



All members of the Planning and Licensing Committee are hereby summoned to a meeting of the
Planning and Licensing Committee
to be held on
Thursday 22 March 2018 commencing at 6pm in Cullompton Town Hall

Judy Morris

SIGNED: Mrs Judy Morris (Town Clerk)

DATE: 16 March 2018

Membership: Councillors Eileen Andrews, Gordon Guest, Janet Johns, Kate Haslett and Richard Thorne.

AGENDA

1. **Apologies:** To receive apologies for absence.
2. **Declarations of Interests:** To receive declarations of disclosable pecuniary interests and personal interests.
3. **Minutes:** To agree the minutes of the Planning and Licensing Committee meeting held on 22 February 2018 (Appendix A).
4. **Public Question Time:** To accept questions from members of the public present at the meeting.
5. **Planning and Licensing Matters:**
 - a. To consider and make comment on planning applications received for Cullompton 21 and available to view at the [Planning Portal](#):
 - i. [18/00380/MARM](#) – PCL Planning Ltd on behalf of Mr J Opie (Goonvean Holdings Ltd)

Reserved Matters (Phase 2) in respect of the appearance, landscaping, layout and scale of three industrial buildings (B1, B2 and B8 use) following Outline approval [09/01573/MOUT](#) (and varied by [16/01948/FULL](#) and [17/00558/FULL](#)) at Land and Buildings at NGR 303161 108402 (Venn Farm), Cullompton.
 - ii. [18/00386/HOUSE](#) – Vinnarry Ltd on behalf of Mr and Mrs Jones

Erection of single storey rear extension at 15 Lancaster Close, Cullompton.
 - b. To receive planning determinations and consider any other planning matter brought forward at the discretion of the Chair including:
 - i. The Planning Inspectorate's notification that the appeal into the Planning Authority's refusal of 16/01988/MOUT for the erection of 74 dwellings at

Knowle Lane, Cullompton has been allowed (Appendix B).

- ii. The Planning Inspectorate's notification that the claim for costs against the Planning Authority in respect of its refusal of 16/01988/MOUT has been refused (Appendix C).
- iii. 17/01933/LBC – Diespeker (Interiors) Ltd for the erection of a two storey office building with undercroft for parking following demolition of existing single storey office block at Unit 1 Longbridge Meadow, Cullompton. **Application withdrawn.**
- iv. 18/00026/LBC – Listed Building Consent for replacement of 7 double-glazed windows with single glazing at 6 Newcourt Cottages, Cullompton. **Grant Permission.**
- v. 17/02035/HOUSE – Erection of a two storey extension following demolition of existing sun room at 2 Stoneyford Cottages, Cullompton. **Grant Permission.**
- vi. 17/01972/HOUSE – Erection of a single storey extension at 3 Saxon Way, Cullompton. **Grant Permission.**
- vii. 17/01989/PNCOU – Prior notification for the change of use of agricultural building to 2 dwellings under Class Q at Land and Buildings at NGR 300906 108303 Cob Barn (No 3) Growen Farm, Cullompton. **Application withdrawn.**
- viii. 18/00078/NMA – Non material amendment for 16/01289/MARM to allow alterations to fenestration, reconfiguration of internal layout, revision of forecourt arrange to south building 1, introduction of louvres/vents and inclusion of solar panels at Land and Buildings at NGR 303161 108402 (Venn Farm), Cullompton. **Grant Permission.**
- ix. 18/00085/CLP – Certificate of Lawfulness for the proposed erection of single storey rear extension at 15 Lancaster Close, Cullompton. **Application withdrawn.**

c. To consider applications from neighbouring Parishes.

- 6. **Neighbourhood Plan:** To receive an update.
- 7. **Correspondence:** To consider correspondence received after the despatch of this Agenda.
- 8. **Date and time of the next meeting:** To confirm the date and time of the next meeting as Thursday 12 April 2018 commencing at 6pm.



