

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 5 December 2018 at 2.15 pm

Present Councillors

Mrs H Bainbridge, Mrs C Collis, Mrs G Doe,
P J Heal (Vice Chairman, in the Chair),
F W Letch, B A Moore, J D Squire,
R L Stanley and R Evans

Apologies Councillor(s)

Mrs F J Colthorpe, D J Knowles and
R F Radford

Also Present Councillor(s)

Mrs J B Binks, D R Coren, Mrs C P Daw,
F J Rosamond and Mrs M E Squires

Present Officers:

David Green (Group Manager for
Development), Simon Trafford (Area Team
Leader), Maria De Leiburne (Solicitor),
Alison Fish (Area Team Leader), Adrian
Devereaux (Principal Planning Officer), Ian
Sorenson (DCC Highway Authority) and
Sally Gabriel (Member Services Manager)

81 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr Mrs F J Colthorpe, D J Knowles and Cllr R F Radford who was substituted by Cllr R B Evans.

82 VICE CHAIRMAN

In the absence of the Chairman the Vice Chairman took the Chair and requested that a Member of the Committee take the role of Vice Chairman for the meeting.

It was **AGREED** that Cllr B A Moore act as Vice Chairman for the meeting.

83 PUBLIC QUESTION TIME (00-04-32)

Mr Wood – referring to the Crediton Garden Centre proposal he asked please can the planning officer inform us why this application has not been treated as the very large retail development which it clearly is? Independent legal advice shows that this development is undisputedly A1 retail and councils must apply all relevant retail policies to determine the retail planning application for a garden centre. Due to limited time since the last meeting all of our independent reports have been

submitted at the last minute, but we have previously submitted most of this information earlier in the summer and it was largely ignored by the planning officers and also by highways. We would also ask why this very clear legal advice has been ignored. Additionally could the planning officer please answer on landscape, why was it concluded that there will be no harm to the landscape and can he answer why a full landscape assessment was not conducted? The independent landscape report from Canbion Landscape Architects concludes that there would be significant harm from this proposal.

Kirsten Spronson – speaking with regard to the Lidl proposal asked, firstly are members aware that there is only one food discounter in Devon presently? The second being, are members aware that supporters of this proposal currently travel between 20 to 30 miles out of Tiverton to shop at a Lidl's food store?

Cllr Judi Binks – referring to the falconry (Upton Hellions) proposal stated two members share my concerns that it is at the heart of a small but vibrant community of permanent resident's not second homers. The site is a green field site of under 2 acres with no existing buildings. I have scoured all similar applications nationally and the minimum size for a small rural holding of similar building is between 7 and 22 acres, exceptionally 5 acres never 1.5 acres. Do members feel that the employment of 1 on-site worker justifies this encroachment to village life? Has the case for an essential permanent dwelling been made? Again my research into applications has shown that where permission is granted for an associated dwelling it is for the siting of a temporary mobile home for 5 years to allow for sufficient time for the business to become viable. Do you think that the presentation of the 3 year business accounts relating to a far more diverse enterprise in Powys, Wales provides sufficient like for like evidence of the viability of the proposed narrow focus of this application? Members would you if you are minded to approve this recommendation please recommend the siting of a temporary mobile home not a permanent residence.

Holly Adams – referring to the Crediton Garden Centre proposal she asked if it was reasonable in planning terms to restrict the sale of traditional garden centre merchandise from the site for instance Christmas trees and tropical fish? Modern garden centres have evolved in the same way as any other successful business model due to customer requirements. The phrase 'evolve or die' is the testament to the success of garden centres. As every other business has cherry picked parts of the garden centre such as Christmas trees, plants, chemicals and pots to name but a few it is only fair that garden centres should have looked to protect their business and their employees. It is as well that they have, otherwise staff would be laid off or their hours reduced which has been the case in Crediton Garden Centre in the past which is incredibly unfair as they work incredibly all spring and summer to be rewarded with less or no income in the quieter months. If you read any list of the best garden centres you won't find any dilapidated shed, customers demand a destination garden centre to find plants and products to enhance their homes and gardens and enjoy a sit down with some refreshments and a chat. Despite the best efforts of huge department stores, shopping centres and supermarkets nobody restricts their shopping habits to a single one stop shop and it is ridiculous to suggest that this is the case with garden centres. With this in mind I would like to hear the arguments backed with evidence as to why councillors believe that a reasonable case for restrictions to be made on the trading of this development and if the application is turned down how they will defend their decision to appeal?

Mrs Tucker – referring to the Crediton Garden Centre proposal stated at the October planning meeting the committee members were minded to refuse the application and made a decision to refer it for the harm it would create and requested an implications reports. Why was the applicant then allowed to resubmit the revised plans for the same application? Is this not frustrating the planning process overriding committee members' decisions? Normally a substitute application would have been made. Please can the planning officer explain why this has not been done?

Cllr Chris Daw – referring to the Lidl proposal stated, I have come in this afternoon to represent Lidl's because Cllr Jenny Roach and myself were sent out by the Scrutiny Committee to do a survey in the town and I would like to say that every person we spoke to that day (and the survey was not about Lidl's) all asked that we have a Lidl's or a store like it in our town and we are still getting that kind of response. I would like you to support this application in the town.

