

## **MID DEVON DISTRICT COUNCIL**

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 9 September 2020 at 2.15 pm

### **Present**

#### **Councillors**

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

### **Also Present**

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

R J Dolley and C R Slade

### **Present**

#### **Officers:**

Eileen Paterson (Group Manager for Development), Alison Fish (Area Team Leader), Adrian Devereaux (Area Team Leader), Philip Langdon (Solicitor), Oliver Dorrell (Planning Officer), Alex Marsh (Conservation Officer) and Sally Gabriel (Member Services Manager)

### **Also in**

#### **Attendance**

Michelle Woodgates DCC (Highway Authority)

## **53 APOLOGIES AND SUBSTITUTE MEMBERS (00-05-16)**

There were no apologies for absence.

## **54 VIRTUAL MEETING PROTOCOL (00-05-27)**

The protocol for remote meetings was **NOTED**.

## **55 PUBLIC QUESTION TIME (00-05-52)**

Liz Poole referring to Item 4 on the Plans List (land west of Siskin Chase, Cullompton) stated: I note that Cullompton Town Council recommended refusal of the application based on access via Siskin Chase. Have estimated costs for the alternative option of providing vehicle access from Colebrooke Lane been made available to Cullompton Town Council so that they can make an informed evaluation?

The Area Team Leader responded stating that she was not aware of any costs being available for the alternative access, therefore no costs had been provided to Cullompton Town Council.

56 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00-07-26)**

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

57 **MINUTES OF THE PREVIOUS MEETING (00-07-37)**

The minutes of the meeting held on 12 August 2020 were agreed as a true record.

58 **CHAIRMAN'S ANNOUNCEMENTS (00-08-47)**

The Chairman reminded the committee that a special meeting would take place on Wednesday 23 September 2020.

59 **DEFERRALS FROM THE PLANS LIST (00-09-06)**

There were no deferrals from the Plans List.

60 **THE PLANS LIST (00-09-30)**

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 1 on the Plans List (20/00838/HOUSE – Erection of domestic outbuilding, replacement fence and retention of tree house – 6 Poppy Close, Willand)*** be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

**Reason for decision – as outlined in the report**

Note: Cllr B G J Warren made a declaration in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as Chairman of Willand Parish Council in that he had made contact with the Group Manager over procedural issues.

(ii) ***No 2 on the Plans List (19/02034/LBC Listed Building Consent for installation of 1 replacement window - The Old Carriage House, St Andrew Street North, Tiverton)*** be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

**Reason for decision – as outlined in the report**

Note: The following late information was provided: as this was a retrospective application, with the works undertaken, condition and reason 1 were not required.

***b) No 3 on the Plans List (Outline for the erection of 1 dwelling – 12 Kabale Close, Tiverton)***

The Planning Officer outlined the contents of the report by way of presentation highlighting the location of the site 25 metres south of the A361. He identified the access to the development site and provided an indicative layout plan of how the site might be developed (with all matters reserved – therefore it was just the principle of development that members were being requested to consider) with parking to the front of the new dwelling in line with numbers 11 and 12 Kabale Close. Members viewed photographs from various aspects of the site which showed the space for development, the proposed access and the demolition of the garage.

Consideration was given to:

- The width of the entrance and means of access to the site via a shared driveway
- Standing highway advice of the minimum width required for a single access
- The position of the site located at the end of a no through road and the existing access
- The impact on the neighbouring property throughout the proposed construction
- The distance of the proposed development from neighbouring properties
- Whether visitors to the proposed dwelling would park in the turning head
- Policy DM5 and the Parking SPD only required a single parking space
- Whether the porch at Number 12 would impact on access to the site
- The views of the objector with regard to the number of objections to the application; the width of the access to the site; the restricted parking in the area; disturbance from the construction which may impact on the neighbouring properties, the restricted access through Kabale Close and that any development would downgrade the immediate area.
- The views of the Ward Member with regard to access issues to the site, any extra traffic would block the close and the need to maintain the size of gardens in the area.
- Whether a site visit would be appropriate and how such a site visit could take place under the current Government restrictions on gatherings, with it being suggested that the site visit taking place in phases to allow all members to attend.
- The access to the site across the neighbouring property's drive way
- The advice of the representative from Devon County Council (Highway Authority) with regard to the required width for access.

