

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 29 June 2022 at 2.15 pm

Present

Councillors

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

Apologies

Councillor(s)

Mrs F J Colthorpe

Also Present

Councillor(s)

J Buczkowski

Present

Officers:

Angharad Williams (Development Management Manager), Maria De Leburne (Operations Manager for Legal and Monitoring), Adrian Devereaux (Area Team Leader), John Millar (Acting Area Team Leader), Jake Choules (Planning Officer), Sally Gabriel (Member Services Manager) and Carole Oliphant (Member Services Officer)

1 APOLOGIES AND SUBSTITUTE MEMBERS (0.03.29)

Apologies were received by Cllr Mrs F J Colthorpe who was substituted by Cllr C Eginton.

2 PUBLIC QUESTION TIME (0.03.50)

Hayley Keary, referring to No 3 on the plans list stated:

My name is Hayley Keary, I live at 44 Higher Town a heritage asset at the NE end of the site and have done for 44 years. Due to its position facing full on to the site, and its close proximity, it gets the worst of the impacts. Our main room is the kitchen, the window itself is about 2m from the boundary, the floor level is about 1.5m below the nearest onsite land.

This means we have very limited light reaching our only two downstairs rooms. The planning is deeply distressing due to harm to our living conditions via impact on light, outlook and privacy.

We have repeatedly invited planning committees to make an internal visit as we are at a distinct disadvantage without one, but a visit has not yet taken place. Without seeing the outlook from inside, Members cannot get the full picture: it is hidden due to these unusual levels and close proximity.

The plans before you are in-accurate in the way 42-46 Higher Town are shown. Our kitchen window at 44 is actually located within the area marked 46. The case officer and developer do now accept this. On 13 June the developer met with us and agreed to talk with the officer about a Condition for changes to landscaping at the NE: this led to Condition 7, which we much appreciate.

This Condition accepts what has already been done to keep our privacy and not obstruct our open skyline outlook. It also allows for further changes to reposition trees and guarantee hedge heights and boundary treatment nearby.

We therefore welcome Condition 7, and seek that you ensure that if the application is approved today, then this Condition is accepted, but we respectfully ask for one addition: after the word 'referencing' in line 4, please add the words 'path levels'. This would allow the possibility of lowering, by about 50 cms, the path that will run across the front of 42-46 Higher Town.

This would protect our privacy at 44 by limiting overlooking of our windows from the path. The officer has told us that he has asked the developer previously to do this, so please can the committee add the words 'path levels' to Condition 7.

We fully support community calls for the play area to be removed from its proposed position because, as planned, it would extend some distance across our outlook. The inevitable noise and overlooking from a playground so close is unacceptable and harmful to the setting of heritage assets.

One final point –The applicant wants to locate the car park, storage area and site offices on the skyline directly in the view from this same window during the 3 year construction period. Please do not allow this.

My question is to the Chair: Please will you ensure that my request to amend the wording of Condition 7 by adding the words 'path levels' is directly addressed by the Committee during this meeting?

Greta Tucker also referring to No 3 on the plans list stated:

I am Greta Tucker of Sampford Peverell. My question concerns the development at Higher Town.

The first plans for this development went out to consultation in January of this year. Those plans had no pedestrian connection to the south east access that followed a natural desire line. The January plans required pedestrians from the south of the site to make a detour of 150 metres, taking them north of the allotments. This would involve making their way 50 metres up a steep road, along a narrow footway with barriers across it and over 80 metres down the steep, shared cycleway before reaching a point near the south east access, just 12m away from where this detour started.

In response to our objections, the applicant simply added thirty steps that connect the onsite road to the south east access. The officer assures us in his report that these steps are Part-M compliant. He may be right – but that does not mean they are good design.

Policy SP2 requires improved access to the village for pedestrians.

The National Planning Framework paragraph 130 and your own Policy DM1 say developments must be safe, inclusive and accessible.

Paragraph 112 of the Framework says applications for development should give priority first to pedestrians and cyclists.

I remind you that the thirty steps were added after the first plans were published. At first, there was no provision for pedestrians to follow the natural desire line to the south east access and the bus stop nearby.

Adding the steps afterwards cannot disguise the fact that the design did not and does not put pedestrians first. The onsite road and housing at the south east were obviously designed first and the steps were only retro-fitted as a late compromise.

Those who cannot use the steps, such as wheelchair users and people with walking disabilities or using pushchairs will all still have to use the long, steep detour I have already described.

