

**NORTH DEVON COUNCIL**

Minutes of a meeting of Planning Committee held at Barnstaple Rugby Club on Wednesday, 6th September, 2023 at 10.00 am

PRESENT: Members:

Councillor Davies (Chair)

Councillors Bishop, Bulled, Haworth-Booth, Knight, Lane, Leaver, Maddocks, Prowse, L. Spear and Walker

Officers:

Service Manager (Development Management), Lead Planning Officer (North), Senior Planning Officer, Senior Planning Officer and Solicitor

Also Present:

Councillors Bushell and Worden

**25. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Denton, Whitehead and Williams.

**26. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 9TH AUGUST 2023**

RESOLVED that the minutes of the meeting held on 9 August 2023 (circulated previously) be approved as a correct record and signed by the Chair subject to the typographical error in the decision under minute 20 being amended to “that the application be **REFUSED**.....”.

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

(a) Format of Planning Committee reports

The Chair advised that further to a request that he had made at a previous meeting of the Committee regarding Members feedback on the format of the Planning Committee reports, that if any Member had any comments to advise him.

**28. DECLARATION OF INTERESTS**

The following declarations of interest was announced:

Councillor Prowse – planning application 77246, declared an interest for transparency reasons only as he had had previous business dealings with the agent.

**29. 76857: LAND AT LEY LANE, PATCHOLE. BARNSTAPLE, KENSTIBURY, EX31 4NB**

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

Jemma Grigg (applicant), Matt Steart (agent) and James Bradley (agent) addressed the Committee.

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

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

- The frequently asked questions within the Local Plan included that in relation to principle built form to not include any greenfield plans to the edge of the development.
- Planning Policy team supported the planning officer's interpretation of Policy DM23 in that the proposed site was not within the principle built form of Patchole it was "well related" to the settlement.
- Open space was located between the site and the land beneath the site.
- A listed building was located to the north of Ley Lane.
- He would describe built form ending at the boundary east of Lower Base Park.
- The measurements and massing for the proposed dwellinghouse were detailed on page 19 of the report and was to have a width of 13.4m and a four bedroomed property. The percentage of the garage space had not been calculated.
- A development boundary had not been identified for Patchole, which therefore made planning form difficult.
- Identified the location of the appeal site at land adjacent to The Stables in Patchole. At the time of the appeal, the Local Planning Authority did not have a five year housing land supply and the Inspectorate argued that it was considered to within the built form of the village and supported policy DM23.
- Ley Lane elevated to the north and the landscape south/south east of the site dropped down.

Councillor Prowse (in his capacity as Ward Member) addressed the Committee.

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

- Policy DM23 was open to interpretation.

- The Council would be starting to look at developing a new Local Plan and would be working with Parish and Town Councils in relation the policies.
- Has some concerns approving this application against the officer's recommendation.
- Reference to the Planning Policy team's consultation response which stated "I would suggest that if a development boundary were to be identified around the principle built form of Patchole then clearly, it would not include the land proposed but it would certainly adjoin the eastern boundary and therefore well related ....."
- It was considered to be contrary to policies ST01, ST19 and DM23 of the Local Plan. In accordance with Paragraph 13.130 supporting text of the Local Plan it was clear that the proposed site would not constitute an infill site.
- The proposed dwelling by reasons of its size, scale and siting would not respond well to the open character of the site and sensitive to the rural nature.
- If the proposed dwelling was located further east on the site, it could be considered to be less related to the built form.

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

- The frequently asked questions in relation to the Local Plan advised that an open market dwelling needed to be within the principle built form. He read out the wording to the Committee. This document had been written by officers after the Local Plan had been adopted.

RESOLVED (9 for, 0 against, 0 abstained) that the DECISION FOR APPROVAL BE DELEGATED to the Service Manager (Development Management) in consultation with the Ward Member to negotiate changes to the application in terms of the scale, size and location of the dwelling and that if there was disagreement that the application be presented to the Committee for consideration as the Committee accepted the principle that it was within the built form in accordance with Policy DM23.

