

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 5 October 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, J M Downes,
B Holdman, D J Knowles, R F Radford and
B G J Warren

Apologies

Councillor(s)

F W Letch

Also Present

Councillor(s)

J Buczkowski and Mrs N Woollatt

Also Present

Officer(s):

Richard Marsh (Director of Place), Angharad Williams (Development Management Manager), Andrew Busby (Corporate Manager for Property, Leisure and Climate Change), Simon Newcombe (Corporate Manager for Public Health, Regulation and Housing), Philip Langdon (Solicitor), Adrian Devereaux (Area Team Leader), John Millar (Area Team Leader), James Clements (Principal Planning Officer), Tina Maryan (Area Planning Officer), Christie McCombe (Area Planning Officer), Carole Oliphant (Member Services Officer) and Jessica Rowe (Member Services Apprentice)

66 **APOLOGIES AND SUBSTITUTE MEMBERS (0.03.18)**

Apologies were received from Cllr F W Letch who was substituted by Cllr J M Downes.

67 **PUBLIC QUESTION TIME (0.03.35)**

Sarah Coffin, a local resident, referring to No 4 on the Plans list stated:

Red Linhay operated a 5000kw farm fed AD and a herd of 25 beef Charolais cattle with no declared intent for increased cattle numbers and no legitimate planning approval to increase AD energy production from this 100 acre farm. Therefore environmental benefit and necessity remain the key planning considerations.

Prior to this application both entities have been serviced by one permanent concrete silage clamp operating under EA permit within the AD site, as well as larger temporary soil based field silage help on the farm. Whilst environmental benefit appears self-evident from the application it would only be effective if it replaces the present temporary soil based silage clamp. Will Councillors condition any approval of this application accordingly?

Are Councillors aware of the ongoing investigations into numerous complaints and planning breaches concerning excess production with on farm Anaerobic Digesters across the region? I there ask Councillors to show due diligence and ensure any approval of this application will not facilitate further production excess.

Applicant claims Red Linhay is the hub site for outsourced feed stocks but these are limited and specified under the initial AD planning conditions. Any intentions to exceed present permitted outsourced feed stocks will require a Transfer Operators Licence – Does Red Linhay have such a licence?

There are serious local concerns that this application is merely a precursor to yet more back door expansion at this sensitive location. I quote the following adverts seen this year:

1. An advert on Freeads.com under same name as the Red Linhay Manager offering sales of bulk grass pellet deliveries
2. And another in January 2022 for new farm staff quoting 'The company specialises in the growing and harvesting of a range of crops, not only for the on site AD unit but also our livestock feed pelleting enterprise

Paul Elstone, a local resident, also referring to No 4 on the plans list stated:

1. When making the recommendation for approval did the planning officer fully take into consideration that the silage clamp will contain enough silage to feed the registered Red Linhay herd of 17 Charolais cows and 23 calves born since 2020 for around 45 years assuming a 6 month indoor and outdoor feeding cycle?
2. If so how can this gross silage volume be fully justified other than it is being used for a different commercial purpose not related directly to this farm?
3. When stating that the silage clamp will cause no additional impact to the local road network did the planning officer fully take into consideration that the silage clamp will hold around 500 loads of grass silage delivered by tractor to fill?
4. When stating there will be no additional impacts on the local road network did the planning officer fully take into consideration that grass silage is being transported to Red Linhay to fill the clamp from as far as 23 miles away i.e. Clannaborough Barton at Bow or a round trip of 46 miles?

A farm that is currently up for sale at £7.5 million. This begs further questions I believe.

That 10 separate very large Red Linhay tractors and trailers were seen on the road at the same time, travelling from Bow passing through Copplestone, Crediton, Bickleigh and the Blundells School campus.

Halberton, Willand and Cullompton have also been seriously impacted.

5. Did the planning officer fully take into consideration that when he says there will be no impact on the local road network, the the Red Linhay AD transport statement forming part of the AD planning approval includes a map which very

clearly shows the road though Blundells School campus with over 3000 pupil crossings per day will not be used.

