

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of a Meeting of the Extra-ordinary Development Management Committee held at Knowle, Sidmouth on 10 October 2017**

#### **Attendance list at end of document**

The meeting started at 10.00am and ended at 10.40am.

#### **\*23 Declarations of interest**

##### Committee Members

Cllr David Barratt

Personal Interest - Minute \*24 – Reasons for refusal relating to loss of light – Council Offices, Knowle, Sidmouth

Reason: Sidmouth Town Councillor

Cllr Mike Howe stated that as East Devon District Council owned the Council Offices site that all Committee Members, as District Councillors, had a personal interest in the matter to be considered.

#### **\*24 Reasons for refusal relating to loss of light – Council Offices, Knowle, Sidmouth**

The Development Management Committee had refused application 16/0872/MFUL in December 2016 for three reasons. The applicant had subsequently appealed this decision and a Public Inquiry was due to take place in November 2017. Prior to the Public Inquiry, the Council had received new evidence, which would be used by the appellant in the form of a daylight and sunlight assessment. In light of this new evidence, Members were asked to consider removing the reference to loss of light in reason one for refusal and to no longer defend the appeal on the basis of any loss of light from the development having a detrimental impact upon surrounding residents. There was concern by Officers and the Council's appointed Barrister that with no contrary evidence pursuing this one element of the reason for refusal could undermine the rest of the Council's defence, which was otherwise considered to be robust. Members noted that the new evidence was based on BRE guidance which was not planning policy, however weight would be given to it by the Inspector as a way of assessing light. Comments submitted by Hillcrest, the property most affected, would still be presented at the Public Inquiry and the Inspector had already indicated that he would be visiting the Hillcrest property.

The Chairman invited the two registered speakers, Mr and Mrs Whittle, who were the owners of Hillcrest, to address the Committee. They spoke of the new evidence being flawed and how those undertaking the assessment had failed to view the proposed development from their property. Their concerns were that the proposed development would cause significant overshadowing and loss of light to their main living areas, particularly in the winter months.

Members discussed the committee report and appended new evidence submitted by the appellant at length. Discussion included:

- The cost implications of continuing to defend loss of light was queried. In response, the Committee was advised that the Council had no contrary evidence to that submitted by the appellant, therefore there was a possibility that the appellant could seek costs against the Council for unreasonable behaviour if it pursued it as a reason for refusal without evidence to support it;

- Concern was raised that by leaving in reference to loss of light, that this could weaken the Council's defence of the appeal;
- In response to a query about the suggestion that the new evidence was flawed, the Committee was advised that the assessment tests used were based on habitable rooms - the only reason the report could be shown to be flawed would be if the assessment was found not to have been carried out on a habitable room;
- Reassured that the Inspector would be visiting Hillcrest and would consider the comments submitted by the owners;
- In response to a query about who from the Council would be defending the appeal, it was confirmed that the Officer and Barrister appointed did not work for the Council;
- The Council had strong reasons to defend the refusal even without the reference to loss of light.

**RESOLVED: that in respect of application 16/0872/MFUL, the Committee accepted the appellant's new evidence in relation to loss of light and agreed that the appeal no longer be defended on the basis of the development having a detrimental impact upon surrounding residents through loss of light.**

#### **Attendance list**

##### **Present:**

##### Committee Members present for all or part of the meeting

##### Councillors

Mike Howe (Chairman)

Colin Brown (Vice Chairman)

Mike Allen

Brian Bailey

David Barratt

Susie Bond

Peter Burrows

Paul Carter

Alan Dent

Bruce de Saram

David Key

Helen Parr

Mark Williamson

##### Officers present for all or part of the meeting

Henry Gordon Lennox, Strategic Lead – Governance and Licensing

Alison Stoneham, Communications and Public Affairs Manager

Chris Rose, Development Manager

Hannah Whitfield, Democratic Services Officer

##### Also present for all or part of the meeting

##### Councillors:

Megan Armstrong

Paul Diviani

Andrew Moulding

Val Ranger

Phil Twiss

**Apologies:**

Committee Members

Councillors

Matt Coppell

Steve Gazzard

Ben Ingham

Non Committee Members

Councillors:

Cathy Gardner

Geoff Pook

Chairman .....

Date.....