

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 4 October 2017 at 2.15 pm

Present

Councillors

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

Also Present

Councillor(s)

D R Coren and Mrs J Roach

Present

Officers:

Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Tina Maryan (Area Planning Officer), Simon Trafford (Area Team Leader), Lucy Hodgson (Area Team Leader), Daniel Rance (Principal Planning Officer) and Sally Gabriel (Member Services Manager)

59 APOLOGIES AND SUBSTITUTE MEMBERS

There were no apologies.

60 PUBLIC QUESTION TIME

Ann Vinton, speaking in relation to item 4 on the Plans List, Red Linhay, stated that when the AD (anaerobic digestion plant) was originally granted permission we were assured that local traffic would be reduced. A great emphasis was put on the fact that 2,929,430L of digestate would be pumped onto Hartnoll land thus resulting in no road transport being used. Now the applicant intends taking the digestate to the new plots necessitating 286 road trips. Can your officers please tell us how this does not represent an increase in traffic movements?

Tony White, also speaking in relation to Red Linhay stated that the applicant claims that more land is needed in order to follow 'good practice' i.e. crop rotation. However, in the original plans they assured us that they had enough land to supply a 500kw digester and to take the resultant digestate. Have officers asked the applicant to explain why, suddenly, that land is not sufficient for the running of a 500kw AD?

Condition 9 was put in place by the Committee to protect the community and local environment and ensure the applicant operated within the bounds of the permission granted. What has the applicant put forward to convince the planning officer that condition 9 is no longer necessary and the command of the Committee (by imposing condition 9) should be disregarded.

Martin Greig referring to item 2 on the Plans list – Sunnymead, Copplestone asked the following questions:

Is the Planning Officer aware that 9 out of the 10 residences in the proposed access close 87 -105 Sunnymead contain people who are elderly, sick, with mobility issues or children with special needs, and that there are 4 blue badge holders in the Close? What weight has been given to the detrimental effect on these vulnerable people as the development proceeds and then when it is in place, particularly given that the 6 bungalows are designated for elderly/disabled people?

Is the Planning Officer aware that no-one takes responsibility for the ditch behind the bungalows, and therefore it is silted up, contains rubbish, and is frequently unsuitable for the free-flow of water? How do you propose to deal with this if additional residences are built?

Why does the Planning Officer believe that building a car park area will mean that carers or family members, will in fact park there, when time constraints and human nature dictate that these people will continue to park outside the front doors of the homes they visit?

Has the Planning Officer made a site visit to inspect the gully across the field and the ditch behind the bungalows, and spoken to residents who are affected by them?

Is the Planning Officer able to guarantee that water from the field and the proposed building site will not overflow into gardens and homes below?

Anne Greig referring to item 2 on the Plans list – Sunnymead, Copplestone asked the following questions:

Is the Planning Officer aware that cars parked in the designated turning area at the top of 87-105 Sunnymead often do not belong to the occupants or visitors to 87 – 105 and changing this turning area into a car parking area could simply exacerbate that issue?

Is the Planning Officer aware that some residents are obliged to park outside their front doors because of mobility issues so that building a car park will not help these residents or the through-flow of traffic?

Is it true that double yellow lines are proposed, outside our properties to ensure free flow for the increased traffic from the development, after it is complete?

With permission granted for a further development of forty houses in the village, and with the infrastructure already unable to cope, why does the officer feel that a further nine houses will benefit the village, when those of us who live here can only see it having a detrimental effect?

Sarah Coffin referred to item 11 on the agenda, Planning Performance, and specifically the heading 'Equality Impact Assessment' – where it states 'None'. We would point out that Templeton Parish Council have raised an outstanding issue with regard to the reasons and decision made regarding the refusal of Pulsards slurry

Lagoon and the potential risk of statutory nuisance to nearby citizens of Pennymoor and the unequal and non-consideration given to the present statutory nuisance to nearby residents at Crossparks Slurry pit in comparison, for the effectively the same usage.

