

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 17 May 2017 at 2.15 pm

Present Councillors

Mrs F J Colthorpe, 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

Also Present Councillor(s)

C J Eginton, R Evans and Mrs M E Squires

Present Officers:

Jenny Clifford (Head of Planning and Regeneration), Thea Billeter (Area Planning Officer), Tina Maryan (Area Planning Officer), Simon Trafford (Area Planning Officer) and Sally Gabriel (Member Services Manager)

1 ELECTION OF CHAIRMAN (The Chairman of the Council in the Chair)

RESOLVED that Cllr F J Colthorpe be elected Chairman of the Committee for the municipal year 2017/18.

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

2 ELECTION OF VICE CHAIRMAN

RESOLVED that Cllr P J Heal be elected Vice Chairman of the Committee for the municipal year 2017/18.

(Proposed by Cllr R F Radford and seconded by Cllr Mrs J Roach).

3 APOLOGIES AND SUBSTITUTE MEMBERS

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

4 PUBLIC QUESTION TIME (00-06-04)

Mike Shaw, referring to Item 1 (Crosses Farm) on the agenda stated: please can the Committee and Officers advise on the progress of the Mid Devon Local Development Plan. I understand it was submitted to the Planning Inspectorate on the 31st March and the Inspector will shortly be reporting on his findings and

approval that it is sound. Please can you confirm that it includes a clear 5-year housing land supply for Mid-Devon - thus making any speculative applications in communities which have been specifically excluded in the emerging LDP unnecessary and unwarranted?

Mike Scott (CPRE), referring to Item 1 (Crosses Farm) on the agenda stated that the site proposed in this application is, and always has been, open countryside, and never within any settlement boundary. With regards to the NPPF and local COR policies, please can the Committee advise why any permission would be granted for building on open countryside in an area identified as unsustainable, when sufficient 5 year land-supply within Mid Devon has been identified through a thorough consultation process in producing the LDP?

Jenny Mayne, referring to Item 1 (Crosses Farm) on the agenda stated that for applications proposing 10 dwellings or under, formal consultation of the surrounding community is not a requirement. Of the 55 letters of support for this application, only five came from within the Uplowman Parish. In contrast, of the 43 objections, 33 came from residents within the Uplowman Parish who would be directly affected by the proposal, and the exact community which should have been consulted. This is also in line with Secretary of States clear direction for community-led development in his recent letter regarding this application. Please can you advise how the Committee takes the context and sources of all public submissions into consideration?

Paul Lovell referring to Item 1 (Crosses Farm) on the agenda stated that last year, the planning inspector ruled on a separate application for a single dwelling within Uplowman. He clearly stated that Uplowman is a rural settlement, and based on the objective criteria defined in the NPPF, was unsustainable. He therefore upheld the refusal of permission. These objective criteria for sustainability were established to prevent any lobbying or misrepresentation by applicants confusing the definition of what is a sustainable community. Can the Committee confirm that they respect and abide by the legal definition of sustainability in the NPPF and the recent ruling by the Planning Inspectorate with regards to the status of Uplowman?

Tim Kenyon referring to Item 1 (Crosses Farm) on the agenda stated that Uplowman has no public transport or footpaths and the proposal is heavily reliant on the use of private cars. These factors combine to produce an application which does not meet sustainability criteria as it would significantly increase pollution and road traffic locally. Does the committee agree that this application is therefore at odds with the Mid Devon Core Strategy to coordinate development to reduce the use of the car, the NPPF on environmental impact, and the new guidance issued to Local Authorities recently on reducing pollution locally?

Wayne Elliott, referring to Item 1 (Crosses Farm) on the agenda stated that my question is about road safety, particularly at the entrance to the proposed development. The entrance is on a dangerous, blind bend where there are near-misses between vehicles and pedestrians on a daily basis. We do not understand why the Highways' report fails to mention this aspect and we were not given the opportunity to discuss it with them. The proposed development means there will be more vehicles feeding directly into this location. Additionally, the application proposes that the rubbish and recycling bins will be emptied on this bend - the worst possible location for a lorry to be parked. So aside from the detrimental visual impact of having

all these bins in one place, the bend will become even more hazardous. What are the committee members' views on this please?

