the highway.

Given the concerns expressed by the local residents of Nomansland relating to large vehicles travelling through the village, the applicant was asked to produce an assessment of the likely effects to pedestrian amenity, including fear and intimidation. An assessment into perceived fear and intimidation was included within the transport technical note, which clarifies that whilst as result of associated transport movements there may an impact on pedestrian amenity (perceived fear and intimidation) as a result of the development, but the magnitude in terms of numbers of trips is still considered to be relatively low (see section 5 below).

As set out above reflecting on the scope and operation of the development it is considered that the proposal would result in a low magnitude of harm to the amenity of local residents, in particular residents away from the site. The actual site operations would be subject to monitoring as part of the environmental permit for possible issues arising from noise and odour. On this basis, and subject to the highway mitigation as discussed below, it is considered that the proposal has sought to redress issues regarding the impacts on the general amenities of the area, as required by policies DM2, DM6, DM7 and DM22 of the Local Plan Part 3 (Development Management Policies).

5.Highways

It is clear that the proposed development will generate additional trips on the highway network. As set out earlier in this report, the level and impact of these additional vehicle movements is a major concern of a number of local residents who have submitted representations. In particular, the concerns relate to the increase in movements of movements travelling between the application site and Menchine Farm in terms of transporting the chicken litter.

Advice in paragraph 32 of the National Planning Policy Framework states that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
Safe and suitable access to the site can be achieved for all people; and
Improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development;
Development should only be prevented or refused on transport grounds where;
The residual cumulative impacts of development are severe.

The Local Planning Authority have consulted Devon County Council Highways team (HA). The

response from the HA is set out within their representation (shown above), and the following measures to mitigate the proposal are proposed:

1. Improved access into the site in terms of increased visibility at the junction with the highway,
2. An additional passing bay between the site, and the junction at Bulworthy Knap,
3. Improvements to the junction of Bulworthy Knap, in terms of increases visibility and radii, protection of the ditch, and culvert.
4. A passing bay on the C308 within Nomansland, including the culverting of a ditch and inclusion of headwalls.
5. A traffic management plan, including the proposed route of all construction traffic exceeding 7.5tonnes. This will be conditioned to ensure an appropriate routing of vehicles is maintained to and from the site at Menchine Farm.

A financial contribution was initially requested by the HA towards improvements to the local highways network, however, this request was subsequently withdrawn on the basis that it is unnecessary, unreasonable and does not meet the legal tests for an s106 agreement, as set out in regulation 122 and 123 of the Community and Infrastructure Levy Regulations 2010.

As stated above the Technical Note on transport issues considers how the application scheme will affect the amenity of pedestrians and residents of Nomansland and the cumulative traffic impacts of the development. The report concludes that the cumulative traffic impact will be negligible in terms of total traffic and minor in terms of HGV traffic and that the impact on Pedestrian Amenity (including Fear and Intimidation) will be negligible. The ES supports this by noting the limited transport movements will replace existing vehicular movements through Nomansland. In summary it is recognised that the development of three separate sites close to Nomansland gives rise to local concern over transport impacts, however it is considered that it has been demonstrated, with the mitigation included, that the highway impacts arising as a result of the construction and operation of the application scheme would be acceptable and the impact would be less than severe in the context of Paragraph 32 of the NPPF.

The hard surfacing indicated for the parking and turning of vehicles, including HGVs using the site, is considered to comply with policy DM8 of the Local Plan Part 3 (Development Management Policies).

Subject to the approval and provision of two passing places, junction improvements, and the submission and conditioning of a traffic management plan, The proposal is considered to be in accordance with policies COR9 of the Core Strategy 2007, policies DM8 and DM22 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework (notably Paragraph 32).

6. Landscape and Visual Impact

The development site comprises of two agricultural fields used for grazing. The development site lies outside of any statutory or non-statutory/local landscape designations and comprises grade 3 common grazing land. It is considered to be of generally low value agricultural land. The site is within the farmed lowland and moorland of the Culm grassland character type.

