

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 12 March 2025 at 1.15 pm

Present

Councillors

L J Cruwys (Chairman)
S J Clist, G Cochran (Vice-Chair),
F J Colthorpe, G Czapiewski, J M Downes,
C Harrower, B Holdman, L G J Kennedy,
M Jenkins and S Robinson

Apologies

Councillors

G Duchesne and N Letch

Also Present

Councillors

S Keable and J Poynton

Also Present

Officers)

Maria De Leburne (Director of Legal, People & Governance (Monitoring Officer)), Richard Marsh (Director of Place & Economy), John Hammond (Development Management Manager), Jake Choules (Planning Officer), Tim Jarrett (Arboricultural Officer), John Millar (Area Team Leader), Daniel Sims (Planning Officer), Heather Nesbitt (Planning Enforcement Officer) and Angie Howell (Democratic Services Officer)

Councillors

Online

A Glover, L Knight and D Wulff

Officer Online

Dr Stephen Carr

82 APOLOGIES AND SUBSTITUTE MEMBERS (00:04:37)

Apologies were received from Cllr G Duchesne with Cllr J Downes substituting and Cllr N Letch with Cllr L G Kennedy substituting.

Cllr M Jenkins confirmed he would be late attending.

83 PUBLIC QUESTION TIME (00:05:54)

Chris Howard – referred to Application No. 24/01618/FULL and asked the following questions:-

Q1: Are Members aware of Devon County Council's guidance notes on Sustainable Drainage Systems? Section 9, 'Requirements for planning' states the need for consideration of drainage at the earliest possible stage. It also suggests that a major development (10 houses or more) should receive greater scrutiny. Here we have two developments of five houses ie 10, with obvious collaboration and shared drainage strategy.

'*Sustainable Drainage System – Guidance for Devon (2023)*' states that a discharge of a condition should only be approved for a development if there is a clear maintenance schedule for the attenuation tank. I have not seen this schedule on the mid Devon portal.

Q2: Bearing all of this in mind, does the Council believe that this development is following best practice as laid out by Devon County Council in their document 'Sustainable Drainage System – Guidance for Devon (2023)'?

Responsible development

Q3: Are Members aware that when the plans to run the pipes across our properties first appeared on the Mid Devon portal, neither us nor our neighbour had been approached by the developer. We had a tip off from a neighbour. Last summer, we received phone calls from South West Water, giving 7 days' notice of a proposed site visit to our gardens. We had not agreed to this and no planning permission had been approved at this stage. We also received an e-mail from one of the developers suggesting that we should cooperate with them and get a better deal because South West Water will ultimately make a requisition and come and, to quote, 'bash a trench' through our gardens. There also appears to have been no attempt to redesign the number or layout of the houses to accommodate an alternative drainage strategy.

Q4: Does the Committee believe this is the trademark of responsible and considerate development?

Connection to adjacent development

Q5: Are Members aware that the drainage will connect to the adjacent development 19/00914/FULL. We did not object to this application in the first instance because our properties were not directly impacted. However, retrospective planning meant the pipes were re-routed to come across ours and our neighbour's gardens. At this point we had no formal right to object which seems extremely unreasonable. We are told that our only way to object to this adjacent development is via a civil action.

Q6: Will the Committee support us in obliging the developers of 24/01618/FULL and 19/00914/FULL to look again at the collaborative design of the whole site with a view to keeping drainage off third party land?

Stephanie Howard – referred to Application No. 24/01618/FULL and asked the following questions:-

Attenuation tank

Q1: Are Members aware that the attenuation tank is just shy of the volume of Tiverton swimming pool, (21 x 9 x 1.5 metres)? This will be located within a few metres of ours and our neighbours' boundaries. Who exactly will be responsible for the regular maintenance of this tank bearing in mind there are two applicants making use of it?

Q2: How will the Council ensure accountability for the ownership and maintenance of this tank especially regarding any potential failings?