Ivor Mayne referring to Item 1 (Crosses Farm) on the agenda stated that the NPPF makes reference to the need to enhance the visual aspect of local communities. The proposed site in Uplowman is compromised in many ways. It requires a detour of traffic to and from the proposed 8 dwellings through a one-way system. To enforce this, such measures as having crocodile teeth obstructions, lighting and warning signs at the entrance and exit are needed. These are not features that add to the appearance of a small Devon village. Can I ask that the committee give their views of the impact of the development on the street scene please?

Wayne Elliott (on behalf of Chris Gellion), referring to Item 1 (Crosses Farm) on the agenda stated that given the recent involvement and decisions of the Planning Inspector on applications to develop this area, namely the long standing dispute over the agricultural building which resulted in a refusal and his rejection of the application to build a single dwelling on the adjacent site of Little Chase, under what circumstances would the Planning Committee go against the Planning Official's recommendation in this case?

Cllr Grantham speaking on behalf of Willand Parish Council referring to Item 4 on the Plans List - Junction 27 stated that from your notes, outline planning for this site was granted in 1995. Now in 2017, some 22 years later, we are told by AXA, Friends Life, and Eden Westwood, that they want these conditions varying, because of their commercial interest in this site, i.e. to do as least work as possible on this application site to fulfil obligations. It seems to me, once again, at every opportunity, the planning department are accommodating this developer.

Why is it necessary to take into account the commercial interest of this developer to remove and amend conditions? This appears to be some reliance on legislation, which is pending and not yet law.

Why do the planning department again give the developer another 2 years to comply? After 22 years, I think they have had enough time.

Condition 13, basically this covers the protection of trees and hedgerows by erecting fencing to protect the roots. This condition is now not being contested by the developer, so one would assume fencing will be erected before the work commences. If this is not being done why?

Because this condition appears later in the text, it is confusing and needs clarifying. I hope the Members will consider these genuine comments, when they discuss this application.

Carol Pledge referring to item 3 on the plans list (Woodford Farm Witheridge) stated that she wished to ask if Members were aware that the ecology report was inaccurate, there were 3 lots of birds nesting on the site and she highlighted the different varieties of wildlife birds, mice and badgers in the vicinity of the application site. She also highlighted the noise impact of the proposal on the ground breeding species in the area and asked that further consideration be given to these issues when determining the application.

5 **MINUTES OF THE PREVIOUS MEETING (00-20-04)**

The Minutes of the meeting held on 19 April 2017 were approved as a correct record and **SIGNED** by the Chairman.

6 **CHAIRMAN'S ANNOUNCEMENTS (00-21-00)**

The Chairman had the following announcements to make:

- She advised the meeting that Item 11 on the agenda had been deferred as the landowner had not received the appropriate notice that the application was due to be determined.
- She provided an update for application reference: 17/00217/FULL (Land at The Shippens, Blackborough) previously considered by the planning committee on Wednesday 19th April 2017.

The application was considered by Members at the Planning Committee meeting held on Wednesday 19th April 2017. The application considered at the meeting consisted of two parts; the polytunnel which you indicated you had no concerns with, and the field shed which had cause for more concern. This resulted in deferral of the application to allow officers to further discuss the scheme with the applicants to seek changes to the size, location and need for the field shed and to seek that the unauthorised play/exercise equipment and the change of use of the land was included within the application.

The applicant has decided to withdraw the field shed element of the application, leaving only the polytunnel to be considered in this planning application. Officers have been advised by the agent that a further application for a field shed, the unauthorised equipment and the change of use of the land will be submitted at a later date.

As Members did not have concerns with the polytunnel, the revised application is intended to be considered under delegated powers by your officers. Myself, Cllr Heal and Cllr Moore, who moved and seconded the deferral are happy with this. Is there anyone who would continue to wish for the application to come back before us for a decision?

