

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 8 November 2023 at 2.15 pm

Present

Councillors

L J Cruwys (Chairman)
G Cochran (Vice Chairman), S J Clist,
F J Colthorpe, G Duchesne, R Gilmour,
B Holdman, M Jenkins, F W Letch and
N Letch, S Robinson

Apologies

Councillor(s)

M Farrell

Also Present

Councillor(s)

D Broom, G Czapiewski, S Keable, J Lock,
G Westcott and D Wulff

Also Present

**Councillor(s)
online**

J Buczkowski, M Farrell, A Glover

Present

Officers:

Maria De Leburne (District Solicitor and
Monitoring Officer), Richard Marsh (Director
of Place), Dean Emery (Corporate
Manager), Angharad Williams (Development
Management Manager), Adrian Devereaux
(Area Team Leader), Daniel Sims (Planning
Officer), Joanne Pope (Commercial Team
Leader Public Health), Janet Wallace
(Public Health), Angie Howell (Democratic
Services Officer) and Sarah Lees
(Democratic Services Officer)

43 APOLOGIES AND SUBSTITUTE MEMBERS (03:50)

Apologies were received from Cllr M Farrell who was substituted by Cllr S Robinson.

44 PUBLIC QUESTION TIME (04:20)

All public questions received referred to Application 22/00907/FULL – Retention of disused quarry for use as two firing ranges at Devon and Cornwall Constabulary, Pondground Quarry, Holcombe Rogus

Robert West

First question: as part of the 2004 Application, Devon and Cornwall state that the site will be used once a fortnight. Are you aware of this, and if so, do you consider “historical use” just that, or rather 70 days, which increase occurred following cessation of Planning Permission?

Second question: do you have confidence in the guidance given to you by the EHO relating to noise and its impact?

- Your decision must be based on Planning issues
- To quote from the DEFRA Noise Policy Statement:
 - noise has no adverse effect so long as the exposure does not cause any change in behaviour, attitude or other physiological responses of those affected by it..... increasing noise exposure will at some point cause the ‘significant observed adverse effect’ level boundary to be crossed and result in a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present
- Are you confident that the (brief) visits made by the EHO to site reflect actual usage of site over a prolonged period?
- Are you confident that the visits made by the EHO to site, and the judgements made subsequently, objectively identify:
 - actual live firing volume and duration (the EHO observations conflict with the experience of local residents)
 - any possible “adverse affects and material changes of behaviour” in the case of local residents (and animals)

Alison Hill

I would like to ask the Committee if you are confident that the CIEH guidelines really do not apply in this case, as directed by the EHO and advised in the Case Officer’s report, when the two reports from the acoustic experts provided by the objectors (Parker Jones and LF Acoustics) say completely the contrary. Furthermore are you aware that there is widespread evidence that other planning authorities have used the CIEH guidelines in determining similar cases as they are considered to be the nearest applicable standard for firing ranges.

Are you confident that you have been presented with a fair, balanced and unbiased noise assessment? The Case Officer’s report includes approximately 350 lines from the EHO’s opinions on the impact of the shooting noise and criticisms of the objector’s noise reports but does not include ANY extracts from the Parker Jones or LF Acoustics reports despite them being qualified acoustics experts who challenge the EHOs opinions on many grounds.

As to the noise report from Acoustic Consultants Limited provided by the applicant, which says the CIEH guidelines don’t apply in the Pondground application, are you aware that these same experts specifically used the CIEH guidelines in assessing another application for a firing range in a disused quarry?

No mention is made of this contradiction in the Case Officer's Report despite it being raised in a letter dated 20th September 2023 from LF acoustics on behalf of the objectors.

In summary, do you back the opinions of the EHO which are almost exclusively subjective with regard to the impact of the shooting noise referring to it variously as distant pops, like a burst of exploding fireworks, no worse than a human shouting or a car revving close by, OR will you rely on the assessment of noise readings by two qualified acoustics experts who agree that the CIEH guidelines are most relevant and on that basis there is a significant adverse impact created by the Pondground shooting?

Corine Hancock

Why were the public not allowed on the arranged site visits?

Do you feel the site is secure and will stop kids from entering?

Why did the police firing range not show up on anyone's house searches when purchasing their houses?

Why have the police had a full day to talk to the committee and the community have only got three minutes?

How do you suppose I carry on running my Holiday Let business with the sound of firing going on all day long?

Why is this not been considered as a new application?

