

## MID DEVON DISTRICT COUNCIL

**MINUTES** of the **MEETING OF THE PLANNING COMMITTEE** held on 5 November 2014 at 2.15pm

### Present

**Councillors:** Mrs M E Squires (Vice Chairman in the Chair), Mrs H Bainbridge, M D Binks, Mrs D L Brandon, J M Downes, C J Eginton, A V G Griffiths, P J Heal, Mrs L J Holloway, D J Knowles, E G Luxton, R F Radford, R L Stanley and K D Wilson

### Apology

**Councillor:** Mrs F J Colthorpe

### Also Present

**Councillors:** R J Chesterton, N A Way and Mrs N Woollatt

### Present Officers:

J Clifford (Professional Services Manager), T Billeter (Principal Planning Officer), S Trafford (Area Planning Officer), T Maryan (Principal Planning Officer), J Clarke (Planning Enforcement Officer), S Warren (Senior Planning Officer Design and Conservation) and S J Lees (Member Services Officer).

### Also Present

I Sorenson (Devon County Council (Highway Authority))

Member	Minute No	Type of Interest
Mrs H Bainbridge	100(b) 100(d)	Protocol of Good Practice for Members Personal
M D Binks	100(a) 100(b)	Personal Protocol of Good Practice for Members
Mrs D L Brandon	100(b) 100(c) 100(e) 102	Protocol of Good Practice for Members Protocol of Good Practice for Members Personal Personal
J M Downes	100(a) 100(b)	Personal Protocol of Good Practice for Members
A V G Griffiths	100(b)	Protocol of Good Practice for Members
P J Heal	100(b) 100 (e)	Protocol of Good Practice for Members Disclosable Pecuniary Interest
Mrs L J Holloway	100(b)	Protocol of Good Practice for Members
D J Knowles	100(b) 100(b) 100(f)	Protocol of Good Practice for Members Personal Personal
E G Luxton	100(b)	Protocol of Good Practice for Members
R F Radford	100(b) 100(c) 100 (e)	Protocol of Good Practice for Members Protocol of Good Practice for Members Personal

J D Squire	100(b)	Protocol of Good Practice for Members
Mrs M E Squires	100(b)	Protocol of Good Practice for Members
R L Stanley	100(b) 100 (b) 100(f)	Protocol of Good Practice for Members Personal Personal
N A Way	100(a)	Personal
K D Wilson	100(a) 100(f)	Personal Personal
Mrs N Woollatt	97	Personal

92. **VICE CHAIRMAN**

As the Vice Chairman was in the Chair there was a need for a Member of the Committee to take on the role of Vice Chairman for the meeting.

**RESOLVED** that Cllr Mrs L J Holloway be acting Vice Chairman for the meeting.

(Proposed by the Chairman)

93. **PUBLIC QUESTION TIME (02:48)**

Ms Glassbrook asked a general question in relation to equality and diversity and requested that the Committee confirm whether or not the same criteria was used to judge all planning applications especially in relation to sustainability and local connectivity.

The Professional Services Manager stated that all planning applications were determined in accordance with the development plan unless material considerations indicated otherwise. Other issues were also taken into account such as national planning policies. The Council took equality and diversity requirements very seriously and these were always taken into account in all decisions taken by the Council, however, first and foremost, planning decisions were taken in accordance with the development plan.

Mr Michael Scott referring to item 5 on the agenda (Bowdens Lane) stated that he lived 250 yards away from the proposed site and that Devon and Cornwall Constabulary had required that motor sensitive lighting should be installed on remote solar farm sites as they would be a magnet for organised criminal gangs. He stated that the Planning Officer had advised that no lighting was planned, this was wrong as the applicant had stated in their proposal that lighting would be installed but would not normally be switched on. They had also stated that sheep would graze the grass between the panels. Do the Members of the Committee and the Officers agree that this is misleading and that lights constantly on would have an unacceptable visual impact on the edge of Exmoor with its dark sky status?

The Principal Planning Officer informed the Committee that she had had confirmation from the Applicant that they did not intend to install any security lighting and had had confirmation from Devon and Cornwall Constabulary that they did not require security

lighting on the site. That could be dealt with by a condition recommended in the report. She had understood that sheep grazing was intended to take place on the site.

Mrs Scott again referring to item 5 on the agenda questioned whether there was a need for the project. She stated that the Environment Secretary had recently said that large scale solar farms were a blight on the landscape. The Department for Energy and Climate Change had also said that such developments had grown faster than expected and would exceed the budget allowed for subsidies by £40m over the next two years, therefore this scheme was unaffordable nationally and not wanted locally, so why had it been commended by the officers?

The Area Planning Officer stated the National Planning Policy Framework (NPPF) set out that Applicants were not required to demonstrate a 'need' for a project and that had been stated in her report on page 77. She did understand that the subsidies were going to be reduced for larger schemes but there were no further details available at the present time. She stated that this should not be a material consideration for this planning application.

Mr Peter Dean, again referring to the same application, stated that the B3227 was the entry point for many visitors preferring to choose the scenic route rather than the new A361 and this solar farm would be their first impression when coming to this area. On the Council's website it stated under 'tourism' that there is only one way to describe Devon and its heartland which was the focal point of 'a whole new holiday experience'. By using one of the peaceful towns and villages as a base you could enjoy the best of Devon. The local economy was heavily dependent on tourism and visitors made it clear that it was the beauty and unspoilt nature of the countryside that drew them back. Can we ask you to protect the economy of our residents? The second question related to traffic management during installation. Local children needed access to the play area and residents walked their dogs up the lane. Bowdens Lane was narrow and there were no pavements to the children's play area. During the 4 month construction period some 480 trips by heavy goods vehicles would pose considerable safety issues. Noting this, how can you consider the traffic management plan acceptable?