It was **AGREED** that the application be dealt with under delegated powers.

7 **DEFERRALS FROM THE PLANS LIST (00-23-39)**

There were no deferrals on the plans list.

8 **THE PLANS LIST (00-27-10)**

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 (17/00033/OUT – **outline for the erection of 8 dwellings – land and buildings at NGR 3014160115145, Crosses Farm, Uplowman**).

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location plan, the access points that would be considered within the outline application and the visibility issues that had been raised. Members viewed photographs from various aspects of the site.

Addressing the questions posed within public question time she stated that the Local Plan had been submitted but that a date for examination had not been received. The figures in the Local Plan (once adopted) would provide enough housing allocation to meet the objectively assessed housing need and re-establish a 5 year housing land supply but at the present time there was still a deficiency.

With regard to building in the open countryside in an area that had not been identified as sustainable in Mid Devon's Local Plan priorities, she reiterated that the Local Plan had been submitted but had yet to be examined, therefore there was still a 5 year land supply issue and refusal had been recommended on the grounds of Uplowman not being a sustainable location for new housing development

Consideration was given to:

- The quality of the land and archaeological issues
- The lack of public transport in the area
- The capacity of the sewerage system in the area
- Possible highway issues
- The unsuitability of Uplowman for development
- Whether there were enough services in the village and whether additional development would encourage further facilities to become available
- The views of the Parish Council, the limited facilities and the lack of demand for local housing
- The need for an affordable housing contribution should the application be approved.

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

(Proposed by Cllr Mrs J Roach and seconded by Cllr F W Letch)

Notes:

- i) Cllr R F Radford declared a personal interest as the applicant and the objectors were well known to him and his involvement in the application as Ward Member and chose to leave the meeting during the discussion thereon;
- ii) Cllrs Mrs H Bainbridge, Mrs C Collis, Mrs F J Colthorpe, R J Dolley, P J Heal, F W Letch, B A Moore, Mrs J Roach, J D Squire and R L Stanley made declarations in accordance with the Protocol of Good Practice for Councillors Dealing in Planning Matters as they had all received correspondence regarding the application;

- iii) Cllr Mrs F J Colthorpe declared a personal interest as one of the objectors was known to her;
- iv) Cllr R J Dolley declared a personal interest as the applicant and the objectors were known to him;
- v) Cllr Mrs J Roach declared a personal interest as some of the objectors were known to her;
- vi) Dr Lovell spoke on behalf of the objectors;
- vii) Janine Banks spoke as Agent;
- viii) Cllr Milner spoke on behalf of the Parish Council;
- ix) Cllr Mrs H Bainbridge requested that her vote against the decision be recorded;
- x) Cllr R J Dolley requested that his abstention from voting be recorded;
- xi) The following late information was reported: Further information on behalf of the applicant addressing objections in respect of Design and Access Statement, access proposals and visibility. Further information on behalf of the applicant addressing objections in respect of the drainage strategy. Further objection setting out comments from DCLG in respect of determining applications. The additional information and objections add nothing material that has not been considered and commented on in the committee report.

(b) No 2 on the Plans *List (17/00300/MOUT – outline for the erection of 30 dwellings and new vehicular and pedestrian accesses – land at NGR 305578 112053 Uffculme Road, Uffculme)*.

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the outline application which included the access to the site. She explained that the plan shown on the front of the report had been amended so that the land for the proposed footway and internal road from the access point could be included. The revised location plan was considered along with the proposed access that had been already approved within the application at Harvesters which had been granted at appeal, the amendments to the 30 mph speed limit and the indicative layout which demonstrated that 30 dwellings would be achievable on the site. Members also viewed photographs from various aspects of the site.