This arrangement will make more people use their cars to access the village. This, in turn, will divorce the new development from the rest of the village. By making those with walking impairments travel an extra 150 metres up and down steep slopes, well away from the natural desire line, you risk failing to comply with your Public Sector Equalities Duty if you approve these plans.

My question to the officer.

Are you telling Members that access arrangements at the south east are high quality design?

Gerald Dinnage, again referring to No 3 on the plans list stated:

I am Gerald Dinnage of Sampford Peverell. My question is about the Higher Town development.

The application proposes a 200-metre, shared-use cycleway at the east.

The law does not allow cyclists to use footways, so this shared path must be designed to standards set for cycleways.

The National Planning Framework says decision makers must ensure that the design of streets and other transport elements ‘... reflects current national guidance’.

The government’s national guidance for cycleways sets a maximum gradient of 5% and requires a level, 5 metre ‘landing’ after each 30 metre slope at that maximum.

This application proposes eight slopes AT OVER 8% with seven short 'landings' between them - but these landings are NOT level. Their gradient is 5% - itself the maximum allowed. As designed, the cycleway would have about 35m at the maximum 5% and over 180m at 8%.

The cycleway design fails to comply with national guidance in other ways:

- It has blind bends
- It is too narrow
- It does not have a sealed surface
- It passes just 1 metre away from a very steep drop into a large attenuation area – the guidance says the minimum distance to water hazards is 4.5m.

All these failings have been pointed out in objections - but the officer's report has only addressed concerns over gradient.

On page 46 of the Public Report Pack, he tells you that Highway Authority officers have accepted these gradients subject to the addition of landing points. He says that these highway officers will ensure that the landings are included in the S278 Agreement drawing. But there are problems here:

- The officer says nothing about blind bends and other such failings
- The Highway Authority's consultation responses say nothing about landing points
- The plans you are being asked to approve have no level landings
- Adding level landings must lengthen the cycleway and require its route to change, causing landscape issues.
- Routes within the site are part of Reserved Matters. It is not acceptable to delegate these design decisions to the Highway Authority and the Section 278 process.

Finally, we have Freedom of Information evidence that the applicant's engineer says it is impossible to stop surface water from by-passing the SUDS scheme and flowing from the site along the cycleway at the north-east and south-east accesses. This fails to comply with Policy SP2c.

Question to the officer –

Why have you delegated Reserved Matters decisions on layout and routes to the Highway Authority without authorisation from the Planning Committee?

3 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.14.01)

Cllrs P J Heal, E J Berry, S J Clist, Mrs C Collis, C Eginton, L J Cruwys, Mrs C P Daw, B Holdman, D J Knowles, F W Letch and B G J Warren all made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters for application 22/00040/MARM as they had received correspondence from objectors.

Cllr B Holdman made a personal declaration for application 22/00040/MARM as he knew neighbours of the application site

Cllrs Mrs C Collis, Mrs C P Daw, E J Berry and B G J Warren made personal declarations for application 22/00040/MARM as they had represented the Authority at appeal.

4 **MINUTES OF THE PREVIOUS MEETING (0.15.07)**

The minutes of the meeting held on 18th May 2022 were agreed as a true record and duly signed by the Chairman

5 **CHAIRMAN'S ANNOUNCEMENTS (0.15.38)**

The Chairman reminded the Committee of the meeting dates of 13th and 27th July.

6 **WITHDRAWALS FROM THE AGENDA (0.16.01)**

There were no items withdrawn from the agenda

7 **THE PLANS LIST (0.16.05)**

The Committee considered the applications in the *Plans List.

Note: *List previously circulated and attached to the minutes

Applications dealt with without debate.

In accordance with its agreed procedure the Committee identified those applications contained in the Plans List which could be dealt with without debate.

RESOLVED that the following applications be determined or otherwise dealt with in accordance with the various recommendations contained in the list namely:

- a. ***Application 22/00431/FULL - Change of use from public convenience to office/storeroom (Class E (g) (i) and B8) at Public Conveniences, Footpath from Bus Station to Phoenix Lane, Tiverton*** be approved subject to conditions as recommended by the Development Management Manager.

(Proposed by the Chairman)

Reason for the decision: As set out in the report

- b. ***Application 22/00599/HOUSE - Erection of single storey extension at Lower Warnicombe House, Warnicombe Lane, Tiverton*** be approved subject to conditions as recommended by the Development Management Manager.