Regarding Forward Planning – in view of the recent BBC media coverage on the dangers and nuisance of living beside a slurry lagoon and spreading of same, as well as the fact that it is now compulsory in Holland that any large Agricultural expansion is accompanied with proof of sufficient land accessibility – What specific steps/measures/provision have Mid Devon Planning made within their policy to ensure they fulfil their remit under the Environmental Act and Human Rights Act to protect their residents and local environment from agricultural pollution to air, land and water?

This question has particular relevance for the parish of Templeton in view of the ongoing present Statutory Nuisance and adverse health reactions being experienced by storage/spreading of digestate/slurry and the knowledge that digestate will be coming to our area from AD plants at 2 Sisters Willand soon. We therefore ask that the Council insist on at least a minimum requirement for all agricultural permissions granted to be subject to the following existing 'Best Practice'. This could involve requiring listing of suitable sufficient acreage for safe disposal of all wastes/fertilisers from applicants together with permission for release of data/records held by DEFRA/EA/RPA. All farmers in accordance with 'Best Practice' have to supply sufficient land and have taken all possible precautions to prevent pollution to air, soil and water.

We respectfully suggest that this is the only way the Council can discharge its responsibilities to protect our environment/citizens and other businesses such as tourism etc. We also enquire if under the spirit of planning co-operation this could be a combined action with North Devon and North Somerset.

The Chairman informed Miss Coffin that a written response would be provided as her questions did not relate to an item on the agenda.

David Sutton, speaking in relation to item 4 on the plans list (Red Linhay), stated that large quantities of stinking silage destined for the AD are being stored adjacent to the site and now it seems large quantities of grain will be stored in the new farm building, again, adjacent to the site, on farm land. This may not be counted as an increase in the size of the plant but in reality that is just what it is. As the closest resident to this stinking pile I would ask that a condition be put on the site that no storage of materials destined for the AD are to be stored except within the site itself.

Questions raised (bar Miss Coffin's) would be answered when the item was debated.

61 MINUTES OF THE PREVIOUS MEETING (00-02-05)

The minutes of the meeting held on 6 September 2017 were approved as a correct record and signed by the Chairman.

62 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Joanne Halton, the new part-time Principal Planning Officer in the west team to the meeting.

63 ENFORCEMENT LIST (00-15-45)

Consideration was given to the cases in the Enforcement List *.

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

Arising thereon:

a) No. 1 in the Enforcement List (***Enforcement Case ENF/16/00246/UDRU – Change of use of land from agriculture to mixed use agriculture and the siting of a caravan for human habitation – West Loosemoor Farm, Oakford***).

The Area Team Leader outlined the contents of the report highlighting the breach of planning control which had occurred within the last 10 years. Photographs and a plan identified the position of the caravan.

RESOLVED that the Legal Services Manager be given delegated authority to take all such steps and action necessary to secure the cessation of the unauthorised change of use and the removal of the caravan and associated domestic paraphernalia from the site, including the issue of an enforcement notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

(Proposed by the Chairman)

b) No. 2 in the Enforcement List (***Enforcement Case ENF/16/00189/LIS and 16/00190/LIS – without listed building consent, the execution of works for the alteration of the listed building namely:***

18 Exeter Road – the removal from the front façade of two timber framed sash windows and two timber framed casement windows and their replacement with uPVC windows

19 Exeter Road – the removal from the front façade of one timber framed sash window and stone cill and one timber framed casement window and stone cill and the replace with uPVC windows)

The Area Team Leader outlined the contents of the report highlighting the new PVC windows that had been fitted without consent. The issues with regard to the properties had been the subject of a previous report which had been specific about the steps required within the enforcement notice, it was now suggested that some flexibility be given to the steps required.

It was therefore:

RESOLVED that the Legal Services Manager be given delegated authority to take all such steps and actions necessary to secure the removal and replacement of the

unauthorised windows, including the issue of an enforcement notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

(Proposed by the Chairman)

c) No. 3 in the Enforcement List (***Enforcement Case ENF/15/00171/UCU – untidy site causing an adverse effect on the visual amenity of the area arising from the unauthorised change of use of the land from agriculture to a mixed use of agriculture and the storage of business and domestic materials – land at NGR 310656 113326 (Hillmoor, Culmstock).***)

The Area Team Leader outlined the contents of the report stating that the case had been the subject of a previous report and that the committee had resolved to issue an enforcement notice for the unauthorised change of use for business and domestic storage. Following discussions with the Legal Services Manager it was now proposed to issue a Section 215 Notice .

