

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 28 February 2018
at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs H Bainbridge, Mrs C Collis, Mrs G Doe,
P J Heal, F W Letch, B A Moore, J D Squire,
R Evans and Mrs J Roach

Apologies

Councillor(s)

R J Dolley, R F Radford and R L Stanley

Also Present

Councillor(s)

R J Chesterton and R M Deed

Present

Officers:

Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), David Green (Group Manager for Development), Simon Trafford (Area Team Leader), Lucy Hodgson (Area Team Leader), Alison Fish (Area Team Leader), Adrian Devereaux (Principal Planning Officer), Maria De Leburne (Solicitor) and Sally Gabriel (Member Services Manager)

114 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from:

Cllr R J Dolley who was substituted by Cllr Mrs J Roach.

Cllr R L Stanley who was substituted by Cllr R Evans.

Apologies were also received from Cllr R F Radford.

115 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT

The Chairman reminded Members of the need to make declarations of interest.

116 PUBLIC QUESTION TIME (00-03-50)

Mr Cashmore referring to Item 4 on the Plans List (School Lane, Thorverton) made the following statement:

Thank you chair and members for the opportunity to raise some concerns regarding the current planning process, a written response would be appreciated

in due course. I am grateful to Councillor Deed for calling in agenda item 7. 4 that I may facilitate this.

We have also shared a number of photos of the site.

At face value, this application is about simple access to a field in my village of Thorverton.

- 1) On the portal there is an unattributed, hand drawn, layout sketch with no point of reference, measurements, elevations or sections. This has been approved by Highways, subject to conditions. A study of their own Planning Design Manual however confirms that this proposal bears little resemblance to their own standards, for example “field access must be square to the road” Further, the conditions called for are also mathematically and physically impossible to achieve, specifically a gradient not to exceed 1in10, a useable sweep radius and a workable drainage solution.
- 2) There are important concerns regarding public safety. School Lane is simply too narrow to provide a sweep radius to turn a modern tractor and trailer and as the applicant does not own the land immediately to the North of this entrance it is therefore not possible to achieve either the vertical or horizontal visibility splays required by highways to achieve SSD.
- 3) The report suggests that the applicant owns land at Shobrooke and that this application will ease the journey to his farm. Not true, the applicant does not own any land but actually rents land and buildings at Shobrooke, the owner confirms it is self-contained and needing no external traffic movements at all.
- 4) The report further suggests that this application is needed in order to reduce the journey distance to the applicant’s farm near Woodbury. Note: the applicant’s latest map has chosen not to advise you that there are in fact Three further gateways available to him a little further South onto School Lane, all closer to Woodbury and that for the last 4 years his preferred route has always been South, through Bramford Speke, St David’s Station, Western Way and onto junction 30. There never have been any 3 point turns conducted at Yellowford.
- 5) Finally, even if a tractor did exit North onto School Lane into the village, photos confirm that it is impossible then to turn left to Shobrooke and this has never ever been attempted.

Committee, to summarise I believe your planners need a better support framework, one that will allow them to conduct much higher levels of diligence. The residents of Thorverton also deserve a far better planning service than this, and are entitled to understand how the council planning process could possibly allow these situations to occur? I feel fully justified in requesting the committee to overturn spurious approvals such as this.

Finally, we are perplexed as to why a farm gateway needs the support of the National Planning Policy Framework, and that this application may well turn out to be the precursor for a much bigger planning event sometime in the near future.

We hope this is not the case, but, if proved otherwise, and having now pointed out to you that we believe the council may have been deliberately misled and that this application is unsafe, impossible to achieve and that there is no real agricultural need, then this attempt to pass off this application as being essential for agriculture, is not just disingenuous, but is downright deceitful, and will be construed by many to be a clear abuse of the planning system, for which those responsible should be held to account.

Karen Massey referring to Item 11 on the agenda – (Tree Preservation Order at Aubyns Wood Avenue, Tiverton) stated my question is : the Local Government Association stated in 2017 that "Taxpayers to subsidise planning application costs by £1bn over next five years" and of 26 February 2018 the association stated that "Extra council tax income in 2018/19 will not protect under-pressure local services"

Current legislation exempts any local authority from charging for applications to undertake work on trees covered by a preservation order. As a result there is a shortfall to all authorities. There is a lengthy document on the local authority website to provide a breakdown of costs and the lack of satisfaction by the users of the planning system.

Is this now the time to reconsider the number of TPOs which are handed out in this area which would help balance the accounts and also help consumers with the planning system?

Cllr Warren (Willand Parish Council) referring to Item 10 on the agenda (land North of Rydon House, Willand) stated:

At the Planning Committee on 31 January 2018 a question was asked as to why this application had taken over 9 months to come to committee when the last communication between an officer and the applicant agent had been on 22 May 2017. The minuted answer given by the officer stated: "With regard to the delay in determining the application, the validation of the application had taken place on 24 April 2017 but it had been submitted after the application for the 259 dwellings on the adjacent site and that there had been a need to determine that application first and to await the outcome of the appeal." That decision has led to an appeal to the Planning Inspectorate on the grounds of non-determination although the Inspectorate have declined to accept it.

