

NORTH DEVON COUNCIL

Minutes of a meeting of Planning Committee held at Barnstaple Rugby Club on Wednesday, 3rd July, 2024 at 10.00 am

PRESENT: Members:

Councillor Davies (Chair)

Councillors Bishop, Bulled, Denton, Haworth-Booth, R Knight, Lane, C Leaver, Maddocks, Prowse, L. Spear, Walker, Whitehead and Williams

Officers:

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

33. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

34. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 5TH JUNE 2024

RESOLVED that the minutes of the meeting held on 5 June 2024 (circulated previously) be approved as a correct record and signed by the Chair.

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

(a) Voting on the approval of minutes

The Chair advised that following the last meeting of the Committee, clarification had been sought from the Senior Solicitor and Monitoring Officer who had confirmed that Councillors could move, second or vote on the approval of minutes from a previous Committee meeting if they had not been in attendance at that meeting.

(b) Annual Site Inspections – 26 June 2024

The Chair sought feedback from Councillors who had attended the comprehensive Annual Site Inspections that had taken place on 26 June 2024 in relation to the site inspections that had taken place and suggestions for future site inspections.

36. DECLARATION OF INTERESTS

There were no declarations of interest received.

37. 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.

The Senior Planning Officer (SE) advised the Committee of a typographical error on page 19 of the agenda, fourth paragraph from the bottom of the page, whereby the reference to paragraph numbers were incorrect and should have stated “paragraphs 7.35 and 7.36” and not “paragraphs 3.35 and 3.36”.

The Senior Corporate and Community Services Officer read out statements to the Committee on behalf of Liz Lillicrap (objector), Diana Simpson (objector) and Clive and Pauline Deen (objectors).

James Bradley (objector), Oliver Perrin (objector), Jemma Grigg (applicant) and Graham Townsend (agent) addressed the Committee.

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

- The National Design Guide and National Planning Policy Framework sat alongside the Local Plan and did not outweigh the Local Plan. In 2023, the Planning Advisory Service had tested the Local Plan and confirmed that it was still sound for decision making. Therefore Policy DM23 was still sound.
- The principle form was not defined in the Local Plan and was open to the decision makers judgement. The site was not within the principle built form of the village, however, it was clear that the site was well related to as defined in the Local Plan and the affordable housing Supplementary Planning Document. This matter of well related had also been considered by the Planning Inspectorate recently.
- Further to the issuing of a Consent Order by the High Court of Justice allowing the judicial review which concluded that the decision of the Committee on 6 September 2023 be quashed, officers in consultation with Legal had taken the view that the application had to be re-considered as originally submitted. Amended plans had been submitted on 30 January 2024 and therefore could not be considered as this was after application had been considered by the Committee and this decision, along with the amended plans were quashed as part of the Judicial Review.
- The Judicial Review looked at the reasons and the policies that the Committee had considered as part of its decision making process and concluded that the decision should have, but failed, to give adequate reasons for its decision to grant planning permission contrary to Officer’s recommendation. The Judicial Review looked at the process of decision making and not whether the decision was right or wrong. As part of the

decision making process, the Committee had not considered all of the policies that Officers had considered that the application was contrary to.

- Policy ST19 Affordable Housing on Exception site looked to assist the rural housing crisis and support local needs. However, this application was for a self build and open market dwelling.
- This location did not trigger a local needs dwelling in accordance with Policy DM24.
- The proposal would extend the settlement unduly into the countryside.
- The second reason for refusal could not be removed as the decision was considered as a whole as part of the Judicial Review process.

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

- Amended plans had been submitted on 30 January 2024. He had followed the Committee's decision on 6 September 2023 and discussions had taken place with the Ward Member.
- No discussions had taken place with the applicant regarding a section 106 agreement to restrict the dwelling to affordable housing.

In response to questions raised by the Committee, the Solicitor and Data Protection Officer (CN) advised the following:

- The Judicial Review process considered the process and procedure that was followed as part of the decision making process and whether it was lawful or not lawful, not the planning merits. There was a legitimate expectation for the public to know why the decision was taken together with full reasons. The Committee on 6 September 2023 had not considered all of the policies that Officers had recommended that the application was contrary to.
- It was within the power of the Committee if it considered to go against an officer's recommendation. However, in order to protect the Council, the Committee should consider the following five points:
 1. Do the Committee agree that the proposal complies or conflicts with all relevant policies? (*Go through Officer Report and discuss relevant policies and whether they are in conflict or whether they comply*)
 2. In light of that above, does the proposal put forward accord with the policies of the North Devon and Torridge Local Plan, when read as a whole? (*How many conflict and how many comply?*)
 3. What are the other material considerations which are judged to weigh a) in favour of, or b) against, the grant of Planning Permission and their effect on the overall planning balance?
 4. Provide reasons why the Councillors disagree with the Officers recommendation/conclusion in respect of each policy (*with reference to relevant considerations as included in the Officers Report, to include any relevant previous decision including those at appeal*)
 5. Are there any other reasons why Councillors disagree, more generally with the Officers recommendation?
- These points could be circulated to the Committee for reference.