The Environmental Statement (ES) describes the field as gently sloping from north-east to south-west. The eastern boundary is formed by native hedgerow approximately 3.5 - 4metres tall, alongside an unclassified road. The southern boundary is formed by a further native hedgerow of a similar size, which includes ash, beech, and oak trees up to 13 metres in height. The north-west and western boundary is formed by a belt of native woodland up to 16.5metres in height, including oak, beech hazel, ash and blackthorn. The northern boundary is formed of low quality native hedgerow, including oak and beech hedgerow trees. The two fields are separated by a hedgerow comprising of beech, hazel and willow, including hedgerow trees up to 10 metres in height, including oak, willow, beech and ash. This hedgerow is described as poor quality.

The ES considers the impact on the landscape character from the construction phase as well as in operation. The report identifies that the landscape is of a medium sensitivity to development. The surrounding area is predominantly managed agricultural landscaped, with isolated farmsteads and residential dwellings, including Gibbet Moor Farm 250metres to the north, Higher North Coombe

300metres to the north east, and existing agricultural buildings 35metres to the south east. Rackenford and Templeton are approximately 3.5kms to the west and south of the site respectively. There is not considered to be a cumulative impact on the landscape character resulting from existing developments surrounding the location. The ES states that the construction stage will have a high impact on the application sites landscape character, with a low impact to the landscape character of the area surrounding the application site due the existing and retained hedgerow screening. Once established and during the operational phase, the impact on the application site will lessen which is supported by proposed tree planting surrounding the sheds (refer to condition 13). The report recommends mitigation to prevent damage to the existing trees and hedgerows, including the planting of extensive tree and shrub planting around the site to minimise impacts. Overall, it is considered that once the proposal is established within the site with the new planting as proposed, it is unlikely to cause an unacceptable impact on the local landscape character/landscape features, which is supported by the existing boundary vegetation, woodland blocks, and tree belts surrounding the site.

The public rights of way surrounding the site include, Stoodleigh bridleway 9 which passes through Rifton Gate approximately 1KM to the north east of the site. Tiverton footpath 1 is approximately 1.5km to the south east of the site and Rackenford footpath 1 approximately 1.25km north-west of the application site. Tiverton footpath 2 and Rackenford footpath 2 are both situated south east. Overall, views from these locations are restricted.

The case officer has visited the site and identified that views to the north, east and north-west are restricted due to sufficient hedgerow screening and the surrounding topography. The surrounding area gently slopes south west, giving some opportunity for long to medium range views of the application site from the south-west and south. It may be possible to see parts of the field from sections of the B3137 to the south, however, these are significantly distanced and are considered to be unnoticeable. The ES notes the application site has limited inter-visibility between the application site and the surrounding site, due to strong field boundary vegetation and frequent woodland blocks and tree belts.

Following a review of the submitted evidence and on-site assessment, it is considered the poultry sheds and other development are unlikely to be prominent from the wider landscape, which is supported by their modest height and the reasonable screening provided. The development is not considered to cause significant visual harm, both individually and cumulatively with other development, and would not result in unacceptable harm to the character and appearance of the rural setting. This view is supported by appeal decision APP/Y1138/A/09/2108494, Land at Gibbet Moor (120metres to the north east of the site) for the erection of a timber treatment/storage plant, where the inspector noted 'despite its elevated position and the long distance views which are characteristic of nearby land, the appeal site is relatively well hidden'. In summary the application scheme is considered to be in accordance with policies COR2 of the Core Strategy 2007, DM2, and DM22 of the Local Plan Part 3 (Development Management Policies) in this respect.

7. Environmental Impact

A screening request was submitted to the Local Planning Authority on 3rd June 2015, and a screening opinion was issued on 23rd June 2015. This determined the development would fall under Schedule 2 of the Environmental Impact Assessment Regulations 2015, because the proposed development would amount to an installation intensively rearing 60,000 broilers. The main environmental impacts likely to arise from the proposed development were identified to be from airborne emissions and from the production of waste in the form of poultry manure and dirty water.

The proposed development is within 4km of the Culm Grasslands Special Area of Conservation (SAC) and Hare's Down, Knowstone and Rackenford Moors SSSI. The proposal adjoins a County Wildlife Site (CWS) to the south (Horestone N), and is within 250metres of a second CWS (Landfoot Copse) also situated to the south. A small stream runs to the west of the application site, flowing through both CWS's. Horestone (N) contains species rich culm grassland, including Molinia mire with sedge-rich flushes. Landfoot Copse also contains species rich culm grassland, including rush pasture, semi improved acidic grassland & broadleaved woodland. An area of wildlife interest (named Gibbet Moor Farm) adjoins the site to the north. This contains species-poor culm grassland, including Molinia mire with willow scrub.

