

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 14 April 2021 at 2.15 pm

### **Present**

#### **Councillors**

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

### **Apologies**

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

E J Berry

### **Also Present**

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

R M Deed and W Burke

### **Present**

#### **Officers:**

Eileen Paterson (Development Management Manager), Maria De Leburne (Legal Services Team Leader), Angharad Williams (Area Team Leader), John Millar (Principal Planning Officer), Oliver Dorrell (Planning Officer), Christie McCombe (Area Planning Officer), Sally Gabriel (Member Services Manager) and Carole Oliphant (Member Services Officer)

#### 148 **HRH, THE PRINCE PHILIP DUKE OF EDINBURGH AND COUNCILLOR GLANMOR HUGHES**

A minute silence took place in memory of HRH, The Prince Philip Duke of Edinburgh and Councillor Glanmor Hughes at the start of the meeting.

#### 149 **APOLOGIES AND SUBSTITUTE MEMBERS (0.03.25)**

Apologies were received from Cllr E J Berry.

#### 150 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.03.38)**

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

#### 151 **REMOTE MEETINGS PROTOCOL (0.03.45)**

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

Note: \*Protocol previously circulated and attached to the Minutes

## 152 PUBLIC QUESTION TIME (0.03.59)

Mr Winter referring to Item 12 (Duvale Barton) on the agenda stated that - the input from Environmental Health seems very hypothetical to me and ignores the real problem we have with sound historically and the issues we have had with enforcement historically and really bears no weight whatsoever in my opinion. Obviously they only apply if passed.

Yesterday, I did send into the committee a satellite picture of the barn in question, this rather begs the question why the planning conditions set to have doors and windows shut with the large agricultural vents in the roof to allow livestock to breath - this seems rather strange. This also begs the question as to what survey the planning department performed on the building. I didn't have to leave my office to discover this.

Mrs Jacobs referring to Item 1 on the Plans List (Tumbling Fields) stated that she lived at 12 Tumbling Fields and asked whether the committee had been to visit the site where they are proposing to build these houses at the access to the back of my property up into Hamblin Close, where there are disabled people, OAPs and small children and lots of traffic already going in on this site and also on Tumbling Fields Lane where there is also a lot of traffic, particularly agricultural traffic coming down. I am very frightened about my personal safety and the safety of small children and a very disabled young man who lives on that site.

Miss Chee Wong representing Angela Clyburn again referring to Item 1 on the Plans List stated that there is a report that there are a number of legally protected species on the site, so surely it is illegal for the applicant to deliberately go out of their way to disturb and disrupt breeding and frighten species away. Surely the requirements protecting these are already being broken, they should be protected under the statutory obligations in the species protection law. We need to be sure that if this building goes ahead that the wildlife will be adequately protected without further disruption to their habitat and their breeding.

Mr Baker referring to Item 12 on the agenda stated: can the committee explain why both agricultural buildings/barns were not demolished when 6 units were granted permission on the condition that both barns were to be taken down and removed from the site. This I believe to be a failure by the enforcement team. Can the committee confirm if any members have visited the site to see if the barns are fit for purpose, if not please show the members the photos that you have had presented to you. Can the committee explain why the planning officer is concentrating on door slamming and movements when the issue has always been the loud music and the noise of people escalating from the function hall?

Gill Hookins again referring to Item 12 stated that she was the immediate neighbour to Duvale Priory, how does the committee perceive the inherent risk of overturning the planning condition for residents use only stipulated by the Planning Inspector on appeal 7 years ago and does the committee think that the volume of noise from the music at a function for 30 be any different from the volume of noise for a function for 130. I don't think so.

Cllr William Knowles again referring to item 12 stated: I am a little confused in the minutes about the emphasis on car door slamming, when actually it is the noise of

the music. I was also going to ask about whether someone had been to inspect the site from the relevant authorities and if not, is it not possible that rather than make a decision today, if there is still a lot of indecision, would it not be possible to defer the decision until more information is brought to hand.

