

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 30 November 2016 at 2.15 pm

Present

Councillors

Mrs F J Colthorpe (Chairman)
Mrs H Bainbridge, Mrs C Collis, R J Dolley,
P J Heal, F W Letch, B A Moore,
R F Radford, J D Squire, R L Stanley and
Mrs J Roach

Apologies

Councillor(s)

D J Knowles

Present

Officers:

Thea Billeter (Area Planning Officer), Simon Trafford (Area Planning Officer), Jo Cavill (Enforcement Officer), Lucy Hodgson (Area Planning Officer), Ian Winter (Environmental Health Officer) and Sally Gabriel (Member Services Manager)

103 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr D J Knowles, who was substituted by Cllr Mrs J Roach.

104 PUBLIC QUESTION TIME

Mr Herniman referring to Item 11 on the agenda (Howden Court) asked whether the Committee were aware that the siting of the footpath in a shady, narrow, unlit area to the rear of our house does not meet the nationwide police standards set out in their officially approved policy security initiative document called "Secured by Design"? In commenting on the design during a recent site visit, the local Crime Prevention Design Officer from Devon & Cornwall Police Constabulary said he could find no record of initial consultation with them on the original planning application - and if the application was before them now for comment the police force would have strong reservations.

Mrs Herniman referring to Item 11 on the agenda (Howden Court) asked whether the committee is aware that the design of the footpath being squeezed between our back door and the hedge line, is not fit for purpose? There are over forty steep steps up the bank to the new estate meaning anyone with limited mobility or carrying shopping will struggle to use it. On plan it is difficult to imagine the gradient but the photographs you have in front of you give an indication of what is involved. It is a well-known fact that pedestrians only use a footpath if it's taking them where they want to go! The problem here is that it is difficult to see why the footpath was intended and who it is there to serve, given its topography and location and the fact that, according to the Developer, it can only be used by residents of Phase 2 of Aubyn's Wood Rise.

Jonathan Ison again referring to Item 11 on the agenda (Howden Court) made the following statement stated that the requirement for a path had been in place ever since the land was allocated for development in the Local Plan about 10 years ago. This requirement is consistent with national planning policy which seeks to achieve integrated and inclusive communities. The requirement was carried through for the planning consent despite active efforts by the developer and the land owner to remove it. I attended the Council debates at the time and saw the extent to which the Planning Committee insisted that the path should be a condition of the granting of the planning permission. This was backed up by a binding legal agreement signed and witnessed in October 2012 whereby the land owner, the developer and the Council agreed that the path would be in place before the first house at St Aubyn's Rise was occupied. When, in November 2014, the first house was being prepared for occupation, I asked the planning office why the path had not been built? I think it fair to say that despite repeating my question many times by email and by telephone, I have not had a proper answer. I've seen the concerns expressed by the occupants of the new houses regarding safety and security but I cannot see why this should defeat national planning policy.

The Howden Court development is not a gated community, the access road is not a private road but will be adopted and the estate must therefore be subject to the policies that govern such developments. With regard to the design, layout and appearance of the path, this would be in the hands of the developer, the landowner and the Council who have agreed to build it to adoptable standard. It should therefore not be inherently unsafe. The concerns regarding maintenance and upkeep are more of a problem. The requirement for a path has been in the Local Plan for ten years and has been required in both Section 106 Agreements for both phases of the Howden Court development and the building of the path to adoptable standard was also required by the County Highways authority. It was therefore a surprise to discover that apparently the path will not be adopted. This raises the question of responsibility for the future maintenance and upkeep. It seems to have been assumed by the new residents of St Aubyn's Wood Rise that it will be their responsibility. I wonder if they know that it was also a condition of the building of the St Aubyn's Wood phase down below? On the other hand I don't suppose any of the houses across the development have been sold with conditions regarding the maintenance of the path. I have asked the planning office why it is not proposed that the path should be adopted but so far I have not had an answer.

