

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 16 June 2021 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
E J Berry, S J Clist, L J Cruwys,
Mrs C P Daw, C J Eginton, P J Heal,
B Holdman, D J Knowles, F W Letch and
B G J Warren

Apologies

Councillor(s)

G Barnell

Also Present

Councillor(s)

R M Deed and Mrs S Griggs

Present

Officers:

Jenny Clifford (Head of Planning, Economy and Regeneration), Maria De Leburne (Operations Manager Legal and Monitoring), Miles Joyce (Interim Development Management Manager), Adrian Devereaux (Area Team Leader), Angharad Williams (Area Team Leader), Christie McCombe (Area Planning Officer), Sally Gabriel (Member Services Manager) and Carole Oliphant (Member Services Officer)

18 **APOLOGIES AND SUBSTITUTE MEMBERS (0.04.47)**

Apologies were received from Cllr G Barnell who was substituted by Cllr B Holdman.

19 **HYBRID MEETINGS PROTOCOL (0.05.04)**

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

Note: *Protocol previously circulated and attached to the minutes.

20 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.05.33)**

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

21 **PUBLIC QUESTION TIME (0.05.44)**

1. Pat Pratley referring to item 10 on the agenda stated

Question one: will the committee explain why they believe that this site, adjoining the settlement of Tiverton, defined in the Local Plan as a Market Town, qualifies as an exception site within the context of policy of DM6 which states that an

exception site must adjoin a settlement which will usually mean one of the settlements, defined in policy S13 which is concerned with the development of 22 village locations and settlements which do not function as Market Towns?

Question two: If the interpretation placed on S13 and DM6 in the report is accepted, what does the committee consider will be the spatial implications for the three Market Towns with regard to future applications for affordable housing outside but adjacent to their settlement boundaries?

Question three: Members have been asked to consider the Local Plan in its totality and policy S10 states that the Council will guide development to retain the green setting provided by the green steep open hillsides particularly to the west and south. Policy S14 states in its introduction 'Development outside the settlements defined by policy S10 to S13 will preserve and where possible enhance the character, appearance and biodiversity of the countryside'. What is the committee's view of the ability of the development to achieve these objectives?

2. Major Jenkins referring to item 11 on the agenda provided the following questions which were read out by the Chairman:

Would the Committee agree that the 2 month delay in bringing this hearing back before the Planning Committee, requested by the applicants agent on the 22 March 2021 has tactically and unnecessarily moved the application into a time frame where it could be considered the building becomes exempt under the 'four year rule', a mitigating factor that the 'Implications Report' now raises, and that the decision should be firmly based on the date that the first request for a 'Certificate of Lawfulness' was applied for on 24 June 2020, at which point it was a further 13 months before it would be 4 years old, cognisant of the fact that the building first came to the attention of the Council in August 2019 as being in continuous occupation at which point the building was just over 2 years old.

Could it please be explained as to why the applicants agent has been able to submit further evidence, by way of yet further revised plans for consideration that have effectively changed the application, after the 14 day period, during which written objection had to be submitted which raised issues that were based on the evidence that had been previously submitted (prior to the 14 day period) and on which, notification of receipt and publication had been sent by the Planning Services Department on 13 May 21?

3. Lisa Clifford referring to item 11 on the agenda provided the following questions which were read out by the Chairman:

Why is there no reference to the installation of a WC and sewage facilities mentioned in the report? Given the proposed building is 14 mm at its narrowest and 18 mm at its widest to the neighbouring boundary, the roof gutter down pipe touches the boundary I feel there is good reason to consider the implication of installing a sanitary unit. There are Building Regulations specific to the purpose of the installation or change of building to one that will house a sanitary unit, but I found this missing in the implication report, why?

What is the guarantee that the building will be built accordance to proper standards to ensure safety and hygiene?