Councillor Bishop was unable to vote in accordance with Part 3, Annexe 1, Paragraph 3 as he had left the meeting during the consideration of this application.

### **30. ADJOURNMENT OF MEETING**

RESOLVED that it being 11.19 am that the meeting adjourn for a comfort break and that it be reconvened at 11.32 am.

### **31. 77246: UNIT 1, 77 THE OLD TANNERY EAST STREET SOUTH MOLTON, DEVON, EX36 3DQ**

The Committee considered a report by the Senior Planning Officer (SM) (circulated previously) in relation to planning application 77246.

The Senior Corporate and Community Services Officer read out a statement received on behalf of Marc Cornelius, Chair of South Molton Town Council Planning Committee to the Committee.

Councillor Bushell (Ward Member) addressed the Committee.

Councillor Worden (Ward Member) addressed the Committee.

In response to questions, the Senior Planning Officer (SM) advised the following:

- The provision of four visitors car parking spaces was in relation to this development and not for the provision of general parking spaces in South Molton.
- Two parking spaces were allocated for each dwelling and these would remain.
- It was proposed that the area where the visitors parking spaces were originally located would be amended to allow for the existing 1:3 bank to remain in situ and no further excavations would be required.

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

- She was aware of the parking challenges of East Street.
- This application was a procedural matter and not a planning application. It was considered to be a non-material amendment to planning permission 70262. Paragraph 16 of the Town and Country Planning Act applied allowed for the application to be amended.
- The provision of visitor spaces was not considered to be material as no conditions had been imposed on application 70262 to provide these spaces. There was no policy requirement and the Highways Authority had not requested visitor spaces to be provided.
- The original planning application 70262 in her view could not have been refused on the basis that no visitor parking spaces were provided.
- A material amendment would be if there was a significant change to the planning permission such as an increase in the number of dwellings or a change in description of the original application.
- This application could not provide a resolution to the parking problems that existed in East Street.
- There was no legal way to enforce and prevent others from parking in the designated parking spaces on the site.
- South Molton was a main centre for where development should take place as it was a sustainable location.
- The nearest public car park was the Central car park.
- If there was a Judicial Review, the High Court would look at whether it was a material or non material application. A material application would be if there was a fundamental change to the planning permission and there was not. The Court would not take into consideration tractors travelling along East Street.

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

- The application for a non-material amendment was in accordance with paragraph 96 (a) of the Town and Country Planning Act 1990.
- It was not an application for a planning permission and therefore the same statutory processes were not required here. Therefore, procedurally officers had followed the correct procedure for this type of application.
- There were no grounds for appeal. The only option would be a Judicial Review where the applicant could make an application if they considered that the Local Planning Authority had not made a decision, had taken into consideration any irrelevant matters or had not followed procedures or actions correctly.
- Officers received applications for non-material and material amendments frequently. Planning Officers would look across the breadth of other applications to ensure consistency with other decisions and this application was considered to be a non-material amendment.
- A Judicial Review would involve a High Court and there would be costs for defending the application in addition to the Judicial Review. There would potentially be a significant costs application against the Local Planning Authority.
- If the application was refused, the Committee would need to provide reasons for going against the Planning Officer's recommendation. The reasons would need to be based on evidence which needed to be robust, compelling and substantive.

RESOLVED (6 for, 4 against, 0 abstained) that the application be APPROVED as recommended by the Senior Planning Officer.

**32. APPEAL REPORT**

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

The Service Manager (Development Management) advised that no response had been received from the Planning Inspectorate in relation to planning appeal reference 74895. Once a response had been received, it would be reported to the Committee.

**33. 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 a site inspection would be required for planning application 76784, North Devon Leisure Centre, Seven Brethren, Barnstaple to view the site, scale and appearance. The application would be presented to the Committee at its meeting on 11 October 2023. It was agreed that the site inspection would take place on Thursday 5 October 2023 at 4.00 pm

Chair

The meeting ended at 12.38 pm

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