

NORTH DEVON COUNCIL

Minutes of a meeting of Planning Committee held at Barnstaple Rugby Club Main Room - Barnstaple Rugby Club on Wednesday, 9th June, 2021 at 10.00 am

PRESENT: Members:

Councillor Ley (Chair)

Councillors Biederman, Crabb, Davies, Fowler, Jenkins, Leaver, Mack, Mackie, Prowse, D. Spear, L. Spear, Tucker and Yabsley

Officers:

Lead Planning Officer (South), Planning Officer, Chief Executive, Senior Solicitor/Monitoring Officer and Business Information Systems Manager

Also Present:

Councillor Pearson

30. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Gubb, who appointed a substitute, Councillor Biederman, to attend in her place.

31. TO APPROVE AS CORRECT RECORDS THE MINUTES OF THE MEETINGS HELD ON 28TH APRIL 2021 AND 19TH MAY 2021

RESOLVED that the minutes of the meetings held on 28th April 2021 and 19th May 2021 (circulated previously) be approved as correct records and signed by the Chair with the amendment to minute no.19 of the minutes of 28th April 2021, as follows: "Councillor Biederman addressed the Committee as a Committee Member".

32. DECLARATION OF INTERESTS

The following declarations of interest were announced:

Councillor D Spear Planning application 60823: Personal interest as a Council representative for the North Devon Biosphere.

Councillor Yabsley Planning application 60823: Personal interest as a Council representative for the North Devon Biosphere.

Councillor Crabb Planning application 60823: Personal interest as a Business customer of the applicant (Mr Jury).

33. 73002: APPLICATION UNDER REGULATION 3 OF THE T & C P REGULATIONS NOTIFICATION BY NORTH DEVON COUNCIL IN RESPECT OF REPLACEMENT OF LADDERS WITH NEW SOLAR POWERED TOP STEP DOWN LIGHT AND REPLACEMENT TOP SAFETY HAND RAILINGS TOGETHER WITH INSTALLATION OF NEW FENDERS AT THE QUAY WALL AND OLD QUAY HEAD, ILFRACOMBE, DEVON.

The Committee considered a report by the Planning Officer (circulated previously).

The Planning Officer addressed the Committee.

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

34. 72987: LISTED BUILDING CONSENT FOR REPLACEMENT OF LADDERS WITH NEW SOLAR POWERED TOP STEP DOWN LIGHT & REPLACEMENT TOP SAFETY HAND RAILINGS TOGETHER WITH INSTALLATION OF NEW FENDERS AT QUAY WALL AND OLD QUAY HEAD, THE QUAY, ILFRACOMBE, DEVON.

The Committee considered a report by the Planning Officer (circulated previously).

The Planning Officer addressed the Committee.

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

35. 60823: HYBRID PLANNING APPLICATION AT FORMER YELLAND POWER STATION, LOWER YELLAND, YELLAND, BARNSTAPLE, DEVON EX31 3EZ

The Committee considered a report by the Lead Planning Officer (circulated previously).

The Lead Planning Officer addressed the Committee and advised that since the publication of the agenda report and up to 4pm on the 8th June, a further 76 representations against the application had been received. These primarily expressed concerns already captured in the report but specifically referred to the following comments from the public:

- Reference should be made to Build Back Better and Blueprint for Clean Growth

- Biodiversity offsetting approach was flawed in principle – net loss / greater impact on other areas / more space needed for ecology/wildlife
- Adverts in Gazette and associated claims were misleading
- Communication over the format and venue of June meeting misleading
- Impact on plans to reopen the railway line – network rail should be consulted
- Credibility of North Devon planning processes - to approve this scheme against widespread community opposition would leave North Devon Planning procedures facing a crisis of trust
- Councillors and planning staff had invested hours of time and resources in trying to make the best of an application that had little regard to the nature of the site, with the aim of securing a viable future for somewhere that was admittedly challenging. Despite their best efforts they had failed, as was inevitable with such an inappropriate proposition
- Torrington District Council had refused plans for 39 homes for the edge of Northam. This was following only 77 objections, and despite Torrington not having a five year land supply, and the development delivering 30% of affordable housing
- A complete barrier between the development's users and the estuary was required