I note that there have been no conditions put in place to increase the distance between the building and neighbouring boundaries, which are not the recommended 2.5 m but instead 14 mm at its narrowest and 18 mm. Why has the closeness of the shed to the boundary been ignored?

I wonder how the applicant will be able to access their building for maintenance if there is no access available?

When permission to access neighbouring gardens is given is relying on the removal of neighbours fencing to access the sides of the building for maintenance short sighted and impractical? What happens if a neighbour plans to place a building/shed next to their own fence, or as has been done invested a large amount of money on planting. Does it not seem more sensible to have a condition, if the application is approved, to narrow the building allowing easy access to the shed?

Why is this building constantly described as a timber building when it is timber cladding, which is not sound proof – I note there is no comments about sound proofing considering the building will have a living space, bedroom and shower/wc. Will the building be made soundproof to allow enjoyment of quiet of people's gardens?

The report has acknowledged it is a subjective, but it fails to consider and respect the sentiments of many applications that expressed a collective concern that the approval of this building will set a precedence. It ignores the fact that the proposed use of the building does not fit in with sheds/outbuilding in this small community. Why is this not important?

I have noted in the report that a financial risk sways the application towards approval, but the risk to the well-being of those living in the adjoining properties and implication of its approval in setting a precedence and the negative environmental affect this could have on the environment it surrounds is ignored, what is the rationale?

If the building is approved what are the ramifications of the building being used outside the permitted use outlined in the report? Who and how are these rules imposed and what are the penalties?

4. Paul Elstone, referring to item 9 on the agenda:

Madam Chair, you give me three minutes but my understanding is that 30 minutes are given to Public Questions normally within the planning process. Secondly and I totally respect your position as Chairman of the Planning Committee but I in advance was in communication with the MDDC Chief Executive, Mr Walford, and suggested that I would be asking quite a few questions at this meeting and he encouraged me and suggested that it was totally appropriate to do so. I would add that I have on that basis 17 questions to ask.

The Chairman reminded Mr Elstone that 3 minutes is all that is allowed for each speaker during Public Question Time.

Mr Elstone continued.... Well given that, there is no point in me asking any questions because they are all very much interlinked. I am going to be selective as clearly I have tried to get some prearrangement whereby I wouldn't even be having to ask these questions at this moment. That failed so the fall back was, as I say, I did speak to Mr Walford and he suggested it was wholly appropriate that I raise them at this meeting but if that is your position I am going to have to be selective and it is going to be very difficult so just bear with me....

One question: Key section of the UK Governments National Planning Policy Framework, published in February 2019 section pre-application engagement on front loading, paragraph 40 extract, states the Local Planning Authorities have a key role to play in the process of public engagement. That LPA's should, where they think it will be beneficial, encourage any applicants who are not already required by law to engage with the local community and where relevant statutory or non statutory consultees be forced to consider applications. My question therefore is, did the MDDC Planning Officers at any stage stage encourage Redrows to enter into consultation with the public? If so, when and how was this done? I ask this question as in the Statement of Community Involvement in February 2021, section Appendix 1, section 3.5, Redrows say, because these design proposals relate closely to the EUE planning documents that they consider it not necessary to enter into further levels of public consultation. Respectfully we need to change that word from 'further' to 'no' public consultation. I would add that any cursory view of the mapping of the outline planning application for reserve matters show very many major changes. I do believe that the applicant is being very disingenuous, not only to the public and Tiverton Town but to MDDC councillors to say the very least.

I am going to go into another question in a similar vein which I would not have to ask if the public had been consulted. The Tiverton EUE Masterplan Supplementary Planning Document adopted by MDDC in 2018, states in section 1.7, that public consultation is required at the urban design of the planning process, it is considered that public consultation should be a prescriptive requirement. My question is why did this public consultation not happen? Especially important as there has been no public consultation on Area A of the Tiverton EUE development in 2014 as a function of the outline planning application. So this is a significant thing. As a result of there being no public consultation we have just one person left to speak for three minutes in a planning committee plus a chance to ask a few questions. This, after Planning Officers have made planning recommendations to the Planning Committee for approval of the planning application.

