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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 14 June 2023 at 2.15 pm

Present

Councillors S J Clist, G Cochran, F J Colthorpe, L J Cruwys, G Duchesne, M Farrell
R Gilmour, B Holdman, F W Letch and N Letch

Apologies

Councillors M Jenkins

Also Present

Councillors D Broom, G Czapiewski, S Keable, J Lock, S Robinson, G Westcott, D Wulff,
A Glover (online) and James Buczkowski (online).

Present

Officers: Angie Howell (Member Services Officer), Richard Marsh (Director of Place),
Maria De Leiburne (District Solicitor and Monitoring Officer), Angharad
Williams (Development Management Manager), Jake Choules (Planning
Officer), Sarah Lees (Member Services Officer), Christie McCombe (Area
Planning Officer), James Clements (Principal Planning Officer) and Michelle
Woodgate Devereux (Area Team Leader).

External

Officers: Michelle Woodgate (Devon County Council - Highways)

1 **ELECTION OF CHAIRMAN (0:00:20)**

RESOLVED that Cllr L J Cruwys be elected Chairman of the Planning Committee for the municipal year 2023/2024.

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

2 **ELECTION OF VICE CHAIRMAN (0:08:46)**

RESOLVED that Cllr G Cochran be elected Vice Chairman of the Planning Committee for the municipal year 2023/2024.

(Proposed by Cllr G Duchesne and seconded by Cllr M Farrell)

3 **START TIME OF MEETINGS (0:10:55)**

It was **AGREED** that the start time of meetings for the remainder of the municipal year continued to be at 2.15pm.

Notes:-

- Cllr G Cochran wished to have noted that he voted against this decision.

4 **APOLOGIES AND SUBSTITUTE MEMBERS (0:14:28)**

Apologies were received from Cllr M Jenkins.

5 **PUBLIC QUESTION TIME (0:15:23)**

Members of the public attended the meeting and asked the following questions:-

Peter Drew in respect of Application No. 22/01209/FULL

The Officer's report discusses whether there is a 'planning betterment', but it fails to provide a balanced argument and does not address a point raised during consultation. That is why this question needs to be addressed now.

Members will note the planning history set out in the report. The livestock building has been erected and there is no dispute that it required planning permission because it is within the specified distance of my dwelling. However the storage building, which is the subject of a current application, is in my view permitted development. Officers have failed to respond to an outstanding complaint on this point prior to reporting the matter to this Committee as I had requested. If the Officers had properly assessed that issue in a timely manner then they should have found criterion (g), set out in the report, is not met such that the principle of a dwelling outside the settlement boundary is contrary to the local plan policy correctly cited by the Canal Joint Advisory Committee, who have not withdrawn their objection. The Officer's claim that the applicant can chose whether to apply under the prior notification process undermines the purpose of the legislation and is not supported by any case law.

Without prejudice to that view, when Class Q is invoked a range of restrictions are brought into play. Foremost amongst these is a preclusion on the erection of agricultural buildings on the farm unit for a period of 10 years. Moreover if the conversion of the barn took place under Class Q that would mean that other barns on the holding, such as the prominent barn on the highest land at Higher Town, could not be converted because the cumulative floorspace would exceed the threshold in the statutory instrument.

Whilst condition 7, as proposed in the Committee Report, reflects another restriction in the statutory instrument the Officers are being inconsistent in not imposing similar conditions to remove permitted development rights across the farm unit. In these circumstances, if betterment is genuinely to be shown, will Officers agree to the 2 additional conditions that I have suggested to them? If not, will they please explain their inconsistent approach, particularly in the light of the fact that there was never a legitimate agricultural need for 2 livestock buildings at the site?

Giles Fawssett in respect of Application No. 22/00067/MFUL

The last time I was asking a question here, about the Creedy Bridge development on the north side of Crediton, it was before the local elections. So what a dramatic change. Back then, it felt like no one was able to stop what our local plan calls "car-dependent estates where residents have little need or opportunity to relate to other parts of the town or to each other".

So looking at Wellparks, as I do when I cycle back from Exeter, what is the issue. Wellparks farm is at the eastern end of Crediton and of all the approaches to Crediton, Wellparks is the most visible site. The idea of building two commercial units in front of a historically important site is madness.

This key gateway view would be damaged. As our local plans puts it; "The prospect of dense and badly designed buildings on green field sites, compromising the town's landscape and setting, and generating traffic around the town raises concerns".

So while I support the housing, the commercial buildings would visibly be in the wrong place.

