

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 16 May 2018 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs H Bainbridge, Mrs C Collis, Mrs G Doe,
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)

D R Coren and F J Rosamond

Present

Officers:

David Green (Group Manager for Development), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Simon Trafford (Area Team Leader), Alison Fish (Area Team Leader), Hannah Cameron (Planning Officer), Daniel Rance (Principal Planning Officer), Neil Weeks (Solicitor), Carole Oliphant (Member Services Officer) and Sally Gabriel (Member Services Manager)

1 ELECTION OF CHAIRMAN (Chairman of the Council in the Chair) (00-01-58)

RESOLVED that Cllr Mrs F J Colthorpe be elected Chairman of the Committee for the municipal year 2018/19.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr R F Radford).

2 ELECTION OF VICE CHAIRMAN (00-04-01)

RESOLVED that Cllr P J Heal be elected Vice Chairman of the Committee for the municipal year 2018/19.

(Proposed by Cllr Mrs F J Colthorpe and seconded by Cllr F W Letch).

3 APOLOGIES AND SUBSTITUTE MEMBERS

There were no apologies.

4 **PUBLIC QUESTION TIME (00-07-23)**

There were no questions from Members of the public in attendance.

5 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

Members were reminded of the need to declare any interests when appropriate.

6 **MINUTES OF THE PREVIOUS MEETING (00-07-23)**

The Minutes of the meeting held on 18 April 2018 were approved as a correct record and **SIGNED** by the Chairman.

7 **CHAIRMAN'S ANNOUNCEMENTS (00-08-30)**

The Chairman had the following announcements to make:

- She welcomed Carol Oliphant (Member Services Officer) and Neil Weekes (Legal Advisor) to the meeting.
- She welcomed Cllr D J Knowles back to the Planning Committee.

8 **ENFORCEMENT LIST (00-10-08)**

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

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

Arising thereon:

a) No. 1 in the Enforcement List (***Enforcement Case ENF/17/00072/RURAL – Unauthorised building operations concerning the construction of a mixed used building comprising a farm workshop, storage, smoker, cold store, food processing area, farm office, welfare facilities, kennels and stables – land at NGR 317450 1100777 (Tickle Penny) Clayhidon.***)

The Area Team Leader outlined the contents of the report highlighting by way of presentation the breach of planning control. A retrospective planning application had been submitted and refused; the enforcement action proposed would address the breach. Members considered photographs from various aspects of the site which identified the access to the site, the unauthorised construction and various other buildings.

Consideration was given to the views of the landowner who outlined the history of the site and his plans for the land.

RESOLVED that the Legal Services Manager be given delegated authority to take all such steps and action necessary to secure the demolition and removal of the unauthorised operational development and the cessation of the use of the land for the storage of materials associated with the construction work and for the siting of a shepherds hut, motorhome and associated paraphernalia, including the issue of an enforcement notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

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

Note: Mr Hillier (Landowner) spoke.

9 DEFERRALS FROM THE PLANS LIST (00-25-25)

There were no deferrals from the Plans List.

10 THE PLANS LIST (00-25-33)

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 (18/00214/MFUL – Erection of 14 dwellings with associated roads, garages and parking – land at NGR 310280 114261 Hunters Hill, Culmstock).*

The Planning Officer outlined the contents of the report by way of presentation highlighting the location of the site and the first phase of development which was nearing completion, the improvement to the footpath into the village and access details. She explained the site layout and roof plan, the street elevations and the position of the bungalows, the drainage strategy, tree protection and boundary treatments and showed photographs from various aspects of the site. She highlighted the concerns of the Parish Council with regard to the footpath and its impact on the village green stating that this was a legal matter which could be addressed through further discussion.

Consideration was given to:

- Whether the drainage system was satisfactory
- The maintenance of the attenuation ponds
- The impact of the trees outside the site on the development
- Whether the highway would be adopted
- The concerns of the Parish Council with regard to whether the development was sustainable and whether there was a need and whether the school could continue to be expanded to accommodate additional children
- The views of the Ward Member highlighting the concerns of local residents and the weight of objections
- The tenure mix of the affordable dwellings
- The provision of affordable housing on the site and whether rented accommodation or discounted open market dwellings were appropriate
- The steepness of the footpath
- The possible increase in traffic in the area

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration and the signing of a S106 agreement in respect of:

1. Provision of 4 affordable dwellings (2 x 2 bed and 2 x 3 bed).

2. A financial contribution of £18,484 towards access to public open space at Colliers Meadow, Culmstock; and
3. A financial contribution of £106,778 towards primary, secondary and early years education and school transport costs.
4. The provision of footpath improvements between the site and the primary school.