Adam Kuzara – Speaking about the falconry (Upton Hellions) proposal stated: I have 3 short questions why has the applicant been given several opportunities to refute her own claims about how noisy the raptors are? How can it make sense to duplicate the facilities and rear chicks in Devon when the facilities are well established in Wales? How would the business benefit Upton Hellions?

Steve Adams – Referring to the Crediton Garden Centre proposal said: do councillors think that it is fair to restrict the sale of merchandise at Crediton Garden Centre and if so what restrictions apply to other stores in the town who sell garden products which are not traditionally considered part of their businesses such as Tesco, Morrison's and Mole Avon and also what restrictions have been applied to other garden centre expansions in the area? Much has been made of the presumption that this development will lead to the demise of the High Street but it is not based on hard facts or figures despite a small group of objectors' tactics of hiring supposed independent studies one of which claims that Crediton Garden Centre is not a garden centre at all but a plant nursery, when it is clear that we don't grow any plants on the site and haven't done for a year. Following a feasibility study carried out by myself over 6 months last year which showed it to be impracticable, unprofitable and in parts loss making as will be borne out by the previous owner and that the business only sustained 3 staff, two of them part time and involved reducing their hours over the winter. A garden centre attracts completely different customers than any other business. The very presence of an anchor centre at the western entrance to town would create a suction effect and draw customers into Crediton. It is in no one's best interest to close down other businesses and Homeleigh is not a greedy corporate body out to do that. In fact we actively seek to work with suppliers within the South West whenever possible many of these very local to Crediton such as Lidcot and Albion Nurseries and we are currently speaking to suppliers in Crediton itself such as the Crediton Coffee Company and Coxes Butchers regarding the possibility of using their products in the proposed café should it go ahead. In addition, any building work which is done will be offered to local firms and individuals not a national contractor. Do councillors also understand that if the sale of merchandise is restricted or the size of the building reduced further there will be a natural knock on effect with the amount of jobs we are able to offer. With the potential of hundreds of new houses planned for the area, many classified as affordable housing it would be interesting to know where the extra employment need will come from, especially if companies are willing to plough millions into the town's economy, are to be restricted and objected to at every turn. I have here a list of 200 signatures from customers

who have enquired about this planning application and when told of these latest referrals they have asked how they could demonstrate their frustrations. These customers were not cajoled, fed propaganda or half-truths and freely offered their support. So to conclude with my question again, do the councillors think it fair to restrict the sale of merchandise at Crediton Garden Centre compared to restrictions applied to other stores and expanding garden centres in the area?

Mr Bond – referring to the Crediton Garden Centre proposal stated can the planning officer please advise why he says there will be no harm to the town centre from this development? Our retail impact report indicates that the effect will be more like 20% rather than the 1% the applicant has stated. When Tesco opened, the High Street lost 20% of trade and footfall that was a direct result. Tesco did not close the whole High Street but it did create closure of some businesses. A similar sized development at the other end of town will unfortunately create another 20% of decline in footfall and thus a 20% loss in sales. If this is the case the viability of key retailers in the town such as Adams, such as Tuckers and other related shops who sell garden related goods would be threatened. Other retailer's livelihoods would be threatened. I would also say on a personal note I have 10 local suppliers to my own shop, they will all be threatened and many other shops and the jobs which will be lost, not just on the High Street but its subsidiary companies and agricultural workers.

Lindsay Kuzara – speaking about the falconry (Upton Hellions) proposal said why has a video provided by the applicant of only 2 Harris Hawks been accepted as a starting point to work out noise level when it is not a realistic portrayal of a busy working falconry? Why didn't the applicant make a recording of all the birds together? Also where is the sound recording that the applicant said she could provide when it suited her to say that the Raptors are notoriously noisy and thirdly how can the incubation of eggs be a good enough reason to build a house on a green field site when there are already the facilities for this in Wales?

John Moore - speaking about the Crediton Garden Centre proposal stated are members aware of the local issue in Higher Road of increasing traffic volume comes at peak times, one vehicle every 6 seconds are using Higher Road which is very narrow 4.2 metres at that point. The situation for our pedestrians whenever they access the bus services on the main road, the situation has been widely discussed for a period of time in the media and at HATOC to no avail. This application has addressed this situation both widening Higher Road and providing a footpath, a real community benefit. But if this application is not approved will our highways concerns be resolved by the local authority? Our prior discussions would indicate that this is unlikely.

Mr Adams - speaking about the Crediton Garden Centre proposal said please can the planning officer answer why this proposal has not been deemed as an inappropriate scale for the location? Total buildings in this application are 3 times larger than the existing horticultural structure on site and 10 times larger than the 2003 permission. This scale and massing of buildings is out of context for the area.

Sue Keogh - speaking about the falconry (Upton Hellion) proposal stated she wanted to ask a question about sustainability and its ability to be future proof. We sent a clip to all the councillors and the planning authority about the introduction of Roe birds that is drone technology that does exactly the same thing which is pest control of birds, that's what the falcons are going to be doing, who are bred and reared and

trained in Upton Hellions. Our question is do you think that this drone technology which is so much less expensive than the live falcons will very quickly make this business redundant.