The Principal Planning Officer stated that according to the supporting information the site would not be highly visible from the B3227. It would probably not be visible at all during the summer but there would be filtered views during the winter. A paragraph had been included within her report regarding the impact on the local economy. She acknowledged that there was concern regarding the rural economy, which relied on tourism and leisure pursuits being affected and that there might be some limited impact but she had come to the conclusion that this needed to be weighed against the benefits of generating renewable energy.

The Highways representative from Devon County Council stated that the Highways Authority had no objections to the development. The final traffic generations of the site would be negligible. He acknowledged that the construction traffic would be significant, the lane was narrow, however, it was capable of taking the size of vehicles needed along its route. Given the nature of the vehicles and the number required the Highways Authority would wish to see a construction management plan put in place to control that traffic. They had recommended that the traffic be escorted to the site along the B3227 to try and alleviate some of the issues within the lower section of Bowdens Lane particularly in relation to the play area and the pedestrians crossing it. The Applicant had also been advised that it may be prudent to provide a marshalling yard elsewhere for the articulated lorries that would be required.

Ms D Weilkopolski, again referring to the same item, stated that Mid Devon's Local Plan stated in COR2 that any development should sustain the preservation and enhancement of the distinctive qualities of Mid Devon's natural landscape. I would like to know how the industrial scale installation of over 25,000 solar panels preserved and enhanced this unspoilt rural landscape and historic medieval field system. The Council had categorised this area as medium high to high in sensitivity to photovoltaic developments in its own planning guidance published in October 2013, so how did this development comply with the COR2 policy please?

The Principal Planning Officer responded by stating that the distinctive qualities of Mid Devon had been covered within the report where she had stated that there was some conflict with COR2 but other policies that had to be considered such as the one on renewable energy and the NPPF clearly set out that the benefits have to be balanced against those impacts.

Mr Weilkopolski, referring to the same application, stated that in October 2013 the Government issued UK Solar PV Strategy part 1. One of 4 guiding principles was that local communities must be allowed to influence decisions that affect them. He stated that the applicant had not conducted any consultation with the local community and yet the Council had received 170 objections and there were no supporters for this proposal, this illustrated how strongly the local community objected to the proposal. Can the Planning Committee please assure us that it will take proper consideration of our views? The Planning Inspector when confirming the refusal of very similar applications had said 'The harm done to the local communities appreciation of the landscape and the enjoyment of it by visitors outweighs the renewable energy of the proposal. Can it be explained to me why the local community in Shillingford are not being listened to and that the officer recommendation ignores the local communities feelings?

The Principal Planning Officer responded by stating that the Applicant had carried out consultation on the original application but as this application was so similar to the previous one and was submitted within a short time scale they did not feel a second consultation was needed. She acknowledged the Appeal Inspectors comments regarding the harm done to the local communities appreciation of the landscape but in her professional opinion the benefits outweighed the harm. Each application was considered on its own merits and other sites may have been more visible than this one.

Mr Heaton, referring to the same application, stated that he had lived and farmed in the area all his life and had a lifetime's experience of the land and soil here. The water run-off from 26,000 glass panels would be considerable, the swales would not be able to contain this and extra water would flow into the River Bathern. This proposal would put many homes in danger of being flooded. Why had the officers dismissed flooding as being a potential problem?

The Officer replied to this stating that the Environment Agency had looked at this and had considered that they were adequate to contain the surface water run-off from the site. Pre-existing flooding that may exist in the area was not a matter for this planning application but if the pre-existing conditions were not exacerbated by the proposal the Environment Agency were satisfied.

Dr Wickstead, again referring to item 5 on the agenda, stated that the title used in the application referring to megawatts of energy was incorrect. Megawatts were the unit of power not energy. This site would generate power of around half a megawatt. In assessing the benefit the officers had over stated it by a factor of about 10 and so

they had not made the correct balance between the benefit in terms of difference between power and energy. Why was the correct assessment not made?

The response to this question was that the 5.5 megawatts was the installed capacity of the development which was discussed on page 84 of the report. This needed to be considered rather than any efficiencies of the scheme and that's what had to be weighed up against the potential harm.

Mr Woolley, referring to item 5, asked whether the officer could explain why in the conclusion to the report no weight was placed on the Cabinet resolution to seek Area of Outstanding Natural Beauty status for this area and the whole of Exe Valley? The Council obviously believed the country side was worth preserving so why did the Officer ignore this view? Secondly, an independent report from SLR Consulting had relied on flawed assumptions. They had assumed the hedges to the south between the site and the B3227 could be allowed to grow to 3.25m but the hedges were owned by Michael Heaton. Also they had assumed that a view from a well-known viewpoint was shielded by a wood, however that wood was a coniferous crop and was currently being felled so why had the Officer placed so much weight on a flawed assessment? In addition to this he commented that page 4 of the update sheet talked about a revised landscape management plan having been submitted showing all hedges managed at 3.5m and the new hedge planting along the length of the southern boundary. However, these hedges were all in the control of the landowner not the Applicant. The diagram relating to this on the website was most misleading as it pointed to both ends whereas of course the whole central bit was owned by Mr Heaton and he had no intention of maintaining them at that level.

The Principal Planning Officer responded by stating that the proposal to seek AONB status was not something that could be taken into account in the planning application as that designation did not exist at the moment. The Cabinet had only made a resolution to look into this. Regarding the felling of the wood, she stated that the woodland did not directly screen the site and on the update sheet it had been stated that the Forestry Commission had confirmed that there were no felling licences in place and they would be imposing stringent conditions on any felling proposals.

Cllr Tanner from Bampton Town Council, again, speaking in relation to the same item stated that the Council's Supplementary Planning Guide had it seemed carried little weight. The Council's assessment had categorised the land as having a medium to high sensitivity to development. Why had the planning officer not been given that advice?

The Officer responded by stating that document referred to was being developed as a Supplementary Planning Document and once it has been adopted as such it would carry significant weight. The statement she had made in her report was that at the moment it did not carry full weight, however, it had been taken into account in the assessment and this had been described on page 78 and 79 of the report.

94. **MINUTES (24:06)**

The minutes of the Special Meeting held on 22 October 2014 were approved as a correct record and **SIGNED** by the Chairman.