With regard to the signatories of the Section 106 Agreements, I understand that the developers have now sold part of the land on which the footpath was to have been built and the landowner has made a submission opposing the path without acknowledging that he is subject to a legal agreement to build it. This looks like a cynical disregard for the planning procedures from which both have benefited. In summary this seems a very ill handled business. If the path is to go ahead, as I think it should, the uncertainties regarding future maintenance must be resolved. The best result would be for the authorities to adopt it as was assumed from the start.

Mr Derritt referring to Item 1 on the Plans List (Ingleton Farm) stated that he lived in Ashill and the traffic flow through the village had increased over the last 15 years, there were more and more home deliveries taking place and there was a very successful pub in the village. Sat Nav also leads lorries in the wrong direction and it is impossible for them to reverse. What plans did the Highway Authority have to

widen the roads in the areas so that access was easier? The proposal would increase the traffic into Ashill, the visitors would need to go to Uffculme for food and the traffic issues in that village were awful with lorries and buses in the Square.

Mrs Killick again referring to Item 1 on the Plans List (Ingleton Farm) stated that the development was adjacent to her property and it would affect her with regard to noise, overlooking and loss of light, some of her concerns had been helped by the proposed amendment to Condition 9 and she referred to conversations she had had previously with planning officers. She asked whether the hedge would be moved back as agreed with the Planning Officer?

Mrs Taylor referring to Item 1 on the Plans List (Ingleton Farm) stated that the report had been written by Tourism and Economic Development Officers and rather than Planning Officers, there were no shops in Ashill only a popular pub, the report failed to address the traffic issues, the agricultural vehicles, the pub and the school run. No consideration had been given to the noise nuisance and the impact on the neighbours.

Mr Powell referring to Item 1 on the Plans List (Ingleton Farm) stated that he was concerned about the increase in traffic in the area, he felt the site was small and that children playing would overspill into the lanes.

Miss Coffin referring to Item 5 on the agenda (Enforcement) asked the following questions:

1. Has the Council considered contacting notifying Cruwys Farms Estate in regard to this breach – surely it is a landlord who has the quickest and most direct recourse against an erring tenant or sub tenant? I find it hard to believe that such a long established farming estate such as Cruwys Estate would condone or allow such behaviour and potential detriment to local residents and the environment as identified by your officers.

2. I refer to page 3 paragraph 9 and 10 under material considerations of your officers report which comments and seems to be implying that the tenant has an interest in other local more suitable sites for this lagoon. She continued by addressing individuals and the concerns of the Environment Agency.

3. The fact that your officer reports that the tenant's agenthas stated that the proposed purpose of the lagoon is to store liquid digestate from any of the 11 or so AD's operating by them across the South West, why aren't the Council asking the obvious question why does no one want this non-pasteurised digestate Have..... sufficient secure tenure on sustainable and safe land access to dispose of the non-pasteurised liquid and solid digestate from all their AD's in accordance with all best practice and NVZ closed period. If the answer is yes, how has this been verified and but which Agency MDDC, the Environment Agency or DEFRA

Mr Bright referring to Item 1 on the Plans List (Ingleton Farm) voiced concern regarding traffic issues in the area and that the development was of no benefit to Ashill and he didn't want it to go ahead.

105 **MINUTES OF THE PREVIOUS MEETING (00-19-15)**

Subject to an amendment to Minute 97 (c), Note (vi) to read “The following late information was reported as an amendment to Condition 1 as outlined above”, the minutes of the meeting held on 2 November 2016 were approved as a correct record and signed by the Chairman.

106 **CHAIRMAN'S ANNOUNCEMENTS (00-21-45)**

The Chairman had the following announcements to make:

- She informed the meeting that in the absence of the Head of Planning and Regeneration today, her role would be replaced by senior planning officers;
- She welcomed Susanne Disney (Enforcement Officer) to her first meeting.

107 **ENFORCEMENT LIST (00-22-00)**

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/16/00269/NUDRU-unauthorised carrying out of engineering operations and excavation works on agricultural land to create a slurry pit – Pulsards Farm, Pennymoor, Tiverton***).

