

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 17 June 2020 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
E J Berry, L J Cruwys, S J Clist,
Mrs C P Daw, R J Dolley, F W Letch,
D J Knowles, S J Penny, R F Radford and
B G J Warren

Also Present

Councillor(s)

R Evans, B A Moore and R L Stanley

Present

Officers:

Kathryn Tebbey (Head of Legal (Monitoring Officer)), Eileen Paterson (Group Manager for Development), Lucy Hodgson (Area Team Leader), Oliver Dorrell (Planning Officer), John Millar (Principal Planning Officer) and Carole Oliphant (Member Services Officer)

15 **VIRTUAL MEETING PROTOCOL (00.04.37)**

The Committee had before it, and **NOTED**, the *'Protocol for Remote Meetings.

Note: *'Protocol for Remote Meetings' previously circulated and attached to the minutes.

16 **APOLOGIES AND SUBSTITUTE MEMBERS (00.04.54)**

There were no apologies or substitute members.

17 **PUBLIC QUESTION TIME (00.05.28)**

Mr Payne referring to item 3 on the plans list stated he would like to ask some questions in regard to the silage clamp application at Gibbet Moor:

- Are the members of the committee aware that the proposal is an industrial development, not an agricultural development as your officers seem to believe?
- Are the members of the committee aware that this proposal would remove nearly 2sq miles of land in North and Mid Devon from agricultural production?
- Are the members of the committee aware that the transport implications of the proposal are far worse than stated in the transport assessment because the transport statement only tells half the story?

- Are the members of the committee aware that the massive lorries taking the silage to Willand will be returning with liquid digestate that is spread on the land to which the grass has been harvested and will therefore be travelling along many local lanes?
- Are the members of the committee aware that the Highways authority have completely ignored the transport of silage and digestate using massive lorries along single track lanes along the proposed silage clamps and the farms supplying the silage?
- Are the members of the committee aware that your officers statement that 'The development is not considered to result in an unacceptable increase in traffic upon the local road network'. This is clearly wrong
- The application site is on the border with North Devon. In November 2018 North Devon District Council were consulted and they stated they considered the application to be for an industrial not an agricultural facility.
- The transport assessment which was issued in July 2019 show that most of the silage will be coming from farms in North Devon and therefore most of the transport issues will effect North Devon. Yet North Devon District Council does not seem to have been consulted since 2018. What happened to the 'Duty to Cooperate' between the neighbouring planning authorities?
- Will the existing field clamps at Gibbet Moor Farm continue to be used which will mean a doubling of the storage from 20,000 to 40,000 tonnes and a doubling of traffic?
- How will the Council stop the continued use of the field clamps?
- Since the traffic implications are a major cause for concern with this application why is there no conditions specifying the type and size of vehicles which can be used to transport the silage?
- Why is there no condition specifying the times by which the silage can be moved into and out of the proposed silage clamps?

18 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00.09.13)**

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

19 **MINUTES OF THE PREVIOUS MEETING (00.09.22)**

The minutes of the meeting held on 20th May 2020 were agreed as a true record.

20 **CHAIRMAN'S ANNOUNCEMENTS (00.11.31)**

The Chairman had no announcements to make.

21 **DEFERRALS FROM THE PLANS LIST (00.11.53)**

There were no deferrals from the Plans list.

22 **THE PLANS LIST (00.12.00)**

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 (20/00111/FULL - Variation of condition (2) of planning permission 16/01007/FULL to allow the holiday lodge to be used as a permanent dwelling. Gilberts Lodge, Morebath, Tiverton)**
be approved as recommended by Head of Planning, Economy and Regeneration

(Proposed by the Chairman)

Notes:

- i) Cllr B A Moore declared a personal interest as the application was under his ownership and duly left the meeting for the entirety of the item;
ii) The following late information was provided:

Members will have noted that the recommendation of approval is made subject to the prior payment of a contribution towards Public Open Space, and the signing of an accompanying Unilateral Planning Obligation, or the completion of a Section 106 to cover this planning obligation, in accordance with the requirements of Local Plan policy AL/IN/3. It is confirmed that the required contribution has been paid and signed Deed returned. As such no further action is required in this respect should members resolve to grant planning permission

- b) **19/01862/FULL - (Change of use of farm buildings to mixed B1/A2/B8 use and retention of external works. Land and Buildings at NGR 299326 114323, Bradford Farm, Uplowman)**

The Principal Planning Officer explained that the committee had previously considered the application in February and had requested the Planning Working Group to visit in March to consider the following:

- The location, condition and proposal in relation to the portakabin/container
- The entrance and visibility from the public highway
- The surface of the entrance and the car park
- The relationship between the car park and the effect on the adjoining property in relation to noise and visual impact

The Officer outlined the contents of the report by way of a presentation highlighting the car park at the rear of the site, access points and elevations. He explained that the main concerns of the working group were of highway safety, the effect of the development on the neighbouring property and access into the site.