Consideration was given to:

- The recent appeal at Harvesters
- Whether 30 additional dwellings on the site would have a detrimental impact on Uffculme
- The lack of a 5 year land supply and the timing of the Local Plan examination and what weight the plan held at the current time
- The impact of the development on the village of Uffculme
- Planning policy and continued development in the countryside

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

- The application was outside the settlement limit and contrary to Local Plan policy relating to housing provision
- The cumulative impact of the development alongside the adjacent site would lead to a detrimental impact upon the rural character of the area as a result of the ribbon form of development
- Effect of closing the existing gap between Uffculme and the industrial estate

(Proposed by Cllr Mrs J Roach and seconded by Cllr R L Stanley)

(Vote 6 for; 5 against)

Notes:

- (i) Cllr R J Dolley declared a personal interest as the applicant was known to him;
 - (ii) Cllr Mrs F J Colthorpe declared a personal interest as the Halberton Parish Councillor was known to her;
 - (iii) Cllrs R Evans and Mrs J Roach made declarations in accordance with the Protocol of Good Practice for Councillors Dealing in Planning Matters as they had received correspondence regarding the application;
 - (iv) Cllr Hignell (Halberton Parish Council spoke);
 - (v) Cllr R F Radford spoke as Ward Member;
 - (vi) Cllr R Evans spoke as an adjacent Ward Member;
 - (vii) Cllrs Mrs H Bainbridge, Mrs F J Colthorpe, P J Heal, F W Letch and J D Squire requested that their vote against the decision be recorded.
- (c) No 3 on the Plans *List (17/00395/FULL – erection of a barn to house flexible generation and energy storage plan with associated infrastructure, access, cable route and landscaping – land and building at NGR 280066 113155 (Woodford Farm), Witheridge).*

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the application site, the proposed site plan, the main buildings and the ancillary building, the scope of the cable to the substation, the elevations and floor plan and the proposed landscaping and additional screening. Members also viewed photographs from various aspects of the site. He explained that the fuel source for the generation of power had now been amended to gas only.

Consideration was given to:

- The operational hours the generators would be expected to run
- The noise impact

- Whether there was a business case for the flexible generation of energy when the National Grid required additional demand
- Whether this was industrialisation in the countryside

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

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

Notes:

- (i) Cllrs Mrs F J Colthorpe, P J Heal and Mrs M E Squires declared personal interests as the applicant was known to them;
- (ii) Mr Scott spoke on behalf of the CPRE in objection to the application;
- (iii) Ms Lodge (Agent) spoke;
- (iv) The Chairman read a statement on behalf of Cllr Mrs J B Binks (Ward Member);
- (v) Cllr Mrs M E Squires spoke as Ward Member;
- (vi) The following late information was reported:

8th May 2017- Consultation response received from Witheridge Parish Council- *No objection subject to verification the proposal will not impact* on the amenity of the proposed 65 houses to be sited on land east of Butts Close Witheridge (Tiverton side of the adventure playground); specifically noise and diesel fumes from operation of the proposed generators.

In response, the applicants have submitted a letter from the Air Quality Consultants confirming that the assessment has considered the impacts on the proposal on sensitive receptors i.e. residential properties to the north and south boundary of the site. They conclude that it is demonstrated that the air quality effects of the proposed dual- fuel flexible generation and energy storage barn at Woodford Farm on the proposed residential development on the land south of Butts Close will be insignificant.

Following feedback and comments from the local community in regards to the use of diesel, the applicant is prepared to make a commitment to operate the site on gas only thereby directly addressing their concerns.

Officer comment: This does not change our assessment of the application as gas is not a renewable energy and as such the proposal does not support objectives to increase renewable energy capacity in accordance with policies COR1 and COR5 of the Mid Devon Core Strategy and DM5 of the Local Plan part 3 (Development Management Policies). Should members be minded to approve the proposal on this basis they could include a condition to restrict the operation of the site to gas only.