James Dexter

This concerns the firing range application. Is the committee fully aware that from 2012 to 2014 when permission was in place, the average number of bullets fired on site was 14,665 per calendar year. From 2015 to 2021 after permission had lapsed, the average number of bullets rose to 51,726 per year. In the calendar year of 2021 the police's own shooting records show that 113,730 bullets were fired. Therefore any condition that only specifies a number of days of use is not sufficient in mitigating the impact. For example, these same records show that in 2015 the Marines were on site for only 11 days and yet they managed to fire 47,900 bullets. Can the committee be fully satisfied that a mere restriction on the number of days would mitigate the harm?

Emma Ball

Are the committee satisfied that the condition relating to security fencing would meet the tests as such a fence would potentially be greater than permitted development rights and would require consultation upon.

Ruth O'Brien

Are the committee fully informed of their duty to take the best interests of the children as a primary consideration? Have the officers undertaken the proper assessment of this important legal consideration?

Juliette Durance

In light of the advice received from Historic England and having listened to the recorded evidence of the shooting noise impact on the setting at Greenham Barton, listed Grade 1 and therefore of exceptional special interest, what course of action do the Committee propose to take, especially since the applicant has said it is not possible to take any measures reduce the noise levels?

Robert Chislett

Are the committee aware that the local planning authority granted permission for a tourism use next to the site during the period operating unlawfully and that paragraph 187 of the National planning policy framework states “existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established?” Are they fully aware that this would not include unlawful uses?

Lance Kennedy

I am a resident and rate payer of the Cranmore ward and living on the canal a regular user of the same.

Are the committee aware of the importance of all weather training when carrying out the duties of a firearms officer, I myself used the range in question on its opening day 45 years ago?

Are the committee further aware that the weapons in use then were by design, as open chamber weapons louder than their modern closed chamber counterparts in continuance of the weapons use is the committee aware that during the early period of training it was a requirement to be ambidextrous having to draw aim and fire six rounds with the strong hand, reload with four rounds and use the weak hand in under 20 seconds this was followed by quiet periods of evaluation?

Are the committee aware of the need to preserve proficiency in both weapon use and split second decision making under conditions of stress created by the varying climate of outdoor use combined with indoor training. A fact I was grateful for when faced with that split second decision on a dark night many years ago?

Will the committee consider the impact of a controlled use environment of say 1000hrs to 1600hrs on three days a week at approved times of the year as opposed to a working quarry should the presented opportunity present itself?

The Chair advised that the questions would be answered during the application.

45 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (28:03)

Members were reminded of the need to declare any personal or pecuniary interests where appropriate.

Cllr G Cochran - 22/00907/FULL declared that he was a retired Police Officer for Devon and Cornwall Police and was a former armed services member and had responsibility in the past for the installation and maintenance of MOD rifle ranges.

Cllr F J Colthorpe - 22/00907/FULL declared she had received various correspondence.

Cllr F Letch 22/00907/FULL declared he was a member of the Devon Wildlife Trust.

Cllr Clist declared that Plan 3 - 23/01255/LBC fell into his portfolio position although he had no involvement regarding this and that he had also received emails and correspondence regarding Application No. 22/00907/FULL.

Cllr G Duchesne - 22/00907/FULL declared she was a member of the Grand Western Canal Joint Advisory Committee.
She was also a member of the Devon Wildlife Trust.

Cllr R Gilmore - 22/00907/FULL declared she had received correspondence.

Cllr L Cruwys 22/00907/FULL declared he had received mail and was also the Chairman of the Grand Western Canal Joint Advisory Committee.

46 MINUTES OF THE PREVIOUS MEETING (31:05)

The minutes of the previous meeting held on 27 September 2023 were agreed as a true record and duly signed by the Chairman.

47 CHAIRMAN'S ANNOUNCEMENTS (31:37)

The Chairman reminded all members of the Planning Training taking place on 14 November at 2.00pm.

48 MEETING MANAGEMENT (32:05)

The Chair announced that he would be discussing Plan 4 – (22/00907/FULL – Retention of disused quarry for use as two firing ranges at Devon and Cornwall Constabulary, Pondground Quarry, Holcombe Rogus) as the first item on the Plans List.

49 WITHDRAWALS FROM THE AGENDA (32:21)

There were no withdrawals from the Plans List.

50 THE PLANS LIST (32:31)

The Committee considered the application on the *Plans List.