Who decided that there was a need to determine that application for 259 houses first and await the outcome of the appeal?

What was the detail of that need bearing in mind that the officer has stated in the implications report that "Members will be well aware of the need to consider only the current proposal at this present time". That being the case why an unacceptable delay in relation to waiting for another application decision?

Was that need, and the decision to cause the delay beyond the regulatory time scale for determination, documented as a decision and recorded for future reference should the need arise in relation to any appeal or costs claim?

Was the Cabinet Member for Planning consulted?

Was the Chair of Planning Committee consulted?

Were our Ward members consulted?

The Chief Executive recorded the decision to delay the local plan, his reasons and who he had consulted and it is in the public domain.

Cllr Grantham (Willand Parish Council) referring to Item 10 on the agenda (Land north of Rydon House, Willand) stated:

The Planning Committee has already approved 35 houses to be built on an exception site which under the emerging local plan was to be replaced by the referred to site for 42 houses. We are told that that site will not be removed from the plan and therefore Willand will have 77 houses instead of the planned 42. If this 30 are approved then Willand will be faced with 107 more houses instead of the planned number of 42. Will members please accept that this unplanned development will put further pressure on an already fragile, modest and basic provision of facilities? Please stand by your original decision to consider refusal.

Andrea Glover referring to Item 10 on the agenda (Land north of Rydon House, Willand) stated:

The Officer gives his view as to the findings of the Planning Inspector in relation to an adjoining site. Will members please note that the Inspector in his findings in paragraph 10 found that policies COR 17 and COR 18 were relevant to his considerations? In paragraphs 13 and 14 he found that the application was in conflict with both policies – no mention of scale at this point. He also found that there was conflict with COR 1 and COR 12 as the intention was that the main development of housing should take place around the main larger settlements. In paragraph 55 he writes of current policies, “I consider them to be in general conformity with the broad sustainable development objectives of the Framework. I therefore give significant weight to the appeal scheme’s conflict with these development plan policies.” Will members please stand by the findings that this application is outside of the local plan and it will be an isolated development compared with the main part of the village?

Mr Ison referring to the proposed Tree Preservation Orders within the agenda stated that he wished to offer his support to the Tree Officer in order to preserve the wooded areas around Howden Court. The Local Plan had requested the retention of the woodland belts in the allocation for development in this area. He cited examples where some of the trees had been removed before the blanket Tree Preservation Order had been put in place. The Planning Officers had felt that the loss of the trees was not considered to be lawful for the visual amenity of the site. He emphasised the need for reasonable preservation of the wooded area.

Sue Leach referring to Item 10 on the agenda (Land North of Rydon House, Willand) stated:

On page 98 of your bundle at Suggested Reason for refusal 2 it refers to ‘car mechanics’. That needs to be removed as they have relocated elsewhere in the village. In considering the balance of community facilities will members also please take account of the fact that the Coop, although approved has shown no sign of

being built at this time so that did not ought to be taken into account if this application has to be considered in isolation?

On page 95 in your bundle at 2 the officer refers to the site being connected to the village by continuous footways. Will members please note that that is not correct. The Old Village Road from the site to the post office and church has no footways other than a short area near to Elmside and Townlands? Pedestrians have to walk in the road and it is a bus route. There is a footway on the main road on one side. It is a 40mph speed limit most of the way and recommendations are that this footpath should ideally be 2m wide – it is not? Is public safety part of the planning considerations of this committee?

David Marrow referring to Item 10 on the agenda (Land North of Rydon House, Willand) stated:

At the last meeting on 31 January, it was stated by the committee that this application had to be considered in isolation and that potential influencing factors (such as the 125 houses application) should not be taken into account.

My question is, why not?

Having just retired from 44 years in the commercial world, in my experience, no professional organisation would consider significant projects or decisions in isolation when it was known or suspected that there could be other significant events that might add to the impact of the project under consideration.

Any one project can have a significant impact but, the impact of several projects could well be greater than the sum of each one. Hence the need for a longer term 'vision' and a rolling 3 or 5 year plan, against which the merits of each project can be judged.

Mr Trump referring to Item 4 on the plans List (School Lane, Thorverton) stated that he lived opposite the site and that he owned the land next to the site, he was concerned about damage to his property, the lane and the wall. He felt that the whole scheme seemed impracticable and invited Members to come and see for themselves.

The Chairman indicated that answers would be provided to questions when the items were debated. Mr Cashmore would receive the written response he requested.

117 MINUTES OF THE PREVIOUS MEETING (00-25-16)

The minutes of the meeting held on 31 January 2018 were approved as a correct record and signed by the Chairman.

