

**NORTH DEVON COUNCIL**

Minutes of a meeting of Planning Committee held at Barum Room - Brynsworthy on Wednesday, 8th November, 2023 at 10.00 am

PRESENT: Members:

Councillor Davies (Chair)

Councillors Bishop, Bulled, Crabb, Denton, Haworth-Booth, R Knight, Lane, Lovering (substitute for Councillor C. Leaver), Prowse, L. Spear, Walker and Williams

Officers:

Service Manager (Development Management), Solicitor and Planning Officer

**37. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors C. Leaver and Maddocks. Councillor Lovering was appointed as a Substitute Member for Councillor C. Leaver.

**38. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETINGS HELD ON 6TH SEPTEMBER 2023 AND 5TH OCTOBER 2023**

RESOLVED that the minutes of the meetings held on 6 September 2023 and 5 October 2023 (circulated previously) be approved as correct records and signed by the Chair.

**39. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIR SHOULD BE CONSIDERED BY THE MEETING AS A MATTER OF URGENCY**

The Chair advised that following a recent meeting of the Committee there had been some informal complaints received in relation to remarks made by Members and reminded Members that their comments and representations made at Committee meetings should be based on planning matters rather than being aimed at individuals and requested that this was adhered to.

**40. DECLARATION OF INTERESTS**

There were no declarations of interest received.

**41. 77474: LAND AT WRIMSTONE FARM, COBBATON, BARNSTAPLE DEVON EX32 0QG**

The Committee considered a report by the Senior Planning Officer (SM) regarding planning application 77474.

Councillor Haworth-Booth advised the Committee that Swimbridge Parish Council was in support of the application.

RESOLVED (unanimous) that the application be APPROVED as recommended by the Senior Planning Officer subject to a condition being included that no infill material be imported on to the site for construction unless in agreement in writing with the Local Planning Authority.

**42. 77028: CASTLE INN, BLAKES HILL ROAD, LANDKEY, BARNSTAPLE, DEVON, EX32 0NF.**

The Committee considered a report by Planning Officer (DJ) regarding planning application 77028.

The Planning Officer (DJ) advised the Committee that since the publication of the report that the applicant had provided a Noise Management Plan which included mitigation measures such as the contact details of the manager being provided to immediate neighbours, proposals for checks on noise and behaviours that were likely to cause a disturbance. The Environmental Health technical officer had been consulted on the Noise Management Plan and did not support the proposed mitigation measures and therefore the recommendation remained as refusal.

The Senior Corporate and Community Services Officer read out statements received on behalf of Charles Waldron (supporter) and Tim Courtney (objector).

Darren Trick (supporter), Jannett Randal (supporter), Richard Medland (supporter), Elaine Brown (supporter), Steven Shepherd (objector) and Andy James (on behalf of the applicant) addressed the Committee.

In response to questions from the Committee, the Planning Officer (DJ) advised the following:

- The Environmental Health technical officer had recommended that the structure was not used for live music.
- In 2019, three noise complaints had been received and three had been received after the structure had been erected. Lighting had been referred to in some of the complaints received. These complaints had been made to Environmental Health. Noise levels were considered to be excessive as a result of some of the complaints had been made.
- Discussions had taken place with the applicant regarding proposed conditions. The applicant had not agreed with the proposed conditions. His position had been that he should be able to rely on the provisions of the

Licensing Act. The Noise Management Plan had not been produced in consultation with the Planning Officer or Environmental Health technical officer.

- As the beer garden was licensed, a live band could perform in the beer garden, however this would not occur in certain weather conditions or times of year.
- The current mitigation proposed in the Noise Management Plan were not acceptable, there could be a compromise, but this had been reached yet.