Mr Tucker – referring to the Crediton Garden Centre proposal he asked, please can the planning officer explain why his report states that the limited 2003 planning permission is sufficient to develop the site further? How is this limited permission being relied upon to justify development of a major destination garden centre? The report independently from Xcel Planning clearly shows that this 2003 permission was for a small scale expansion of a nursery operation up until 2017. Since that time the new owner has not grown anything. The 2003 application just had a small shop and tea room although this was never formally legally commenced because conditions were not discharged. Xcel Planning's report shows the 2003 permission does not in any way establish to garden centre use. The mere fact that the 2003 application is drawn round the whole of the site does not establish a planning consent for anything set out in the 2003 decision notice and approved plans. There is also no evidence in the planning history of the applicant stating a starting point of 6000sqm of development. Therefore the proposal represents a massive increase in retail space which is there today. Why is the planning officer now supporting the development which is so much larger than the 2003 application and so much larger than what has been on the site previously? And finally please can the planning officer advise why they classified the whole site as brownfield with development on it? This ignores 45% of the site which has never ever been developed upon. This 45% strip of land was only purchased in 2017; it had planning permission refused 6 times plus twice on appeal due to being in open countryside. We believe this is a clearly defined open countryside location that should be regarded as a material consideration for this proposal. Can the planning officer therefore please confirm that the whole site is not brownfield which he has previously said it is?

Diane Fyfe – Referring to the falconry (Upton Hellions) asked why this application is being recommended when the applicant herself said a site in a village with close neighbours is unsuitable because Harris hawks are notoriously noisy and the fledglings screech continuously, that's her words. As part of the business plan how has the applicant researched and taken into consideration the number of dogs and free roaming cats which already live within a quarter of a mile of this proposed falconry within the village of Upton Hellions. These are the very animals which she stated in her initial application would cause disturbance and risk to her birds. Are we therefore likely to be treated to a spiralling cacophony of very loud hawk screeching and dogs barking each time the 24 dogs that live permanently in Upton Hellions, plus the dogs which walk through from Sandford walk down the lane as they do at present. Do the resident cats in the village which currently number 12, are they in danger of the person who holds the shotgun licence to ward off predators.

Mr Schofield - peaking with regard to the Crediton Garden Centre proposal asked can the planning officer please tell us how this development can be sustainable? It will not be possible to walk or cycle from the town as it cannot be reached safely. Buses do not run on Sundays, one of the busiest days for garden centres. Most of the journeys to this site would be by car. The independent report by Mark Baker Consulting concludes the site is not sustainable. Please can the planning officer inform us why this application is not being treated as a change of use from a nursery to a garden centre? Up until 2017 the previous owners operated this site as a nursery, all evidence presented by Xcel Planning shows that sales were ancillary to

the nursery's activity. However, what is now proposed is an activity where the selling of the plants is ancillary to an A1 retail use and there is a very big difference.

Ian Cole - Referring to the falconry (Upton Hellions) said with regard to wild birds the planning officers report says that there is the possibility of disturbance to native wildlife and admits that there has been no research done on this topic. How can this be acceptable evidence of minimal impact?

Mr Webber – referring to the Crediton Garden Centre proposal stated can the planning officer please advise how the 420sqm retail restriction could possibly protect town centre retail outlets such as Adams and Tuckers which both sell garden related products already? How does the planning officer propose to force these restrictions on A1 retail space? We have been told by the planning officer that we personally would have to report any breaches to the planning officer which is just not practical.

Karen Cole - Referring to the falconry (Upton Hellions) said my question is in regard to the visual impact and why can't the house have a lower roof to reduce the visual impact?

Ms Holloway - speaking about the Crediton Garden Centre proposal stated could the planning officer please tell us the impact of a massive café on the local economy it has hugely been under estimated again. The café would become the largest in Crediton with a turnover of around £1m. This is bound to have a major negative effect on all the cafes and pub's in Crediton and could lead to up to 50 job losses from catering alone.

Ms Hutchings - speaking about the Crediton Garden Centre proposal stated can the planning officer please answer why the proposal 's new entrance has not been judged as a major safety concern? The independent highways report from traffic engineer and transport planning expert Mark Baker Consulting states that the road layout and visibility splays are not sufficient for a 60mph road and say the access is fundamentally unsafe. In addition lorries and coaches have to use the whole site access width and this would also not be safe. It means large vehicles could still be sticking out in the east bound lane before a vehicle travelling 50-60mph coming over the brow of the hill with a high risk of an accident. We also ask why no proper speed survey was done at the site. This means that the observed speed of the highways officer of 50mph cannot be relied upon. We believe that the application should be refused on safety grounds alone.

Mr Peacock – referring to the Crediton Garden Centre proposal stated can the planning officer please tell us how air pollution from the development would be dealt with? Around 80% of the traffic for this development will go through Crediton town centre creating extra pollution which is against policy DM6?

Mr David Counter asked can the planning officer please ask why the ten year retail impact assessment full analysis was not carried out. Previously the officer stated that there was only a small increase in the scale and they would not be required. However Xcel Planning showed the size of the development is over the 500sqm threshold which triggers a need for a 10 year retail assessment and over the 2500sqm for a sequential test. Why are these key developments of the National Planning Policy Framework not carried out?

