

## **MID DEVON DISTRICT COUNCIL**

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 23 October 2019  
at 2.15 pm

### **Present**

#### **Councillors**

Mrs F J Colthorpe (Chairman)  
Mrs C Collis, R F Radford, E J Berry,  
L J Cruwys, S J Clist, F W Letch,  
E G Luxton, D J Knowles, B G J Warren  
and B A Moore

### **Apologies**

#### **Councillor(s)**

Mrs C P Daw

### **Also Present**

#### **Councillor(s)**

R M Deed, C J Eginton, R Evans and  
R L Stanley

### **Present**

#### **Officers:**

Stephen Walford (Chief Executive), Jenny Clifford (Head of Planning, Economy and Regeneration), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Lucy Hodgson (Area Team Leader), Sally Gabriel (Member Services Manager) and Ian Sorenson (Devon County Council, Highways Authority)

## **64 APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr Mrs C P Daw who was substituted by Cllr B A Moore.

## **65 PUBLIC QUESTION TIME**

Samantha Baker referring to item 1 on the plans list stated: what I would like to ask is the committee aware just how precious this field has been over decades as a social meeting place for generations in this village. This is where people come to walk their dogs, there is nowhere else in the village for us to do that, we have a children's park where no dogs are allowed. This brings old and younger generations together and I am in this field on a daily basis and I have spoken to old people that come and say they feel safe in this field to walk their dog and let it off because they know they are seen by the houses at the lower end of Silverdale. It mixes the generations together in a way that Silverton doesn't offer in any other way. I think it's really important at this time that we continue to bring generations together in a positive social way.

Mr Campbell speaking with regard item 1 on the plans list stated: I am a resident of Silverdale the question I am asking is why during the preparation of the Neighbourhood Plan there is consultation with the public, it was strongly felt that only small developments would be acceptable. This proposal goes against everything the local people who took part requested. If this is granted it makes a mockery of all the hard work that has been done by the Neighbourhood Plan Committee.

Mr Byrom referring to items 10 and 11 on the agenda stated that residents of Sampford Peverell are deeply concerned and confused by Items 10 and 11 on your agenda (concerning your very proper refusal of permission for 60 houses at Higher Town).

Councillors, we fear that officers may be trying to persuade you to soften some aspects of your 'Reasons for Refusal'. Undertaking this in a 'private' session would allow officers to hide embarrassing errors made in processing the application. Objectors have pointed out such errors at intervals but have had no response. Maybe expensive legal advice has finally brought this home. Or maybe officers will continue to use error-strewn arguments and careless mis-reading of drawings and reports as they attempt to weaken your resolve. How can we ever know?

So, my questions to officers are -

1. As 'statutory parties' to an appeal, objectors should have been informed of its 'Start Date'. That has not happened. The PINS website shows no appeal relating to this application. There is therefore currently no appeal. In these circumstances, please will you withdraw items 10 and 11 from today's agenda. It is wrong to discuss an appeal that does not exist.
2. Please will you confirm that **all** additional costs incurred by this Council in processing this application have been and will be clearly identifiable (as soon as they are known) within the payment statements published by Mid Devon? If there are other costs or gains that have not been published, please publish them straight away.
3. Will you please give a clear, unambiguous and direct assurance to public and press that 'Three Rivers Development', a 'wholly owned company of Mid Devon District Council' has never and will never be involved in any aspect of the development of the Higher Town site.
4. If it is agreed that any part of the discussion of agenda Item 11 must take place without the press or public being in attendance, please will you ensure that the minutes of the meeting record the substance of those discussions as well as any decisions arising from them?
5. Comments made by the Highway Authority officer to this Committee on 31 July bring questions of direct harm to designated heritage assets into play with new force. This, in turn, would affect the 'tilted balance' in this application through paragraph 11 and footnote 6 of the Framework. Would Mrs Tebbey be prepared to meet me to discuss this matter along with those Members and other persons who are now acting for the Council in any potential appeal? After all, surely we are all now working together to defend this Council's decision to refuse planning permission?