I am at a loss as to how constrained I am. I would like to ask one more question (Mr Elstone was then asked to conclude his statement by the Chairman....). He continued.....this just reflects what is wrong in the planning process, public consultation and no opportunity to ask questions at the planning stage. Thank you Madam Chair, clearly it reaffirms a view of the whole planning process of what has been happening over recent months and recent years.

The Operations Manager for Legal and Monitoring advised Members that Mr Elstone had been in contact with the Chief Executive and the Monitoring Officer asking for a deferral of the application but that there was no basis for a deferral.

22 **MINUTES OF THE PREVIOUS MEETING (0.23.39)**

The minutes of the meeting held on 26th May 2021 were agreed as a true record and duly signed by the Chairman.

23 **CHAIRMAN'S ANNOUNCEMENTS (0.25.04)**

The Chairman introduced Myles Joyce the interim Development Management Manager and Michelle Woodgates the DCC Highways Officer.

24 **ENFORCEMENT LIST (0.27.06)**

There were no enforcement cases to report.

25 **DEFERRALS FROM THE PLANS LIST (0.27.13)**

There were no deferrals from the Plans List.

26 **THE PLANS LIST (0.27.13)**

The Committee considered the applications in the *Plans List.

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

- a) 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 at Land at NGR 298088 113134 (Adjacent Barnesmead), Blundells Road, Tiverton.**

The Planning Officer explained that the application before Members was reserved matters and part of the spine road which was previously the subject of an outline planning application.

The Planning Officer outlined the contents of the report via a presentation which highlighted site location plan, Tiverton EUE illustrative framework plan, aerial view, general arrangements plan, detailed landscape details and photographs of the site.

The officer explained that Adopted Masterplan SPD sets out the ambition for a roundabout on Blundells Road. Whilst a roundabout is visible on the plans it is outside the red line boundary of this application site, and officers the construction of the spine road will, in the first instance, be constructed with a T junction, on to Blundells Road. The application had footway provision on both sides of the road and incorporated sustainable drainage provision. Changes had been made to the outline application which included an extension of the hedgerow and relocation of the electricity sub station. She confirmed that no trees were planned to be felled and a community space included seating, formal planting and a trim trail are to be provided.

She confirmed that the minimum 9 metre buffer width between the spine road and Barnsmead commenced at the boundary of Barnsmead.

In response to a question from Members, the officer confirmed that the application, if approved, gave certainty for future phases of development but did not predetermine where future phases would be situated.

The DCC Highways Officer confirmed that the T Junction on Blundells Road was a temporary solution until the proposed roundabout was delivered and that safety audits had been completed and confirmed that the junction was acceptable.

Consideration was given to:

- The views of the agent who stated that Redrow had been awarded the contract to construct the infrastructure on phase A of the Tiverton EUE and that the application was in accordance with the Local Plan. He explained that the application was before Committee early so that works could start on the spine road before September and the winter period.
- Members views that the site visit had revealed the welcome news that the proposed substation had been moved away from an existing property
- Confirmation that 150-200 dwellings had to be constructed and occupied before DCC Highways could consider the installation of the proposed roundabout onto Blundells Road
- Members views that it was difficult for them to deal with lots of smaller applications which made up the whole picture of the EUE
- Members concerns that if permitted, the siting of the proposed spur road on the spine road would predetermine where future housing would be built out
- Members concerns about the safety of the temporary T junction on Blundells Road

It was therefore **RESOLVED** that: planning permission be granted as recommended by the Head of Planning, Economy and Regeneration subject to: the receipt of a plan removing the access point to residential development to the west.