It was therefore **RESOLVED** that: the application be deferred to allow a full committee site visit to take place with only members and the case officer in attendance and that it be arranged in accordance with the regulations then in force governing gatherings and meetings.

(Proposed by the Chairman)

Notes:

- i) Cllrs: E J Berry, Mrs F J Colthorpe, S J Clist, L J Cruwys, Mrs C P Daw, F W Letch, D J Knowles, S J Penny, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence from the objectors;
- ii) Mr Harman spoke in objection to the application;
- iii) Cllr R J Dolley (Ward Member) spoke.

***c) No 4 on the Plans List (outline for the erection of up to 105 dwellings, associated landscape, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane – land at NGR 301216 106714 – west of Siskin Chase, Colebrooke Lane, Cullompton)***

The Area Team Leader outlined the contents of the report by way of presentation highlighting the site location, the masterplan for the site, the main vehicle access and various photographs from aspects of the site. She explained that the application was identical to the one allowed at appeal and that the only matter for consideration was that of the S106 agreement. At the appeal two S106 agreements had been put forward and the Inspector had agreed the applicants proposed undertaking of up to 35% affordable housing with the provision of public open space but had struck out the area of land leading to the Rugby Club. The S106 before Members included 28% affordable housing (in line with the provisions set out in the Adopted Local Plan Review under policy CU21), the education contributions, air quality contributions, public open space and a travel plan.

Consideration was given to:

- The reasons that the committee had refused the previous application and the outcome of the appeal
- The access to the site from Siskin Chase and not via Colebrooke Lane
- How the S106 agreement had been arrived at
- The undertaking from the applicant omitted a contribution to the relief road and included 28% affordable housing
- Policy CU21 of the Adopted Local Plan and the need for the S106 agreement to be policy compliant
- The need for Condition 13 to be redrafted or for Condition 11 to be amended
- The triggers for the S106 agreement
- The views of the agent with regard to the adopted Local Plan Review and the policies set out in that plan; the outcome of the appeal; the NPPF's presumption of a sustainable and good quality design scheme and that further engagement would take place in conjunction with the Reserved Matters application

It was therefore **RESOLVED** that subject to the prior signing of a S106 agreement to secure the following:

- 1) Affordable housing - 28% on-site provision of affordable housing with a proposed tenure split (75% affordable rent and 25% shared ownership), as well as the triggers for providing such housing (all provisions as per UU2 but with 28% affordable housing fixed in place of 'up to 35%')
- 2) Education contributions - The provision of primary, secondary and early years education contributions as per 'UU2'
- 3) Air quality - The provision of the required air quality contribution of £40,169 to be used for the purposes of minimising road traffic emissions arising from the Development by delivering the Cullompton Air Quality Action Plan and the provision of electric charging cabling as per 'UU2'
- 4) POS - The provision and maintenance of Public Open Space on site for the lifetime of the development as per 'UU2'
- 5) Travel plan – the submission of and adherence to a Travel plan as per 'UU2'

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

### **Reason for decision – as outlined in the report**

(Proposed by the Chairman)

#### Notes:

- i) Cllrs: E J Berry, S J Clist, D J Knowles, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence from the objectors;
- ii) Mr Brown (Agent) spoke;
- iii) Cllrs Mrs F J Colthorpe, Mrs C P Daw, F W Letch and D J Knowles requested that their vote to approve the application be recorded;
- iv) Cllrs E J Berry, S J Clist and S J Penny requested that their vote against the decision be recorded;
- v) Cllrs G Barnell, L J Cruwys, R F Radford and B G J Warren requested that their abstention from voting be recorded.

#### ***d) No 5 on the Plans List (Erection of a dwelling following demolition of barn – land and buildings at NGR 301235 112854 – Orchard House, High Street, Halberton).***

The Area Team Leader outlined the contents of the report by way of presentation highlighting the location of the site, the access to the site with the public parking area, the location of the proposed barn for conversion and that the site was within the Conservation Area of Halberton. She outlined the proposals for the demolition of the barn to be replaced with a single dwelling, she highlighted the proposed elevations of the new build, the proposed floorplans and provided photographs from various aspects of the site. The new build would retain the traditional look of the barn and

negotiations had taken place with regard to a suitable boundary wall to negate the impact on the listed building of Orchard House.

