

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 13 January 2016
at 2.15 pm

Present

Councillors

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

Apologies

Councillor(s)

J L Smith

Also Present

Councillor(s)

Mrs J B Binks, Ian Sorenson and N A Way

Present

Officers:

Jenny Clifford (Head of Planning and
Regeneration), Simon Trafford (Area
Planning Officer), Amy Tregellas (Head of
Communities and Governance and
Monitoring Officer), Daniel Rance (Principal
Planning Officer), Luke Smith (Principal
Planning Officer), Ian Winter (Environmental
Health Officer) and Sally Gabriel (Member
Services Manager)

98 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr J L Smith.

99 **PUBLIC QUESTION TIME**

Mr Pilgrim referring to Item 1 on the Plans List (Red Linhay) stated that the officer's report seems to accept that the applicant's information is correct, I ask you to consider whether the officers recommendation is motivated to shift the focus of challenge. The application depends on an Environment Agency permit, if the Environment Agency refuse the permit and the scheme is operated without a permit the applicant would be in breach of the Environment Agency. If you refuse permission it is likely that an appeal will lead to costs, the credibility and diligence of the officer will be judged.

Mrs Punnett referring to Item 4 on the Plans list (Edgeworthy Farm) stated that the Lake's had been farming Edgeworthy for many generations. Agriculture has continued to change and farmers have had to adapt with the demands for food and animal welfare law. Edgeworthy have been milking dairy cows for many years but with TB and falling milk prices there is a need to diversify. The plan is to produce

quality free range chicken and this will form a vital part of Edgeworthy continuing through the generations.

Mr Williams again referring to Item 4 on the Plans List (Edgeworthy Farm) stated that he wanted to know if the Committee were aware that the application will help local communities and local business with employment as an increase in the number of poultry will mean an extra stockman and help local people with work building the poultry houses, there will be a need for electricians and other professions, 4 or 5 other people will also be employed for the clean out period.

Mr Baxter referring to Item 3 on the Plans List (Menchine Farm) asked if the Committee were aware that in addition to the 5 further poultry units, the applicant had also applied for a pellet factory, which will have further traffic implications. An appeal would take place on 26 January and the inspector would consider traffic movement. High traffic will lead to harm to resident living conditions

Mr Lenton referring to Item 1 on the Plans List (Red Linhay) asked a question in 2 parts.

1 - the application before this committee is for an increased throughput of feedstocks and waste consumption– an increase of about 500 tonnes a year over the approved application. The officers own report makes clear that the size of the site has increased by 0.3 hectare, size of silage clamps increased volume by 17%, and digester tank by approx 15% from approved application. Given that the report makes clear that the principle of an AD can no longer be challenged, my question is how can it be that these increases do not result in anymore traffic movements and secondly given that these are additional and, in the view of the objectors, detrimental issues why is it that the officers report makes no attempt to address these issues other than to say that they are outweighed by the benefits and

2 – on the 4 December 2013 there was a planning meeting chaired by present chairman to consider an application at Edgeworthy Farm. During the course of that meeting, you Madam chairman declared a personal interest as the applicant was well known to you and chose to leave the room and took no part in the discussion or voting which is recorded in the minutes. What I would like to know, given that this application wrongly names the applicant as Mr Manley and the applicant is not Mr Manley but is in fact Greener for Life, the applicant at Edgeworthy was Greener for Life energy Ltd, same applicant, well known to your chairman, I would simply ask that for continuity and independence whether it is the chairman's intention to step down for the same reasons and take no part in the discussion.

The Chairman stated that she did have a personal interest in that she knew Mr Lake, Mr Reed and the Coles, she did not have an interest in the Red Linhay application as she did not know Mr Manley, she did not have a disclosable pecuniary interest (DPI) and therefore did not have to leave the meeting. She would declare a personal interest in Menchine and Edgeworthy and remain in the Chair. Sometimes if Members have a personal interest they may decide to leave the meeting but this would not be the case in this instance.

Mr White referring to Item 1 in the Plans List asked that when the officer recommended approval did he not consider that the harm to the environment and the Grand Western Canal was significant enough to balance a refusal. The site is larger and closer to the canal, there are no additional benefits. Condition 8 refers to no

storage of chicken or farmyard manures within the application site except in the sealed digestate storage tanks, where will the raw feedstock be stored, could this be clarified.