The Lead Planning Officer advised the Committee that:

- A letter from Barnabas Tanton (aged 12) who spent his half term reducing his representation down to 400 words had been circulated to the Planning Committee by email and related to impact on birds/natural environment.
- All updates to the report were highlighted in bold type for ease of reference.
- Further Flood Risk Assessment Reports would be required at the Reserved Matters stage. An update was provided on page 218 of the agenda
- The Environment Agency were satisfied with the principle of the sea defences.
- Updated information in relation to the traffic movements was provided on page 216. It was noted that there was a willingness to bring in some materials by river using the jetty as an access. This would reduce the length of time required to provide fill for the site. Construction time and possible disruption would be dealt with by conditions. Noise issues were still being resolved. The Lead Planning Officer would seek to obtain delegated powers to cover this.
- The access to the site from the junction with the B3233 had been accepted by Devon County Council (DCC) as it met their standards.
- Some barriers may be in place during construction which may prevent access to the South West Coast Path. This would be at such times that pedestrian safety would be needed to be protected during elements of the build.
- The scheme design allowed for wildlife corridors across the site.
- The most ecologically sensitive area of the site was the foreshore boundary.
- There were already existing environmental effects to the wetlands and surrounding areas caused by use of the Tarka Trail, for example with dogs disturbing nestling birds. Natural England and the Royal Society for the Protection of Birds (RSPB) wanted a solution in the form of an effective barrier/fence and the solution included reed planting. It was hoped this could help manage and mitigate the effects on the ecology.

- The effects on the ecology on the site could not be fully mitigated solely on-site.
- The North Devon and Torridge Joint Local Development Plan (NDTLP) required a mix of property types. 60% of the proposed properties were two and/or three bedroomed properties.
- It would not be possible to secure tenure as no 'affordable housing' provision was included on the application. This had been confirmed as not viable on the site by independent assessors.
- The query raised at the previous Committee meeting (28th April 2021) regarding the opportunity for the applicant to charge a fee to other commercial businesses to use the site to dispose of, and utilise, their surplus fill had been considered. The applicant had reassessed the costs and offered a further £439,415 towards the Section 106 contribution. This equalled £103,915 for Health (NHS Devon CCG) and £335,500 to Highways (to offset works specifically for the Wrey Arms junction).
- The Planning Balance was on pages 242 to 247 of the agenda.
- The view taken by the Lead Planning Officer was that the Section 106 contributions would provide greater benefit and flexibility to the local community than affordable housing of equivalent value and that open-market housing was also equally required.

Sue Kingdom (Chair of Fremington Parish Council) and Roger Levick (Clerk to Instow Parish Council) addressed the Committee.

The Corporate and Community Services Officer read a statement from Matt Jones of EAD Ecology (supporter) to the Committee.

Alex Woznicko of AWP Engineers (supporter) addressed the Committee.

The Corporate and Community Services Officer read a statement from Colin Pill of Tyler Grange (supporter) to the Committee.

The Corporate and Community Services Officer read a statement from Jane Silver (objector) to the Committee.

Joanne Bell of Save our Estuary (objector), Sue Prosper of Love Braunton (objector), Penny Mills of CPRE (objector), Steve Crowther of Heanton Parish Council (objector), John Wilson (objector), Dick Huxtable (applicant), Paul Jury (applicant) and Matt Steart (agent) addressed the Committee

RESOLVED that it being 11.46 a.m. the meeting be adjourned for a comfort break and reconvene at 11.53 a.m.

In response to questions from the Committee, the Lead Planning Officer advised:

- The known areas of asbestos on site were marked in Red on the location plan. A remediation strategy would be submitted. Further studies would be required but the Authority was satisfied that all 'hot spots' had been identified.