Mrs Pratley referring to item 1 on the Plans List asked the following questions –

#### Question 1

The Mid Devon Local Plan Review 2013-33 adopted by full Council on 9 July 2019 and the Tiverton Central Area Local Plan Review map shows the land the subject of this planning application is outside the settlement area. Furthermore, Local Plan Policy S10 states amongst its principles retention of “the green setting provided by the steep open hillsides, particularly to the west and south of the town”. This development is precisely the type of development which Policy S10 was written to protect. I believe the recommendation to approve fails to have due regard to the strategic context of this site on the setting and settlement limit to the south of the town. Will the committee please explain why breaching the settlement limit and failure to demonstrate adherence to Policy S10 are not material considerations in determining this application?

Policy S10 is not relevant as outside settlement boundary. As such Policy S14 applies where affordable housing is allowed and rural exceptions policy. The application is therefore subject to separate policy consideration as outlined in the report.

#### Question 2

The Mid Devon Local Plan makes provision for 17% more housing than required presumably based on the current settlement limit of the town. 74% of the required dwellings for Tiverton have either been completed or committed with still 12 years of the Local Plan to run. The Local Plan states “a significant proportion of the towns outstanding housing needs will be delivered as part of the Eastern Urban Extension”. Will the committee please explain why it believes that the delivery of the proposed 22 dwellings on this recreational space cannot be delivered elsewhere within the existing settlement limit?

#### Question 3

The land subject to the application is described as allotments and by officers as ‘former MDDC allotments’. The land is therefore subject to the provisions of Planning Policy DM26 (previously DM24). Will the committee please confirm that an assessment of need prior to disposal was undertaken, when the site disposal took place and who approved the disposal? Will the committee further confirm whether or not the allotments were afforded protection under the 1925 Allotment Act which requires permission from the Secretary of State before development can take place?

#### Question 4

Three years after the tragedy of Grenfell Tower it seems hard to comprehend that fire safety is not a material consideration when considering a planning application. The officer report and recommendation to approve makes no comment on the concerns raised by Housing Standards regarding the fire safety design of some plots. This is of concern if, for no other reason, because 4 dwellings will be wheel chair accessible. If minded to approve the application, will the committee consider it being a condition of approval that full plans will have building control approval?

Not inside the control of planning. Building regulations are a separate requirement which will happen without the need for condition.

Comley Payne again referring to Item 12 on the agenda stated: can the committee please explain why the case officer recommends approval for this application as in 2013, Members voted 8-1 to refuse. The appeal inspectorate clearly ruled it to be used solely for residents only and no other use. Now in 2021, the majority of members again voted to refuse this application on issues raised. One being that the volume of music noise would be the same for 30 people as it would for 130 and I feel that this application is no more than an attempt to revert back to times prior to the 2014 appeal decision, understandably, the committee is aware of the cost of appeal, but I am assured that this will have no bearing on the decision, is this correct?

Cllr Steve Bush (Tiverton Town Council) referring to item 1 on the Plans List stated: that he was speaking on behalf of various constituents from Cranmore and beyond. I believe that the development of this site is not required and not desirable in any way. The Local Plan was adopted only last year allocating sufficient sites and even contingency sites to provide ample housing to meet the statutory requirements of the authority. This development would be outside the boundary of the settlement agreed on the plan and I can see no compelling reason to extend that boundary in order to grant permission. Furthermore, I believe that it contradicts many of the strategic policies laid out in that plan as it does not assist in conserving or enhancing the area adjacent to the town centre. In the plan, it states clearly the strategic aims for countryside, environment and heritage assets, to conserve and enhance for the retention of attractive countryside providing for biodiversity. This site sits alongside a particularly attractive and well used footpath which links the town centre to Deymans Hill and also Canal Hill. The hedgerows and trees within and surrounding the site have an abundance of biodiversity including 9 species of bat and dormice, both of which are protected by the Habitats Directive of 1992. This authority has also pledged to retain the views of green hill sites in Tiverton Town centre and this development will impinge upon the views from Phoenix Lane and Fore Street, further eating into the views of green countryside enjoyed by residents and visitors alike. The Local Plan also promises that the market town will be protected and enhance their environmental assets including their character, biodiversity, heritage, setting and air quality. The loss on this site of mature trees, the habitat of protected species, biodiversity and attractive countryside is not in keeping with this particular policy. When viewed in the round with all due material considerations taken into account, I firmly believe that there are no grounds for granting this development planning permission and I would urge the committee to reject the application.