118 CHAIRMAN'S ANNOUNCEMENTS (00-26-07)

The Chairman had no announcements to make.

119 DEFERRALS FROM THE PLANS LIST (00-26-11)

There were no deferrals from the Plans List.

120 THE PLANS LIST (00-26-11)

The Committee considered the applications in the plans list *.

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

(a) Applications dealt with without debate.

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

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

(i) No 2 on the Plans List (**18/00033/HOUSE – Siting of 14 Renusol Console Mounting Bins for PV Solar panels, Bullock Barn, Bradiford Farm, Morchard Road, Crediton**) be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

(ii) No 3 on the Plans List (**18/00063/HOUSE – Erection of a two storey extension, 26 Greenaway, Morchard Bishop**) be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Note: The following late information was reported: Down St Mary Parish Council have confirmed they have no objection to the proposal.

(iii) No 1 on the Plans List (**17/01939/FULL – Erection of a dwelling, East View, Buller Road, Crediton**).

The Area Team Leader outlined the contents of the report explaining the proposal for a single dwelling in the back garden of a property in Buller Road. He highlighted the site location plan, the association of the proposed dwelling adjacent to the established property and neighbouring properties, the size of the garden and parking proposal, the elevations and contemporary design of the proposal along with a roof plan showing the solar panels. Photographs were presented from various aspects of the site which highlighted the close proximity of the neighbouring properties and possible overlooking issues.

Consideration was given to:

- The proximity of the wall from the proposed dwelling
- The views of the applicant with regard to the location of the proposed dwelling, within walkable distance of the town, the contemporary design, the siting of the proposed dwelling so that any overlooking was limited.
- The views of the Ward Member who had visited the site and found that two dwellings in the space may be oppressive
- The size of the proposed dwelling and the size of the garden

RESOLVED that planning permission be refused as recommended by the Head of Planning, Economy and Regeneration

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

Notes:

- (i) Mrs Wilder (Applicant) spoke;
- (ii) Cllr F W Letch spoke as Ward Member

(iii) No 4 on the Plans List (17/01716/FULL – Reinstate access and farm track to agricultural land – land at NGR 292482 101905, School Lane, Thorverton).

The Principal Planning Officer outlined the contents of the report by way of presentation explaining the proposal for access to agricultural land, the existing access which had turning issues and required an alternative route to be taken. He provided a block plan, front elevation and a gateway plan of the proposal and provided photographs from various aspects of the site. He added that the Highway Authority had not raised any objections to the application neither had the Conservation officer. He highlighted the updated information in the update sheet which raised further objections to the application and the response of the Highway Authority to those points.

Members were made aware through the presentation that with respect to the update from the Local Highway Authority dated 22 February 2018, that whilst the update was written as how the response was received, point 7 of the Local Highway Authority response should have read as point 8, with the seventh point raised by the objector relating to there being no footpath along School Lane which did not require a response whereas point eight of the objection related to drainage which was addressed within point 7 in the Highway Authority response.

Referring to the questions posed in public question time, the officer stated that a written response would be provided to Mr Cashmore; with regard to the issue raised regarding damage to property, this was not a material planning consideration.

Consideration was given to:

- The steepness of the bank
- Whether it was necessary to have an additional access to the field
- The concerns of the objectors with regard to pedestrian safety, whether the new access was a physical possibility, the number of traffic movements already taking place on the road and the view that the applicant had alternative plans for the site.
- The views of the applicant with regard to the need for the new access for health and safety reasons, with a new access there would not be the need to reverse onto the road or to seek an alternative route to exit the village.

- The views of the Parish Council with regard to road safety, the walking route to the school, the gradient of the proposed slope and drainage and surface water issues
- The views of the Ward Member with regard to highway issues and the inadequacy of the submitted information

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

- The steepness of the application site
- The visibility splay
- Whether additional conditions, uses or methods of construction were required
- Pedestrian Safety
- The consequences of the application on the local amenity

and that the Highway Authority Representative be in attendance.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs J Roach)

Notes:

- (i) Cllrs Mrs H Bainbridge, Mrs F J Colthorpe, Mrs C Collis, Mrs G Doe, R Evans, P J Heal, F W Letch, B A Moore, Mrs J Roach and J D Squire 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) Ms Greed spoke in objection to the application;
- (iii) Mr Parr (Applicant) spoke;
- (iv) Cllr Bright spoke on behalf of Thorverton Parish Council;
- (v) Cllr R M Deed spoke as Ward Member;
- (vi) The following late information was provided

Amendment to condition 2 as follows:-

Condition 2:

The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice. Following the implementation of the planning permission both the southern splay of the existing access and that of the northern splay of the proposed access shall remain open and be available for use thereafter.

Reason:

For the avoidance of doubt and in the interests of proper planning and to achieve safe access to and from the site in a manner which does not cause significant danger and inconvenience to other road users in accordance with

Policy DM2 and DM22 of the Local Plan Part 3: (Development Management Policies).

