

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **COUNCIL** held on 29 July 2020 at 6.00 pm

Present

Councillors

L J Cruwys (Chairman)
G Barnell, E J Berry, J Cairney,
R J Chesterton, S J Clist, Mrs C Collis,
Mrs F J Colthorpe, D R Coren, N V Davey,
Mrs C P Daw, R M Deed, R J Dolley,
J M Downes, C J Eginton, R Evans,
Mrs S Griggs, B Holdman, T G Hughes,
D J Knowles, F W Letch, B A Moore,
Miss J Norton, D F Pugsley, R F Radford,
C R Slade, Mrs M E Squires, R L Stanley,
L D Taylor, Ms E J Wainwright,
B G J Warren, A White, A Wilce,
Mrs N Woollatt and A Wyer

Apologies

Councillors

Mrs E M Andrews, S J Penny and J Wright

33 Apologies (00-08-00)

Apologies were received from Councillors: Mrs E M Andrews S J Penny and J Wright.

34 Remote Meetings Protocol (00-08-42)

The protocol for remote meetings was noted.

35 Public Question Time (00-08-57)

Mr Byrom referring to Item 6 (Local Plan Review – Inspectors Report on Adoption) on the agenda stated that: I truly hope the new Local Plan will be adopted this evening and speak in favour of Cllr Norton’s proposed amendment.

In 2016 this Council gave three promises of protection when site SP2 was allocated at the very last minute.

- It would not be developed before work began at Junction 27;
- it would not be developed before new slip roads onto the A361 were built;
- and no development would be allowed on the highest land at the site.

This Council has abandoned its first two promises. The third is in serious danger. That is why we need one further minor-modification. I gave my reasons in your Appendix A and I backed them up in the paper that I sent you last Friday.

Cllr Norton’s amendment would strengthen that third promise of protection by leaving all SP2’s highest ground as Green Infrastructure in the countryside, as is done in

nine other locations. I believe my two papers show that this is simple, lawful and necessary.

The Head of Planning and Regeneration assured Cabinet that Policy SP2 provides all the protection that is needed. You may hear this again today.

I will be frank: I do not believe those assurances. As part of an on-going appeal, an officer has already signed (but not sealed) an agreement with a would-be developer of the SP2 site. The map in that 'Section 106' agreement clearly allows development on land that both the 2013 SHLAA assessment and Policy SP2 say must remain undeveloped. The S106 agreement breaks the third promise of protection.

Members, a leading QC has suggested that Policy SP2 is a strong enough basis for reaching a section 106 agreement to protect the highest ground at the site. But was he shown how the officers who wrote Policy SP2 have already signed a S106 agreement that gives away that promised protection?

This Council meeting is not entitled to discuss the merits of the appeal. But it is entitled – and has a duty – to assure the public that the long-awaited Local Plan will be fully respected in practice. This is about trust.

So, in conclusion, I have two questions for the Head of Planning and Regeneration -

1. Will you now state unambiguously to our representatives, the Councillors, that, once the local plan is adopted, no officer will do anything in the lifetime of the plan that would allow development of the highest ground at the SP2 site? I repeat 'unambiguously' and 'no development'.
2. You have provided Councillors with the legal opinion in Appendix B. Will you now please tell them whether or not the QC had seen a copy of the Section 106 agreement that breaks Policy SP2 before he wrote that opinion?

Members, please support the change proposed by Cllr Jo Norton.

Mr Quinn referring to Item 7 (Part 2 Business – Minutes and Drafting Conventions) stated that: In this report, the Monitoring Officer confirms that some Part 2 matters are not being dealt with properly and that changes are required. However, her report only addresses one part of the problem - the poor minutes. It does not address the main cause of public dissatisfaction - which is the current practice of excluding whole reports from the public.

I understand that there are times when exempt information has to be put before Members, but at the moment this is scattered all through the reports given and it is not obvious which bits of information are exempt and which are not.

This scattering, means that reports cannot be made available to the public before the meeting and Members are forced to exclude the public from any debate.

Many Members are aware of this situation and have commented on the poor way reports are written.

The solution is to revise the way that reports are prepared in the first place. It would be much better if any exempt information was clearly identified and separated from the report. It should be put in a confidential (Part 2) Appendix. In this way Members, and the public, can be provided with reports which may be discussed in open session. The public would still be excluded from the Part 2 Appendix, and any discussion of it.

Such an approach is consistent with the legislation, which specifically allows for the exclusion of the public from the discussion of part of a report.

This new way of presenting reports would allow the Council to be more open and transparent. It would allow the public to understand the matters being discussed but still maintain the exemptions required by the legislation.