The Chairman noted that this was not a question.

Nick Hasted in respect of Application No. 22/00067/MFUL

Bearing in mind we now have a different group of politicians in control of Mid Devon: I would like to know what environmental demands are being asked of the developer in this proposal with respect to energy.

Will the houses have solar panels?

Will central heating be based on heat pumps instead of gas?

If the answer is no, then is Mid Devon Council planning to set higher energy source standards so that in future developments the homes built will be for the 21st century?

Gerald Dinnage in respect of Application No. 22/01209/FULL

I have concerns about harmful impact on two conservation areas. I will explain the context and then ask my question.

The Highway Authority and officers have accepted a drawing from the applicant that claims that there is 45 metres of visibility from the site access. If you ask officers to show the applicant's access drawing, you will see that, after just 13m, the visibility line to the north-east clearly passes through the wall of a building on the bend. (Drawing - 2927-DR-A-050-0117 Rev -).

For visibility splays as short as that, Manual for Streets, Table 7.1, says additional features are needed. None have been proposed. As objectors have pointed out, introducing traffic calming features here, where the canal conservation area overlaps with the village conservation area, could adversely affect both. The Committee Report says nothing on this.

Two different conservation officers have considered this development, reaching different conclusions. The Committee Report implies that just one conservation officer has changed his or her view but that is not the case. Only the first conservation officer based his report on Local Plan Policy DM25.

He found, with direct reference to DM25, that the application could not be described as '*betterment*' as it would '*erode the experience and setting of the canal.*'

He based this judgement not only on the *'form'* of the dwelling (which has been amended) but also on its *'position'* as it *'introduces a clearly visible dwelling'* in a location that is *'isolated'* from the settlement. The isolated position remains, no matter what the design may be. The Grand Western Canal Joint Committee objects for the same reason.

I have objected that even the revised form of the redesigned dwelling still harms the setting of the canal conservation area. In particular, its new roof line does not offer 'betterment' to the public enjoying the canal's open views at that point. This is shown by cross-sections on the most recent Site Plan. (Drawing - 2927-DR-A-050-011 Rev - G)

So my question is -

With direct reference to the visibility drawing, to the first conservation officer report and to cross-sections shown on the applicant's site plan, will officers please confirm that Manual for Streets says that *'additional features will be needed'* to limit speeds at the access within two conservation areas and that the southern end of the roofline of the dwelling will be 2.5m (or about 70%) higher than the existing lean-to section of the barn that it replaces?

Jamie Byrom in respect of Application No. 22/01209/FULL

This concerns Application 22/01209, at Sampford Peverell. On 15 May, I sent an objection that the Committee Report fails to mention.

In that objection, I pointed out that the applicant has stated belatedly that he intends this proposed new dwelling to be a farmhouse. As a result, officers (including Public Health) have now accepted that the dwelling is to be a farmhouse. That is important. It led officers to recommend an agricultural occupancy condition, restricting occupancy to those engaged in agriculture.

Strangely, the Committee Report tells us that officers dropped that recommendation on the grounds that [quote] *'... it is the applicant's intention that his daughter eventually moves into the property who may not always work in agriculture full-time'*. Members may wish to ask officers how this informal statement from an applicant about *'eventual'* occupancy and possible later use of a development is a material planning consideration when it does not appear in the applicant's supporting evidence and clearly cannot be enforced.

Leaving aside speculation about eventual use, officers have accepted that this is an application to build a new farmhouse, as a Class Q fallback scheme. In my objection in May, I reminded officers that the Council has published its own local requirement for agricultural developments. When this application was validated in July 2022, this local requirement applied to all planning applications for [quote] *'... a new agricultural dwelling or other building in countryside for farming or other purposes'*.

It says that these applications must be accompanied by a written justification that must be sent to an independent agricultural consultant who will assess the application for viability and need. The website says nothing about any exceptions to this rule.

But no such assessment of this application has taken place.

I wanted to be sure that avoiding the requirement is lawful and I have been helped by my Ward Councillor, Gill Westcott, to whom I express my thanks. Officers have told her that, where an application such as this is based on permitted development rights, the principle of development has been established and therefore the local requirement does not apply. I could not find this qualification to the local requirement anywhere on the Council's website.

So, in the interests of transparent, lawful, decision-making, my question is:

- Is it the case that, unless the principle of development by permitted development rights has been accepted, all applications for developments that are described in that local requirement would have to comply with its terms? If there are other ways of avoiding its terms, please set these out to the Committee.