Additional Parish Council response received:

Thorverton Parish Council – 14th February 2018

Thorverton Parish Council resolved to submit the following comments on this application:

- 1) The revised drawings do not provide the information required to address the objections raised by the local Highways Authority
- 2) No levels or sections have been shown and the drawings do not demonstrate that the access gradient can be achieved at one in ten
- 3) The retention of the bank appears to obstruct visibility above 600mm
- 4) Soakaway does not indicate a depth
- 5) An apron of 10 metres, as required by Highways, does not seem to have been addressed
- 6) Visibility splays should be shown in both directions and from both exits but are not.

Additional representation received:

Further 4 objections were received following receipt of the amended plans. Similar points have been raised as reported in the Committee Report but additional comments raised are summarised as follows:

- Drainage will run off the proposed concrete surface for both accesses into the highway
- How will soakaway and drainage be maintained and kept clear
- There are no details for the soakaway location/depth

One letter of objection as summarised below has been added as the Local Highway Authority has responded to the points raised:

1. This is a cynical Trojan horse application by the landowner to obtain a new access in the hope of residential development on a steep hillside, outside the 30 mph limit.
2. Measurements are not given for the retaining wall or the grass verge where the hedgerow is to be removed. The plan does not appear to be accurate on highway adjoining boundaries which may have been tweaked to fit the proposal.
3. The highway 'road narrows' sign and 'double bend' sign will not be properly visible to motorists in the relocated position.
4. The engineering works associated with this proposal are inadequate given the very steep incline particularly in wet weather.
5. To turn from School Lane into the new entrance with a 16m long tractor and trailer, grain trailer, or anaerobic digester waste trailer, will mean a wide turning circle and driving onto the curtilage of the listed Lodge opposite to achieve the turn, crossing from one side of the lane to the other and needing high revs to get up the very steep gradient.
6. Given the size and weight of vehicles and narrow width of turn and very steep incline, there would increase the health and safety risks.

7. There are no pedestrian pavements along the very narrow School Lane making the risk to villagers and children even greater walking to school and The Bury.

8. The proposed drains are totally inadequate to deal with the rain water and storm water run off from the concrete pad - soil and mud will also be dragged onto the highway. In addition where does the storm water and soil go once it enters the chamber on the plan?

Local Highway Authority - 22 February 2018

The Local Highway Authority response to the points raised in the additional letter of objection referred to above is as follows:

1. This is not for this application to consider and is speculation; however, the access being provided for agricultural use would not be suitable for a residential estate road and significant further works would be necessary along with suitable transport assessments for any housing generations will be necessary to determine suitability for the site for an increase in traffic.

2. Items 2, 3, 4 I have considered in the whole. The full width of verge and location of the realigned bank will be determined by the visibility splays. The current configuration with the retained bank was a desire from the Planning Authority to maintain the bank and general street scene. The Highway Authority are happy to accept this plan, albeit less than satisfactory, based on the need for the developer to enter into a licence with the Highway Authority where greater detail can be submitted in terms of technical aspects, but the layout, materials, visibility splay provision of drainage, radii and widths have been determined.

5. The swept path of agricultural vehicles entering the site from school lane from the north have been taken into consideration and that is why a 10m radii curve into the site and the lane /access width are as they have stipulated.

6. The gradient of the access has been stipulated as no greater than 1 in 10 for the new section which is the maximum gradient accepted by the Highway Authority and the hard surfacing of the access for the first 6.0m will cater for the skid resistance of the access.

7. The introduction of the drainage is a benefit over the existing access which is greater than 1 in 10 and has no restraint to water entering the highway. Details of the soakaway will be dealt with through the licence. The hard surface identified on the plan is the necessary requirement that allows a full wheel rotation and the reasonable removal of mud and stones before a vehicle enters the public highway. While greater detailed drawings would be desirable the plans submitted have sufficient annotation from a Highway Authority perspective to work with particularly given the need for a licence under the Highway Act.

(iv) No 5 on the Plans List (17/01751/FULL – Erection of 5 dwellings, land at NGR 295748 103455, south of 5 Old Butterleigh Road, Silverton).

The Principal Planning Officer outlined the contents of the report by way of presentation highlighting the site in relation to the village of Silverton, the proposed layout of the 5 dwellings, the proposed street elevation which would include a wildlife zone, the floor plans, the contemporary design of each dwelling, the landscaping plans, surface water drainage plans, the street scheme and photographs from

various aspect so the site. He explained that the site was allocated within the emerging Local Plan (for 8 dwellings), but because of the lack of a 5 year land supply, the land had been put forward.