He explained that the Highway Authority had no objections to the development and that the applicant had agreed to a condition of installing an acoustic surface on the car park or fencing to shield the neighbouring property from headlights but that this had not been required by Environmental Health.

Consideration was given to:

- The previous applications and the changes made within the current application
- The traffic flows and the highway issues with the cumulative impact on other developments in the area
- The views of the objector with regard to: the proposal not being in an appropriate location, road safety issues and the change of advice by the previous Highways officer, the legal right to erect a fence, the fence negated all visibility to the east, the narrowness of the access track, the application was equal to the development of 10 houses with regard to vehicle movement, the visibility splays, the car park would have a detrimental effect on the amenity of the neighbouring property and whether there was a proven need for the office accommodation.
- The views of the agent with regard to the length of time it had taken to consider the application, repeated challenges had been met by the applicant, there had been no objection from Environmental Health or the Highway Authority, the application should be dealt with in accordance with policy, the erection of the fence, the application did include parking in the courtyard but this would be for electric cars (as there was a charging point) and disability access, concerns with regard to storage of common agricultural sprays.
- The views of the Ward Member with regard to the siting of the shipping container and whether the proposed cladding would make it a bigger obstruction to views from the neighbouring property, the siting of the car park and the impact on the neighbouring property, the conflict of opinion with regard to highways issues, vehicular movements to and from the site, the times the beekeepers would be visiting the site and a request that any condition require a fence and a silent surface.
- The size of the application and that the works already completed did not require planning permission
- The change of use was to B1/B8 and did not include A2
- The prospect of a fence at the entrance to the neighbouring property had been considered by the Highways Authority and was within expectations and did not require an additional survey
- The independent traffic report commissioned by the objector
- The condition for a solid surface in the car park or installation of fencing

It was therefore:

RESOLVED that:

Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal that of

- The application was not in line with Policy DM20 as Members felt that this was not an existing business

- The application was contrary to Policies DM11 and DM20 as Members felt that it was not a conversion of redundant buildings and there was no evidence of insufficient alternative sites in the area
- Construction of the car park was not in accordance with policy and the conversion would not be policy compliant
- The harmful effect on the amenity to the neighbour due to the dust from the chippings in the car park and the height of the proposed fence which would block out light to the windows
- That condition 8 should include both a silent car park surface and the height of the fence

(Proposed by Cllr B G J Warren and seconded by Cllr R F Radford)

Notes:

- i) Cllr B G J Warren declared an interest in accordance with Protocol of Good Practice for Councillors dealing with planning matters as he had had communication from the objector;
- ii) Cllrs R J Dolley, D J Knowles and R F Radford declared personal interests as they knew the objector;
- iii) Cllr L J Cruwys declared an interest in accordance Protocol and Good Practice for Councillors dealing with planning matters as he had spoken to the applicant;
- iv) Cllr S J Clist declared a personal interest as he knew the applicant;
- v) Mr Blackmore spoke as the objector;
- vi) Mr Firth (agent) spoke;
- vii) Cllr C Slade spoke as Ward Member;
- viii) Cllr E J Berry did not participate in the debate or vote in line with the Protocol of Good Practice for Councillors dealing in planning matters, due to a loss of internet connection part way through the presentation of the application and discussion thereon;
- ix) The following information was provided in the update sheet:
 1. Could Members please note that there is a typo on page 32 of the officer's report. Instead of reading "due to the close proximity of the two sites, and the presence of similar gravel drive and parking areas present at this adjoining property, it is not considered that the car park works adequately respect the character of the surrounding area, without harming the rural context", the 'not' should be omitted so the line reads as "due to the close proximity of the two sites, and the presence of similar gravel drive and parking areas present at this adjoining property, it is considered that the car park works adequately respect the character of the surrounding area, without harming the rural context." This was pointed out in the

updates for the previous meeting on 11th March 2020, however was not corrected in this latest committee report.

2. Members will have noted in the 'parking and access' section of the officer's report that since the Planning Working Group Site visit, the neighbouring landowner had raised further concerns over visibility to the east, as this crossed over land in their ownership, and unregistered land outside of the control of the applicant. In response the Highway Authority raised concerns, however were ultimately satisfied with the proposal from a highway safety point of view, following the submission of estimated vehicle movements should the extant agricultural use be recommenced. This was the position at the time of completing the committee report.