Miss Chee Wong again referring to Item 1 on the Plans List stated: I wanted to point out that there are many natural springs along that hill side, that already collects water in the area and if there is any more building there, this will cause further flooding problems in the area or be diverted to existing properties, which is a danger both environmentally and with walking, it is a hazard and will freeze during bad weather, as there are slopes there, it really isn't ideal. The sight lines are bad coming out of that entrance from where they propose to have the entrance to the building site and it is just going to be an increased hazard all round.

The Chairman stated that answers to questions would be given when the item as debated.

### 153 MINUTES OF THE PREVIOUS MEETING (0.23.29)

The minutes of the meetings held on 10<sup>th</sup> and 31<sup>st</sup> March were agreed as a true record subject to some typographical amendments (minute no 138) and the inclusion of correspondence received from applicants and developers for application 19/01679/MFUL (minute no 147).

### 154 CHAIRMAN'S ANNOUNCEMENTS (0.26.47)

The Chairman announced that this was the last Planning Committee for the Development Management Manager, Eileen Paterson, who was leaving the authority. She thanked her for her time and service to the Planning Committee.

### 155 DEFERRALS FROM THE PLANS LIST (0.28.04)

There were no deferrals from the plans list.

### 156 THE PLANS LIST (0.28.16)

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

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

- a) Application 20/01263/MFUL - Erection of 22 dwellings with parking, landscaping and construction of new access at Allotments, Tumbling Field Lane, Tiverton.**

The Area Team Leader outlined the application by way of a presentation detailing the site location plan, site layout, accommodation and tenure, elevations and photographs of the site and the access.

In response to questions asked by the public she explained:

- Members had not undertaken a site visit due to current Covid 19 restrictions
- The Highways Authority had been consulted and had confirmed there had been no incidents since 2015 and that the visibility splay was adequate and recommended a number of conditions
- Protected species are afforded protection under The Habitat and Species Regulations and therefore it is the applicant's responsibility as much as the LPA to ensure protection. An Ecological Survey had been commissioned and harm had also been mitigated by way of conditions to specifically rehome reptiles prior to any development. The application was supported by an Ecological Survey which advised that if scrub land was to be removed on site then a European Protected Species Licence would be required. The competent authority was therefore required to undertake 3 tests of the development
- Condition 18 protected ecology
- Policy S10 was not considered relevant as the site was outside of the settlement boundary
- Policy S14 was relevant and allowed development outside of the settlement if it provided predominately affordable housing

- The site was considered as it was a rural exception site which allowed development of affordable housing in the open countryside
- The previous allotments were privately owned and rented to Tiverton Town Council. As they were not owned by MDDC they were not classed as statutory allotments
- Planners did not have control over internal finishes to ensure fire safety
- Four units would be wheelchair accessible
- Building regulations would be required but that was a post decision process
- The report detailed why Planning Officers had considered the development to be appropriate
- The footpath would remain in place and if diverted in the future would need permission from Devon County
- The site was in flood zone 1 with the access only being within flood zone 3 and conditions stipulated full drainage details be provided to alleviate risk of flooding
- The Highways Authority stated the visibility was adequate for the site

The Area Team Leader confirmed that the Planning Committee at its meeting of 9<sup>th</sup> September 2020 agreed to bring the application to Committee if officers were minded to approve the application.

The officer explained that the application was for 22 units, 12 of which would be affordable housing. The applicant had submitted a viability assessment and the Local Planning Authority had commissioned an independent assessment which had agreed with the proposal.

The S106 agreement would outline who could accommodate the units and applicants would need to apply through legal channels to prove local links to the area.

The development was not in the conservation area and officers felt that the affordable housing benefit outweighed the loss of pastureland.