Mr Robbins referring again to Red Linhay stated that he was the closest resident to the site, that the application would set a precedent if approved; people will ignore permissions and build larger constructions.

Mr Nicholls referring to Item 2 on the Plans List (Fordton) asked the Committee to consider the residents of Fordton when determining the application. Given the present concerns about flooding of the Rivers Yeo and Creedy in the Crediton area, is the Committee absolutely convinced that existing and future planning applications concerning flood plains of these rivers fully taken into account and factor in 'trickle through' of water in flood plains but outside the river itself and, separately, the importance of tourism to Crediton. Can the Committee offer guarantees that their decisions will not adversely affect the safety, the health and prosperity of the residents of Crediton. You have the consultant's report on the flooding issue; so they consider the increased frequency of extreme rainfall? Since 1978 the road through Fordton has been impassable due to flooding on at least three occasions, this was not reported by your consultants. The effect of the development on flood water levels in the immediate area close to the proposed development including the railway is to be considered. The assessment of flood risk is in our opinion both flawed and out of date. There has been a failure to consider the implications for the railway station, its appropriateness in the surrounding area and impact upon tourist attractions.

Mr White (representing the Friends of the Grand Western Canal) and referring to Item 1 on the Plans List (Red Linhay) asked if there was a current Protected Species and Hedgerow assessment with the application?

Mr Gibson referring to Item 3 on the Plans List (Menchine Farm) stated that he ran a campsite 670 metres from the Menchine Farm chicken houses. Established in 1933, he ran a working farm alongside the campsite, we have managed smells and we do not touch our chicken houses through the summer period so as to keep the smells away from our visitors. The environmental report states that we will get some smell from the application, given the summer breeze, the smell from the application site will be catastrophic to our business especially at clean out. People did last year complain about the traffic noise. There previously was a need for free range chicken, this is no longer the case, how does this affect planning policy as producers are being told that there is no longer a need for the amount of chicken.

Mr Welchman referring to item 1 on the Plans List (Red Linhay) stated that he would like to publicise that he wanted to build a monstrosity in a sensitive location in the countryside, so I will put in a softer application, I get permission and then I build what I wanted all along and put in a revised plan, what message is that if this is approved today.

Mr Corden referring to Item 1 on the Plans List stated that I hope Members will consider that Greener for Life are not new to this, they know what is needed for a 500kw digester. They now require the whole thing to be larger to get the same amount of electricity, why did they not know they wanted more, it makes a mockery of the proposed plans in the original application. Traffic movements will be changed as farming has changed. You have approved a 2nd cattle building, the amount of

traffic movements are increased as to what was originally considered. All these changes for no change in output, has output increased? The officer has confirmed it is all larger, it will require many more traffic movements, please consider the people of Halberton.

The Chairman stated that answers to the questions would be given when the applications were considered.

100 **MINUTES OF THE PREVIOUS MEETING**

Subject to an amendment to Minute 89, Note b) removing the wording “many of the local residents” and replacing with “both objectors and the applicant”, the minutes of the meeting held on 16 December 2015 were approved as a correct record and signed by the Chairman.

101 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman informed the meeting that Principal Planning Officer Luke Smith would be leaving the authority and she wished him well.

102 **ENFORCEMENT LIST (00-41-00)**

Consideration was given to a case in the Enforcement List *.

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

Arising thereon:

- a) No. 1 in the Enforcement List (***Enforcement Case ENF/15/00122/UNLD – Building frontage incorporating charity shop allowed to deteriorate causing adverse effect on the visual amenity of the area)- The Society for the Protection and Re-Homing of Animals, 24 Gold Street, Tiverton***)

The Enforcement Officer outlined the contents of the report stating that the building in question was in the Tiverton Conservation Area. The property was in poor condition and required attention. The owner had now stated that he would address the situation. Enforcement action was still appropriate until such time as the works were complete.

RESOLVED that delegated authority be given to the Legal Services Manager to take any appropriate legal action including the service of a notice or notices seeking the improvement of the appearance of the property frontage. In addition, in the event of the failure to comply with any notice served, to authorise prosecution, direct action and/or authority to seek a court injunction.

(Proposed Cllr R L Stanley and seconded by Cllr Mrs H Bainbridge).

