

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 1 November 2017
at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs H Bainbridge, Mrs C Collis, Mrs G Doe,
R J Dolley, P J Heal, B A Moore,
R F Radford, J D Squire, R L Stanley and
J M Downes

Apologies

Councillor(s)

F W Letch

Also Present

Councillor(s)

Mrs A R Berry, Mrs B M Hull, C R Slade and
Mrs E J Slade

Present

Officers:

Stephen Walford (Chief Executive), Jenny Clifford (Head of Planning, Economy and Regeneration), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), David Green (Group Manager for Development), Lucy Hodgson (Area Team Leader), Alison Fish (Area Team Leader), Catherine Marlow (Conservation Officer), Christie McCombe (Area Planning Officer) and Sally Gabriel (Member Services Manager)

70 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr F W Letch who was substituted by Cllr J M Downes.

71 PUBLIC QUESTION TIME

Mrs Sumner referring to Item 2 on the Plans List (Mayfair) stated that the density of the application for houses on this site is very different to that in Mayfair, which is a well-established community. This does not form part of the Area B so why is it allowed to be so high density when it is part of the Mayfair community and not Area B.

The Chairman read a set of questions on behalf Dr Bell referring to item 9 (Land at Uplowman Road) on the agenda:

This is the third time that this Committee has been asked to agree to vary the S106 Agreement made with Waddeton Park Ltd. and the second time that you have been

asked to permit a variation in the timing of the delivery of traveller pitches on the Waddeton Park site.

This time you are asked to approve a delivery timescale that will effectively be in the sole responsibility of the MDDC's affordable housing provision enterprise once all the 260 market properties are built and sold because dwelling numbers 261 to 300 are all affordable properties. This is not what you were told was to happen and asked to approve in March this year.

Also in March, the Planning Department and this Committee allowed Chettiscombe Trust to make a financial contribution to the off-site provision of traveller pitches in lieu of on-site provision.

This was due to the applicant deeming that the provision of such pitches is not required to make the development acceptable in planning terms and, that Planning Officers were aware that mortgage companies are expressing concern about lending on sites where traveller provision is required thus adversely affecting delivery of housing.

1. Is this latest application a version of a relaxation or avoidance of a traveller site provision by the Waddeton Park site developers?
2. Would allowing this change make way for the MDDC Planning Department to try and fit both Chettiscombe Trust's and Waddeton Park's allocated traveller pitch provision on the Waddeton Park site?
3. Why is Chettiscombe Trust's position on this subject not equally applicable to the Waddeton Park site thus allowing for a single more sensibly sized and consolidated traveller site to be provided in less questionable locations?

The Chairman indicated that answers to the questions would be provided during debate on that particular item.

72 MINUTES OF THE PREVIOUS MEETING (00-06-20)

The minutes of the meeting held on 4 October 2017 were approved as a correct record and signed by the Chairman.

73 CHAIRMAN'S ANNOUNCEMENTS (00-07-03)

The Chairman had the following announcements to make:

- She introduced and welcomed new officers: David Green (Group Manager for Development) and Tristan Peat (Forward Planning Team Leader) to the meeting.
- She informed the meeting that Naomi Morgan (Planning Assistant) would be leaving the authority to take up a post elsewhere; she thanked her for her work and wished her well for the future.

74 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

75 THE PLANS LIST (00-08-50)

The Committee considered the applications in the plans list *.

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

(a) Applications dealt with without debate.

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

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

(i) No 7 on the Plans *List (17/001602/FULL – Change of use from Use Class A1 (Retail) to Use Classes A3 (Restaurants and Cafes) and A5 (Hot Food takeaways – 10 Market Walk, Bampton Street, Tiverton)* be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Note: Cllr R L Stanley declared a personal interest as Cabinet Member for Housing which included the property function.

(ii) No 8 on the Plans *List (17/001607/FULL – Change of use of ground floor and basement from Use Class D1 (Healthcare) to use Class A1 (Retail), 37 Bampton Street, Tiverton)* be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

(b) No 1 on the Plans *List (17/00824/FULL – Erection of 3 dwellings with associated access and parking provision – Springbourne, Cullompton).*

The Area Team Leader outlined the contents of the report by way of presentation explaining that the site was part of the CU15 allocation within the Local Plan and highlighting the location of the site, the proposed site plan, the new access, the oak tree with a Tree Preservation Order which would be unaffected by the development, proposed elevations and floor plans for the dwellings and the details of the foul water and waste disposal from the site. Members viewed photographs from various aspects of the site and were informed about the Town Council's concerns regarding the access and overdevelopment of the site. She made reference to the update sheet which outlined a revised recommendation, an addendum to the report with regard to permitted development rights and a proposal for an additional condition which referred to the oak tree.