She provided responses to Members questions as follows:

- The LPA only had limited powers to ensure that the developers was complying with the Ecological Survey but it was conditioned in such a manner that as many reptiles as possible would be captured and rehomed before development commenced
- Members were being asked to consider an application for 22 units, 12 of which were to be affordable. The applicant was an affordable housing provider who had secured funding for 12 of the units to be affordable. Nevertheless, the applicant was hopeful to provide all 22 units affordable
- The access road would be adopted by the Highways Authority and would be maintained by them
- 40 car parking spaces would be provided
- There was a condition to undertake further assessment if any contaminated land was apparent on the site and this was a means of protection for future occupants
- If bat roosts had been found on the site it was a legal requirement that the bats be rehomed before development. The site did not have bat roosts but

harm the potential for harm to bats was mitigated by the imposition of a condition to control outside lighting

- The Housing Needs Survey was up to date and had indicated that there was a real need for affordable housing in the area
- The affordable housing consisted of 7 social rented units and 5 shared ownership and would be available to only those with a local connection
- Policy S10 did not apply as the site was outside of the settlement and its excellent connectivity to the town would encourage walking which was favourable
- Policy S14 was specific for sites which were outside of the settlement and as the site was outside of the settlement boundary Policy S14 did apply
- Safety was part of the planning process and therefore the Area Team Leader had undertaken a site visit to view the access for herself. The Highways Authority had not insisted on a footpath but if they had, this could have been considered
- The landscaping management plan would be for the lifetime of the development and the condition could be amended to specify this if necessary
- Planning Officers felt that the development complied with Policy DM5 and that the parking arrangements were adequate. Electric car charging points were provided
- The flood evacuation plan was for pedestrians not vehicles

Consideration was given to:

- The views of the objector who stated that because the LPA did not have a Tree Officer it was not known if there were TPO's on the site. Any houses would disturb the wildlife and more houses would mean more dogs on the footpath. The applicants reputation for dealing with tenants was not good
- The views of the agent who stated that their client was an affordable housing company which was actively investing in Mid Devon. They were seeking to secure funding from Homes England to make all 22 units affordable. The proposal had been refined during discussions, the site was in flood zone 1 and was in a sustainable location
- The views of the Town Council who strongly objected to the proposal as it was over development in a green area. The land was wet and not suitable for development
- The views of a Ward Member who strongly objected to the proposal as it was an historic site on the Exe Valley Way and was outside of the settlement area. The LPA already had 5 sites allocated to affordable housing and felt that this site was not required. That there were deer, badgers and foxes on the site and emergency vehicles would have difficulty servicing the development. That there was a disabled resident living in accommodation next to the site who would have difficulty entering and exiting because of the development
- The views of another Ward Member who stated that any development would lead to ribbon development down Deymans Hill and that he was surprised that no archaeological material had been found on the site. That the area was already cramped with parking and the entrance was in flood zone 3
- The views of Members who felt that Policy DM6 did not apply and that Policy S10 was more appropriate as it was designed to protect the site
- The views of Members who felt that Planning Officers were not interpreting Local Plan Policies as they were designed

- The views of Members who felt that the Housing Needs Survey did not demonstrate that affordable housing was needed in this area
- The views of Members who felt that Councillors were entitled to interpret Local Plan Policies as they saw fit
- The views of Members that the development was contrary to Policy DM5
- The views of Members who felt that there was not a need for affordable housing on this site

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:

Policy DM6 was not applicable, Policy S10 was applicable and the Housing Needs Survey was inadequate.

(Proposed by Cllr G Barnell and seconded by Cllr S J Clist)

**Reason for the decision:** No decision was made as the application was deferred for an implications report

Notes:

- i.) Cllrs Mrs F J Colthorpe, G Barnell, Mrs C P Daw, L J Cruwys, C J Eginton, S J Clist, F W Letch, D J Knowles, 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 Mrs F J Colthorpe requested that her vote against the decision be recorded
- iii.) Mr Frost spoke as the objector
- iv.) Miss Stoate spoke as the agent
- v.) Cllr W Burke spoke on behalf of Tiverton Town Council
- vi.) Cllrs Mrs C P Daw and L J Cruwys spoke as Ward Members
- vii.) The following late information was reported:

A few questions have been put forward by members and include the following:

Query regarding the application call in.

It is understood that at the Committee meeting of the 9th September 2020, Cllr Daw considered the application should go to the planning committee for consideration given the public comments that had been received. This was agreed by Cllr Cruwys and Knowles.

A site visit was discussed, but given the constraints of lockdown has not been able to take place.

The weight concerned with draft Tiverton Neighbourhood Plan

The plan is still within draft format, and as such, only limited weight can be applied to it.