The Enforcement Officer outlined the contents of the report informing the meeting that an application had been submitted retrospectively to Devon County Council; she had been informed that this had not been validated to date as some of the information required was missing. There was a need to establish whether this application would be a county matter or whether it would sit with the District Council. However legal advice had been sought which had confirmed that enforcement action could proceed. She outlined the issues at Pulsards Farm where works had been undertaken without permission which had involved the excavation and works for a slurry pit within 400 metres of a protected building. A temporary stop notice had been served following consultation with the Chairman and Vice Chairman of the Committee.

She addressed the issues raised in public question time: the landlord had received a copy of the Stop Notice and would receive any copies of further notices. She requested that Miss Coffin contact her separately with the detail of her other questions and she would provide a written response.

Consideration was given to:

- the continuity of the temporary stop notice and any other notice.
- the work that had taken place as described by the agent and the link between the AD plant at Edgeworthy and the transport statement submitted as part of that application.
- The extent of the works that had taken place without permission.

RESOLVED that the Legal Services Manager be given delegated authority to:

- a) Issue a Stop Notice requiring the cessation of all works in connection with the creation of slurry pit or digestate storage facility at the site, and;
- b) Issue an enforcement notice requiring the cessation of all works in connection with the creation of a slurry pit or digestate storage facility at the site and reinstate the land to the same contours and levels as the surrounding agricultural fields;
- c) Take any legal action deemed appropriate including prosecution or Direct Action in the event of non-compliance with the notices.

(Proposed Cllr P J Heal and seconded by Cllr R L Stanley)

Notes:

- (i) Cllr Mrs F J Colthorpe declared a personal interest as the landowner, tenants and others were known to her, she was also Ward Member;
- (ii) Cllr Mrs F J Colthorpe and P J Heal made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had been involved with the issuing of the Stop Notice;
- (iii) Cllr R L Stanley declared a personal interest as he knew some of the objectors and the person undertaking the work;
- (iv) Cllrs R J Dolley and B A Moore declared personal interests as some of the objectors were known to them;
- (v) Mr Roberts (Agent) spoke;
- (v) the following late information was reported :

The enforcement officer was made aware on the 29th November that a planning application has been submitted to Devon County Council in relation to the works undertaken. At present this is invalid as essential information has not been supplied. Devon County Council are also yet to determine whether the application is a County matter or whether it should be dealt with by Mid Devon District Council. Advice has been sought from the Legal Services Manager who has confirmed that the submission of this application does not have an impact on the continuation of formal enforcement action at present as the County are yet to determine if the matter falls under their jurisdiction.

Two emails had been received in support of the Council taking enforcement action in relation to this matter. The first reads as follows:

Thank you for the opportunity to voice my opinions with regard to the above case. In previous conversations with planning officers, I was informed that no slurry pit can be sited without planning permission within 400m of any dwelling. The nearest dwelling to the positioning of this site is 110m, well inside 400m. A further nine houses are within 200m and 40 dwellings are all WITHIN 400m. For

this reason, it is clear to see that the applicant needs planning permission for installing this pit.

In GOV UK it states that 'You must notify the Environment Agency at least 14 days before you build new storage for slurry or make substantial changes to an existing store'. The applicant did not notify the environment agency at all prior to starting the slurry pit and has shown total disrespect for the environment; removing at least 70m of Devon hedgerow and positioning the pit too close to a waterway and local dwellings.

