

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 6 October 2021 at 2.15 pm

Present

Councillors

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

Apologies

Councillor(s)

E J Berry

Also Present

Councillor(s)

D R Coren and Mrs M E Squires

Present

Officers:

Maria De Leburne (Operations Manager
Legal and Monitoring), Dean Emery
(Corporate Manager for Revenues, Benefits
and Recovery), Myles Joyce (Consultant
Development Management Manager),
Adrian Devereaux (Area Team Leader),
John Millar (Acting Area Team Leader),
Jake Choules (Planning Assistant), Sally
Gabriel (Member Services Manager) and
Carole Oliphant (Member Services Officer)

100 **APOLOGIES AND SUBSTITUTE MEMBERS (0.03.09)**

Apologies were received from Cllr E J Berry.

101 **ELECTION OF VICE CHAIRMAN (0.03.23)**

Cllr L J Cruwys was duly elected Vice Chairman of the Planning Committee for the remainder of the municipal year.

102 **HYBRID MEETINGS PROTOCOL (0.04.56)**

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

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

103 **PUBLIC QUESTION TIME (0.05.23)**

1. **Neil Davis**, referring to no 3 on the Plans List, provided a statement which was read out by the Chairman which stated:

In relation to the application 21/00617/FULL. Creedy Park is designated as being on the 'Local Register of Historic Parks and Gardens'. Please could someone from the committee explain what kind of protection, process or consideration is given to this designation when evaluating planning applications within the parkland boundary?

2. **Alan Murray**, again referring to no 3 on the Plans List, stated:

1 The site plan as included in the Committee Report only shows a small indicative rectangle with hatching to indicate the site and not as shown on the Site Location Plan - Revised dated 30/06/21 as submitted by the applicant and posted on to the Public Access list of documents on 15/09/21.

As this plan is extremely misleading can you please ensure that all members receive a copy of this latest correct plan clearly showing the buildings, site area and access track in advance of the meeting?

2 The proposed development is “for an agricultural building relating to the renewable heat installation business section of the applicant’s business.” We understand the applicant’s main business is making cider.

Can you please clarify where the crossing point is between agricultural use and business use and how it affects planning law?

3 Can you please explain why when the ‘Constraint’ of Historic Designed Park or Garden was acknowledged on both the Permitted Development and Full planning applications that Devon Gardens Trust were not consulted on either application?

4 In Section 3 Ecology it is stated that the proposed site area is ‘likely’ less than 0.1 hectare and therefore does not meet the Wildlife Trigger point.

When measured off the applicant’s latest site plan the site area, excluding the access track, measures at 0.2 hectares. Why was this missed?

5 In Sandford Parish Council’s submission it reflected “Concerns from residents at Creedy Park on the creation of heavy agricultural traffic on to the busy Crediton to Sandford main road.”

Although the Highways Authority had no comments to make in this matter.

In the applicant’s agent’s email dated 30 July the applicant has listed the machinery intended to be stored on the site, in addition to the storage of biomass etc. This list appears to show about 9 large self powered tractors and mules to be stored inside plus numerous trailers and toppers to be stored outside.

The use of this equipment may be seasonal but must surely have an impact getting onto and off the main road?

104 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.09.46)**

Members were reminded of the need to make declarations where appropriate

105 **MINUTES OF THE PREVIOUS MEETING (0.09.58)**

The minutes of the meeting held on 22nd September were agreed as a true record and duly **SIGNED** by the Chairman

106 **CHAIRMAN'S ANNOUNCEMENTS (0.10.40)**

The Chairman had no announcements to make.

107 **DEFERRALS FROM THE PLANS LIST (0.10.59)**

There were no deferrals from the Plans List.

108 **THE PLANS LIST (0.11.03)**

The Committee considered the applications on 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 20/01588/MFUL - Erection of storage building with first floor office (512sqm) following demolition of barn and erection of grain store (498sqm) and change of use of land to car and lorry park at Crediton Milling Co Ltd, Fordton Mill, Crediton*** be approved subject to the conditions as set out in the report

(Proposed by the Chairman)

Reason for the decision: As set out in the report and confirmation that the amended condition detailed in the update sheet was not now required due to a further response from the Environment Agency

Notes:

- i. Cllr S J Clist declared a personal interest as he had conducted business with the applicant in the past
- ii. Cllr G Barnell declared a personal interest as he had visited the site after a fire
- iii. The following late information was provided:

5//10/21

The following response has been received from the Environment Agency – 5th October 2021:

Environment Agency position

Following our previous response (ref. DC/2020/121794/03-L01, dated 13 September 2021), we confirm that we remove our previous objection subject to inclusion of a condition.

