

WEST DEVON DEVELOPMENT MANAGEMENT AND LICENSING COMMITTEE



West Devon
Borough
Council

Minutes of a meeting of the West Devon Development Management and Licensing Committee held on Tuesday, 11th October, 2022 at 10.00 am at the Chamber - Kilworthy Park

Present: **Councillors:**

Chairman Cllr Yelland
Vice Chairman Cllr Pearce

Cllr Heyworth
Cllr Mott
Cllr Ratcliffe
Cllr Southcott

Cllr Leech
Cllr Moyse
Cllr Renders
Cllr Spettigue

In attendance:

Officers:
Head of Development Management
Planning Officers
Monitoring Officer
Democratic Services Officers

13. **Apologies for Absence**

*DM&L.13
No apologies were received

14. **Declarations of Interest**

*DM&L.14
Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting, but there were none made.

15. **Items Requiring Urgent Attention**

*DM&L.15
There was no urgent business brought forward to this meeting.

16. **Confirmation of Minutes**

*DM&L.16

The Minutes of the Development Management and Licensing Committee Meeting held on 19th July 2022 were confirmed as a correct record, subject to deletion of the initial 'C' and replacement with the initial 'D' for Cllr D Moyses in the list of attending Committee Members.

17. **Planning Applications**

*DM&L.17

The Committee proceeded to consider the report that had been prepared by the relevant Development Management Specialists on each of the following Applications and considered also the comments of the Town and Parish Councils together with other representations received, which were listed within the presented agenda report and summarised below:

(a) Application No: 0529/22/FUL Ward: Hatherleigh

Site Address: Lower Longwood Farm, Highampton

Development: Replacement dwelling (resubmission of 3874/21/FUL)

Recommendation: Refusal

Speakers included: Supporter: Mr Bailey, Parish Council Representative: Cllr Rose, Local Ward Member: Cllr Kemp

With the aid of the plans and supporting photo montages, the Planning Case Officer (DH) introduced the proposals. In so doing, DH stated that one of the key reasons for his officer recommendation to refuse this application was that he did not agree with the application being described as a 'replacement dwelling'. The Committee was informed that the proposal sought to construct a dwelling on the site of a now demolished agricultural building.

Before the speakers addressed the Committee, the Monitoring Officer (DF) was invited to provide a statement on the relevance of the 'Mansell v Tonbridge & Malling Borough Council' case law and the Class Q 'fallback position'. The Monitoring Officer proceeded to inform that Class Q enabled for an existing agricultural building to change its use to that of residential. He explained the extent to which limited building operations were (e.g. the adding of windows and doors). However, Class Q did not permit for a complete demolition and re-build of a dwelling. The Monitoring Officer further explained that a person wishing to rely on Class Q for a change of use had to obtain the Council's view as to whether prior approval was required in respect of certain matters. He said that if the conditions were met then there was a planning permission that could be implemented. The Monitoring Officer then explained how the existence of a planning permission under Class Q was capable of being a fallback position. Firstly, however he explained what a fallback position was and that, for a planning permission to be considered to be a fallback, then there had

to be a real prospect of it being implemented. Mansell decided that a possibility that it would be implemented was sufficient. Whether there was a real prospect or a possibility of it being implemented was a matter of planning judgment for the Committee. If the Committee decided that there was a real prospect of the Class Q permission being implemented, then it was for the Committee to decide what weight it should have. That he said involved a judgement as to the comparative advantages and disadvantages of the development proposal before the Committee and the development that had been granted permission under Class Q. The analysis was set out in the published case officer report.

The Committee was then invited to ask any questions and proceeded to seek clarity over the: proximity of the nearest settlement; the proposed increased floor size; the size of the smallholding; and, if the Committee was minded to conditionally approve the application, then it would be possible to impose a condition requiring a Section 106 Agreement to be completed that prevented the implementation of the Class Q permission.

In addressing the Committee, the applicant sought to address each of the six reasons for refusal that were set out in the published agenda report. In particular, the applicant set out his personal circumstances for the proposals; his willingness to sign a Section 106 Agreement and the sustainable elements of the application that he did not feel had been sufficiently highlighted in the published agenda report.

When questioned, the applicant informed that, whilst the farm had not been intensively farmed for a period of time, he was intending to re-wild it.

The Parish Council (PC) representative advised that the PC had unanimously recommended conditional approval of this planning application provided that the planning permission was removed from the existing building. The representative then set out the local economic benefits that would be derived through this application and concluded by expressing some concerns over the accuracy of the case officer presentation.

The participating local Ward Member also expressed her support for the proposals. The Member felt that the reasons for refusing the application were more associated with the shortcomings of the Joint Local Plan rather than the merits of the proposals. As a pillar of the local community, the Member was of the view that the applicant should be supported by obtaining planning permission for this application.