95. **CHAIRMAN'S ANNOUNCEMENTS (24:49)**

The Chairman informed those present that the central window blind within the Chamber had been removed for repair and she therefore apologised for any glare to the screens caused by the sunshine coming through the window.

96. **MANOR HOUSE HOTEL, CULLOMPTON, REPAIRS NOTICE (25:12)**

The Committee had before it a report \* of the Head of Planning and Regeneration regarding the above seeking authorisation for the service of a Repairs Notice to secure the preservation of The Manor House 2-4 Fore Street, Cullompton.

The Senior Planning Officer for Design and Conservation outlined the contents of the report and highlighted the continuing deterioration of the external façade of the building.

Cllr Mrs N Woollatt, a neighbouring Ward Member, stated that she walked passed the building every day and had observed that it was in danger of imminent collapse. This was a popular walking route to school and the building posed a serious danger to passing pedestrians. She wondered whether the path could be widened at all or a barrier installed to protect the section of the pavement used by pedestrians. She stated that this was a special building which was important historically. The Professional Services Manager responded by saying that the pavement was under the control of Devon County Council although the District Council could submit a request for a barrier. Cllr Mrs Woollatt stated that she would like such a request to be made.

Cllr Mrs L J Holloway, also a neighbouring Ward Member, stated that urgent repair works were needed and reminded the Committee that it was situated next to the beautifully restored Walronds.

**RESOLVED** that authorisation be given for the service of a Repairs Notice to secure the preservation of The Manor House Hotel 2-4 Fore Street, Cullompton.

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

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

97. **MEETING MANAGEMENT (38:09)**

The Committee felt that a decision in relation to the Enforcement item would be likely to require exempt information. As there were many members of the public present, they **AGREED** to defer consideration of this item until after the Plans List where they would consider a resolution to exclude the press and public in order to receive this information.

Note: Cllr Mrs N Woollatt declared a personal interest as she lived at the Bottom of Higher Mill Lane.

98. **DEFERRALS FROM THE PLANS LIST (1:06:28)**

There were no deferrals from the Plans List.

99. **MEETING MANAGEMENT**

The Chairman indicated that item 5 on the Plans List would be taken after item 1, this would then be followed by items 2,3,4 and 6.



## 100. PLANS LIST (1:06:57)

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 (14/00830/MOUT – Outline for the erection of up to 185 dwellings and 1935m2 of employment uses (B1 and B8) together with structural landscaping, sustainable drainage and ancillary open and play space at Land at NGR 284242 99827 (Wellparks), Exeter Road, Crediton ).*

**RESOLVED** that this application be deferred to allow for a report to come to the next Planning Committee providing further information with regard to:

- i. The works which needed to take place in order to ensure the safe crossing of children and pedestrians to and from the proposed site and how this could be funded out of the amount allocated in the off-site Highways works Section 106 Agreement;
- ii. The provision of plans showing the proposed routes and crossing points;
- iii. Information regarding how the proposed 25% affordable housing figure was arrived at.

(Proposed by Cllr M D Binks and seconded by Cllr J M Downes)

- Notes: (i) Cllr N A Way declared a personal interest as he was a Crediton Town Councillor, a Devon County Councillor and had spoken with residents regarding this application;
- (ii) Cllr J M Downes declared a personal interest as he was a Crediton Town Councillor and had spoken with residents regarding this application;
- (iii) Cllr M D Binks declared a personal interest as he had spoken with residents about the application also;
- (iv) Cllr K D Wilson declared a personal interest as he had had discussions with the agent regarding another application;
- (v) Cllrs J M Downes and N A Way spoke as Ward Members;
- (vi) Mr Ian Sorenson (Devon County Council – Highway Authority) spoke;
- (v) The following late information was reported:

Condition 14 –delete ‘by Abricon’.

Amend condition 4:

- (iv) a footpath from the north eastern corner of the site to link up to the existing adopted footpath and over bridge (passing over the link road).

Amend condition 6:

(d) hours during which delivery and construction traffic arrive at and depart from the site.

(g) Delete ‘..with confirmation that no construction traffic or delivery vehicles will park on the County Highway for loading or unloading purposes, unless the prior written agreement has been given by the Local Planning Authority ‘.

(k) Delete

Additional condition and reason 15 as follows:

The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.

Reason: In order to ensure the timely delivery of each aspect of the approved scheme, and to ensure the proper development of the site.

5<sup>th</sup> November 2014

Sustainable Crediton have made a representation confirming their support for the scheme as follows:

1. The development will be constructed strictly in accordance with MDDC Local Plan Part 3 Development Management Policies, Sustainable Development Principles DM1 to DM8.
2. As the Developer has stated that this development will achieve high standards of environmental design, the minimum standard under the Code for Sustainable Homes or BREEAM must be delivered and MDDC will not allow any dispensations, as currently allowed in DM3.
3. The homes will be built strictly in accordance with the Developer's Design and Access Statement and in particular section 4.10 Sustainability.

- (b) No 5 on the Plans *List (14/01452/MFUL – Installation of solar energy farm on 13.34 ha of land to generate 5.5 megawatts of energy (Revised Scheme) at Land at NGR 299298 125070 (East of Bowdens Lane), Shillingford, Devon). (02:08:35)*

**RESOLVED** that the Committee were minded to refuse this application but would defer making their final decision until receipt of an Officer report setting out the potential implications of the proposed decision and the taking place of a site visit. The reasons being as follows:

- Landscape and visual impact of the proposal;
- The effect on the local economy;
- Highway impact;
- Inappropriate use of medium grade agricultural land.