Since the completion of the committee report however, the neighbouring landowner, and his agent, have commented further on this matter. In particular it is advised that no commercial agricultural use has taken place since at least 2012, and that the prospect of the number of vehicle movements identified by the applicant occurring is unrealistic. It is also considered that the number of movements associated with the proposed use would be more than suggested in the applicant's submission. Concerns still remain in respect to visibility too. The neighbouring landowner has since commissioned a highway consultant to review the highway matters. In response they have submitted a technical statement, reiterating the concerns that the estimation of vehicle movements associated with an agricultural use is too high, and that those associated with the proposed use is too low. The technical statement suggests the daily vehicle movements would likely be approximately 17 (maximum) for an agricultural use with a more realistic estimation being between 10-16 movements, assuming that some traffic would be directed through other site entrances. Daily trips of 63 and 66 for the proposed business use are suggested. Further analysis is also given in respect to the access, with concerns raised about the levels of visibility accepted by the Highway Authority, noting in particular the potential for the adjoining landowner to obstruct visibility on land within their ownership, and surveyed speeds along the adjoining stretch of road.

In response, the Highway Authority have advised that based on the TRICS data parameters, the total daily trips created by the proposed use would be 18 trips. They have advised that if a pragmatic view was taken and that the lower figure of 10-16 trips suggested in the technical statement was accepted, this would only amount to 2 extra trips, which would not be considered to have a severe impact on the highway network. Further responses have been received in respect to the latest Highway Authority comments, however the Highway Officer has again confirmed that the impact of the proposed use would not be significantly greater than the extant use so as to have a severe impact on highway safety. As such, no objection is raised on highway safety grounds. It is further confirmed that the Highway Officer has fully considered the implications of the neighbouring landowner obstructing visibility within their own land, including noting the potential to seek possession of the unregistered land. The Highway Officer has also confirmed that they would not be able to defend a reason for refusal on highway grounds at appeal. For information,

it has since been noted that the adjoining landowner has proceeded to erect a fence adjacent to the access, in the last few days.

c) 19/01430/FULL – (Erection of an office building and change of use of land from agriculture to groundworks depot. Land at NGR 286163 123831, (Highfield Farm), Oakford).

The Planning Officer outlined the contents of the report by way of a presentation highlighting the location and topography of the site, the block plans, floor plans, proposed elevations, external finishes, lower yard area and office building access lane.

Consideration was given to:

- The views of the objector with regard to the history of the site, the industrial site in the countryside, the expansion of the site without application, no conditions had been applied to the site, the impact on the local residents, the noise on the site which had been reported to the Environmental Health Department, no restriction of working hours on the site and the noisy and heavy industrial process that were taking place
- The views of the applicant with regard to the proposal to regularise the use, the business had moved internally within the site, there would be no increase in traffic or noise, the business was a transitional business in nature, 90% of materials went straight to locations where work was taking place and the lack of objections from statutory authorities
- The views of the Ward Member with regard to the reasons for the call in, the impact of the application on local residents, the location of the application site which was 6 miles away from Bampton, the location was in remote heartland farming country, there were 8 businesses on the site, the application was not in accordance with Policy COR 18, whether enough research had taken place with regard to alternative sites in the area and the impact of the application on the local amenity
- Changes to condition 4 which limited use to Class B1(a) or Class B 1 (b) which prevented any change to residential use
- Changes to condition 6 which restricted external lighting

It was therefore:

RESOLVED that:

Members were minded to refuse the application and therefore wished to defer the application for an implications report to consider the proposed reasons for refusal that of

- Number of developments in the area
- Suitability of this particular business in this particular area
- Impact of noise on site and the number of hours worked

(Proposed by Cllr F W Letch and seconded by Cllr L J Cruwys)

Note:

- i) Mrs Hickman spoke as the objector;
- ii) Mr Friend spoke as the applicant;
- iii) Cllr B A Moore spoke as Ward Member;
- iv) The following late information was provided:

Additional Condition

Details of the proposed hydro-brake to serve the surface water drainage system of the development hereby approved shall be submitted to the Local Planning Authority within one month of the date of this permission. On approval of these details the hydro brake shall be installed and the surface water drainage system fully operational within two months of the date of the approval by the Local Planning Authority.

Reason:

To ensure that the surface water discharging from the site is satisfactorily drained, in accordance with policy DM2 of the Mid Devon Local Plan.

Amendment to condition 3 reason

To allow the Local Planning Authority to retain control over the future use of the site, in the interests of visual and residential amenity, in accordance with policy DM2.

Condition 4 and reason amended to read:

The building hereby approved shall be used for purpose falling within Use Class B1(a) or (b) only and for no other purpose (including any other purpose in any Use Class of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), or any other use permitted under the provisions of Article 3 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification).