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

- a. Application 22/00907/FULL - Retention of disused quarry for use as two firing ranges at Devon & Cornwall Constabulary, Pondground Quarry, Holcombe Rogus.

The Area Team Leader outlined the contents of the report by way of a presentation which highlighted the following:-

- The site comprised two firing ranges and associated welfare buildings.
- That shooting restrictions had been put in place.
- The site would be used by Devon and Cornwall Police for the training of firearms officers to supplement their main shooting range in Exeter.
- The applicant had instructed an acoustic consultant to measure noise and the Public Health Team had recommended a Noise Management Plan which was submitted as part of the application. On review of this, the Public Health Team requested that the number of days shooting be reduced from the initial proposal of 141 days down to 70 days.
- A Members site visit had taken place in September to look at the shooting range and to experience the noise.
- The planning permission was temporary for seven years.
- Concerns had been received regarding the impacts of heritage assets. However the Conservation Officer had commented that it was less than substantial harm to the setting of nearby heritage assets and considered that public benefits outweighed the harm.
- The Local Highways Authority had raised no objections to the use of the site.
- In light of concerns raised regarding site security the applicant had confirmed that they would be happy to install further security fencing and no shooting would occur until this had been installed.
- The police were happy to enhance their communication with the Parish and would seek to provide a Liaison Officer to work with the school.

In response to the public questions the Area Team Leader answered as follows:-

Robert West

Answer to Q1 - The earlier planning permissions were a material consideration. There were no conditions restricting shooting times in the earlier planning permissions and the reference made to once a fortnight was in response to a question on the application form for the portable welfare building relating to employment. The full response was N.A. Site will be visited by 20-25 officers on average once a fortnight. There were no times/days shooting listed on the application form with no restrictions placed in the planning permission.

Answer to Q2 - Yes we have confidence with the Public Health Officer in dealing with this matter. They are a professional and an employee of the Council.

Alison Hill

Answer - This question relates to noise and how it should be measured. The Public Health Officer is in attendance who I will pass over to comment. However with respect to the reference made to how Acoustic Consultants Ltd (ACL) responded to a nearby application, it has been confirmed that their 2012 report was for a rifle range for recreation and teaching and was a planning application for formal use. In this report ACL referred to the CIEH guidance although did note that it was not specifically for this purpose and identified differences between the scheme and clay target shooting.

Therefore in their opinion this is not a comparable site to Pondground and the use of a specific guidance document on one site does not invalidate the conclusions drawn on another.

Corin Hancock

Answer to Q1 - The arranged site visit on the 5th September 2023 was for a Committee site visit to enable Members to fully understand the use. The earlier site visit in August 2022 was arranged for the benefit of Council Officers to fully understand the proposals which included Ward Members and Members of the Parish Council being invited. Some residents were also in attendance on the day.

Answer to Q2 - There is a condition recommended for security fencing.

Answer to Q3 - This would be a conveyancing matter rather than planning.

Answer to Q4 - It is committee procedure in respect to the time allowed to speak. It was also a Committee site visit.

Answer to Q5 - It would not be all day long, with days and hours controlled through planning condition.

Answer to Q6 - It is a new application. The application has been made on the basis of a retention of use as the use has been carried out on site since 1978 with earlier planning permissions being material planning considerations.

James Dexter

Answer - I would first note that in addition to the condition outlining the Noise Management Plan requirements setting hours and days available for shooting, there is a condition which restricts the use only for Devon and Cornwall Police. Within the report the numbers of rounds shot are outlined and Members will have noted that on the Member site visit, 1250 rounds were shot by the Police.

Emma Bell

Answer - The matter of the security fence is outlined within the officer report and a query over the use of a condition to finalise details was addressed in the response to the Barrister Opinion, point SC12 in Appendix 1, page 103. Whilst permitted development is possible for enclosures of 2m in height where not adjacent to a highway, in respect to security fences, the applicant has confirmed that they are committed to provide these within the submitted information and approval of final details are possible through this application. Conditions for enclosures/boundary treatments are common and accepted within the wider planning context. The condition imposed would ensure further security fencing is installed to address concerns raised through the planning process of the site being too accessible.

Ruth O'Brien

Answer - The matter of impact of noise on residents which includes children has been addressed within the committee report and in respect to impact on children at the primary school, this has also been addressed in the response to the Barrister's Opinion at SC 8 and SC9 on Pages 101 and 102. As noted in the responses from officers, the matter has been assessed.

