

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 10 March 2021 at 2.15 pm

### **Present**

#### **Councillors**

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

### **Apologies**

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

D J Knowles

### **Also Present**

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

R L Stanley

### **Present**

#### **Officers:**

Eileen Paterson (Development Management Manager), Maria De Leburne (Legal Services Team Leader), Alison Fish (Area Team Leader), John Millar (Principal Planning Officer), Angharad Williams (Area Team Leader), Helen Govier (Principal Planning Officer), Sally Gabriel (Member Services Manager) and Carole Oliphant (Member Services Officer)

## 131 **APOLOGIES AND SUBSTITUTE MEMBERS (0.04.26)**

Apologies were received from Cllr D J Knowles who was substituted by Cllr R J Dolley.

## 132 **REMOTE MEETINGS PROTOCOL (0.04.50)**

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

Note: \*Remote Meetings Protocol previously circulated and attached to the minutes

## 133 **PUBLIC QUESTION TIME (0.05.18)**

Due to connectivity issues the Chairman allowed the public to ask questions at various points during the meeting.

1. Lisa Clifford, a local resident, referring to Plans List 1 (19 Lower Millhayes, Hemyock) had asked that the Chairman to read out the following questions:

- a. The planning officer conditions of use if planning is given are that the property cannot be rented for income or used as a separate unit - what contravenes this and how can this be policed?
  - b. I have referred to the Town and Country Schedule 2 - the policy which is sited in my objection - the building in question does contravene building regulations I question if these regulations are a request or requirement. I am confused why planning are considering it in its current footprint
  - c. Why are building regulations ignored to ensure the shed is not causing further issues with privacy and nuisance - for example safeguarding toilet ventilators are not facing neighbouring gardens.
2. Pat Jenkins, a local resident, again referring to Plans List 1 stated:
- a. I submitted three photographs, the first and aerial photograph of no 19 taken 2002 clearly answers questions about the original shed, top left of the garden. Items top left and top right include two greenhouses both about 2.4 by 2.4 meters. By a third smaller greenhouse is a small wheelie bin used as a guide to show that the original shed is approximately 2.4 x 2.7 meters, 6.5 square meters. Erected in 1997/1998 it was a homemade shed with plywood boards and an overhanging galvanised roof. In July 2017 the property changed hands. In 2016 this shed, now over 20 years old and in a sad state of repair was demolished and removed from site so it was impossible to remodel it in 2017.
  - b. How would the committee members feel if their boundary fences were only 1 metre high? Photo 2 shows the boundary fence the black line shows the pond electrics. No 19's decking extends down the garden to just past this point and butts up against the fence. Having measured the height of the decking myself it is 52cms not 45cms high. The red line marks the decking level in relation to the boundary fence 120cms solid panel with 30cms trellis top. 70cms of fence provides no privacy whatsoever when the decking is in use. The fact the people can look over the 152cms fence and into our gardens is an evasion of our right to privacy.
  - c. Why does the planning officer state that this outbuilding does not look out of place compared with other sheds in the gardens of other properties in the immediate area? My third photo shows the immediate area. The shed made from timber merges with the fences and becomes unobtrusive whereas the dark brown outbuilding is clearly out of keeping with the immediate area. Do planning officers carry any measuring devices to check plan measurements with measurement on the ground? If not why not? The plan inaccuracies would have been clearly evident if the measurements had been taken during the site visit
  - d. Finally, in accordance with the MDDC local enforcement plan of 2018, a site visit took place. At no point was I, or the owners of No 18, informed that this was due to take place. Why has no follow up site visit been done in accordance to policies DM1 and DM11 to check the decking and shed from our properties and get a balanced view from all perspectives? If a visit had been carried out it would have been evident of how imposing the combined structure is.
3. Martyn Baker, a local resident, speaking with regard to Plans List 5 (Duvale Priory, Bampton):
- a. Is the committee aware that the planning inspectorate at the 2014 appeal made specific conditions that the venue was not to be used by non-residents?