R: To allow the Local Planning Authority to retain control over the future use of the building in the interests of residential amenity and to protect the use of the site for employment purposes, in accordance with policies DM2 and DM21.

Condition 6 and reason amended to read:

No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority prior to its installation. Any external lighting that is installed shall accord with the details so approved.

R: In the interests of visual and residential amenity and to safeguard biodiversity, in accordance with policies COR2, DM2 and DM20

d) 18/01711/MFUL – (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)

The Area Team Leader outlined the contents of the report by way of a presentation which detailed the site location, proposed application, the location of the proposed silage clamps, the new access and concrete standing. She explained that an additional condition had been proposed to limit the height of the stored silage to 3m.

The officer then addressed the questions raised at public question time by a member of the public:

- The storage of silage on agricultural land is considered to be agricultural development and not an industrial development
- The size of the clamp was considerably less than 2sq miles
- A transport assessment was submitted with the application and that was reviewed by the Highways Authority and they have had opportunities to comment and they have raised no objections to the application
- With regards to the Highways assessment of the traffic to and from the site, all the evidence was provided to them in respect of the application
- The traffic part in the officers report quotes DM22 and states that development will be permitted where it will not have an unacceptable traffic impact on the local road network. This is a policy quote and reflect the wording in the Local Plan Policy
- North Devon District Council were consulted in July and November 2019 but no response was received
- Mid Devon District Council initially classed the proposal as industrial but this was reassessed and classed as agricultural development.
- There would be no planning restriction on providing field clamps for silage on this or any other land as a result of this application. There was some control on the creation of new clamps under other legislation beyond planning legislation
- The Planning application states that once the proposed open clamp was installed there would be no need for additional field clamps
- The Highways Authority would have advised the local planning authority if there was a need to control the type or size of vehicles using the site but have not done so
- Public Health did not raise any concerns with regard to the times of use of the site and we are not aware of any justification for that restriction at this time

Discussion took place with regard to:

- The highways report and the details of any legal advice
- The capacity of the existing field clamps and the proposed clamp
- The impact of heavy lorries on the local road network
- The attenuation areas for surface water
- The impact of the application on local water courses
- Legislation with regard to any pollution of water courses

- Government Guidance with regard to the purposes of agriculture
- The capacity of the attenuation tanks
- Travelling between sites
- Whether members had all the necessary information to consider the application
- The view of the objector with regard to the application not being agricultural but an industrial facility to feed the Willand AD plant, the distance to source grass for the clamps, the details of the Transport Assessment, the application did not satisfy policy DM22 and that the digestate from the AD plant would be returned to the fields
- The views of the local Ward member with regard to the transport assessment, industrial development, pollution, transport impact on the local road network, the concerns of local parish councils, the traffic arising from GFL sites and the concerns with regard to the calculations within the report.

It was therefore:

RESOLVED that:

A decision be deferred for a report to be received to address Members questions with regard to:

- Where was the legal advice sought from as stated on 4th February 2020
- Which NPPF was referred to under paragraphs 170 and 171 under Principle of Development
- What was the combined capacity of the existing field clamps and the proposed permanent clamp and the effect on traffic movements if they were both in operation
- Where does the Town and Country Planning Act define open clamps for the storage of silage as agricultural
- Are the size of the attenuation ponds sufficient for the run off water for both the silage coverings and the concrete hardstanding and is the drainage considered adequate for this site
- Had the climate change issue been addressed with the amount of proposed vehicle movements
- Had the public concerns that this is not an agricultural facility but an industrial one been addressed
- Had the Ward Members concerns with regard to the pollution and transport impact on the local area been addressed

(Proposed by the Chairman)

Notes:

- i) Cllr B G J Warren declared an interest in accordance with Protocol and Good Practice for Councillors dealing with planning matters as he had had communication from the objector and a personal interest as he was Chairman of Willand Parish Council;
- ii) Cllrs R J Dolley, D J Knowles and R F Radford and R J Stanley declared a personal interest as they knew the objector;

- iii) Cllr Mrs P J Colthorpe declared an interest in accordance with Protocol and Good Practice for Councillors dealing with planning matters as the site was in her County Ward and a personal interest as she knew the applicant;
- iv) Dr Phillip Bratby spoke as objector;
- v) Mr Waite spoken on behalf of the applicant;
- vi) Cllr R J Stanley spoke as Ward Member;
- vii) Cllrs B G J Warren and E J Berry request that their vote against the decision be recorded.

23 **APPEAL DECISIONS (03.34.40)**

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 and attached to the minutes.

(The meeting ended at 5.53 pm)

CHAIRMAN