Reason for the decision: As set out in the report

(Proposed by the Chairman)

- c. ***Application 22/00040/MARM - Reserved Matters for the erection of 60 dwellings and construction of new vehicular access onto highway to the west of the site (with access reserved) following outline approval 17/01359/MOUT at Land and Buildings at NGR 302469 114078, Higher Town, Sampford Peverell.***

The Area Team Leader outlined the application by way of a presentation which highlighted the site location plan, aerial view, site layout, affordable housing layout, street scenes, housing types, green infrastructure, cross sections and photographs of the site.

The officer explained that the application before Members was Reserved Matters following outline approval 17/01359/MOUT granted by the Planning Inspectorate on 7th April 2021.

The officer explained that a Design Review Panel had been involved at the pre application stage and had made a number of recommendations for changes to the final application which the developer had considered. This had included a change of position for the LEAP (Play Area) from the south west corner of the site.

He explained that the Highways Authority had no objections to the gradients of walkways and cycle ways proposed on the site. The surface of the cycle way had been conditioned as there had been no objections from the statutory consultee regarding water run off or proximity to the attenuation pond.

With regard to the LEAP (Play Area) the officer explained that, in consultation with the developer, Planning Officers had considered the current location to be the most suitable and that the area was in excess of the 90sqm required at 400sqm.

Consideration was given to:

- An Open Space Specification Scheme had yet to be agreed but would include management plans of the LEAP (Play Area) equipment and the allotments
- Concerns that as the estate roads would not be adopted by the Highways Authority that no Waste Management Plan had been submitted
- Concerns that the access into the site appeared to cross private roads and that this needed to be identified clearly
- Concerns that the access steps into the site would exclude disabled people
- Concerns that there would be overlooking from plots 57 & 58 into existing properties
- Concerns about the ongoing maintenance of the roads if they were not adopted by the Highways Authority
- Concerns that the properties were to have gas boilers installed instead of greener alternatives
- Concerns that no Construction Management Plan had been provided but was a condition of the outline planning permission
- Concerns that the Landscaping Plan should be extended to 10 years and that the planting of semi mature trees should be conditioned
- The views of the objector who stated that the proposed position of the LEAP (Play Area) was within the Green Infrastructure and was inappropriate and no Open Spaces Specification had been submitted
- The views of the agent who stated that access to the site had been granted via the Planning Inspectorate and that the applicant had consulted with the Parish Council, residents and Planning Officers
- The views of the Parish Council who felt that the application had flaws and that they had concerns with regard to the highways into the site, the proposal to install gas boilers and with the street lighting proposed. There were also concerns with the size and location of the play area

- The views of the Ward Members who had concerns with regard to the proposed steps to the South East of the development that would impose a barrier for wheelchair and pushchairs, the encroachment of the play area into the Green Infrastructure, the size of the play area, the lack of a lightning plan and concerns about the height of some of the buildings
- That planning permission would be required for any separate buildings on the allotments
- Concerns with overlooking properties at 42 & 44 Higher Town

It was therefore **RESOLVED** that a decision on the application be deferred so that further information could be provided on the following:

- The Design Panel Report
- Gradients of pathways and the removal of steps to the South East of the development to enhance disabled access to the site
- Move the LEAP (Play Area) from the Green Infrastructure and reduce in size
- Confirmation of the classification of public and private roads leading into and from the site
- Consideration of a reduction of height of plots 57 & 58 and installation of bungalows instead of 2 storey houses
- Lighting Plan
- Open Spaces Specification Scheme
- Waste Management Plan
- Highways Maintenance Plan
- 10 Year Landscaping Plan with planting of semi mature trees conditioned
- Phasing Plan
- Construction Management Plan
- Condition to remove permitted development rights to all properties on site
- Consideration that greener alternatives be installed than the gas boilers proposed

(Proposed by Mrs C Collis and seconded by Cllr S J Clist)

Notes:

- i. Cllr C Eginton left the meeting at 16.15pm and did not participate in discussions or voting from this point
- ii. Cllr P J Heal requested that his abstention from voting be recorded
- iii. J Byrom spoke as the objector
- iv. S Davies spoke for the agent
- v. Cllr H Culpin spoke on behalf of Sampford Peverell Parish Council
- vi. Ward Member Cllr J Norton provided a statement which was read out by the Chairman and Cllr Mrs C Collis spoke
- vii. The following late information was received:

24th June 2022

Further to discussions with the Housing Enabling Officer it is considered that there should be an additional condition with respect to the self-build units to specifically agree the timings for plots to be serviced and made available for sale. Therefore the following condition is recommended to be included:

Condition:

10. A phasing plan for the construction of the development shall be submitted to the Local Planning Authority prior to above ground works associated with the house building in the first phase being undertaken. Prior to the occupation of the first open market dwelling within the phase that contains the self-build plots a marketing strategy for the self-build plots shall be submitted to and approved in writing by the Local Planning Authority. No more than 50% of the open market dwellings within the phase that contains the self-build plots may be occupied until the self-build plots have been fully serviced and made available for sale.

Reason:

For the avoidance of doubt and in the interests of proper planning.

In light of comments raised to a number of the planning conditions where retention has not been specified, it is advised that the following sentence is added to the end of conditions 4 and 6 'Once provided the approved facilities shall thereafter be retained'. Therefore conditions 4 and 6 would read as follows:

4. The development hereby approved shall not be occupied until refuse/bin storage facilities have been provided in accordance with the refuse and cycle strategy plan with details submitted to and approved by the Local Planning Authority to include proposals for maintenance and management of the refuse storage areas and provision of bins to serve the public open spaces on site. Once provided the approved facilities shall thereafter be retained.

6. The development shall not be occupied until the Locally Equipped Play Area has been provided in accordance with the details which have first been submitted to and approved in writing by the local planning authority. Relevant details shall include the specifications of play area equipment to be used including at least one item of play equipment suitable for children with disabilities as well as the use of locally sourced and sustainable materials. Once provided the approved facilities shall thereafter be retained.

Representations:

Further to the writing of the Committee Report three additional letters have been received, two of which relate to a discharge of condition application submitted for the outline planning permission 17/01359/MOUT requiring the submission and approval of a Construction Method Statement. This is a separate matter to the reserved matters application which is currently being considered by the LPA.

However the third letter was addressed to the Ward Member where they raise a number of points which they believe have been omitted from the Committee Report. The six points are included in full below:

1. The main outstanding problem relates to the decision of DCC, as Highway Authority, not to require the reduction in the speed limit, from 60 to 30 mph,

around the entire perimeter of the site. I attach for your information my complaint to DCC regarding this matter but the response is not due until the middle of July as I have just agreed an extension to the period for response. In my view the position of DCC is contradictory and appears to be at the whim of the officers as the other officer [Sorenson] who agreed it was necessary, with which the Inspector concurred, has now retired. Although not directly related to the reserved matters application [as highways matters were agreed at outline stage], any pressure you can bring to bear in this matter would be appreciated even though it will impact us, in Turnpike, much less than those who use Higher Town and hence travel via Battens Cross.

2. With regard to the reserved matters application the main issue outstanding is the absence of new planting around the perimeter of the site. Contractors for Edenstone removed and/or substantially cut back hedges around the site in the early part of the bird breeding season. These works appear to have been done in anticipation of certain highway works but some of those works are no longer proposed and yet the developer is not proposing any replacement planting. One example is on the bank above the road running north of Battens Cross. You might recall that at one stage they proposed to remove that bank and hedge for forward visibility on the corner coming down the hill but they were forced to change this proposal because we pointed out that the bank was covered by a condition on the outline planning permission that protected reptiles. The hedge has grown back in part but is now gappy whereas it was formerly a continuous hedge. A second example is opposite us [No 16, Manleys B&B] where the pedestrian access has changed position but the hedge was removed along a circa 20 m stretch and needs replacing, and the sparse hedge on the bank opposite the cemetery also needs supplementing. Do not be fooled by the vegetation that is visible in June as it is largely seasonal [nettles etc] and comprises little of substance. The report has noted but not addressed the removal of existing vegetation, even though it was raised in previous comments.

