

MENDIP DISTRICT COUNCIL

Minutes of the Planning Board held on Wednesday, 16 March 2022 in the Council Chamber, Shepton Mallet, starting at 6 pm.

PRESENT:

Councillors Damon Hooton (Chair), Adam Boyden, Francis Hayden, Nigel Hewitt-Cooper, Edric Hobbs, Lindsay MacDonald, Matt Martin, Lucie Taylor-Hood, Alan Townsend, Laura Waters and Nigel Woolcombe-Adams

SUBSTITUTE MEMBERS:

Councillor Mike Pullin for Councillor Eve Berry
Councillor Michael Dunk for Councillor Helen Kay

OTHER COUNCILLORS PRESENT:

Councillor Shane Collins (on Teams)

OFFICERS PRESENT:

Helen Bowen	Committee Officer
Dave Burn	Interim Democratic Services Manager
Claire Dicken	Committee Officer
Brian Convery	Legal Advisor
Tessa Hampden	Team Leader – Development Management
Carlton Langford	Planning Officer (on Teams)
Nick Ryder	Committee Officer
Simon Trafford	Team Leader - Development Management

Agenda Item Number	Subject	Actioned By
1	<p>Chair's Announcements</p> <p>The Chair welcomed everyone to the meeting.</p> <p>The Chair confirmed that arrangements for the meeting would follow the Hybrid Meeting Guidance previously distributed to all Members. There were Members of the Board, essential Officers and public speakers physically present.</p> <p>He advised that Item DM02 - 2021/1951/FUL Communication Station At Junction With Manor Road, Grove Lane, Frome, had been removed from the agenda due to some amendments to the application submission (submitted by the applicant). The Team Leader – Development Manager then advised that Item</p>	

	DM06 - 2021/2433/OTS Victoria Farm, Bath Road, Haydon, Wells had also just been removed from the agenda.	
2	<p>Apologies for Absence</p> <p>Apologies for absence were received from Councillors Eve Berry, Helen Kay, Nick Cottle and Chris Inchley.</p> <p>Councillor Mike Pullin substituted for Councillor Eve Berry and Councillor Michael Dunk for Councillor Helen Kay.</p>	
3	<p>Declarations of Interest</p> <p>None</p>	Helen Bowen
4	<p>Public Participation</p> <p>Items not on the agenda</p> <p>Mr Steven Shoebridge had registered to speak on an item not on the agenda. Mr Shoebridge said that his speech concerned the intention of a private housing developer to disregard and therefore breach a planning obligation under a S106 agreement made between Mendip District Council and Flower and Hayes Developments in 2013.</p> <p>He was one of 6 families in Wells with contractual assured tenancy agreements to rent affordable homes within a development. One condition of the S106 was that Flower and Hayes let their properties through Home Finder. They were not a registered provider of social housing but affordable housing could be provided “under equivalent arrangements”. For the past 5 years the landlord had charged rent at a similar amount to registered providers. In February 2022 they sent all families a letter stating that there would be a rent increase until it reached 80% of what they could achieve on the open market. When they got planning permission, they were required to submit a management plan but the families’ requests to see this plan had been ignored. He said that the S106 stated the rent charged could only be a social rent.</p> <p>He requested a letter be sent to Flower and Hayes stating they would be in breach of the S106 agreement and condition notice. He said their behaviour was indicative to how they regarding planning law.</p> <p>The Team Leader – Development Management then clarified for Members that the investigation would be</p>	

	<p>based on the breach of S106 agreement, not the condition notice and that the Council were currently seeking legal advice on the matter. Councillor Laura Waters requested that all Wells Councillors be copied on the information.</p> <p>Items on the agenda</p> <p>None</p>	
5	<p>Previous Minutes</p> <p>The Board was asked to consider the Minutes of the meeting held on 16 February 2022.</p> <p>Councillor Helen Kay had provided suggested changes to the minutes. These were distributed to Members via Updating prior to the meeting.</p> <p>Following discussion, it was proposed by Councillor Mike Pullin to accept two of her suggestions. This was seconded by Councillor Adam Boyden. The approved amendments were as follows:</p> <p>Page 8 – Paragraph 4. “Discussions turned to ground source and air source heat pumps...”</p> <p>Page 12 – Paragraph 3. “All agreed. The resolution was agreed by a clear majority”</p> <p>It was proposed by Councillor Mike Pullin, seconded by Councillor Adam Boyden the vote was unanimous.</p> <p>RESOLVED:</p> <p>That the Minutes of the meeting held on 16 February 2022 be approved as an accurate record of the proceedings subject to the two amendments outlined above.</p>	
6	<p>Resolution to Agree All Recommendations made on Development Management Applications Not Raised for Discussion</p> <p>The Chair advised that the following applications had not been raised for discussion:</p> <p>DM04 - 2021/0652/FUL Bonneyleigh View, Gypsy Lane, Frome, Somerset, BA11 2NA</p>	