That as many as 200 Red Linhay tractor movements a day have transited the Blundells School campus. Similar numbers have travelled through Halberton.

6. When stating there will be no increase in traffic movements as the movements have been accounted for.

Did the planning officer fully take into consideration that then the MDDC agreed the AD transport plan the applicant said there would only be 748 loads per year accessing Red Linhay.

That the Red Linhay weighbridge data shows that over the period August 2021 and August 2022 there were 3972 loads passing across the Red Linhay weighbridge?

This being 3231 extra loads or nearly 5 times as many as was stated by the applicant in order to get planning approval

Hannah Kearns, a local resident, provided the following questions referring to item 4 on the plans list which was read out by the Chairman:

QUESTION 1

I would refer Committee Members to Page 58, Item 5 - Highway Impacts The Briefing Paper says the following

“Crops will therefore be brought by tractor from other parts of the applicants farm enterprise. However this would not increase traffic movements on the local road network because these movements have already been counted for”

“The tractors that serve the farm enterprise are permanently based at Red Linhay therefore the traffic movements already exist”.

Can the Planning Officer explain EXACTLY what is meant by the statement that the traffic movements have already been accounted for?

Additionally, when giving this explanation, can the Planning Officer confirm how many tractors are operating from the Red Linhay site and importantly why these traffic movements already exist?

QUESTION 2

In respect of Question 1 are the Committee Members aware that the proposed silage clamp will require an ADDITIONAL 500 plus tractor trailer loads to fill, or around 1000 tractor movements?

These figures have been independently verified. Therefore, can the Planning Officer please explain how these extra 500 loads will not add any burden to the local road network?

QUESTION 3

Have MDDC Planning Officers fully investigated and verified ALL of the current RED LINHAY TRANSPORT DATA that is available to them on the MDDC Planning Portal as provided by the Red Linhay owners themselves when making the Highways Impact statement, or have they just taken this data at face value?

QUESTION 4

The Committee Report has stated that the grass silage is being obtained from Farming Enterprises owned by the applicant. Has this statement regarding land ownership been fully interrogated by the Planning Officer?

I ask this question given that information provided in terms of crop locations to feed the Anaerobic Digester would seem to be very different from where the grass silage to fill the clamp is actually known to be coming from.

QUESTION 5

Given the silage clamp is claimed to be required to feed the applicants cattle, has the Planning Officer done any detailed research into the size of herd or the type of cattle being fed?

The Chairman advised that responses to questions and statements raised would be provided when the application was heard.

68 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0.13.17)**

Members were reminded of the need to make declarations where appropriate.

69 **MINUTES OF THE PREVIOUS MEETING (0.13.31)**

The minutes of the meetings held on 24th August 2022 and 7th September 2022 were agreed as a true record and duly **SIGNED** by the Chairman.

70 **CHAIRMAN'S ANNOUNCEMENTS (0.16.55)**

The Chairman reminded Members of the informal planning committee meeting on 9th November at 11.00am.

71 **WITHDRAWALS FROM THE AGENDA (0.18.40)**

There were no withdrawals from the agenda

72 **THE PLANS LIST (0.18.55)**

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 22/01753/NMA - Non-material amendment for 21/01957/FULL to allow reduction of building width by 1.5m, increase the stair core height by 0.6m and addition of a fixed clear glazing panel above the East elevation windows at Garages and Forecourt, Shapland Place, Tiverton.*** Planning permission be granted as recommended by the Development Management Manager

(Proposed by the Chairman)

Reason for the decision: As set out in the report

- b) ***Application 22/01668/TPO - Application to reduce limbs on south and southeast aspect of one Oak tree protected by Tree Preservation Order 94/00008/TPO by 3-5m, thin sub-lateral branches by 20%, reduce extended limb resting on floor to 4-5m from stem (truncating the limb) and truncate southwest limb at c.2.5m in height to c.3m from stem; crown reduce top height and northern aspect by c.1.5m and reduce the remainder of the south, southeast and west aspect by c.3-4m along with crown thinning of sub lateral branches c.10% at Land at NGR 295892 103149, Wyndham Road, Silverton.*** Consent granted