Ms Green - Speaking about the Crediton Garden Centre proposal stated can I ask the planning officer to comment on how the highways impact has been judged. The independent highways report from Mark Baker Consulting concludes there would in reality be a severe and unacceptable impact on the road network as a result of this development. The applicant's traffic report has clearly shown by this independent report to have dramatically underestimated the traffic impact. Mark Baker concludes that these original reports should not have been relied upon by highways. In reality traffic flows are forecasted to increase by a massive 12 times. Parking spaces grow from 12.5 times from 20 to a whopping 255 spaces. Based on this independent report there will be major traffic congestion in the area and it is clear that the highways authority conclusion that the impact is permissible is wrong. I would like to know why highways did not sufficiently interrogate the reports to notice that they were grossly inaccurate.

Mr Steve Adams on behalf of Cllr Stuart Penny and referring to the Crediton Garden Centre proposal stated that the expansion of the Homeleigh Garden Centre can only be beneficial to our rural community. Not only will it bring revenue and jobs to the area but also a pleasant visiting experience. I have heard not one negative comment or objection to the proposal on the street or at my council meetings. My question is what other gardens centres in the district have expanded in size and by how much?

84 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-39-24)

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

85 MINUTES OF THE PREVIOUS MEETING (00-39-35)

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

86 CHAIRMAN'S ANNOUNCEMENTS (00-40-29)

The Chairman had no announcements to make.

87 DEFERRALS FROM THE PLANS LIST (00-40-37)

There were no deferrals from the Plans List.

88 THE PLANS LIST (00-40-52)

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 5 on the Plans List ***(18/00284/ADVERT – Advertisement consent to display 8 non-illuminated heritage trail information panels – St Boniface Church, East Street Junction with Charlotte Street, Crediton Parish Church Car Park (The Old Organs House), Newcombes Meadow Park, Crediton Methodist Church, Town Square, Crediton Congregational Church and St Lawrence Green, Crediton)*** be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

(b) No 2 on the Plans List ***(18/00915/MFUL –Erection of Lidl food store (Class A1) and non-food unit (Class A1) with associated parking, landscaping and access arrangements following demolition of existing buildings – Foundry Estate, Blundells Road, Tiverton).***

The Principal Planning officer outlined the contents of the report acknowledging the support for the application during public question time and highlighting the additional information within the update sheet: the latest representation from the Environment Agency; a further letter from the planning consultant acting on behalf of the objector; a letter of response received from the landlord; a response from the Local Highway Authority with regard to the submitted HGV plan; a further letter of support and amendments to condition 5 and 14.

The officer then outlined by way of presentation the site location plan, the existing site plan where the original buildings would be demolished, the proposed site layout with buildings, service yard and car park, work to the northern boundary to improve flood risk mitigation, floor plans for the food and non-food buildings, the elevations of the food and non-food store, proposed boundary treatment plans, the HGV tracking plan and how deliveries would be made to the service yard, the tree protection plan, detailed landscape proposals and photographs from various aspects of the site. He reported that the Local Highway Authority and the Environment Agency were happy with the proposals. He continued outlining the delivery yard, the lighting scheme, the ecology issues which had been addressed, the view of the Conservation officer and the details of the S106 agreement.

Consideration was given to:

- Safety issues with regard to the movement of heavy lorries
- Whether the proposal would increase traffic in the area
- The opening hours and delivery times
- The views of the objector with regard to the impact of the development on MST and the legal issues surrounding this, the area being used currently for storage and the implications for the business whilst the development was taking place
- The views of the applicant with regard to the application being policy compliant, the improvements to flood risk mitigation, the S106 contribution, the provision of new jobs, the visual improvement of the area following demolition of the existing buildings on the site and the support that the application had received from local residents.

- The suitability of the access
- The design of the proposal and the contributions via the S106 agreement
- The lighting scheme and the impact of the development on neighbouring properties and the hotel

It was therefore:

RESOLVED that planning permission be granted subject to the signing of a S106 agreement to provide the following:

- £13,000.00 – towards works identified by the Tiverton EUE to come forward at an earlier trigger time due to the impact of the development on the Heathcote away roundabout and Lowman way roundabouts
- £30,000.00 - Tiverton Shop Front Enhancement Scheme
- £30,000.00 - Tiverton Town Centre Public Wi-Fi Project
- £10,000.00 - Public Realm Improvements (signposting and seating)
- Inclusion of the Travel Plan

and conditions and informative notes as recommended by the Head of Planning, Economy and Regeneration with an amendment to Condition 5 to state: 5. Arrivals of deliveries or collections of goods to and from the stores including the collection of packaging, waste or other items shall only take place between the hours of 7 am and 10.30pm Monday to Saturday and 8 am - 9 pm on Sundays and bank holidays and an amendment to Condition 14 to state 14. Notwithstanding details as submitted allowing for changes to the embankment along the northern part of the site, all existing trees identified to be retained on the Tree Protection Plan, drawing no. **3026 TPP Rev B**, shall be protected throughout the construction of the development hereby approved with protective barriers to be erected in the areas shown prior to construction works being undertaken on site. Any trees shown for retention that 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.

