

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 3 October 2018 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs G Doe, P J Heal, D J Knowles,
F W Letch, B A Moore, R F Radford,
J D Squire, R L Stanley, Mrs C P Daw and
R Evans

Apologies

Councillor(s)

Mrs H Bainbridge and Mrs C Collis

Also Present

Councillor(s)

D R Coren, R J Dolley and C R Slade

Present

Officers:

Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Simon Trafford (Area Team Leader), Alison Fish (Area Team Leader), Adrian Devereaux (Principal Planning Officer), Ian Sorenson (Devon County Council, Highway Authority) and Sally Gabriel (Member Services Manager)

59 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr Mrs H Bainbridge to be substituted by Cllr R B Evans and Cllr Mrs C A Collis to be substituted by Cllr Mrs C P Daw.

60 PUBLIC QUESTION TIME (00-02-31)

Mr Blackmore speaking in relation to item 2 on the Plans List, Bradford Farm, Uplowman, Tiverton, asked whether the Council was confident that the conditions put forward as part of the officers recommendation will be properly enforced if they are breached? If the 'hours of work' condition is breached on a Bank Holiday, how long will it take for the enforcement section to investigate? Conditions 4,5,6,7 and 8 all need to be monitored closely. With regard to condition 8 does that mean they can use whatever foul drainage system they want for 6 months before they have put in a proper system? Seems to be a daft condition as it is a retrospective application, shouldn't the details and its installation be required immediately?

Cllr Warren (Willand Parish Council) referring to Item 10 and 11 (Meadow Park/Lane, Willand) on the agenda stated: In paragraph 1.1 of the officer report members are reminded that it is the comments of the inspectors which are relevant and not the fact that they dismissed the appeals. With that in mind are the comments in paragraph

2.2 really addressing the members concern as to 'The size and scale of the proposal and the impact on the character of the village.'?

There are more issues than those addressed by the officer. 125 houses is more than the 42 planned for over the period of the plan and please remember the 35 affordable which are being built now and were not to be in the emerging plan. It is not just about the look but cumulative impact on facilities and infrastructure which will not be improved. Are officers attempting to 'water down' reasons given by members in an attempt to make it less likely to be able to defend an appeal? If officers keep recommending approval of these major and other developments in villages contrary to the Local Plan Review is it not calling into question considerable areas of the plan housing provision before it has even been fully examined?

Why have officers not recommended citing the fact that approval of this application would be in breach of policies COR 17 and COR 18? Even taking into account the lack of 5 year land supply issue and the limited weight that can be given to them they still have some relevance and have been considered as relevant by two inspectors in recent appeals in the village.

For the 259 dwellings application the Inspector makes reference to one or both of these policies in paragraphs 10, 12, 13 and 51. He considered them to be relevant and the proposal was in conflict with the policy. Why have officers left out reference to conflict with COR 12 when the inspector clearly identified the earlier proposal as being in conflict with it?

In his response to the Esso site application the inspector refers to either/or policies COR 17 and COR 18 in paragraphs 16 and 17 and identifies conflict. Are members really convinced that the suggested one reason for refusal in paragraph 3.1 of the report is detailed and robust enough to withstand any future appeal?

Cllr Grantham (Willand Parish Council) referring to Item 10 and 11 (Meadow Park/Lane, Willand) on the agenda stated:

On page 90 under recommendations subject to S106 obligations items g) and h) contributions are to be made to aid two parish supported projects. Quote 'the monies are to be paid to MDDC prior to commencement of the development.' Being mindful that these payments are seen by officers as 'tilting the balance' to allow the permission for 125 houses – three times those planned for under the emerging plan and in addition to 35 affordable houses being built not in the emerging plan, can we please have a clear definition of the words 'prior to commencement of the development'. Is it when permission is received for outline; reserved matters approval; the day before work is started on the site OR some other explanation? How long will it take for the Parish Council to obtain the money from MDDC? The projects are in the planning stage now so money in two or more years time will not be of great help and costs will have risen.

Is it appropriate that since the original planning committee findings on 5 September the applicant has approached Willand Primary School and DCC Education to send correspondence to the committee? Is it also appropriate for the applicant to ask for the wording of the entrance application to be amended at this critical stage of the decision making process? In relation to the school is it of concern to find that these monies are needed to cover failings of DCC Education for a number of years to

properly fund facilities at the school to cater for the increase in numbers? The Parish strongly support the school to have the extra facilities but it must be questioned if this is the appropriate way for it to be done when the extra housing proposed outside of the plan will put an unproportionate strain on other services and facilities within the village? Should not the cumulative impact on all services and facilities be considered equally?

Mr Marrow referring to Item 10 and 11 (Meadow Park/Lane, Willand) on the agenda stated: The report officers have set out information and argument under the headings of Financial and Legal Implications and Risk Assessment. In recent local appeals there has been no appointment of planning consultants or legal representation so why should this be different? Why is not the risk of a judicial review raised if committee should approve the application which is so clearly in conflict with current and emerging policies? Have they not again, as with the earlier 'Esso Garage' application, put the Council at risk of an appeal for non-determination – a point raised by the applicant although not pursued at this time?

