

NORTH DEVON COUNCIL

Minutes of a meeting of Planning Committee held at Barnstaple Rugby Club on Wednesday, 6th November, 2024 at 10.00 am

PRESENT: Members:

Councillor Davies (Chair)

Councillors Bishop, Bulled, Haworth-Booth, R Knight, Lane, Maddocks, Prowse, Walker, Whitehead and Williams

Officers:

Service Manager (Development Management), Lead Planning Officer (North), Senior Planning Officer, Solicitor, Legal Advisor, Planning Officer and Planning Policy Officer (MA)

72. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Denton, C. Leaver and Spear.

73. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 9TH OCTOBER 2024

RESOLVED that the minutes of the meeting held on 9 October 2024 (circulated previously) be approved as a correct record and signed by the Chair.

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

(a) Recording of Meeting

The Chair advised that a member of the public would be recording discussions in relation to planning application 76857 and that he would also be recording the meeting.

(b) Order of Agenda

RESOLVED that application 78873 be considered prior to application 79237 as there were members of the public registered to speak on this application.

75. DECLARATION OF INTERESTS

The Solicitor and Data Protection Officer gave a reminder to the Committee in relation to the declaration of interests. A declaration under the Code of Conduct will be a Disclosable Pecuniary Interest, an Other Registerable Interest or a Non-Registerable Interest. If the matter does not directly relate to the interest but still affects a Councillor then they must consider whether they are affected to a greater extent than most people and whether a reasonable would a reasonable person would consider their judgement to be clouded.

The following declaration of interest was announced:

Councillor Maddocks – planning application 79173, disclosable pecuniary interest.

**76. 76857: LAND AT LEY LANE PATCHOLE BARNSTAPLE
KENTISBURY EX31 4NB**

The Committee considered a report by the Senior Planning Officer (SE) (circulated previously) regarding planning application 76857.

Graham Townsend (Planning agent – supporter), Oliver Perrin (objector), James Bradley (objector), Jemma Grigg (applicant) and Matt Steart (agent) addressed the Committee.

The Senior Corporate and Community Services Officer read a statement on behalf of Liz Lillicrap (objector) to the Committee.

In response to comments made, the Service Manager (Development Management) advised the following:

- In accordance with section 36 of the Planning Act, all planning applications should be determined in accordance with the Planning Acts and also in accordance with the development Plan unless material considerations indicate otherwise.
- An interpretation of principal built form relating to Patchole was referenced in the Planning Inspectorate Appeal decision of 2022.
- The principle consideration in relation to this application was the tenure of development and whether the site was within the principal built form or well related to the settlement.
- The Planning Policy Officer, who had been involved in the preparation of the Local Plan, was present at the meeting, to answer any questions in relation to the interpretation of the principal built form.
- If the Committee were minded to approve the application, there was a need to evidence the reasons for going against the officer recommendation.

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

- The National Design Guide was a material consideration and was required to be considered as part of the balance of weighting of the whole application.

- In accordance with Planning law, all applications were required to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan was sound as it had been tested.
- The interpretation of policy for each settlement under Policy DM23 would be different depending on the physical circumstances of the particular settlement.
- Approval of this application could set a precedent although future applications would be determined on their merits and facts.
- The Planning Inspectorate Appeal decision of 2022 sets out a view as to where the principal built form is located in Patchhole.
- In accordance with Policy DM23 of the Local Plan, defining the principal built form of a settlement would be a question of application of the accepted principle based on the physical layout of the settlement and its relationship to a development site.
- There was a housing crisis and officers consider that this site should support the provision of affordable housing as it wasn't considered to be part of the principal built form but could be considered to be well related to the settlement.
- It was considered that the property located at the North East was outside of the built form.

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

- The ownership and use of the land adjacent to the listed barns was unknown to Officers at the time of the Committee meeting. The curtilage of the site was a separate matter. In his opinion, the area referred to may be or formerly used for car parking. It was not part of the calculation for the built form. The principle consideration in relation to this application was it was not within the principal built form.
- Identified the location of the property on the north east of the site on the plan.

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

- The principal built form was not identified in the Local Plan, but was included within supplementary documents.
- The FAQ's to the Local Plan and Affordable Housing Supplementary Planning Document seek to provide additional support to define principal built form of a settlement which states. "The principal built form is **not** considered to include the following: any agricultural buildings, associated yards and built farm complexes; any greenfield land on the edge of the settlement; any curtilage of properties that are considered to extend unduly into the countryside; and any buildings or other developed land that are sporadic, disconnected or remote from the main cluster(s) of buildings, their associated curtilage or other developed land."
- Appeal dismissed in Patchole on land adjacent The Stables (72698) where the Inspector recognised that "the village of Kentisbury comprises dispersed clusters of built form, predominately focussed along the key roads in the area.

In Patchole, the principal built form is clustered around the junction between Ley Lane and Ford Hill/Stonecombe Hill, with properties primarily fronting these roads”.