Report or advice from Emergency planners regarding flood risk and access  
The updated Flood Risk Assessment (FRA) 17 Feb confirms that emergency vehicles will still be able to reach site is access road (in FZ3) is flooded during 1:100 year event (plus climate change). In addition the evacuation routes plan SK009 also submitted 17 Feb shows alternative pedestrian and vehicular access routes for emergency vehicles.

#### Limited detail of Waste Audit Statement

The Officer would advise that there is a comprehensive planning conditions associated with the application that requires this further detail to be submitted. Currently within the report as Condition 7. An email from the 18th February to the Case Officer confirms that DCC are content for the information to be given by condition.

#### Housing Standards and Layout

The concerns raised by the Housing Officer relate to internal changes within the properties. Planning permission is not required for internal alterations and as such there is limited control on this aspect.

Nevertheless, the majority of plots allow for safe fire access, and that of Plot 15 has a means of fire escape via the first floor window. In any case, this would be a matter for building regulations.

#### Completion of s106 Heads of Terms

There is currently a recommendation to approve the application subject to the conditions and the signing of the s106 with the proposed HOT. As such, this has not yet been completed and will not be until there is a resolution to grant consent.

#### Other matters

The applicant has requested amendments to the pre-commencement conditions and has sought removal of proposed condition 4. This stated:

“No materials shall be brought onto any part of the site or any development commenced, until the developer has erected tree protective fencing around all trees, hedges or shrubs to be retained on that part of the site, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. The fencing shall be in accordance with Figure 2 of BS 5837 2012. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development has been completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority.”

The officer has agreed to remove this condition subject to it being incorporated into Condition 18 which currently reads:

The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the local planning authority.

Details of soft landscape works shall include [retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass

establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure; boundary and surface treatments; vehicle and pedestrian/cyclist circulation; proposed and existing service lines. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

It is proposed that this condition is amended to include tree protection and would read as follows:

The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the local planning authority.

Details of soft landscape works shall include retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. All retained trees and hedgerows will be protected by tree protective fencing, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. The fencing shall be in accordance with Figure 2 of BS 5837 2012. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development has been completed.

The hard landscape works shall include means of enclosure; boundary and surface treatments; vehicle and pedestrian/cyclist circulation; proposed and existing service lines. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

The applicant has also sought to remove condition 3 concerning the need for a reptile mitigations strategy. The Officer however has explained why this is necessary and the applicant has now agreed.

#### Ecology matters

The application is supported by an Ecological Survey which advises that if scrub land is to be removed on site then a European Protected Species Licence will be required. The Competent Authority is therefore required to undertake 3 tests of the development and this is appended to this update sheet.

#### Objections

A further 16 objections have been received since the report was written including a signed petition.

Emails have also been forwarded on from Cllr Chris Daw concerning a further 8 objections to the scheme.

The objections received raise concerns regarding the following:

Wheel chair access and roads. – the objector has asked for their objections to be read out.

Wildlife protection

Climate change and carbon emissions

Concern over increased flooding  
Parking and traffic  
Concern over increased noise in the area.  
Overlooking  
Loss of farmland  
Loss of the public walkway  
Overdevelopment  
Setting of a precedent for more development  
Lack of affordable housing proposed  
Impact on visual amenity  
Loss of the allotments

Some questions have been raised in respect to the development from one of the objectors:

#### Question 1

The Mid Devon Local Plan Review 2013-33 adopted by full Council on 9 July 2019 and the Tiverton Central Area Local Plan Review map shows the land the subject of this planning application is outside the settlement area. Furthermore, Local Plan Policy S10 states amongst its principles retention of “the green setting provided by the steep open hillsides, particularly to the west and south of the town”. This development is precisely the type of development which Policy S10 was written to protect. I believe the recommendation to approve fails to have due regard to the strategic context of this site on the setting and settlement limit to the south of the town. Will the committee please explain why breaching the settlement limit and failure to demonstrate adherence to Policy S10 are not material considerations in determining this application?

Policy S10 is not relevant as outside settlement boundary. As such Policy S14 applies where affordable housing is allowed and rural exceptions policy. The application is therefore subject to separate policy consideration as outlined in the report.

