

**NORTH DEVON COUNCIL**

Minutes of a meeting of Planning Committee held at Barnstaple Rugby Club on Wednesday, 5th March, 2025 at 10.00 am

PRESENT: Members:

Councillor Davies (Chair)

Councillors Bishop, Bulled, R Knight, Lane, C Leaver, Lethaby (substitute for Councillor Maddocks), Prowse, Walker, Whitehead and Williams

Officers:

Service Manager (Development Management), Lead Planning Officer (North), Lead Planning Officer (Major Applications), Solicitor, Senior Planning Officer and Housing Enabling Officer

Also Present:

Councillors Biederman, Coombs and Wilkinson

**115. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Denton, Haworth-Booth and Spear.

The Senior Corporate and Community Services Officer advised that Councillor Lethaby had been appointed to substitute for Councillor Maddocks.

**116. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 12TH FEBRUARY 2025**

RESOLVED that the minutes of the meeting held on 12 February 2025 (circulated previously) be approved as a correct record and signed by the Chair.

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

There were no items brought forward which in the opinion of the Chair should be considered as a matter of urgency.

**118. DECLARATION OF INTERESTS**

The following declarations of interest was announced:

Councillor Walker – planning application 79375, as she had met with the developer and was considered to be deemed as pre-disposed towards a particular decision.

**119. 79375: LAND NORTH OF OLD BIDEFORD ROAD, BARNSTAPLE**

The Committee considered a report by the Lead Planning Officer (Major Applications) (JM) (circulated previously) regarding planning application 79375.

The Lead Planning Officer (Major Applications) reported the following to the Committee:

- That the Devon County Council Waste Contributions of £128 per dwelling had been omitted from the table containing the infrastructure requirements that had been identified for the development which in the event of an approval would be secured via conditions and section 106 under paragraph 9.4 of the report.
- A full formal response had been received from South West Water which confirmed that the foul drainage could be removed from the site without having to undertake specific infrastructure works.

The Senior Corporate and Community Services Officer read out statements received from John and Linda Edgar (objectors) and Jason Nance (objector) to the Committee.

Mr Hal Parsons (applicant) addressed the Committee.

Councillor Walker addressed the Committee in her capacity as Ward Member and then left the meeting during the consideration of this application.

Councillor Biederman addressed the Committee in his capacity as adjoining Ward Member.

In response to a question raised by Councillor Biederman, Mr Parsons (applicant) advised the Committee that works would be undertaken to include traffic calming measures to be built out opposite the access to the Red Row site to allow only one vehicle to pass and to connect the Red Row estate to footpath 17.

In response to questions, the Lead Planning Officer (Majors) (JM) advised the following:

- That power could be delegated to herself in consultation with Devon County Council Highways Authority, the Chair of the Committee and Ward Members to define improvements to be made to the northern arm of the roundabout and secure section 106 contributions.
- The open space and green infrastructure on the site provided sufficient space for play area, allotments and informal amenity and green space which would be secured through a section 106 agreement. The agreement would set out the detailed layout and the management arrangement for the areas.

- The provision of a small convenience store came about following pre-app discussions with the applicant at the request of the Local Planning Authority. The table on page 55 of the report detailed distance and walking times to existing supermarkets. When considering walkabout neighbourhood principles the development should be within 10 minute walk of key facilities which included a convenience store. The proposed small convenience store was not designed to replace the existing supermarkets or compete. It was to create a sustainable neighbourhood and also improve sustainable development next to the site.
- In response to a question regarding bus access There are existing bus stops on Old Bideford Road. The distance to the nearest bus stop was located on Westermoor Way which was approximately 600 metres away from the site access. There was no proposal to extend the current bus service into the development, however the frequency of the bus service would increase from hourly to half-hourly and there would be an earlier bus as part of the requests from DCC.
- The provision of an additional bus stop would require Devon County Council to request that it was provided and additional financial contributions sought.
- Trigger points would be secured through the section 106 agreement to provide affordable housing. Affordable housing would be “pepper potted” throughout the development.
- The Devon County Council Highways Authority as part of their initial comments would have considered the transport management plan and reviewed the onward connections to the Cedars Inn and Roundswell roundabouts. The level of detail of the rationale had been considered had not been broken down as part of their consultee response. There had been difficulties as part of the Yelland Quay development seeking section 106 contributions for the Cedars Inn roundabout, which was no longer required. Devon County Council Highways Authority aspiration was to provide an additional roundabout on the A39, however this requires a piece of land. It was her understanding that this was not being pursued and therefore no contributions had been sought. It was included in the Devon County Council Transport and Infrastructure Plan but has not been pursued by the County as a priority.
- Due to the width of the Old Bideford Road it was difficult to segregate pedestrians, cyclists and vehicles. Cyclists would be required to use the road, which was a relatively short route and then join the existing cycling network at the junction with Tews Lane. The 30mph speed limit would be extended further along the Old Bideford Road.
- The indicative layout set out the vehicle routes and the number of pedestrian crossings would increase. Residents would not have to walk the whole of the site as there were routes proposed within the layout. If an additional access was created, it would result in the loss of hedgerow and have an impact on biodiversity. It would also result in additional conflicts for traffic turning.
- If an access was created in the south west corner of the site, pedestrians and cyclists would be joining an unsafe piece of road.