(Proposed by Cllr F W Letch and seconded by Cllr H Bainbridge)

Notes:

- i) Cllrs: Mrs H Bainbridge, Mrs C Collis, Mrs G Doe, P J Heal, F W Letch, B A Moore, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had all received correspondence regarding this application.
- ii) Mr Miller spoke on behalf of the objectors;
- iii) Mr Daly spoke on behalf of the applicant;
- iv) The following late information was reported: 5 December 2018

First Update:

Letter received from Environment Agency dated 30th November commenting as follows:

‘We are satisfied the applicant has demonstrated that an appropriately graded access can be constructed from the edge of the application site into the neighbouring land to the south as shown on drawing Proposed Site Plan AD 205. We advise that the final details of this arrangement will need to be secured by planning condition. We also advise that it will be necessary to have a gate included on the northern boundary visi rail fence to provide pedestrian access to the steps on the Moorhayes Stream. Our suggested wording for these conditions:

Condition

Prior to the commencement of development the final details of the graded access shown on drawing Proposed Site Plan AD 205 shall be submitted to and agreed in writing by the LPA. The graded access shall be fully implemented as approved prior to first use of the site.

Reason

To ensure access (on foot, with vehicles, plant and equipment) for the Environment Agency to the River Lowman for the purposes of inspecting, maintaining, repairing and construction of existing and new flood risk management works.

Condition

The visi rail fence on the northern boundary shown on drawing Proposed Boundary Treatments AD 114-Rev C shall include a gate for pedestrian access to the new access steps on the Moorhayes Stream.

Reason

To ensure access on foot, with equipment, for the Environment Agency to the Moorhayes Stream for the purposes of inspecting, maintaining, repairing and construction of existing and new flood risk management works.

Informative to applicant:

We note that the revised drawings do not show an extension to the corridor improvements opposite the sub-station near the confluence of the River Lowman as advised in our last consultation response. We would strongly encourage the applicant to provide minor river corridor improvements at this far downstream extent which would optimise the performance of an improved corridor. Whilst the proposed site plan drawing does not show a route for access through the non-food retail unit car park our expectation is that the road through the car park will remain free of obstruction between the two sites to allow for movement of cars around the car park. We would request that a car parking space, closest to the gate and access steps on the Moorhayes Stream, is marked out / hashed for the Environment Agency’s use to ensure we have access at all times.

Second Update:

Letter of objection received from Planning Consultant acting on behalf of MST outlining the following:

- That MST's 'warehouse' lease provides for two means of access to its site but the proposal results in a less than commodious access arrangement whereby articulated vehicles would be required to reverse back into the access road to Lidl which is not safe or a practical solution.
- It is commented that the landlord has suggested that they could grant MST more area as part of their lease at the South West corner to enable a turning circle be created so that HGVs could turn and exit by the North gate but this has not been done.
- Therefore access arrangements should be available through the car park of the non-food store with swept path analysis provided in order that the existing two way access is continued allowing for the operational and financial viability of an existing major employer and supply chain provider.

Third Update:

Letter of response received from the Landlord, Lowman Manufacturing Company Limited advising:

- Lease granted to MST in 2011 which states that the Landlord "reserves the right to re-route any means of access to or egress from the Property and to change the areas over which the Rights ... are exercised; Provided that...the new routes to the Property shall be no less commodious and adequately surfaced than those existing at the date of the Lease..."
- Rights under the 2011 lease are commercial matters and if MST thinks rights have been breached then that is a matter for discussion at Law, not at Planning. Nevertheless we can confirm that in conjunction with Lidl there has always been a clear intention to safeguard any leasehold rights benefitting the Property.
- The new arrangement has been explained to MST whereby the route available would be the spine road under the Lidl application, entering the MST site at the north east corner, approximately as now, and that extra land would be made available on land at the far end of the Property (the west end) which was not part of the 2011 lease but is adequate to turn lorries around so they can drive back out the way they came in.
- The new access route would be commodious as would be a two way road to highway standards

Fourth Update:

Response from the Local Highway Authority in terms of the submitted HGV Plan:

'I have checked the swept path analysis which is accurate and the turning circles work, more over both the MST Yard and the non-food retail can accommodate other turning circles. However it is for the Local Planning Authority to consider if the change to MST is an impact on amenity as the swept paths would be reliant on the areas remaining free from obstruction so

outdoor storage would possibly be lost and the swept path area should be conditioned to be kept clear. It would be down to the legal rights of the land owner/ tenants which you may consider to be a civil matter’.

Fifth Update:

A letter of support has been received from H.J. Bedward with grounds of support similar to those appearing within the committee report.

Sixth Update:

Amendments to conditions as stated within Committee Report:

Condition 5 – Reference can be included to relate to bank holidays so new wording would be:

5. Deliveries or collections of goods to and from the stores including the collection of packaging, waste or other items shall only take place between the hours of 7 am and 10.30 pm Monday to Saturday and 8 am - 9 pm on Sundays and **bank holidays**.

Condition 14 – The new tree plan needs to be referred to so new wording would be:

14. Notwithstanding details as submitted allowing for changes to the embankment along the northern part of the site, all existing trees identified to be retained on the Tree Protection

Plan, drawing no. **3026 TPP Rev B**, shall be protected throughout the construction of the development hereby approved with protective barriers to be erected in the areas shown prior to construction works being undertaken on site. Any trees shown for retention that 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.