103 **DEFERRALS FROM THE PLANS LIST**

There were no deferrals from the Plans List.

104 THE PLANS LIST (00-44-00)

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 ***(15/01034/MFUL - Erection of a 500kW anaerobic digester and associated works with 2 silage clamps. Revised scheme to include the change of orientation of the layout and installation of 2 driers – land at NGR 299621 112764 (Red Linhay) Crown Hill, Halberton).***

The Principal Planning Officer outlined the contents of the report explaining that the principle of the scheme had been approved by the Planning Committee, the amendments to the scheme were before Members today. Land feedstock sources had previously been identified and there was a condition restricting changes to these. Members viewed the proposed elevations of the amended plans, the position of the silage clamps, the extension to the planting scheme and photographs from various aspects of the site including a plan which identified the differences in the schemes and clarified that all the waste would be stored in sealed tanks.

He addressed the issues raised in public question time:

Noise and odour issues would be addressed through the Environment Agency permit

Rainwater would be channelled into the soakaway and effluent would go to the buffer tank.

The impact on the canal - people did use the area as a recreational site, there were glimpses from the canal, the dome could be seen in context with other buildings, and there were no protected species or flora identified in the assessment.

With regard to the habitat survey, dormice had been considered, traps had been laid but none had been found, no further surveys had taken place.

With regard to a possible challenge, the recommendation had been made purely in terms of policy.

Mr Lenton spoke of increases in size for various parts of the site, in fact many of the issues he raised had been reduced and there would be no increase in traffic generation. With regard to storage facilities, these would be sealed containers and the digestate would be spread on the land.

With regard to setting a precedent, the Head of Planning and Regeneration stated that undertaking works not in accordance with approved plans was not acceptable or to be condoned, however planning guidance stated that it was possible to seek to regularise unauthorised works in this way and that the application must be considered in the normal way.

With regard to the intentions of the applicant, a revised scheme had been submitted that had to be dealt with on its merits.

Consideration was given to:-

- Policy DM 22 – agricultural development
- An archaeological survey
- Whether there was room for an additional CHP unit – it was noted that this was not part of the application before Members.
- Landscaping issues
- Monitoring of conditions if approved
- Whether the plant would work continuously
- The transport assessment
- The use of the gas flare
- The environmental permit
 - Having been given so many assurances when the initial application was originally discussed, how could the original design be built so incorrectly
 - The fact that it was legitimate to seek to regularise the application.
 - The specific changes that had been made from the original application which included the bund and the additional screening
 - Scant regard of the Local Planning Authority and the lack of intention to follow the original plans and whether if the revised application had been the original application, whether it would have been approved
 - Impact of the revised scheme upon the canal conservation area
 - Whether the transport plan was out of date

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:

- a) the implications of the proposed reasons for refusal based on concerns regarding landscape and visual impact, the impact on the character and appearance on the Grand Western Canal conservation area, the impact on residential amenity and whether the transport plan was up to date, accurate and could be relied upon.
- b) Potential enforcement action.

(Proposed by Cllr R F Radford and seconded by Cllr P J Heal)

Notes:

- (i) Cllr K I Busch declared a personal interest as the applicant was known to him;
- (ii) Cllrs R F Radford and R L Stanley declared personal interests as some of the objectors were known to them;
- (iii) Cllrs R J Dolley and D J Knowles declared personal interests as the applicant and the objectors were known to them;
- (iv) Cllrs Mrs H Bainbridge, Mrs C Collis and R F Radford made declarations in accordance with the Protocol of Good Practice in dealing with planning matters as they were Members of the Grand Western Canal Joint Advisory Committee;
- (v) Mr Manley (Agent) spoke;

- (vi) Mrs Vinton spoke on behalf of the objectors;
- (vii) The Chairman read a statement from Halberton Parish Council;
- (viii) Cllr R F Radford spoke as Ward Member;
- (ix) Ian Winter (Environmental Health Officer) and Ian Sorenson (Devon County Council, Highways Authority) spoke;
- (x) Cllrs Mrs H Bainbridge, Mrs C Collis and Mrs F J Colthorpe requested that there vote against the decision be recorded;
- (xi) Cllrs K I Busch, D J Knowles and F W Letch requested that their abstention from voting be recorded;
- (xii) A proposal to approve the application was not supported;