Route

Q3: The development will be accessed through Clay Lane. Are the Committee aware of any reason, other than financial viability for the developer, why the drainage should not go along Clay Lane or other public highways instead of through other people's property?

Only one trial pit

Q4: Are Members aware that only one trial pit appears to have been dug on site for this development of five houses? There appears to be no indication on the portal where this was excavated, and I cannot see any accompanying technical memo. The assumption seems to have been made that the whole site will be unsuitable based on this one pit.

Q5: Do Members feel this is adequate testing regarding trial pits to rule out on-site infiltration tanks which would be higher up the South West Water hierarchy?

Site visit

Q6: When making such a controversial decision that will have such a significant effect on local residents, do the Committee feel that the Planning Officer and Committee Members should undertake a site visit to look at the residents' homes that will suffer this destruction?

Duty of care

Q7: While we understand new houses are needed in Mid Devon, do the Committee feel that it is right for new developments to involve the destruction of parts of other residents' properties and gardens, because adequate drainage plans have not been appropriately planned at the start?

Q8: Do new developers have more rights than existing residents?

Q9: Do the Committee feel that Mid Devon District Council have a duty of care to residents' wellbeing and protect such violations of their homes and properties?

Pamela Disney – referred to Application No. 24/01618/FULL and asked the following questions:-

Q1: Are Members aware that plans have been drawn up without any true understanding of the route it will take? Drawing a line on a map cannot take into account the potential damage to patios, tarmacked drives, flower beds, 3 hedges (and their biodiversity), lawn, clay pipes, and wooden fences in its path. It will also severely hamper vehicular and pedestrian access to the homes whilst work is in progress.

Q2: Does the Committee believe that residents should be subjected to this intrusion, distress and impact on their properties because the developer's original drainage plans have not worked out?

Michael Cuthbertson - referred to Application No. 24/01618/FULL and asked the following questions:-

The officer's report states that "the surface water drainage scheme proposed under the application before Committee has already been found to be acceptable under application reference 19/00914/FULL".

Q1: Are the Committee aware that this was by way of a condition discharge application (discharging an already discharged condition) which did not require consultation to neighbouring properties & statutory consultees?

NB: This only actually came to light when 24/01281/FULL (another application to vary Condition 3 of 22/00432/FULL) was consulted on and drew several objections before being withdrawn with the developers "looking again at an alternative drainage solution for this project." However the condition discharge application contained the very same drainage strategy!

Q2: Are the Committee aware that there is an approximate 3m drop in elevation from the hydro brake chamber at the edge of the application boundary to the surface water sewer in The Spinney? Approximately 2m of this level change occurs between the boundary of Eastfield House and the proposed connection to the surface water sewer in The Spinney. This fall needs to be achieved over 79.4m of pipe – an average gradient of 1 in 26.8 over the entire length.

Q3: Is this an acceptable gradient and if so, what depth of trench will be required to achieve this fall?

Q4: Are the Committee aware that only 3 properties in The Spinney were included in consultation for a proposed scheme that would extensively disrupt access all 6 properties with driveways on The Spinney (Nos. 1-4 The Spinney, plus "Beacon View" & "Avenell" whose addresses are on Ashley Road), given that the surface water sewer connection point is at the end of the driveway to No. 3 The Spinney which is the first house in the close?

Q5: Are the Committee aware that the proposed foul water drainage scheme will connect a further 10 dwellings to an existing foul sewer serving 3-5 dwellings? Sewer construction guidance states that foul sewer pipes serving 10 houses or less should be 100mm in diameter, with more than 10 houses requiring 150mm diameter pipes.

It is believed that the works in 3rd party land to commence the foul sewer connection have already taken place, though the foul water scheme has not been approved for either this application or 19/00914/FULL

Q6: Would the Committee undertake a site visit to determine if this is the case?

Q7: In general, would the Committee undertake a site visit to assess the impact of the proposed scheme to neighbouring residents and the environment?