The installation of this slurry pit will significantly affect the immediate 40 dwellings but will also have a massive effect on the village; the smell initially will affect the houses in close proximity. Last year when the applicant stored chicken manure, none of the local dwellings could open their windows for weeks or put out washing, due to the awful smell that was omitted. Installation of the slurry pit will cause this problem again, why should we have to live behind closed windows? To fill the pit constant traffic will be used to transport millions of litres of AD waste/slurry down narrow and unsuitable lanes. The applicant last year used these lanes to transport chicken waste to Pulsards leaving the lanes unpassable and dangerous for traffic and pedestrians. On one occasion the police were called to warn motorists and to get the applicant to restore the lanes, making them safe again. This previous disregard for the safety of local residents clearly shows what little the village safety means to this farmer, he has left the lanes on numerous occasions unpassable and dangerous and transporting slurry to this pit will cause this to happen time and time again. The pit is being sited too close to a water course and with this there is the potential of pollution (please note I have been made aware that this is something the applicant has already been prosecuted for on his other farms). The applicant was informed to remove the old slurry pit, which had no actual planning permission, he totally ignored this and instead completely removed a Devon hedgerow and increased the slurry pit to a size that is far greater than the farm requires, with no regard for planning, site and soil suitability and the impact on the environment or village. On completing the work already carried out (removing the old slurry pit, removing the hedgerow and digging a crater), the work force were working into the early hours of the morning, numerous machines were used and floodlights were shining throughout the night, keeping local residents awake on several nights and once again showing NO consideration for people who live locally.

I have lived in this village all of my life and totally know what it is like living and working in a rural community. I have lived in my current home for 21yrs, near to this farm. Since the current tenant has taken over the tenancy, the farm buildings have all deteriorated and many are now beyond repair. These shed can't and don't hold the number of livestock that warrant a slurry pit the size that has been created. He states that he is using the pit to store digestate from other farms, the tenant has several other agricultural sites, which would be better suited than at Pulsards.

We live in a society where rules are there for a reason and we should all live by them. Why is it this applicant thinks that he is different from everybody else and can totally ignore planning rules and destroy the local environment in the process? Taking all the above into account I would appreciate the committee to

support the 'stop notice' and for the council to refuse any future planning permission for this work to Pulsards Farm.

The second states the following:

I am writing in reference to the works at Pulsards Farm, Pennymoor.

I have previously contacted the council and spoken to the Duty Planning Officer to advise of works being carried out. At the time the planning officer confirmed that planning permission had not been granted for any work at this address.

I would like to make the council aware of my concerns regarding work at the above address:

1. The area being excavated is only approx. 100 metres away from residential dwellings.
2. The tenant has previously stored chicken effluent in the silage pit at this address which was reported to the council. I am led to believe that this was to be used in a local Anaerobic Digestion plant (despite not being detailed as a storage site on the related planning applications). This 'material' greatly affected the close residences because of the "stench" it emitted - resulting in windows having to be kept closed and washing not being able to be hung out. Because of this connection, and the known connection Mr Reed has, to the Anaerobic Digestion plant I am fearful that this excavation work will eventually result in additional storage for fuel for the Anaerobic digestion plant resulting in potential odour and additional traffic through the village.
3. Work commenced without planning consent being sought. This included the removal of a Devon bank with beech hedge which previously marked the boundary for the existing slurry pit. This demonstrates the underhand way in which the tenant acts with total disregard to local people.

Taking all of the above into account I would greatly appreciate the committee to support the 'stop notice' and for the council to refuse any future planning permission for this work to Pulsards Farm, Pennymoor.

108 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

109 THE PLANS LIST (00-41-01)

The Committee considered the applications in the plans list *.

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

- (a) Applications dealt with without debate.

In accordance with its agreed procedure the Committee identified those applications contained in the Plans List which could be dealt with without debate.

RESOLVED that the following application be determined or otherwise dealt with in accordance with the various recommendations contained in the list namely:

(i) No 4 on the Plans *List (16/01391/HOUSE Erection of extension to ground floor utility and erection of first floor extension above – 38 Higher Town, Sampford Peverell)* be approved as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

Notes:

- (i) Cllr R L Stanley declared a personal interest as he knew the applicant very well;
- (ii) All Members present declared that they did know the applicant;
- (iii) Cllr R L Stanley requested that his abstention from voting be recorded.

(ii) No 6 on the Plans *List (16/01599/FULL Erection of extension and alterations to layout of existing car park, Exe Valley Leisure Centre, Bolham Road, Tiverton)* be approved as recommended by the Head of Planning and Regeneration.