(Proposed by Cllr R L Stanley and seconded by Cllr M D Binks))



- Notes: (i) Cllrs Mrs H Bainbridge, M D Binks, Mrs D L Brandon, J M Downes, A V G Griffiths, P J Heal, Mrs L J Holloway, D J Knowles, E G Luxton, R F Radford, J D Squire, Mrs M E Squires and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence regarding this issue;
- (ii) Cllr R L Stanley declared a personal interest in that many of the objectors were known to him;
- (iii) Cllr D J Knowles declared a personal interest as he knew some of the objectors;
- (iv) Ms peacock spoke as Agent for the Applicant;
- (v) Mr Woolley spoke on behalf of the objectors;
- (vi) Cllr B Smith spoke as Chairman of Bampton Town Council
- (vii) The following late information was reported:

8 further objections (including one from the CPRE). These objections are summarised below where the content is additional to objections already made and summarised in the officer's report. Any duplication of objections already summarised is not included in this update.

1. The SLR Consulting report advises that the Wessex Solar Energy LVIA is deficient and further information/work is needed. This throws doubt on the validity of SLR's conclusion about the visual acceptability of the site. The SLR Consulting report did not consider the views of the objectors.

2. The SLR conclusion on the acceptability of the site depends on maintaining the hedge to the south at 3.5m to screen the panels from the B3227. The hedge is not in control of the landowner and is currently maintained at about 2m.

3. The SLR report states that insufficient detail of the construction compound, size of inverter and control building bases and decommissioning phases has been provided.

4. The LVIA states that the site is screened from view by Haynemoor Wood which is currently being felled and the screening effect will be gone. A large V-shaped area will be seen between the woods.

5. Photos are taken from a low viewpoint rather than as seen from horseback as the Inspector in the Keens appeal considered valid. The view from viewpoint 5 is clearly open now as the hedge has been lowered.

6. SLR makes no reference to Planning Practice Guidance or Mid Devon's Landscape Sensitivity Assessment. Failure to refer to these key policy guidelines devalues their analysis and the overall conclusion.
7. The SLR report seems biased towards the developer.
8. Wessex Solar has conducted no public consultation on the current application.
9. Environment Secretary Liz Truss said that large-scale solar farms are a blight on the landscape and confirmed plans to cut taxpayer subsidy to farmers and landowners. DECC has confirmed it will be cutting subsidies from next April.
10. There has been no consultation with the Devon and Cornwall Constabulary regarding security of the site or road traffic implications.
11. The application ignores the medieval field system which character type is highly sensitive to PV.
12. The application does not give proper consideration to the cumulative effect of PVs already approved in the area.

#### **Officer's comments**

SLR has verbally confirmed that although they could reference the missing documents if required but their overall assessment of the scheme as acceptable would not change. A written statement including references to these documents has been requested.

The SLR LVIA review states that the submitted LVIA has failed to properly address the significance of the development on landscape character (this would include reference to the medieval field systems). Despite this, the SLR review concludes that, in their opinion, the site is an acceptable candidate for solar PV.

SLR has recommended that several items are conditioned, including the hedges being maintained at 3.5 metres high and detail on decommissioning and construction phases. Conditions are recommended in the officer's report to address these recommendations.

A revised landscape management plan has been submitted showing all hedges managed at 3.5 metres high and new hedge planting along the length of the southern boundary. These hedges are all in the control of the landowner.

Haynemoor Wood is not key to screening the development from the viewpoint shown in photoview 5. The V-shaped gap in

the woods is visible from this viewpoint prior to Haynemoor Wood being felled. The more important woodland in terms of visual screening is to the immediate south of the development which is not being felled. This woodland is out of the control of the developer but the woodland manager for the area at the Forestry Commission has stated that:

“The woodlands are not under English Woodland Grant Scheme at the present time and there have not been any felling licences issued. The woodland however, is Ancient Semi Natural Woodland and therefore we would be minded to refuse any application to change radically its character, though, thinning and removal of introduced conifer in keeping with the UK Forestry standard would be considered more sympathetically, and any restocking would be a condition to any felling licence.”

The construction compound is shown on the plans and its contents described in the Construction Traffic Management Plan.

A cumulative impact assessment has been included in the submitted documentation.

Devon & Cornwall Constabulary has not commented. However, their comments have been requested and a formal response awaited.

The public consultation took place in respect of the earlier withdrawn application which is very similar to the current application.

3<sup>rd</sup> November 2014 – Comments from Devon and Cornwall Police

Although security is covered in the Design and Access statement, I have been unable to locate specifics in relation to CCTV.

The below are the acceptable standards.

The below recommendations follow guidelines produced by BRE National Solar Centre.

### **Risk**

The South West of England has been identified as having the necessary solar power to make commercial Solar Farms a viable option. Farming energy from the sun using photovoltaic panels on a commercial scale is a new venture and will bring with it new risks and challenges to protect the location and panels from criminals. Because this is a new project there is no UK crime data to base crime prevention advice on.

Policing experience elsewhere indicates that placing large quantities of expensive photovoltaic panels in isolated locations without adequate protection will attract criminals and they will be stolen. The main risk will come from organised gangs who will use heavy duty tools and vehicles to remove large quantities of the panels. Once stolen the panels may be moved from the crime scene before re-emerging for sale.

### **Site**

In view of the potential risk when considering suitable location for Solar Farms a major consideration from a police view will be how the site can be protected from unauthorised vehicle entry. Full consideration of the natural defences of location should be taken into consideration for e.g. steep gradient, Substantial hedging, Rivers etc. Where ever possible the boundary protection of the site should be an appropriate distance from the actual panels to discourage parking a vehicle against the boundary and manually lifting panels onto the vehicle.

### **Access to the Site**

The solar company/site owner will require vehicular access to the site. The physical security guarding this access must be robust to sustain a high level of attack as these sites will probably be remote and lacking any natural surveillance. Consideration should be given to protecting the access road at two separate locations (1) At the actual entrance to the site and (2) set away from the specific entrance to keep authorised vehicles a substantial distance from the site.

The security of solar farms must be properly assessed by all those involved in the planning process.

To be considered a truly sustainable resource within the National Grid, solar farms will need to be as secure as possible.