Consideration was given to:

- The dormouse mitigation area
- The history of the site
- The lack of affordable housing on the site
- The views of the objector with regard to road safety issues, possible flooding issues, disturbance on the site which would threaten the resident wildlife, the impact of the development on the Devon Bank and the lack of affordable housing on the site.
- The views of the local Ward Member: the lack of a 5 year land supply, paragraph 14 of the NPPF, Policy DM2, the possible demonstrable harm of the proposal to the village, design issues, the need for affordable/social housing in the village and the need for people to be consulted with regard to the Local Plan allocations.
- 5 dwellings on the site overcame the need for affordable housing on the site
- The fact that the ecology and flood risks had been considered and that this had reduced the number of dwellings on the site

RESOLVED that planning permission be granted subject to the prior signing of a S106 agreement to secure financial contributions towards public open space and education provision; the section 106 agreement would provide for the following payments to be made by the applicant:

- Public Open Space contribution of £6,826 allocated to Phase 2 - improvements to School Lane War Memorial OS, Silverton
- A contribution of £16,440 (based on the DfE extension rate of £21,921 per pupil) towards additional education infrastructure at the local secondary school
- A contribution of £2,546 towards secondary school transport costs due to the development being further than 2.25 miles from Clyst Vale Community College.

And conditions as recommended by the Head of Planning, Economy and Regeneration.

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

(Vote 6 for 5 against – Chairman’s casting vote)

Notes:

- (i) Cllr Mrs J Roach made a declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as she had attended a meeting with the applicant and objectors;
- (ii) Mrs Lane spoke in objection to the application;

- (iii) Cllr Mrs J Roach spoke as Ward Member, and wished it to be noted that the application would not affect her personally and that she had no interest to declare;
- (v) The following late information was provided:

Recommendation should read prior to conditions:

Grant permission subject to conditions and the prior signing of a S106 agreement to secure financial contributions towards public open space and education provision.

The section 106 agreement would provide for the following payments to be made by the applicant:

- Public Open Space contribution of £6,826 allocated to Phase 2 - improvements to School Lane War Memorial OS, Silverton
- A contribution of £16,440 (based on the DfE extension rate of £21,921 per pupil) towards additional education infrastructure at the local secondary school
- A contribution of £2,546 towards secondary school transport costs due to the development being further than 2.25 miles from Clyst Vale Community College.

Condition 15 (as written in the report):

Before the dwelling on plot 5 hereby permitted is first occupied, the first floor window in the north elevation serving the en-suite shall be glazed with translucent glass and shall be non-opening below a height of 1.7m measured from the floor level of this room and shall be so retained in this condition thereafter.

For the avoidance of doubt, translucent means permitting light to pass through but diffusing it so that persons, objects, etc. on the opposite side are not clearly visible such as through the use of obscure or frosted glazing.

(vi) No 6 on the Plans List (17/01517/FULL – Erection Of a dwelling and alterations to existing vehicular access – 27 Downeshead Lane, Crediton).

The Area Team Leader explained that the application had been deferred from the previous meeting to allow a visit by the Planning Working Group to take place. He outlined the contents of the report providing updated information on the scope of the Conservation Area and stated that the allotments were not within this area. He also provided the distances between the 3 houses in Downeshead Lane that had received planning permission and the listed building.

He continued by outlining the proposal, highlighting the proposed floor plan and elevations and provided photographs from various aspects of the site.

Consideration was given to:

- The views of the applicant in that the application would have very little impact on the Conservation Area, the site was not visible from the other side of the town, the house and the garden had been enhanced since the fire in Buller

Square and that work had taken place with a Heritage Consultant to make the application compliant with the local environment.

- The fact that the area around Buller Square had changed since the fire.
- The renovated houses in Buller Square now had slate roofs

RESOLVED that planning permission be granted for the following reasons: Members felt that the application was appropriate and that there would be no detrimental impact on the listed building or the Conservation Area. The scale, design and massing of the proposal was considered to be appropriate within the context of the built environment. Delegated authority be given to the Head of Planning, Economy and Regeneration to produce a set of conditions and seek any necessary Section 106 requirements.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs G Doe)

Notes:

- (i) Cllrs Mrs H Bainbridge, Mrs F J Colthorpe, Mrs C Collis, Mrs G Doe, P J Heal, F W Letch, B A Moore and J D Squire 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) Cllr F W Letch declared a personal interest as the applicant and her partner were known to him;
- (iii) Ms Partridge spoke as the applicant.

(vii) No 7 on the Plans List (17/01427/FULL – Change of use of agricultural land to domestic garden and retention of play/exercise equipment – Land at NGR 310904 109604, The Shippens, Blackborough).

The Area Team Leader outlined the contents of the report by way of presentation explaining the history of the site and providing a plan which highlighted the various buildings on the site and identified the area for the play equipment. She informed the meeting that a late representation had been received from the Blackdown Hills AONB Partnership which confirmed its concern regarding the impact of the proposal on the AONB

Consideration was given to:

- The views of the agent with regard to the users of the equipment and the safe environment where it had been placed, she stated that the equipment was vital to the users and did not feel that it was an undesirable encroachment on the AONB
- The possible need to re-site the equipment closer to the formal buildings on site
- Policies to protect the AONB
- Whether it was acceptable to provide a temporary permission
- The need for the officers and the applicant to work together to seek an alternative site.

