

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 16 December 2015 at 2.15 pm

### **Present Councillors**

Mrs H Bainbridge, K Busch, Mrs C Collis,  
Mrs F J Colthorpe, R J Dolley, J M Downes,  
S G Flaws, P J Heal, F W Letch,  
R F Radford, J L Smith, J D Squire and  
B A Moore

### **Apologies Councillor(s)**

D J Knowles and R L Stanley

### **Also Present Councillor(s)**

Mrs A R Berry, R Evans and  
Mrs M E Squires

### **Present Officers:**

Jenny Clifford (Head of Planning and  
Regeneration), Tina Maryan (Area Planning  
Officer), Simon Trafford (Area Planning  
Officer), Daniel Rance (Principal Planning  
Officer), Jo Cavill (Enforcement Officer) and  
Sally Gabriel (Member Services Manager)

## 85 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr R L Stanley who was substituted by Cllr B A Moore.

Apologies were also received from Cllr D J Knowles.

In the absence of Cllr D J Knowles (Vice Chairman), the Chairman sought a proposal from the Committee for an Acting Vice Chairman.

**RESOLVED** that Cllr K I Busch be Acting Vice Chairman for the meeting.

(Proposed by the Chairman)

## 86 **PUBLIC QUESTION TIME**

There were no questions from members of the public present.

87 **MINUTES OF THE PREVIOUS MEETING (00-3.00)**

Subject to an amendment to Minute 81 in the notes removing the word “landowner” and replacing it with “site manager”, the minutes of the meeting held on 2 December 2015 were approved as a correct record and signed by the Chairman.

88 **CHAIRMAN'S ANNOUNCEMENTS (00-04-32)**

The Chairman informed the meeting that Luke Smith who had most recently been working as a Principal Planning Officer would be leaving the authority in January; the Committee wished him well.

89 **ENFORCEMENT LIST**

Consideration was given to the following cases in the Enforcement List \*:

Note: \*List previously circulated; copy attached to the signed Minutes.

Arising thereon:

No. 1 in the Enforcement List (***Enforcement case ENF/15/00158/UDUR – Agricultural buildings not being built in accordance with approved plans of 15/00784/FULL and 15/00785/FULL, resulting in the development being unauthorised – land at 97524 124069 (Fourwinds) Morebath.***)

The Planning Enforcement Officer outlined the contents of the report stating that the development had been granted planning permission in June 2015 however the site had been built out far in excess of the permission granted. Members viewed photographs from various aspects of the site and noted the height and position of the buildings and the impact on the visual amenity.

Consideration was given to the size of the unauthorised buildings and the impact on the local area.

It was therefore

**RESOLVED** that the Legal Services Manager be authorised to take any enforcement action, including the service of a notice or notices, seeking the removal of the unauthorised buildings from the land. In addition, in the event of a failure to comply with the requirements of any notice served, authorisation for prosecution, direct action and/or authority to seek a court injunction.

(Proposed by Cllr J L Smith and seconded by Cllr Mrs H Bainbridge)

Notes:

- a) Cllr P J Heal declared a Disclosable Pecuniary Interest in the application as he identified from the photographs that he had had business involvement with one of the contractors on the site and left the meeting during the discussion thereon;

- b) Cllr B A Moore declared a personal interest as he knew many of the local residents;
- c) The following late information was reported: The Council has received a request for a meeting for pre-application advice from the agent acting on behalf of the owner of the land. A site visit has been arranged for the 21<sup>st</sup> December 2015, where the agent wishes to discuss alternative options or changes that may be made to the buildings so that they are acceptable in planning terms.

Your Officers consider that the owner of the site has already been given ample opportunity to engage in discussion regarding the resolution of this matter, and no progress has been made. Therefore it is considered that formal enforcement action is the most appropriate way forward, and in the event that the owner should submit a planning application for an alternative scheme, such action can be held in abeyance until determination.

15<sup>th</sup> December 2015 - An email has been received from a nearby resident commenting on the adverse visual impact of the barns particularly on their views across the valley. The neighbour has also raised concerns about the notification procedure for the original planning applications. The neighbour has requested that the Committee ensure that the barns be removed and are not replaced with any alternative structures.

The recommendation refers to Head of Legal Services, but should read Legal Services Manager.

## 90 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

## 91 THE PLANS LIST (00-14-55)

The Committee considered the applications in the plans list \*.

Note: \*List previously circulated; copy attached to the signed Minutes.