84 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00:18:07)

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

Cllr S Clist made a declaration in accordance with Protocol of Good Practice for Councillors dealing with planning matters regarding planning application numbers 24/00840/FULL and 24/01618/FULL as he had received communications. For Application No. 25/00205/NMA he was the Cabinet Member for Housing, Assets and Property Services and this fell within his portfolio and confirmed he had no involvement in this application.

Cllr J Downes made a made a declaration in accordance with Protocol of Good Practice for Councillors dealing with planning matters regarding planning application number 24/00840/FULL in that he had received email correspondence from an objector.

85 MINUTES OF THE PREVIOUS MEETING (00:19:00)

The minutes of the previous meeting held on 12 February 2025 were agreed as a true record and **SIGNED** by the Chair.

86 CHAIR'S ANNOUNCEMENTS (00:09:16)

The Chair reminded the Planning Committee of a Members Briefing taking place on Thursday 27 March, 2.00pm at Phoenix House regarding Tiverton Eastern Urban Extension Area B and encouraged all Councillors to attend in person.

87 WITHDRAWALS FROM THE AGENDA (00:20:01)

There were no withdrawals from the Agenda.

88 PERFORMANCE DASHBOARD QUARTER 3 (00:20:05)

The Group were presented with, and **NOTED**, a slide * showing the Performance Dashboard for Quarter 3 2024/2025. The following was highlighted within the report:-

- The overall performance was presented in a pie chart and combined RAG (red, amber, green) ratings from both performance and finance measures to indicate overall performance.

- Major planning applications determined within 26 weeks and minor and other planning applications determined within 16 weeks were both shown as amber which were set against an in-house target of 100% rather than national targets of 60% and 80% respectively.
- There was lower planning income in the financial year due to the depressed housing market which carried through to the discretionary planning fees which also showed as amber.
- The income for discretionary fees was projected to finish at only £3000 behind target for the year.

Discussion took place regarding:

- The cost of planning appeals – it was explained that no costs were currently showing against this measure.

Note: * Slide previously circulated.

89 THE PLANS LIST (00:24:02)

The Committee considered the applications in the *Plans List.

1. 24/00840/FULL - Erection of a building for machinery and equipment storage at Hooper Services (South West) Ltd, Crediton, Devon. (00:24:30)

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

- The application had been called in by the Ward Councillor due to: overdevelopment of the site; possible illegal use of the site; development in a floodplain; and environmental impact.
- The building required additional storage for equipment and machinery to be kept dry and safe from theft with the benefit of also helping to tidy the area.
- The application was submitted in June 2024 and during consideration of the application Planning Officers had worked with the Applicant and the Agent to proactively negotiate amendments and agreements.
- The key considerations raised by objectors and Crediton Town Council were issues relating to flood risk. The Environment Agency initially objected on the grounds of insufficient risk assessments.
- Following a revised Flood Risk Assessment the Environment Agency confirmed they had no objections provided it was built in accordance with the updated Flood Risk Assessment and associated planning drawings. They were satisfied that there would be no risk to third parties and that the area could be considered as Flood Zone 3a for this development.
- The flood risk assessment confirmed that precautions of flood resilient measures should be taken as recommended by the Environment Agency, which included that all ground floor construction should be a flood resistant material and all electricity power supply cables should be downwards fed.
- In order to address concerns raised by the community a condition had been recommended by the Public Health Officer that no machinery should be operated except during the hours of 7.30am-7pm Monday-Fridays or 8.00am-1pm on Saturdays and not at all on Sundays or bank holidays all of which had been agreed with the Applicant.

- There were a number of conditions recommended to secure tree protection measures and additional planting should be undertaken.
- Concerns had been raised regarding the impact on the highways network. The County Highways Authority visited the site and raised no objections, they also confirmed that a figure had been taken from TRICS (Trip Rate Information Computer System) database and this showed there would not be a severe impact on the highways network.