The following late information was reported: the Material Considerations and Observations should read

1. Policy
2. Access and Transport
3. Landscape and visual impacts
4. Impact on neighbouring residents
5. Drainage
6. Impact upon the Grand Western Canal Conservation Area
7. Other Impacts
8. Benefits
9. Planning Balance

- There is an error on page 26 of the agenda under summary of changes point no 3. The capacity of the silage clamps should be 7844 and 7200 cubic metres rather than 3381 and 3926 as stated. This is a decrease in capacity of 644 cubic metres.
- On page 38 the Highway Authority comments of 26th November states that there is a silage clamp size increase of 2%. This is incorrect. It is a reduction of 8.9%. This has been conveyed to DCC highways
- Figure change for the Appendix 1 on page 126 of the report re feedstock the figure is incorrect for the new unit it should read 13925 not 14231 Tonnes. This is the same as the previous application.
- Revision to condition 3 page 56: Details of the colour and finish of the building materials to be used (Including the digester dome) and to be submitted to and approved in writing by the Local Planning Authority within 1 month of the date of this approval. The development shall be carried out in accordance with these details and so retained.
- Revision to the end of condition 6 page 56: ...and approved in writing by the Local Planning Authority.

Cllrs R J Dolley and R F Radford left the meeting at this point

- (b) No 2 on the Plans List ***(15/01548/MFUL - Erection of industrial units (Use Classes B1 & B2) and formation of access and parking – land at NGR 283829 99476 (Former Railway Land) Crediton).***

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location of the site, the proposed layout, existing access, proposed elevations and floor plans, the drainage details that had been approved under reserved matters for 1 industrial unit and Members viewed photographs from various aspects of the site which identified the location and the works that had been undertaken as part of the previous application.

Consideration was given to:

- Drainage and possible flooding issues
- The narrowness of the access
- The concerns of local residents with regard to visual impact on the historic railway and the rural hinterland
- The possibility of using other areas for employment use
- Increase parking issues because of the development
- The noise from the railway already witnessed by local residents
- The need for small industrial units in the area

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with an additional condition 13 stating that: No development approved by this permission shall commence until such time that the proposer has submitted to, and the local planning authority approved in writing, details of site and floor levels.

REASON 13: For the purpose of managing flood risk, and in accordance with policy COR11.

(Proposed by Cllr J D Squire and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Cllr J M Downes declared that he had pre-determined the application and therefore could not take part in any discussions and left the meeting during the discussion thereon;
- (ii) Cllrs F W Letch and N A Way declared personal interests as they had spoken to residents regarding the application and as Members of the Town Council
- (iii) Mr Agasee spoke on behalf of the objectors;
- (iv) Cllr Mrs Brookes-Hocking (Crediton Town Council) spoke;
- (v) Cllr N A Way spoke as Ward Member;
- (vi) Cllrs K I Busch and F W Letch requested that their votes against the decision be recorded;

- (vii) Cllr R L Stanley requested that his abstention from voting be recorded;
- (viii) The following late information was reported Page 69: A further letter of objection has been, raising in particular flood issues.
Officer response: This matter is covered by the report (see also comments below)

Page 69: The Inspector's appeal decision granting outline planning permission under 08/00307/MOUT has been circulated and is referred to as Appendix A in the report.

Page 73: Condition 6. An amended block layout plan has been received which includes the approved surface water drainage arrangements as approved under LPA ref: 13/00755/ARM and referred to at condition 6 as being required as part of the proposals as submitted.

Page 51: Add condition 13 and reason as follows. Although noted in the main body of the report on page 41, it was not included in the recommendation section

Condition 13: No development approved by this permission shall commence until such time that the proposer has submitted to, and the local planning authority approved in writing, details of site and floor levels.

REASON 13: For the purpose of managing flood risk, and in accordance with policy COR11.

- (c) No 3 on the Plans List ***(15/01571/MFUL - Erection of 5 additional poultry units (5040 sq.m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure – land at NGR 283175 113696 (Menchine Farm) Nomansland).***

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan and the areas visited the previous day by the Committee. He outlined an indicative landscape scheme and the proposed sections through the site, proposed elevations of the sheds and the biomass plant room and Members viewed photographs from various aspects of the site.