(a) No 1 on the Plans List (***(15/01327/FULL, Change of use of part of ground floor from existing pub Use Class A4 to create 2 dwellings Use Class C3 – the Ayshford Arms, Burlescombe)***).

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the existing and proposed ground floor plans and elevations and the reconfiguration of some of the windows. She stated that 230sqm of the floor space would remain as the public house with partial demolition of the skittle alley to make room for gardens for the new dwellings and emphasised that the village would not be losing the public house it would just be reduced in size.

Consideration was given to:

- Access to the public house
- The proposed ownership of the new dwellings

- The viability of the business
- Community involvement
- Possible loss of a community asset
- The internal layout of the public house

**RESOLVED** that planning permission be granted subject to the provision of a Section 106 agreement to secure financial contributions towards public open space of £2416.00 and conditions as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr F W Letch)

(Vote 7 for: 6 against – Chairman’s casting vote)

Notes:

- (i) Cllr R J Dolley declared a personal interest as the applicant was known to him;
- (ii) Cllr R F Radford made a declaration in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as he had had discussions with the objectors to the application;
- (iii) Mr Phillips (Applicant) spoke;
- (iv) Mrs Hill spoke in objection to the application;
- (v) Cllr Mrs H Bainbridge spoke as Ward Member;
- (vi) The following late information was reported: 14<sup>th</sup> December 2015

Total objections: 6  
Total representations: 1

Additions to the objections summary contained in report:

- The applicants has not been operating hours that would enable/encourage trade in an acknowledged tourism area, the demise in trade, or difficulty in providing a financially stable business are a result of the applicants actions.
- Low key marketing and an unrealistically high asking price
- Concern over noise of development, increased traffic as a result and the access safety for Ayshford Close

Confirmation of opening times prior to the pub closing:

7:00pm until 11:00pm seven days a week and from midday until 3:00pm on Saturdays and from midday until 6:00pm on Sunday. Closed all weekday lunchtimes.

Confirmation of permitted hours:

11:00am until midnight Sunday to Thursday and 11:00am until 2:00am on Friday and Saturday.

(b) No 2 on the Plans List *(15/01422/FULL, Erection of 4 dwellings with garages and alterations to access (Revised Scheme) – land at NGR 302666 114116 (West of Pullet) Turnpike, Sampford Peverell).*

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location, access, the proposed section plan, the extent of the conservation area, elevations and floor plans of each dwelling. Members were able to view photographs from various aspects of the site and the boundary treatments were considered. The officer informed the committee that the Highway Authority were happy with the proposal.

Consideration was given to:

- The settlement limit
- The width of the access
- The original outline application
- Boundary treatments
- The affordable home proposed on the site
- The collection of waste and recycling
- Justification for building in the conservation area
- Drainage issues
- Site density

**RESOLVED** that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out the implications for the proposed reasons for refusal based on the following issues:

- The impact of Plots 1 and 2 on the amenity of existing property due to overlooking issues
- The proposed access and the impact of additional vehicular movements upon highway safety as a result of the proposed 4 dwellings.
- The impact upon visual amenity of refuse arrangements arising from 4 dwellings
- Insufficient drainage arrangements

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr J L Smith)

(Vote 6 for: 5 against)

Notes:

- (i) Cllrs: Mrs H Bainbridge, K I Busch, Mrs C Collis, Mrs F J Colthorpe, R J Dolley, J M Downes, S G Flaws, P J Heal, F W Letch, B A Moore, R F Radford, J L Smith and J D Squire made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence regarding the application;
- (ii) Cllr F W Letch declared a personal interest as residents were known to him;
- (iii) Mr Preston (Agent) spoke;
- (iv) Mr Dumble spoke in objection to the application;

- (v) Cllr Passey spoke on behalf of the Parish Council;
- (vi) Cllr Mrs H Bainbridge spoke as Ward Member;
- (vii) A proposal to grant permission was not supported;
- (viii) The following late information was reported: 14<sup>th</sup> December 2015  
Additional objection from neighbour (I believe they have already objected, Mr & Mrs Dinnage, no new points made)

Comment on drainage to be added: A Surface Water Drainage Strategy has been submitted and demonstrates that surface water can be dealt with sustainably through the use of soakaways on the site. A condition has been imposed requiring the submission of final design and maintenance details.