- b. Can the committee confirm why there is a need for the former livestock shed to be used for the public for live music events when there are several purpose built halls nearby. 2 at Bampton, Stoodleigh, Morbath, Shillingford, , Oakford, Cove and Huntsham
- c. Can the committee confirm how it will police and enforce that the windows and doors are closed in the height of the summer and the numbers of public guests
- d. Is the committee aware that the site is located next to the lake and river? Water is a conductor of sound it travels 5 times faster through water than air.
- e. Can the committee confirm if the building has been inspected by an independent surveyor and is deemed fit for use as a music hall
- f. Is the committee aware that the property is situated in the Exe Valley which amplifies the noise
- g. Is the committee aware that there are 6 properties whose residents are yet to experience the previous noise and disruption

The Chairman advised that the questions would be addressed at the appropriate application

#### 134 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.24.10)**

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

#### 135 **MINUTES OF THE PREVIOUS MEETING (0.24.23)**

The minutes of the meeting held on 10th February 2021 remained in draft and were not approved until specific questions submitted by Members were addressed

#### 136 **CHAIRMAN'S ANNOUNCEMENTS (0.29.50)**

The Chairman announced that Alison Fish, Area Team Leader, would be leaving the authority and joining the Planning Inspectorate. Members thanked her for her long service at Mid Devon District Council and wished her well in her new role.

#### 137 **DEFERRALS FROM THE PLANS LIST (0.33.55)**

There were no deferrals from the Plans List.

#### 138 **THE PLANS LIST (0.34.03)**

The Committee considered the applications in the \*Plans List.

Note: \*List previously circulated and attached to the minutes.

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:

- a) **Application 20/01983/FULL - Rendering of ground floor flats at 21, 22, 23 & 24 Siddalls Gardens, Tiverton, Devon** be approved subject to the conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Note: Cllr R J Dolley declared a personal interest as he knew people living in the area

**Reason for the decision** – As set out in the report

- b) **Application 20/01537/HOUSE - Retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground at 19 Lower Millhayes, Hemyock, Cullompton.**

The Area Team Leader stated the application had been deferred from a previous meeting for further investigations and that the material that the building was made of was not a material planning consideration. Addressing the public questions she stated:

- As per condition 3, the building could only be used for ancillary purposes
- The Town and Country schedule 2 states that if it is not permitted development then the building would need a separate planning application
- Landowners have to comply with building regulations
- The current fences were lower than the 2 metres permitted and an increase in height to 2 metres to protect privacy could be conditioned
- Planning officers did not carry measuring equipment and relied on submitted measurements in plans
- Planning Officers did visit the site

The Area Team Leader then outlined the application by way of a presentation detailing the site location plan, underground piping, existing and proposed plans, photographs of the site, cabin as built, decking and views towards neighbouring properties.

She explained the definition of an ancillary building to Members which was that the building would be used for domestic type use and in conjunction with the main dwelling. She confirmed that the building was predominantly to be used by the applicant's mother and did not have all the facilities of a separate dwelling.

Consideration was given to:

- A condition could be introduced to raise the boundary fencing to a height of 2 metres to increase privacy
- Concerns from Members that the plans in front of them were inaccurate
- Concerns about what the building was to be used for
- If the building had a kitchen
- The difference in permitted development rights for properties within an Area of Outstanding Natural Beauty

- How the use of the building would be monitored
- The views of the objector who felt that the building failed to comply with any of the permitted development rights, the building was not timber and the planning report was a manipulation of policy
- The views of the agent who stated that the outbuilding was not to be used as an independent dwelling or a holiday let and would be used as an ancillary building. There were no current plans to install a kitchen and the application met criteria for policies DM11 and DM27
- The views of the Parish Council who felt that the shed dominated the top of the garden, the installation of a water supply was inappropriate and would encourage more frequent use. Neighbouring properties could be looked into by people using the decking
- The views of the Ward Member who stated that the decking had a negative impact on neighbouring properties, there were a lot of anomalies with the dimensions of the building
- Members views that the building was not compliant with policies DM1, DM11 or DM27
- The building was too far away from the house, on an elevated site and too dominant

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 proposed outbuilding and decking in terms of its size, appearance and location on an elevated site is not considered to make a positive contribution to the local character. In addition it is considered to adversely affect the amenity of neighbouring occupiers by virtue of unacceptable overlooking and its overbearing nature. Adequate justification for the proposal has not been provided and the submitted information is unclear. Consequently the proposal is contrary to policy DM1 and DM11 of the Mid Devon Local Plan