Juliette Durance

Answer - This question appears to be directed to Members as to what course of action they want to take. However, I would comment that the report to Planning Committee discusses heritage matters and the duties of the Council under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant policies of the Development Plan. With respect to Greenham Barton, this is one of the three Grade I listed properties identified in the objection referred to in the update sheet. The case being whether noise intrusion from the shooting has a harmful impact affecting tranquillity. Greenham Barton is approximately 1.12km away (NE) from the site. The view of the Conservation Officer is that the proposal would not harm the setting of the Grade I listed properties given the distances involved, topography and drop off of noise from the site. As such it is not considered that there was a need to consult Historic England or amenity societies, the latter only being required to comment on demolition of listed buildings rather than setting. Historic England were made aware of this application by a third party so were formally consulted and they raised no objection to the development, rather advising that the council needed to ensure they had all the information to make an assessment to the impact which is considered to be the case.

Robert Chislett

Answer - The matter of impact on holiday businesses in the area have been addressed within the report and the response to the Barrister Opinion within Appendix 1. It is noted that the last planning permission lapsed in 2014 but as demonstrated through the figures provided, shooting has continued throughout until 2022 with the use of Pondground Quarry as two firing ranges being historic, benefiting previously from 5 earlier planning permissions. The use outlined and the recommended conditions including Noise Management Plan are considered to prevent any unreasonable restrictions being placed on existing businesses.

Lance Kennedy

Answer - I note the comment from Lance Kennedy and would advise that the need for this use is contained within the report and clearly demonstrated, hence the recommendation to support.

Consideration was given to:-

- Noise levels and that this could be dealt with by Environmental Health if residents were being affected by the noise levels if the application was approved.
- The difficulty with placing a security fence around the quarry due to the steep topography of the site and its constraints of the quarry.

- The mental health of children attending local schools.
- The impact of the designated listed heritage sites.

A proposal to approve the officer's recommendation was not supported.

It was therefore **RESOLVED** that planning permission be refused.

(Proposed by Cllr S Clist and seconded by Cllr R Gilmour)

Reason for refusal:-

1. The impact of the proposal on amenity of the existing residents within the settlement of Holcombe Rogus and neighbouring residents, including the impact to health and safety of the public given the site is not secured due to the steep topography of the site and its constraints. The proposal is therefore not in accordance with the Mid Devon Local Plan policies DM1 and DM4.
2. The impact of the proposal results in harm to the tranquillity of the open countryside experienced in addition to the impact on the harm of the designated listed heritage assets within the area as a result of the noise emitted by the proposed use of the site. The proposal is therefore not in accordance with the Mid Devon Local Plan policies S1, S9, DM1, DM4 and DM25.

Notes:-

- (i) Emma Forward spoke as the objector.
 - (ii) Sergeant Iain Freestone spoke as the applicant.
 - (iii) Cllr F Freeman spoke on behalf of the Parish Council.
 - (iv) Cllr J Lock and Cllr G Westcott spoke as Ward Members.
 - (v) Cllr G Cochran, Cllr F J Colthorpe, Cllr L Cruwys and Cllr F Letch requested that their votes against the refusal be recorded.
- b. Application 23/00711/HOUSE - Removal of outbuilding and retention of a replacement garden structure at 7 Silver Street, Thorverton, Exeter.
 - c. Application 23/01166/LBC - Listed Building Consent for the removal of outbuilding at 7 Silver Street, Thorverton, Exeter.

The Planning Officer outlined the contents of the report by way of a presentation which highlighted the following:-

- The proposal was for listed building consent for the removal of outbuildings to the rear garden.
- This would also include removal of the existing structure as this abutted the listed curtilage wall.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr S Clist and Seconded by Cllr R Gilmour)

Reason for the Decision as set out in the report.

Notes:-

- (i) Cllr F J Colthorpe declared that the applicant was a Councillor and that she was aware of this application.
- d. Application 23/01255/LBC - Listed Building Consent for repairs to roof at 5 St Paul Street, Tiverton, Devon.

The Conservation Officer outlined the contents of the report by way of a presentation and highlighted the following:-

- That this was a Grade II Listed Building which was owned and managed by Mid Devon District Council.
- The proposal would include the replacement of broken roof slates with new ones.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by the Chairman).

Reason for the Decision as set out in the report.

(The meeting ended at 5.30 pm)

CHAIRMAN