All planning applications should therefore include full details of the security proposals within the Design and Access Statement (as required by Department for Communities and Local Government Circular 1/2006 paragraph 87)

The security measures to be incorporated at each location will have to be considered on a site specific basis. They will obviously be determined to some degree by, for example, the existing landscape and local planning constraints etc

The basic principle of all crime prevention is to provide layers of defence to whatever is in need of protection.

In the case of Solar Farms this protection will almost certainly require both the physical element, such as fences or ditches and also the utilisation of appropriate technology such as CCTV and motion detectors.

The advice offered below covers the general crime prevention points which should be considered by any applicant.

## **Perimeter Security and Access Control**

If perimeter fencing is to be used then it should be a proven security fence.

The recommendation would be to install fencing which has been tested and approved to current UK Government standards.

Fencing which meets the SEAP (Security Equipment Approval Panel) class 1-3 may be the most appropriate.

Fencing which is not of a specialist security type is likely to offer at best only token resistance to intruders. However if supplemented with

Movement detectors attached to the fence together with motion detectors/beams internally this could potentially be acceptable.

Planting up and alongside any fencing will be acceptable providing there is no detrimental effect upon site surveillance that is available or allow easy access over the fence by climbing trees etc..

The standard for rating bollards, blockers and gates is PAS 68:2007 and PAS 68:2010.

Landscaping techniques such as ditches and berms (bunds) may also be appropriate in some instances. To be effective in stopping vehicles these need to be designed carefully. Police are able to provide further specific advice in relation to the design of such defences upon request.

There should be a minimum number of vehicular access points onto site, ideally only one.

Clearly such access points will present the most obvious means for the criminal also and therefore will require a robust and adequate defence.

Some thought should also be given to the wider issues of access around any site. If for instance the land surrounding the site is under the same ownership can this be made more secure by improving gates etc. Again this provides layers of difficulty for the criminal to overcome.

## **Electronic Security**

There is a huge range of electronic security available. For most sites it is very likely that this will play an important role.

In selecting which type of technology to employ a proper assessment on a site specific basis should be undertaken to ensure any system will be fit for purpose.

For CCTV this assessment is commonly called an Operational Requirement (OR)

An obvious example would be to establish how effective will the CCTV be at night at these locations, bearing in mind distance involved, quality of lens/equipment .i.e. Infrared lighting.

There will be little point in deploying CCTV or other defence unless it is monitored in some way or can provide an instant alert in some form and also who would then respond to this?

There does need to be an operational requirement (OR) that the installer must adhere to in order to comply with data Protection legislation. The OR will identify who responds to an intruder and what actions are intended.

The OR also identifies the expectations of each individual camera as well as response requirements. There is requirement for a code of practice which covers storage of data and who is authorised to view it, and identifies a person responsible. There is also a requirement for a code of practice which covers storage of data and who is authorised to view it, and identifies a person responsible.

Appropriate signage is also required.

CCTV which simply records will probably be of very limited value and basically not fit for purpose, there for contravening data protection legislation.

### **Other Options**

The presence of site security personnel in some capacity should be considered including perhaps in terms of some types of response to site alarm activations

If the individual solar panels can be marked overtly this would reduce the ease with which they could be re sold/re used and thus help act as an additional deterrent.

Covert marking should also be considered.

Consultation with local police Beat managers following installation would be beneficial identifying points of access, routes to the site etc in the event of assistance being required.

Providing the above is achieved the Police would have no objections.

Further supporting document received from the applicant in response to objections, covering the following issues. A copy has been circulated to Members.

1. Surface water flooding
2. Visual impact
3. Impacts on tourism
4. Loss of farming land
5. Danger to children from traffic
6. Toxic risk and environmental factors
7. 24 hour lighting
8. Noise
9. Security cameras and privacy
10. Ecology



11. Electricity production not as stated
12. Not given permission to use the layby at the bottom of Bowdens Lane
13. Potential felling of woodland would change visual impacts
14. Public consultation”

- (c) No 2 on the Plans *List (14/0120/FULL – Erection of a two storey extension and conversion of timber garage to ancillary accommodation (Revised Scheme) – HOUSEHOLDER at Rose Cottage, Upplowman, Tiverton). (03:21:40)*

**RESOLVED** that the Committee were minded to approve this application but would defer making their final decision until receipt of an Officer report setting out the potential implications of the proposed decision:

- i. The proposed design was of a high quality;
- ii. It was in keeping with the character of the rest of the property;
- iii. The proposed design was not harmful to local architectural distinctiveness.

(Proposed by Cllr R L Stanley and seconded by Cllr J M Downes)

- Notes: (i) Cllrs Mrs D L Brandon and R F Radford made declarations in accordance with the protocol of Good Practice for Councillors dealing in planning matters as they had received correspondence regarding this issue;
- (ii) Mr Cave (Applicant) spoke;
- (iii) Cllr R F Radford spoke as Ward Member.

- (d) No 3 on the Plans *List (14/01284/FULL – Removal of Condition (2) and variation of Condition (1) of planning permission 10/00732/FULL to allow permanent planning permission and to amend those persons permitted to occupy the site at Oak Meadow, Holcombe Rogus, Devon). (03:40:45)*

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

(Proposed by Cllr L J Holloway and seconded by Cllr K D Wilson)

- Notes: (i) Cllr Mrs H Bainbridge declared a personal interest as she knew the Applicant and her son could be considered to be a neighbour;
- (ii) Ms Ridings (Applicant) spoke;
- (iii) Mr Upton spoke on behalf of the objectors;
- (iii) Cllr Mrs H Bainbridge spoke as Ward Member;

(iv) Cllr Mrs H Bainbridge requested that her vote against the decision be recorded;

(v) The following late information was reported:

3<sup>rd</sup> November 2014

One additional letter of objection received raising many of the points already reported by other objection letters and these additional points, summarised as follows:

- Increase in traffic is dangerous;
- Do not believe that the applicant has integrated with the community;
- The applicant's generator is a continuous noise in the winter evenings which is incongruous and disturbing in the area.