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

Notes:

- i) Cllr R L Stanley declared a personal interest as Cabinet Member for Housing;
- ii) Cllr Bass (Culmstock Parish Council) spoke;
- iii) Cllr F J Rosamond spoke as Ward Member;
- iv) Cllrs Mrs C A Collis, B A Moore, R F Radford and R L Stanley requested that their vote against the decision be recorded;
- v) The following late information was reported:

One additional letter of representation has been received raising the following points:

- Question 24 on the application form states the site cannot be seen from public land.
- The site is not highly visible at the moment as it is a green field, but if development takes place it will be clearly visible from Hunters Hill, the Community Garden, the minor road leading to Pitt Farm and Culmstock Beacon.
- The suburban nature of the existing development already has a huge visual impact, MDDC should visit and observe the site from viewpoints in the surrounding area.
- Should the development be approved, the roofs should be constructed of brown tiles and grey slates, with brick and stone walls to blend in with Culmstock village. Orange tiles and white render are not in keeping with the surrounding area.

A map has been sent by the Parish Council, identifying the designated village green (attached) forming part of the area proposed for footpath improvements, the details of which are to be agreed as secured by condition and in the S106.

The numbering of the reasons for conditions on page 42 and 43 is incorrect, below condition 5 on page 42 there is a reason without a number, all other reasons to be adjusted by 1. There are no reasons missing.

- (b) No 2 on the Plans *List (18/00283/OUT – Outline for the erection of a dwelling and alterations to vehicular access – Jaspers Green, Uplowman)*.

The Principal Planning Officer outlined the contents of the report by way of presentation highlighting the history of planning applications in the local area and the

results of various appeals, the site location, the proposed block plan and photographs from various aspects of the site.

Consideration was given to:

- The views of the agent who reminded Members of the application on the adjacent site which had been approved and had also been infill, the suitability of small scale development in the village, there had been no letters of objection and the Parish Council had not objected.
- The recent appeal decision for 8 dwellings which had been dismissed and the reasoning for dismissal and a further appeal for a single dwelling which had also been dismissed
- The risk of an accumulation of single dwellings coming forward in the village in the event of approval.

RESOLVED that the application be refused as recommended by the Head of Planning Economy and Regeneration for the following reasons:

1. The Local Planning Authority does not consider Uplowman to be a sustainable settlement in that it lacks the day to day facilities that make it suitable for housing growth. Uplowman has only one of the three essential services that the Local Planning Authority considers necessary for even a limited level of new housing development. Whilst Uplowman does have an education facility, it does not have a shop or public transport service (one bus a week). Accessibility to a wide range of services is poor and there would be a high dependency on the usage of the private car. In the opinion of the Local Planning Authority, the proposal would not amount to sustainable development and therefore conflicts with the sustainability objectives of the NPPF. The harm caused by this conflict is considered to significantly and demonstrably outweigh the benefits of the development in providing new housing in the District.

The proposal is considered to be contrary to policies: COR1, COR9, COR12 and COR18 of the Mid Devon Core Strategy (LP1) and the sustainability objectives of the National Planning Policy Framework.

2. There is a hedgerow along the boundary of the site with the road. The application is silent on whether all or part of the hedgerow would need to be removed to facilitate the new access and visibility splays. The hedgerow is considered to contribute towards the rural character of the lane and the visual amenities of the area and its removal would be detrimental to the rural quality of the area. The proposal is therefore considered to be contrary to policies COR2 of the Mid Devon Core Strategy (LP1), DM2 of the Local Plan 3 Development Management Policies and the objectives of the National Planning Policy Framework.
3. The application provides no details of the foul drainage proposals for the dwelling. Policy DM2 of the Local Plan 3 Development Management Policies requires appropriate drainage to be provided including SUDS, and connection of foul drainage to a mains sewer where available. No justification has been provided that the dwelling could not be provided with a connection to the main

sewer for foul drainage or that a SUDS scheme or soakaway could not be provided on site, contrary to policy DM2 of the LP3 DMP.