Discussion took place regarding:-

- The type of tree used when planting for screening as the Committee felt that Leylandii would grow very tall and quickly outgrow the screen effect and were concerned about the future management and maintenance of the trees.
- The preferred use of a more sensitive species to be planted.
- The use of water butts and whether they would overflow – it was explained that they would be fitted with an overflow that would discharge onto the grass bank.
- Concerns regarding flood risk to the wider area.
- The colour of the material being used – it was explained that by using green cladding it would blend into the countryside better than the existing grey buildings on site.
- Lighting on the site and whether a motion sensor could be used.
- Additional conditions regarding the change of opening hours the use of the mezzanine and lighting. It was explained that planning justification must be considered when applying additional conditions.

Cllr J Downes requested a site visit and in turn for this item to be deferred, which was seconded by Cllr S Robinson. Upon a vote being taken the request for a site visit was declared to have **FAILED**.

It was **RESOLVED** that planning permission be granted subject to conditions including:-

- An amendment to Condition 7 to include a request for an additional scheme relating to all of the boundaries prior to commencement of works in terms of planting and having an informative in using a more suitable long term species to include height management.
- Along with a condition, should any lighting be required, that a proposed scheme of external lighting for the building be submitted and approved in writing by the Local Planning Authority prior to its first use.
- Delegation was given to the Development Management Manager to finalise the wording in line with the above.

(Proposed by Cllr S Clist and seconded by Cllr C Harrower)

Reason for the Decision – In the interests of nature conservation, neighbouring amenity and to prevent unacceptable levels of light pollution, in accordance with Policies DM1 and DM4 of the Mid Devon Local Plan 2013 – 2033.

Notes:-

- (i) Cllr L G J Kennedy declared that he was a director of Devon Association of Local Councils (DALC) and that Cllr Liz Brookes-Hocking was the Chair of DALC.
- (ii) Rose Tripp, Russets spoke on behalf of the Agent.
- (iii) Cllr L Brookes-Hocking, spoke on behalf of Crediton Town Council.
- (iv) Cllr J Downes spoke as the Ward Member
- (v) Cllr J Downes and Cllr S Robinson voted against the application.
- (vi) Cllr M Jenkins arrived at 1.50pm and abstained from voting as he was not in attendance for the duration of this item.

2. 24/01618/FULL - Variation of Condition 3 of Planning Permission
22/00432/FULL - Erection of 5 dwellings - for revised plans in relation to drainage at Land at NGR 306758 113093, Clay Lane, Uffculme. (01:43:04)

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

- The proposed development was for the variation of Condition 3 of Planning Permission which aimed to amend a previously approved drainage scheme.
- The application was called in by Cllr A Glover to assess the impact on neighbourhood amenities local services, drainage, flood risk and the environment.
- It fell within Flood Zone 1 which represented the lowest probability of sea or river flooding.
- The proposed site benefitted from planning permission for 5 dwellings and the site immediately to the east also benefitted from permission for 5 dwellings. The applicants had worked together on the drainage schemes.
- Infiltration and testing on the site found it was not possible to carry out infiltration due to the clay like surface conditions. The next solution would be connection to a surface water body.
- The nearest body of water was the River Culm which was 300 metres from the site and would need to pass through the main village and this was not considered to be a practical option.
- The next option was a connection to a surface water sewer which was located 50 metres from the site and was therefore considered a more realistic option.
- South West Water (SWW) confirmed they were satisfied that the revised drainage scheme met with the destination hierarchy and there were no objections from any other professional consultees.
- This would require works on third party land which had formed much of the public objections to the application.
- The surface water would eventually move to an attenuation basin which would store water in order to prevent too much discharge into the network based on capacity calculations. This would then be pumped into the sewage network.
- Mid Devon District Council would have enforcement powers to ensure the attenuation basin was maintained.
- The revised drainage scheme was not expected to impact or harm the character of the Conservation Area.

- Whilst officers did have sympathy with neighbours who would be impacted by the work to their property, South West Water had requisition powers to carry out those works.