- The property located at the north east of the plan was not considered to be part of the built form.
- In terms of the national policy, the property located in the north east wouldn't be considered as remote. It was not part of the principal built form in accordance with the Local Plan. The site was considered to be well related. If the tenure was for affordable housing, the proposal would be considered to be acceptable.

Councillor Prowse addressed the Committee as he was the Ward Member.

The Chair outlined the steps to be followed in accordance with the Planning Code of Conduct, Paragraph 9, Part 5 of the Council's Constitution as follows:

“9.4 Where a councillor wishes to move or moves a motion which differs from the officer's recommendation consideration should be given to adjourning the committee meeting for a few minutes for the reasons for such a motion to be discussed.

9.5 The officer should be given an opportunity to explain the implications of any contrary decision, including an assessment of a likely appeal outcome based on policies set out in the development plan and the NPPF, and chances of a successful award of costs against the local authority, should one be made.

9.6 Where there is concern about the validity of reasons, consideration should be given to deferring to another meeting to have the reasons tested and discussed.

9.7 If the planning committee makes a decision contrary to an officer's recommendation (whether for approval or refusal or changes to conditions or section 106 planning obligations) then a detailed minute of the committee's reasons, which should set in the context of the development plan or the NPPF, should be made and a copy placed on the application file.”

RESOLVED, following the moving and seconding of a motion to approve the application as the proposal was in the Committee's opinion within the principal built form of Patchole and therefore compliant with Policies ST19 and DM23 of the Local Plan and the location of the property in the north east was considered to be within the principal built form, which differed from the Planning Officer's recommendation, that in accordance with paragraph 9.4 of the Planning Code of Conduct the meeting be adjourned at 11.03 a.m., for the reasons for such a motion to be discussed with the mover and seconder of the motion and officers.

RESOLVED that it being 12.17 p.m. that the meeting be reconvened.

In accordance with paragraph 9.5 of the Planning Code of Conduct, the Chair provided the Planning officer with the opportunity to explain the implications of any contrary decision.

The Service Manager (Development Management) advised that the Committee had the right to go against Officer recommendations. The reasons for the Officer recommendations were clearly outlined in the committee report. If the Committee was minded to take a decision that was contrary to the Officer recommendation, then there needed to be adequate reasons provided for going against Policy DM 23 (1) (a), Planning Policies, other material considerations and the Local Plan as a whole.

In accordance with paragraph 9.7 of the Planning Code of Conduct, the Chair invited the mover of the motion, Councillor Walker, to address the Committee.

Councillor Walker advised the Committee that there had been a thorough discussion for the reasons for the motion and then asked the Senior Corporate and Community Services to read the reasons to the Committee.

The Senior Corporate and Community Services Officer read the motion and reasons to the Committee.

RESOLVED (6 for, 4 against, 0 abstained) that the application be APPROVED subject to the Service Manager (Development Management) being delegated power to attach the associated planning conditions.

REASONS

Having carried out a site inspection, the Committee finds that the proposal for an open market dwelling in this location is acceptable and in accordance with Policy DM23 (1) (a) of the North Devon and Torridge Local Plan with reference to the following material considerations:

- (a) Planning Inspectorate Appeal 2022 reference (APP/X1118/W/21/3288689) states that “the principal built form is clustered around the junction between Ley Lane and Ford Lane/Stonecombe Hill with properties primarily fronting these roads” and that the Committee viewed the triangulation of the two storey dwelling to the North East (property known as Roseley);
- (b) That the officers significant weighting of the previous planning decision 66536 on the site is given less weight due to the findings of what principal built form can consist of as referenced in the Planning Inspectorate Appeal 2022 reference (APP/X1118/W/21/3288689);
- (c) That the officers significant weighting of the previous planning decision 59968 is given less weight as it was determined under a previous Local Plan and no longer forms part of the Development Plan for North Devon;
- (d) Consider the proposal is in accordance with Paragraph 89 of the National Planning Policy Framework, supporting a prosperous rural economy, which states “the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist”;
- (e) Whilst the objections for the application received have been noted by the Committee, the proposed development is therefore in accordance with the Development Plan when read as a whole.

77. ADJOURNMENT OF MEETING

RESOLVED that it being 12.23 pm that the meeting be adjourned for a comfort break and that it be reconvened at 12.34 pm.

78. 78873: MANLEIGHS, MANLEIGH LODGE, KILN LANE, COMBE MARTIN, DEVON, EX34 0LY

The Committee considered a report by the Planning Officer (KW) (circulated previously) regarding planning application 78873.

The Senior Corporate and Community Services Officer read out a statement on behalf of Amy Wells (supporter) to the Committee.

Laura Lethaby (applicant) addressed the Committee.