	<p>The Team Leader – Development Management advised that the recommendation had changed from Delegate to Approve to Delegate to Permit, subject to the application being advertised as a departure from the Local Plan and no new significant considerations arising.</p> <p>Councillor Mike Pullin proposed that the Board agree the item in accordance with revised Officer recommendation above, which was seconded by Councillor Nigel Hewitt-Cooper. A vote was taken and the motion was carried with 1 abstention.</p> <p>RESOLVED</p> <p>That permission be granted to planning application 2021/0652/FUL in accordance with the recommendations and conditions specified in the Officer Reports and Updating Report.</p>	
7	<p>Development Management - Planning Applications</p> <p>The Team Leader – Development Management then confirmed that DM06 - 2021/2433/OTS - Victoria Farm, Bath Road, Haydon, Wells, Somerset, BA5 3EQ had been withdrawn at late notice from the agenda. The Chair confirmed that the items that would therefore be discussed were DM01, DM03 and DM05.</p>	
DM01	<p>2021/1952/FUL Communication Station At Junction With Manor Road, Grove Lane, Frome, Somerset</p> <p>The Officer Report stated that this application was for the installation of a 20m monopole, 12 antenna and 3 equipment cabinets. Also, the removal of an existing 17.5m monopole, 2 equipment cabinets and development ancillary thereto. It had been referred to the Planning Board because the Officer recommendation was contrary to those of the Town Council and there had been a significant number of representations.</p> <p>It said that the site already supported a 4G mast and was within an industrial/commercial area.</p> <p>Ward Councillor Collins had said that as it was the first 5G mast application within Frome, it should go to the Planning Board and he had raised various concerns during the consultation period including the lack of proof of safety.</p>	Carlton Langford

Frome Town Council had objected to the application as their council policy meant they were unable to support the rollout of 5G.

There had been 185 letters of objection received from local people at the time the main report was submitted to the agenda. The reasons for objection included the following:

- Visual impact
- Adverse impact on the environment and wildlife.
- Various health reasons as to why the mast and equipment should not be allowed.
- Documented health implications associated with the rollout of 5G.
- Insufficient information surrounding the health risks associated with 5G.
- 5G should not be allowed in Frome.
- 5G not needed in Frome, 4G sufficient.
- The site is located close to schools.
- Close to a care home for the elderly.
- Concerns regarding electromagnetic fields (EMF) surrounding 5G equipment.
- Indications show that children are among the most susceptible to EMF emissions.
- Highway safety concerns

The Report added that there had been a petition with at least 115 signatures objecting to the proposal for the similar reasons as above, but also that 2 letters of support had been received.

The Officer Report advised that public health controls surrounding radio waves including 5G technology were set out by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) and gave some background to their guidelines and research. The report provided a summary of the findings saying it was possible that there may be a small increase in overall exposure to radio waves when 5G is added to an existing network or in a new area. However, the overall exposure was expected to remain low relative to guidelines and, as such, there should be no consequences for public health.

Public Health England was committed to monitoring the evidence applicable to this and other radio technologies, and to revising its advice, should that be necessary.

The Chair then invited the first of the public speakers to address the Board.

The first to speak was Dr Erica Mallery Blythe. She said she had a background with the NHS and had done much research into the health effects of radio frequency radiation. She gave details on 5 little known facts about radio frequency radiation. These were:

1. The safety limits by the ICNIRP are set many orders of magnitude too high for legitimate biological protection. They were set in the 1990s and are now obsolete.
2. Radio frequency radiation has now been shown to cause serious biological effects below these limits and include increased cancer risks and other serious health issues. Experts want RFR to be reclassified as a group 1 carcinogenic which would put it in the same bracket as tobacco, asbestos, and x-ray.
3. Some individuals are more vulnerable to this type of radiation than others. These include in particular children, but also the elderly, pregnant and infirm. Also people with electromagnetic hypersensitivity can be disabled by their severe EMF exposures with symptoms such as headache, sleep disturbance, dizziness and palpitations. Dr Mallery Blythe said that there were at least 2 local residents who suffered from electromagnetic hypersensitivity.
4. Animals and plants could be affected by a similar mechanism, and the ecosystem is already struggling.
5. It is very important that people give fully informed consent and Dr Mallery Blythe would ask how well you feel informed about the scientific and medical evidence.

She concluded that safer, more reliable access would be provided by fibre internet.