A related supplementary question is:

- Will officers confirm that the proposed non-fragmentation agreement will still allow letting of the new dwelling to non-agricultural workers or visitors?

The Chairman informed those present that the questions would be answered when the application was discussed.

6 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (0:30:24)**

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

- Cllr S J Clist confirmed that he had a Declaration of Pecuniary Interest and an Other Registrable Interest for Application No. 22/00067/MFUL and would leave the room whilst this was being discussed and voted on.
- Cllr B Holdman declared that he was a member of the Planning Committee on the Tiverton Town Council.
- Cllr L J Cruwys regarding Application 22/01209/FULL declared that he was a member of the Grand Western Canal Joint Advisory Committee as several references were made to that Committee during the meeting.
- Cllr L J Cruwys regarding Application No. 22/01098/MOUT also stated that this was brought to the Tiverton Town Council Planning Committee although he did not vote on the application.

7 **MINUTES OF THE PREVIOUS MEETING 0:32:27)**

The minutes of the previous meeting held on the 5 April 2023 were agreed as a true record and duly **SIGNED** by the Chairman.

8 **CHAIRMAN'S ANNOUNCEMENTS (0:32:56)**

The Chairman made no announcements.

9 **WITHDRAWALS FROM THE AGENDA (0:33:06)**

There were no withdrawals from the agenda.

10 PLANS LIST (0:33:14)

The Committee considered the applications in the “Plans List.

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

- a) 22/00067/MFUL - Conversion of farmhouse and buildings to 17 dwellings, the erection of 14 dwellings and erection of 2 commercial buildings (Use Classes B8, E, Sui Generis) at Wellparks, Exeter Road, Crediton.**

The Principal Planning Officer outlined the application by way of a presentation and advised the Committee of an additional condition as set out below:

- Waste Management Plan - During Construction (including relevant refuse disposal details)
- No development shall commence until a waste management plan during construction had been submitted to and approved in writing by the local planning authority. The plan should detail the following:
 - The type of material to be demolished and/or excavated;
 - The volume of material to be demolished and/or excavated;
 - Opportunities for the reuse and recovery of materials;
- A demonstration of how to manage disposal of waste having regard to the significance of the; heritage assets and their setting and the visual amenities of this gateway site.
- Additional s106 Heads of Terms

Phasing scheme to be agreed to ensure that the works to the listed building are carried out at an early stage of the development to ensure that the heritage benefits are secured.

In response to the public questions the Principal Planning Officer outlined that:

- The Planning officer outlined that there were issues securing reductions in carbon emissions (for solar panels and air source heat pumps) because the Council does not have a planning policy that sets a target which would enable the Council to secure improvements. There is also potential harm to the listed buildings and their setting; and the scheme is also very close to being unviable.

Consideration was given to:-

- The Management Plan and ensuring the upkeep is up to standard.
- Parking limitations.
- Solar panels.
- Environment health conditions – there were restrictions in place in terms of hours of use.
- Bio diversity – that the development was carried out in accordance with the Ecology Management Plan as there were bats roosting in the farmhouse.

RESOLVED that planning permission be granted subject to conditions and the signing of a S106 agreement to secure as recommended by the Development Management Manager.

(Proposed by Cllr F J Colthorpe and seconded by Cllr F W Letch)

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

Notes:-

- Cllr S J Clist left the room whilst this application was debated and voted upon due to a declaration of pecuniary interest and other registrable interest.
- Cllr N Letch declared she was a Planning Committee Member at Crediton Town Council.
- Cllr Liz Brookes-Housing spoke on behalf of Crediton Town Council.

b) 23/00326/FULL - Erection of replacement clubhouse with additional changing and toilet facilities following demolition of existing buildings at Crediton United AFC, Commercial Road, Lords Meadow Industrial Estate.

In accordance with its agreed procedure the Committee determined the above application could be dealt with without debate.

It was therefore **RESOLVED** that the above application be granted subject to conditions as recommended by the Development Management Manager.

(Proposed by the Chairman)

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

Cllr R Gilmour at this point left the meeting.

c) 22/01209/FULL - Erection of dwelling following demolition of an agricultural building utilising the Class Q fallback position at Land and Buildings at NGR 302779 113776, (Morrells Farm, South West of Chains Road), Sampford Peverell.