Additional response from Sampford Peverell Parish Council:

Sampford Peverell Parish Council has considered, yet again, the latest changes to this application. We have resolved to maintain our **objection** to it. Our detailed objections, set out several times previously on other amendments remain valid. In summary, the main grounds for our opposition are:

#### **Conservation Area**

We remain opposed to the reduction to the conservation area required by this application. Villagers have indicated in the past the importance they place on retaining the conservation area and to resist attempts to eat away at it.

#### **Rubbish, recycling, etc**

We consider that the proposals for dealing with waste and so on are totally unacceptable. That the plethora of boxes, bins, etc that householders now need to have should simply be left by the highway, outside other residents' homes cannot be seen as satisfactory.

#### **Wildlife**

We do not consider that the latest plans fully implement the recommendations of the wildlife survey.

#### **Number of dwellings**

Above all, we remain of the view that the site does not lend itself to the construction of four dwellings. We believe that three dwellings, as agreed in the outline planning permission, is the maximum that should be permitted. Most of the other problems we see with the current application would be removed or reduced if the application were for three dwellings.

Finally, we wish to express our irritation at the way this application has been allowed to change and develop. It is now fundamentally different to that initially submitted. The incremental changes have made it difficult for us as a parish council and, more importantly, for those residents affected by it to keep up to date with exactly what the latest proposals are. In our view, it would have been far better to deal with it as a fresh application.

Additional condition to read:

Notwithstanding the plans submitted, details of the proposed boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority. The agreed boundary treatments shall be provided prior to the first occupation of any of the proposed dwellings and shall be so retained thereafter.

**(c) No 3 on the Plans List ((15/01439/FULL, Removal of Conditions 7, 9 and 10 of planning permission 06/02131/FULL to allow the Class B1 unit to be incorporated into the main residential accommodation – Westcott Barn, Witheridge).**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the existing ground floor and first floor plans and he explained the condition that restricted the occupation of the building in question, he also highlighted the access to the site and the objection from the Economic Development officer.

Consideration was given to:

- Comparisons with other similar applications
- The difficulties of working in a rural area
- Policy issues

**RESOLVED** that planning permission be refused as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr K I Busch)

Notes:

- (i) Mr Archer (Agent) spoke;
- (ii) Cllr Mrs M E Squires spoke as Ward Member;
- (iii) Cllr F W Letch requested that his vote against the decision be recorded;
- (iv) The following late information was reported: Letter from Agent received 14<sup>th</sup> December 2015: key points

Attention is drawn to a previous application where a live/work tie had been successfully lifted (14/00047/FULL).

In that case, it is pointed out that no marketing of the unit was requested at the time and there had also been no similar objections raised by the Economic Development Officer.

The personal circumstances of the applicant had also been given due weight by the planning officer in this earlier application, when it had also been considered unlikely that any new occupier of the dwelling would be able to develop/sustain a new B1 business use.

In the present case, the applicant's employer, 'Icomera', planned to locate their UK administrative office at the property, which they did in 2007. However, following the acquisition of another company in 2008, his employer moved the

UK office to Sittingbourne in Kent; documentary evidence to confirm this is provided.

Evidence is restated that Mrs Kingsland operated a small cake-making and chocolate making business but that this was not financially viable and closed in 2012: Mrs. Kingsland now works in Exeter and undertakes no work from home.

The workspace available of 80 sq. metres is more than that required for any other normal 'home-working' arrangements by Mr. Kingsland in connection with his own work activities

The 'work' space area is now 'dead space' which they cannot utilise for their growing family.

The property was valued in 2014 by Helmores Estate Agents for re-mortgagee/life planning purposes: Helmores confirmed to the applicants that the marketability of the property would be affected by the continuing live/work tie.

There are no current plans to sell.

There would be no structural or internal/external alteration works required.

A statement has been signed by 5 neighbouring residents supporting the application.

Development planning policies are now less restrictive with regard to development of rural buildings than they were at the time of the original consent.

It is not practicable to rent the space out for B1 uses by third parties, separate from the dwelling.

There will be no business benefit by retaining the live/work unit tie: given previous precedent(s), it is seen as difficult to justify that the tie should now remain on Westcott Barn.

The Committee is advised of the following:

Does the statement raise any new issues for consideration?: much of the additional information provided has been taken into account in the consideration of this report. The statement however draws attention to a separate similar application and draws attention to what is considered by the Agent to be an inconsistency of approach in the views taken by the Planning Officer. However, it is a key principle that each planning application needs to be considered on its individual merit. In this instance, there have been clear concerns/ objections raised by the Economic Development Manager and the application has been assessed against current policy considerations as set out in the report which focus on the need to support the rural economy. It is for members to judge whether they wish to place further weight on the personal circumstances as now set out, or on the statement made by the Agent that the applicants currently have no plans to sell the property.