Mr Peter Harris was then invited to speak. He said that all the major political parties within the country supported the rollout of 5G as fast as possible. He added that as part of the mobile operator's licence, they must continue to provide improved coverage and capacity. The increase in height of the pole of 2.5m was required to support the 5G installation. The nearest residents would be 200m away to the northeast and so should not be affected by the installation at all. The proposal did comfortably meet all of

the ICNIRP standards, it was in line with the local and national policies. He concluded that the pandemic had shown how critically important mobile technology was and that the rollout of 5G enhanced this significantly.

As Ward Councillor, Shane Collins was then invited to speak. He said that this was the first of many 5G applications within Mendip. Under UK and EU law, a strategic environmental assessment should have been carried out before the implementation of 5G, but it hasn't. Councillor Collins spoke about the growing evidence regarding the negative effects on health from radio frequency radiation. He also referenced an increased risk of cancer for people living in proximity to a cellphone transmitter station. He pointed out that Lloyds of London would not insure wireless technologies and that 5G was effective only over short distances and could not pass through trees. Therefore, bases and antennae would have to be located more frequently and trees cut down. The applicant had not shown the exclusion zone for the mast on the application and there were buildings and residents located nearby. He asked the Planning Board to take note of the number of objections to the mast and asked that they consider the lack of proof of safety of 5G technology.

In the discussion that followed the Team Leader – Development Management clarified that the Strategic Environmental Impact Assessment that had been referred to by one of the speakers was not required to be submitted to inform the decision on the planning application, as this application did not fall into any of the categories within the relevant regulations (ref: the Town and Country Planning (Environmental Impact Assessment) Regulations 2017

Many Members raised their concerns about the safety aspect of locating the mast close to houses and schools. The Planning Officer confirmed that the legislation allowed for masts to be erected in residential areas and there were many sites throughout the country where this had happened.

One Member said she was concerned to hear from the first speaker that the safety guidelines were based on out-of-date tests and were now obsolete and said further research was needed before approving the erection of 5G masts close to homes and schools. These concerns were shared by many Members who also felt the safety of 5G was not yet proven.

On the other hand, Councillor Hewitt-Cooper said that there was no evidence to suggest there would be any danger with the location of the mast and proposed to approve the application in line with the Officer's recommendation.

As a former physics teacher, one Member then spoke in detail about the science behind 5G technology. He concluded that there was no suggested mechanism by which radiation from a 5G mast could cause the harm suggested. Following this, Councillor Mike Pullin seconded Councillor Hewitt-Coopers proposal to approve the application.

Further discussions about health and safety of the mast ensued. The Team Leader – Development Management said that the applicant had submitted the correct process by providing an (ICNIRP) certificate. Another Member said that despite the worries and concerns for safety, that the scientific evidence should be followed.

A vote was then taken to approve in line with Officers Recommendation, as proposed by Councillor Hewitt-Cooper and seconded by Councillor Pullin.

There were 6 votes in favour and 7 votes against and the motion to approve was not carried.

Councillor Laura Waters then proposed to refuse the application contrary to Officers Recommendation due to concerns on the impact to public health for all ages and lack of backed up evidence of the impact to health. This was seconded by Councillor Lindsay MacDougall. There were 7 votes for the proposal and 6 votes against, therefore the motion to refuse was carried.

RESOLVED

Refused contrary to Officer Recommendation due to concerns on the impact to public health for all ages and lack of backed up evidence of the impact to health.

<p>DM03</p>	<p>2021/2649/FUL Land South Of Apple Meadow View, Park Hayes, Leigh On Mendip, Radstock, Somerset</p> <p>The Officer Report stated that the application was for the erection of 3 single storey dwellings and had been referred to the Planning Board as the Officer recommendation to approve was contrary to the views of the Parish Council. Also, the proposal represented a departure from the development plan as the site was in open countryside.</p> <p>The Report continued that the application site comprised part of an agricultural field which lay immediately to the south of Apple Meadow View. No's 1 – 12 Apple Meadow View were constructed in about 2016 and currently formed a prominent defined edge to the village.</p> <p>Access to the site was gained via an existing track between no's 8 and 9 Apple Meadow View, which currently served the applicant's smallholding. Access to the applicant's barns would continue to be provided via a private driveway to the rear of the applicant's residence at no. 1 Apple Meadow View. The site lay at a lower level than the adjoining residential development and fell away to the southern hedgerow.</p> <p>Ward Councillors Townsend and Ham had referred the application to the Planning Board as it was a departure from the local plan. Also, they had concerns regarding the impact of the access on 8 and 9 Apple Meadow View.</p> <p>Leigh on Mendip Parish Council had objected to the application for reasons including:</p> <ul style="list-style-type: none"> • The site lay outside the village development limits, contrary to Policies CP1 and CP2 and was therefore unacceptable in principle. • It would result in visual encroachment beyond the clearly defined southern edge of the village. • The field pattern south of the site framed the village and gave it a rural setting which would be impacted by the development. • The 4-metre-wide access was too tight and concern that Highways have not been consulted. • Drainage concerns. <p>There had been 16 letters of support from local residents and 10 letters of objection. Supporting comments included:</p>	
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- Smaller homes as proposed would be ideal for younger families within the village to buy.
- It would cater for older or disabled villagers who need single storey dwellings.
- The siting and levels on the site would mean that the development will not have a negative visual impact.
- Too often new housing is shoehorned onto small sites whereas these plots are a generous size.