RESOLVED that planning permission be refused as recommended by the Head of Planning Economy and Regeneration. An advisory note be added to the decision to state that there was a desirability for a solution to be found for the equipment to be placed in a position that would reduce the impact on the AONB.

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

Notes:

- (i) Ms Marlow (Agent) spoke;
- (ii) Response from Blackdown Hills AONB Partnership - I've had a look at the application and can confirm that my views haven't changed about this encroachment of the garden area and the impact of the equipment.

121 **MAJOR APPLICATIONS WITH NO DECISION (2-59-05)**

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

It was **AGREED** that

Application 18/00133/MARM (Land at Uplowman Road, Tiverton) be brought before the committee for determination.

Application 18/00175/MOUT (Silver Street, Willand) be brought before the committee for determination and that a site visit take place.

Application 17/01904/MFUL (Blackborough House, Blackborough) be brought before the committee for determination and that a site visit take place.

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

122 **APPEAL DECISIONS (3-02-19)**

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.

123 **APPLICATION 17/00652/MOUT - OUTLINE APPLICATION FOR A MIXED DEVELOPMENT OF 30 DWELLINGS, COMMERCIAL BUILDINGS, ACCESS, PUBLIC OPEN SPACE, LANDSCAPING AND ASSOCIATED WORKS AT LAND AT NGR 303116 110179 (NE RYDON HOUSE) WILLAND (3-02-46)**

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

The Chairman informed the meeting that the application to appeal the decision for non-determination had not been validated by the Inspectorate as the appeal was outside the time limit. The application therefore had to be determined by the Committee.

The Area Planning Officer outlined the contents of the report by way of presentation providing a site plan and an indicative layout of the proposal and provided photographs from various aspects of the site.

She provided answers to questions posed in public question time:

With regard to why the application had taken so long to come to Committee:

The application for 259 houses on the adjacent site went to appeal and that start date for the appeal was 17th July 2017.

The current application which was the subject of this implications report was received on 24th April 2017 with a 13 week determination target of 24th July.

Appeals can be costly processes, requiring lots of officer resource and sometimes the use of outside consultants. Applicants also incur costs in the appeal process and have the ability to make cost applications to the Planning Inspectorate to recover some or all of their costs where the LPA has been found to act unreasonably. Officers felt that it was reasonable to delay determination of the application before Members today and to await the outcome of the appeal on the adjacent site as the Inspectors decision was very likely to provide guidance on the level of development which may be considered acceptable on the site.

I think I'm right in saying that the Cabinet Member was advised of this approach but I'm not aware of the Parish Council or Ward Members being formally advised but we would have advised them of this approach if asked.

Cllr Grantham's questions regarding exception sites and the Local Plan: The 35 dwellings permitted under the exception policy were not required to contribute towards any infrastructure due to the delicate balance of financing such projects. The LPR sets out that development of the site for 42 dwellings will require that the developers provide affordable housing, landscaping and other mitigation, a transport assessment and enhancement of a public right of way. They will also be required to provide POS (or a contribution) and other financial contribution such as AQ and education where there is felt to result a deficiency in provision as a result of the development. Similarly the proposal Members are considering today need to make provision towards affordable housing, air quality and public open space. The cumulative number of dwellings, being 107 is still far less than half of the proposal considered by the Inspector at appeal.

Cllr Glover's questions relating to the Inspector's decision: It is correct that the Inspector found that 259 dwellings at Willand did conflict with development plan policies where they were relevant to 'scale and distribution of housing in Mid Devon.

However, he also makes it clear that this is very much on the basis of the number of dwellings involved as he also makes the point that (at para 13) it is reasonable to conclude that there is a vast gulf between the scale of development proposed and what the development plan envisages for villages such as Willand. He also makes the point (at para 16) that in order for the Council to meet its aspirations for development it has allocated land outside the settlement limit as not all development can take place within the existing built confines of the settlement.

Mrs Leach's question regarding the car mechanics site, the coop and the pavements: Your officers understand that whilst the car repair business has moved from the application site recently, the premises are still there. Yes the co-op had not been built on site but the co-op have been seeking to discharge conditions to enable start on site. With regards to the footways, Mrs Leach is also correct that there is only a footway at the very start of the Old Village which disappears but the fact remains that the majority of services within the village are capable of being accessed by footways. Public safety is a consideration and is considered by the Highway Authority too in their consideration of the application and no improvements are sought as a result.

Mr Marrow's questions regarding the consideration of the adjacent site: This application must be considered on its own merits. If approved, it will be necessary for officers to consider this application in the determination of the 125 dwelling application but Members cannot predetermine another application which is in the system and currently the subject of public consultation.