(Proposed by the Chairman)

Reason for the Decision: As set out in the report

Notes:

- i.) Cllrs Mrs F J Colthorpe, B Holdman, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal, D J Knowles, F W Letch 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.) Russell Smith spoke as the agent for the applicant

27 Application 20/01263/MFUL - Allotments, Tumbling Field Lane, Tiverton Devon - Erection of 22 dwellings with parking, landscaping and construction of new access (1.08.34)

At the Planning Committee meeting on 14th April 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 Area Team Leader outlined the contents of the report by way of a presentation highlighting site location plan, site layout, accommodation tenure, elevations and photographs of the site.

She explained the reason for the implications report and the reasons why officers felt that the application was acceptable in terms of the Local Plan and MDDC planning policies.

In response to public questions the officer responded:

- Policy DM6 applied as it was outside the settlement limit of Tiverton but was predominately affordable housing which was acceptable.
- The application would not set a precedent in terms of policies S13 and DM6 as each application would be determined on its own merits. Applications could come forward but each would be determined against MDDC Policy.
- Biodiversity improvements and conditions included a comprehensive landscaping plan and new trees to be planted which were significant reasons for officers to recommended approval of this development.

Consideration was given to:

- Members views that the LPA was on track with it's 5 year housing plan and concerns that this application had come forward
- Members views that an adjoining disabled resident's access would be adversely affected during construction of the site
- Members concerns that sites kept being brought forward which were not included within the Local Plan
- Members views that more weight should be attributed to objectors concerns than advice provided by their Planning Officers
- Officers advice that an application for a rural (outside of a settlement) exception site which comprised of predominately affordable housing was not included within the 5 year land supply and could be brought forward under policy DM6
- Members views that the application was contrary to policy S10 as it did not retain the open setting in the south and west of the Town
- The independent viability assessors report which confirmed that the number of affordable units proposed was acceptable
- Members concerns with the visual impact of the proposed development
- The applicant was an affordable housing provider and that with further funding it was hoped that all 22 units would be affordable
- The views of Members that the officer advice regarding the applicants stated desire to appeal if permission was refused as to potential costs award if an

appeal failed was intimidating to Members. The officer response was that this was certainly not meant to be the case and that the report followed the same format as all other implication reports which sought to be honest and transparent with Members outlining the information received from applicants.

Therefore the Committee **RESOLVED** that: Planning permission be refused for the following reasons:

- a) The proposed development of 22 dwellings is in open countryside and will not preserve and enhance the character and appearance of the countryside. It is adjacent to the settlement area of the market town of Tiverton where suitable provision for sufficient housing, on allocated sites, in excess of requirement over the plan period, is also identified in policy S10 and the proposed site does not meet the criteria of an exception site as identified in policy DM6. It is contrary to policy S14.
- b) The proposed development will not retain the green setting provided by the steep open hillsides, particularly to the west and south of the town contrary to policy S10.

(Proposed by Cllr L J Cruwys and seconded by Cllr Mrs C P Daw)

Reason for the Decision: As set out in the report

Notes:

- i.) *report previously circulated and attached to the minutes
- ii.) Cllrs Mrs F J Colthorpe, B Holdman, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal, D J Knowles, F W Letch 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
- iii.) Cllrs Mrs F J Colthorpe, P J Heal and E J Berry requested that their vote against the decision to be recorded
- iv.) Cllr F W Letch requested that his abstention from voting be recorded
- v.) In the event of an appeal Cllrs L J Cruwys, Mrs C P Daw and Cllr B G J Warren would defend the decision and would construct their own defence and not be influenced by Planning Officers.
- vi.) The following late information was provided:

1 x representation from the Tiverton Neighbourhood Plan – this objects to the development on grounds that the upcoming plan supports the Tiverton Settlement Area as set out in the Local Plan and that it is considered that the Tiverton Eastern Urban Extension will fulfil the required number of homes and as such, they do not consider the development to be appropriate.

1 x representation from Devon CPRE – in summary, they object to the development on grounds that the land is good quality farmland, that the site access is in flood zone 3; and flooding could be an issue with run off from the hills; overdevelopment of the site and that the site is not designated for development or included within the 5 year land housing supply.