Peter Dumble addressing items 10 and 11 on the agenda stated: councillors I hope you as angry, puzzled and concerned as I and many others are in Sampford Peverell at the extraordinary inclusion of items 10 and 11 on the agenda. We have of course no idea why or what information officers are asking you to discuss in secrecy and behind closed doors. And not knowing the process being followed here I am assuming, perhaps wrongly, that all councillors have already had sight of the 95 pages of redacted material. How you would decide the public interest otherwise escapes me. And if you haven't seen the whole document I urge you to postpone this item for another day to allow you time to do so. Perhaps you could confirm if you have seen it or not? Forgive us for suspecting that the resolution in item 10 is more to do with a cover up of embarrassment surrounding financial and legal arrangements. I will say that again, cover up of embarrassment surrounding financial and legal arrangements and errors made in the process which Mr Byron has pointed out, there are many. Are the chickens coming home to roost or is pressure being applied to water down your grounds for approval at appeal. So whatever the reasons, councillors all we can ask today is that you robustly challenge and scrutinise the real need for confidentiality so that you can make an informed judgement on whether the public interest is truly being served or if the motion is simply and inappropriately being used to circumvent and hide inconvenient and embarrassing truths. We have learnt to respect this committees judgement over the last 2 years and today more than ever we need you to do your job forensically and as well as you can. Councillors this is a serious moment and the reputation and integrity of our Council is in your hands.

The Chairman indicated that the answers to questions with regard to the Silverdale application would be provided when the item was debated, however as Item 11 was a Part II report, the Head of Planning, Economy and Regeneration would provide answers at this point in proceedings.

The Head of Planning, Economy and Regeneration referring to Mr Byrom's questions stated that a letter had been received from the Inspectorate on 9 October with regard to an appeal, however the appeal was not yet live as further documentation had been requested. Notification to interested parties did not take place until the appeal was deemed live. With regard to additional costs, we would not normally separate out spend against general consultancy or legal consultancy budget lines by project in our financial reporting to Committees. With regard to the involvement of 3 Rivers Development Limited with the site, She was not aware of any involvement by that company to date, but could not give assurances on who develops any site that gains planning consent; with regard to the minutes, the minutes would be provided within the limitations of Local Government Act 1972.

The Group Manager for Legal Services and Monitoring Officer stated that with regard to a meeting, she would respond in writing to Mr Byrom, she reiterated that the appeal had been lodged but not validated.

Referring to Mr Dumble's question regarding whether the committee had been sent all the paperwork, the Head of Planning, Economy and Regeneration confirmed that they had.

Lisa Broom referring to item 1 on the plans list stated: I would like to question the inaccurate and flawed traffic statement provided by the applicant. I live at the junction of Tiverton Road and Upexe Road which Highways have rightly stated is substandard. It is jammed on a daily basis with cars, HGV's and tractors due to it being very narrow. The proposed development will make far more than the 9 peak journeys as stated and is also not taking into account any provision of safety for pedestrians, cyclists and wheelchair users. The site is not a suitable location for provision of accessible affordable housing due to the substandard access to the village. Section 106 mitigation does not address these issues. It is also important to note there are currently 20 family homes for sale in Silverton which include 5 new build homes in the centre which have been unsold for a year. The proposed development is also not supported by the Neighbourhood Plan or Local Plan, the site if on time for submission would not have been considered by the community. A small scale development is preferred at various sites. It appears that the planning officer has also been misled by Mr King Smith of Stags Planning on this so in summary I urge the committee to refuse the application as it stands.

Mrs Nova Odgers speaking about item 1 on the plans list asked: I would like to know the motivation for this development because as the previous speaker said there are many houses in the village that are up for sale and are hard to sell. So I wonder why the developer thought that there would be a need for more houses, perhaps the low cost element comes into play but we have so many terraced cottages in the village that you would consider to be at the bottom end I wonder what the need is?

Ross Clements referring to item 1 on the plans list stated: my concerns would be about the 9 vehicle figure that has been published, I don't believe that those figures are accurate to support a 20 house proposal. Currently there are 6 houses within the Exe View development and at peak hours they produce 10 vehicles leaving so multiply that and I think it will substantially more than the 9. Secondly I would like to bring to your attention that as a resident of Exe View we have 2 parking spaces for visitors, if the development goes ahead it looks like we will lose those and I would like to know what provisions are in place to keep our small green area that children play football on and also what will happen to our parking for guests.