(c) No 1 on the Plans *List (17/02061/MFUL –Remodelling and modernisation of existing garden centre follow 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 stating that this was a revised scheme to that previously considered. He outlined the contents of the late information within the update sheet, that of continued letters of support, further submissions from the objectors with regard to independent reports and the views of Crediton Town Council.

The officer outlined the application by way of presentation highlighting the location of the proposal, the highway improvements proposed, an overview of the site identifying the storage and retail areas and the key changes between the present and previous applications, the fact that the scope of landscaping had been improved and that the building fitted much better on the site, the block plan which identified the buffer

around the site, the ground floor plan and the scope of the floor space, section drawings and the proposed highways works along with photographs from various aspects of the site.

Addressing the questions posed in public question time he sought to provide answers: In terms of whether the application was for a retail use and/or a change of use – the Local Planning Authority had assessed the scheme in the same way as other garden centre applications; an appropriate response had been given with regard to a full landscape assessment, whether it was reasonable to restrict merchandise to be sold: it was not reasonable to impose a restriction with regards to the ranges of merchandise that you would expect to be sold at a garden centre; with regard to an amended application, the applicant was entitled to amend the application as a decision had not been made at the previous meeting; regarding a restriction on garden products that could be sold: there would not be any restriction on the sale of garden products at Tesco. At the Mole Avon store, the terms of the planning permission restricted the amount of floorspace within the unit that could be used for unrestricted retail sales as is the case with this application in terms of how the development may impact of the vitality and viability of Crediton High Street, and that this had been covered in Conditions 13, 14 and 15 as set out in the report; with regard to the highway improvements, this would only be delivered as part of the proposal, the Highway Authority would not deliver this as part of ordinary transport plans. Whether the development was sustainable it was noted that the number of car parking spaces had been increased but this was a typical arrangement for a garden centre where the majority of trips tended to be by car. Whether the proposed café would have an impact on the cafes in the high street, the conditions addressed this by only allowing the café to open when the garden centre was open. Whether this was a brownfield site; the site was an existing garden centre and the application had been tested against planning policy.

Mr Sorenson (Devon County Council, Highway Authority) stated that he had been in discussions with local residents and that it was unlikely that any road improvements would come forward as part of planned work, improvements would only take place through development and would include land owned by the applicant, there would be a new footpath and a relocated bus stop, the provision of a footpath would improve visibility, the trip status was reasonable and with regard to highway safety, the visibility splays were appropriate. The views of the Highway Authority remained unchanged.

Consideration was given to:

- The location of the bus stops
- Comparisons between the original and amended scheme
- In comparison with other garden centres, the distance of locations from main towns
- Whether the impact on other local garden centres was a material consideration and that the sale of garden centre material could not be restricted
- The impact of the development on air quality issues in Crediton
- The views of the objectors with regard to the garden centre being a massive retail unit and that the proposal would be a significant impact on the local shops in the area; the establishment of Tesco in the town had had major

implications and the garden centre application would further the damage to independent shops.

- The views of the applicant with regard to the application, other garden centres in the area had been a success, online shopping impacted on high street sales, not just garden centres, the application was policy compliant and he urged the committee to let him grow his business.
- The views of the local parish council who supported the proposed safer access and felt that the proposal would improve the viability of the rural community.
- The views of the ward member with regard to the improved proposal and the fact that garden centres are not classed as retail outlets.
- Road safety issues and the history of the site.
- Whether the proposal would really have an impact on the high street.
- The concerns of Crediton Town Council
- The size of the development
- Whether the proposal would actually benefit the town, which it might

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.
- Whether there would be a likely increase in traffic to the destination site and whether it would impact on the air quality of Crediton High Street.

(Proposed by Cllr F W Letch and seconded by Cllr R L Stanley)

Notes:

- i) Cllrs: Mrs H Bainbridge, Mrs C Collis, Mrs G Doe, P J Heal, F W Letch, B A Moore, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had all received correspondence regarding this application;
- ii) Cllr Mrs J Doe made a further declaration in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as she had had discussions with the objectors;
- iii) Cllrs D R Coren and P J Heal made a further declaration in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had had discussions with both sides as Ward Members;
- iv) Mr Adams spoke on behalf of the objectors
- v) Mr Broad (applicant) spoke;
- vi) Cllr Mortimer (Crediton Hamlets Parish Council) spoke;
- vii) Cllr D R Coren spoke as Ward Member;
- viii) A proposal to support the application was not supported;
- ix) The following late information was reported:

3 December 2018

Page 17: Since the report was drafted additional letters of representation have been received confirming support for the application scheme (38 now in support) outweighing the number of comments objecting to the application.

5 December 2018

Mr Tucker from the Bow Garden centre, and writing on behalf of the objectors group, has submitted a number of reports from consultants covering the following topics, the legal position regards the basis for the assessment, an independent appraisal of the planning application submission, and an independent highways and transport assessment and a landscape review. Each of the reports presents the view that the planning application should be refused without providing any detailed analysis of the officer recommendation as presented in the report pack.

Mr Tucker in his letter states that: Because we do not feel that objectors concerns have been sufficiently taken into account we hereby provide independent reports. Many of the issues highlighted in these report have been previously raised via our objectors letter, our direct meeting with the Council, and in the last planning meeting.