In response to public questions the Planning Officer answered as follows:-

Some of the questions were directed to Members and others have mostly been answered within the officer report and throughout this presentation.

Q1 - Chris Howard: Sustainable Drainage System – Guidance for Devon (2023)' states that a discharge of a condition should only be approved for a development if there is a clear maintenance schedule for the attenuation tank. I have not seen this schedule on the mid Devon portal.

A1: I would clarify that this was guidance as opposed to policy and the Devon County Council Lead Local Flood Authority did not comment on the application due to it not being a major and not being in an area of high flood risk or in a critical drainage area.

Q3 – Chris Howard: The developers had not consulted with the neighbours.

A3: This was outside of the Local Planning Authority's control and the planning application itself was correctly advertised by a site notice, an advert in the press and writing to adjoining neighbours.

Q4 – Stephanie Howard: Are Members aware that only one trial pit appears to have been dug on site for this development of five houses?

A4: One trial pit was dug on the site specific to this application with others being dug on the adjacent site which had very similar ground conditions.

Q6 – Stephanie Howard: When making such a controversial decision that will have such a significant effect on local residents, do the Committee feel that the Planning Officer and Committee Members should undertake a site visit to look at the residents' homes that will suffer this destruction?

A6: I had visited the application site, it was for Members to decide if they would like to defer for a site visit although I am not sure what the purpose would be.

Q2 – Michael Cuthbertson: Are the Committee aware that there is an approximate 3m drop in elevation from the hydro brake chamber at the edge of the application boundary to the surface water sewer in The Spinney?

A2: This referred to land outside of the red line but it was common for drainage schemes to utilise the existing topography of sites.

Q5 – Michael Cuthbertson: Are the Committee aware that the proposed foul water drainage scheme will connect a further 10 dwellings to an existing foul sewer serving 3-5 dwellings? Sewer construction guidance states that foul sewer pipes serving 10 houses or less should be 100mm in diameter, with more than 10 houses requiring 150mm diameter pipes.

A5: This would need to be a suitable size to join the network and be agreed by SWW.

Discussion took place regarding:-

- Whether conditions could be placed on South West Water (SWW) to reinstate neighbours land and to correct any potential damage to their property/land? It was explained that this was not possible as it would be an agreement between residents and SWW as they were the Statutory Body.
- Who would be responsible for the maintenance of the attenuation tank and the sewers? It was believed that SWW would be responsible.
- The capacity of the attenuation tank and the risk of flooding.
- The lack of consultation with residents and engagement with third parties.
- The removal of hedgerow, the protection of tree roots and the impact on wildlife
- The fact that only one trench had been dug for this development.

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

(Proposed by Cllr S Clist and seconded by Cllr B Holdman)

Reason for the Decision – Insufficient information had been submitted to justify why the foul drainage water scheme could not join the sewer at Clay Lane. Similarly, insufficient infiltration testing had been carried out to justify why infiltration was not a realistic surface water drainage solution. In the absence of sufficient evidence it was considered that this solution would result in unjustified impacts upon the amenity of neighbours and did not represent a clear understanding of the site contrary to policies S1 and DM1 of the Mid Devon Local Plan (2013-2033).

Notes:-

- (i) Chris Howard spoke as the objector.
- (ii) Simon Lane spoke on behalf of Uffculme Parish Council.
- (iii) Cllr J Poynton and Cllr A Glover spoke as Ward Members.
- (iv) Cllr G Cochran, Cllr F J Colthorpe, Cllr L Cruwys and Cllr M Jenkins voted against the application.
- (v) It was agreed that if the decision were to be appealed then Cllr S Clist, Cllr L G J Kennedy and Cllr S Robinson would sit in on the appeal.
- (vi) Cllr J Downes left the meeting at 3.13pm and Cllr L G J Kennedy left the meeting at 4.00pm once this item had been voted upon.