All members of the Planning and Licensing Committee are hereby summoned to a meeting of the
Planning and Licensing Committee
to be held on
Thursday 22 February 2018 commencing at 6pm in Cullompton Town Hall

Membership: Councillors Eileen Andrews, Gordon Guest, Janet Johns, Kate Haslett and Richard Thorne.

Those present: Councillors Gordon Guest (in the Chair), Richard Thorne, Janet Johns, Eileen Andrews, Kathryn Haslett.

Councillor Lloyd Knight.

Steve Reardon (Clerk).

DRAFT MINUTES

74. **Apologies:** There were no apologies for absence received.
75. **Declarations of Interests:** To receive declarations of disclosable pecuniary interests and personal interests.

Councillor Kathryn Haslett declared a personal interest in the Neighbourhood Plan update as she is active in the Swimming Pool Campaign.

76. **Minutes:** The minutes of the Planning and Licensing Committee meeting held on 25 January 2018 were adopted as a true and correct record of the meeting and signed as such. Agreed. Proposed Councillor Gordon Guest, seconded Councillor Richard Thorne.
77. **Planning Matter:** To receive from the applicant a presentation on a proposed development of industrial units at the existing Quad World, Exeter Road.

A presentation was made by Jon Hillier about the proposals for Quad World to develop a number of small industrial units on the current "Pro Track" at Quad World – the "Pro Track" is currently financially unviable. Key points include:

- Outline application at present. The development is propose for use Classes B1, B2 and B8 Industrial Units. The site is currently use Class B1 only.
- There has been a planning application submitted previously but the application was withdrawn.
- He stated that smaller industrial units are at a premium in the locality and a sustainable development such as the proposal depends on many things such as access and immediate infrastructure.
- He is content for units to be restricted to 5,000m² by the Planning Authority and the development is on a brownfield site. There will be a mixture of free- and leasehold units.

- The development consists of relatively small units that will be developed in a single phase. It is located close to other industrial units (at, for example, Hele) although this proposal are envisaged to be more “white collar” rather than pure industrial. B1 enterprises will be zoned in one area. Units to be 750m² to 2,500m² and the site will be managed.
- Parking and cycle parking is in excess of Planning Authority requirements.
- The application will be considered by the Planning Committee in due course when the Planning Authority invites consultation on this Outline Planning Application.

78. **Public Question Time:** As there were no members of the public present, this section of the meeting did not take place.

79. **Planning and Licensing Matters:**

a. To consider and make comment on planning applications received for Cullompton 21 and available to view at the [Planning Portal](#):

i. [18/00032/FULL](#) – Acorus on behalf of Mr P Grandfield

Erection of a replacement dwelling following demolition of existing dwelling at House Button Farm, Kentisbeare.

Recommend grant permission. Proposed Councillor Eileen Andrews, seconded Councillor Janet Johns.

ii. [18/00208/HOUSE](#) – R Taylor Design Associates on behalf of Mr and Mrs Harris

Erection of single storey rear extension following demolition of existing conservatory at 11 Starlings Roost, Cullompton.

Recommend grant permission. Proposed Councillor Kathryn Haslett, seconded Councillor Janet Johns.

b. To receive planning determinations and consider any other planning matter brought forward at the discretion of the Chair including:

i. The allocation of c£10m to provide for improvements to increase the capacity of Junction 28 of the M5 motorway. This was noted – 10m allocated to MDDC from Central Government although the funding hasn’t yet been transferred. No detailed plans for J28 improvements as yet but Councillor Gordon Guest feels that the council should have input into any scheme. Concern that the improvements to J28 are being conducted on a piecemeal basis and, perhaps, the money would be better saved until such time as the improvements can be completed properly and sustainably.

RECOMMENDATION: That the Planning Authority and Highways Authority are invited to a meeting of the Full Council in March (possibly 8 March). Proposed Councillor Janet Johns, seconded Councillor Eileen Andrews.

ii. 17/01125/MFUL – Construction of a slurry lagoon (2738m²) and creation of new vehicular access at Land and Buildings at NGR 302603 103592 (Weaver’s Meadow), Langford. **Permitted with Conditions to discharge.**

iii. 17/01925/FULL – External alterations following approval of change of use to 2

dwelling (17/01440/PNCOU Class P) at 33A Higher Street, Cullompton.
Grant Permission.

iv. Devon wildlife trust have issued guidance on the development of large developments.

c. To consider applications from neighbouring Parishes.