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

**Reason for the Decision** – No decision was made, but the item deferred for a implications report.

Notes:

- i.) Cllrs Mrs F J Colthorpe, G Barnell, E J Berry, Mrs C P Daw, L J Cruwys, C J Eginton, S J Clist, F W Letch, R Dolley, R F Radford and B G J Warren made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from objectors
- ii.) Cllr S J Clist made a declaration in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as the objectors were known to him

- iii.) Cllr Mrs F J Colthorpe requested that her vote against the decision be recorded
- iv.) Major Jenkins spoke as the objector
- v.) Catherine Knee spoke as the agent
- vi.) Cllr Tim Barton spoke on behalf of Hemyock Parish Council
- vii.) Cllr S J Clist spoke as the Ward Member
- viii.) The following late information was reported:

3 further letters of objection have been received reiterating previous comments made with the addition of:

- outbuilding is made of concrete block and only clad in timber, not constructed of timber
- Building is not more than 4 years old or immune from enforcement action as it wasn't completed until July 2017
- inaccuracies on plans in terms of location of exiting window on rear and height of building and decking
- concern re use as separate dwelling
- noise and disturbance from use of building
- Overbearing and loss of privacy

1 further letter has been supplied by a planning agent acting on behalf of the applicant and summarised as follows:

- building to be used ancillary to dwelling and controlled by condition
- outbuildings are commonly used for additional ancillary accommodation and with drainage such as that proposed
- building is 22m away from rear elevation of neighbouring dwellings. 21m is commonly held to be a reasonable distance to prevent overlooking from back-to-back 2 storey dwellings. Outbuilding is only single storey
- majority of decking can be provided under permitted development rights. Building is not permitted development but this does not make it unacceptable – it just means that formal grant of planning permission is required
- additional planting could be provided if required
- no impact on wider AONB as limited to domestic garden area

**c) Application 20/01560/HOUSE - Retention of raised decking area and associated fence at 9 Millway Gardens, Bradninch, Exeter.**

The Area Team Leader outlined the application by way of a presentation highlighting the site location plan, proposed plans, layout, current development and adjoining properties.

The officer informed members that because of the height of the decking it would not be permitted development and that the proposal was to reduce the depth of the current decking.

Consideration was given to:

- The views of the applicant who found it disappointing that the application had come to committee, that he had voluntarily reduced the size of the development and that permitted development allowed a 3 meter extension

It was therefore

**RESOLVED** that:

Planning permission be refused as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by Cllr F W Letch and seconded by Cllr G Barnell)

**Reason for the decision** - As set out in the report

Notes:

- i.) John Myhill spoke as the applicant
- ii.) The following late information was reported:

The first part of the report refers to no.11 Millway Close, this is incorrect and should refer to 9 Millway Gardens.

**d) Application 18/01814/MFUL - Change of use of agricultural land for the siting of 3 holiday lodges and alterations to existing access at Land at NGR 299526 113232, Crown Hill, Halberton.**

The Area Team Leader outlined the application by way of a presentation and highlighted the site location, block plan, elevations, site plan, access and photographs of the site including the canal embankment.

She explained that when the application was originally submitted, it was for 6 holiday lodges over the whole site but that the application had been revised and reduced to 3 holiday lodges on land furthest away from the canal.

Consideration was given to:

- The response from the Historic Environmental team regarding prehistoric funerary and how damage to archaeological and artefactual deposits could be mitigated
- The process of making available an up to date register of the names of all occupiers to the Local Planning Authority and how this could be monitored
- The likelihood of holiday makers being hit by stray golf balls
- The views of Members that the condition 6 did not include a construction plan to stop mud on the road
- Concerns of Members that the site could be occupied all year round
- The Parish Council's concerns with regard to non-agricultural development in green space, development within the curtilage of the canal, lack of accessible footpaths and danger from stray golf balls
- Concerns of members over the use of the current field access for the access to the holiday lodges

- Concerns of members that the proposal would lead to ribbon development and coalescence of villages
- The views of the Ward Member who was concerned with access to footpaths, it was not compliant to Policy DM22 and that there would be more activity on the road