#### Question 2

The Mid Devon Local Plan makes provision for 17% more housing than required presumably based on the current settlement limit of the town. 74% of the required dwellings for Tiverton have either been completed or committed with still 12 years of the Local Plan to run. The Local Plan states “a significant proportion of the towns outstanding housing needs will be delivered as part of the Eastern Urban Extension”. Will the committee please explain why it believes that the delivery of the proposed 22 dwellings on this recreational space cannot be delivered elsewhere within the existing settlement limit?

As above.

#### Question 3

The land subject to the application is described as allotments and by officers as ‘former MDDC allotments’. The land is therefore subject to the provisions of Planning Policy DM26 (previously DM24). Will the committee please confirm that an assessment of need prior to disposal was undertaken, when the site disposal took place and who approved the disposal? Will the committee further confirm whether or not the allotments were afforded protection under the 1925

Allotment Act which requires permission from the Secretary of State before development can take place?

Email from Officer to Chris Daw 12th April:

Dear Cllr Daw

Thank you for your email. The site in question formally contained allotments. The allotments were privately owned and rented to the Tiverton Town Council. In March 2006 the Town Council was given 12 months' notice to vacate the site. The site was vacated in March 2007.

The site is not ever known to be under the ownership or control of Mid Devon District Council.

On the basis of the above officers do not consider that the former use of the site as allotments to fall within the definition of 'statutory allotments' and therefore an assessment under the Policy DM24 of the MDDC Local Plan is not required for the purposes of this planning application

Question 4

Three years after the tragedy of Grenfell Tower it seems hard to comprehend that fire safety is not a material consideration when considering a planning application. The officer report and recommendation to approve makes no comment on the concerns raised by Housing Standards regarding the fire safety design of some plots. This is of concern if, for no other reason, because 4 dwellings will be wheel chair accessible. If minded to approve the application, will the committee consider it being a condition of approval that full plans will have building control approval?

Not inside the control of planning. Building regulations are a separate requirement which will happen without the need for condition.

NHS

It is considered on this occasion that the NHS contribution sought on the application does not meet the CIL 122 test given the nature of the development proposed.

It is a rural exception site where affordable housing is largely proposed and there is already a Viability Appraisal submitted with the scheme which suggests it is already bordering on unviable even with the 12 affordable units proposed. Furthermore, any S106 agreement would require only those with a local connection to apply for the affordable housing, which means there will not be a significant addition on the NHS capacity in the area.

Please also see the Ecological Assessment (attached)

Letter has been received from PCL Planning Ltd on behalf of Rotolok (Holdings) Ltd.- planning officer's response to points raised:

The owner/occupier of Tumbling Field House was sent a standard notification letter on 8 August 2020. The access to the property is also past the entrance to the site where the site notice was posted.

In respect of point 4. Historic England (HE) require consultation on development likely to affect the site of a scheduled monument (Cranmore Castle). DCC Historic Environment Team were consulted and on 20 October

advised that proposed development will not have impact on known heritage assets. On this basis a consultation with HE was not deemed necessary.

In respect of the points 1, 2, 3, 5 & 6 these are addressed in the report.

In respect of the ownership query the Council do not hold those records; it would be for the developer to advise.

#### 157 **MAJOR APPLICATIONS WITH NO DECISION (2.51.07)**

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

It was **AGREED** that:

- a) 21/00454/MARM Reserved Matters (appearance, landscaping, layout and scale) for 166 dwellings with the provision of public open space, vehicular and pedestrian access, landscaping, drainage and related infrastructure and engineering works following Outline approval 14/00881/MOUT be brought before the committee for determination and that a site visit take place if the officers recommendation was one of approval.
- b) 21/00374/MARM Reserved Matters in respect of (appearance, landscaping, layout and scale) for infrastructure associated with initial phases of development, following Outline approval 14/00881/MOUT 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

#### 158 **APPEAL DECISIONS (02.58.03)**

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.

#### 159 **APPLICATION 18/01814/MFUL - CHANGE OF USE OF AGRICULTURAL LAND FOR THE SITING OF 3 HOLIDAY LODGES AND ALTERATIONS TO EXISTING ACCESS - LAND AT NGR 299526 113232, CROWN HILL, HALBERTON (3.01.59)**

At the Planning Committee meeting on 10<sup>th</sup> March 2021, 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 Development Management Manager reminded Members of the application by way of a presentation outlining the site location, site plan, block plan, elevations, internal plans and photographs of the site and access.