Mr Dyer referring to Item 1 on the Plans List (Crediton Garden Centre) asked please can the planning officer inform us why garden centres are not considered as retail operations under Mid Devon planning policies? It is clear we hope to everyone what is proposed is a major retail shopping destination so surely it should be treated as retail? If it was treated as retail it would clearly be refused on the grounds of disproportionate scale and being in open countryside.

Mrs Tucker referring again to Item 1 on the Plans List asked - please can the planning officer advise why planning permission on part of the land has been refused 6 times before (plus twice on appeal) due to being in open countryside? Why is this now not a material consideration?

Secondly, the planning officer's report stated that the 2003 permission is sufficient to develop the site further. However this new proposal has 13 times more buildings than in the 2003 application. Why is it now deemed acceptable for such a large shop to be developed in open countryside? Thirdly, the 2003 permission restricted any A1 general retail use on the site due to it being in the open countryside. Why now is the applicant permitted to sell A1 general goods in 85% of the store?

Mr Wood again referring to Item. 1 on the Plans List asked please can the planning officer comment on why the application is not being refused on the basis of inappropriate scale, whether it is classified as retail or not? Total buildings in the application are nearly 3 times larger than the existing structures. These additions are therefore massively disproportionate, well over and above the size of the original, and the application accordingly should be refused.

Mr Bond again referring to Item 1 on the Plans List asked can the planning officer please comment on why the impact on Crediton town centre has been vastly underestimated? In reality, the impact on the Crediton town shops due to this development would be massive and devastating. The pet shop, angling shop, my shop, the butchers, card shops, and the flower shop in the town centre would be hugely affected. Many shops could close. Why are you not concerned about the vitality of the town centre which would be destroyed. The 500m2 restriction in the officer's report will not be enough to protect the town shops. Homeleigh could sell whatever they want in the remaining 85% of the store. We believe that the application

should be refused and if this is not possible then much stronger restrictions need to be put in place.

Ms Holloway asked would the planning officer please comment on why the impact of the massive cafe on the local economy has been hugely underestimated? The size of the cafe is enormous, this size could seat up to 500 people at a time. A cafe of this size is bound to have a major negative impact on all the cafes and pubs in Crediton town centre and the surrounding areas and will lead to up to 50 job losses from catering alone, based on our survey of local businesses.

Ms Hutchings asked can the planning officer please comment on why the proposed new entrance has not been judged as a major safety concern? It is on a 60 mph A road with a blind brow and only 5 seconds to stop before the new entrance. It takes cars at least 6 seconds to stop at 60mph.

Highways response was that an independent safety inspector has deemed this access safe. However, with large lorries turning right into the path of the oncoming 60 mph traffic, common sense would tell us that this is an accident waiting to happen?

Mr Schofield asked can the planning officer comment on why the applicant is relying on a previous small planning permission to now justify such a massive expansion? The 2003 permission was not lawfully commenced in time, except for some work at the entrance and erecting polytunnels. The small proposed shop and small tea room were never built, so the permissions for shops and cafe effectively lapsed. The 2003 application was supported at the time as a small scale rural regeneration. However, the now proposed cafe is 14 times larger than the never built 2003 cafe, and the shop is 13 times larger the never built 2003 shop. Surely this should be recognised as not simply an expansion of an existing operation, but a massive redevelopment and it should be refused.

Mr Tucker on behalf of Mr Peacock asked can the planning officer please answer why a 10 year retail impact assessment was not carried out as it should have been by law. This appears to have been avoided on a technicality. The sales area is claimed to be only increasing in size by a tiny 315m² which anyone on the site visit would see is ludicrous. The whole of the site is claimed as having been designated for retail sales in the 2003 planning permission. However over half of the site on the 2003 plan was actually designated and fenced off for growing or keeping stock only and was never used for retail sales.

Now the increase in covered retail space is enormous - this store would be 1½ times bigger than Tesco, and 5 times bigger than the new very large Mole Avon store in Crediton. Surely a full 10 year retail impact assessment should really have been carried out? As this was not done due to a technicality a false conclusion was reached that there would only be 1% effect on town centre turnover. We believe this is a gross under estimate and that in reality it would be 20%. Therefore the application should be refused to protect the town centre.

Mr Tucker asked can the planning officer please comment on why the sequential test in the application did not assess that the land adjoining Tesco, which has much better road links and is still under developed, was not considered as an alternative and better option for such a large scale garden centre. We believe that this should have been done as part of the process.

Ms Green asked can the planning officer please comment on how the conclusion could be reached that there will be an imperceptible impact on existing highway users? Such a massive centre will be a 25 fold increase in traffic based on its turnover forecasts. Parking spaces grow from 20 to 241. There will be similar major traffic congestion already seen at large regional garden centres such as Whitehall near Bath and Otter Nurseries. it is clear that the conclusion from Highways is fundamentally flawed. How will this massive increase in congestion, especially at peak times at Christmas and in Spring be dealt with.

Could the planning officer please answer why a full landscape assessment was not carried out? The landscape assessment was very superficial, resulting in a false conclusion that there would be little landscape impact. In reality the scale of the buildings are just so huge, 3 times more than currently.