RESOLVED that the Legal Services Manager be given delegated authority to take all such steps and action necessary to secure the improvement of the appearance of the land including the issue of a Section 215 (Untidy Site) Notice and prosecution and/or Direct Action in the event of non-compliance with the notice.

(Proposed by the Chairman)

64 **DEFERRALS FROM THE PLANS LIST**

There were no deferrals from the Plans List.

65 **THE PLANS LIST (00-28-00)**

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 applications be determined or otherwise dealt with in accordance with the various recommendations contained in the list namely:

(i) No 1 on the Plans List (***17/00855/MFUL – Erection of extension to garden centre to form additional retail space, pallet store, covered entrance and covered outdoor areas and erection of a separate warehouse following removal of polytunnels – Bow Garden Centre, Bow***) be approved subject to conditions and informative notes as recommended by the Head of Planning, Economy and Regeneration with an amendment to Condition 4 which states that: “No part of the development hereby permitted shall be occupied until the drainage scheme as set out in the Surface Water Drainage Strategy Report prepared by Aquatech (dated 30th August 2017) has been fully implemented and maintained as such thereafter as set in approved report”.

(Proposed by the Chairman)

(ii) No 5 on the Plans List (**17/01197/CAT – Notification of intention to coppice 1 Sycamore tree (T2); coppice Hornbeam trees (G3) and Sycamore trees (G1) to form a hedge; crown raise Sycamore trees (G2) t 4m and raise crown of 1 Oak tree (T3) by 3m within the Conservation Area – Land at NGR 301044 112936, between 46-48 High Street, Halberton**) that no objection be raised to the proposed work as recommended by the Head of Planning, Economy and Regeneration

(Proposed by the Chairman)

Note: Cllr R F Radford declared a disclosable pecuniary interest in the matter as he was the applicant and left the meeting whilst the vote took place.

(iii) No 8 on the Plans List (**17/01265/HOUSE – Retention of 1.8m high fence on block wall on west boundary and erection of 1.8m fence on existing block wall on north boundary – Hilary, Barnsfield, Crediton**) be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

Notes:

(i) Cllr F W Letch declared a personal interest in the matter as the applicant was his daughter and chose to leave the meeting whilst the vote took place.

(ii) A further late representation was reported: Crediton Town Council had provided comments on 20 September 2017 stating that it had no objection to the application.

(iv) No 9 on the Plans List (**17/01332/HOUSE – Erection of two storey extension following demolition of single storey extension and porch; internal and external repairs and alterations; alterations to northern boundary/access; erection of den and relocation of greenhouse and polytunnel – Shapcott Cottage, Whitnage**) be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

(v) No 10 on the Plans List (**17/01333/LBC – Listed Building Consent for the erection of two storey extension following demolition of single storey extension and porch; internal and external repairs and alterations; alterations to northern boundary/access; erection of den and relocation of greenhouse and polytunnel – Shapcott Cottage, Whitnage**) be approved subject to conditions as recommended by the Head of Planning, Economy and Regeneration.

(Proposed by the Chairman)

(b) No 2 on the Plans List (**17/00914/OUT – Outline for the erection of 9 dwellings with associated access – land at NGR 277111 102951, Sunnymead, Coplestone**)

The Area Team Leader outlined the contents of the report highlighting by way of presentation the location of the site outside the defined settlement boundary but central to the village envelope; the proposed access, the proposed parking area, the pavement which would be extended into Sunnymead and the indicative layout to the proposed dwellings to include the retention ponds. He highlighted the proposed footway link from the development to the school, the ditch which would be culverted and photographs from various aspects of the site.