Consideration was given to:

- Whether the site and access was within the 30 mph speed limit
- The new access to the development and the existing property
- The low density on the site.

RESOLVED that planning permission be granted subject to:

- The prior signing of a s106 Agreement relating to the provision of £4326 towards improvements to Knightswood play area and £15,654 towards funding community car share schemes and clubs for Cullompton;
- Conditions as recommended by the Head of Planning, Economy and Regeneration with an additional condition stating that “Prior to the construction of the new access and driveway, an arboricultural method statement shall be submitted to, and approved in writing by the Local Planning Authority. The arboricultural method statement should detail how the oak tree (the subject of the Tree Preservation Order) will be protected throughout the construction process as well as details of the no dig proposal and how it will be implemented and overseen”.

Reason : To ensure the protection of the oak tree protected by Tree Preservation Order reference: 13/00001/TPO.

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

Notes:

- i) Mr Farmer (Agent) spoke;
- ii) Cllr Mrs A R Berry spoke as Ward Member
- iii) The following late information was provided: **REVISED RECOMMENDATION:** Subject to the prior signing of a s106 relating to the provision of £4326 towards improvements to Knightswood play area and £15,654 towards funding community car share schemes and clubs for Cullompton, grant planning permission subject to conditions:

Please note the required contributions have been paid

ADDENDUM TO THE REPORT: Page 7 paragraph titled ‘design and appearance’ advises that a condition will be required to remove permitted development rights to manage the character, scale, massing and design of future extensions or alterations. However, during the writing of the report further consideration was given to the need for the condition and in particular consideration was given to the ‘tests’ for the use of conditions. Para 206 of the NPPF states that planning conditions should only be imposed where they are necessary, relevant to planning, relevant to the development being permitted, enforceable, precise and reasonable. Given that the development is relatively low density, well -spaced with good size amenity spaces, and no overlooking or relationship issues with neighbouring development, it was not considered that removal of permitted development rights were necessary or reasonable.

ADDITIONAL CONDITION:

Prior to the construction of the new access and driveway, an arboricultural method statement shall be submitted to, and approved in writing by the Local Planning Authority. The arboricultural method statement should detail how the

Oak tree (the subject of the Tree Preservation Order) will be protected throughout the construction process as well as details of the no dig proposal and how it will be implemented and overseen.

Reason : To ensure the protection of the Oak tree protected by Tree Preservation Order reference: 13/00001/TPO.

(c) No 2 on the Plans *List (17/00910/FULL – Erection of 5 dwellings and alterations to existing bungalow and the erection of garage – 10 Mayfair, Tiverton).*

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the site, the existing site plan which identified the existing bungalow which would remain and the location of the tree group within the site plan, the proposed siting of the 5 new dwellings and the distances between the new dwellings (plots 4 and 5) and No's 14 and 16 in Mayfair; the proposed elevations and floor plans of the proposed dwellings, the removal of the balcony from plot 5 which had originally been planned along with the reduced ridge height and a deeper landscaping buffer in this location. She explained the junction improvements that had been made referring Members to Condition 5 and provided photographs from various aspects of the site.

Answering the question posed in public question time regarding density, she stated that she felt that the density was suitable to accommodate family style accommodation on this site; the density was 13.6 dwellings per hectare for this application. 15-20 dwellings per hectare were proposed for the adjacent part of Area B of the Eastern Urban Extension.

Consideration was given:

- The density proposed for this site against that of Area B of the Eastern Urban Extension
- The width of the driveway and access issues for construction traffic
- Whether the drive would be adopted and the bin collection method
- The design of the proposed dwellings
- The density of the proposed development squeezed into one part of the site
- Concerns regarding the impact of the development on existing properties in Mayfair

RESOLVED that the application be deferred to allow for a site visit by the Planning Working Group to take place to consider:

- The access
- Whether the proposal was deemed to be overdevelopment of the site
- The design and height of the proposed dwellings
- The impact of the development in relation to existing properties
- Whether the screening proposed was sufficient.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr R J Dolley)

Notes:

- (i) Cllrs Mrs H Bainbridge, Mrs C A Collis, Mrs F J Colthorpe, R J Dolley, P J Heal, 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 in dealing with Planning Matters as they had all received correspondence regarding the application;
- (ii) Mr Menheneott spoke on behalf of the objectors;
- (iii) Cllr C R Slade spoke as Ward Member;
- (iv) The following late information had been provided: Cllr Colin Slade has requested that the application be determined at Planning Committee to consider the extent of impact on the neighbouring properties including traffic impact.