4. Policy AL/IN/3 requires that new residential proposals will contribute to the provision of public open space of at least 60sqm of equipped and landscaped public open space per market dwelling, within the local area. In this case there is a requirement for the provision of £1205 to be provided towards improvements to sporting facilities at Crossways Playing Field, Uplowman

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

Notes:

- i) Cllrs: Mrs H Bainbridge, Mrs C A Collis, Mrs F J Colthorpe, Mrs G Doe, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley made declarations on accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had all received correspondence regarding this application;
- ii) Cllr R F Radford declared a personal interest as it had been suggested that he had pre-determined the application (which he rejected), however he would listen to the debate and abstain from voting;
- iii) Cllr J D Squire requested that his vote against the decision be recorded;
- iv) Cllr R F Radford requested that his abstention from voting be recorded;
- v) Mr Culshaw (Agent) spoke;
- vi) The following late information was reported:

A further representation :the report to members failed to mention the recent approval of a dwelling located adjacent to this site by the committee on the 4th October 2017 plans list no 3 application number 17/01108/OUT. The application was submitted to committee to consider with an officer recommendation for refusal. The committee considered the application the aspects considered were whether the proposal was defined a s infill, the school, public house and post office in the village, whether there was any physical harm using the land for development of one dwelling, planning policy with regard to development in unsustainable villages, Repercussions of allowing such a site to be developed, previous appeal decision, and concluded that the proposal is considered to be acceptable in that it falls to be in accordance with the provisions of NPPF paragraph 14, the benefits of the provision of a single dwelling that respects the existing development pattern of Uplowman and has no unacceptable impact on highway safety, visual amenity and amenity of neighbouring residents, are considered to outweigh the harm caused by new residential development in a countryside location that is considered to be unsustainable in planning policy terms. The proposed was recommended for approval with conditions to be delegated to the Planning Manager.

Appeal Decision recently received ref APP/Y1138/W/17/3189570 The Beeches, Road from Stag Mill Cross to Lowman Cross, Uplowman EX16 7DW

The proposal was for the creation of 8 dwellings, the application 17/00033/OUT; dated 8th January 2017 was considered and refused on the 19th May 2017.

The application was submitted in outline with access and scale to be determined. A signed and completed unilateral obligation.

The main issue in this case is whether the site would be a suitable location for 8 dwellings having regard to the policies of the development plan and, if harm arises, whether this is outweighed by other material considerations.

The appeal site comprises a field and paddock, along with a large agricultural type building and stables. Access to be off an existing road adjacent to Crosses Farm which serves a small number of dwellings. The dwellings would adjoin Uplowman which is a small settlement, and considered by the inspector as not isolated.

Policy COR1, COR9, and COR17 were all considered by the inspector in this proposal. The applicant put forward a number of arguments to support the proposal, the key points being;

- a) Facilities within Uplowman and proximity to Sampford Peverell which have regular bus and train services
- b) Accessible location, the village hall and public house are well used
- c) The local school has capacity for additional pupils

The inspector concluded the range of services in the settlement is limited with the post office only open 12 hours a week, with no shop and that there is little evidence to suggest the facilities are under threat or that the proposal would enable a shop to open, or public transport to be enhanced.

The inspector concluded that there would be a high probability that residents of the new dwellings would drive into neighbouring settlements. As such the location of the appeal site would generate an appreciable amount of additional car borne travel and associated greenhouse gases.

Uplowman is not defined as a village and that the proposal provides no evidence to indicate that the development would meet the remaining criteria of COR18.

Therefore judged against CS policies COR1, COR9, COR12 and COR18, the proposal would not be a sustainable location.

The planning application referred to in part 1 above was considered in respect of this proposal and the inspector considered this and stated that whilst there are many parallels in relation to the accessibility of the dwellings and the settlement, the scale of the proposal is significantly greater than that permitted.

The inspector considers that due weight should be given to the relevant policies according to their consistency with the framework. The policies are also broadly consistent with Paragraph 55 of the framework which advises that to promote sustainable development in rural area, housing should be located where it would enhance or maintain the vitality of rural communities.

The proposal would have a limited biodiversity gain. Modest economic benefits, any Council Tax revenue would be offset by the new population to serve and would therefore be a neutral factor.

The conclusion is that the adverse impacts on the housing strategy and of increasing travel by car would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework when taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Application 18/00027/OUT has recently been considered for the erection of a single dwelling, previous application have been undertaken at this site (Large section of garden in connection with Little Chace set to the rear of the property) which have been refused including an appeal. The conclusion was that the proposed residential use of the land would conflict with national and local policy which seeks to restrict residential development in rural areas, unless there is specific justification, and in this case, the Authority has not identified any special circumstances which would outweigh the conflict with the development plan.

Within reason 4 for refusal the Monitoring fee has been included (Along with a monitoring fee of £110.80.) which should be removed from the reason as it is dealt with under separate legislation, and does not form part of the reasons associated with this planning application.