The applicant has submitted an ecology survey, produced by Clarkson & Woods (dated October 2015), which supports the applicants environmental statement. These documents note that the construction stage of the development may produce indirect impacts on the surrounding sites and habitats, however recommend a Construction Environmental Management Plan should be prepared prior to site works commencing which will adequately protect the surrounding habitats. During the operational stage, the site has the potential to create run off. If this reaches the watercourse to the west of the site, it has potential to impact on both CWS's, especially as culm grasslands are particularly sensitive to increased nitrogen. The ecology survey notes the proposed attenuation pond will be capable of removing pollutants from waste water before it is discharged through the protected habitats, which is supported by information submitted by the applicants consulting engineer, Mr Onions. The documents also note the operation of the site will be carefully processed under an Environment Agency Work Permit, which will control any impacts on the CWS's, including from air pollution, however, the local authority consider this should be considered within this application.

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. A request was made on the 07/12/2016, requiring the applicant to submit further details regarding the air quality and ammonia impacts of the development on designated sites. In response to this, the applicant forwarded an environment agency pre-application report detailing the ammonia and nitrogen depositions, however, this summarises "detailed modelling" is required of the proposal as the site is within 250metres of a nature conservation site. Detailed ammonia modelling was submitted by the applicant in February 2016, produced by Waterman Infrastructure & Environment Ltd. In summary, the modelling results suggest that there would be no significant adverse effects from the proposed Development at either the Gibbert Moor Farm LWS or the Horestone (N) LWS.

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 raised no objection to the proposal. The Local Planning Authority considers that sufficient information has been provided to demonstrate the proposal will not significantly harm the surrounding CWS's and sites of wildlife interest. The site is a sufficient distance from any designated site, and subject to condition the development and operation of the site is unlikely to significantly impact on local wildlife and fauna. On this basis it is considered the proposal is in accordance with policy DM30 and criterion (c) of policy DM22 of the Local Plan Part 3 (Development Management Policies).

8. Waste Water and Surface Water Drainage

A number of objectors have questioned the arrangements for managing surface run off and potential impact on polluting nearby streams and wet ditches. The Environment Agency and Devon County Council Lead Flood Authority have both been consulted prior to the determination of the application.

It is confirmed that the waste water generated from the cleaning of the sheds will be stored in underground tanks and will therefore not present an issue with dirty water polluting watercourses. Surface water is proposed to be managed through the attenuation pond at the southern end of the site. Objection has been received regarding the underground tank details not being included on the plans. As the tanks are to be sited underground they are unlikely to significantly alter the character and appearance of the surrounding area or the site. A condition is recommended requesting details of the underground tanks to be submitted prior to their installation.

Rainwater harvesting is not proposed due to issues of biosecurity. Instead the run off from the roofs of each shed will be piped to discharge into the attenuation pond which is outside of the chicken roaming area. From the pond the water is conveyed by a swale to the watercourse. The Devon County Council Lead Flood Authority Officer has confirmed that drainage details are acceptable, but has requested that a planning condition should be imposed which requires a final detailed drainage scheme to be submitted to the Local Planning Authority before any work is undertaken.

The provision of surface water drainage system and the waste water catchment tanks is considered to amount to good design under policy COR2 and DM2, and will mitigate risk of pollution into the watercourse, in accordance with DM7 of the Local Plan Part 3 (Development Management Policies).

9. Development affecting heritage assets

Devon County Council's Historic Environment Service and Historic England had previously commented on the application, and raised objections as the application failed to provide adequate detail and assessment to the setting of a nearby Three Bowl Barrow (scheduled ancient monument) and archaeology. The applicant subsequently agreed to an extension of time to allow for archaeological investigations and discussions with Historic England. Following additional works to support the application, the Historic Environment Service and Historic England lifted their objections. It should be noted Historic England requested the development was sited as low in the site as possible to avoid views of the shed from the Three Bowl Barrows. The sheds are considered to be a reasonable distance down the site to avoid any significant views of the sheds.