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:

- 1) Insufficient justification has been provided to demonstrate that a countryside location is appropriate and necessary for this development, contrary to policy DM22 of the Mid Devon Local Plan
- 2) The proposal would result in additional pedestrians seeking to use the main road to access the canal and other facilities to the detriment of public safety and contrary to policy S1 and DM1 of the Mid Devon Local Plan
- 3) The location of the 3 holiday units adjacent to the main road and within the setting of the Grand Western Canal Conservation Area has an adverse impact on the character and appearance of the area, contrary to policy DM22(a) and DM25 of the Mid Devon Local Plan

(Proposed by Cllr B G J Warren and seconded by Cllr Mrs C P Daw)

**Reason for decision** – no decision was made, but deferred for an implications report.

Notes:

- i.) Cllr Mrs F J Colthorpe requested that her vote against the decision be recorded
- ii.) Cllr R F Radford spoke as Ward Member
- iii.) A proposal in line with the officer recommendation was not supported
- iv.) The following late information was reported:

2 further letters of objection have been received reiterating previous comments made:

- golf club requests that if the application is approved it should be subject to a condition requiring upper paddock to be fenced off and only used for grazing or that a sum of money is paid by the applicant to enable to golf club to make alterations to the 2<sup>nd</sup> tee, fairway and green (IN THIS RESPECT, MEMBERS ATTENTION IS DRAWN TO CONDITION 8)
- Removal of 3 of the units doesn't overcome objection relating to development in the open countryside.

**e) Application 20/01874/FULL - Erection of a dwelling at Firway End, George Hill, Crediton.**



The Principal Planning Officer outlined the application by way of a presentation highlighting the site location plan, aerial photographs, existing and proposed site layout, proposed elevations and photographs of the site.

Consideration was given to:

- The views of the agent who stated that the small bungalow proposed would fit in well with the site, the new entrance would provide safer access and the design was not out of character for the area
- That Crediton Town Council had supported the application
- The views of the Ward Member who stated the application fitted nicely with the area, the change of access was welcomed, it was an idea site which would suit people who did not want a large garden
- Consideration of the members as to whether the 2 metre boundary fence had planning permission

It was therefore

**RESOLVED** that:

Planning permission be granted and delegated authority be given to the Head of Planning, Economy and Regeneration to provide a set of conditions with regard to:

- Surface Water
- Drainage
- Boundary treatments
- Permitted development rights

**Reason for the Decision** - The application for the erection of a dwelling is considered to be supportable in policy terms. The use of the land for the provision of a new dwelling is considered to be supportable in accordance with policy S1. The design of the scheme is considered to be acceptable and in keeping with surrounding properties in the area. The development would provide an appropriate level of parking and achieve a safe access onto the public highway in accordance with DM3. On this basis it is considered that planning permission can be granted, subject to conditions, in accordance with the development plan.

Notes:

- i.) Cllr F W Letch made a declaration in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as he was Crediton Town Mayor and he had sat on the Town Council Planning Committee which had discussed the application, but had not voted;
- ii.) Cllr R J Dolley declared a personal interest as he knew the agent
- iii.) Cllrs Mrs F J Colthorpe and C J Eginton requested that their vote against the decision be recorded

**f) Application 20/01789/FULL - Change of use of hall solely for use by holiday makers to public use at Buildings at NGR 294446 120596, Duvale Priory, Bampton.**

The Principal Planning Officer addressed the public questions:

- Condition 3 was exactly how it was worded by the inspector and that allowed the development to be used as a function hall for occupiers of the holiday accommodation up to 130 maximum at any one time. The proposal was to allow up to 30 members of the public not using the accommodation to use the building in the same way as the 130.
- Other venues locally has been noted but there was a smaller function room on the site which had approved use to accommodate 30 members of the public for functions
- Conditions could be enforced by the enforcement team, environmental protection unit and the licensing team can alter the licence if there were repeated problems on the site
- The venue being close to water was not relevant to the application and sound limits were conditioned
- It was not known if the building had been independently inspected but there were conditions previously imposed on the level of sound
- The fact that the property was situated in the Exe Valley did not increase noise levels as the levels are conditioned
- If the 6 new properties had not experienced any issues since 2013 it showed that the applicant was complying with the strict conditions and they were working

The Principal Planning Officer outlined the application by way of a presentation highlighting site plan, existing plans, elevations, photographs of the building, holiday accommodation, entrance drive and the existing access.