During the ensuing debate, the majority of Members highlighted that the application was contrary to both the Joint Local Plan and the adopted local Neighbourhood Plan and they were therefore supportive of the officer recommendation of refusal.

Committee Decision: Refusal

Reasons for refusal

1. The development description proposes a replacement dwelling. Given that there is currently no existing dwelling within the site, there is no lawful existing dwelling to replace, contrary to Policy TTV29 of the Plymouth and South West Devon Joint Local Plan (2014-2034).
2. The proposal would result in the creation of a single, open-market dwelling located within an unsustainable countryside location, without good access to services and facilities and be reliant on the use of a private car. This would be contrary to policies SPT1, SPT2, TTV1, TTV26 of the Plymouth & South West Devon Joint Local Plan (2014- 2034); policy HNPH2 Housing Policy 2 of the Highampton Neighbourhood Plan (2014- 2034); and the National Planning Policy Framework (2021) (notably but not limited to paragraphs 12 and 79).
3. In order to meet the carbon reduction requirements of policy DEV32 (Delivering low carbon development), the proposal would need to demonstrate the carbon benefits of constructing a new dwelling rather than converting the existing agricultural building (0600/20/PDM). Such benefits have not been demonstrated and therefore the proposal would conflict with policies SPT1.2 and DEV32 of the Plymouth & South West Devon Joint Local Plan (2014- 2034); and the National Planning Policy Framework (2021) (notably but not limited to paragraphs 154 and 157).
4. The proposed dwelling is in close proximity to an existing barn which benefits from consent to a residential dwelling but has not yet been implemented. There is a potential that the agricultural operations of a barn would have a harmful impact on the amenity of occupants of the proposed dwelling, such as noise, odour, and general disturbance or that the presence of a dwelling would hinder the agricultural operations of the enterprise. In the absence of a legal agreement to prevent the implementation of the consented barn conversion scheme (LPA ref. 0600/20/PDM) the proposed dwelling would have an unacceptable amenity relationship with this property. The proposal would therefore conflict with policy DEV1 of the Plymouth & South West Devon Joint Local Plan (2014- 2034) and policy HNPEN1 Environment Policy 1 of the Highampton Neighbourhood Plan (2014- 2034).
5. The proposed dwelling includes both utilitarian and traditional domestic design elements, which results in a poorly designed building which appears neither agricultural, nor residential in character. This ambiguous character, along with an inconsistent pattern of fenestration, does not constitute good design, and the development is therefore contrary to policy DEV20 of the Plymouth & South West Devon Joint Local Plan (2014- 2034), and paragraphs 130 and 134 of the National Planning Policy Framework (2021).

6. The proposed use of the existing barn to be retained as a domestic garage and workshop would result in an overall residential area of significant size for a three-bedroom property which would not widen opportunities for home ownership or respond positively to the housing needs of the Thriving Towns and Villages Policy Area. The proposal would therefore conflict with Policies SPT2.4 and DEV8 of the Plymouth and South West Devon Joint Local Plan (2014-2034); and HNPH3 Housing Policy 3 of the Highampton Neighbourhood Plan (2014- 2034).

(b) Application No:2334/22/HHO

Site Address: 1, The Village, Buckland Monachorum

Development: Householder application for garden home office with shed replacing old shed

Recommendation: Conditional Approval

The Case Officer (LH) set out the proposals and confirmed that the sole reason for the application being presented to the Committee was that the applicant was within the employ of the Borough Council. Responding to Member questions, the case officer confirmed that there would not be any external lighting.

In debate, the Committee felt that the proposals would be unobtrusive and, on that basis, supported the case officer recommendation of conditional approval.

Committee Decision: Conditional Approval

Conditions

1. Standard time limit
2. Adherence to plans
3. To be used incidental to main house only
4. External lighting

18. **Planning Appeals Update**

*DM&L.18

The Head of Development Management (JH) provided an update on the planning appeals and the Committee subsequently recognised the importance of adopting a Neighbourhood Plan.

19. **Update on Undetermined Major Applications**

*DM&L.19

In discussion on the list of undetermined major applications, support was expressed for both of the applications on the wool grading centre being considered (and determined) at the same time.

With regard to completion of the Section 106 Agreement for the planning application at the land South of Plymouth Road, Tavistock officers informed that this was now almost finalised and it was intended for a Member Briefing to be convened at the appropriate time.

20. **Planning Performance Indicators**

*DM&L.20

The Committee considered the latest set of performance indicators and noted the recent upward trend in Planning Enforcement cases that had been received by the Council.

The Meeting concluded at 11.35 am

Signed by:

Chairman