Consideration was given to:

- Whether there had been any wilful neglect to the barn
- The state of the barn at the time the land was purchased
- The precautions the developer took to safeguard the barn
- Whether the new build was in common with the barn to be demolished
- The Conservation Officer's view that he was satisfied with the proposal to demolish the barn
- The fact that the Parish Council would like to see the barn restored
- The need for an independent survey of the barn

It was therefore **RESOLVED** that: the application be deferred to allow for an independent survey of the barn to take place along with a viability assessment of the structure.

(Proposed by Cllr E J Berry and seconded by Cllr S J Clist)

Note: Cllr R F Radford spoke as Ward Member

***e) No 6 on the Plans List ( Retention of decking and gazebo in rear garden and raised fence – 31 Banksia Close, Tiverton).***

The Planning Officer outlined the contents of the report by way of presentation highlighting the site location, the block plan, the location of the decking and the gazebo located on top of the decking. He considered the proposed plans emphasising the elevation of the rear lawn, the fence elevation and photographs from various aspects of the site and from the neighbouring property.

Consideration was given to:

- The gradients between the 2 properties
- The height of the fence between the 2 properties
- The height of the decking
- The views of the applicant with regard to his relationship with the neighbour, the decking made good use of the garden; the gazebo was put in place to protect the neighbour from activities on the decking; the increased height of the fence protected the neighbour and that the trees to the rear of the gardens did create shade
- The views of the Ward Member with regard to the impact of the decking on the neighbouring property which was felt to affect the neighbour's privacy, possible light pollution and the need if granted for conditions to protect the amenity of the neighbour
- Whether any additional conditions would be reasonable

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

**Reason for decision – as outlined in the report**

(Proposed by the Chairman)

Notes:

- i) Cllrs: E J Berry, Mrs F J Colthorpe, S J Clist, L J Cruwys, Mrs C P Daw, F W Letch, D J Knowles, S J Penny, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence with regard to the application;
- ii) Mr Bridges (the applicant) spoke;
- iii) The Chairman read a statement on behalf of one of the Ward Members;

***f) No 7 on the Plans List (Erection of 5 poultry units, biomass boiler unit; attenuation pond; access track; hardstanding; landscaping and associated infrastructure – Land at NGR 285042 114106 (Edgeworthy Farm) Nomansland).***

The Area Team Leader outlined the contents of the report by way of presentation providing the history of the site, that the application approved in January 2016 had not been implemented and highlighted the location of the site which was outside of the floodplain, the layout of the proposed shed and attenuation pond, the extensive planting proposed, the biomass building plans, shed elevations, site office plans and photographs from various aspects of the site. He advised the meeting that the key concern was that of highway movements and that the Highways Authority had no objections, that statutory consultees were also satisfied and that the visual impact of the proposal had been considered.

Consideration was given to:

- Other legislation required to cover animal welfare
- Large vehicles on unclassified roads
- The views of the Highways Officer with regard to the condition of the existing highway, the access to the B road had been agreed in the 2015 application, the visibility splay had been agreed, the impact on the landscape and access had been considered and covered by conditions
- The amount of waste from the site and where it was being transferred to
- Possible cumulative impact with other development of this type in the area
- The possible impact of the overnight trips on the local residents
- The views of the applicant with regard to the reasons why the previous application had not been implemented, the programme of high welfare chicken production proposed and the transport link from the B3137 down to the farm

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

**Reason for decision – as outlined in the report**

(Proposed by Cllr F W Letch and seconded by Cllr E J Berry)



Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest as the landowner was known to her and the matter had been discussed at parish council level;
- ii) Cllr R F Radford declared a personal interest as the applicant was known to him;
- iii) Mr Lake (applicant) spoke.

**61 MAJOR APPLICATIONS WITH NO DECISION (3 - 52-00)**

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

It was **AGREED** that:

Application 20/01263/MFUL – - 22 dwellings - allotments at Tumbling Field Lane, Tiverton be brought before the committee for determination and that a site visit take place if the officers recommendation was one of approval.