An additional consultation period allowing contributors to comment on these revisions was made. Additional objections received in this consultation period note that the submitted details are still not adequate to consider the heritage impact, in particular the consideration on the setting of nearby listed buildings and the scheduled monument. After reviewing the information submitted in this case, it is considered an adequate assessment of the developments impacts on heritage assets can be made.

During the planning officers site visit it was determined that the proposal is reasonably well screened and an adequate distance from any heritage asset to cause direct impacts, or any impacts to setting. Considering objections have been lifted from the Historic Environment Service and Historic England, it is considered the proposal is in accordance with policies COR2 of the Core Strategy 2007 or DM2 and DM27 of the Local Plan Part 3 (Development Management Policies).

10. Planning Balance and Conclusions

The key issue in terms of the assessment of this application is the impact of the development in terms of the proposed transportation arrangement, in particular transferring the waste of the site, and impacts on the general amenities of the area.

As stated above each cycle of growing chicken will generate nine deliveries of poultry litter from Gibbett Moor Farm to the Menchine Farm AD, equating to 54 deliveries annually (108 movements on the highway). The issue is whether these trips cause significant harm to amenity of local residents, in particular within Nomansland. The Highway Authority have been consulted and consider that appropriate mitigation for the scheme is proposed in the form of passing bays and junction improvements. It is considered that the proposed vehicle movements created by the scheme are not severe enough to warrant a refusal of the application.

In addition to transport impacts, local residents also raised concerns regarding the character and appearance of the surrounding area and the amenity of neighbours in terms of smell and noise nuisance. The concerns of local residents have been taken into account, and it is considered that although the development will have some limited impact to the character and appearance of the area and the immediate neighbouring amenity, the scope of harm that would arise is not significant enough to justify a refusal of the application.

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 piped to a swale and then discharged as shown on the approved

development area plan, 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. The site accesses and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with the a drawing which should be submitted to , and agreed in writing by the Local Planning Authority prior to commencement on site. The development shall be completed and retained in accordance with the approved details.
5. The site access road shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway.
6. In accordance with details that shall previously have been submitted to, and approved by, the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains on to any County Highway.
7. No development shall take place until details of the following works to the highway have been submitted to and been approved in writing by the Local Planning Authority:
 - o Details of the proposed passing bay on the C308
 - o Details of the junction improvement of the S1614 with Bulworthy Knap
 - o Details of the new access's and passing bay, along the S1614

The development hereby permitted shall not be occupied until these works have been completed in accordance with the approved details.

8. 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) details of operational routes

The development shall be carried out in accordance with the approved Traffic Management Plan at all times during the construction phases of the development. Once the operational phase of the development begins, the approved details and operational routes shall be permanently adhered to, unless road closures, serious road traffic accidents, or severe weather

conditions make the operational routes unpassable.

9. 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 in accordance with the agreed details.
10. 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.
11. The development shall be carried out in accordance with the recommendations set out within the submitted ecology survey, Produced by Clarkson & Woods, dated October 2015.
12. Prior to their installation, details of the underground water storage tanks shall be submitted to and approved in writing by the Local Planning Authority. Once installed the tanks shall be so retained.
13. No development shall begin until there has been submitted to and approved in writing by the Local Planning Authority, a landscaping scheme which includes details of all existing hedgerows, hedgerow removal, new planting, seeding, turfing or earth reprofiling. The details approved in the landscaping scheme shall be carried out within 9 months of the substantial completion of the development, (or phase thereof), and 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. Once provided, the landscaping scheme shall be so retained.

REASONS FOR CONDITIONS

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 Local Plan Part 3.
4. To provide a satisfactory access to the site and to provide adequate visibility from and of emerging vehicles.
5. To prevent mud and other debris being carried onto the public highway.
6. In the interest of public safety and to prevent damage to the highway.
7. To ensure that all road works associated with the proposed development are to a standard approved by the Local Planning Authority and are completed before operation, in accordance with policies COR9 of the Core Strategy 2007, DM6 and DM22 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.
8. To ensure that all road works associated with the proposed development are to a standard approved by the Local Planning Authority and are completed before operation, in accordance with policies COR9 of the Core Strategy 2007, DM6 and DM22 of the Local Plan Part 3 (Development Management Policies) and the National Planning Policy Framework.