(e) No 4 on the Plans *List (14/01310/MFUL – Change of use of agricultural buildings for B1/B2/B8 commercial use, the demolition of agricultural buildings and the erection of replacement B1/B2/B8 commercial buildings, the use of the Forge and Unit 11 for B1/B2 and B8 commercial use, the provision of associated landscaping, yard areas and infrastructure at Hitchcocks Farm, Uffculme, Devon). (04:05:44)*

**RESOLVED** that this application be granted permission subject to conditions as recommended by the Head of Planning and Regeneration and the provision of a Section 106 agreement to secure the implementation of a Travel Plan for the proposed development and to include the provision of new bus stops on Bridwell Avenue. To also include:

- (i) an amendment to condition 3 to state that 'Prior to its first occupation, the external walls to Unit 3a to be finished in an olive green colour to match the external wall colour of Unit 3 and thereafter shall to be retained as such.'
- (ii) An amendment to conditions 3, 4, 7, 12 and 13 to add after Unit 3 reference to 'the approved external alterations to Unit 3'.

(Proposed by Cllr H Bainbridge and seconded by Cllr L J Holloway)

Notes: (i) Cllr P J Heal declared a disclosable pecuniary interest and left the meeting as one of the buildings in the proposal was occupied by a customer of his and as he had a Parish meeting to attend later in the evening he would not be returning to the meeting;

(ii) Cllr R F Radford declared a personal interest as the Applicant was known to him;

(iii) Cllr Mrs D L Brandon declared a personal interest as she had had a meeting with the Applicant and the Planning Officer and had sold Christmas lights to a business occupying one of the buildings;

(iv) Mr Preston spoke as agent for the Applicant;

- (v) Ms Benn spoke as an objector;
- (vi) Cllr R F Radford spoke as Ward Member;
- (vii) Cllrs R L Stanley and K D Wilson requested that their vote against the decision be recorded.
- (viii) The following late information was reported:

31<sup>st</sup> October 2014 – Further response from Halberton Parish Council:  
No objections subject to a condition being included that the attached office block should be green to match either the building or the doors of the building.

- (f) No 6 on the Plans *List (14/01521/MFULL – Provision of pedestrian/cycle route with associated boundary treatments, safety barriers and landscaping planting following demolition of existing dwelling, garage and garden at 10 Fairway, Tiverton, Devon). (04:47:57)*

**RESOLVED** that temporary planning permission be granted until pedestrian and cycle access through the Post Hill NHS Hospital site has been provided and made available for use by the public. Subject to conditions as recommended by the Head of Planning and Regeneration and additional conditions as follows:

- i) No development shall begin until a scheme for the ongoing management and maintenance of the site has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be managed and maintained in accordance with such approved scheme. Reason: To ensure the facilities are maintained in the interests of health and safety and the visual amenities of the area in accordance with policy DM2 of Local Plan Part 3 Development Management Policies.
- ii) The use of the site as a footpath / cycle link shall cease, shall be blocked up and the land restored within 6 months following pedestrian and cycle access through the Post Hill NHS Hospital site being made available for use by the public. Blocking up works and restoration of the land shall be in accordance with details which shall first have been submitted to and approved in writing to the Local Planning Authority. Reason: In the interests of visual and residential amenity to ensure the cessation of the use and site restoration if no longer required if no longer required to comply with policies AL/TIV/2 of the Allocation and Infrastructure Development Plan Document and the adopted Tiverton Eastern Urban Extension Masterplan in accordance with policy DM2 of Local Plan Part 3 Development Management Policies.

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

- Notes:
- (i) Cllr R L Stanley declared a personal interest as the Applicant was known to him;
  - (ii) Cllr D J Knowles declared a personal interest as he had been in discussion with the objectors;
  - (iii) Cllr K D Wilson declared a personal interest as he had had discussions with the Applicant regarding another application;
  - (iv) Mr Green spoke as an objector;
  - (v) Cllr N V Davey spoke as a Ward Member;
  - (vi) Cllr D J Knowles requested that his vote against the decision be recorded;
  - (vii) The following late information was reported:

Informative:

The applicant is advised that the pedestrian/cycle link permitted by this planning permission is in accordance with and required by condition 6 under planning application reference 13/01616/MOUT.

Condition 6 of planning permission 13/01616/MOUT is to be amended to require the footpath/cycle link required by that condition to be provided in advance of the 100<sup>th</sup> dwelling on the proposed development being occupied, unless an alternative footpath/cycle link has already been provided via the Post Hill Hospital site.

Two additional objections received. These objections are summarised below where the content is additional to objections already made and summarised in the officer's report. Any duplication of objections already summarised is not included in this update.

1. Questions should be asked regarding the need to provide this link.
2. The nature and narrowness of Fairway represents a traffic hazard which is further exacerbated by a sharp right hand bend almost immediately after entering from Post Hill. The application would greatly increase the hazard.
3. Residents in Fairway have not been adequately consulted or their objections given sufficient credence.

Concern with regard to security of existing dwellings and increased threat of anti-social behaviour and burglary.

101. **ACCESS TO INFORMATION ACT – EXCLUSION OF THE PRESS AND PUBLIC – (05:12:37)**

As there was a need to discuss the personal circumstances of the property owner, it was:

**RESOLVED** that under Section 100A(4) of the Local Government Act that the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, namely information relating to an individual.

(Proposed by the Chairman)

102. **ENFORCEMENT LIST (05:13:40)**

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/11/00115/UNLD – Untidy land detrimental to amenity and in contravention of Section 215 Town and Country Planning Act 1990 (as amended). ‘The Firs’, 5 Higher Mill Lane, Cullompton, EX15 1AG.***)

**RESOLVED** that a decision be deferred for a period of one month to allow the Planning Enforcement Officer to meet with the landowner.

(Proposed by Cllr R L Stanley and seconded by Cllr J M Downes)

Notes: (i) Cllr Mrs D L Brandon declared a personal interest as the land owner was known to her;

(ii) Following the agreement of the Committee, the press and public were readmitted to the meeting.