My question is: As part of your consideration tonight, in order to allow more transparency: Will Council please ask for the specific identification, and separation, of exempt information in future reports to Members?

The Chairman indicated that answers to questions posed would be considered when the items were debated.

36 Declarations of Interest under the Code of Conduct (00-15-55)

All Members present declared that they had received correspondence with regard to Item 6 (Local Plan Review – Inspector’s Report on Adoption) on the agenda.

37 Chairman’s Announcements (00-17-30)

The Chairman had the following announcements to make:

- a) This was the first meeting of the Council following the sad passing of Honorary Alderman Mrs Susan Meads. He referred to her long service as a councillor, her commitment to the residents of Mid Devon and he sent his condolences to her family.
- b) Urgent Item of Business – he had agreed to allow an urgent item of business to be considered, it was an item arising from the new Business and Planning Act 2020 which had received Royal Assent the previous week and although the Cabinet had agreed delegations for Pavement Licenses at its meeting on 9 July, a last minute change to the Bill took the function away from the Cabinet and it was therefore necessary for the delegations to be reconsidered by the Council. He proposed to take the urgent item at the conclusion of the remainder of the business that evening.

38 Local Plan Review - Inspectors Report on Adoption (00-21-11)

The Council had before it an *extract from the Cabinet meeting of 9 July 2020 with regard to the Local Plan Review.

The Chairman requested that the Head of Planning Economy and Regeneration inform the meeting of the history of the Local Plan Review. The officer stated that the process had started in 2013/14 and that the Local Authority was obliged to keep the Local Plan up to date, this was a continual process of assessing development plans.

The report before the meeting was the culmination of this process following several stages of public consultation. She outlined the role of the Planning Inspector who provided an independent examination role and considered the representations and heard directly from those interested parties at examination hearings. In December 2019, main modifications to the plan were agreed and consulted upon and then considered by the Inspector. The Inspector's main findings had been received on 26 June 2020; he had accepted the schedule of main modifications, made some minor updates and found the plan to be legally compliant. With the schedule of modifications the plan was now capable of being adopted.

Responding to questions from Mr Byrom posed in Public Question Time, the officer stated that the S106 agreement he referred to formed part of the emerging papers for the planning appeal on the site, the agreement had not been signed or sealed, although it had been signed by the landowner and the appellant. If changes were required they could still be made. With regard as to whether the QC had knowledge of the S106 agreement, the answer was no, he had not seen it, he was only commissioned to advise on whether the map could be amended. With regard to no officer doing anything in the lifetime of the plan that would allow development of the highest ground at the SP2 site, this was not an undertaking that she could give, there was no planning application that would affect that area and she didn't know if any application would be received in the future or what it might be for. If an application was received it would need to be considered on its merits. The adoption of the Local Plan and the wording of policy SP2 would be a material consideration of any such application.

Councillor Miss J Norton had submitted the following **AMENDMENT**, seconded by Councillor B G J Warren

At the end of recommendation (b), add the following words:

“save that the amended line of the settlement limit, shown by a broken black line on Plan MM45 (Appendix 10), be further amended so that, for policy SP2 it runs along the line of division between the proposed Green Infrastructure and the Proposed Residential (as illustrated by Figure 4 in Appendix A (page 28), thus placing the entirety of the Green Infrastructure outside the settlement limit of Sampford Peverell.”

Consideration was given to:

- A presentation slide which identified the original settlement limit boundary and that proposed by the amendment
- Members' views with regard to the need for the green infrastructure to be in the countryside and not within the settlement limit so that the land could be protected
- The opinion of Counsel with regard to amending the map and that the inspector had been informed of the amendment. The view of both being that the map could be amended without the need to amend policy SP2 or the text
- That the amendment would not delay the adoption of the plan.
- The amendment gave assurance to local residents that the green infrastructure would remain as such
- By moving the settlement limit line on the map this would be consistent with other green infrastructure areas in the district

- An error in Counsel's advice in that he had not incorporated main modification 42 in his advice

Upon a vote being taken the **AMENDMENT** was declared to have been **CARRIED**.

Further consideration was then given to the rest of the plan:

- The enormous amount of work and effort required to produce the plan as a whole
- The opportunities made available for public involvement in the plan
- The need to look forward towards the creation of a subsequent plan which considered green policies which matched the council's desires with regard to climate change
- The importance of having an adopted plan

Councillor G Barnell **MOVED** the **SUBSTANTIVE MOTION**, this was seconded by Councillor Mrs C P Daw: **THAT:**

(a) The Council adopts the Mid Devon Local Plan Review 2013 – 2033 (Appendix 1), under Regulations 26 and 35 of the Town and Country (Local Planning)(England) Regulations 2012, including main modifications pursuant to section 23 of the Planning and Compulsory Purchase Act 2004 confirmed by the Inspector in his report (Appendix 3), and the Council's additional (minor) modifications (Appendix 4).