(c) No 3 on the Plans *List (18/00002/TPO – Tree Preservation Order for 1 willow tree – 2 Quarry View, Burlescombe).*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the 2 pine trees that had been removed and the request for the removal of the willow tree which had prompted the request for a Tree Preservation Order. Members viewed the location of the willow tree and various photographs taken from the towpath of the canal.

Consideration was given to:

- To the concerns of the property owner with regard to the impact of the roots of willow tree on the paths surrounding the property, overhanging branch issues and lack of communication from the Tree Officer. The involvement of their arboriculturist in the matter and the need for the property owners to have a discussion with the Tree Officer with regard to a proposed maintenance scheme for the tree.
- The need for the Tree Officer to visit the property.
- The need for the Tree Preservation Order to be confirmed within 6 months from the date it had been made, namely by 6 September 2018.

RESOLVED that the application be deferred to allow the Tree Officer to visit the site and confer with the owners of the property, following this, the application to return to committee for determination.

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

Notes:

- i) Mrs Jennings spoke on behalf of her parents;
- ii) A proposal to agree the confirmation of the Tree Preservation Order was not supported at this time.

11 MAJOR APPLICATIONS WITH NO DECISION (1-47-50)

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

It was **AGREED** that the following applications be determined by the Planning Committee and that a site visit take place:

17/02061/MFUL – Crediton Garden Centre, Barnstaple Cross, Crediton

18/00518/MFUL – Halberton Court Farm, Halberton

18/00414/MFUL – Yellow Hammer Brewery Newton St Cyres

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

12 APPEAL DECISIONS (1-53-38)

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.

13 APPLICATION 17/01411/FULL - RETENTION OF SLURRY LAGOON - LAND AT NGR 276429 99746 (ADJACENT TO MARDLES GATE) COLEBROOKE (1-54-00)

The Committee had before it an * implications report of the Head of Planning, Economy and Regeneration regarding the above application; Members at the meeting on 18 April 2018, were minded to refuse planning permission, but a final decision was deferred pending consideration of this implications report.

The Area Team Leader outlined the contents of the report stating that the only additional information to that discussed at the previous meeting was that the agent would be submitting an application for the revised location of the slurry pit. He informed the meeting of the current application site, the relationship between the dairy and the location of the slurry pit, the plan which identified the pipe line, the access and photographs from various aspects of the site. He explained that if Members were to refuse the application then enforcement action would be required

and that this had been added to the recommendations before Members as requested.

Consideration was given to:

- Possible enforcement action and the process that would have to take place
- Possible noise issues from the proposed pumping of slurry via a pipeline
- The continued impact of the slurry pit on the neighbouring properties

RESOLVED that the application be refused on the following grounds that:

The slurry lagoon and earth bank surrounding it, by reason of its size, scale and siting in close proximity to the neighbouring properties at Mardles Gate and Manor Croft, is considered to adversely affect the residential amenity and the living conditions of these neighbouring occupants. Furthermore, and given the close proximity to the aforementioned residential properties, the members of the Planning Committee remain unconvinced that the scope of the mitigation measures as proposed as part of the planning application proposal are sufficient to address the odour nuisance and air quality impact in a robust and satisfactory manner and would therefore continue to contribute to the scope of the un-neighbourly impacts that would arise from the scheme as it is proposed. On this the application scheme is considered to be contrary to Policies DM2, DM7 and DM22 of Mid Devon Local Plan Part 3 (Development Management Policies) and guidance in the National Planning Policy Framework.

And that:

Having regard to the provisions of the Mid Devon Development Plan and all other material planning considerations in accordance with Sections 172 and 183, Town and Country Planning Act 1990, (“the Act”) delegated authority be given to the Group Manager for Legal Services to take all such steps and action necessary to secure the restoration of the land to its former condition which would at the same time redress the unauthorised use of it to store slurry. This may include the issue of an enforcement notice and prosecution and/or direct action in the event of non-compliance with the notice. The reason as recommended for serving the notice is set out above.

Delegated authority be given to the Group Manager for Legal Services, in consultation with the Group Manager for Development Management, to make a decision on whether a stop notice should be issued to require the cessation of the use of the slurry lagoon in anticipation of full compliance with the requirements of the enforcement notice, subject to the Group Manager for Legal Services being satisfied that it is expedient to issue a stop notice, having regard to an assessment of the costs and benefits of such action and whether there is an essential need to safeguard amenity or prevent serious harm to the environment.