He provided answers to the questions posed in public question time:

The impact of the proposed development on the residents – any impact would be greater during the construction period which could be controlled by conditions; Condition 5 required a construction maintenance plan to be provided which would include, the hours of work allowed and the construction material delivery method which would provide an element of control. With regard to parking, residents would still be able to park outside their houses if they chose too, a specific parking area was proposed as well as an extended pavement. The ditches near to the original dwellings would be culverted these would be dealt with via Condition 9. Advice had been sought from South West Water with regard to run off from adjacent fields, this was covered within conditions 9, 10 and 11. The designated turning area could be controlled. He was not aware of any thoughts regarding double yellow lines in the area.

Consideration was given to:

- The lack of 5 year land supply
- The proposed Section 106 agreement with regard to air quality and the commuted contribution towards the delivery of two affordable houses off-site
- The impact of the development on local residents in Sunnymead and the well-being of those residents
- Possible unacceptable strains on local facilities
- Possible alternative access routes
- The Highway Authority's comments on the proposal
- Whether the village of Copplestone was sustainable
- Previous applications in the village and the S106 Agreements for those applications.

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 based on the following issues:

- The proposed development was outside the settlement limit
- The access arrangements were inappropriate
- Impact of the development on the residents of Sunnymead who all had special requirements and therefore the proposal would have a detrimental impact on their amenity
- Overdevelopment of the village.

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

Notes:

- (i) Cllr R L Stanley declared a personal interest as the access to the site was through the Council's HRA land and he was the Cabinet Member for Housing;
- (ii) Cllrs P J Heal and D R Coren declared personal interests as Ward Members and that they knew the applicant and objectors;
- (iii) Mrs Greig spoke on behalf of the objectors;
- (iv) Mr Pearcey (Applicant) spoke;
- (v) Cllr Mrs Ollson spoke on behalf of the Parish Council;
- (vi) Cllrs D R Coren and P J Heal spoke as Ward Members;
- (vii) A proposal to approve the application was not supported;
- (viii) The following late information was provided:

Amend the drafting of condition 9 as follows:

No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by the Local Planning Authority, incorporating any requirements resulting from the proposed alterations to the existing drainage ditch that runs parallel to the site boundary with Sunnymead.

The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in Preliminary Drainage Layout (Drawing No. 0663-PDL-101-B, Rev. B, dated 26/07/2017). The approved details shall be implemented in accordance with the approved details prior to the occupation of any of the dwellings hereby approved and maintained as such thereafter.

Amend condition 13 as follows:

No part of the development hereby permitted shall be commenced until a Phase 1 intrusive investigation has been submitted to the Local Planning Authority. The investigation shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) A survey of the extent, scale and nature of contamination;
- (ii) An assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- adjoining land,
- groundwaters and surface waters,
- ecological systems,
 - archeological sites and ancient monuments;

(iii) An appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(c) No 3 on the Plans List (***17/01108/OUT – Outline for the erection of a dwelling and new vehicular access – land and buildings at NGR 301748 115242 north-east of Twin Oaks, Uplowman***)

The Area Planning Officer outlined the contents of the report highlighting by way of presentation the position of the proposed dwelling on the edge of the village, the proposed access point in the centre of the hedgerow, the existing access which would remain as access for agricultural use and photographs from various aspects of the site. She explained that being a village, Uplowman did not have a defined settlement limit.

Consideration was given to:

- Whether the proposal was defined as infill
- The school, public house and post office in the village
- Whether there was any physical harm of using the land for development of one dwelling
- Planning Policy with regard to development in unsustainable villages
- Repercussions of allowing such a site to be developed
- A previous appeal decision

RESOLVED that planning permission be granted for the following reasons:

The proposal is considered to be acceptable in that, in accordance with the provisions of paragraph 14 of the National Planning Policy Framework, the benefits of provision of a single dwelling that respects the existing development pattern of Uplowman and has no unacceptable impact on highway safety, visual amenity and the amenity of neighbouring residents, are considered to outweigh the harm caused by new residential development in a countryside location that is considered to be unsustainable in planning policy terms.

Delegated authority be given to the Head of Planning, Economy and Regeneration to draft a set of conditions for the development and to secure relevant planning obligations under a Section 106 agreement.