Consideration was given to:

- The views of the Ward Members with regard to the number of houses approved and those proposed within the village and those outlined within the emerging Local Plan and that the site failed the sustainability test
- The loss of employment opportunities within the village

RESOLVED that the application be refused on the following grounds:

1. The application site is outside the current settlement limit boundaries of the village of Willand and is in a countryside location. Policy COR18 of the adopted Mid Devon Core Strategy (Local Plan Part 1) seeks to strictly control development outside settlement limits and a development in this location of the scale as proposed would not be permitted under criteria a - f of this adopted policy. Neither is the site proposed to be allocated for housing within the Councils Local Plan Review 2013 -2033. The Local Planning Authority cannot demonstrate that it has an adequate five year supply of housing land as required by the National Planning Policy Framework, and therefore Policy COR18 should be afforded limited weight and accordingly the application should be determined against the provisions of Paragraph 14 of the National Planning Policy Framework. When tested against Paragraph 14 of the Framework the Local Planning Authority consider that the adverse impacts of the proposed development in terms of the loss of community facilities and the poor form of development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole as well as being contrary to Policy COR1 of the Mid Devon Core Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).

2. The proposed application requires the demolition of commercial and retail buildings amounting to 420sqm comprised of garage and shop, hairdressers, restaurant and car mechanics. Whilst the proposal includes the provision of a replacement facility of 340sqm this represents a short fall of 80sqm along with the loss of the petrol filling station and car sales which are considered to be community facilities as set out in Policy DM25. In a community which has been identified as having a 'somewhat basic and modest level of provision' [appeal ref: APP/Y1138/W/17/31723], the net loss of community facilities is considered to damage the settlements ability to meet its day to day needs contrary to policy DM25 of the Local Plan Part 3 (Development Management Policies) and results in a development which is considered unsustainable given the economic and social harm which would result.
3. The application site only forms a contiguous boundary with the settlement limit of Willand on its eastern boundary. As a result it is considered to form an isolated, unusual development pattern at the southern end of the village with an essentially stand-alone parcel of residential development which has little or no relationship in terms of built form to the existing village contrary to policy DM2 of the Local Plan Part 3 (Development Management Policies).

(Proposed by Cllr B A Moore and seconded by Cllr Mrs G Doe)

Notes:

- (i) Cllrs Mrs G Doe and R Evans made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as they had been involved in the application as Ward Members;
- (ii) Cllrs Mrs G Doe and R Evans spoke as Ward Members;
- (iii) Cllrs Mrs G Doe, R Evans and B A Moore would represent the Council if the application was appealed;
- (iv) The following late information was reported:

22nd February 2018 - Since the agenda was published, the Planning Inspectorate have written to the agent for the application confirming that the appeal against non-determination was not received by them within the valid timeframe and therefore they are unable to take action on it. As a result, the application falls to be considered by Planning Committee

REASON FOR REPORT: To consider the reasons for refusal proposed by the Planning Committee at the meeting of 31st January 2018 in light of further advice from Officers.

RECOMMENDATION(S)

Grant permission subject to conditions and the signing of a S106 agreement to secure.

1. 35% affordable housing on-site

2. 21 dwellings x £5,218 = £109,578 air quality contributions
3. 5 dwellings x £1,205 = £6,075 open space contributions together with the provision of onsite LEAP and sports facilities to provide for refurbishment (of Chestnut Drive Play Area Willand)
4. £102,390 toward improved primary education facilities ((£3,413 per dwelling)

The phasing of the works to provide for the commercial units prior to demolition of the existing and prior to the occupation of the 5th Market dwelling.

Email received from DCC (Special Projects and School Infrastructure Development Officer) to advise:

Since the county council submitted its education response to the application, the baseline data has been updated. This demonstrates that a contribution towards primary education, as previously requested, would no longer be requested. This is consistent with the response to the recent application in Willand. As such, we wish to withdraw our previous request for a contribution.

As a result of this revised response from DCC, the Officer recommendation has been revised to take account of this

REVISED RECOMMENDATION:

Grant permission subject to conditions and the signing of a S106 agreement to secure:

1. 35% affordable housing on-site
2. 21 dwellings x £5,218 = £109,578 air quality contributions
3. 5 dwellings x £1,205 = £6,075 open space contributions together with the provision of onsite LEAP and sports facilities to provide for refurbishment (of Chestnut Drive Play Area Willand)
4. The phasing of the works to provide for the commercial units prior to demolition of the existing and prior to the occupation of the 5th Market dwelling.

A full copy of the Inspectors Appeal Decision will be available for Members.

124 APPLICATION 17/00006/TPO - AUBYNS WOOD AVENUE, TIVERTON (30-24-25)

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

The Area Team Leader outlined the contents of the report stating that a blanket Tree Preservation Order had been placed on the site during development to protect the trees. The Tree Preservation Orders before Members today were to revisit the areas of trees and woodland on the site. This particular order covered the site frontage and the woodland in this area. She provided a plan which highlighted the area within this specific case and photographs of trees behind the house and frontage along Exeter Road.