Such a massive development would clearly have a big impact on landscape, even if the building would be set down by levelling the site. These large buildings would still be very prominent and visible from a long distance away. Accordingly the application should be refused.

Mr Counter asked can the planning officer please comment on how the increase in air pollution caused by a massive increase in HGV vehicles, coaches and cars going through Crediton town centre, in what has been an air quality control zone, will be mitigated in future? Could the planning officer please answer why a full public consultation was not carried out? Residents were not aware of a public meeting, as it was only announced on the applicant's facebook page at 2 hours notice. Many residents have mentioned this in their objection letters. Surely the correct procedure for public consultation has not been followed, and the application is invalid?

The Chairman indicated that the questions would be considered during the debate on the applications.

61 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-25-08)

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

62 MINUTES OF THE PREVIOUS MEETING (00-25-25)

The minutes of the special meeting held on 19 September 2018 were approved as a correct record and signed by the Chairman.

63 CHAIRMAN'S ANNOUNCEMENTS (00-26-21)

The Chairman introduced and welcomed Gregg Venn and Alex Marsh, the new Conservation Officers to the meeting.

64 DEFERRALS FROM THE PLANS LIST (00-27-12)

There were no deferrals from the Plans List.

65 THE PLANS LIST (00-27-00)

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 4 on the Plans List (**18/01205/FULL – Erection of a livestock building, Middle Weeke Farm, Morchard Bishop**) 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 (**17/02061/MFUL – Remodelling and modernisation of existing garden centre following demolition of existing structures, to include erection of retail areas, café and warehouse, formation of new vehicular access, provision of parking areas and landscaping – Crediton Garden Centre, Barnstaple Cross, Crediton**).

The Area Team Leader outlined the contents of the report identifying by way of presentation the location of the site and an aerial photograph which outlined the existing footprint at the present time. He explained that conditions 13, 14 and 15 outlined in the report would maintain control of the floor use specified for retail activity and would stop the restaurant acting independently from the Garden Centre which was of concern to many of the objectors to the application. He provided a footprint of the site as proposed which highlighted the different areas contained within the application, part of the scope of the site would contain some of the highway improvements and a plan identifying the main access point and landscaping proposals. Existing and proposed photo montages were outlined as was a site plan setting out the parking area for the staff, the new building, new access and a new car park along with the proposed landscaping and footway connection. The block plan highlighted the solar panels on the roof, and the area to be demolished. Members viewed plans for the ground floor, the proposed elevations, the site sections and the highway proposals which included the scope of the alterations and the inclusion of an additional feeder lane to the site, the location of the bus stop and photographs from various aspects of the site.

The officer answered questions posed in public question time:

- Why the garden centre was not treated as a retail development; the description was not proposed as retail and conditions would prevent retail development and that this would be enforceable.
- Why were officers recommending approval for the planning application which was 13 times the size of the existing buildings on site; the plans show that the development was larger but not significantly so. The Local Planning Authority would have had a retail impact assessment but the conditions limited the amount of areas to be used for retail.
- With regard to the scale and massing of the proposal, the plans available identified the area to be developed.

- Concerns with regard to 85% of the floor space could be used for A1 retail; Condition 15 limited the area for retail to 500 sq. metres
- The impact of the proposal on the local economy and that 45 jobs would be lost; the application constrained the café and floorspace for retail and the application had suggested that the garden centre would be a visitor destination that would attract people to visit the garden centre and the town of Crediton.
- With regard to the highway issues, Mr Sorenson would address those however the highway improvements had been highlighted within the officers presentation.
- The proposal was extensively more than allowed in 2003 and should be refused; the height, scale and massing of the proposal could be a reason for refusal.
- Why had the 10 year retail assessment not be carried out, as the application was not a proposal for retail development and conditions would limit the retail ability, this was not required.
- A sequential test not being carried out; as above
- Why not use other land, the applicant did not own the other land.
- Issues with regard to congestion and impact on the highway; a highway improvement scheme had been submitted and the scope of those improvements had been explained,
- Why a full public consultation had not taken place, the objector had referred to the pre-application consultations that did take place. The Local Planning Authority had consulted as part of the planning application process.

Mr Sorenson (Devon County Council Highway Authority Representative) then addressed the meeting stating that the safety audit had been happy with the visibility splays, there would be additional road markings, the footpath would improve the visibility from Barnstaple Cross to Crediton and an offsite footway and crossing place would be in place. The uplift in traffic proposed by the application would generate the provision of a right turn lane which would deal with the additional traffic and this was thought to be adequate for the size of the development.

The meeting then considered Members questions with regard to:

- The speed of traffic using the A377
- Whether plants would be grown on site
- Whether the proposal was 100% retail, particularly as none of the plants would be grown on site.
- The opening hours of the proposed garden centre
- The traffic speed limitations around Bernaville Garden Centre
- Whether the development was environmentally sound with regard to the amount of glass and lighting proposed.

Consideration was given to:

- The views of the objector who highlighted the scale and massing of the proposal, the vast retail store in the countryside, the impact of the proposal on local businesses and the loss of jobs in the area.
- The views of the agent with regard to the consultation that had taken place, the highway improvements proposed, the proposal would be built on a

brownfield site, the design of the proposed garden centre and the fact that it was lower than the existing building

- The views of the Ward Members with regard to the bold and interesting proposal, the support of the local Parish Council and the Town Council, the facility would bring visitors to the area. The Homeleigh Centre in Launceston had revitalised the town, there would be little impact on the businesses in the town and the proposed highway improvements.