(Proposed by the Chairman)

Note: Cllr R L Stanley declared a personal interest as he had been involved in discussions regarding the proposal.

(b) No 1 on the Plans *List (16//01117/FULL Change of use of agricultural land and buildings to form camping site, to include provision for 2 shepherds hut pitches, 2 safari tent pitches and 6 bell tent pitches; conversion of existing stables to shower/toilets, office meeting room, sensory room for visitors, washing facilities, and storage; erection of 2 new blocks to serve campsite; and formation of equestrian area for grazing of miniature horses – Ingleton Farm, Ashill).*

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the site location plan, aerial photographs of the site, the existing and proposed site layout, the proposed access, details of the proposed pitches and Members viewed photographs from various aspects of the site.

She provided answers to questions posed in public question time, with regard to the highway issues, she was not aware of any road improvements planned for the area, representations had been received from the Highway Authority who had no issues with the application. With regard to the hedge, there were no plans to move the hedge line however an amended Condition 9 referred to landscaping issues. With regard to the benefit of the application, she felt that the application would have a positive impact and would be of economic benefit to the local area.

Consideration was given:

- The land was outside the Area of Outstanding Natural Beauty
- Further licenses that would be required
- The number of supporters to the application and where these supporters lived
- Possible noise issues

- Boundary screening and possible loss of daylight
- Highway safety issues
- Possible overdevelopment of the site
- Recent planning history
- Whether the business plan would stand up

RESOLVED that temporary planning permission for a period of 3 years be granted in order to show that there was an established business case for the project subject to conditions as recommended by the Head of Planning and Regeneration with a revised Condition 9 stating that 'Before the first use of the site for its permitted use, a landscaping plan detailing all hard and soft landscaping shall be submitted to, and approved in writing by the Local Planning Authority. The landscaping scheme should include the provision of a physical boundary within the paddock area to provide additional screening to Brimley Cottage and Prospect Place. Once implemented, the landscaping scheme as approved shall be maintained as such.'

Reason: To ensure that the character and amenity of the rural area is maintained and that the privacy of neighbouring properties is maintained in accordance with DM2 of the Mid Devon LP3 (Development Management Policies).

Condition 9 should also refer to mature planting as part of the boundary screening

An additional Condition 14 stating that : 'No play equipment shall be provided at the site until details of the play equipment, including a plan indicating its proposed siting shall have been submitted to, and approved in writing by the Local Planning Authority. Only the approved play equipment shall be provided on the site'.

Reason: To ensure that the character and amenity of the rural area is maintained and that the privacy and amenity of neighbouring properties is maintained in accordance with DM2 of the Mid Devon LP3 (Development Management Policies).

Delegated authority be given to the Head of Planning and Regeneration to make amendments to conditions in relation to the temporary permission granted

(Proposed by Cllr Mrs J Roach and seconded by Cllr P J Heal)

Vote 6 for: 5 against (Chairman's casting vote)

Notes:

- i) Cllrs Mrs H Bainbridge, Mrs C Collis, Mrs F J Colthorpe, R J Dolley, P J Heal, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as they had all received correspondence regarding this application;
- ii) Mr Summerfield (Agent) spoke;
- iii) Mr Powell spoke on behalf of the objectors;

- (iv) The following late information was reported: 4 letters of representation have been received in relation to the application since the publication of the officers' recommendation report to the planning committee. The main issues contained in the 4 letters include: the principle of development on the site; the need for a campsite in this location; the proximity of the proposed development to neighbouring properties; the location of the conservation area; the absence of persons supervising/ managing the site at night; the redacted business plan which has been put out for further public consultation; traffic issues and movements from the site; surface water issues; and noise impacts.

One of the objector's comments list noise as one of the issues which is believed by objectors will result in an unacceptably detrimental effect on the amenity of the residential property. They state that noise will be contributed to through vehicle movements and associated people movements (including doors slamming and people conversing with one another), the operation of a play area, night time conversation around campfires, the existing gate alarm, the playing of music. It is stated that these activities will be above background noise levels for a countryside location. There is no acoustic screening proposed.