John Foster in relation to item 1 on the plans list asked my concern is on page 20 it mentions it's only going to produce 30 secondary pupils and 5 primary pupils I don't know where they get this calculation from because if you put in 20 family type dwellings surely on just pure chance it's going to produce 20 children so if they are saying it's going to produce 5 and then they say they are going to produce so much money how are they actually working out how many children this development is producing. Also I would like to ask that in future there will be, from what we understand, the developer will then be asking to put more housing on the same area and if he goes for another 20 that that now produces another 20 pupils for the local schools which are overstretched as it is so how do they work out how many children are going to be produced by 20 family houses?

Patrick Grimes speaking on item 1 of the plans list stated I would like to make you aware that the site is actually up on the hill when they say you can't be seen you can actually see Haldon Hill, Dartmoor, Blackdown Hills crossing nearly into Dorset and nearly up into Somerset and also taking into consideration it's on the side of the Exe Valley which was being looked at to be an ANOB is this the sort of ribbon development that we really need?

## 66 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

Cllr C J Eginton made a declaration in accordance with the Protocol of Good Practice for Councillors dealing in Planning Matters as he had been in discussions with the Chawleigh Parish Council and some of the objectors with regard to item 2 on the plans list – Belle Vue, Chawleigh.

## 67 **MINUTES OF THE PREVIOUS MEETING (00-22-56)**

The minutes of the meeting held on 25 September 2019 were approved as a correct record and signed by the Chairman.

## 68 **CHAIRMAN'S ANNOUNCEMENTS (00-23-14)**

The Chairman informed the meeting that a temporary Group Manager for Development (Maria Bailey) would be starting shortly.

## 69 **DEFERRALS FROM THE PLANS LIST (00-24-16)**

The Chairman informed the meeting that Item 3 on the Plans List (Gibbet Moor) had been deferred to allow for further work on the application to take place.

## 70 **THE PLANS LIST**

The Committee considered the applications in the plans list \*.

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

a) No 1 on the Plans List (***18/02019/MOUT – outline for the erection of up to 20 dwellings and associated access – land at NGR 295508 1063228 (Silverdale), Silverton.***)

The Area Team Leader outlined the contents of the report by way of presentation highlighting the site location plan and the details of the access, all other matters would be reserved for future consideration. She provided an indicative layout of the site, the potential location of the hedgebank, potential drainage strategy solutions, a plan of the proposed access and photographs from various aspects of the site. She informed those present of the additional information available in the update sheet and confirmed that the land in question was agricultural land but that this did not change the recommendation.

Responding to questions posed in public question time, she provided the following answers:

- With regard to the field in question and that it was a social meeting place, it was her understanding that no public access to the land had been agreed.
- With regard to the Neighbourhood Plan and whether the proposal was in accordance with this document, she stated that the Neighbourhood Plan was still in draft and therefore had no weight in decision-making at the present time.

- With regard to the flow of traffic through the village, the Transport Statement was clear and the Highway Authority had found it to be acceptable and that it did not demonstrate an unsatisfactory impact on the highway network.
- With regard to the motivation for development and whether there was a need, she stated that she could not comment on the motivation for the application but that there was a need for housing nationally.
- With regard to the number of movements outlined in the Transport Strategy, the visitors parking spaces in Exe View and the green area where children played, this was already mentioned within the Transport Strategy, the 2 visitors would be replaced within the development, there was no formal green space in Exe View and the children had been playing on a shared area.
- With regard to the number of school places, the calculation was based on Devon County Council advice, these calculations had been tried and tested.
- With regard to the site being on a hill and that this could be classed as ribbon development, the application was on rising land on a hill but it was not considered to have a significant adverse impact on the surrounding area.

Consideration was given to:

- The proposed 35% affordable housing within the scheme
- The width of the road network in the area surrounding the proposed development
- The fact that the site was not allocated within the adopted Local Plan or the emerging Local Plan Review and the use of the tilted balance within the NPPF
- The details and reasons for conditions 8 and 9
- The views of the objector with regard to: the number of residents present objecting to the application, the emerging policies within the Local Plan Review and the amount of housing land supply available, the site was outside the settlement limit of Silverton and not mentioned in the Local Plan Review, the application was contrary to Policies COR 17 and 18, the application would affect the privacy of the residents and was not an asset to the area, the streets around the site were narrow and that traffic had to use the pavements at times to pass, the Highway Authority were only concerned with Fore Street and High Street. The proposal was contrary to policy. Over 30 dwellings had been built in Silverton, 2 applications had not been built out and 50 houses were for sale in the village.
- The views of the agent with regard to the use of the tilted balance within the NPPF, the site was well located, he referred to the Meadow Park appeal at Willand, the amount of proposed affordable housing on the site and the need for affordable housing locally, the site was away from the conservation areas and the historic assets of the village. He confirmed that there was no public access to the site.
- The Chairman read a letter on behalf of the Ward Member which highlighted his reasons for the call-in and his views on the impact of development on the immediate residents, the prominent hill site, the visual impact, that the development was out of keeping in the rural area and the fears of future development on the site, concerns regarding traffic and the narrowness of the high street, Tiverton Road and Silverdale parking issues, the impact of the development on local market housing and the amount of housing which remained unsold and whether Mid Devon required new housing.
- The development being outside of the settlement limit



- The fact that the authority had 7.43 years of housing land supply and the imminence of the Local Plan Review adoption and what weight should be given to the Local Plan Review
- The tilted balance within the NPPF and the outdated housing policies

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 proposed reasons for refusal, that of:

- The Local Plan Review is at an advanced stage and neither the adopted Local Plan nor Local Plan Review allocate this site which lies outside of the settlement limits of Silverton for housing development.
- The Council considers that it is able to demonstrate a 7.43 year housing land supply without the development site and there is no need for this further housing.
- The development would have an unacceptable visual impact.
- Unacceptable harm would arise as a result of the proposed access arrangements and traffic generation arising from the development.
- If granted the development would have an unacceptable cumulative impact with other housing granted in the village.

(Proposed by Cllr B A Moore and seconded by Cllr Mrs C A Collis.)

Notes:

- i) Mrs Campbell spoke in objection to the application;
- ii) Mr King-Smith (Agent) spoke;
- iii) The Chairman read a statement on behalf of the Ward Member;
- iv) A proposal to grant permission was not supported;
- v) The following late information was provided:

Correction p25 Draft Silverton Neighbourhood Plan- once adopted it will become part of the Development Plan, not a Supplementary Planning Document.

Material considerations section 1, principle of development, planning policy and 5 year housing supply, paragraph 12, sentence 3 is incorrect. It should state:

“At the time of writing this report, the Planning Inspector has not raised any objection to the residential development allocations proposed in Silverton. However, the new strategic housing policies in the emerging Local Plan Review have not been determined as acceptable and therefore cannot be given any weight in the determination of this specific application.

Material considerations section 5 Landscape and ecology, paragraph 7, line 6, is incorrect, it should state that "...external lighting should not be positioned to illuminate retained vegetation and areas beyond the survey area"

A further letter of objection has been received and has been summarised:

Report does not have regard to or robustly justify the principle of 20 dwellings beyond the settlement limit of Silverton;

Approval would be contrary to adopted and emerging planning policies;

The Council can demonstrate a 7.43 year housing land supply and this should be given weight against approval of new homes in the open countryside as sufficient land identified in more appropriate locations;

Relevant emerging policies must therefore be given some weight in the determination of the application and they have not been given any weight in the tilted balance;

Not supported by emerging planning policies;

Emerging policy S14 should be given weight in the tilted balance;

Development would have an adverse visual impact, adverse impact on amenity, adverse impact on traffic and result in the loss of agricultural land.

**b) No 2 on the Plans List (19/00718/MOUT – Outline for the erection of 26 dwellings – land at NGR 270904 112818 (The Barton), Belle Vue, Chawleigh ).**

The Head of Planning, Economy and Regeneration outlined the contents of the report by way of presentation highlighting the site location plan and the details of the access, all other matters would be reserved for future consideration. She provided an indicative layout which included landscaping to be considered under reserved matters and provided photographs which identified the access and views from various aspects of the site. She provided an update with regard to a correction to page 57 of the report and that the recommendation would also include a further S106 requirement for 5% self-build on serviced plots. She explained that the application was different to that previously discussed in that this was a proposed site (for 20 dwellings) within the emerging Local Plan Review and the amount of weight which could be given to emerging Local Plan

The main issue for members was the application for 26 dwellings and whether there was harm in the additional 6 against the 20 proposed within the allocation.