Discussion then took place regarding:

- Whether the proposal was an intrusion into the countryside
- The impact of the proposal on the highway network
- Whether garden centres should just sell plants
- Concerns regarding the amount of retail area proposed and whether a business case had been completed
- Whether the proposed conditions 13, 14 and 15 would give the control required

It was therefore:

RESOLVED that Members were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the following issues:

- Whether the application proposal would result in harm to the vitality and viability of the Crediton Town Centre and surrounding villages which would be contrary to policy DM17 and DM19.
- Whether given the size, scale and massing of the proposed buildings and the scope of hardscape introduced to accommodate the car parking requirements the application scheme would be detrimental to the visual amenities and overall character of this site in the open countryside which would be contrary to DM2, DM19 and DM20.

In addition concern was expressed about the level of lighting that would be required and how this would affect the overall character of the site especially given it is in open countryside.

- Whether given the amount of car parking proposed and the increase in number of vehicular trips on the highway network travelling to and from the application site as it proposed to be remodelled, the application scheme is considered to be an unsustainable form of development which would be contrary to DM2, DM6, DM19 and DM20.

In addition the overall sustainability credentials were challenged.

(Proposed by Cllr F W Letch and seconded by Cllr B A Moore)

Notes:

- i) Cllrs: Mrs F J Colthorpe, Mrs G Doe, R B Evans, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squires and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors

dealing in Planning Matters as they had all received correspondence regarding this application;

- ii) Cllrs P J Heal, D J Knowles and D R Coren made additional declarations in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had had face to face contact with objectors and/or the applicants;
- iii) Cllr F W Letch declared a personal interest as he knew some of the objectors;
- iv) Cllr Mrs G Doe declared a personal interest as she had spoken to the objectors, one of which was a close friend;
- v) Cllr J D Squire declared a personal interest as some of the objectors were known to him;
- vi) Mr Tucker spoken in objection to the application;
- vii) Mr Kemp (Agent) spoke;
- viii) Cllr s D R Coren and P J Heal spoke as Ward Members;
- ix) A proposal to support the application was not supported;
- x) The following late information was reported: On page 31 proposed change condition 3 as follows;

3. All the existing trees and boundary treatments which are proposed to be retained and all new planting, seeding, turfing and/or earth re-profiling as set out on the soft landscape plan as shown on drawing 211 hereby approved shall be carried out within 9 months of the substantial completion of the development, and any trees or plants which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. Once provided, the landscaping scheme shall be so retained.

(c) No 2 on the Plans *List (18/00657/FULL – Retention of change of use of an existing agricultural building to office with parking – Bradford Farm, Uplowman)*.

The Principal Planning Officer outlined the contents of the report, highlighting the information within the update sheet which outlined the nature of the business to be undertaken in the offices, the response of the objector's agent, the amendment to Condition 6 with regard to the boundary fence treatment and the proposed additional condition with regard to the surface of the car parking area.

He provided the following answer to the question posed in public question time: with regard to the timing for the creation of a foul drainage system, if Members felt it necessary the condition could be amended to state prior to occupation of the accommodation, with regard to the enforcement of conditions, the officer felt that the

conditions could be enforced and if a breach of planning control was reported then this would be attended to within 24 hours.

He then provided a presentation which outlined the site location plan, the block plan which considered the parking area and proposed landscaping and the amended/additional conditions as explained in the update sheet. Plans for the office space for up to 15 people, the first floor areas, section plans, proposed elevations and photographs from various aspects of the site

Consideration was given to:

- The views of the objector with regard to the current enforcement issues being dealt with, the business was proposed outside the settlement limit, there were other available sites for office space, the visual impact of proposal including the car parking area on his property
- The views of the agent with regard to the creation of useful office space, this was an internet based business which would not handle any stock, it was hoped that the business would grow but staff would be limited to a maximum of 15, he understood the issues with regard to the surface of the car park and was happy with the compromise suggested by officers. The application was a conversion of existing buildings, the current scheme was supported by the Highway Authority and complied with the Core Strategy and the NPPF.
- The views of the Ward Members with regard to the inadequate standard of the work that had taken place, there was adequate parking within the courtyard which would have less impact on the neighbouring property, the resurfacing condition was welcome, however there were still issues with the visibility splay. Whether the office space could be tied to the dwelling and whether the car park would be light and if so the impact of this on the neighbouring property. The ongoing enforcement issues on the site, whether there was a need for office accommodation in the rural area, the general impact of the proposal on the neighbouring property.
- Whether the courtyard could be used for staff car parking
- Policies DM11 and DM20
- The sustainability of the site
- The need to talk to the applicant before suggested changes were made to the application
- Whether the setting was inappropriate

RESOLVED that Members were minded to refuse the application and therefore wished to defer the application for consideration of an implications report to consider the following issues:

- Whether the proposal had an unacceptable impact on the neighbouring property (especially the car parking area) and therefore did not comply with policies DM11 and DM20
- The intensification of the use of the premises
- Whether this was an inappropriate location for the proposal
- Was there more appropriate facilities nearby
- The impact of the development on the amenity of the neighbouring property especially with regard to lighting issues

(Proposed by Cllr R L Stanley and seconded by Cllr R F Radford)

Notes:

- i) Cllr D J Knowles declared a personal interest as the objector and his family were known to him;
- ii) Cllr R F Radford declared a personal interest as the objector was known to him;
- iii) Mr Blakemore spoke in objection to the application;
- iv) Mr Burton (Agent) spoke;
- v) Cllrs D J Knowles and C R Slade spoke as Ward Member;
- vi) The Chairman read a statement from Cllr N V Davey (Ward Member)
- vii) The following late information was reported:

One email received from the applicant's agent providing further information in terms of the nature of the business use for the office space which is summarised as follows:

- The nature of business to be undertaken in these offices will be desk work based i.e. administration and consultancy via the internet
- This is the nature of the applicants businesses
- This falls within the B1 use classification that is included within the proposed condition 3 for the application.
- In respect to no formal justification of the office accommodation within this location other than within Tiverton, Members are referred to the Officer Report where it states:

"The applicant's agent has commented that they have investigated the available office space and no suitable spaces were found within the local area. A search carried out by officers identifies the nearest office accommodation to let being located within the settlement limits of Tiverton and therefore not considered to be within the immediate area to the application site."

- Therefore they feel that the businesses location is not unjustified and complies with Policy DM20.

In response to this additional information one email has been received from the Planning Consultant (XL Planning Ltd) acting on behalf of the objector with the comments summarised as follows:

- The policy justification provided of the location is minimal at best
- In terms of the criteria for Local Plan Policy DM20, Tiverton Town centre is less than 2 miles from the application site and Tivertons

settlement limit is now only less than one mile away which is considered to be within the immediate area

- It can be demonstrated that there are sufficient employment locations within Tiverton which would suit this new enterprise, including Lower Moor Way (two offices available), Howden industrial estate, and the Town centre itself.
- Notwithstanding the availability of existing premises in nearest settlement, the location is considered inappropriate for this size and type of development.
- The rural setting of this beautiful set of historic barns has been significantly eroded by the works that have taken place, including the unauthorised works which still have not been regularised by way of any planning application to date.
- Development which harms the visual environment or has an adverse impact on the character is contrary to policy.
- It is contended that the development proposed will clearly impact upon the barns themselves and their associated heritage values, both physically and visually and the changes to the setting and the erosion of integrity of the buildings is unacceptable.
- The further domestication of the barns will erode their integrity and authenticity and will be irreversible.
- The proposal to convert these buildings to offices is not considered to be in line with Local Plan Policy DM20.

3rd October 2018

Amendment to condition 6:

Notwithstanding the details as submitted and within one month of the date of this planning permission, revised details for a boundary treatment to include a fence in addition to the beech hedgerow as indicated on drawing number 18-2263-002B shall be submitted to and approved in writing by the Local Planning Authority. The details will include a plan indicating the height, positions, design, materials and type of boundary treatment to be erected on the site and a timescale for its implementation. The hedgerow approved shall be implemented within the first planning season following occupation of the office accommodation hereby approved and retained thereafter. Any trees or plants forming part of the proposed hedgerow which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

Reason:

To safeguard the amenity levels enjoyed by the occupiers of the neighbouring dwelling in accordance with policy DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

Additional condition:

Notwithstanding the details as submitted, the surface of the car parking area and access to serve the office accommodation shall be finished in a bound material such as tarmac or concrete with final details to be submitted to and approved in writing by

the Local Planning Authority and implemented prior to first occupation of the office accommodation hereby approved.

Reason:

To safeguard the amenity of nearby residential properties in accordance with policy DM2 of the Local Plan Part 3: (Development Management Policies).

(d) No 3 on the Plans *List (18/00662/MFUL – Erection of an industrial building (B1/B2/B8 use) an provision of additional parking – Hartnoll Business Centre, Hartnoll Farm, Tiverton).*

The Area Team Leader outlined the contents of the report by way of presentation highlighting the site location plan and the established bund, the scope of the car parking area and the proposal for the additional 59 spaces, the access from the main road through the site and the vehicle loop proposed, the proposed site plan, ground floor plan, proposed elevations and the existing and proposed landscaping plans along with photographs from various aspects of the site. He informed the meeting of the negotiations that had taken place between the applicant and the case officer.

Consideration was given to the history of the site and the location of the bund which had formed part of previous applications; the now established landscaping on the site, the decrease in parking spaces from the original proposal and the impact of the proposal on the village of Halberton with regard to an increase in traffic.

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

(Proposed by the Chairman)

Notes:

- i) Cllrs D J Knowles and R F Radford declared personal interests as the applicant was known to them;
- ii) Cllr R F Radford spoke as Ward Member.