The Principal Planning Officer outlined the application by way of a presentation which highlighted:-

- That there was a fall-back position having gone through the legislation.
- The design and impact on the Conservation Area
- Whether there was a planning betterment

In response to the public questions asked the Principal Planning Officer stated that:

- 2 Conservation Officers had been consulted on the scheme. However, the first left the Council by the time the revised plans were submitted. The Council's current Conservation Officer had reviewed the revised plans and raised no objections to the scheme.
- In terms of the height, the proposed dwelling was taller than the lean-to section of the barn, but the overall ridge heights of both buildings were very similar.
- The visibility to the north/west in particular was good and Highways had no objections.
- There was no requirement for applicants to submit a prior notification or application initially, if they would rather submit a full application. The officer is still required to do the relevant assessment.
- Condition suggestions relating to removing permitted development rights relating to agriculture buildings and Class Q - the conditions were not considered to meet the requirements of planning conditions in that they were not reasonable or necessary. Much of the applicant's land was outside of the red line subject to this application so it would not be possible to enforce conditions on the wider holding.
- The principle was established due to the class Q fall-back position and not because it was a rural worker's dwelling.
- The class Q development would be closer to the livestock dwelling than the proposed dwelling.

Consideration was given to:-

- The amount of traffic on the roads and the upkeep of maintenance.
- Betterments included solar panels, bird and bat boxes and landscaping.

It was therefore **RESOLVED** that the above application be granted subject to conditions as recommended by the Development Management Manager.

(Proposed by Cllr F W Letch and seconded by Cllr G Cochran)

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

Notes:-

- Cllr F J Colthorpe, Cllr G Duchesne and Cllr B Holdman wished to have noted that they voted against the application.
- Mr Jamie Bryrom spoke as the Objector.
- Mr Stephen Baimbridge spoke as the Agent.
- Cllr G Westcott and Cllr J Lock spoke as the Ward Members.

d) 22/01098/MOUT - Outline for the erection of up to 120 dwellings and associated access, with all other matters reserved at Land and Buildings North of Blundells Road (Newberry Metals Ltd & Horsdon Garage), Tiverton, Devon

The Area Team Leader outlined the application by way of a presentation and advised the Committee of an amendment to the recommendation and an additional condition as set out below:

Amend recommendation point a) as follows:

Grant permission subject to conditions and a S106 legal agreement to include:

- a) At the expense of the applicant, an independent verification viability assessment of the site to make financial contributions, no more than 6 months prior to the commencement of each phase of development in accordance with the submitted and approved phasing plan;
- b) Subject to the outcome of point a) above make financial contributions towards the delivery of infrastructure needed to support the development including (but not restricted to):
 - i) Affordable housing;
 - ii) Education;
 - iii) DCC Highway Authority Travel and Action Plan;
 - iv) Public open space;
 - v) Community centre; and
 - vi) NHS.
- c) At the expense of the applicant, a monitoring fee, subject to the verification viability assessment and any associated financial contributions arising;
- d) A junction on Heathcoat Way and a safeguarded road route through the site to serve as a future second strategic road access for development on the Tiverton Eastern Urban Extension; and
- e) A DCC Highway Authority Contribution of £5000 for a Traffic Regulation Order (TRO).

New wording for Condition 21:

The existing access shall be effectively and permanently closed to vehicles associated with the application site in accordance with details which shall have previously been submitted to and approved by the Local Planning Authority as soon as the new access on to Heathcoat Way is capable of use.

REASON: To reduce the volume of traffic associated with the application site from taking access on and off the traffic calmed Blundell's Road.

Existing means of access associated with existing properties, not associated with the application site, will be retained from Blundell's Road.

Consideration was given to:-

- The Management Plan and ensuring this would be enforced.
- Potential S106 funds.
- Environmental Health would oversee contamination conditions.

- The new junction on to Heathcoat Way being a 40mph junction not a 30mph junction for road safety reasons.

It was therefore **RESOLVED** that permission be granted subject to the revised recommendation and condition and the signing of a S106 agreement to secure.

(Proposed by Cllr F W Letch and seconded by Cllr G Duchene)

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

Notes:-

- Cllr G Duchesne declared that she lived locally and was affected by the impact.
- Cllr L J Cruwys confirmed that his ward was affected the other side of the boundary line.
- Cllr L J Cruwys wished to have noted that he abstained from voting.

11 MAJOR APPLICATIONS WITH NO DECISION (1:28:20)

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

The Committee agreed that:

Application 22/02339/MFUL – Erection of extensions and improvement works to existing Church and presbytery, St James Church, Old Road, Tiverton, Devon, EX16 4HJ to be determined by Committee and to arrange a site visit if minded to be approved.

12 APPEAL DECISIONS (1:30:00)

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 5.49 pm)

CHAIRMAN