In response to questions from the Committee, David Morgan, Environmental Health technical officer advised the following:

- Different tests were applied under the Planning Act and Licensing Act. There was guidance on dealing with protecting existing residents and amenity. In relation to the licensed premises, evidence was sought in relation to previous public nuisance that had occurred. This guidance was not the same under the Planning Act. There was a different approach and different set of tests. There was a need to consider the noise arising from the licensed premises and other premises.
- The applicant had not provided any details of the proposed number of live events to be held, the only information that had been provided was that it would be occasional. On that basis, there was not sufficient control that the level of use was sufficient to cause a nuisance for neighbours. The number of events needed to be specified so that there was sufficient control.
- There was limited information available regarding the complaints that had been made to Environmental Health as a number of members of staff dealing with the complaints had since left the Council and therefore he had been reliant on the notes that had been left on the system. In 2019, the initial three complaints had been received and officers had found some justification of the complaints and had contacted the landlord to take steps to reduce the level of noise. In 2022, new complaints had been received and it was understood that these had not been closed due to staff having left the Council and therefore currently remained outstanding.
- As the structure required planning permission, there was a need to know the manner in which the structure would be used. The Noise Management Plan did not provide enough information to mitigate noise and did not include the level of detail required such as how many events would be, times and purpose of events. It also included that the noise levels was to be controlled to a level to be deemed appropriate by the premises supervisor, which was not an appropriate protection for residents.
- The proposed condition to restrict the use of the structure until 9pm was a possible option to protect the residents. If live and recorded music playing in the beer garden, residents would hear it. The current licence says that no live music to be played outside, however this licence had been replaced by Government legislation which allowed live music to be played outside.

Andy James (on behalf of the applicant) advised the Committee that the timber structure had been erected in March 2022.

In response to questions from the Committee, the Service Manager (Development Management) advised the following:

- There was already a beer garden that could be used under the Licensing Act.
- The structure required planning permission.
- The Committee needed to consider whether having the structure had more of a severe impact than of a beer garden for example would it be used more at other times, eg in adverse weather conditions or the winter time and have an impact on neighbouring amenity.
- Marquees could be erected for a temporary period of 28 days without the requirement for planning permission.
- The applicant had been requested to submit a Noise Management Plan and it hadn't been submitted prior to the publication of the report.
- The Planning Officer had tried to find a solution with the applicant/agent.
- Restrictions could be imposed on hours of use of the structure under the Planning Act.
- The Noise Management Plan had been submitted since the publication of the agenda, but had not been produced in consultation with the Planning Officer or Environmental Health technical officer.
- The site was located in a conservation area. Therefore an acoustic or landscaped bund to mitigate noise may be considered more appropriate.
- Questioned the temporary permission of the structure as it has been in place a few years now to make that judgement in terms of amenity.

Councillor Haworth-Booth read out a statement on behalf of Richard Halliday, Chair of Landkey Parish Council to the Committee.

Councillor Lane addressed the Committee in his capacity as Ward Member.

RESOLVED (12 for, 0 against, 0 abstained) that the application be APPROVED subject to the following conditions:

- (a) That appropriate sound mitigation barriers be installed on the boundary to reduce sound to be approved in writing by the Local Planning Authority;
- (b) The opening hours for the serving of food in the dining area of the structure be the same as those for the public house;
- (c) That live music in the structure end at 10.30 pm;
- (d) That a Noise Management Plan be submitted and approved by the Local Planning Authority.

The Committee considered that the principle of development was to be acceptable subject to a Noise Management Plan being submitted and approved by the Local Planning Authority which can mitigate the impacts of amenity of neighbours properties pursuant to policy DM01.

#### **43. ADJOURNMENT OF MEETING**

RESOLVED that the meeting be adjourned for a comfort break and reconvened at 11.55 a.m.

Councillor R. Knight left the meeting.

**44. APPEAL REPORT**

The Committee considered and note the appeal report by the Senior Planning Support Officer (circulated previously).

The Service Manager (Development Management) provided an update in relation to planning appeals 73875, 74082, 74197, 75015, 75762 and 74895.

**45. TO CONSIDER IF ANY PLANNING SITE INSPECTIONS ARE REQUIRED AND TO AGREE THE REASON(S) AND DATE(S) FOR THOSE INSPECTIONS TO BE HELD.**

There were no Planning Site Inspections required.

Chair

The meeting ended at 12.09 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.