(e) No 5 on the Plans *List (18/00745/FULL – Erection of a dwelling following demolition of existing shed – land and buildings at NGR 295495 115092 (Adjacent to Lurley Cottage) Lurley).*

At Planning Committee on the 5th September 2018 it was resolved that Members were minded to approve the application and therefore wished that the application be deferred to allow for the wildlife report to be produced and for a wider report to be submitted containing possible conditions, the consideration of replacement parking and a contribution towards the provision or improvement of public open space in the locality.

The Principal Planning Officer outlined the contents of the report which included conditions if Members were minded to approve the application. He informed the meeting s that the applicant had paid the financial contribution towards the provision of public open space and that the habitats survey had been received which had

found no indication of any protected species on the site. He presented plans identifying the location of the site, floor and roof plans and photographs from various aspects of the site.

Consideration was given to whether the proposal would improve the visual amenity of the site.

RESOLVED that planning permission be granted for the following reason: the Local Planning Authority recognise that the application site is the open countryside and is not an allocated site for new residential development and therefore there is no specific development plan policy support for the application scheme which is for the creation of a new dwelling on this site. However taking into account the provisions of paragraph 11 of the National Planning Policy Framework, the benefits of provision of a single dwelling that respects the existing development pattern of Lurley and has no unacceptable impact on highway safety or the amenity of neighbouring residents with improvements to the visual amenities of the site and area in general through the removal of the existing shed, 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.

Subject to conditions as recommended by the Head of Planning, Economy and Regeneration with the removal of Condition 7 and an additional condition which stated that “The development shall be completed in accordance with the biodiversity mitigation set out with the ecological assessment completed by encompass ecology ltd and received 24th September 2018”.

Reason for condition:

In the interests of preserving biodiversity in accordance with policy DM2 Local Plan Part 3 (Development Management Policies) and in accordance with the Wildlife and Countryside Act (1981) (as amended); the Countryside and Rights of Way Act, 2000; the Natural Environment and Rural Communities Act (NERC, 2006); and by the Conservation of Habitats and Species Regulations (2017).

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

Notes:

- i) Cllrs: Mrs F J Colthorpe, Mrs G Doe, R B Evans, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squires and R L Stanley made declarations in 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 J Dolley spoke as Ward Member;
- iii) The following late information was provided:
 - A habitats survey has been received. The habitats survey concludes that there is no evidence of bats using the buildings on site. There are two bird boxes on the southern elevation of the building, one of which seemed to have been in use during the 2018 season. Overall, the results of the survey found no indications of any protected species presence on site, apart from the previous of one of the bird boxes. There are no

ecological constraints to consider within the current application or the construction process. The report suggests the provision of new bird box provision on site, within the garden area as a biodiversity benefit.

Proposed additional condition:

The development shall be completed in accordance with the biodiversity mitigation set out with the ecological assessment completed by encompass ecology ltd and received 24th September 2018.

Reason:

In the interests of preserving biodiversity in accordance with policy DM2 Local Plan Part 3 (Development Management Policies) and in accordance with the Wildlife and Countryside Act (1981) (as amended); the Countryside and Rights of Way Act, 2000; the Natural Environment and Rural Communities Act (NERC, 2006); and by the Conservation of Habitats and Species Regulations (2017).

- A financial contribution of £1442 toward the offsite provision of public open space and play areas has been received in accordance with policy AL/IN/3 Allocations and Infrastructure Development Plan Document and the Supplemental Planning Document 'Funding public open spaces and play areas through development'.
- A plan has been submitted indicating the provision of two parking spaces for the proposed dwelling (which are adjacent to the dwelling). A scaled plan indicating the provision of two parking spaces for use by the occupants of the existing dwelling is still required.

3rd October 2018

Additional information and plans have been received that demonstrate that the occupiers of the existing property 2 Higher Lurley Cottages are able to park vehicles on the adopted highway to the west of 1 Higher Lurley Cottages. The area of adopted highway to the west of 1 Higher Lurley Cottages does not have any restrictions upon it, although any user of the area must not cause obstruction to the highway. This is understood to be the location which cars associated with 2 Higher Lurley Cottage use to park and will be able to park after construction of the proposed dwelling.

Proposed condition no.7 would therefore no longer be required as a plan demonstrating the provision of parking for 2 Higher Lurley Cottages is not needed.

66 MAJOR APPLICATIONS WITH NO DECISION (3-35-55)

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

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

67 **APPEAL DECISIONS (3-37-31)**

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.

68 **APPLICATION 18/00175/MOUT - OUTLINE FOR THE ERECTION OF UP TO 125 DWELLINGS WITH PUBLIC OPEN SPACE AND ASSOCIATED INFRASTRUCTURE - LAND AT NGR 303288 110467, ADJ MEADOW PARK, WILLAND (3-39-00)**

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 5 September 2018, were minded to refuse planning permission, but a final decision was deferred pending consideration of an implications report.

The Area Team Leader outlined the contents of the report highlighting the proposed reasons for refusal identified at the previous meeting. The meeting viewed a presentation which highlighted the proposed site for 125 dwellings outside the settlement limit of Willand, an aerial view which identified the affordable housing being built on Silver Street and the site by the Esso garage which had recently been to appeal. She presented an indicative concept plan for the proposal of 125 dwellings and showed photographs from various aspects of the site.