80. **Neighbourhood Plan:** An update is at Appendix A to these minutes.

81. **Correspondence:** To consider correspondence received after the despatch of this Agenda.
None to consider.

82. **Date and time of the next meeting:** The next meeting will be combined with the Full Council meeting on 8 March 2018.

NEIGHBOURHOOD PLAN UPDATE

Present at meeting on Tuesday 20th February 2018 were three town councillors, Town Clerk, and several committee members, MDDC reps and landowner.

- MDDC have not yet received Government money though they have been awarded it for Garden Village and Jct 28.
- MDDC will pay £5,000 into CTC bank in April 2018 in new financial year.
- NHP draft document is being proof read and updated as we meet.
- NHP has been mostly updated reference regulation 14 consultation in Autumn 2017.
- No major objections from MDDC and other bodies in Reg 14 consultation.
- NHP advised it will need to repeat the full regulation 14 consultation again when NHP is ready, not just the swimming pool section as previously advised.
- AECOM and other formal advisers, recommend they go through neighbourhood Plan document before it goes to full town council. This would take about 6 weeks. When full NHP is ready for Inspector, they will need to go through it again.
- Awaiting advice on whether to put current updated version on the website before it goes to AECOM or leave old one on the website with a comment note.
- NHP administrator job ends end of February 2018. The administrator will do a hand over to assistant town clerk. Assistant town clerk is familiar with most of the software and can manage small changes.
- Swimming pool polices will need to be redone in full.
- Meetings with MDDC they are now in support of swimming pool aspiration and the allocation of land for around 300 houses.
- Landowner has done a basic feasibility study and discussed this with MDDC in a private meeting. MDDC were satisfied with this study.
- In a public meeting MDDC advised swimming pool group, NHP group and landowner that landowner needed to now complete an in depth site appraisal and to come back to MDDC with detail. Landowner advised this would take 6 to 8 weeks. Landowner also advised may need more houses than initially thought, but detail will confirm this.
- MDDC advised in principal they could support land allocation for houses and swimming pool subject to more detailed reports.
- MDDC advised landowner to be more flexible with precise allocation of swimming pool land. Rather to allocate an area and say within this locality there will be a swimming pool.
- Once these details are fully known NHP can write a new policy or policies. MDDC will advise on what they will require in policies to meet MDDC planning requirements.
- Landowner wishes to bring forward land for a housing planning application as quickly as possible once swimming pool land is within the NHP policy.
- MDDC advised again that due to planning law and precedence, it would be better if Cullompton NHP came out after the MDDC local plan. Even if this went into 2019.
- Swimming pool group reported that they now have support of Sports England and Swim England. They were employing consultants and new architects recommended by Swim England. Swim England and Sports England were fully in support of plan and felt a town of Cullompton size and growing was in need of a swimming pool. (Note this was different from the MDDC statements previously where Cullompton was not big enough.
- General. MDDC officers were fully supportive of the Cullompton NHP, wished to see it successfully concluded. Were supportive of the swimming pool aims and the associated

housing. MDDC were clearly willing to offer detailed technical planning advice to ensure the NHP followed the correct procedures. This was particularly helpful.

- Next NHP meeting is on Tuesday 27th February in the Library at 18.30.



Appeal Decision

Site visit made on 20 February 2018

by J Wilde C Eng MICE

an Inspector appointed by the Secretary of State

Decision date: 13 March 2018

Appeal Ref: APP/Y1138/W/17/3184498

Land off Knowle Lane, Cullompton, Devon.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Tizzard (Cullompton LVA LLP) against the decision of Mid Devon District Council.
 - The application Ref 16/01988/MOUT, dated 23 December 2016, was refused by notice dated 3 July 2017.
 - The development proposed is a residential development of up to 74 dwellings with all matters reserved except access for future consideration.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development of up to 74 dwellings with all matters reserved except access for future consideration at Land off Knowle Lane, Cullompton, Devon in accordance with the terms of the application, Ref 16/01988/MOUT, dated 23 December 2016, subject to the conditions contained within the attached schedule.