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

- There had been two appeals decisions relating to this site. Planning permission had been refused in 2015 for a new dwelling which was located close by to the north of this site. One of the reasons for refusal had been in relation to highways safety, which was a similar reason that had been given by Devon County Council Highways Authority in relation to this application. The appeal had been dismissed and the Inspectorate had agreed with the Highways Authority objections to the application.
- The second was in 2020 which related to enforcement case 10878 for the subdivision of the main dwelling into flats and the use of the garage/store as a dwelling. The appeal was dismissed with regards to the use of the garage/store as a dwelling as the Inspectorate had agreed with the Highways Authority in relation to concerns for the increased risk of highway safety and that it was likely to generate 6-8 vehicle movements per day.
- There was no underpass located under Kiln Lane. Kiln Lane was a no through road. He showed the accesses to the site on a Google maps image.
- There were already an amount of existing vehicle movements for the existing ancillary building. These were not relevant to the new building proposed.

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

- Planning application reference 40120 was for the erection of a garage/workshop to be used ancillary to Manleigh House.
- The planning appeal was in relation to a new dwelling outside of the development boundary. This application was for a conversion, therefore the principle of development was different.
- Read out paragraph 115 of the National Planning Policy Framework in relation to cumulative impact.

RESOLVED that it being 1.00 p.m. that the meeting continue in order for the remaining business to be transacted.

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

- The A399 was 30 mph. The Devon County Council Highways Officer was not present at the meeting, therefore, the total number of vehicle movements per day using this junction could not be confirmed.

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

- Devon County Council Highways Authority, if present, would advise that this proposal would generate an additional 6-8 vehicle movements per day.
- This development would not result in the removal of the vehicles from the site. It was assumed that the vehicles shown on the photographs were for other dwellings.
- It was for the Committee to consider whether there were benefits of reusing the existing building and if these outweighed the concerns raised by the Highways Authority in relation to highway safety in generating an additional 6-8 vehicle movements per day.
- The removal of the existing vehicles within the parking area was not reasonable to be included as a planning condition. She was not sure that a site visit would be beneficial for the Committee as the proposal would not overcome the Highways Authority reasons for refusal.

In accordance with paragraph 9.5 of the Planning Code of Conduct, the Chair provided the Planning officer with the opportunity to explain the implications of any contrary decision.

The Service Manager (Development Management) advised that the Committee had the right to go against Officer recommendations. The Committee could consider the planning balance differently if it considered that the benefits outweighed the highways safety objections and would need to provide reasons to go against Officer recommendations. If the Committee were minded to approve the application, she did not have any concerns regarding the implications of such a decision.

In accordance with paragraph 9.6 of the Planning Code of Conduct, the Chair advised that there was no reason to consider deferring the meeting.

In accordance with paragraph 9.7 of the Planning Code of Conduct, the Chair invited the mover of the motion, Councillor Lane, to provide reasons for the proposed decision.

Councillor Lane advised the Committee of the following reasons for the proposed decision of approval:

- On balance taken as a whole the benefits outweighed the harm.

- The additional 6 – 8 vehicle movements per day would not have a severe impact on the highway safety, residents and users of the road.

The Service Manager (Development Manager) suggested the inclusion of the following conditions:

- The Plans detailed in Informative 1 are to become the approved plans.
- Conditions in relation to conversion, time limit, approved plans, materials, landscaping, removal of Permitted Development Rights, Bio Net Gain informative/self build and land contamination.

The Solicitor confirmed that the procedures had been followed correctly.

RESOLVED (10 for, 0 against, 0 abstained) that the application be APPROVED subject to the inclusion of the following conditions:

- (a) The development shall be carried out in accordance with the approved plans;
- (b) In relation to conversion, time limit, approved plans, materials, landscaping, removal of Permitted Development Rights, Bio Net Gain informative/self build and land contamination.

In reaching its decision, the Committee gave the following reasons:

- On balance taken as a whole the benefits outweighed the harm.
- The additional 6 – 8 vehicle movements per day would not have a severe impact on the highway safety, residents and users of the road.

79. 79237: 12 THE ORCHARDS LANDKEY BARNSTAPLE DEVON EX32 0QP

The Committee considered a report by the Graduate Planning Officer (circulated previously) regarding planning application 79237.

RESOLVED (unanimous) that the application be APPROVED as recommended by the Graduate Planning Officer.

80. 79173: LAND OFF SOMERTHING LANE, CROYDE

Councillor Maddocks re-declared a disclosable pecuniary interest in the above application and left the room during the consideration thereof.

The Committee considered a report by the Planning Officer (KW) (circulated previously) regarding planning application 79173.

The Service Manager (Development Management) advised the Committee that following the receipt of an amended plan the consultation period did not expire until 13 November 2024, therefore it was recommended that the application be deferred and considered at the next meeting of the Committee in December 2024.

RESOLVED (unanimous) that the application be DEFERRED and considered at the next meeting of the Committee in December 2024 as the consultation period following the receipt of an amended plan did not expire until 13 November 2024.

81. APPEAL REPORT

RESOLVED that consideration of the appeal report be deferred until the next meeting of the Committee.

82. CLASS Q PERMISSIONS

RESOLVED that consideration of the presentation by the Service Manager (Development Management) on Class Q Permissions be deferred until the next meeting of the Committee.

83. 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 to be undertaken by the Committee.

Chair

The meeting ended at 1.35 pm

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