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

- In terms of how the section 106 contributions were spent, it was outside of the Local Planning Authority's to hold to account. In terms of GP practices, the Local Planning Authority consulted with NHS Primary Care to gain an understanding of their requirements. In the past some section 106 contributions had been spent on providing additional services or to expand an existing GP surgery. A Freedom of Information request would be required to be made to the appropriate organisation to gain an understanding of how Section 106 contributions were allocated.
- It was an outline application, the details of the scheme would be contained within the reserved matters application. There was no planning policy to support the provision of environmental factors of design such as the requirement for solar panels or air source heat pumps and therefore to trigger planning conditions.
- Feedback could be requested from Devon County Council regarding the formula for calculating Section 106 contributions for early years contributions.
- The frequency of the bus service would change to half hourly. There was capacity within the existing bus route and no request to provide an additional bus stop. A representative from Devon County Council Highways Authority had been invited to attend the meeting, but no reply had been received.
- A representative from Devon County Council Highways Authority was not present to provide further information in relation to their consultee response. The Highways Authority as part of their consultee response would have looked at the paragraph 16 of the National Planning Policy Framework, considered highway safety and the residual cumulative impact on the road network. They had not raised any objections to this application and it could not be refused on the basis of highways grounds. The connectivity to Roundswell and for pedestrians were good. On the whole, the benefits outweighed the harm.
- There was no highway justification to seek an additional access to the site. The connectivity for pedestrians and cyclists would be included within the reserved matters application. An additional access could not be achieved by amending the application.

Councillor Prowse declared a non-registerable interest as a Director of a CIC Pre-school.

RESOLVED that application be APPROVED as recommended by the Lead Planning Officer (Major Applications) with delegated authority approved to refine conditions and planning obligations and in relation to highways in consultation with the Devon County Council Highways Authority and Ward Members.

It was noted that Devon County Council would be requested to provide further information regarding the formula for the calculation of Section 106 contributions for early years contributions.

**120. ADJOURNMENT OF MEETING**

RESOLVED that it being 11.26 am that the meeting be adjourned for a comfort break and that it be reconvened at 11.33 am

**121. 79478: BARN OWL AND TAWNY OWL, EASTLEIGH BARTON, EASTLEIGH, BIDEFORD, DEVON EX39 4PA**

The Committee considered a report by the Senior Planning Officer (JJ) (circulated previously) regarding planning application 79478.

Mrs Catherine May (applicant) addressed the Committee.

Councillor Coombs, as Ward Member, addressed the Committee in support of the application).

Councillor Biederman, Devon County Councillor, addressed the Committee in support of the application.

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

- Clarified the reasons for refusal as detailed on pages 120 and 121 of the report.

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

- Whilst understanding that there were personal circumstances, Planning Law required planning applications to be determined in accordance with the National Planning Policy Framework and the development plan. There had been similar previous planning applications where there had been personal circumstances which had been consistently refused. The Planning Inspector would consider whether the applicant had looked at the way that they operated their holiday lets, had the applicant looked at the possibility of using a letting agent and whether all options had been explored. There was nothing to trigger local needs occupancy in respect to planning policy.

Councillor Prowse left the meeting.

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

- If it was a redundant building, then Policy DM27 would apply. However, this building was not a redundant building.
- There was a requirement for the properties to be marketed to ascertain whether there was a requirement for tourism use. There was a need to also ascertain how it was being actively marketed as holiday use lets. The Committee should not be considering personal circumstances. It was considered to be a good location for tourism as it was a short drive to various tourist destinations.

- Part 3 of Policy DM18 would be reviewed as part of the review of the Local Plan.

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

- Booking records had been provided for both Tawny Owl Cottage and Barn Owl Cottage. There had been bookings for Tawny Owl Cottage throughout the year and there had been less for Barn Owl Cottage. The reasons for this had not been provided.
- Paragraph 13.109 of the supporting text to Policy DM18 stated “Marketing will be considered to be appropriate when the property has been presented to the market at a reasonable price, with appropriate conditions identified and for a period of at least 12 months prior to the application's submission”. This would enable the market to be tested to ascertain whether there was still a demand for tourism use, other operators may express an interest and may be able to improve occupancy or the owner may sell. It would be required to be marketed at a “marketable price” as a going concern “with one or more agents for a 12 month period. This marketing had not occurred. Compelling evidence had not been provided. The figures for 2024 still showed a level of occupancy for tourism. The Local Planning Authority would require this evidence which would include the number of inquiries and the reasons as to why it had not resulted in a sale. It would also determine if there was a genuine interest from other operators. Quite often a sale would not proceed due to a property having a holiday occupancy or it might result in someone being interested in running it as a tourism accommodation business.
- The applicant had not provided evidence of other options that had been explored such as an agent managing the bookings.
- The bookings records did not include details of how many days were for holiday use or owner use. No information had been provided in relation to financial viability of the business.
- Evidence of marketing would also include how the properties had been marketed for holiday accommodation lets.
- A review of booking websites had been carried out and the properties were available for booking at the time that the application was submitted. They were of a good standard and had received good ratings from guests that had stayed there. The holiday lets were well located for other tourism destinations.