Officer comment: Following a review of the documentation no further comments are provided supplementary to the report as already circulated. As stated the application presents a scheme to improve and modernise the

trading/customer environment at an existing garden centre and the policy framework against which it has been assessed is the same as other applications to extend and improve other garden centres in the district as confirmed in the report. Members' attention is drawn to conditions 13, 14 and 15 of the recommendation in terms of building in safeguards to protect the vitality and viability of the Crediton High Street.

The documents as submitted have been uploaded against the application record.

5 December 2018

Comments from Crediton Town Council received on 5/12/2018 at 11:56 am:

It was resolved to strongly support the comments made by the Mid Devon District Council's Economic Team in that the A1 retail offer is limited to garden and garden related products as this should not result in a negative impact on Crediton High Street. If the A1 retail offer cannot be limited to garden and garden related products the Town Council would strongly object to the application.

The Town Council is also very concerned about the level of hard surfacing and the lack of green landscaping at the site. The site will also generate increased traffic through the High Street which will negatively impact on the air quality issues that Crediton already has.

(d) No 3 on the Plans *List (17/02034/FULL – Change of use of land for the siting of premises for falconry business and 1 associated dwelling – land at NGR 283959 102949 (Barton Cross) Upton Hellions).*

The Area Team Leader outlined the contents of the report highlighting the late information available on the update sheet which included additional information from residents in Upton Hellions and local stakeholders.

The officer outlined the proposal by way of presentation highlighting the site location plan and access to the site and the position of the nearest neighbouring properties. He provided a block plan of the proposal which identified the area of residence and the hawk building, floor and section plans, an aerial photograph and further photographs from various aspects of the site. In the absence of the Environmental Health Officer he informed the meeting about noise levels and how they were measured.

Referring to questions posed in public question time: with regard to the size of the application site and the proposal for a dwelling to support the rural business, the applicant had submitted enough evidence to meet the recommendation of approval. With regard to noise issues and why it had taken so long to resolve the issues of noise impact: there was a need to work with the applicants through their evidence base. What were the benefits of the application to Upton Hellions, this was not a policy requirement. Question with regard to noise levels and how the levels were recorded, whether future technology would supersede the need for birds, he did not feel that this was applicable. With regard to the impact of the presence of the birds

on local animals, there should be no issues with how the birds reacted to local animals and with regard to the visual impact of the development, he reported that the proposal was for a low impact building.

Consideration was given to:

- Why firearms would be needed
- The position of the footpath
- Whether the business was sustainable
- The views of the local Parish Meeting with regard to noise issues, the proposal was in the middle of the village, 20 raptors would be exercised separately; it was a good proposal in the wrong place and would have an impact on local residents and impact on local animals.
- The views of the applicant who informed the meeting with regard to her profitable business and how it had grown in the south west, she identified local businesses who had used her hawks as part of their pest control.
- The views of the Ward Member highlighting the local footpaths in the area, how the birds would be exercised, whether Upton Hellions was the place for such a proposal and whether a temporary dwelling would be more appropriate.
- Natural noises in the countryside

It was therefore:

RESOLVED that planning permission be granted subject to: the signing of a S106 agreement to include:

- a) Tying the dwelling to the relevant holding so that the land within the holding and the dwelling can be safeguarded as a single unit.
- b) To provide a contribution of £1160.00 towards the provision of improvements to Play Area facilities including new adult exercise equipment at Sandford Play Area, Sandford.

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

(Proposed by Cllr R L Stanley and seconded by Cllr Mrs C A Collis)

Notes:

- i) Cllrs Mrs H Bainbridge, Mrs C Collis, Mrs G Doe, R Evans, P J Heal, F W Letch, B A Moore, J D Squire, Mrs M E 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) Mr Fyfe (Upton Hellions Parish Meeting) spoke in objection to the application;
- iii) Ms Bennett (applicant) spoke;

- v) Cllr Mrs M E Squires spoke as Ward Member;
- vi) Cllr J D Squire requested that his vote against the decision be recorded;
- vii) The following late information was reported: 3 December 2018

Page 80: In addition to the letter already circulated to members (dated 30 November 2018) the parishioners of Upton Hellions have submitted an additional representation (dated 28 November 2018) to the planning application that questions the robustness of the assessment that has been undertaken by the LPA team in terms of the noise impact of the development, suggesting that further impartial independent research should be undertaken to confirm the likely noise impacts of the development. The officer report presents the conclusion on this matter at page 89/90 of the report pack.

Additional comments: There are no further conclusions to present on this matter at this stage; however the Environmental Health Officer will be present at the meeting on Wednesday to clarify any outstanding concerns that members may still have.

Furthermore two additional letters from stakeholders, who have already made representations against the application, have been received expressing concern about the noise impacts and the potential use of electronic robot type birds which to question the validity of the proposed scheme in terms of the use.

The following correction to the report:

On page 88 – paragraph 3:

Furthermore the noise produced by the birds themselves is such that close proximity to neighbouring occupiers within a village and/or more urban location would **not** be sensible and/or practical. Please also refer key issue 4 below.