Comments received from Environmental Health in response to objector comments regarding noise are as follows:

I don't agree with a lot of the comments made, please find my response below.

People glamping will potentially create a certain amount of noise (people noise). However, this type of noise is likely to be very sporadic in its nature. The background noise levels for the site are likely to be dominated by the large farm adjoining the Southern side of the site and the Country road to the West and therefore, it is unlikely that the background noise levels in this area will be around the 30-35 dB(A). They will be higher. It must be remembered that our Countryside is in fact a working environment that must be managed accordingly to allow for this management to take place. While it is true that a car on the road can produce a noise level of 80 dB farm vehicles can be 10-15dB louder. The assessment criteria's that have been used are the Guidelines for Community Noise, World Health Organisation (WHO)1999 and the Night Noise Guidelines for Europe. World Health Organisation 2009.

These guidelines have given us the following:

Day time

The WHO suggests that to protect the majority of people from a moderate noise annoyance during the day time outdoor noise levels should not exceed 50 dB (LAeq 1hr). It is not foreseen that the noise level from people camping in a field will produce a noise level anywhere near 50 (LAeq 1hr). Where the external noise is < 50 dB (LAeq 1hr) (3m from the façade) the internal noise levels even with an open window (window opened normally for ventilation) will be at an acceptable level of around 35-40 dB(A).

Night-time

Our overriding nigh-time objective is to prevent sleep disturbance for the residents. The WHO guidance suggests that for sleep disturbance the

external noise level should be < 45 dB (LAeq 15min) (3m from the façade) with a 55 dB (LAFmax).

On reviewing the above information, I believe that the external noise levels from the site will typically fall below the Lowest Observed Adverse Effect Level (LOAEL) and therefore, the internal noise levels at the nearest residential dwellings will be below the LOAEL. Taking this into consideration I still have no objection on the grounds of noise as I see no adverse or significant adverse noise impacts from this proposed application.

One point I didn't mention was the fact that no noise complaints were received over the summer while the campsite was operating

Further clarification was sought from the Highway Authority regarding the basis on which the assessment of the effect of the traffic increase was made. Clarification from the Highway Authority is as follows:

The traffic generated by the tents is likely to be in the region of 36 movements per day, The traffic generated by existing dwellings, agriculture and commercial enterprises in the area will be considerably greater and the additional 36 movements per day will not be significant in planning terms, nor will it be considered as severe under Paragraph 32 of the NPPF.

Further clarification was sought from South West Water regarding the sewage output assessment, and the water run-off comments which were provided initially following consultation. Clarification from South West Water is as follows:

Naomi our response in relation to the above simply confirms that we are satisfied that the public foul drainage network has capacity to accept the foul flows to be generated by the proposed development.

It also states that we will not permit any surface water from roofs/hard paved areas from any new buildings etc to be connected to the public sewer but as this element is proposed to be discharged to a ditch system as stated in the drainage strategy this requirement will be met.

Officers recommend the replacement of Condition 9 with a new condition to cover proposed hard and soft landscaping to include the provision of a physical boundary within the paddock area to provide additional screening to Brimley Cottage and Prospect place.

Revised condition 9 – recommended condition: 'Before the first use of the site for its permitted use, a landscaping plan detailing all hard and soft landscaping shall be submitted to, and approved in writing by the Local Planning Authority. The landscaping scheme should include the provision of a physical boundary within the paddock area to provide additional screening to Brimley Cottage and Prospect Place. Once implemented, the landscaping scheme as approved shall be maintained as such.'

Reason: To ensure that the character and amenity of the rural area is maintained and that the privacy of neighbouring properties is maintained in accordance with DM2 of the Mid Devon LP3 (Development Management Policies).

It is also recommended that an additional condition is included to require the approval of any play equipment within the play area including the siting of any play equipment.

Addition condition (14) – recommended condition: ‘No play equipment shall be provided at the site until details of the play equipment, including a plan indicating its proposed siting shall have been submitted to, and approved in writing by the Local Planning Authority. Only the approved play equipment shall be provided on the site’.