(Proposed by Cllr R F Radford and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Cllrs Mrs H Bainbridge, Mrs C Collis, Mrs F J Colthorpe, R J Dolley, P J Heal, D J Knowles, F W Letch, B A Moore, R F Radford, J D Squire and R L Stanley made declarations in accordance with Protocol of Good Practice for Councillors

in deal with Planning Matters as they had received correspondence regarding the application;

- (ii) Cllr R J Dolley declared a personal interest as he knew members of the public and the applicant;
 - (iii) Cllr R F Radford declared a personal interest as the applicant was known to him;
 - (iv) Mr Collier (Agent) spoke;
 - (v) The Chairman read a statement on behalf of the Chairman of Uplowman Parish Council;
 - (vi) A proposal to refuse the application was not supported (5 for: 6 against)
- (d) No 4 on the Plans List ***(17/01142/FULL – Variation of Condition 9 of planning permission 16/01180/FULL to change sections i) and ii) of the condition with reference to the location and source of feedstock and the subsequent ultimate destination of digestate from the anaerobic digester – land at NGR 299621 112764 (Red Linhay) Crown Hill, Halberton)***

The Principal Planning Officer outlined the contents of the report highlighting by way of presentation the variation to Condition 9 related to the requirement for further sites for cropping and digestate supply. He highlighted via a plan the existing sites for cropping from and digestate to and the land currently being used. The variation to the condition would allow the farmer some flexibility with regard to rotation and crop failure.

He provided answers to questions posed in public question time:

The liquid would be taken by tankers and he did not foresee an increase in the number of trips, he also stated that there had been no objection from the Highway Authority. The variation of the condition allowed for crop rotations and crop failure. With regard to the silage stored on the site, this was part of the farming activity, having spoken with the Environmental Health Department, there has not been any reports regarding this issue.

Consideration was given to:

- Transport issues with regard to the number of trips and the size of the vehicles
- The impact of the variation on the village of Halberton
- Whether crop rotation could take place with the land that was already set out in previous applications
- The fact that there would not be an increase in the number of trips
- The intensity of spreading the digestate
- The flexibility required.

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

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

Notes:

(i) Cllr R J Dolley stated that due to certain circumstances he would need to excuse himself from any discussion to do with the application and left the meeting during discussion thereon;

(ii) Mr Manley (Applicant) spoke.

e) No 6 on the Plans List ***(17/01224/OUT – Construction of new footpath and access steps to school entrance – land at NGR 301924 107472 – adjacent to St Andrews Primary School, St Andrews Estate, Cullompton)***

The Area Team Leader outlined the contents of the report.

Consideration was given to the proposed footpath and whether there was an additional route to the school without having to use steps. It was explained that the existing route did not have steps

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

(Proposed by the Chairman)

f) No 7 on the Plans List ***(17/01240/OUT – Outline for the erection of a dwelling – land at NGR 306965 114496 (2 Appledore Court) Burlescombe)***

The Area Team Leader outlined the contents of the report highlighting by way of presentation the site location plan, the access and photographs from various aspects of the site. She explained that this application was identical to the one previously refused by the Committee in July 2017.

Consideration was given to:

- The lack of a 5 year land supply and whether 1 dwelling would make a difference
- The proposal was a single dwelling in an unsustainable location
- The location of the proposal in the open countryside albeit in a small cluster of houses

RESOLVED that the Local Planning Authority declined to determine the (duplicate) application under S70 (b) of the Town and Country Planning Act 1990 as amended.

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

Notes: Mr Sebbinger (Agent) spoke;

66 **MAJOR APPLICATIONS WITH NO DECISION (3-21-57)**

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

It was **AGREED** that:

Application 17/01225/MFUL – Weavers Meadow, Langford remain delegated.

Application 17/01511/MOUT – Chapel Downs Farm, Barnstaple Cross be determined by the Planning Committee and that a site visit take place.

Application 17/01509/MFUL - rear of Town Hall Site, Tiverton be determined by the Planning Committee.

Application 17/01359/MOUT – Higher Town, Sampford Peverell be determined by the Planning Committee and that a site visit take place.

Application 17/01370/MARM – Harvesters, Uffculme - be determined by the Planning Committee.