(Proposed by Cllr P J Heal and seconded by Cllr F W Letch)

Notes:

- i) Cllr P J Heal declared a personal interest as he knew the objectors and also made a declaration in accordance with the Protocol of Good Practice for

Councillor dealing in Planning Matters as he was had spoken to local people regarding the matter;

ii) Cllr F W Letch declared a personal interest as he knew the objector and also made a declaration in accordance with the Protocol of Good Practice for Councillor dealing in Planning matters as he had been lobbied by local residents;

iii) The following late information was reported: Additional Information from applicant:

I refer to our earlier correspondence and discussions regarding this application.

I have now had the opportunity to look at and consider your report for the planning committee meeting on 16 May and I felt it might be useful to have my further observations on that which you can if you wish report to members of the planning committee.

I comment as follows:

1. Reason for refusal 1

1.1 The wording for the refusal is clearly contrary to your recommendation for approval as set out in the previous report to committee. The reason also is contrary to the recommendation made by your public health officer.

1.2 It appears that committee members are unconvinced that the scope of the mitigation measures as proposed are sufficient to address any odour nuisance and impact on air quality in a robust and satisfactory manner. The fitting of a cover across the lagoon and importation and extraction of dirty water from the lagoon in accordance with the management plan submitted as part of the application will in my opinion overcome such concerns. Should there be a breach of any of the conditions that you proposed then appropriate enforcement action by service of a breach of condition notice could be implemented.

1.3 I am instructed that in the event that the committee refuse the application next Wednesday an appeal should be lodged in very short order against that decision, the basis of the argument to be presented will be fundamentally that a negotiated compromise to overcome concerns had been agreed with the council.

1.4 My client has also commissioned me to try to secure planning consent at an alternative location some 250 metres to the southwest of the current site in accordance with the preliminary plan that I have previously sent you.

1.5 A topographical survey for that site has now been completed and I hope to be able to produce a design for the lagoon and to submit a formal application to you within a period of approximately 15 working days.

1.6 Because of the distance of that alternative location from the closest residential property and also because of intervening features such as ground levels, hedgerows, tree planting, etc. and prevailing wind direction, it is not

considered necessary for that lagoon to have a fitted cover. In this regard my client draws attention to the other unauthorised slurry lagoon just along the road which I gather has now been recommended for consent without a cover.

- 1.7 In terms of timescale, I would hope that if the application for the alternative location can be submitted to you before the end of May your authority may be able to reach a decision on that before the end of July. That would then just about give time for the construction of the new lagoon prior to the autumn season when storage facilities for slurry will again be required at the farm holding.
- 1.8 In the event that planning consent is granted for the alternative location the appeal against the present location would then be withdrawn.

2. *Threatened enforcement action*

- 2.1 I am instructed that in the event that an enforcement notice is served by your authority against the current lagoon I am to appeal that on Ground A - planning consent should be granted subject to installation of a fitted cover and subject to conditions relating to the odour management plan, possibly also on the basis that the requirements of the notice exceed what is required to remedy the breach of control and also against the time for compliance set out on the notice.
- 2.2 I would respectfully suggest that as there is more than adequate time left under the 4-year rule the matter of serving an enforcement notice could be delayed until the issue of the alternative location has been resolved. That would save both parties considerable time, trouble and costs.

3. *Service of a stop notice*

- 3.1 The service of a stop notice against the existing lagoon could prove to be disastrous for the farming enterprise and have very significant and major financial implications. I would urge that very careful consideration should be given by officers of the council to that matter and I am instructed that should you feel it necessary to have a further meeting or discussion with regard to the potential implications of such action I am to assist you as far as possible.

4. *Precedent*

- 4.1 Both I and my client are aware that there appear to be a number of unauthorised slurry lagoons on dairy holdings within Mid Devon. Those have resulted because of changes in farming practice. Traditionally (as I am sure you know) animals were wintered on straw bedding but that is no longer the case.
- 4.2 I know that some slurry lagoons have been granted planning consent and I personally was involved in a major proposal for such a facility a few years ago at West Sandford but equally I am aware that some lagoons on farms in the area have been constructed without planning consent because farmers believed that their construction was permitted development not requiring planning permission.

4.3 My client is one such farmer and had it not been for the close proximity to an agricultural worker's dwelling which was until recently not occupied in accordance with the condition, it is perhaps questionable whether the matter would ever have come to the notice of your authority. That would appear to be the case with many other such lagoons in the Mid Devon area. Notwithstanding the above, my client is keen to try to resolve the issue of his essential slurry lagoon with your authority as swiftly as possible.

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

(The meeting ended at 4.45 pm)

CHAIRMAN