3. There is also a need to address surface water run-off from the internal footpaths where they emerge onto the highway network. The section of the report entitled "Drainage and Flood Risk" suggests this can be dealt with exclusively by a filter drain along one edge and I accept this is shown on the engineering drawing but this is not an answer near the junction because the drain stops short of that. In my final comments I said the following, which might explain this but the crucial point is that the officer's report has not addressed the matter: "Turning to the vicinity of the SE access, an outstanding concern relates to surface water drainage. Recently a survey has been undertaken along Turnpike and the nearest surface water drain is approximately 50-60 m down Turnpike from the SE access. At this point the contractors have annotated the road and, separately, the pavement with the words "Possible collapse". Photographic evidence has been sent to the Agent. I have suggested that the surface water drain was never installed past this point when the road was improved in the 1960s, such that what has been identified as a collapse is the end of the surface water drainage system. Even if this might be wrong it is clear that remedial action is required in this respect. I appreciate that the PHG Drainage Engineers report says "To prevent runoff from the footpaths connecting to the wider highway network discharging over the site boundary, these will be provided with a filter drain along one edge", but this is not a practical solution in the vicinity of the junction of the SE access with Turnpike. At this point the footway/cycleway will be set down beneath a

high retaining wall on one side and a hedgebank on the other, which is shown most clearly in the section on the drawing entitled "Footpath Link to S278 3 of 3". The practical effect of this canyon, taken together with the associated steps, will be to give rise to a surge of surface water running down onto Turnpike at a fair speed and volume. We already experience a stream of water down the gravel path at the side of our house during peak events due to the volume of water running down our driveway. In order to address this I would need to be persuaded that any sort of trench drain or slot drain would be adequate parallel to the road unless it was connected up to the existing surface water drainage system in the highway. For the avoidance of doubt the manhole shown 2 near the SE crossing on the drawing entitled "Engineering Layout Sheet 1" [Drawing No 100-1 Rev K] serves the foul drainage system rather than surface water."

4. There is no condition with regard to the materials of the allotment shed. In my final comments I said the following: "I cannot see details of the elevation of the allotment shed, for example no materials are specified on the drawing entitled "Materials Layout". Assuming this is going to be of standard wooden or brick construction such details could be required by a suitably worded condition but such a condition is required because the structure would be prominent above the hornbeam hedge proposed around the allotment due to the topography". I acknowledge that condition 5 in the report covers materials but the crucial point is that the drawing [No 102 Rev B] does not specify the materials for the allotment shed and having raised the matter the officer should have addressed it in his report.

5. Paragraph 203 of the appeal decision said "Whilst the Appellant was content to accept a condition withdrawing permitted development rights for dormer windows and alterations to roofs including roof lights, on reflection I am not satisfied that at this outline stage I have sufficient evidence to demonstrate that such a condition would be necessary.". However the officer's report has not revisited this issue and a condition should be imposed to address this, specifically precluding any form of roof window on plots 24-29. I specifically requested this in my original comments on the reserved matters application [paragraph 27, comments posted on 31 January 2022] and the report is seriously negligent in not addressing this issue. Please note it is also likely to be relevant to all of the plots along the Turnpike frontage because of the vast difference in levels.

6. Finally, there is no retention clause on a number of the conditions, including 4 and 6.

In response to the above, Members should be aware that point 1 relates to highway matters dealt with through the outline planning permission 17/01359/MOUT and associated S106 agreement. This is not a matter to be addressed through this reserved matters application. Points 2 and 3 relate to landscape planting and drainage which are matters which have been referred to within the committee report and will be addressed further in the presentation to Members of the Planning Committee on the 29th June 2022.

With regard to plans for an allotment shed raised in point 4, the layout plan identifies the required area for allotments with the drawing of a shed being illustrative within this area. The requirements for shed(s) to serve allotment plots would need further approval. Point 5 relates to the removal of permitted development rights for certain plots along the southern boundary. Given the

separation distances involved to neighbouring properties, a condition was not considered to be necessary but Members would be able to impose a condition should they believe it would be required. With respect to point 6, an update has been recommended for an extra sentence to conditions 4 and 6.

8 MAJOR APPLICATIONS WITH NO DECISION (2.23.50)

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

The Committee agreed that:

22/00868/MFUL- Land at NGR 299621 112764 (Red Linhay) – Removal of condition 13 of planning permission 17/01142/FULL be brought to Committee if the officer recommendation was minded to approve – No site visit required

22/00969/MOUT – Land at NGR 295508 103228 (Silverdale) – Removal and/or variation of conditions 5,6,7,8,9 and 10 of planning permission 18/02019/MOUT be brought to Committee if the officer recommendation was minded to approve – No site visit required

Note: *list previous circulated and attached to the minutes

9 APPEAL DECISIONS (2.28.30)

The Committee had before it, and **NOTED**, a *list appeal decisions

Note: *list previously circulated and attached to the minutes

(The meeting ended at 4.54 pm)

CHAIRMAN