The 3rd paragraph to Section 4: Social Infrastructure and Services should read as follows:

A recent change in planning legislation (May 2016) indicates that Local Planning Authorities should only seek affordable housing contributions from developments of over 10 units as financial contributions within Tiverton Settlement Limits. As such, affordable housing cannot be sought for this proposal of 5 units.

During application discussions residents made a request that Councillors view the proposal on site.

Cabinet on 26 October 2017 resolved that subject to acceptable planning impacts, alternative access arrangements into Area B of the Tiverton Eastern Urban Extension may be considered that do not include Mayfair and / or Manley Lane / Post Hill Junction.

Government changes to the planning system (2016) indicate that within the settlement limit of Tiverton, as in this case, affordable housing can only be sought from developments of more than 10 houses. This application is for 5 houses.

- (d) No 3 on the Plans List (***17/01310/FULL – Retention of summerhouse and decking – The Wharf House, Holcombe Rogus***)

The Area Team Leader outlined the contents of the report by way of presentation highlighting the site location plan, the proposed site plan, the proximity to the Grand Western Canal, the proposed existing elevations, the proposed floor plans as existing and photographs from various aspects of the site including views from the canal towpath. She explained the proposed condition (3) which only permitted the garden room to be used ancillary to the main dwelling known as the Wharf House which may overcome some of the concerns of the Ward Member.

Consideration was given:

- To the fact that the garden room was well screened
- The concerns of the Ward Member with regard to the proximity of the proposal to the unspoilt area of the canal
- Water mains and sewage issues
- The lack of concern from the Parish Council

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

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

Notes:

- i) Mr Cookson (Agent) spoke;
 - ii) Cllr Mrs H Bainbridge spoke as Ward Member;
 - iii) Cllr Mrs H Bainbridge requested that her abstention from voting be recorded.
- (e) No 4 on the Plans *List (17/01344/FULL – stabilisation of existing bank to allow development permitted under planning permission 15/00779/MFUL – land at NGR 294775 111860, Palmerston Park, Tiverton)*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the requirement for the stabilisation of the existing bank to allow development of the site to continue. She explained the construction of 26 affordable dwellings, highlighting the site of the retaining wall, the development work that had taken place to date and the need to coppice the sycamore trees to ground level to allow for the soil nailing to be undertaken and for mesh to be put in place, the trees would then have the ability to re-grow. Members viewed photographs from various aspects of the site which identified the slope, the maccaferri wall and the site access.

Consideration was given to:

- The development on the site
- The trees that would be coppiced to allow for soil nailing and be allowed to re-grow

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

(Proposed by Cllr R J Dolley and seconded by Cllr P J Heal)

Notes:

- i) Cllr R L Stanley declared a personal interest as the Cabinet Member for Housing and chose to leave the meeting during discussions thereon as he had been involved in matters with regard to the site;
- ii) Cllr R J Dolley declared a personal interest as he was Ward Member and had had discussions with the site manager and workers and had accompanied other Members to the site;

iii) Cllr Mrs F J Colthorpe made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as the site was within her County Ward;

iv) Cllr R J Dolley spoke as Ward Member.

(f) No 5 on the Plans *List (17/001430/FULL – Installation of 8 replacement windows to west elevation – 17 St Peter Street, Tiverton)*

The Conservation Officer outlined the contents of the report by way of presentation highlighting the location of the Grade II Listed Building and the elevation (for the installation of the windows) facing onto St Peters Street. She explained that the property had been adapted to flats in the 1970's and that the building been listed in 2000, when only the exterior of the property had been viewed. During the adaptation into flats much of the historic interior value had been lost. The applicant had contacted Historic England to request that the property be delisted because of the lack of historic value internally, however this had been declined. She further explained that the current timber window frames were in poor condition, but that she could not support the use of uPVC windows which she felt would harm the authenticity of the listed building.

Consideration was given to:

- The use of uPVC in listed buildings
- The quality of the uPVC and whether you would notice the difference
- The replacement windows would improve the front elevation of the dwelling
- The fact that the building was in a bad state of repair
- An example of where uPVC had been used in an unlisted building in a Conservation Area
- The Georgian property and the fact that none of the original windows remained
- That the internal layout of the flats created partitions that crossed windows, and therefore the original pattern of the windows could not be reintroduced
- The possibility of accepting a compromise so that the façade could be improved
- Whether the insertion of uPVC windows would set a precedent.