Reason: To ensure that the character and amenity of the rural area is maintained and that the privacy and amenity of neighbouring properties is maintained in accordance with DM2 of the Mid Devon LP3 (Development Management Policies).

(c) No 2 on the Plans *List (16/01221/FULL Change of use of part of garden for the retention of shed for property letting office (Use Class A2 – Todd Lettings Office, 11 Meadow Gardens, Crediton).*

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the location plan, the layout of the proposed office and photographs of the residential property.

Consideration was given:

- The business of the applicant and that the majority of contact was made on-line
- The screening around the garden
- Possible parking issues

RESOLVED that planning permission be granted for a 2 year temporary period and for the personal benefit of the applicant whilst she is resident at No 11 Meadow Gardens, with conditions as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr B A Moore)

Notes:

- i) Miss Todd (Applicant) spoke;
 - (ii) The following late information was reported: Page 40: Since the report was written a further letter of support for the application scheme has been received.
- (d) No 3 on the Plans *List (16//01365/FULL Erection of 2 dwellings for security staff; part change of use of agricultural building to form sentry office on the mezzanine level and formation of an elevated walkway – land and buildings at MGR 285635 103526 (Trew Farm) Chilton).*

The Area Planning Officer outlined the contents of the report by highlighting the site location plan, the existing dwellings, the converted barns, the proposed elevations and proposed floor plans of the sentry office along with section and elevation plans.

He stated that the site was in the open countryside however Members were required to balance that issue with the security need as set out in the report.

Consideration was given to the circumstances of the application.

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 C Collis)

Notes:

- i) The Chairman read a statement from Cllr P H D Hare-Scott the local Ward Member;
- (ii) The following late information was reported: Two further representations have been received in respect of this application:

16th November 2016 - A representation was received on behalf of Mel Stride MP which asked the planning committee to give consideration to the points raised by the applicant's agent in respect of the security needs of the applicant.

22nd November 2016 - Cllr Hare-Scott provided the following representation: As the Ward Member I wish to add my wholehearted support to the recommendation to approve the above application. It is clear the circumstances behind this are exceptional and it is crucial for the family's security. I urge members of the committee to accept the recommendation.

- (e) No 5 on the Plans *List (16//01501/FULL Erection of 3 dwellings following demolition of existing dwelling, Old Den, Lapford).*

The Area Planning Officer outlined the contents of the report highlighting the location of the application, the existing and proposed site plans, proposed sections and elevations. He identified the access and Members viewed photographs from various aspects of the site.

Consideration was given:

- The number of dwellings proposed on the site
- Parking issues
- Possible overdevelopment of the site

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

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr Mrs C Collis)

Notes:

- (i) Cllr P J Heal declared a personal interest as the applicant was very well known to him;

(ii) Cllr Mrs J Roach requested that her vote against the decision be recorded;

110 THE DELEGATED LIST (2-08-14)

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

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

111 MAJOR APPLICATIONS WITH NO DECISION (2-09-00)

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

It was **AGREED** that:

- Application 16/01772/MOUT be brought before the committee for determination and that a site visit take place.
- Application 16/01707/MOUT be brought before the committee for determination but that there was no need for a site visit to take place

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

112 APPEAL DECISIONS (2-11-39)

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.

113 APPLICATION 11/01927/MFUL - ERECTION OF 36 DWELLINGS WITH ASSOCIATED ACCESS ROAD, CAR PARKING, LANDSCAPING AND DEMOLITION OF EXISTING OUTBUILDINGS ADJACENT TO HOWDEN COURT AT LAND AND BUILDINGS AT NGR 294646 111535, HOWDEN COURT, TIVERTON (2-11-56)

The Committee had before it a * report of the Head of Planning and Regeneration regarding the above application. The Area Planning Officer outlined the contents of the report explaining that the issues raised related to the scheme of development approved under reference: 11/01927/MFUL for erection of 36 dwellings with associated access road, car parking, landscaping and demolition of existing outbuildings adjacent to Howden Court. The matter for members consideration at the meeting related to the delivery of a link between the development area and Palmerston Park which was shown on the approved plans and referred to in the Section 106 agreement but had not yet been built out.