- ix) Cllr Mrs C A Collis left the meeting at this point.
- (e) No 4 on the Plans List ***(18/01260/FULL – change of use of agricultural land to mixed agricultural and equestrian, erection of a timber framed barn and construction of a ménage – land at NGR 316219 116022 (Poachers Rest), Clayhidon).***

The Area Team Leader outlined the contents of the report highlighting by way of presentation the detail of the proposal, the change of use of the land, the barn and the ménage. She identified the landholding, the existing site plan, and explained the dimensions of the proposed barn and ménage, the floor plans and elevations and indicative floor and ménage plans as well as photographs from various aspects of the site. She informed the meeting of a late submission by the applicant's vert with regard to animal welfare and the need for stabling.

Consideration was given to:

- The views of the applicant with regard to management of manure, the proposal was for agricultural buildings on agricultural land which was surrounded by agricultural land with agricultural buildings, the proposal met policy requirements and that there was a need for stabling for the horses.
- The views of the Parish Council who wanted a new and fully documented planning application, the fear that this would be a rural strip development, additional piecemeal applications could follow, there had been no scrutiny of their financial, environmental or agricultural sustainability or viability, the future expansion of the business, the harm to the visual amenity and issues with drainage.
- The views of the Ward Member with regard to the integrity of the AONB, there was a fear that an application for a dwelling would follow, there needed to be an effective process in place to safeguard the AONB.
- There was a need to consider animal welfare
- The contents of Policy DM29.

It was therefore:

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

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

Notes:

- i) Cllrs Mrs H Bainbridge, Mrs G Doe, R Evans, P J Heal, F W Letch, B A Moore, J D Squire, Mrs M E 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) Mr Fairhurst (Applicant) spoke;
- iii) Cllr Langford (Clayhidon Parish Council) spoke;
- iv) Cllr F J Rosamond spoke as Ward Member;

89 **MAJOR APPLICATIONS WITH NO DECISION (4-27-42)**

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

It was **AGREED** that:

Application 8/01800/MFUL –East of Lords Meadow Industrial Estate, Crediton be brought before the committee for determination and that a site visit take place.

18/01711/MFUL – Gibbet Moor Farm, Rackenford – if minded to approve, be brought before the committee for determination and that a site visit take place.

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

90 **APPEAL DECISIONS (4-30-07)**

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.

91 **TREE PRESERVATION ORDER 18/00004/TPO - HAWTHORN CLOSE, MEAD CLOSE, CLOVER DRIVE, CULLOMPTON (4-31-25)**

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

The Area Team Leader outlined the contents of the report highlighting the location of the tree and that it had no owner. She showed those present photographs from various locations from where the tree could be seen.

Discussion took place regarding:

- The views of the objector in that the tree was overbearing and there was risk to property and lives should it fall. The tree had to be maintained at the cost to local residents. There were overshadowing issues and the tree was in the wrong place and whether the local authority had a duty of care.
- How the Tree Preservation Order was served.
- Some of the residents were in support of the Tree Preservation Order.

RESOLVED that the Tree Preservation Order be confirmed.

(Proposed by Cllr R L Stanley and seconded by Cllr F W Letch)

Notes

- i) Cllrs Mrs H Bainbridge, P J Heal, F W Letch, B A Moore and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors dealing with Planning Matters as they had all received correspondence regarding this application;
- ii) Mr Smith (objector) spoke;
- iii) The Chairman highlighted a statement by a supporter on the update sheet.
- iv) The following late information was reported: Representation in support of the Tree Preservation Order

Mrs Rachel Glover, resident in favour of the TPO.

Good afternoon

Firstly, my apologies for being unable to make today's meeting in person. In my absence, I've asked if it is possible for my representation to be read out on my behalf in support of this Tree Preservation Order. Thank you for this opportunity.

I firmly believe that the mature old Oak tree in question is worth preserving for now and for future generations, not only for its beauty but the invaluable contribution it makes to the local landscape.

In addition to providing very necessary screening in the housing development, I would argue that this tree is integral to the character of the area. When I decided to buy my house here, it was important that the surrounding area had greenery and trees nearby – this Oak tree was a key deciding factor.

Without this tree, it will make the area much less attractive by exposing rows of brick houses and increasing noise nuisance. The tree in question is a haven for wildlife in the locality, including bats and many species of birds. It provides the surrounding houses with the wonderful amenity of garden birds and wildlife visiting gardens.

This tree is publically visible in the Padbrook area of Cullompton and its removal would leave a large adverse hole in the landscape.

I accept that the few residents who object to the Tree Preservation Order may find that the tree drops leaves and will block out some light, and that it may need occasional pruning. However, it is a fact that the tree was boldly standing there when we all made the decision to buy our houses. I have no doubt that many other people will share my interest in nature, wildlife and the screening privacy offered by this tree. This will inevitably include future residents who move to this area and, for them, having this tree nearby will be of the same large benefit. How sad if this tree can be so easily felled by the decision of a few current residents, without the need for any consent, when the loss of the tree would impact on so many, both currently and in the future.

In view of all of this, I urge the Planning Committee to decide to confirm this Tree Preservation order – it is a tree with many benefits to the locality and, without being protected by this order, there are likely to be serious negative consequences for this area.

v) *Report previously circulated copy attached to signed minutes.

92 **TREE PRESERVATION ORDER 18/00005/TPO - LAND AT NGR 295283 121659 (SCOTTS BUSINESS PARK) BAMPTON**

This item had been withdrawn from the agenda.

(The meeting ended at 7.21 pm)

CHAIRMAN