In respect of the questions posed in public question time, she provided the following responses:

Cllr Warren asked:

- 1) Whether para 2.2 was really addressing all the issues. He advised that size and scale of the proposal and the impact on the character of the village should include consideration of the cumulative impact on facilities and infrastructure. He was concerned that officers were attempting to 'water down' the reasons given by members to make it less likely to defend an appeal and wondered whether one reason for refusal was robust enough.
Officers would comment that: we are here to provide professional advice to members for them to consider in the decision making process. It would be remiss of officers if we didn't give professional advice on the likely success or otherwise at appeal nor remind members of the need to ensure that reasons for refusal are well-reasoned and robust to prevent cost being awarded at appeal. The cumulative impact on services and facilities are not dismissed but considered later in the report. Members have the ability to add further reasons for refusal if necessary but these should focus on the main issues rather than be a raft of reasons which would not stand up at appeal. More reasons for refusal does not make a scheme more likely to be dismissed at appeal but it can lead to an increased likelihood of costs being awarded against the council for unreasonable behaviour.
- 2) Why officers are not using policies COR17 and 18 as reasons for refusal.
Officers would comment that: Page 93 of the report (starting with the third para up from the bottom) sets this out clearly and states that the proposal for the 259 dwellings WAS in conflict with COR17 and COR18 but in the para

immediately below, it also states that as these are policies which were contributing to the lack of a 5 year housing land supply, the Inspector afforded them LIMITED weight. In the appeal for the 30 dwellings on the garage site, the Inspector refers to the conflict with policies COR17 and COR18 but in applying the tilted balance, he states that he will treat the most important policies accordingly and refers to them being out of date in the light of the councils housing supply. Therefore officers do not consider that sufficient weight can be attached to policies COR17 and 18 and would advise members against referring to these in any reason for refusal.

- 3) Why officers left out reference to the proposal being contrary to policy COR12. Officers would comment that: COR12 is a policy relating to the distribution of housing and given that the authority cannot demonstrate a 5 yHLS, it must carry limited weight. However, it does set out the Councils strategy for promoting the vitality of the main urban areas and therefore accords generally with the NPPF which seeks to promote sustainable development. Therefore if members feel that COR12 should be included in the reason for refusal set out at para 3.0 of the report, then officers consider they may do so without prejudicing the authorities case at appeal

Cllr Grantham asked:

- 1) For a clear definition of 'prior to commencement' as there are projects in the planning stage now so money in 2 or 3 years time may not be of help. Officers would comment that: 'prior to commencement' can mean anytime until the moment the first trench is dug in the ground. Bearing in mind that this is an outline application, which if approved would still need to be subject to a reserved matters application which needs to be submitted within 3 years of the outline permission and then developers have 2 years to commence work after the RM has been granted, it may be some years before the developer is required to pay the s106 contributions. However, members must be mindful of the fact that s106 obligations are there to mitigate the impacts of a development and therefore it is not in fact until residents start to occupy the dwellings that the impact of the development on services and facilities will be felt, and mitigation required. The applicants have however agreed to some wording in the s106 that if the WHCC project does not go ahead, the contribution can be used for an alternative community project.
- 2) If it's appropriate for the applicant to approach DCC and the school and ask them to send correspondence to the committee. Officers would advise that there is nothing which prevents them from doing so and the correspondence received has been posted on the public access system
- 3) If it's appropriate for the developer to ask for the description of the access proposal to be changed at this stage Officers would advise that: this was to ensure that the development proposal was clear and unambiguous, having listened to the concerns that committee expressed at the meeting on 5th Sept. The description has been amended and the ward members and parish council were advised of the change
- 4) If its right that the monies for the school come from this development due to failings of DCC over a number of years Officers would advise that: DCC were clear to advise that they can only seek contributions from developers where the development would lead to a school being oversubscribed. They have advised that this is not the case with Willand

Primary School. The s106 obligation to fund the project for a new school studio arose from discussions with the ward members and parish council where it was felt this was a priority for the village. It will be for members to decide today whether the development with those s106 obligations is acceptable

Mr Marrow asked:

- 1) In recent appeals there has been no appointment of planning consultants and why should this case be any different
Officers would advise that: a decision on whether it is necessary to appoint consultants is taken on a case by case basis. The application for 259 dwellings was the result of a delegated refusal so officers and the highway authority defended the appeal. The appeal for the 30 dwellings at the garage site was a written reps appeal where the appointed members contributed towards the written statement with officer assistance. Whether consultants are appointed to assist with an appeal would depend on issues such as the appeal method (public inquiry, hearing or written reps) and the technical nature or otherwise of the reasons for refusal. It is therefore correct that members are made aware of the financial and legal implications of the decision they take
- 2) Why is the risk of judicial review not raised
Officers would advise that: any decision the council make may be subject to judicial review and therefore it is not necessary to make specific reference that that in the written reports
- 3) Have officers put the council at risk of a non-determination appeal
Officers would advise that: any application is at risk of non-determination appeal where it remains undetermined at the statutory date but where negotiations are ongoing, extensions of time can be agreed. The applicant has not indicated that they would wish to pursue this at this time wishing instead for members to have the ability to consider the implications report in full at committee today.