Application for costs

2. An application for costs was made by Mr J Tizzard (Cullompton LVA LLP) against Mid Devon District Council. This application is the subject of a separate Decision.

Procedural matters

3. The application was made in outline with access to be determined at this stage. Appearance, landscaping, layout and scale have been reserved for future determination.
4. During the appeal process a letter, dated 29 November 2017, was received from Mid Devon District Council indicating that they considered it would be unreasonable, following the issuing of appeal decision APP/Y1138/W/17/3172380, for them to continue to defend the appeal on the issue of the impact of the proposed development on the free flow of traffic in the vicinity of junction 28 of the M5. This change of position came with caveats referring to conditions and the signing of a Section 106 agreement to address various measures, which I will return to later. The traffic issue was the only reason for refusal identified by the Council in their refusal letter dated 3 July 2017. My reasoning below is in light of this change of stance by the Council.

Main Issue

5. The main issue is the effect of the proposed development on the efficient operation of the highway network in the vicinity of junction 28 of the M5.

Reasons

6. The appeal site is a field bordering recent development to the west of Cullompton. Access to the proposed development would be from Knowle Lane, as shown on drawing No 16073_L01_04. Vehicles emanating from the proposed development would be likely to join the M5 at junction 28 and the Council's (and Highway Authority's) concern was these vehicles would have a significantly detrimental effect on the free flow of traffic in that area, particularly at the AM peak and particularly in respect of traffic trying to leave Millennium Way and join Station Road.
7. However, in appeal APP/Y1138/W/17/3172380 the Inspector was supplied with evidence that satisfied him, for a variety of reasons, that the proposal would not result in a materially adverse effect on the volume and flow of traffic during the AM peak period within Cullompton or indeed elsewhere on the local and strategic highway network. I have been given no evidence that would lead me to a different view and am also conscious that the previous appeal related to 259 dwellings whereas the appeal before me relates to a maximum of 74.
8. Furthermore, I have been given no evidence to show that the cumulative impact of another 74 dwellings would tip the balance so as to render the previous Inspector's findings out of date. Consequently there would be no conflict with policies COR1 or COR 9 of the Mid Devon Core Strategy. The former seeks to ensure that growth will be managed, amongst other things, by providing accessible forms of development. The latter seeks to co-ordinate development and transport planning to improve accessibility for the whole community.

Other matters

9. I have been made aware of several concerns by local residents. These include loss of privacy, overshadowing, loss of light and ground stability and drainage. However, the application was in outline, and these factors will be considered at the reserved matters stage. Disruption during the construction process is not a matter that can be instrumental in dismissing an appeal.

Planning Obligations

10. I have been supplied with two Planning Obligations under section 106 of the Town and Country Planning Act 1990. These have been supplied in counterpart form and signed by each party.
11. Community Infrastructure Levy (CIL) regulation 122 makes clear that it is unlawful for a planning obligation to be taken into account in a planning decision on a development that is capable of being charged CIL if the obligation does not meet all of the following tests. These are that the obligation is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.