103. **THE DELEGATED LIST (05:15:25)**

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

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

104. **MAJOR APPLICATIONS WITH NO DECISION (05:15:40)**

The Committee had before it, and **NOTED**, a list \* of major applications with no decision. It was **AGREED** that:

Application 14/01592/MFUL – Erection of polytunnel (1200sq,m) at Ebear Farm, Westleigh be determined by the Committee and a site visit to take place.

In addition, the Professional Services Manager informed the Committee that since the publication of the agenda for this meeting a major application had been received regarding the retention of the surface car park and lighting at Tiverton Parkway Railway Station (14/01629/MFUL). It was **AGREED** that this application be determined by the Committee but that no site visit was necessary.

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

105. **APPEAL DECISIONS (05:18:30)**

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

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

106. **TREE PRESERVATION ORDER 14/00009/TPO FOR 1 X SYCAMORE TREE AT LAND ADJACENT TO 4 CANAL HILL, TIVERTON (05:19:50)**

The Committee had before it a report \* of the Head of Planning and Regeneration regarding the above application. The Professional Services Manager outlined the contents of the report stating that the property owner had an engineer's report questioning the stability of the bank and the safety of the tree, but that an arboricultural report had commented that the tree was in good health. A consultant arboricultural report had been obtained and echoed the findings of the Council's Tree Officer. Additionally a Building Control officer had observed that whilst there was some minor erosion of the soil on the slope to the front of the tree there was no other evidence of ground movement in the field. She further stated that following legal advice, it was not thought that the Council could be successfully sued for negligence for making a Tree Preservation Order, but that compensation could be paid if an application to fell the tree was refused and the tree subsequently fell down. However, if such an application was refused (none had been received to date) the Applicant would have the right to appeal.

**RESOLVED** that the Tree Preservation Order be confirmed as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr K D Wilson and seconded by Cllr Mrs L J Holloway)

- Notes: (i) Cllr K D Wilson spoke as Ward Member;
- (ii) Cllr J D Squire requested that his vote against the decision be recorded;
- (iii) The following late information was received:  
3<sup>rd</sup> November 2014 -

Agenda item 12: TPO adjacent to 4 Canal Hill, Tiverton.

**REVISED RECOMMENDATION:** That the Tree Preservation Order be confirmed.

Since the Committee report was written further site visits and inspections have been carried out by the Council's Tree Officer, a Building Control



Officer and by an independent arboricultural consultant. Advice /reports have been received as follows:

**BUILDING CONTROL OFFICER:**

I was able to carry out a visual check of the ground and although there is some minor erosion of the soil on the slope to the front of the tree (approximately 5m from the bole of the tree) there is no other evidence of ground movement in the field.

**ARBORICULTURAL CONSULTANT:**

Summary

1. The tree is in good health and structural condition. There is no sign of root instability and the risk of root failure is extremely low such that the tree does not pose an unacceptable risk to public safety.
2. The proposed development has the potential to damage the tree's root system and precautions should be taken in accordance with BS5837:2012.

Introduction

1. I attended site on the 30th October at 10.15am and was accompanied by Cathy Lynch, Tree Officer for Mid Devon District Council. The site inspection concluded by 11.30am.
2. Prior to attending the site I have received the following information regarding the case:
  - a. A Structural Investigation Report prepared by Simon Bastone of Simon Bastone Associates Ltd reference 140909/SI/OO and dated 16th September
  - b. Various copies of letters and emails from Mr Randell to Mid Devon District council expressing concerns for the tree.
3. Examination of the above information identified that significant concerns have been raised regarding the stability of the tree give its location on a steep bank and risk it poses to property within falling distance.
4. The tree is subject to a Tree Preservation Order recently placed on the tree and is yet to be confirmed by the planning committee of the council.

Location

1. The subject tree is located on a boundary line between an agricultural field to the south and land to the north that forms part of a residential curtilage containing two double detached garages to the north east of the tree, and an area of rough grass on which I am given to believe there is an extant planning permission, to the north west.
2. The site is elevated with far reaching views to the north over Tiverton.
3. The tree is situated on the cusp of a steep bank which is at the foot of a fairly steeply sloping field to the south. The boundary comprises a wire stock fence which passes close to the south side of the bole of the tree. The field is currently laid to grass and would appear to be permanent pasture judging by the diversity and type of grass. There is no indication of recent or past cultivation. The gradient of the slope slightly levels out where it meets the boundary fence.
4. At the boundary fence the ground drops away steeply to the north, levels slightly and continues with the same approximate gradient as the adjoining field. The aforementioned garages and adjoining parking have been dug into the bank in the past to leave very steep bank faces with exposed soil. The nearest edge of the cutting to the tree is 3.9m from the bole and there are a number of tree roots exposed.

5. Soils onsite have been assessed visually where they are exposed by past excavation. From the near vertical soil profile revealed behind the garage it is red coloured clay loam to 300-400mm overlying a stony ranker type sub soil. The British Geological Society 'Drift & Solid' Geology Sheet 310 for Tiverton indicates an underlying solid geology of Breccia and Conglomerate. This corresponds with the observed sub soil. The soils horizons are weathered and have naturally eroded albeit the exposed surfaces appear relatively stable.

#### The Tree

1. The tree comprises a mature Sycamore tree (*Acer pseudoplatanus*) which has an approximate height of 19m measured from the lower point on the north side of the bole. The lower bole and trunk are obscured in part by ivy which extends centrally to the mid crown.

2. Buttress root formation on the south upslope side of the tree is well formed and clearly extends into the field. There is no sign of instability on the upslope side of the tree and the tree is upright and without significant lean.

3. Examination of the north side of the lower bole revealed buttress roots extending along the face of the bank to the east and west as well as a substantial structural root mass extending down the face of the bank. The roots are evenly arranged and are all outwardly sound.

4. Several pruning stubs are located around the base of the tree on the northern side resulting from the recent and periodic removal of mature sucker growth.