As background it was confirmed that planning permission had been granted for the scheme of development in June 2012, with the committee having first considered the application scheme at an earlier meeting in March 2012. The committee resolved to grant planning permission subject to completion of a Section 106 agreement to cover

various matters and to a number of conditions to control/regulate the delivery of the approved scheme. Following the completion of the legal matters to agree the terms of the Section 106 agreement on the 24th October 2012 the planning permission decision notice certificate was issued on the 9th November 2012. He drew attention to the proposed link between the new estate and Palmerston Park which had formed part of the S106 agreement. Although the section of the link outside the application site had been completed, the formation of the pathway from the site boundary adjacent to Palmerston Park up to the estate road serving the new development had not been completed.

He identified by way of presentation the area for the proposed footpath, the change in ground level, the route down the hill to Howden Court and photographs from various aspects of the site. He highlighted the requirements Policy AL/TIV/10 and informed the meeting that all parties had signed the Section 106 Agreement. The report highlighted the fact that the new residents of the estate were largely not in favour of the footpath link being delivered as there were concerns that it would remain unadopted, with no lighting that could lead to safety and security issues, they also felt quite strongly that because of the change in levels that the path was not likely be used with residents stating that a route down to the Exeter Road and along the footway into Tiverton would be the preferable route if there were walking into town. The report also highlighted the safety and security concerns expressed by the occupiers of the property referred to as Howden Court.

He provided answers to question posed in public question time stating that all parties had agreed to the route and that the S106 agreement had been signed. There was now a different Police Architectural Liaison Officer in post, the concerns raised with regard to safety and security were valid however a safe and secure route could be delivered. Whilst the main access route into the Estate was to be adopted, it was never intended that the link out to Palmerston Park would be. The estate road was not adopted. With regard to the slope and gradient of the footpath, it would not suit all, the maintenance issues would have to be addressed by the developer of the Management committee. If it was not to be adopted there was a need for it to be managed in hours of darkness, this had been known at the time of approval.

Consideration was given to:

- At what point had the proposed cycle route dropped off the S106 agreement
- Maintenance of the area
- If the footpath had been put in place prior to development as stated in the conditions, the issue would not now need addressing
- The need for conditions to be enforced
- Safety issues with regard to the footpath on Exeter Road
- Whether the footpath was inappropriate and dangerous
- Who now owned the land in discussion
- Whether an alternative outcome could be discussed with the developer.

RESOLVED that the decision on whether the proposed link between the site and Palmerston Park as approved under LPA ref: 11/01927/MFUL be deferred to allow officers to have further discussions with Heritage Homes and any other relevant land owning interests as to what could be achieved in terms of an off-site financial contribution in lieu of providing the link and on a quid pro quo basis.

(Proposed by Cllr R L Stanley and seconded by Cllr B A Moore)

Notes-:

- (i) Cllrs Mrs H Bainbridge, Mrs C Collis, Mrs F J Colthorpe, R J Dolley, P J Heal, B A Moore, R F Radford, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors in dealing with Planning matters as they had all received correspondence regarding this application;
- (ii) Cllr R L Stanley declared a personal interest as some of the objectors were known to him;
- (iii) Cllr R J Dolley declared a personal interest as Ward Member and he had been contacted by objectors and others with regard to the site;
- (iv) Mr Reetz spoke on behalf of the objectors;
- (v) Cllr Harrower (Tiverton Town Council) spoke;
- (vi) The following late information was reported: Page 98: Since the report was written 7 letters from local residents on the new estate have been received confirming that they do not wish for the link to be put in place, and 3 representations from local residents confirming that the Council should ensure that the link is provided as it formed part of the original planning permission;
- (vii) *Report previously circulated copy attached to minutes.

(The meeting ended at 5.40 pm)

CHAIRMAN