Application 17/01323/MOUT – land east of Bolham Road, Tiverton - be determined by the Planning Committee and that a site visit take place.

67 **APPLICATION 16/01830/FULL - SITING OF 1 MOBILE HOME, 2 MOTOR HOMES AND A COMPOST WC AT OAK MEADOW, SILVERTON (3-29-00)**

The Committee had before it a * report of the Head of Planning Economy and Regeneration which had been deferred from the previous meeting so that a site visit could take place by the Planning Working Group.

The Area Team Leader outlined the contents of the report highlighting by way of presentation the site location plan, the proposed block plan, the existing structures on the site that had planning permission, the structures on the site which did not benefit from planning permission and the structures which were proposed as part of the application. Members viewed photographs from various aspects of the site and from the one of the footpaths at Killerton looking back across the valley to the site in question.

Consideration as given to:

- The concerns of the objector with regard to the siting of a traveller site outside the settlement limit
- What did and did not have the benefit of planning permission
- The personal circumstances of the family
- The details of the personal permission and the wording of any consent
- Whether there would be an increase of traffic on the private lane
- The provision of the bore hole and that it should be required within a specified time
- The landscaping of the site
- The definition of dependents

RESOLVED that planning permission be granted subject to:

- a) conditions as recommended by the Head of Planning, Economy and Regeneration;

- b) the rewording of Condition 3 to state that the site shall not be occupied by persons other than Miss Adele Perrot and her dependents, Mr Peter Perrot and Mrs Sue Perrot and Miss Nina Perrot and her dependents and Mr Nick Van der Kolt;
- c) an additional condition (7) to state that “No composted matter from either of the two composting toilets on site shall be spread on any land within 50 metres of the bore hole. REASON: to protect the amenity of the health of the occupants of the site by preventing pollution of the proposed water course in accordance with Policy DM2 and DM7 (LP3);
- d) delegated authority be given to the officer to word additional conditions with regard to:
 - To restrict any commercial use of the site other than for horticultural use.
 - The requirement for the bore hole within a specified period of time.
 - The retention of the green perimeter.

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

Notes

- (i) Cllr Mrs F J Colthorpe declared a personal interest as the objector was known to her;
- (ii) Mr Custance –Baker spoke in objection to the application;
- (iii) Mr Ruston (Agent) spoke;
- (iv) Cllr Mrs J Roach spoke as Ward Member;
- (v) The following late information was reported:

Location of proposed borehole

The location of the proposed bore hole is shown on one of the plans that form part of the presentation. There is currently no bore hole on site. The applicants have received a quotation for the drilling of a borehole. The company that have provided the quotation have stated that the borehole will be drilled up to 60 metres in depth and that having looked at the geological survey maps of the area plus local knowledge of the area that there are no problems anticipated with the drilling of a borehole on the land. A yield of up to 20 cubic metres of water per 24 hours has been estimated.

During discussions Environmental Health have commented that approximately 1 cubic metre of water equates to one persons requirement per day. There are proposed to be 8 people resident on the site at any one time, the estimated yield from the borehole of 20 cubic metres per 24 hours is therefore considered to be capable of providing adequate water supply. As a small supply, it is understood that the water source would need to be risk assessed and the water quality checked every 5 years.

Location of compost toilets

Following the Planning Working Group site visit, it can be confirmed that there are currently two compost toilets on the site. Both are shown on the plan included as part of the presentation.

Both compost toilets are more than 50 metres from the proposed location of the borehole. During discussions Environmental Health have commented that a compost toilet should be 50 metres from a borehole. Depending on the method of provision of the borehole the compost toilet could be closer than 50 metres from the borehole.

Representation from the National Trust

An email representation has been received from the National Trust, it states:

Application No: 16/01830/FULL - Oak Meadow, Silverton

Proposed siting of 1 mobile home, 2 motor homes and a compost w.c.

I am concerned about the way you have presented this case in your report to the Planning Committee, and I am asking on behalf of the National Trust that the following representation is reported to the Committee.