It is otherwise considered that the officer recommendation remains justified and for the reasons as set out in the reasons for refusal.



(d) No 4 on the Plans List *((15/01496/FULL, Erection of a poultry house and feed bin and construction of access track – land and buildings at NGR 297741 108766 – (East of Butterleigh Cross,) Cullompton).*

The Head of Planning and Regeneration outlined the contents of the report by way of presentation highlighting the site location, block plans, the elevation and section drawing of the proposal, access arrangements and proposed landscaping to reduce visual impact. Members also viewed photographs from various aspects of the site and were shown priority routes to the site.

Consideration was given to:

- The location of the proposed poultry house
- Impact on local residents
- Communications between the applicant and local residents
- Possible odour issues

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Cllr R F Radford declared a personal interest as a local chicken farmer and chose to leave the meeting during the discussion;
- (ii) Cllr K I Busch declared a personal interest as he knew the applicant;
- (iii) Cllr Mrs A R Berry declared a personal interest as Ward Member who had been involved in discussions with both parties;
- (iv) Cllr Mrs A R Berry spoke as Ward Member.

(e) No 5 on the Plans List *((15/01511/MFUL, Installation of a ground mounted photovoltaic solar farm to generate up to 5MW of power (site area 8.5 hectares and associated infrastructure – Viridor Waste management Ltd, Broad Path Landfill Site, Burllescombe).*

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location and the proposed phases of the scheme, the tree and maintenance plan, the elevations, proposed fencing, site access tracks and Members viewed photographs from various aspects of the site including various viewpoints.

Consideration was given to:

- Phasing issues
- The use of Grade 5 agricultural land
- The fact that the site suited the application
- The lack of impact on local residents
- Additional landscaping

- A possible one way traffic proposal

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with an additional condition regarding supplemental landscaping to screen the site; changes to Condition 3 to read: The development hereby permitted shall be carried out in accordance with the submitted Construction Management Plan and supporting drawing BP1030-D13 received by the Local Planning Authority on the 4<sup>th</sup> of December 2015.

REASON: In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with policy DM2 of Local Plan Part 3 (Development Management Policies).

An additional condition stating:

Prior to the commencement of phase 2 of the proposed development concerning fields 3 and 4 on the Indicative Layout for the Solar Array dated August 2015 and received on the 20<sup>th</sup> of November 2015 Drawing Figure P3 (Rev C), a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include the following details:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) hours during which delivery and construction traffic will travel to and from the site;
- (d) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (e) hours during which no construction traffic will be present at the site;
- (f) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (g) details of wheel washing facilities and road sweeping obligations
- (h) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (i) Details of the amount and location of construction worker parking.

The works shall take place in accordance with the approved construction management plan.

REASON: In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with policy DM2 of Local Plan Part 3 (Development Management Policies).

Condition 7 to be changed to read:

The existing hedge and tree screening shall be retained and maintained for the life of development hereby permitted in accordance with the details set out in plan BP1030-D14v2 named Areas of retained woodland during solar array development (Phases 1 and 2), dated December 2015 and received by the Local Planning Authority on the 14<sup>th</sup> of December 2015. No trees or hedgerow shall be removed without prior consent from the Local Planning Authority.

REASON: To ensure adequate screening and to safeguard the visual amenities of the area in accordance with Mid Devon Core Strategy (Local Plan Part 1) COR2 and Mid Devon Local Plan Part 3 (Development Management Policies) DM2.

(Proposed by Cllr F W Letch and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Mr Wishart (Applicant) spoke;
- (ii) Cllr R Evans spoke as Ward Member;
- (iii) The following late information was reported: A detailed hedge and tree screening maintenance plan has been submitted. All trees will be retained at their existing heights and the existing hedging will be maintained at a height not less than 2 metres.

(f) No 6 on the Plans List (***15/01632/FULL, Erection of a dwelling – Jersey Cottage, Sampford Peverell***).

The Area Planning Officer outlined the contents of the report stating that the revised application was the same as one previously refused except for mitigation provided to deal with noise issues. He presented the site location plan the sections and elevations of the proposal and photographs from various aspects of the site and stated that the proposal was outside the settlement limit of Sampford Peverell and was against Policy COR 18 and the National Planning Policy Framework.