(Proposed by the Chairman)

Reason for the decision: As set out in the report

- c) ***Application 22/00398/MFUL - Erection of swimming pool building, conversion of squash courts into a P.E. department, external services compound and associated landscaping at Land at NGR 297202 113154 (Blundells School), Blundells Road, Tiverton.***

The Area Team Leader outlined the application by way of a presentation highlighting aerial images, pool elevations, floor plans, roof plans, planting plan and photographs of the site.

The officer explained that the application was to improve facilities and increase sustainability and that the application had given consideration to the conservation area.

Consideration was given to:

- The Squash Club would lose the facilities that they had rented for over 60 years

- The pool would not be open to the general public and would not impact the local leisure centres
- The views of the objector who stated that they had carried out extensive renovations to the existing squash courts over the years and that they would like it conditioned that new courts were made available before the old were converted
- The views of the agent who stated that the new facility would be for the benefit of the school and pupils and that the current squash courts were not being utilised by the school. The squash courts would be replaced at some time in the future but that in the meantime there were other squash facilities in the local area

It was therefore **RESOLVED** that planning permission be granted subject to conditions as recommended by the Development Management Manager

(Proposed by E J Berry and seconded by Cllr L J Cruwys)

Reason for the decision: As set out in the report

Notes:

- Cllr B G J Warren made a personal declaration as his children had attended the School
- Cllr B Holdman made a personal declaration as he knew Teachers at the school
- Mark Stimpson of Tiverton Squash Club spoke as the objector
- The agent Charles Derby spoke

d) Application 22/00665/MFUL - Retention of silage clamp and erection of roof over at Land at NGR 299554 112915 (Red Linhay), Crown Hill, Halberton.

The Planning Officer outlined the application by way of a presentation highlighting a site location plan, aerial image, proposed elevations, floor plans, roof plans and photographs of the site.

The officer explained that the clamp would only be filled from the applicant's landholdings which were spread throughout the area. The clamp was not just to feed cattle but was also to stock the applicants silage business which produced silage pellets and cubes. Both activities were agricultural and therefore defined as agricultural use on an agricultural property.

There would be no additional traffic movements on the local highway network as the traffic movements had already been accounted for. The tractors were based at Red Linhay and already made regular trips to the applicant's other landholdings in the area. There would be an increase in traffic movements bringing silage back to the clamp but this would not harm highway safety.

In response to public questions asked and statements made the officer stated:

- There would be no additional traffic movements as previously explained

- The number of tractor loads stated by the public had not been verified or confirmed but that the Highways Authority had no objections to the application
- It was not a material consideration how many cows would be fed from the clamp
- The advertisements made by the applicant confirmed that the clamp was being used for agricultural purposes
- The application before Members had to be considered on its own merits and did not include the Anaerobic Digester (AD) plant on site

Consideration was given to:

- The application was retrospective for the clamp which was already in place but the roof had not yet been constructed
- Environmental Health had no objections to the arrangements for surface water run off
- Officers had sought Counsel views on previous applications of a similar nature who had confirmed that the silage clamp was agricultural use
- The application before Members was separate from the Anaerobic Digester business on site
- Officers would not be able to condition to restrict exact activities the clamp could be used for as this would not be reasonable or meet the 6 tests of planning conditions as set out in the NPPF
- The views of the Parish Council who stated the application was bigger than one which had already been turned down on the site and that it should be conditioned that the clamp was solely for agricultural use
- The views of the Ward Member who suggested that a site visit was undertaken by Members and that it should be conditioned that the clamp could only be for agricultural use
- That although some Members had concerns about increased traffic movements, the Highways Authority had no objections to the application on road safety concerns

It was therefore **RESOLVED** that planning permission be granted subject to conditions as recommended by the Development Management Manager subject to an amendment to condition 4 and an additional condition 6:

Condition 4

Within three months of this decision a Landscape and Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan shall provide details of the following:

- (a) Retained Ecological and Landscape Features
- (b) Proposed Habitats, Ecological and Landscape Features including length, height, width and specification of the new hedge bank around the perimeter of the silage clamp
- (c) Habitat and landscape Management Measures for the lifetime of the development
- (d) Demonstrate a biodiversity net gain using the Natural England metric
- (d) Monitoring and Review of Plan.