RESOLVED that planning permission be granted for the following reasons: having considered carefully the existing character and appearance of the property and its location, the proposal was considered an improvement over the existing windows and to not detract from the character or appearance of the Conservation Area and that delegated authority be given to the Head of Planning, Economy and Regeneration to produce a set of conditions.

(Proposed by Cllr R L Stanley and seconded by Cllr P J Heal)

Notes:

(i) Cllr Mrs F J Colthorpe declared a personal interest as the applicant was known to her;

- (ii) Cllr R L Stanley made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as he had received correspondence regarding this matter;
- (iii) Mr Burrage (applicant) spoke;
- (iv) Cllrs Mrs B M Hull and Mrs E J Slade spoke as Ward Members;
- (v) A proposal to refuse the application was not supported;
- (g) No 6 on the Plans List (**17/001431/LBC – Listed Building Consent for Installation of 8 replacement windows to west elevation – 17 St Peter Street, Tiverton**)

The Conservation Officer outlined the contents of the report by way of presentation highlighting the location of the Grade II Listed Building and the elevation (for the installation of the windows) facing onto St Peters Street. She explained that the property had been adapted to flats in the 1970's and that the building been listed in 2000, when only the exterior of the property had been viewed. During the adaptation into flats much of the historic interior value had been lost. The applicant had contacted Historic England to request that the property be delisted because of the lack of historic value internally, however this had been declined. She further explained that the current timber window frames were in poor condition, but that she could not support the use of uPVC windows which she felt would harm the authenticity of the listed building.

Consideration was given to :

- The use of uPVC in listed buildings
- The quality of the uPVC and whether you would notice the difference
- The replacement windows would improve the front elevation of the dwelling
- The fact that the building was in a bad state of repair
- An example of where uPVC had been used in an unlisted building in a Conservation Area
- The Georgian property and the fact that none of the original windows remained
- That the internal layout of the flats created partitions that crossed windows, and therefore the original pattern of the windows could not be reintroduced
- The possibility of accepting a compromise so that the façade could be improved
- Whether the insertion of uPVC windows would set a precedent.

RESOLVED that Listed Building Consent be granted for the following reasons: having considered carefully the existing character and appearance of the property as a listed building and its location, the proposal was considered an improvement over the existing windows, to cause less than substantial harm and to not detract from the character or appearance of the Listed Building taking into account the specific replacement windows proposed in terms of their design, materials and resultant quality; and that delegated authority be given to the Head of Planning, Economy and Regeneration to produce a set of conditions.

(Proposed by Cllr R L Stanley and seconded by Cllr P J Heal)

Notes:

- (i) Cllr Mrs F J Colthorpe declared a personal interest as the applicant was known to her;
- (ii) Cllr R L Stanley made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as he had received correspondence regarding this matter;
- (iii) Mr Burrage (applicant) spoke;
- (iv) Cllrs Mrs B M Hull and Mrs E J Slade spoke as Ward Members;
- (v) The following late information was reported: Delete reference to COR2 from development plan policies, material considerations and reason for refusal 1. Unlike the accompanying planning application, as this is an application for Listed Building Consent, Local Plan policy COR2 is not relevant.

76 MAJOR APPLICATIONS WITH NO DECISION (2-06-18)

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

It was **AGREED** that

Application 17/01660/MOUT – 10 dwellings at Barnshill Close, Cheriton Fitzpaine be brought before committee if minded to approve and that in that instance, a site visit take place.

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

77 APPEAL DECISIONS (2-09- 00)

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

Members were informed that with regard to application 17/00300/MOUT although the application had been allowed with conditions, the inspector had refused an award of costs against the Council as he had felt that the correct balance had been applied, Members had used their experience and local knowledge and that the authority showed examples of good practice by having a cooling off period, having been minded to refuse the application and then considered an implications report prior to making a final decision at the following meeting.

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

78 APPLICATION 13/01616/MOUT - VARIATION OF S106 AGREEMENT: 13/01616/MOUT OUTLINE FOR THE DEVELOPMENT OF UP TO 330 DWELLINGS TOGETHER WITH PUBLIC OPEN SPACE, ASSOCIATED INFRASTRUCTURE AND OTHER WORKS INCLUDING VEHICULAR ACCESS, PEDESTRIAN /CYCLE LINKS AND HIGHWAY IMPROVEMENT, LAND AT NGR 298671 113603, UPLOWMAN ROAD, TIVERTON (2-11-30)

The Committee had before it a report of the Head of Planning and Regeneration regarding proposed changes to the S106 agreement entered into in relation to this planning permission.