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

**62 APPEAL DECISIONS (3-58 - 00 )**

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.

**63 TREE PRESERVATION ORDER TPO 20/00003/TPO, LAND AT MEADOW PARK, WILLAND (3-58-03)**

The Committee had before it a \*report of the Head of Planning, Economy and Regeneration with regard to an application for a Tree Preservation Order for 45 Pedunculate Oaks and mixed broadleaved trees in woodland.

The Area Team Leader outlined the contents of the report highlighting the history of the site and the appeal decision to implement 125 houses. Officers had been prompted by Willand Parish Council of the need to protect many of the trees on the site. She highlighted the various trees and the access via Meadow Park. When the Reserved Matters application came forward there would be a need to look further at the trees on the site, but it was felt that in the interim, the trees should be protected. The meeting was provided with photographs from various aspects of the site showing the position of the trees.

Consideration was given to:

- The area of woodland surrounding the site and the trees situated at Ash Close, Rowan Close and Meadow Park
- Some trees would need to be removed to allow access to the site



- The replacement of trees would form part of the Reserved Matters application and the landscaping proposals set out by the appeal Inspector

**RESOLVED** that the Tree Preservation Order 20/00003/TPO be confirmed with modification to the extent of woodlands W1 and W2 to exclude the trees which will need to be removed to provide the approved access to the site, granted consent under 18/00177/FULL.

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

### **Reason for decision – as set out in the report**

#### Notes:

- i) Cllr Mrs F J Colthorpe declared a personal interest as the landowner was known to her;
- ii) Cllr B G J Warren declared a personal interest as Chairman of Willand Parish Council and with his involvement in the application;
- iii) Cllr E J Berry declared a personal interest as the landowner was known to him;
- iv) Cllr B G J Warren spoke as Ward Member;
- v) \*Report previously circulated, copy attached to minutes.

#### **64 19/01188/FULL LAND AT NGR 276600 96594 (NORTH OF SHORTACOMBE FARM) SHORTACOMBE LANE, YEOFORD (CHANGE OF USE OF AGRICULTURAL LAND TO ALLOW 1 PITCH FOR THE SITING OF 1 STATIC CARAVAN, 2 TOURING CARAVANS AND ASSOCIATED WORKS FOR THE USE OF GYPSY AND TRAVELLER FAMILY) ( 4-12-20)**

At the Planning Committee meeting on 12 August 2020, Members advised that they were minded to refuse the above application and invited an implications report for further consideration. The Committee therefore had before it a \*report of the Head of Planning, Economy and Regeneration setting out the implications of refusal.

The Area Team Leader outlined the contents of the report stating that as outlined within the minute of the previous meeting, Committee Members gave consideration to a number of matters which included the desire of the applicant to live on site, the response from statutory consultees, visibility splay requirements and the need for the removal of hedgerow and rights of the applicant to cut back vegetation/hedgebank, the actual numbers of people who would live on site, concerns over safety for occupiers from various risks such as through falling trees and caravans falling over during high winds, accessibility of the site during snowy conditions, flooding concerns of the site with associated impacts on drainage and children's play area.

Members of Planning Committee had therefore resolved that they were minded to refuse this application, deferring the application for consideration of an implications report to consider reasons for refusal to include:

- Policy Planning for Traveller Sites - Section 14. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.
- Policy DM7 - A, Space for children's Play
- Policy DM7 - C, unacceptable landscape or ecological impact
- Policy DM7 - E, safe and convenient access to local facilities.
- Policy DM2 - High quality design
- Policy DM2 - Positive contribution to local character including any heritage or biodiversity assets and the setting of heritage assets
- Policy DM2 - Visually attractive places that are well integrated with surrounding buildings, streets and landscapes
- Policy DM2 - Appropriate drainage including sustainable drainage systems

As such three reasons for refusal had been formed to cover the above concerns with correct reference made to Policy DM1 rather than DM2.

He then provided by way of presentation the layout of the site and addressed the following detail:

The applicant sought planning permission for the material change of use of agricultural land to residential use for a gypsy and traveller family. The proposal would involve the siting of a static caravan; parking for two touring caravans; the siting of a storage shed and car parking area; landscaping works, including tree planting and the creation of a landscaped bank; and works to create a safe access onto the public highway.