The development shall not be carried out other than in accordance with the approved details and planted up within the next planting season.

Condition 6

The building hereby approved shall be used only for agricultural purposes as defined in Section 336(1) of the Town and Country Planning Act 1990 and if at any time the building ceases to be used or required for such purpose it shall be removed and the site re-instated in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the building is used for agricultural purposes only since it lies within a countryside location where restrictive planning policies apply.

(Proposed by the Chairman)

5 votes for. 5 votes against. 1 abstained. Chairman's casting vote.

Reason for the decision: As set out in the report

Notes:

- Cllrs B G J Warren, D J Knowles, S J Clist, B Holdman and L J Cruwys all made declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence
- Cllrs C P Daw, C Collis and R F Radford all made declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters as they had attended a JAC meeting where the application was discussed
- Cllr D J Knowles made a personal declaration as he knew the applicant
- Cllrs B G J Warren, B Holdman, C Collis and L J Cruwys requested that their votes against the decision be recorded
- Cllr Ian Campbell spoke on behalf of Halberton Parish Council
- Cllr R F Radford spoke as Ward Member
- The following late information was received:

Officers consider that it is necessary to clearly define the recommendation for approval to ensure that the proposed silage clamp is used for agricultural purposes only. Additional condition no.6 is therefore proposed:

The building hereby approved shall be used only for agricultural purposes as defined in Section 336(1) of the Town and Country Planning Act 1990 and if at any time the building ceases to be used or required for such purpose it shall be removed and the site re-instated in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the building is used for agricultural purposes only since it lies within a countryside location where restrictive planning policies apply.

e) Application 22/00706/MFUL - Construction of vehicular access onto Tiverton Road and construction of spine road and associated infrastructure to facilitate the North West Cullompton urban extension at Land North West of Cullompton, Tiverton Road, Cullompton.

The Area Planning Officer (Major Projects Cullompton) outlined the application by way of a presentation highlighting aerial photographs, a site location plan, phase 1

applications, indicative plans, road sections, Pegasus crossings, culvert access, construction traffic routes and photographs of views to and from the site.

Consideration was given to:

- The construction traffic could not be brought through the new spine road on other developers sites next to the application site as it had not been built out yet and that the other developers would not grant permission for their construction sites to be used
- Relevant policies in the Cullompton Neighbourhood plan had been fully taken into account and addressed in the officer report
- The views of the agent who stated that they had consulted with the Town Council on the proposals. The application was approved in outline but needed to be resubmitted as there were changes required outside of the original application site
- The views of the Town Council who welcomed the proposal in principle but felt that the construction plan was flawed and that the priority should be changed at the junction with the spine road
- The views of the Ward Members who requested a deed of variation should be entered into to restrict occupation of 50 dwellings until this section of the spine road was completed, concerns for wildlife crossing through the culvert under the road and a request that existing footpaths and bridleways remain open during the build. That there were concerns from the community about the length of time the spine road would take to construct that and that it did not comply with the Neighbourhood Plan
- Members concerns that a crossing should be provided on Tiverton road was not supported by the Highways Officer present who confirmed that a safety audit had concluded that this was not a requirement
- The construction traffic going through the town would not affect the Heritage Action Zone Grants
- A road crossing could not be conditioned for this application but that it could be considered in phase 2 of the development

It was therefore **RESOLVED** that planning permission be granted subject to conditions as recommended by the Development Management Manager subject condition 7 be replaced with the following condition:

'The development shall proceed in accordance with the Written Schemes of Investigation prepared by Cotswold Archaeology (CA project refs: CR0641 & CR0905 Revision C, dated 6th May 2022) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved schemes. The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan 2013-2033 and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development, and to comply with Paragraph 205 of the NPPF, which requires

the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.’