9. To ensure appropriate management of surface water in accordance with policies DM2, DM7 and DM22 of the Local Plan Part 3.
10. To ensure the development will not result in unacceptable harm to the amenities of the area, trees hedges, watercourses or wildlife in accordance with DM4, DM7 and DM22 of the Local Plan Part 3 (Development Management Policies).
11. To ensure any nature conservation interests are preserved in accordance with policy DM11 of the Local Plan Part 3 (Development Management Policies).
12. To ensure appropriate management of waste water in accordance with policies DM2, DM7 and DM22 of the Local Plan Part 3.
13. To ensure that the existing hedgerow screening is retained, and any proposed screening limits the impacts of the scheme on the character and amenity of the area in accordance with policies DM2 and DM22 of Local Plan Part 3: (Development Management Policies).

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The proposals are for the erection of a chicken shed unit to accommodate 60,000 free range broilers on a site at Gibbet Moor Farm. Given the nature of the proposed use the application scheme is considered supportable in policy terms as a matter of principal. The application provides sufficient information to determine the environmental impact upon the local setting and the locality within the Culm Special Area of Conservation, and nearby designated areas. It is concluded that whilst the development will result in some minor visual impact, the scope of impact is not considered to be to the detriment of the wider landscape character, because there are only short and medium range views across this part of the countryside without the disturbance of prominent views from public vantage points, bridleways and the public highway. Subject to delivering improvements to the highway network locally to the site, and within Nomansland in order to assist manage the transfer of waste from the application site to Menchine Farm, it is not considered that the proposed development would generate significant levels of traffic on the highway or result in significant detrimental impacts to the character and appearance of the area and the immediate neighbouring amenity to justify a refusal of the application.

On balance it is therefore considered that the application scheme sufficiently complies with Policies COR2, COR2, COR5, COR9, COR18 of and COR18 of the Mid Devon Core Strategy (Local Plan Part 1) and Policies DM1, DM2, and DM22 of the Local Plan Part 3: (Development Management Policies) and government policy as contained in the National Planning Policy Framework.

PLANNING COMMITTEE

DATE: 20 APRIL 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

	<p>Consultation responses Probity in Planning for councillors and officers – Local Government Association and the Planning Advisory Service November 2013 Mid Devon District Council Constitution</p>
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

Page 87

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:

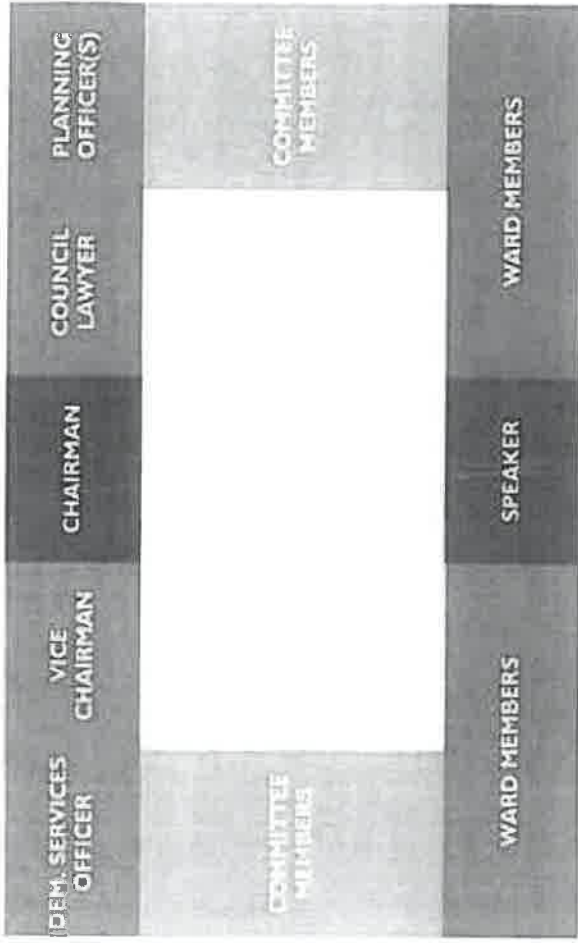
- When you arrive at the meeting please enter your name on the sheet for the application you are interested in.
- When a matter is discussed the relevant Officer will introduce and outline the item to be discussed. The public will then be able to speak on that matter only.
- All individual speakers will 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

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 summarise 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.