He addressed the issues raised at public question time, noting the economic benefits of the scheme. With regard to Mr Baxter's comments, he stated that any decision made would not prejudice the appeal that would take place at the end of the month. Environmental Health officers would monitor any odour nuisance which would also be monitored by the Environment Agency under the environmental permit; the business aspects of chicken farming was not a material consideration when dealing with the planning application.

Consideration was given to:

- The size of the proposed development
- Increased vehicle movement and size of vehicles

- Feeding of the biomass unit and vehicle movement with regard to this
- The need for Condition 8 to be clarified
- Farm diversification
- Landscaping should mitigate any visual impact
- Waste would be transferred straight to the AD plant
- Concerns of the local residents and businesses with regard to odour emissions
- Industrialisation in the countryside
- Cumulative effect with regard to similar businesses in the area

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with the exception of Condition 8 where the Head of Planning and Regeneration be given delegated authority to review it to consider the effectiveness of the wording of the condition.

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

Notes:

- (i) Cllr Mrs F J Colthorpe declared a personal interest as Mr Cole and his extended family were known to her and she also knew many of the residents in the area;
- (ii) Cllr S G Flaws declared a personal interest as one of the objectors was known to him;
- (iii) Cllrs B A Moore and R L Stanley declared personal interests as they knew objectors to the application;
- (iv) Mr Cole (applicant) spoke;
- (v) Mr Lloyd spoke on behalf of the objectors;
- (vi) Cllr Grant spoke on behalf of Thelbridge Parish Council;
- (vii) The Chairman read statements from Cllrs Mrs J B Binks and Mrs M E Squires (Ward Members);
- (viii) Cllr R L Stanley requested that his vote against the decision be recorded;
- (ix) The following late information was reported: Page 86: The West Country Free Range Farmers group have confirmed that they do not object to the proposals.

In addition 3 further objections have been received : Concerns remain regards the scope of net additional trips on the highway that would be generated, linked trips between Menchine Farm and other farms in the locality transporting chicken waste to the site, the perceived industrialisation of the locality and the need for a farm waste plan.

Officer response: Clarity has been provided on these matters in the report as circulated.

- (d) No 4 on the Plans List (*15/012611/MFUL - Erection of 5 additional poultry units (5040 sq.m) and biomass boiler unit; formation of attenuation pond, access track, and hardstanding; landscaping; and associated infrastructure – land at NGR 285047 114124 (Edgeworthy Farm) Nomansland*).

The Principal Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, the elevations of the proposed chicken sheds, biomass plant room and office. Visualisations submitted by the applicant were viewed along with photographs from various aspects of the site. He stated that Environmental Health officers were satisfied with odour management and a permit issued by the Environment Agency would be required. He addressed the issues with regard to any cumulative impact of the AD plant and the wind turbines and that the chicken litter would be moved to the AD plant at Menchine farm

Consideration was given to:

- The need for the applicant to diversify and that farmers had to invest in the future
- Cumulative effect
- Traffic movements and highway issues
- Industrialisation of the countryside
- The need for conditions to be reinforced
- The need for condition 8 to be clarified
- Transport routes

RESOLVED that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with the exception of Condition 8 where the Head of Planning and Regeneration be given delegated authority to review it to consider the effectiveness of the wording of the condition.

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

Notes:

- (i) Cllr Mrs F J Colthorpe declared a personal interest as the applicant and some of the objectors were known to her, she was also the Ward Member;
- (ii) Cllrs B A Moore and R L Stanley declared personal interests as objectors to the scheme were known to them;
- (iii) Mr Lake (applicant) spoke;
- (iv) Miss Coffin spoke on behalf of the objectors;
- (v) Cllr R L Stanley requested that his vote against the decision be recorded;
- (vi) Cllr B A Moore requested that his abstention from voting be recorded.

105 **THE DELEGATED LIST (5-11-17)**

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

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

106 **MAJOR APPLICATIONS WITH NO DECISION (5-11-33)**

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

It was **AGREED** that:

Application 15/01822/MFUL - Alexandra Lodge, Tiverton be brought before the Committee for determination and that a site visit take place.

107 **APPEAL DECISIONS (5-12-44)**

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.

(The meeting ended at 8.04 pm)

CHAIRMAN