12. The first Obligation is between the appellant and Mid Devon District Council, and would ensure the provision of the required affordable housing, a contribution of £250,464.00 to mitigate the effects of the development on air quality (towards a relief road) and a contribution of £59,045.00 towards the improvement of Cross Parks Neighbourhood Park.
13. To justify each of the obligations and show compliance with CIL regulation 122 I have been supplied with a compliance statement by the Council. This identifies the policy background and where relevant highlights Supplementary Planning Documents that give further information in respect of the various obligations. In respect of the contribution to mitigate the effects of the development on air quality the Council have broken down the requirement to an amount per new open market dwelling and I am satisfied that this contribution complies with CIL Reg 122 and can therefore be taken into account in my decision.
14. However, the contribution towards off-site open space is the subject of disagreement between the two main parties. The appellant points to the area of land allocated for on-site public open space shown on drawing 16073_L01_04 as being sufficient. The Council maintain that this would not satisfy the requirements of policy AL/CU/8. However, the Council have not clearly evidenced why there would be a shortfall and more importantly have not shown how the figure of £59,045.00 is directly related in scale and kind to the proposed development. Nor have I been provided with evidence to show how the Neighbourhood Park relates geographically to the appeal site or the necessity for works there. In light of this I am unable to conclude that this particular contribution complies with CIL Reg 122. Consequently I am unable to take it into account in my decision.
15. The second planning obligation is between the appellant and Devon County Council and would ensure the provision of financial contributions towards early years and primary education and also the improvement of Knowle Lane to the east of the site. The compliance information provided by the Council in respect of the education contributions shows that these contributions would meet the tests in CIL regulation 122 and I can therefore take these into account in this decision.
16. The appellant also contests the necessity for the highways contribution towards the improvement of Knowle Lane. The section in question would be between the recently built development at Cambridge Way east towards the junction with Swallow Way. This is an historically narrow section of lane without footways. However, as the appellant points out, there are alternative vehicular and pedestrian routes from the proposed development through the recently built adjacent development. Furthermore, whilst the Council have requested a figure of £50,000, which they say is the 'approximate' cost of the scheme, I have been provided with no information regarding the nature or likelihood of any proposed scheme, or how such a cost would be directly related in scale and kind to the proposed 74 houses. It follows that the tests in CIL 122 have not been met and I cannot take this contribution into account in this decision.

Conditions

17. The conditions in the attached schedule are based on those suggested by the Council and appellant. Where necessary I have amended the wording of these

in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance.

18. To prevent flooding of the proposed dwellings I have imposed a condition requiring further details of the site levels and finished floor levels. In the interests of the character and appearance of the finished development I have imposed a condition requiring details of the materials to be used in the external surfaces of the dwellings to be submitted and agreed as well as further details of landscape and boundary treatment and details of the protection measures for retained landscape features. For the same purpose I have also imposed conditions relating to future maintenance arrangements for communal areas.
19. To reduce the impact of the development on local wildlife I have imposed a condition requiring that the development is carried out in accordance with the previously submitted ecological assessment. In the interests of highway safety and the amenity of future residents I have imposed conditions requiring further details of the proposed roads and associated infrastructure and also the phasing of such works and of the development as a whole. In the interests of the amenity of local residents I have imposed a condition requiring the submission of a construction management plan.
20. To ensure that archaeological remains are not lost I have imposed a condition requiring the submission and implementation of a scheme of investigation. In the interests of sustainability I have imposed conditions requiring the submission of a travel plan. To ensure that the proposed development does not cause flooding in the future or during the construction process I have imposed conditions requiring details of drainage management systems, as well as details of the future adoption and maintenance of the permanent system.

Conclusion

21. In light of my above reasoning and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Wilde

INSPECTOR

Schedule of conditions

- 1) Details of appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved or not later than 3 years from the date of this permission.
- 4) The layout details required by condition 1 above shall include existing and proposed site levels together with the finished floor levels of all buildings. The layout details submitted shall be informed by the tree survey, tree constraints plan, ecological survey, Flood Risk assessment and geophysical survey report all submitted with this outline application.
- 5) The appearance details required by condition 1 above shall include details or samples of the materials to be used for all the external surfaces of the buildings and all hard surface areas.
- 6) (i) the landscaping details required by condition 1 above shall include a scheme of planting of trees and shrubs, which shall include details of the species, siting and numbers to be planted together with a programme of implementation.

(ii) the approved scheme for each phase shall be completely carried out within nine months from the date of commencement of that phase in accordance with the implementation programme unless the written consent of the Local Planning Authority is given to any variation thereto.