(d) No 4 on the Plans List (17/00407/FULL – ***Variation of conditions 5, 6, 15, 23, 27, 28, 31, 32, 34 and 35 to allow certain works to be undertaken before additional details are submitted to the Local Planning Authority, to phase the Construction Management Plan/s and to enable works to be carried out before the tree and hedgerow protection fencing is erected; and removal of conditions 24 and 26 (duplication of the requirements of other conditions) of planning 13/000947/MOUT – land at NGR 305036 11372 (Junction 27) Sampford Peverell.***

The Area Planning Officer outlined the contents of the report by way of presentation explaining the history of the site, the outline application that had been approved and the Reserved Matters application approved by the Committee in February 2017, she explained that the applicant was seeking to vary the conditions within the outline application. She highlighted the site location and Members viewed photographs from various aspects of the site.

She addressed the questions posed in public question time stating that the outline application referred to was that of 2013 and it was the conditions within that application which required variation. The application of 1995 was no longer valid. She added that each application had to be assessed on its merits. The Government set out the statutory timescales for the start of development, Condition 1 reflected this. The contents of the original condition 13 were now reflected in Condition 10.

Consideration was given to:

- Whether it was the role of the committee to protect the applicants interests
- Should the commercial interests of the applicant be considered
- The requirements of the conditions
- Whether the Committee Members would be pre-determining any future applications on the site
- The draft Neighbourhood Planning Bill
- The requirement for legal advice on the matter of determining the application because of the wider issues on the site

RESOLVED that the application be deferred so that legal advice could be obtained with regard to:

- The legal implications of decision making with regard to this application
- Whether the Committee were at risk of being accused of pre-determination
- The process of changing conditions on a previously approved planning application.

(Proposed by Cllr Mrs J Roach and seconded by Cllr R L Stanley)

Notes:

- (i) Cllrs Mrs H Bainbridge and Mrs C A Collis spoke as Ward Members;
- (ii) Cllr R Evans spoke as an adjacent Ward Member;
- (ii) Cllrs Mrs F J Colthorpe and P J Heal requested that their vote against the decision be recorded;

(iv) Cllr Mrs H Bainbridge requested that her abstention from voting be recorded.

9 MAJOR APPLICATIONS WITH NO DECISION (3-08-00)

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

It was **AGREED** that application 17/00652/MOUT (NE of Rydon House, Willand) be brought before Committee for determination and that a site visit take place if the officer recommendation was minded to approve.

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

10 APPEAL DECISIONS (3-11-11)

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 Minutes.

11 APPLICATION 17/00001/TPO - TREE PRESERVATION ORDER FOR AN AREA OF TREES - 1 SYCAMORE, 1 ELM, 1 OAK, 1 HOLLY, 1 HAZEL - TRACK AT NGR 296538 103662 (GREENSLINCH LANE), SILVERTON.

This item had been deferred as highlighted earlier in the meeting.

12 COMMITTEE DECISIONS 2016/17 NOT IN ACCORDANCE WITH OFFICER RECOMMENDATION (3-11-32)

The Committee had before it and **NOTED** a report of the Head of Planning and Regeneration providing information where the Planning Committee had made decisions not in agreement with officer recommendation.

The Officer outlined the contents of the report stating that 11 decisions made by the Committee were not in agreement with officer recommendations; 9 had been granted planning permission and 2 were refused permission, the 2 refusals were currently in the process of being appealed.

Note: *Report previously circulated copy attached to minutes.

13 APPEAL PERFORMANCE (3-12-55)

The Committee had before it and **NOTED** a report of the Head of Planning and Regeneration providing information on the outcome of planning appeals for the financial year 2016/17.

She outlined the contents of the report stating that 32 appeals had been determined within the period being considered, 78% of those had been dismissed. The total number of appeals had been similar to previous years, however the percentage of dismissals had been the highest since 2010 with appeals allowed sitting at 22% against the England average of 32%-34%. She reiterated the Government targets for appeal performance as outlined in the report.

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

14 **START TIMES OF MEETINGS (3-18-00)**

Discussion took place regarding the start time of meetings for the municipal year.

RESOLVED that the Planning Committee continued to commence at 2.15pm

(Proposed by the Chairman)

(The meeting ended at 5.50 pm)

CHAIRMAN