Reason

We acknowledge receipt of drawing CMC-001-211 PO1 'PROPOSED NEW BUILDINGS FINISHED FLOOR LEVELS' (dated September 2021) by Kewillijoe Structural Designers which show proposed finished floor levels (FFLs) of the proposed buildings, namely 40.6mAOD (metres above Ordnance Datum) for the proposed 'BARN/OFFICE' and 40.1mAOD for the proposed 'GRAIN STORE' and thus a comital to provide floor levels above existing ground levels. If in the event the above FFL's cannot be achieved then a limited reduction of 300mm below the above would still ensure that in overall terms the requirements of the National Planning Policy Framework (NPPF) would be met.

Condition requirement and reasoning

We use this opportunity to inform all relevant parties that the area of the proposed car/lorry parking as shown on drawing CMC-001-212 PO1 'PROPOSED NEW PARKING LAYOUT CARS AND LORRIES' (dated September 2020) by Kewillijoe Structural Designers would be on an area of functional floodplain, this area being on the cusp of flooding in the relatively minor flood of November 2012. Therefore, it is vitally important that the functionality of this area is not compromised by the development for which permission is sought. Any raising of ground levels in the proposed car park area, and/or associated landscaping, would increase flood risk locally, including the Mill complex and such is contrary to policy within the NPPF and would be unacceptable.

The suggested wording for our recommended condition is set out below.

Condition

No development approved by this permission shall commence until such time that the applicant has submitted, and the planning authority approved in writing, details of the undeveloped and proposed levels of the car/lorry park area as shown on drawing CMC-001-212 PO1 'PROPOSED NEW PARKING LAYOUT CARS AND LORRIES' (dated September 2020) by Kewillijoe Structural Designers, and any associated landscaping.

Reason

To prevent a loss of functionality of this area of floodplain thus ensuring the proposal would not increase flood risk elsewhere.

b) Application 21/00855/FULL - Erection of a workshop and store for woodland and land management at Posbury Clump, Posbury, Devon.

The Area Team Leader outlined the application by way of a presentation highlighting site location plan, block plan, floor plans, elevations, aerial photographs and photographs of the site.

The Officer explained that Natural England was satisfied that the development was unlikely to impact on the Site of Special Scientific Interest (SSSI) and that the County Ecologist had raised no objections. A woodland management plan had been

provided and the building would have no detrimental effect on neighbouring properties.

Consideration was given to:

- The objectors statement which included that the application was recreational, was not justified, ran contrary to the National Planning Policy Framework, there was no legal protection for the woodland and the application concerned a SSSI
- The agents statement which included that the officers had provided clear recommendations and that none of the statutory consultees had raised any objections and the application had Parish Council support. Natural England welcomed the application and the proposed building was distant from the ecological site. The client was proud to be the custodian of the site.
- The Ward Members statement that he was asked to call in the application by an objector but he would not speak for or against the application
- Historic England were not consulted because they were not a statutory consultee but Natural England were and they had been consulted and had raised no objections
- The officers view that the dark forest conditions could be enforced.

RESOLVED that planning permission be granted as per the Interim Planning Development Management Manager subject to conditions as set out in the report

(Proposed by Cllr R J Dolley and seconded by Cllr L J Cruwys)

Reason for the decision: As set out in the report

Notes:

- i. Cllr F W Letch declared a personal interest as he had attended a Parish Council meeting where the application was discussed
- ii. Cllrs Mrs F J Colthorpe, G Barnell, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley, C J Eginton, P J Heal, 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 to the application
- iii. Cllr S J Clist requested that his vote against the decision be recorded
- iv. Simon Ford provided a written as the objector which was read out by the Chairman
- v. Duncan Hartley spoke as the agent
- vi. Cllr D Coren spoke as the Ward Member

c) Application 21/00617/FULL - Erection of a general purpose agricultural building at Land at NGR 282822 101624 (Creedy Park), Crediton, Devon

The Area Team Leader outlined the application by way of a presentation highlighting the site plan, elevations, floor plan and photographs to and from the site.