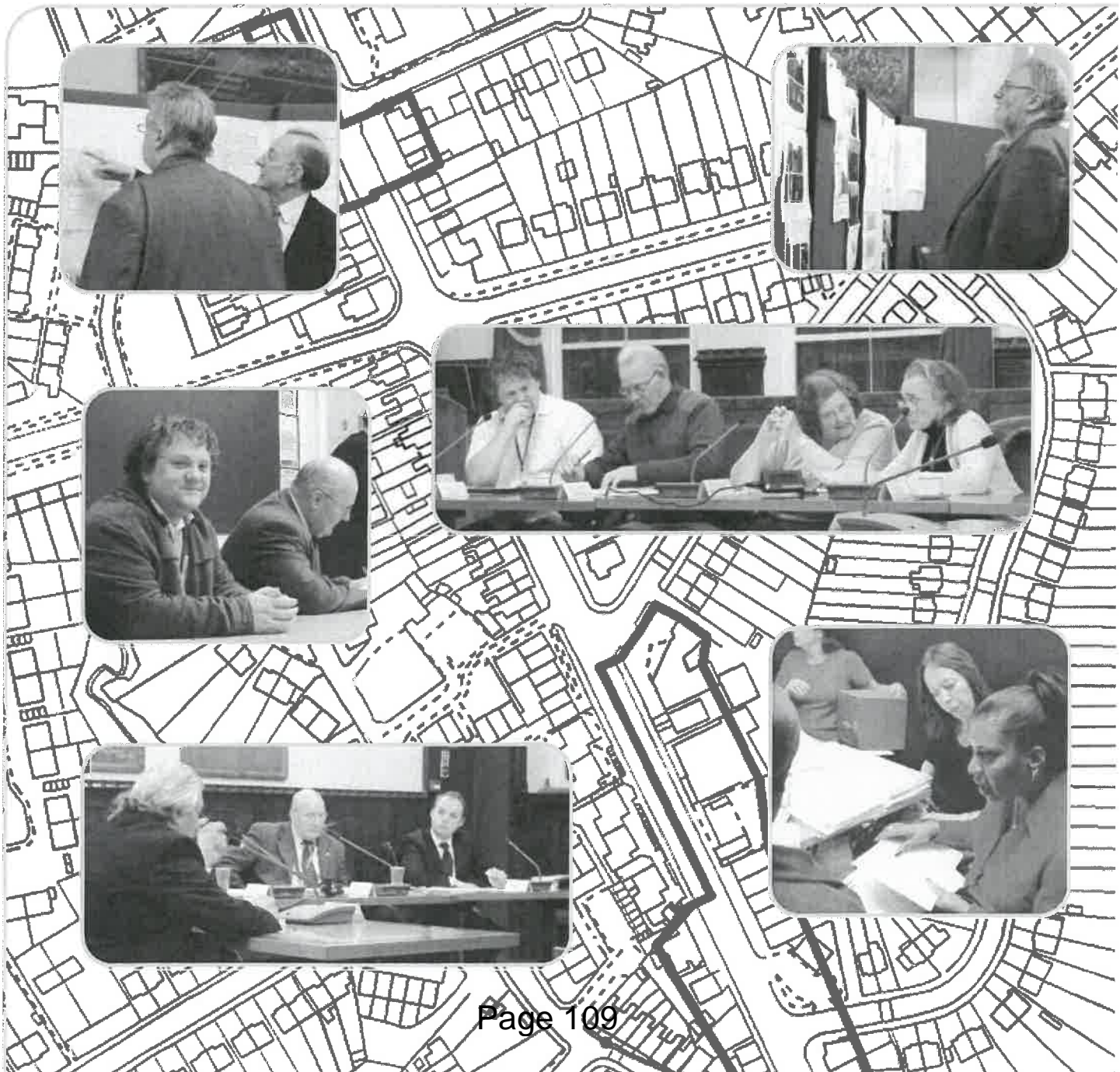
Rather than risk alienating them, explore ways how MDDC may utilise the pool or resource.