- She read out the decision made by the Committee at its meeting held on 6 September 2023, which was detailed on page 11 of the agenda.
- Affordable housing would secure a dwelling for: shared ownership accommodation; discounted sale price; or for a Regulatory Provider for social rent or such other examples. Affordable housing was sought for larger schemes whereby a percentage of affordable housing was secured. The purpose of affordable housing was for those who could not afford to buy housing on the open market. It also provided protection in the future that the dwelling could only be occupied by someone who met the affordable housing criteria. The applicant would have to agree to the dwelling to be only used for affordable housing needs, therefore the applicant would not be able to live in the dwelling.
- The Consent Order issued by the High Court of Justice quashed the decision made by the Committee on 6 September 2023, therefore the status of the application reverted back to prior to this meeting.
- An amended plan could be submitted up until the point where the decision was taken.
- If the current application was withdrawn by the applicant, then officers would have delegated powers to determine the new application unless it was called in by a Councillor for consideration by the Committee.

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

RESOLVED (10 for, 0 against, 3 abstained) that the application be DEFERRED for up to 3 months pending a site inspection to be undertaken by the Committee to look at the principle of the built form.

38. ADJOURNMENT OF MEETING

RESOLVED that it being 11.23 a.m. that the meeting be adjourned for a short comfort break.

RESOLVED that it being 11.33 a.m. that the meeting be reconvened.

**39. 78362: LAND AT CHULMLEIGH BRIDGE FORE STREET HILL
CHULMLEIGH DEVON EX18 7ES**

The Committee considered a report by the Senior Planning Officer (DB) (circulated previously) regarding planning application 78362.

Dr John Ingram (objector), Brian Hookins (objector), Graham Clark (agent) and Luke Trowells (objector) addressed the Committee.

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

Councillor R. Knight left the meeting.

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

- A wildlife trigger list had been submitted which identified trigger areas for an ecology report to be submitted. It was her understanding that there was not any hedgerow, woodland or scrub to be removed as part of this proposal. Therefore, a wildlife report could not be requested.
- Planning enforcement action was being undertaken on the site for other breaches.
- There were no invasive species on the site such as Japanese Knotweed, therefore it was assumed that Part C of the wildlife trigger list had not been completed in error.
- The Biodiversity Net Gain requirement came into force with effect from April 2024 on minor sites such as this and could not be considered for applications that had been submitted prior to this date. This application had been submitted in February 2024. There was no biodiversity net loss on this site. If Committee were mindful to consider including a condition requiring a detailed landscaping plan, consideration needed to be given as to whether such a condition was reasonable, sound and appropriate for this application to meet the test of applying planning conditions.
- In terms of welfare facilities that were located in the barn, a caravan could be located on the site providing welfare facilities which would not require planning permission. There was a need for the Committee to consider the application which was before them. If there was a breach of a condition, then a breach of condition notice could be issued. There was no right to appeal and would go straight to the Court.
- Biodiversity Net Gain could be considered for retrospective planning applications.
- The profits of a business could only be considered if an application was made, for example, for a rural workers dwelling and could not be considered as part of this application. A rural workers dwelling would require a full planning application to be submitted and tested in accordance with policies.
- For a site for horticulture use with 5 hectares, a storage building could be built under permitted development rights.
- A landscaping condition could only be justified where that was a visual impact to mitigate risk of harm. There was no visual impact. This barn was for agricultural purposes and anything that was for domestic purposes would require planning permission.

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

- That there was no evidence that trees or hedgerow had been removed on the site.
- There was an open planning enforcement action on this site to deal with works that did not form part of this application.
- On the last visit to the site, the bund was not visible.
- As part of the validation process of the application, an assessment would have been undertaken as to whether it was within permitted development rights or whether planning permission was required.

- The portaloo was not connected to a septic tank.
- The track had been granted as part of a separate planning permission and formed part of the open planning enforcement action on the site.
- Indicated the location of the bridleway on the location plan.
- The window located upstairs was at the same end of the barn as the hay store. There were windows which were domesticated in feature and not agriculture. There was no evidence that the barn would become a residential dwelling. Condition 2 was recommended that the barn be used solely for the purposes of agriculture.
- If the cladding was removed and the window upstairs became visible then an assessment would be required in terms of impact, design and use.
- The barn had been built on the original footprint, but was smaller in size.
- There were various enforcement actions being taken to regularise breach of planning works which included seeking the removal of the bund and small shed and issues with the track.
- Machinery was located in the barn, however she did not have a list of all machinery that would be stored there.

Councillor Davies, in his capacity as Ward Member, addressed the Committee.

RESOLVED (7 for, 4 against, 1 abstained) that the application be APPROVED as recommended by the Senior Planning Officer (DB).

40. 78425: LARKSTONE CAFE, LARKSTONE LEISURE PARK, LARKSTONE GARDEN,S ILFRACOMBE, EX34 9QG

Councillors Haworth-Booth and Spear left the meeting.

The Committee considered a report by the Senior Planning Officer (JJ) (circulated previously) regarding planning application 78425.

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 Senior Planning Officer (JJ) advised the following:

- Condition 3 required the owner or operator to maintain a register of occupants.
- The car park was privately owned.
- A motorhome was a single vehicle which can drive on to the site.
- Condition 4 stated not more than eight motor homes shall be stationed on the site at any time.
- The surface water from the roof would go to the soakaway and the foul water to the sewer.

Councillor Williams, in her capacity as Ward Member, addressed the Committee.

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

41. 78668: OLD TOWN STATION NORTH WALK BARNSTAPLE, DEVON, EX31 1DF

The Committee considered a report by the Planning Officer (KW) (circulated previously) regarding planning application 78668.

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

42. 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 Chair advised that the only planning site inspection required was in relation to planning application 76857: Land at Ley Lane, Patchole, Barnstaple, Kentisbury EX31 4NB. The site inspection would be arranged on a Wednesday.

Chair

The meeting ended at 1.15 pm

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

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