In response to questions from the Committee, the Solicitor and Data Protection Officer advised the following:

- Referred to the reasons for refusal as detailed in the report. In relation to reason 1, there were two elements, whether the holiday lets had been marketed and booked and also whether it had been tested to ascertain if there was wider tourism in the area by marketing the properties for 12 months. There needed to be an evidential basis within reasons and Officers had advised that this marketing had not been undertaken. Reference was made to the paragraph on page 116 which stated “Without the marketing exercise

being undertaken, it is not possible to determine that the properties are no longer required as tourism accommodation, and the booking records indicate that Tawny Owl Cottage is making a positive contribution to the rural economy, with a significant level of occupancy throughout 2024.”

Following the moving and seconding of a motion to approve the application, 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.”

RESOLVED, following the moving and seconding of a motion to approve the application, 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 12.45 p.m., for the reasons for such a motion to be discussed with the mover and seconder of the motion, the Chair and officers.

RESOLVED that it being 1.16 p.m. that the meeting be reconvened. In accordance with paragraph 9.7 of the Planning Code of Conduct, the Chair invited the mover of the motion, Councillor Lane, to address the Committee.

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

Councillor Lane read the amended motion and reasons to the Committee.

RESOLVED (8 for, 1 against, 0 abstained) that in accordance with Paragraph 9.6 of the Planning Code of Conduct that the application be deferred for at least two cycles to test the following reasons for approval contrary to officers recommendation:

1. There is compelling evidence that such a restriction is justified in accordance with Policy DM18.
2. On balance, the main reason of Policy DM18 outweighs the harm.
3. On balance, the minimum space for amenity could be acceptable in planning terms.

**122. 79441: SEAVIEW MEADOW, WOOLACOMBE STATION ROAD, WOOLACOMBE, DEVON, EX34 7AN**

Councillors Bulled and R. Knight left the meeting prior to consideration of this application.

The Committee considered a report by the Planning Officer (MK) (circulated previously) regarding application 79441.

The Lead Planning Officer (North) reported the receipt of an amended landscape plan following the publication of the agenda.

Kim Dennis (supporter), Michael Whip (supporter), Mr Gould (applicant) and Mr Townsend (agent) addressed the Committee.

Councillor Wilkinson, Ward Member, addressed the Committee in support of the application.

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

- In relation to an application that had been approved previously adjoining the site, since that approval Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 had placed a new duty on the Local Planning Authority in relation to land in an Area of Outstanding Natural Beauty (National Landscape).
- Referred to the supporting text of Policy MOR as detailed on page 137 of the report.
- A photo showed that the existing property on the site was smaller than the proposed dwelling. It was proposed that landscaping to the lower part of the site would filter visibility from the wider area.
- The amended Landscaping Plan had only received the previous week and further consultation had not been undertaken with the AONB regarding enhancing landscaping as it had been considered that it would not affect the overall view.
- There were mobile homes located to the north west of the site, no built form on the north and some built form on the east/south of the site.
- The direct line distance from the development to the boundary was 950m. If you travelled by road, this distance would be higher and would increase further to the centre of the village. Local needs dwellings were normally located adjacent to a development boundary.

In response to questions from the Committee, the Solicitor and Data Protection Officer advised the following:

- The supporting text of Policy MOR paragraph 12.316 sets out an exception basis on which new housing may be supported outside of the development boundaries of Woolacombe and Morteohoe. The fourth paragraph related to the new National Landscape duty which included “seek to further the statutory purposes of the area by way of conserving and enhancing the natural beauty of the AONB” which was a further step for Local Planning Authorities to meet. There were now extra measures to seek to develop and protect the national landscape. The new duty was legislation and not policy.
- Referred to the consultee response from the North Devon Coast National Landscape.

Following the moving and seconding of a motion to approve the application, 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.

RESOLVED, following the moving and seconding of a motion to approve the application, 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 2.10 p.m., for the reasons for such a motion to be discussed with the mover and seconder of the motion, the Chair and officers.

RESOLVED that it being 2.29 p.m. that the meeting be reconvened.

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

RESOLVED (7 for, 0 against, 0 abstained) that the application be APPROVED as applied for subject to a section 106 legal agreement to tie the occupancy to a local needs dwelling and planning conditions delegated to the Planning Office for the following reasons:

- (a) In terms of consistency of decision making and with regard to planning permission granted adjacent to the site for the same type of development.
- (b) It is considered that the duty under Section 245 of the Levelling Up and Regeneration Act 2023 in relation to the national landscape to seek to further the conservation and enhancement is met by the following considerations:
  - a. The removal of the existing structure
  - b. Landscaping enhancements

**123. APPEAL REPORT**

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

The Service Manager (Development Management) provided an update in relation to planning appeals 78384 and 77719.

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

The Committee noted that site inspections had been scheduled to take place on 12 March 2025 in relation to applications 78364 and 79268 and on 19 March 2025 in relation to application 77576.

Chair

The meeting ended at 2.35 pm

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