The Area Planning Officer outlined the contents of the report highlighting the planning permission granted for 330 dwellings in 2015. Since the granting of planning permission discussions had been ongoing with the applicant over the delivery of dwellings on the site together with the preparatory works for the submission of reserved matters. Members at the Planning Committee on 29 March 2017 approved amendments to the timing of payment of financial contributions which formed the basis of a Deed of Variation to the signed S106 agreement of September 2015. A request had now been made by officers to the applicant for further amendments to the timing of payments.

She outlined the proposed changes to the triggers:

- the pre commencement triggers remained the same;
- the first financial contribution will now be paid on or before the 125th dwelling (as opposed to the 150th dwelling),
- the second trigger on the 200th dwelling (as opposed to the 225th dwelling); and
- traveller pitch provision will be made prior to the 300th dwelling (as opposed to the 260th dwelling).

A response was provided to Dr Bell's statement and question from the beginning of the meeting: the site was not delivered with unit numbers 1 to 260 being open market dwellings and unit numbers 261 to 300 as affordable dwellings. MDDC would be seeking to deliver the affordable housing at the earliest opportunity following signing of the land deal. There was no obligation to wait on the delivery of the affordable housing.

The Planning Committee in March 2017 sought to allow a financial contribution to be made towards off-site gypsy and traveller provision including the cost of the land in lieu of on-site pitch provision on the Chettiscombe Trust land. However, events had since progressed culminating in approval of an outline planning consent with signed S106. Condition 18 required a gypsy and traveller pitch scheme including details of the location of the pitches on site.

The triggers now proposed were not a relaxation or avoidance of gypsy and traveller pitch provision. The change represented a change in terms of the delivery of the pitches in relation to the number of houses. Seeking the delivery of the gypsy and traveller pitches at the 300th dwelling instead of the 260th dwelling remains policy compliant. A traveller pitch scheme for the 3 pitches continued to be worked up at the location identified within the Adopted Masterplan SPD. The site currently identified within the Adopted Masterplan made provision for 3 pitches. MDDC planning

department were not seeking to fit both Chettiscombe Trusts and Waddeton parks allocation at this location.

The location identified within the Adopted Masterplan complied with the NPPF and had been endorsed through the adoption of the Local Plan as a suitable site – deemed suitable and deliverable whilst meeting a presumption in favour of sustainable development.

Consideration was given to:

- The delay in the provision of the gypsy and traveller pitches
- Negotiations that had taken place with regard to the provision of the dwellings
- The need to accelerate the provision of the housing

RESOLVED that the timing of payments of the financial contributions and delivery of the gypsy and traveller pitches within the S106 agreement be amended in accordance with the changes requested.

(Proposed by the Chairman)

Notes:

- (i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing and a Director of the SPV and chose to leave the meeting during the discussion thereon;
- (ii) The following late information was reported: Clarification of para 2.4 with regards to traveller pitch provision – the pitches will be delivered prior to the first occupation of the 300th dwelling.
- (iii) *Report previously circulated copy attached to signed minutes.

79 **APPLICATION 17/00445/FULL - INSTALLATION OF 16 GROUND MOUNTED SOLAR PHOTOVOLTAIC PANELS WITH WIRE STOCK PROOF FENCING - LAND AND BUILDINGS AT NGR 289905 122292 (FORD FARM) OAKFORD DEVON (2-27-00)**

The Committee had before it a report of the Head of Planning and Regeneration regarding the above application.

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the site location plan for the proposed panels, the aerial view of the site, the block plan and elevation plans of the panels and Members viewed photographs taken from various aspects of the site.

Consideration was given to the site being well screened.

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

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

Notes:

- (i) Cllrs B A Moore and R L Stanley spoke as Ward Members;
- (ii) Cllr J M Downes requested that his abstention from voting be recorded;
- (iii) The following late information was provided: Within the 'proposed development' section of the agenda report the sentence that begins on the fifth line should read: The array would be approximately 2.5m high and approximately 8m long. The panels would be mounted on a timber frame and there would be approximately 825mm clearance between the ground and the bottom edge of the panels.
- (iv) *Report previously circulated copy attached to signed minutes.

(The meeting ended at 5.00 pm)

CHAIRMAN