The officer explained to Members that Planning Officers had looked at the initial reasons for refusal agreed by the Committee and had felt that reasons 2 and 3 could not be supported on appeal.

Consideration was given to:

- Members views that the Local Plan Policies should be encouraging people to walk
- The Highways Authority had looked at the safety aspect of the application and had reported that they were satisfied with the proposals

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

1. In the opinion of the Local Planning Authority, the submitted 'business plan' and 'marketing strategy' do not provide sufficient detail to adequately demonstrate that there is a market for the holiday lodges in this location nor demonstrate its financial viability. To this end, the Local Planning Authority are not satisfied that a countryside location is appropriate and necessary for this development, contrary to policies S14 and DM22 of the adopted Mid Devon Local Plan 2013-2033
2. The proposal would result in additional pedestrians seeking to use the main road due to the lack of a pedestrian footpath in order to access the canal and other facilities. This would be to the detriment of public safety thereby contrary to policies S1 and DM1 of the adopted Mid Devon Local Plan 2013-2033

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

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

Notes:

- i.) Cllr Mrs F J Colthorpe requested that her vote against the decision be recorded
- ii.) The following late information was reported:

Letter received from a member of the public advising:

'When this comes to the Committee for final decision, following the March 11th deferral, can you please correct the implication in the original officers' report that users of the lodges would be able to safely use the bus to get into Tiverton.

There is no bus stop between Halberton Court Farm shop (half a mile to the East), and the top of Post Hill (half a mile to the West). Buses passing at 40 mph along this road with no verge would therefore add to the hazard of access to the site, not mitigate it.'

160 **APPLICATION 20/01789/FULL - CHANGE OF USE OF HALL SOLELY FOR USE BY HOLIDAY MAKERS TO PUBLIC USE - BUILDINGS AT NGR 2944462 120596 DUVALE PRIORY, BAMPTON (3.33.29)**

At the Planning Committee meeting on 10<sup>th</sup> March 2021, 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 Principal Planning Officer reminded the Committee of the application by way of a presentation which highlighted the existing plans, elevations, photographs of the site, existing buildings and the driveway.

He provided the following answers to questions asked by the public:

- Environmental Health Officers had considered the previous history of the site
- Conditions did cover ventilation in the original consent and the vents had been sealed
- No sound surveys had been carried out but the level of noise had been conditioned
- The venue had been operating for a number of years and no noise complaints had been received
- Applications in 1989 and 1992 which required the removal of the buildings had been superseded by the appeal in 2013 which granted them permission
- All aspects of noise were debated at the previous committee meeting and car noise was stated as the reason for refusal
- There were two permitted uses already on site
- Members could decide to defer for further information if required
- Members needed to make clear and informed decisions for refusal and the implications of the costs of an appeal were a consideration

Consideration was given to:

- Members views that enforcement of noise issues was impossible in the evenings
- Enforcement and flooding were separate issues from the application in front of Members
- Members views that members of the public would make more noise than holidaymakers on site

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

1. 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 G Barnell)

**Reason for the decision:** as set out in the 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.) Cllrs Mrs F J Colthorpe and D J Knowles requested that their vote against the decision be recorded
- iv.) Cllrs L J Cruwys, Mrs C P Daw and R F Radford requested that their abstention from voting was recorded
- v.) The proposer and seconder and Cllr C Eginton confirmed that they would defend the decision at appeal if necessary
- vi.) The following late information was reported:

1. Duvale Priory already has planning permission for 30 people to come on and off the site to attend functions/ yoga etc in our Small Function Room.

2. The current planning application is exactly the same as we all already have but we wanted to give people the option to have more space by using the main hall which is significantly larger, this to me seems extremely sensible given the current situation with the coronavirus and it's likely hood for it to be around for many years.

3. There would be NO change in any amount of traffic coming to and from the site that people are concerned about, we can already have 30 people coming in and out we are just requesting that they are able to use a different building.

(The meeting ended at 6.38 pm)

**CHAIRMAN**