In response to questions from the Committee, the DCC Highways Officer advised:

- The traffic issues along the B3233 had increased significantly over the years.
- There were concerns that the applicant had not accounted for the commercial traffic movements in the assessment of the resulting traffic movements, and that the Highways Officer felt the actual figure could be double that of the declared figures. He recognised that construction traffic was not a reasonable basis to refuse an application.
- If the secured financial contributions were insufficient then the required road improvements could not be done, and capacity issues would result.
- If sufficient financial contributions were secured, DCC would remove their objection to the application as this would mitigate the issue.
- A figure of £600,000 had been identified as the figure required to enable the delivery of the required improvements at the Cedars roundabout.

In response to a question, the Sustainability Officer advised that the responsibility for delivering biodiversity-offsetting was for the North Devon Biosphere. It would be considered on a like-for-like basis, e.g. a new hedgerow could be planted to offset against the loss of an existing hedgerow.

The Lead Planning Officer added that although any offsetting did not have to be provided on-site, it would need to be related to the site.

In response to questions from the Committee, the Lead Planning Officer advised:

- The Section 106 education contribution had not been discounted as no affordable housing was proposed.
- The request from Highways for their contribution had been considered but the request for contributions from the applicant had been balanced and were considered by the Authority to be reasonable. The figure requested would cover a quarter of the £1.2m needed to improve the highways infrastructure.
- The scheme was for mixed use although it could not be confirmed exactly what businesses would come forward.
- The NHS contribution was required for NHS provision in Fremington.
- The Environment Agency had set out their findings on the site on pages 218-219. In terms of the wider-impact on the estuary they had no concerns following their modelling over the next 100 years. It was therefore not a consideration for this application.
- The Authority did not have the legal ability to restrict ownership of the dwellings to prevent them becoming 'second homes'.

Councillors Biederman and Mackie addressed the Committee in their capacity as Fremington Ward Members.

The Lead Planning Officer advised the Committee that the reasons for the recommendation for approval were set out within the report.

The Committee considered:

- The objections and concerns of DCC Highways
- The allocation of the site for development within the North Devon and Torridge Joint Local Development Plan
- The lack of a Five-Year Land Supply
- The Section 106 fund contributions offered by the applicant
- Infrastructure
- Housing Needs of the local area and affordable housing
- Commercial traffic
- Construction traffic – by road and sea
- Visual impact of the development
- Ecological impact

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

The Lead Planning Officer advised the Committee in respect of their reasoning behind the proposals they submitted.

RESOLVED, (12 for, 2 against) that the application be REFUSED for the following reasons:

- (a) The scheme did not deliver an appropriate housing mix and tenure (affordable housing) to meet local housing needs contrary to policy FRE01(b), ST17 and ST18 of the NDTLP.
- (b) The planning application did not propose neither mitigation measures nor contributions towards the A3125/Old Torrington Road/ESSO Garage junction to address existing highway capacity issues during the morning (AM) and evening (PM) peak periods. As a consequence, the proposed development was likely to unacceptably exacerbate the operation of the junction and was, therefore, considered to be contrary to the National Planning Policy Framework (February 2019), in particular, Paragraph 108 (c) and Paragraph 109 as the residual cumulative impacts on the road network would be severe. With minor amendments to the wording of this reason for refusal as recommended by DCC Highways, delegated to the Head of Service to agree.
- (c) The scheme benefits, when taken as a whole, did not outweigh landscape harm and the adverse visual impact on those using the South West Coast Path and the Tarka Trail contrary to policy FRE02(d), DM08A and ST09 of the NDTLP
- (d) Inadequate infrastructure was being delivered (football pitch, education) to meet the needs of the community contrary to Policy FRE02(h) , ST22 and ST23 of the NDTLP.

36. APPEALS REPORT

The Committee noted a report by the Senior Planning Support Officer (circulated previously) regarding planning and enforcement appeal decisions received since those reported at the last meeting of the Committee.

Chair

The meeting ended at 1.36 pm

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