Consideration was given to:

- The detail of the application and the number of dwellings proposed
- The access to the site and the views of the Highway Authority
- The allocation within the emerging Local Plan and the amount of affordable housing proposed
- The views of the agent with regard to the housing need, the allocation and the fact that development on the site was acceptable, the increase in dwellings would improve the number of affordable housing, there was no objection from the Lead Local Flood Authority of the Highways Authority



- The views of the Chairman of Chawleigh Parish Council with regard to the limited land for development, the allocation within the emerging Local Plan, the views of the Parish Council and the need for any affordable housing to be non distinguishable from market housing, the additional traffic from 6 more dwellings, potential drainage and flooding issues and the narrowness of School Lane.
- The views of the Ward Member with regard to the amount of dwellings within the allocation in the emerging Local Plan and the application for 26 dwellings and the initial thoughts of the Highway Authority in May 2019
- The reasoning behind the recommendation for 20 dwellings within the allocation
- Whether a reduction in the number of dwellings could be negotiated

It was therefore:

**RESOLVED** that: the application be deferred to allow officers to negotiate with the developer with a view to reducing the number of dwellings on the site to 20 in total.

(Proposed by Cllr S J Clist and seconded by Cllr B G J Warren)

Notes:

- i) Cllr C J Eginton made declaration in accordance with the Protocol of Good Practice for Councillors in dealing with Planning Matters as he had been involved in discussions with the Parish Council and objectors to the application
- ii) Mr King-Smith (Agent) spoke;
- iii) Cllr Godley (Chairman of Chawleigh Parish Council) spoke
- iv) Cllr C J Eginton spoke as Ward Member;
- v) A proposal to approve the application was not supported;
- vi) The following late information was provided: Correction p57 Main modifications to the Local Plan Review will (subject to future decisions of Cabinet and Council) be subject to public consultation. The consultation has not yet started.

Recommendation to also include a further S106 requirement:  
5% self build as serviced plots.

- c) No 3 on the Plans List ***(18/01711/MOUT – Formation of an open clamp (4630m2) for the storage of silage and provision of new access – land and buildings at NGR 288069 117081 (Gibbet Moor Farm) Rackenford).***

This item had been deferred as indicated in minute 69.

- d) No 4 on the Plans List ***(19/01396/TPO – Application to fell 1 oak tree protected by Tree Preservation Order 02/00006/TPO – land at NGR 296476 113635 (adjacent to 3 St Johns Close), Redvers Way, Tiverton***

The Area Team Leader outlined the contents of the report by way of presentation highlighting the location of the tree and the fact that it was growing out of the hedgerow (which was protected) and was not a very good specimen nor worthy of a TPO.

Consideration was given to: the oak trees in the area and that the oak in question had grown from within the hedgeline.

It was therefore:

**RESOLVED** that: the application be granted subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr D J Knowles and seconded by Cllr B A Moore)

#### 71 MAJOR APPLICATIONS WITH NO DECISION (2-12-55)

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

It was **AGREED** that:

Application 19/01679/MFUL (Ground Mounted Solar PV Array, Langford) be brought before committee for determination and that a site visit take place.

Application 19/01592/MOUT (Phase 2 of the north west Cullompton Urban Extension) be brought before committee for determination and that a site visit take place.

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

#### 72 APPEAL DECISIONS (2-15-32)

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 Minutes.

#### 73 ACCESS TO INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC (2-17-00)

Prior to considering the following item on the agenda, discussion took place as to whether it was necessary to pass the following resolution to exclude the press and public having reflected on Article 15 15.02(d) (a presumption in favour of openness) of the Constitution.

It was therefore:

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 and 5 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information) and

paragraph 5, information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(Proposed by the Chairman)

**74 APPEAL - APPLICATION 17/01359/MOUT - OUTLINE FOR THE ERECTION OF 60 DWELLINGS AND CONSTRUCTION OF NEW VEHICULAR ACCESS ONTO HIGHWAY TO THE WEST OF THE SITE - LAND AND BUILDINGS AT NGR 302469 114078, HIGHER TOWN, SAMPFORD PEVERELL**

The Committee had before it a \*report of the Group Manager for Legal Services and Monitoring Officer.

Members considered the report before them and discussed the way forward with regard to the forthcoming appeal.

Note: \*Report previously circulated.

(The meeting ended at 6.30 pm)

**CHAIRMAN**