Supporting statement from LIVEWEST that has been sent around to members.

Objection from Patricia and Paul Pratley with a number of questions that members will have seen.

28 Application 20/01537/HOUSE - 19 Lower Millhayes Hemyock Cullompton Devon - 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 (2.16.58)

At the Planning Committee meeting on 10th 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 Area Team Leader outlined the contents of the report and reminded Members of the application by way of a presentation which highlighted site location plan, floor plan, elevations, side view plan and photographs of the exterior and interior of the cabin.

The officer explained that the cabin appeared immune from enforcement action as it has been in situ for 4 years, as information had been received it was in situ in June 2017, and was to be used as ancillary to the house.

In response to public questions he responded:

- The WC was not mentioned on the implications report as it was not part of the original reasons for refusal
- The quality of the building was subject to building regulations
- Distance from neighbouring boundaries was not a policy requirement
- Access for maintenance was a civil issue and was no different than extensions built on boundary lines
- There was no planning policy which determined how far out building had to be constructed away from an existing boundary
- It was not considered that additional soundproofing is required
- The use of the outbuilding was a consideration for Members
- An implication report must include possible outcomes for Members if an appeal was lodged against refusal
- Any breach of conditions would be at risk from possible enforcement action from MDDC
- The LPA had not deliberately withheld the application, the applicant wanted to make changes after the last planning committee to alleviate Members concerns over the size of the decking
- Concerns were received in 2019 but an enforcement file was closed following an investigation because the use was considered to be within permitted development rights

Consideration was given to:

- The application being submitted in October 2020 when officers concluded that the cabin was not within permitted development rights and planning permission was required
- Members views that they had received private information that the cabin was not completed until June 2020 and that they questioned the need for an ancillary use building to the main property
- As no enforcement notice was issued in 2019 the date of June 2017 was used as the date the cabin was first in situ and therefore a period of 4 years had passed making it immune from enforcement action
- Members views that the cabin did not conform to ANOB foul drainage standards, it dominated the top of the garden and overlooked bedrooms of no 20 Lower Millhayes
- Members views that the cabin was overbearing, was not a positive dynamic and that condition 3 was unenforceable
- Members views that there was no need for a cabin for ancillary purposes as the main house was large enough to accommodate visitors

Therefore the Committee **RESOLVED** that: planning permission be refused for the following reason:

In the opinion of the Local Authority, the proposed outbuilding in terms of its size, appearance and location on an elevated site is not considered to make a positive contribution to the local character of the area. The development is considered to adversely affect the amenity of neighbouring occupiers by virtue of unacceptable overlooking and its overbearing nature, with inadequate justification provided for the proposed ancillary accommodation on site. The proposal is therefore considered to be contrary to policies DM1 and DM11 of the Mid Devon Local Plan 2013-2033.

(Proposed by Cllr S J Clist and seconded by Cllr F W Letch)

Reason for the Decision: As set out in the report

Notes:

- vii.) *report previously circulated and attached to the minutes
- viii.) Cllrs Mrs F J Colthorpe, B Holdman, E J Berry, S J Clist, L J Cruwys, Mrs C P Daw, C J Eginton, P J Heal, D J Knowles, F W Letch MBE 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
- ix.) Cllrs Mrs F J Colthorpe, P J Heal, D J Knowles and E J Berry requested that their vote against the decision to be recorded
- x.) In the event of an appeal Cllrs S J Clist and Cllr F W Letch would defend the decision.

29 **MAJOR APPLICATIONS WITH NO DECISION (2.50.09)**

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

It was **AGREED** that:

21/00883/MFUL Permanent siting of a Motorcross track, Station Road, East Langford, Bow be brought to Committee and a site visit take place if the officer recommendation was minded to approve.

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

30 **APPEAL DECISIONS (2.52.25)**

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 5.18 pm)

CHAIRMAN