The site comprised an area of mostly open grassland, including an area surfaced with loose material, on which two touring caravans were currently being kept (these would be moved on site to the position shown on the layout plan and form part of any planning permission issued), along with a wooden storage structure. The site's western, northern, and eastern boundaries adjoined open fields in agricultural use. The southern boundary ran alongside the public highway and was formed by a mature hedgerow. The site was located outside settlement limits.

The original submission included the provision and use of a compost toilet and a reed-bed drainage system to deal with grey water but the proposal was amended following concerns received with the proposal now involving the use of a toilet facility within the static caravan with a Vortex Treatment Plant proposed to deal with foul drainage. Confirmation had also been provided from the applicant that there was mains water running adjacent to the site and power would be provided from solar panels.

With regard to the visibility splay: Members had received correspondence raising concern over the need for the removal of hedgebank to the east of the application site access in order to provide the required visibility splay which the applicant had no control over. Reference had also be made to correspondence received from the Local Highway Authority to the need for removal of hedgebank to either side of the access. However, in terms of the requirements of the Highway Authority over visibility, the consultation response of 30<sup>th</sup> September 2019, set out the following: *The site is located on a road with limited passing opportunities and can be considered to be lightly trafficked having witnessed a single vehicle in 45 minutes. While the road is a derestricted speed limit I have observed speeds of 20mph.*

*However local residents have observed that speed have been in excess of 45 mph. The Highway Authority would request that the applicant obtain a 24 hour speed survey so that appropriate splays can be applied to any consent. With current observed speeds by the Highway Authority a splay of 2.4m by 25m in either direction would be required but should the speeds be identified locally at 45 mph then splays of 2.4m by 120m with no obstruction greater than 600m above road surface would be required. Both splays would necessitate the removal of hedge row to satisfy the splays. The Highway Authority would apply the 85% speed to any design for the splays.*

However the 2019 consultation response was subsequently updated by a further response dated 20<sup>th</sup> January 2020 which stated: *The plan overcomes the Highway Authority concern, and subject to the access construction e.g. Hard surface in a bound material and drainage would not have any further observations. It will be a matter for the LPA (Local Planning Authority) to consider sustainability in light of the NPPF.*

This was informed by a speed survey, the results of which led to the Highway Authority to clarify that visibility splays of '2.4 by 55m either side of the access were required and that to the right on exiting it should be to the nearside carriageway edge and to the left to centre line of the carriageway.

The position of the visibility plays were marked within the presentation and whilst the formation of the splay in the westerly direction would require a section of hedgebank removal (land in the applicant's control), this was not the case for the easterly visibility splay and the reference made was to removal of brambles which overhung the highway.

He then focussed on the prepared reasons for refusal set out in the report where he felt that Reason 1 could be upheld at appeal

Consideration was given to:

- The monitoring of speed along the road
- The adopted Local Plan Review and the number of gypsy and traveller sites proposed but not in place.

It was therefore **RESOLVED** that the application be refused on the following grounds:

In the opinion of the Local Planning Authority, the proposed site of the family traveller pitch given its countryside location and prominent position on the ridge of the hill will result in an unacceptable landscape and ecological impact through the introduction of caravans and other structures and the removal of hedgebank and trees to provide an adequate visibility splay for the access into the site. The location of the site is such that there will be no safe or convenient access to local facilities or services. Therefore any need for the development does not outweigh the harm which would result with the development being contrary to Mid Devon Local Plan Review 2013-2033 Policies S14, DM1 and DM7 and guidance within the National Planning Policy Framework 2019 and Policy Planning for Traveller Sites (2015).

**Reason for the decision – as outlined above**

(Proposed by Cllr S J Penny and seconded by Cllr S J Clist)

Notes:

- i) Cllrs: G Barnell, E J Berry, Mrs C P Daw, Mrs F J Colthorpe, S J Clist, L J Cruwys, F W Letch, D J Knowles, S J Penny, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received representations;
- ii) The following members would represent the committee in the case of an appeal: Cllrs: S J Penny, S J Clist and B G J Warren;
- iii) \*Report previously circulated, copy attached to minutes.

(The meeting ended at 7.07 pm)

**CHAIRMAN**