The officer explained that Creedy Park was an historic park and that a previous application to build a smaller agricultural building had been granted under permitted

development. The new application consisted of a building which was larger than permitted development allowed.

It was understood that the farm holding comprised of 114 acres. It was clarified that 40 acres were owned by the application whilst the remainder were rented. Part of the enterprise included providing logs for a biomass boiler relating to the wider enterprise. The building was proposed to store the logs to ensure that they remained dry, which was a legal requirement of the business. This was therefore considered a reasonably necessary function for an agricultural building in order to support the farming enterprise.

The officer confirmed that both Devon Garden's Trust and the Council's Conservation Officer had raised concern over the proposals with the Conservation Officer also noting that a heritage statement should have been provided to allow for the full assessment to the impact on the heritage asset of the Park. The Devon Gardens Trust had also raised concern to the proposed landscaping which would impact upon the openness of the parkland.

He explained that the officer recommendation was that of refusal because the Local Planning Authority was of the opinion that by means of its scale, siting and design, the proposed building was unacceptable for this countryside location within the sensitive historic setting of Creedy Park which was on the local list for Historic Park and Garden. Insufficient information had also been submitted to assess the potential harm to the two nearby listed buildings currently known as Kerswell Cottage and West Lodge. Therefore the proposal was considered to harm the character of the area without sufficient justification for the development. The proposed development was therefore considered to be contrary to policies S14, DM1, DM20 and DM25 of the Mid Devon Local Plan (2013-2033).

In response to questions asked at public question time the officer provided the following responses:

- Creedy Park was on the local register for parks and gardens not the national list like Shobrooke Park but it is of local and regional importance. National Planning Policy Framework states that non designated heritage assets 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or non-directly that effect non designated heritage assets a balanced judgement will be required having regard to the scale of any harm or loss of any significance to the heritage asset. Local Planning Authorities should not permit the loss of the whole or part of a heritage asset without taking reasonable steps to ensure that the new development will proceed after the loss has occurred'
- The correct plans had been included within the presentation
- Section 336 of the Town and Country Planning Act 1990 defines 'agriculture' as including: 'horticulture, fruit growing, seed growing, dairy farming; the breeding and keeping of livestock. Therefore, cider making is considered to fall within this definition. It is understood that the renewable energy is used to support the farming/cider making enterprise, however, the LPA did not find that this justification was sufficient with regard to policy DM20 hence recommending refusal for this application. It should be noted that this is a full planning application rather than a prior notification where the case needs to be

made that the building is reasonably necessary for the purposes of agriculture whereas under a full planning application alternative countryside uses can be considered.

- There is no requirement to consult on the prior notification applications. As for the application before committee, Devon Gardens Trust and the Conservation Officer were consulted and their comments have been considered.
- If an application is greater than 0.1 hectares, it is down to the LPA to be 'reasonably certain that there will be no impact on protected or priority habitats and species' before requesting an ecology appraisal. The area for the building and access comes to approx. 800sqm so under 0.1ha. However, the red line on the plan includes the hedgerow etc which takes it over 0.1ha. It should also be noted that the access was approved under a prior notification. We therefore do not consider that the erection of a new building will have a significant impact on such species and we are consistent with this approach for other agricultural buildings.
- It was considered that such farm machinery was likely to be already used by the holding and the erection of a further building to store the machinery would not significantly increase traffic movements to justify this being included as a reason for refusal

Consideration was given to:

- The objectors statement which included that she had lived at West Lodge for 20 years and it was grade II listed, the park was grazing parkland and the statutory consultees had objected. She had spoken to a majority of residents and they welcomed the officers recommendation
- The applicants statement which included the need to store machinery and wood on their own land, that they owned Sandford Cider and were the only residents who made a living from the site, that if refused they would go ahead with the previous permission which had been granted and there it was a choice between 2 barns on the site and he urged Members to pick to barn the business needed
- The views of the Ward Member who stated that 'Creedy Park is a historic and natural asset for Sandford and surrounding areas. This asset is also — or should also — be a constraint when it comes to planning applications. I believe it is for full planning applications, but unfortunately not for permitted developments. A heritage impact assessment should have been submitted, and the Devon Gardens Trust should have been consulted. Indeed, they see it as a serious concern that they weren't. There are trees and habitats in the park that are of a unique and important significance, and these have not been properly taken into account. Kerswell Cottage and West Lodge are Grade II listed buildings, and their proximity to the proposed building will cause them (and others) a detrimental visual impact. Many residents are worried too about a potential increase in heavy traffic, over what is a privately-maintained drive. There are options for places to build a new agricultural building in the area, but Creedy Park shouldn't be one of them. I therefore support the refusal recommendation."
- The views of the second Ward Member who stated that if Members were minded to refuse that they ask for a site visit as the current application was in a different position to the permitted development. She had heard what the applicant had to say and that the storage capacity would be for hay, apples

and wood. She did not think that the impact was that bad and she understood why the applicant had applied for a bigger building

- Confirmation that approval would not result in two barns on the site as the application sat over the plans for the permitted development
- Confirmation that the applicants agent had been asked to provide a heritage statement so that the conservation officer could assess the impact of the development but as this had not been provided they could not support the application
- Members views that the although they wanted to protect the countryside there was already a pre notification and the new application was out of site and supported the expansion of a local business
- Members views that the park was not openly accessible to the general public and if they could not enjoy the views how would the application impact them
- Members views that they were encouraged that a new Devon Bank would be provided
- Members views that the application would have less of an impact than the permitted development
- Members views that the applications benefit of supporting a local rural business outweighed the harm to the views from the site
- Members view that the Highways Authority had no concerns with regards to increased traffic movements.

RESOLVED that planning permission be granted and delegated authority be given to the Interim Planning Development Management Manager to apply appropriate conditions to include:

1. A condition which would ensure that the building was lowered into the ground as much a practical

(Proposed by Cllr Mrs F J Colthorpe and seconded by Cllr G Barnell)

Reasons for the decision:

1. The application would create less of an impact than that which had prior notification and would therefore be built. There would be a reduction of impact on the park and the amenity of those who could see it; and
2. The application was developing a legitimate business and creating employment in the rural area and was compliant with local policies

Notes:

- i. Cllr F W Letch declared a personal interest as he knew the applicant
- ii. Cllrs Mrs F J Colthorpe, G Barnell, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley, C J Eginton, P J Heal, 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 to the application
- iii. Cllr R J Dolley requested that his vote against the decision be recorded
- iv. Jo Poulton spoke as the objector
- v. Barney Butterfield spoke as the applicant
- vi. Cllr Mrs M E Squires spoke as Ward Member

- vii. Cllr Mrs E Lloyd provided a statement as Ward Member which was read out by the Chairman
- viii. The following late information was provided:

21/00617/FULL - Erection of a general purpose agricultural building - Land at NGR 282822 101624 (Creedy Park) Crediton Devon.

29/09/21

'The Parish Council's comments have been updated, adding a paragraph that reads: "We feel that agricultural buildings within the park detracts from the beauty of the parkland. Traditionally all farming buildings were outside the park the only agricultural activities within the park were grazing and hay making."

5th October

Devon Gardens Trust understands that the above application, to which we submitted a written objection on 23rd April 2021, is to be considered by the Members of the Planning Committee on 6th October.

We would like to take this opportunity to confirm that our assessment and advice with regard to this application remains unchanged, and that we maintain our objection for the reasons set out in our previous letter:

- The visual intrusion of a large agricultural building within the otherwise open parkland landscape, to the detriment and damage of its special historic interest and character;
 - The permanent fragmentation and sub-division of the parkland by the introduction of a solid barrier in the form of a Devon hedge bank.
- We note that the applicant still does not appear to have provided the appropriate historic impact assessment. We would advise that without such information, your Authority is not in a position properly to determine this application, and we continue to advise that the proposed development would have a significant adverse impact upon the historic designed landscape of Creedy Park, which is included on the Devon Gazetteer of landscapes of regional and local significance, and which forms the designed setting of Creedy House (Listed Grade II), and which relates to, and forms the designed setting of, several other Listed structures.