(b) The Council adopts the Mid Devon Local Plan Review 2013 – 2033 Policies Map (Appendix 2) together with any changes needed to this through the Inspector's main modifications in his report (Appendix 3) including Plan MM35 (Appendix 9), Plan MM45 (Appendix 10) and the Council's additional (minor) modifications (Appendix 4) as described in Section 6 to this report, **save that the amended line of the settlement limit, shown by a broken black line on Plan MM45 (Appendix 10), be further amended so that , for policy SP2 it runs along the line of division between the proposed Green Infrastructure and the Proposed Residential (as illustrated by Figure 4 in Appendix A (page 28)), thus placing the entirety of the Green Infrastructure outside the settlement limit of Sampford Peverell."**

(c) The Council notes that, in accordance with Regulations 26 and 35 of the Town and Country (Local Planning)(England) Regulations 2012 the following documents will be published on the Council's website, and will be made available for inspection, free of charge at the Council's Phoenix House office during its opening times and in local libraries in Mid Devon once this becomes possible following a relaxation of restrictions of movement and public gatherings currently in place due to the Covid-19 pandemic:

(i) Mid Devon Local Plan Review 2013 – 2033

(ii) Mid Devon Local Plan Review 2013 – 2033 Adoption Statement (Appendix 5); and

(iii) Sustainability Appraisal Report (Appendix 6) and Sustainability Appraisal Post-Adoption Statement (Appendix 7).

(d) The Council notes that the Adoption Statement (Appendix 5) is sent to the Secretary of State and to any person who has asked to be notified of the adoption of the Mid Devon Local Plan Review 2013- 2033.

(e) The Council approves the Sustainability Appraisal Report (Appendix 6) and the Sustainability Appraisal Post-Adoption Statement (Appendix 7).

(f) Delegated authority is given to the Head of Planning, Economy and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration to make any typographical, grammatical, graphical and presentational changes to the Mid Devon Local Plan Review 2013 – 2033 (e.g. paragraph and table numbers) and its Policies Map to finalise the plan before it is published, including any changes that are necessary to the Policies Map to reflect the Devon Minerals and Waste Plans.

Upon a vote being taken the **SUBSTANTIVE MOTION** was declared to have been **CARRIED**.

Note: *Extract previously circulated, copy attached to minutes.

39 **Part 2 Business - Minutes and Drafting Conventions (1-16-02)**

The Council had before it a *report of the Head of Legal (Monitoring Officer) providing members with the opportunity to consider and discuss the drafting conventions of minutes of Part 2 business.

Consideration was given to:

- The importance of transparency and for a Part II minute to have some meaning.
- Referring to the question posed in Public Question Time, the need to separate exempt information within reports and use an appendix for such information, therefore allowing the majority of the report to be made available to the public, the Head of Legal (Monitoring Officer) stated that she would take this forward.
- The Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012, and the need for the reason for the decision to be published.

Councillor Mrs N Woollatt **MOVED** seconded by Councillor A White that:

Option 3 (to include a summary plus reasons) be adopted

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

Note: *Report previously circulated, copy attached to minutes.

40 **Urgent Item of Business - Business and Planning Bill - Pavement Licenses**

There was a need to consider an urgent item of business with regard to the Business and Planning Bill, this item was previously considered by the Cabinet on 9 July 2020, however following an amendment to the Bill by the House of Lords on 21 July 2020, there was a need for Council to consider the item.

Therefore the Council; had before it a report* of the Group Manager for Public Health and Regulatory Services providing details of the emerging licensing changes and requesting that the Group Manager for Public Health and Regulatory Services be given delegated authority to enable pavement licences to be properly administered by the service, which included setting the relevant fee.

The Cabinet Member for Community Well-Being outlined the contents of the report explaining the need for the new delegation.

Councillor D J Knowles **MOVED**, seconded by Councillor A Wilce that:

1. The provisions of the Business and Planning Bill be **NOTED**
2. Delegated authority be given to the Group Manager for Public Health for the administration and enforcement of the provisions within the Business and Planning Bill on its passing into law. These delegations can then be sub-delegated to relevant officers.
3. Delegated authority be given to the Group Manager for Public Health for the setting of the fee for pavement licences.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

Note: * Report previously circulated, copy attached to minutes.

(The meeting ended at 7.34 pm)

CHAIRMAN