(iii) for a period of five years after the completion of the planting scheme, the trees and shrubs shall be protected and maintained to the satisfaction of the Local Planning Authority and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

(iv) thereafter such landscaping shall be so retained, unless the written consent of the Local Planning Authority is given to any variation thereto.
- 7) The appearance details required by condition 1 above shall include details of all boundary walls, fences or hedges forming part of the development, and any such wall, fence or hedge so approved shall be erected/planted in accordance with a timetable to be agreed in writing by the Local Planning Authority prior to work commencing on site.
- 8) All development on site shall be carried out in accordance with the mitigation measures set out in the Ecological Assessment carried out by Sunflower International received by the Local Planning Authority on 4th January 2017, at all times.
- 9) The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes,

surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be submitted to and approved in writing by the Local Planning Authority before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

- 10) No development shall take place until:
 - (i) the access road has been laid out, kerbed, drained and constructed up to base course level for the first 20.00 metres back from its junction with the public highway and the road widened in accordance with drawing 0560/PHL-01 rev C;
 - (ii) the ironwork has been set to base course level and the visibility splays required by this permission laid out;
 - (iii) the footway on the public highway frontage required by this permission has been constructed up to base course level;
 - (iv) a site compound and car park have been constructed to the written satisfaction of the Local Planning Authority;
- 11) The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
 - (i) the spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - (ii) the spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - (iii) the cul-de-sac visibility splays have been laid out to their final level;
 - (iv) the street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
 - (v) the car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - (vi) the verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - (vii) the street nameplates for the spine road and cul-de-sac have been provided and erected.
- 12) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme,

or such other details as may be subsequently agreed in writing by the Local Planning Authority.

- 13) No development shall take place until a phasing programme has been submitted to and approved in writing by the Local Planning Authority. Thereafter all works shall be carried out on site only in accordance with the agreed details.
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) Details of construction vehicle movements;
 - ii) Construction operation hours;
 - iii) Construction vehicular routes to and from site;
 - iv) Construction delivery hours;
 - v) Restrictions of hours of construction movements;
 - vi) Expected number of construction vehicles per day;
 - vii) Car parking provision for contractors;
 - viii) Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
 - ix) Dust control measures and management plan;
 - x) A scheme to encourage the use of public transport amongst contractors.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 15) No development shall take place until the trees and hedges to be retained on the site have been protected in accordance with the details shown in a Tree Protection Plan. The tree protection measures included within the Tree Protection Plan shall be retained during the period of construction. During the period of construction of the development:
 - (i) no excavations, site works, trenches or channels shall be cut, or pipes or services laid in such a way as to cause damage or injury to the trees by interference with their root structure;
 - (ii) no fires shall be lit within the spread of the branches of the trees;
 - (iii) no materials or equipment shall be stored within the spread of the branches of the trees;
 - (iv) any accidental damage to the trees shall be cleared back to undamaged wood and be treated with a preservative if appropriate;
 - (v) ground levels within the spread of the branches of the trees shall not be raised or lowered, or trenches excavated except in accordance with details shown on the approved plans.
- 16) No building shall be occupied until such time that a Maintenance Schedule, to cover maintenance of the hedges and trees on the site for the lifetime of the development, has been drawn up and agreed in writing by the Local Planning Authority.
- 17) A management plan setting out the long-term management responsibilities and maintenance for all areas within the site (to include

all areas of Public Open Space, play areas, communal landscaped areas etc.) shall be submitted to and approved in writing by the Local Planning Authority prior to any buildings first coming into use. The management plan shall be carried out and implemented as agreed thereafter.

- 18) Prior to first occupation of the development a comprehensive Travel Plan, covering all elements of the development hereby permitted, shall be submitted to, and agreed in writing by, the Local Planning Authority. The Travel Plan shall be prepared in line with prevailing policy and best practice and shall include the following:
- (i) the identification of targets for trip reduction and modal shift
 - (ii) the methods to be employed to meet these targets
 - (iii) the mechanisms for monitoring and review
 - (iv) the mechanisms for reporting
 - (v) the penalties to be applied in the event that targets are not met
 - (vi) the mechanisms for mitigation if the thresholds are breached
 - (vii) implementation of the Travel Plan to an agreed timescale or timetable and its operation thereafter
 - (viii) mechanisms to secure variations to the Travel Plan following monitoring and reviews.