The officer explained that there had been no objections from the Highways Authority or Environmental Health and that there was a condition that the smaller function room could not be used in conjunction with the larger venue.

He explained that this was not an expansion of the site or facilities but it allowed 30 members of the public to hold a function in the larger building rather than the smaller one and that permission was already in place for 130 to use the larger building if they were staying in the holiday accommodation.

Consideration was given to:

- That the site was in the open countryside
- The views of the objector who stated that there had been no issues with noise since the conditions had been imposed in 2013 but was concerned that allowing the public on site would cause significant noise and that this was unenforceable
- The views of the Parish Council who stated concerns with regard to excessive noise, the building was not suitable for the purpose and that conditions could not be enforced
- The views of the Ward Member who felt that the application would allow issues prior to conditions being imposed in 2013 to return and that there were numerous village halls within the area which could accommodate members of the public. That the applicants had, so far, complied with the Inspectors conditions.

- Members concerns with power cuts
- Members concerns that 30 members of the public would cause more harm using the hall than 130 holiday makers who were staying on the site
- Members concerns with regard to excessive vehicle movements and noise from banging car doors when the public were leaving the site
- Members concerns that compliance with policy DM22 of the Local Plan had not been justified

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:

Impact of the proposed development on local amenity, particularly due to noise associated with increased vehicle movements by members of the public travelling to and from the site.

The proposed use of the premises as a function room for public use by up to 30 people, and not solely for use by holiday makers, is deemed to be unacceptable and likely to cause unacceptable harm to the amenities of local residents living within the Exe Valley and the enjoyment of their homes late at night. In particular, there is a potential for increased noise and disturbance as a result of increased levels of traffic, associated with members of the public travelling to and from the site, who are not guests at the existing on site holiday accommodation. The suggested controls are not considered to overcome or remove or adequately control the noise and disturbance to the area arising from the use of the premises as a function room for public use and as such would be contrary to policies DM1, DM4 and DM22 of the Mid Devon Local Plan 2013-2033.

(Proposed by Cllr S J Clist and seconded by Cllr R Dolley)

**Reason for decision** – No decision was made, the item was deferred for an implications report.

Notes:

- i.) Cllr Mrs F J Colthorpe declared a personal interest as she knew Cllr Knowles from Stoodleigh Parish Council
- ii.) Cllrs S J Clist, Mrs C P Daw, E J Berry and R F Radford made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence from objectors
- iii.) Cllr R J Dolley declared a personal interest as he knew Cllr Knowles from Stoodleigh Parish Council and had visited the site
- iv.) Cllr Mrs F J Colthorpe requested that her vote against the decision be recorded
- v.) Chris Winter spoke as the objector
- vi.) Cllr Will Knowles spoke on behalf of Stoodleigh Parish Council
- vii.) Cllr R L Stanley spoke as Ward Member

### 139 MAJOR APPLICATIONS WITH NO DECISION (5.17.35)

The Committee **AGREED** that the following major applications be brought before the Committee:

- 21/00222/MFUL - Erection of a retail foodstore with associated parking, access, servicing and landscaping - Playing Field at NGR 284091 100385 Commercial Road Lords, Meadow Industrial Estate, Crediton Devon
- 21/00128/MFUL Erection of 86 dwellings to include public open space, landscape planting, pedestrian, cycle and vehicular links; and associated infrastructure - Land at NGR 298634 113714 (Braid Park), Uplowman Road, Tiverton Devon
- 21/00072/MARM Reserved Matters for the erection of up to 105 dwellings, associated landscaping, public open space and allotments together with vehicle and pedestrian access from Siskin Chase and pedestrian access from Colebrooke Lane, following Outline approval 19/01839/MOUT - Land at NGR 301216 106714 (West Of Siskin Chase) Colebrooke Lane, Cullompton Devon

### 140 APPEAL DECISIONS (5.24.02)

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.

(The meeting ended at 7.59 pm)

**CHAIRMAN**