We would commend the Officer's Report which accompanies this application to the close attention of members, and respectfully ask them to endorse the recommendation to refuse this adverse proposal.

We would be grateful if you could kindly confirm to the Elected Members the position of Devon Gardens Trust with regard to this application.

d) Application 21/00191/FULL - Conversion of outbuilding to holiday let and siting of 2 holiday cabins at Land at NGR 290204 109476 (Home Farm), Cadeleigh, Devon.

The Interim Area Team Leader outlined the application by way of a presentation highlighting the site plan, site location, block plan, elevations, holiday cabins and existing buildings

The officer explained that the proposed new building were tucked out of view and a number of objections had been received with regard to highways, justification and visual impact.

He confirmed that there had been no objections raised from the Highways Authority and that after a site visit to the applicant the Economic Development officer was satisfied with the scheme and had withdrawn their initial objections.

Consideration was given to:

- The objectors statement which included that he farmed directly next door and that the proposal was unpopular in the village. The access was unauthorised and if the Members approved the scheme they were condoning an offence, that the road network could not support the extra traffic and this was a threat to public safety. There was a direct threat to livestock as town trained dogs were not suitable in the countryside and that there were too many holiday lets in the area
- The agents statement which included that his client was experienced in holiday lets and the scheme had able bodied and disabled in mind. The lodges were luxury and the visual impact had been thought about, the site was not visible from the road or from neighbouring properties. His client had taken on board comments from objectors, some of which had been offensive
- Cadeleigh Parish Meeting statement which included that the application would turn the field into a hotel and the Parish did not want a hotel. The existing timber shed was only put up to be converted later on and that the applicant was not really a farmer
- The Ward Member statement which included that he was asked to call in the application by objectors concerned about visual impact and traffic concerns. He confirmed that the cabins had been moved after consultation with planning officers and he thought it caused less harm to the surrounding area. He felt that the increased traffic movements would be minimal and the offering would be high class.
- Confirmation that the extension to the existing building and access appeared to have been completed without consent but they did not form part of the application in front of Members today and that future enforcement action may need to be taken to rectify any issues
- Confirmation that the holiday lets could be used all year round and that they were going to be dog friendly not dog targeted
- The officers confirmation that Policy DM22 was a permissive policy and did not prevent development in rural locations and holiday lets tended to be in rural areas and not next to settlements.
- Confirmation from the Legal Team Leader that objectors comments about illegal development on the site were not relevant to the application in front of Members and could not be used to influence a decision
- Members views that if holiday makers were looking to get away from it all then this was the place
- Members noted that no objections had been upheld by the Economic Development Team or the Highways Authority

RESOLVED that planning permission be granted as per the Interim Planning Development Management Manager subject to conditions as set out in the report

(Proposed by Cllr Mrs F J Colthorpe and seconded by Cllr Mrs C P Daw)

Reason for the decision: As set out in the report

Notes:

- i. Cllrs Mrs F J Colthorpe, G Barnell, S J Clist, L J Cruwys, Mrs C P Daw, R J Dolley, C J Eginton, P J Heal, 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 to the application
- ii. Cllr C J Eginton requested that his abstention from voting was recorded
- iii. Mark Ravnkilde spoke as the objector
- iv. Simon Archer spoke as the agent
- v. Mr Gough spoke for Cadeleigh Parish Meeting
- vi. Cllr R M Deed provided a statement as Ward Member which was read out by the Chairman

109 MAJOR APPLICATIONS WITH NO DECISION (02.21.26)

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

It was **AGREED** that: Application 21/01754/MARM Reserved matters for residential development of 125 dwellings (including 35% affordable housing), with public open space, landscaping and associated infrastructure following outline approval 18/00175/MOUT - Land at NGR 303288 110467 Adj Meadow Park Silver Street Willand Devon be brought to Committee and no site visit was required

Note: *list previously circulated and attached to the minutes

110 APPEAL DECISIONS (02.24.00)

The Committee had before it and **NOTED** a list of appeal decisions * providing information on the outcome of recent planning appeals.

Note: *List previously circulated; copy attached to minutes.

(The meeting ended at 4.40 pm)

CHAIRMAN