In answer to the question posed in public question time regarding the reconsideration of the number of Tree Preservation Orders: Yes, there is a cost implication to a LPA in dealing with applications for works to trees covered by TPO's, as there are for applications for works to trees in Conservation Areas. However, your officer's views are that this should not prevent LPA's from considering the confirmation of TPO's where it is in the public interest to do so to protect the visual amenity of the area and where to not do so, puts the trees at risk of being felled.

Consideration was given to:

- The views of the property owner with regard to the public benefit of the trees, management of the trees, concerns about home insurance and good tree management.
- Concern that the trees would be removed without a Tree Preservation Order.
- The need to reassess the blanket order.
- Management of the trees.

RESOLVED that the Tree Preservation Order be confirmed as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr Mrs C A Collis)

Notes:

- (i) Mrs Massey spoke in objection to the application;
- (ii) Cllr Mrs J Roach requested that her vote against the decision be recorded;
- (iii) The following late information was reported: The application number is incorrect – it should read 17/00006/TPO;
- (iv) *Report previously circulated, copy attached to minutes.

125 **APPLICATION 17/00008/TPO, ST AUBYNS WOOD RISE, TIVERTON (3-37-32)**

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

The Area Team Leader outlined the contents of the report stating that a blanket Tree Preservation Order had been placed on the site during development to protect the trees. The Tree Preservation Orders before Members today were to revisit the areas of trees and woodland on the site. This particular order covered the top end of the development which she highlighted via a plan, the Tree Preservation Order would protect the woodland area in this location.

RESOLVED that the Tree Preservation Order be confirmed as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs G Doe)

Notes:

- (i) Cllr Mrs J Roach requested that her vote against the decision be recorded;
- (ii) The following late information:

2 further letters of representation were received but have not been included on the agenda. They can be summarised as follows:

- a) Support the preservation of woodland and no desire for trees to be removed but should be able to cut back overhanging or dead branches when necessary
- b) No objection subject to the woodland being pro-actively managed as there are dead trees, overhanging branches and ivy covering the trees. An Arboriculturalist should inspect and verify current state of trees

- (iii) * Report previously circulated, copy attached to minutes.

126 **APPLICATION 17/0009/TPO HOWDEN HAYES, TIVERTON (3-40-17)**

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

The Area Team Leader outlined the contents of the report stating that a blanket Tree Preservation Order had been placed on the site during development to protect the trees. The Tree Preservation Orders before Members today were to revisit the areas of trees and woodland on the site. This particular order covered a group of trees within an existing property of Howden Hayes, this was a large group of trees which was thought to add to amenity value.

Consideration was given to:

- A letter read by the Chairman on behalf of Mr Dawson which stated that the trees at Howden Hayes should never have been included in the blanket Tree Preservation Order, a new Order would have no benefit to the setting of Howden Court and questioning why the trees at Howden Hayes required protection.
- Whether the gentleman's views were valid
- The need to protect the trees in the area.

RESOLVED that the Tree Preservation Order be confirmed as recommended by the Head of Planning, Economy and Regeneration.

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

Notes:

- (i) The Chairman read a letter on behalf of Mr Dawson;
- (ii) Cllr Mrs J Roach requested that her vote against the decision be recorded;
- (iii) The following late information: The application number is incorrect – it should read 17/00009/TPO.

- (iv) * Report previously circulated, copy attached to minutes.

127 **APPLICATION 17/00015/TPO ST AUBYNS RISE, TIVERTON (3-37-32)**

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

The Area Team Leader outlined the contents of the report stating that this application was slightly different to the previous ones before Members today; this Order was to protect trees in the long term to be used as screening. The Tree Preservation Order would be new trees along the boundary for the longevity of the development

Consideration was given to:

- The type of trees to be used for screening
- Whether the trees put in place were suitable and whether they could be replaced with something more suitable
- Consideration of a S73 application to vary the planning condition
- The views of a resident with regard to whether the trees had been placed in the right place, the suitability of the trees, the possible damage the tree roots could cause his property and whether the developer had planted the correct trees and the height of the trees.
- The need to find a solution to the planting of incorrect trees
- The need for officers to work with the residents within a restricted period of time to overcome the issues raised
- Financial implications for the landowner

RESOLVED that the Tree Preservation Order be confirmed as recommended by the Head of Planning, Economy and Regeneration. Within a period of one (1) month from the date of this meeting the Local Planning Authority is to enter into a dialogue with the landowners to sympathetically consider the Tree Preservation Order.

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

Notes:

- (i) Mr Austrin spoke in objection to the application;
- (ii) Cllr Mrs J Roach requested that her vote against the decision be recorded;
- (iii) Cllr Mrs G Doe requested that her abstention from voting be recorded;
- (iv) * Report previously circulated, copy attached to minutes.

(The meeting ended at 6.42 pm)

CHAIRMAN