Neither the Committee Report nor the application submission are able to demonstrate that impact on the setting of heritage assets has been correctly assessed in accordance with national and local policy. Setting is not identified in the report under 5.0 as a material consideration.

The consideration to the impact on the setting of heritage assets is made under a section titled 'visual impact' (para 5.7) and the report considers the development in accordance with Policy DM27 "with regards to visual impact". However, case law has established that it is incorrect to take too narrow interpretation of setting – by equating it with visual impact. The Planning Court recently, in the relation to the following case near Kedleston Hall, determined Whilst "a physical or visual connection between a heritage asset and its setting will often exist, it is **not essential or determinative**". [<https://cornerstonebarristers.com/news/planning-court-endorses-broad-approach-setting/>].

The report identifies some harm to the setting of heritage assets, but it fails to adequately quantify that harm. It suggests under 5.7 that there will not be a 'significant' impact but it fails to equate this with "substantial" or "less than substantial" harm, or indicate whether the appropriate NPPF test has been applied (which presumably would be the one under para 134). It is unclear from the report if it has been considered in what way the setting of Killerton contributes to its significance in order to correctly apply that test, as the report fails to establish the relationship of the site to the heritage asset.

I unfortunately cannot make the Planning Committee on 6th September, but please confirm by return of email that you will be communicating these comments to the Planning Committee.

Local Planning Authority response to the representation from the National Trust

The setting of Killerton Estate, which is a heritage asset has been considered in the assessment of the planning application and was considered as part of the assessment of previous applications on this site.

The provision of two additional pitches on the site and the composting toilet are not considered to have a significant impact on the setting of Killerton as stated in the report. It is considered that the proposed use of the site (a majority of which has now occurred) results in 'less than substantial harm' to the setting of the heritage asset that is the Killerton Estate. A balanced judgement has been made regarding the significance of the heritage asset and the scale of harm or loss to the heritage asset. The NPPF states that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional. (para 132).

The local planning authority have visited the application site and assessed the visual relationship between the site and Killerton Estate. Killerton estate is a grade II* registered park and garden. The relationship between the site and Killerton estate has also been assessed from the public footpath between Killerton and Hayne Lane, and from the public footpath that runs north east-south west close to the north western boundary of Killerton Estate. It has been concluded that the proposed additional uses of the application site will result in 'less substantial harm' to the setting of Killerton Estate.

Any less than substantial harm to the setting of Killerton Estate is considered to be outweighed by the provision of two further pitches within the site that would provide additional housing within the district in a location that is considered to be acceptable for the provision of traveller accommodation and the proposal is therefore considered to pass the test regarding harm to heritage assets as set out in paragraph 134 NPPF.

(vi) *Report previously circulated, copy attached to minutes.

68 APPLICATION FOR A TREE PRESERVATION ORDER LAND AT NGR 306770/113041, CLAY LANE , UFFCULME (4.20.04)

The Committee had before it a * report of the Head of Planning Economy and Regeneration which had been deferred from the previous meeting to allow the Tree Officer to further inspect the tree with regard to its current status and that further photographs identifying the proximity of the tree to adjacent buildings be made available.

The Area Team Leader outlined the contents of the report stating that the Tree Officer had now revisited the site and provided a revised score for the tree, which

was now below what was required for the tree to be worthy of a Tree Preservation Order. Photographs were also presented showing the position of the tree in close proximity to an adjacent building.

RESOLVED that the Tree Preservation Order not be confirmed.

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

Notes:

- (i) The Chairman read a statement by one of the Ward Members;
- (ii) *Report previously circulated, copy attached to minutes.

69 **PLANNING PERFORMANCE (4.26.00)**

The Committee had before it and **NOTED** a * report of the Head of Planning Economy and Regeneration providing information on the performance of aspects of the planning function of the Council for Quarter 1, 2017/18.

The Area Team Leader outlined the contents of the report highlighting the performance against target for Development Management which continued to meet or exceed targets. With regard to Building Control, it was early days for the partnership with North Devon, but it was hope that performance would improve. The planning enforcement team were now fully staffed and working well.

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

(The meeting ended at 7.05 pm)

CHAIRMAN