3. 25/00205/NMA - Non-Material Amendment for 23/00129/MFUL to allow alterations to the site plan, including cycle storage arrangements, landscaping and addition of footpath; amendments of internal layouts, including relocation of external doors and windows at Dwelling Block 2 - 8 Holly Road and, Garage Blocks Sycamore Road, Tiverton. (02:45:51)

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

- This application was for a non-material amendment to allow alterations to the site plan which included cycle storage arrangements, landscaping, the addition of a footpath and amendments to the internal layouts including relocation of external doors and windows.
- As Mid Devon District Council were the applicant and landowner there was a requirement for the application to be determined by the Planning Committee.
- The amendments to the scheme were very small and insignificant in the sense that they did not require further consultation and were considered to be a non-material amendment.
- If the Committee deemed the amendment to be of a greater scale then a more formal revised application would be required.
- The changes proposed were to change the layout of the approved dwellings to ensure the properties were more accessible to future occupiers.
- There would be a rearrangement of windows and doors.
- The floor plans showed very minor changes inside the property and all rooms complied with National Space Standards.
- The bin and cycle storage areas had been reduced and parking arrangements had been previously approved.

Discussion took place regarding:-

- Reduction in waste and recycling storage. It was explained that there was storage provision and that the space met the Waste Standards for Devon County Council in terms of collection and storage of waste.

It was **RESOLVED** that planning permission be granted for the Non Material Amendment.

(Proposed by Cllr S Robinson and seconded by Cllr C Harrower)

Reason for the Decision – as set out in the report.

Note:-

- (i) Cllr G Czapiewski spoke as Ward Member.

4. 25/00076/TPO - Application to crown reduce 1 Oak tree by 2m on one side, protected by Tree Preservation Order 06/00006/TPO at 38 Redvers Way, Tiverton, Devon.
(03:02:31)

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

- The application was brought to the Planning Committee as the Applicant was an employee of Mid Devon District Council.
- The tree was in a residential area that bordered seven properties.
- Since the Tree Preservation Order (TPO) was made in 2006 applications had been received every four to five years to prune the tree due to the close proximity to the surrounding dwellings.
- Previous pruning had been undertaken to reduce the crown spread in order to maintain a more harmonious relationship between neighbours.
- The rationale provided in the application was due to the neighbours complaining that the oak tree branches were too close to the property and squirrels were entering the roof space of the adjacent property by jumping from the branches. However no evidence had been provided to support this.
- The application was not specific as to which side of the crown that required pruning. However from a site visit the south west aspect of the crown was noted to be within 0.5m of the adjacent property.
- It was anticipated that within one or two growth seasons the crown spread of the tree would directly conflict with the adjacent dwelling and any damage caused would be classed as a nuisance.
- Tiverton Town Council had been consulted on the application and had commented that the planned work might unbalance the tree and were unable to support the application.
- A sensible crown clearance could be achieved by target pruning and would not significantly alter the appearance of the tree.
- To achieve a clearance of between 2m-2.5m from the adjacent dwelling the maximum pruning wounds would not exceed 50mm in diameter and would remain appropriate to the condition of the tree.
- In the interest of visual amenity the works carried out would be in accordance with best arboricultural practice.

Discussion took place regarding:-

- The justification to prune the tree and the impact of growth increase if it were not to be pruned.

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

(Proposed by Cllr S Clist and seconded by Cllr S Robinson)

Reason for the Decision – as set out in the report.

*List and report previously circulated.

90 **MAJOR APPLICATIONS WITH NO DECISION (03:16:00)**

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

The Committee agreed the following:-

1. 24/01847/MFUL - To come to Committee – no site visit was required.
2. 25/00141/MARM - To remain delegated as per the report.

Note: *List previously circulated, copy attached to the minutes.

91 **APPEAL DECISIONS (03:21:10)**

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

Note: *List previously circulated, copy attached to the minutes.

(The meeting ended at 4.34pm)

CHAIR