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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The Planning System – matching expectations to capacity

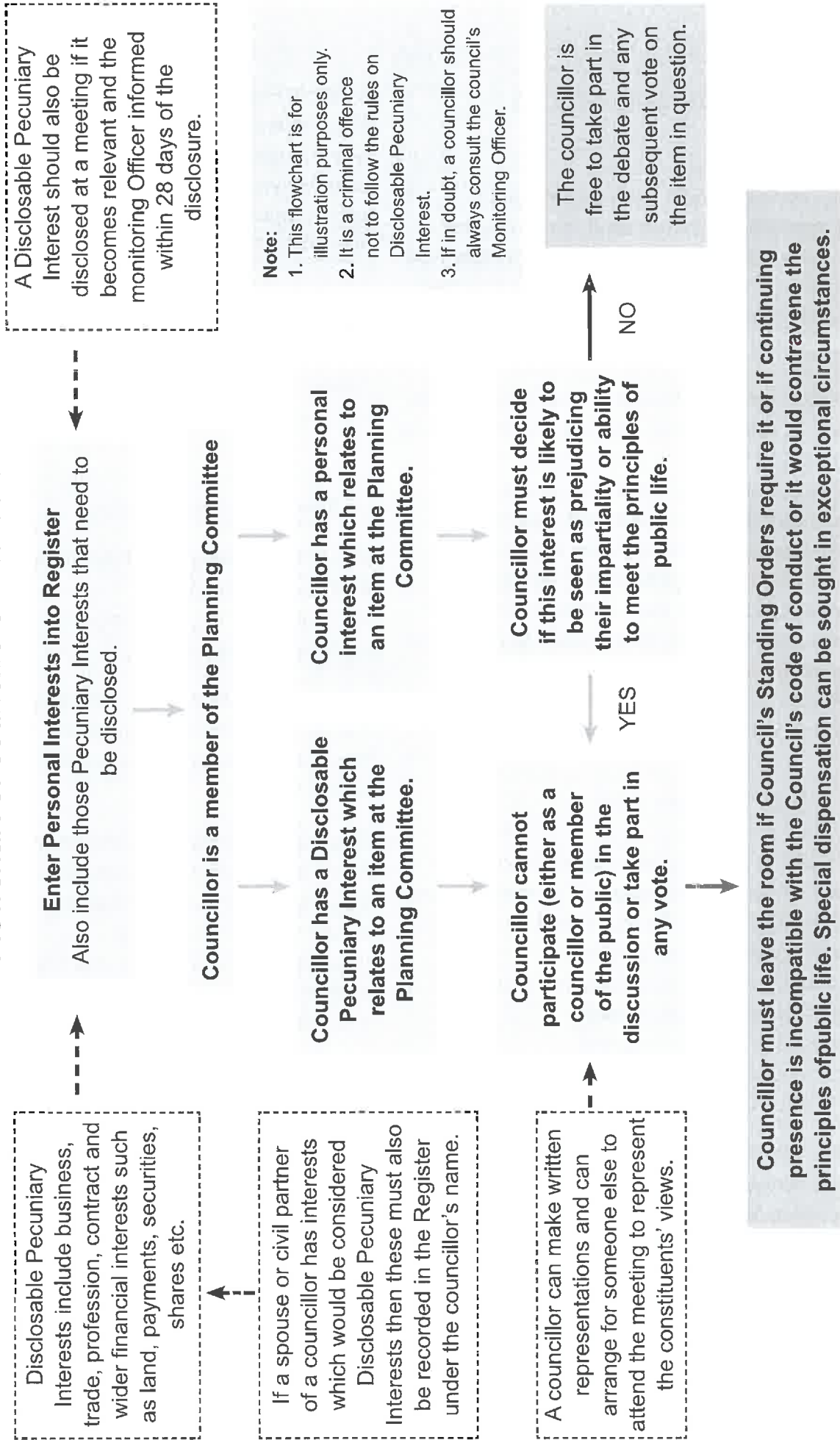
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Flowchart of councillors' interests





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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 an 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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