(Proposed by the Chairman)

Reason for the decision: As set out in the report

Notes:

- Cllr E J Berry made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as the property was in his County Ward and he knew residents in the area
- Cllr S J Clist made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he had received correspondence
- Cllr S J Clist requested that his vote against the decision be recorded
- The Agent David Matthews spoke
- Cllr Martin Smith spoke on behalf of Cullompton Town Council
- Cllr N Woollatt spoke as Ward Member
- Cllr J Buczkowski spoke as Ward Member
- The Development Management Manager left the meeting at 18.07pm
- The following late information was received:

28/09/22

Paragraph 6.12 of the report recommends a condition requiring a Written Scheme of Investigation in respect of archaeology to be submitted and approved by the Local Planning Authority and this is recommended to be secured by condition 7. The Written Scheme of Investigation has now been approved by Devon County Council’s Historic Environment team and it is therefore recommended that condition 7 be replaced with the following condition:

‘The development shall proceed in accordance with the Written Schemes of Investigation prepared by Cotswold Archaeology (CA project refs: CR0641 & CR0905 Revision C, dated 6th May 2022) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved schemes. The development shall not be brought into its intended use until (i) the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that the provision made for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To ensure, in accordance with Policy DM25 of the Mid Devon Local Plan 2013-2033 and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development, and to comply with Paragraph 205 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure that the information gathered becomes publicly accessible.’

f) Application 22/01255/MFUL - Erection of 70 affordable dwellings including associated roads, footpaths, landscaping and amenity area at Land at NGR 298768 113600, Uplowman Road, Tiverton.

Area Planning Officer (Tiverton Eastern Urban Extension) outlined the application by way of a presentation highlighting site constraint plans, illustrative framework plan, proposed block plan, proposed aerial views, selection of housing types and photographs of the site.

Consideration was given to:

- Passivhaus Standards had been applied; a high performance building standard to ensure low energy demand and low energy bills
- The site was an allocated site in the Local Plan
- The development had outline permission without the need for the linking road between the new A361 road junction and Blundell's Road to be completed.
- The views of the applicant who stated that occupants of the development would be from the Council's housing needs list currently at circa 300 applicants. The existing contours of the site had been considered and that open spaces had been connected with pathways. Public Consultation on the plans had been completed
- The Design Review Panel supported the principles of development

It was therefore **RESOLVED** that planning permission be granted subject to conditions as recommended by the Director of Place.

(Proposed by Cllr J M Downes and seconded by Cllr D J Knowles

Reason for the decision: As set out in the report

Notes:

- Cllrs P J Heal, E J Berry, S J Clist, C Collis, L J Cruwys, C P Daw, B Holdman, D J Knowles, J M Downes, R F Radford and B G J Warren all made a declarations in accordance with protocol of Good Practice for Councillors dealing with planning matters as it was an MDDC application
- Cllr S J Clist made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he was a Cabinet Member when the application was first discussed
- Cllr D J Knowles made a declaration in accordance with protocol of Good Practice for Councillors dealing with planning matters as he was Ward Member and had received objections
- The following late information was received:

29/09/22

Since the officer report was finalised confirmation has been received from Royal Devon University Healthcare Foundation Trust (23 September 2022) that their contribution request has been withdrawn; this on the understanding that the development is 100% affordable housing.

73 MAJOR APPLICATIONS WITH NO DECISION (4.22.39)

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

The Committee agreed that:

1. Application 22/01688/MOUT – Higher Town Sampford Peverell to be determined by Committee but no site visit required
2. 22/01562/MOUT – Growen Farm, Cullompton - to be determined by Committee and a full Committee site visit take place

Note: *list previously circulated and attached to the minutes

74 APPEAL DECISIONS (4.32.29)

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

Note: *list previously circulated and attached to the minutes

(The meeting ended at 7.08 pm)

CHAIRMAN