Consideration was given to:

- Building outside the settlement limit
- The proximity of the station
- The possibility of setting a precedent of building in the countryside

**RESOLVED** that planning permission be refused as recommended by the Head of Planning and Regeneration (reason 1 as set out in the report).

(Proposed by Cllr Mrs H Bainbridge and seconded by the Chairman)

Notes:

- (i) Mrs Anning (Agent) spoke;
- (ii) Cllr Mrs C Collis spoke as Ward Member;
- (iii) Cllr Mrs H Bainbridge spoke as Ward Member
- (iv) The following late information was reported: 14<sup>th</sup> December 2015 Application 15/01632/Full has 2 reasons for refusal reason 2 is for non-payment of the Open Space Contributions and signing of the Unilateral Undertaking. This has now been paid and so this reason is no longer valid and should be ignored.

92 **THE DELEGATED LIST (3-19-00)**

The Committee **NOTED** the decisions contained in the Delegated List \*.

Note: \*List previously circulated; copy attached to signed Minutes.

93 **MAJOR APPLICATIONS WITH NO DECISION (3-20.00)**

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

Note: \* List previously circulated; copy attached to the Minutes.

94 **APPEAL DECISIONS (3-21-00)**

The Committee had before it and **NOTED** a list of appeal decisions \* providing information on the outcome of recent planning appeals.

Note: \* List previously circulated; copy attached to signed Minutes.

95 **PERMITTED SOLAR FARM SCHEMES - APPLICATIONS THAT REQUEST TO VARY TIMESCALES FOR LIFE TIME OF DEVELOPMENT. (3-22-00)**

The Committee had before it a \*report of the Head of Planning and Regeneration requesting it to consider the process for determining applications for existing solar farms (PV arrays) schemes where a request to extend the duration of the consent was applied for. The officer highlighted the fact that only the duration of the lifetime of the development was being considered. No changes to the layout were being proposed and the two applications before the committee today sought only an extension of 5 years.

**RESOLVED** that all ground mounted solar PV applications seeking an extension of time (including small applications) be brought before the committee for determination.

(Proposed by Cllr S G Flaws and seconded by Cllr R J Dolley)

Notes:

(i) Cllrs Mrs F J Colthorpe and P J Heal requested that their vote against the decision be recorded;

(ii) \* Report previously circulated copy attached to signed minutes.

96 **APPLICATION 15/01612/FULL - VARIATION OF CONDITION (1) OF PLANNING PERMISSION 12/01306/MFUL - SOLAR FARM AT NGR 274160 105292 ELLICOMBE FARM, MORCHARD ROAD (3-30-00)**

The Committee had before it a \* report of the Head of Planning and Regeneration regarding this application. She stated that the application related to the existing solar development, the scheme had been built out and was now operational. Conditions to the previous application stated that the PV facility should cease to generate electricity

on or before 25 December 2037; the application before the committee was not seeking to change any aspect of the development as built out but to seek to extend the lifetime of the development to 28 March 2043.

Discussion took place regarding:

- Material planning considerations
- Planning policy
- Possible appeals regarding this matter
- Whether 30 years of operational life for the scheme was now achievable and realistic
- The lack of objection to the proposal

**RESOLVED** that the application be deferred to allow for a briefing paper to be submitted investigating case histories of such applications at appeal.

(Proposed by Cllr P J Heal and seconded by Cllr R J Dolley)

Note: \* Report previously circulated copy attached to minutes.

97 **APPLICATION 15/01613/FULL - VARIATION OF CONDITION (1) OF PLANNING PERMISSION 12/01376/MFUL - LIGHTSOURCE SPV V 52 LTD SOLAR FARM AT NGR 296542 118012 (PALFREYS BARTON), COVE (4-09-36)**

The Committee had before it a \* report of the Head of Planning and Regeneration regarding this application. She stated that the previous application for the site had been built out and the current application sought to extend the lifetime of the development until 30 June 2043.

Members considered that similar issues had been considered in the previous item and therefore:

**RESOLVED** that the application be deferred to allow for a briefing paper to be submitted investigating case histories of such applications at appeal.

(Proposed by Cllr S G Flaws and seconded by Cllr R J Dolley)

Note: \* Report previously circulated copy attached to minutes.

(The meeting ended at 6.40 pm)

**CHAIRMAN**