5. The trunk divides at approximately 2.5m above the upslope ground level into two principal stems. These are co-dominant and support the majority of the crown structure. The stem diameter at 1.5m above ground level on the south side is estimated at 1.16m over the ivy and therefore the true diameter is estimated to be approximately 1.06m.

6. Two large lateral limbs extends south over the field at 4m and are up curved towards the light.

7. The main stem union at circa 2.5m is compressed and there is evidence of included bark however closer visual examination is obscured by ivy. Nevertheless the visible parts of the union are outwardly sound and the stem to union structural ratio is well within acceptable limits of safety.

8. The two co-dominant stems intertwine with several secondary crossing limbs and the crown is well formed. Crown spread at the four cardinal compass points is as follows: North; 9.8m, East: 11.3m, South; 11.2m, and West; 8.3m. The crown is broadly symmetrical with slight bias to the south and east. It has suffered a small amount of past tertiary limb damage in high winds however this is superficial and insignificant.

9. Vigour is considered normal judging by the annual twig extension growth and leaf density for a tree of this species and size. Similarly the tree is showing good overall vitality. The leaves are infected with the common fungal disease *Rhytisma acerinum* which is purely of cosmetic concern.

#### Opinion & Conclusions

1. Trees naturally adapt to their physical surroundings and prevailing weather conditions. This tree is most likely to be a self set boundary tree that has stood here for in excess of 150 years such that it has naturally adapted to local conditions. The main union at 2.5m has inherent structural weakness however the tree has adapted affectively to this and it does not pose an immediate concern.

2. The tree is showing no sign of instability and the arrangement of the main structural buttress roots indicates the tree has adapted effectively to the immediate site conditions e.g. the slope. Sycamore tend to form a 'heart root system' (Roberts et al 2006) whereby large and small roots emerge diagonally from the trunk in all directions. This tree is exhibiting therefore typical root architecture for the species.

3. The initial buttress roots taper rapidly on entry into the soil and form a structural base on which the mass of the tree stands and provides initial stability primarily through compression as well as tension via lateral root connections. The size and form of the buttress roots adapts to the load imposed upon them due to crown asymmetry, slope, wind loading or the physical restriction of roots adjoining them. This tree has evidence of a good radial spread of structural buttress roots all of which have adapted uniformly to the surrounding conditions. The tree is well balanced and does not have an appreciable lean such that the buttress roots are not exhibiting a major adaptive growth or bias.

4. The large structural root mass noted on the northern face of the bank indicates that the tree has more than adequately compensated for the slope of the land and that these roots provide adequate structural support on this side.

5. Attached to these buttress roots and typically spreading out radially from the tree is a network of smaller lateral roots as well as finer assimilative roots. The lateral roots connect the tree with the mass of finer roots located throughout their length. These roots act like ropes attaching the tree to the soil and thereby anchoring it. The anchoring is afforded by the mass of fine assimilative roots binding with the surrounding soil (assimilative roots take up soil moisture and nutrients). The surrounding weathered soils which are not overly consolidated offer favourable rooting conditions. This allows for good root penetration into the soil and therefore the root horizon both in spread and depth is likely to be optimal for this tree.

6. From observations onsite there are no restrictions to the spread of these lateral roots to the south and only limited restrictions to the north due to the garages and past excavation. The latter however is historic and new roots will have formed and were apparent on the exposed soil faces onsite. There is no evidence of root severance on the upslope side due to cultivation and so the tree is both stable and extremely unlikely to fail at the root in high winds. The key concern is for targets located down slope from the tree therefore the upslope roots are critical in this context.

7. The risk of whole tree failure onto the adjoining garages is extremely low therefore such that the calculated risk of harm is well within the broadly acceptable range for imposing such a risk on the public. There is therefore no requirement to seek to reduce the risk any further and certainly no risk justification for removal of the tree.

8. In response to the specific points made in Simon Bastone's report at paragraphs 2.1.2 & 2.1.3; the area of soil exposure is too far from the tree have any appreciable impact on the stability of the tree. The degree of erosion observed is extremely small and cannot be ascribed to anything more than natural weathering. The chances of this erosion causing instability to the tree are therefore vanishingly small.

9. The proposed development to the north and northwest of the tree will increase the potential target value in the event of whole tree failure and potentially limb failure where the crown overhangs property. Using the calculation from Clause 4.6 of BS5837:2012 Trees in relation to design, demolition and construction – Recommendations [BS5837] to find the minimum root protection area [RPA], a radius of 12.3m is derived for the

tree and describes an area within the radius equivalent to 407 square metres. Given the local soil conditions I see no requirement to increase or reduce this area as so it should be applied as calculated.

10. A peg has been located to the northwest of the tree by Mr Randell to show the approximate location of the nearest corner of the proposed building. It is measured from the tree at approximately 11.3m and is therefore 1m within the recommended RPA of 12.3m. BS5837 provides the following recommendations at Clause 5.3.1

*'The default position should be that structures (see 3.10) are located outside the RPAs of trees to be retained. However, where there is an overriding justification for construction within the RPA, technical solutions might be available that prevent damage to the tree(s) (see Clause 7). If operations within the RPA are proposed, the project arboriculturist should:*

- a) demonstrate that the tree(s) can remain viable and that the area lost to encroachment can be compensated for elsewhere, contiguous with its RPA;*

- b) propose a series of mitigation measures to improve the soil environment that is used by the tree for growth.*

11. The above recommendation will also apply to any access arrangements immediately to the north of the tree.

12. In terms of the risk to the new target presented by the proposed development the same risk outcome applies as for the pre-development site. The tree is a broadly acceptable risk to be imposed on the public and no further work is required to reduce that risk. This risk assessment however will need to be reviewed periodically following the development and as the tree ages.

#### Recommendations

1. The owner of the tree should ensure that they have the tree inspected periodically and certainly within two years of the date of this report.
2. Any development in proximity to the tree should follow the recommendations of BS5837:2012
3. The removal of the ivy to ground level should be undertaken to allow for the closer inspection of the main union.

(The meeting ended at 8.50pm)

**CHAIRMAN**