Consideration was given to:

- How much weight could be given to the emerging Local Plan
- The details of the S106 agreement
- The implications of the applicant appealing any decision of refusal

It was therefore

RESOLVED that planning permission be refused on the following grounds

The development is for the erection of 125 dwellings outside the settlement limit boundaries of Willand and represents a large-scale residential proposal on a site for which there is no development of this scale planned for within either adopted or emerging policy. The Local Planning Authority consider that the proposed unplanned development would be out of scale with the size of and facilities available in the settlement of Willand to the detriment of its long-term sustainability and social cohesion of the local community. When tested against Paragraph 11 of the National Planning Policy Framework the Local Planning Authority consider that the adverse impacts of the proposed 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, COR9 and COR 12 of the Mid Devon Core

Strategy (Local Plan Part 1) and Policy DM1 of the Mid Devon Local Plan Part 3 (Development Management Policies).

(Proposed by Cllr R L Stanley and seconded by Cllr Mrs J Doe)

Notes:

- i) Cllrs: Mrs F J Colthorpe, Mrs G Doe, R B Evans, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squires and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had all received correspondence regarding this application;
- ii) Cllrs Mrs J Doe and R B Evans made further declaration in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had had contact with the applicants and objectors as Ward Members;
- iii) Cllrs Mrs G Doe, R F Radford and R L Stanley to be available should the applicant appeal the decision.
- iv) The following late information was reported:

25.09.2018

Members are advised that a further letter has been received since the publication of the original agenda report from the Head teacher at Willand School as follows:

'Further to the planning application 18/00175/MOUT, I am writing to confirm the position of Willand School with regard to the proposed financial contribution from this development towards the provision of additional space at the school.

Willand School has a net capacity of 420 places but there are accommodation deficiencies in some areas, notably with the lack of studio space. The additional studio proposal will support the delivery of the wider curriculum and limit problems of disturbance to neighbouring rooms in the current school. Although primarily to be used for curriculum music teaching to class-size groups, other design features will ensure its versatility for a variety of additional activities, including overspill dining space for the hall, a dance/drama space and small group interventions to support children who need targeted teaching.

The proposed studio project secured planning permission in April 2017 and we are ready to go out to tender when funding permits. However there are no funding sources identified for delivery of this project at this time'

2/10/2018

EMAIL FROM AGENT AS FOLLOWS:

Thank you for your email yesterday in respect of the speaking arrangements for the Planning Committee tomorrow; we note that we will still not be able to speak in respect of the main (Outline) application, but it would be possible to speak to the Access (Full) application (which would be considered second out of these two items). I suspect that we will leave this as things will be covered in your

report (including update report) and presentation, but could we maybe reserve the ability to say anything and we will confirm to the committee clerk at the meeting tomorrow?

Also whilst writing and having again reviewed the 'Implications Report' (for the Outline application), it is noted that the trigger points for S106 Obligations, which we had suggested in advance of the last meeting, are now included in the Heads of Terms that are at the front of the report. As we specifically noted when submitting our suggestions in advance of the last meeting (my email of 28th August 2018, attached for ease), these were a starting point for discussion/agreement with the LPA. Although it seems that Officers are content with these suggestions, there has not been any specific discussion or refinement of these triggers with us to date. Furthermore, it was apparent from the last meeting that the Parish Council and Local Members had not been able to consider these in advance of the committee meeting, and it is a high priority to them that the appropriate early triggers are agreed. As such, I would just like to confirm that the applicant would be open to discuss and vary these specific details should any alternative arrangement/priority for the triggers be considered necessary/desirable.

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

69 **APPLICATION 18/00177/FULL - CREATION OF NEW ACCESS FOR RESIDENTIAL DEVELOPMENT - LAND AT NGR 303174 110748, MEADOW LANE, WILLAND (4-07-59)**

The Committee had before it a * report of the Head of Planning, Economy and Regeneration regarding the above application; at the Planning Committee meeting on 5th September, Members advised that they were minded to refuse the associated application 18/00175/MOUT and invited a further report to set out the implications of the determining this application for the access in light of a possible refusal on the application for 125 dwellings.

The Area Team Leader outlined the contents of the report stating that since the previous meeting the description of the application had been amended by the applicant and was now just the "Creation of new access for residential development". She provided plans which identified the location of the new access.

Consideration was given to: the views of the Parish Council with regard to the access identified in the emerging Local Plan for access for 42 dwellings.

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

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

Notes:

i) Cllrs: Mrs F J Colthorpe, Mrs G Doe, R B Evans, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squires and R L Stanley made declarations

in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had all received correspondence regarding this application;

- ii) Cllrs Mrs J Doe and R B Evans made further declaration in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as they had had contact with the applicants and objectors as Ward Members;
- iii) The following late information was reported: Members are advised that the applicants have formally requested that the description of their application is amended to 'Creation of new access for residential development'. Members are advised that this has been done in the interests of making the application proposals clearer. It does not materially affect the development proposals as the plans/drawings/specification remain unchanged. This in no way prevents members from issuing a refusal, if having read the implications reports and considered everything raised at committee, they feel it is appropriate to do so.
- iv) *Report previously circulated, copy attached to minutes.

(The meeting ended at 6.40 pm)

CHAIRMAN