A review of the targets shall be undertaken within 3 months of the first occupation of the development and on an annual basis thereafter for a period of 5 years, at which time an Annual Travel Plan Report will be submitted in writing to the Local Planning Authority.

- 19) No dwelling hereby permitted shall be occupied until the estate road has been constructed up to and including the boundary with the adjoining land to the north to a standard suitable for adoption by the Local Highway Authority and has been included in an Agreement under Section 38 of the Highways Act 1980 as highway to be dedicated and adopted by the Highway Authority.
- 20) No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Flood Risk Assessment (Report Ref. 0560, Rev. -, dated 20 December 2016). Works shall be carried out in accordance with the agreed details.
- 21) No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site. Works shall be carried out in accordance with the agreed details.

- 22) No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority.

Costs Decision

Site visit made on 20 February 2018

by J Wilde C Eng MICE

an Inspector appointed by the Secretary of State

Decision date: 13 March 2018

Costs application in relation to Appeal Ref: APP/Y1138/W/17/3184498 Land off Knowle Lane, Cullompton, Devon

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr J Tizzard (Cullompton LVA LLP) for a partial award of costs against Mid Devon District Council.
 - The appeal was against the refusal of planning permission for a residential development of up to 74 dwellings with all matters reserved except access for future consideration.
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Decision

1. The application for an award of costs is refused.

Reasons

2. I have considered this application for costs in the light of the Government's Planning Practice Guidance (PPG). This advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes clear that a local planning authority are required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour¹.
3. In relation to substantive behaviour they include unreasonably refusing planning applications and promoting vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. These are the grounds upon which the costs application is made.
4. The appellant wrote to the Council on 30 March 2017. This letter referred to the appellant's Highway Technical Note (prepared by AWP) which in their view showed that the proposed development would not cause severe traffic problems in the vicinity of junction 28 of the M5. The letter went on to review various other matters concerning the proposed development and concluded that, as the Council could not demonstrate a five year housing land supply, then there were no adverse impacts of the development that would significantly and demonstrably outweigh the benefits.

¹ Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306

5. The appellant's emailed the Council on 20 April 2017 re-iterating this and commenting that no response had been received from the Highway Authority regarding the new evidence that they had presented.
6. However, the Council had refused another housing development in Cullompton citing the same highways reason for refusal. This scheme went to appeal and was decided by an Inspector in the format of a Hearing on 3-4 October 2017. In his decision the Inspector commented at paragraph 22 that *the traffic modelling produced by DCC indicates that junction 28 is close to capacity*. The Inspector went on to comment on the survey work, in the form of queue length monitoring carried out by DCC that revealed *a significant queuing delay along Station Street*. Whilst he eventually found against the Council on the highways issue I also note that the issue took up over three and a half pages of the Inspector's decision. This all indicates to me that the Council produced sound and significant evidence in support of their case and that therefore it wasn't unreasonable of them to defend the appeal.
7. In respect of timing the Inspector's decision is dated 3 November 2017 and the Council wrote to the appellant on 21 November informing them that they were withdrawing their objection to the proposed scheme subject to the agreement of a Section 106 Undertaking. The Council's change of stance was directed by a letter from DCC on 9 November which, although not sent to the appellant directly, was uploaded onto the Council's publicly accessible website and invited the appellant to withdraw the appeal. The appellant subsequently decided to continue with the appeal.

Conclusion

8. In light of the above, whilst I acknowledge that there was a short gap between the Inspector's decision and the Council withdrawing their objections to the scheme, I do not consider that this equates to unreasonable behaviour resulting in unnecessary expense within the context of the costs system. An award of costs is not therefore justified.

John Wilde

Inspector