The Team Leader – Development Management advised there had been 2 further letters in support of the application, another from the applicants’ agent setting out their case and a further letter from the Parish Council raising concerns about the boundary treatment adjacent to the residential properties. Members were advised that these issues should not materially affect the recommendation on the planning application as presented in the report pack. It was also confirmed that the plans list was not complete and there would need to be an amendment to condition 6 which could be delegated to a Planning Officer.

After the application details had been presented, Mr Frank Higgins was invited to speak. He had lived in the village for 30 years and there was a village design statement (VDS) produced by the residents by democratic process. He said the village was on a plateau and that the old roman road followed the plateau. The VDS stated that the linear plan was a defining aspect of the village and must not defer from existing views and listed buildings. Any development should stay within the linear line, which this development would not. He also commented on the traffic and parking problems and asked Members to reject the application.

Councillor David Mattick was invited to speak as Chair of Leigh on Mendip Parish Council. He requested Members refuse the application for various reasons including sustainability. He said that modern living could only be sustained with the use of a car and footpaths. There were no buses to the village after 5.40pm in the evening. He said the site was not suitable for the development proposed and it would subdivide the land in an alien and awkward way. He spoke about the visual impact the site would have on the other dwellings, the countryside and village as a whole and said that the harm of the proposal heavily outweighed the benefits and urged that the application be refused.

In support of the application, Mr David Bissex was invited to speak as agent for the applicant. He said the existing 12 houses in Apple Meadow View were granted planning permission by the Planning Board in 2016 and the 3 new houses proposed are much lower in height. Access has been approved by the Highways Agency and will be in use less than at present by agricultural vehicles such as tractors. The linear line of the village had already been broken by the Park Hayes development and that behind the Bell Inn. He said there was a need to increase the housing stock within the village otherwise it would stagnate and the pub and shop would close. He had worked closely with the Planning Officers who had no objections to the application.

As Ward Councillor, Alan Townsend then spoke. He said there were two main issues with the application – access and harm to the landscape. He said the access was very narrow and could be dangerous and this was a concern shared by many villagers. He talked about the linear village and that the significant and demonstrable harm to the visual amenity would not be outweighed by the provision of 3 houses.

In the discussion that followed, many Members were supportive of the size and type of the houses proposed, saying that they would be in high demand to enable younger people to stay within the village and for older people to downsize to. One Member commented that the design of the buildings looked agricultural and would fit well into the landscape. Members agreed that the buildings were sustainable and were pleased with the provision of air source heat pumps.

The remote location of the homes was discussed. One Member said not many villages are sustainable regarding public transport and that it was inevitable that people would have to use cars. Another Member responded that our countryside should not be planned around the poor provision of public transport. The houses would be a welcome size and scale. This should be preserved so a request was made by one Member to place a condition on the approval to restrict all permitted development rights for future occupiers. The Team Leader – Development Management advised this would be possible.

Councillor Lucy Taylor-Hood then proposed that the application be approved in line with the Officer recommendation, with the added condition regarding

	<p>future development. This was seconded by Councillor Laura Waters.</p> <p>A vote was taken and there were 11 votes in favour and 2 votes against, and it was:</p> <p>RESOLVED</p> <p>To approve in line with the Officer Recommendation with additional conditions withdrawing permitted development rights, include the opportunity to add a further storey, for future occupiers.</p>	
	<p>Councillor Adam Boyden left the meeting before the next item was discussed.</p>	
DM05	<p>2021/0638/FUL Land At Jacks Lane, Croscombe, Shepton Mallet, BA5 3QD</p> <p>The Officer Report stated that this application was for the change of use of an existing agricultural storage building to a mixed use of agricultural store and venue for functions - up to 18 per a calendar year. The site was within a SSSI Impact Risk Zone and the RAMSAR Area.</p> <p>The application was referred to the Planning Board at the request of the Ward Councillor due to the unusual topography of Croscombe and the resultant possible disturbance to residents of the village.</p> <p>Croscombe Parish Council had initially recommended approval when they first considered the application but noted the concerns of local residents. They therefore requested the 18 days should be spread throughout the year, to limit the noise impact. The size of the events should be limited to avoid too much traffic. The Parish Council subsequently changed their recommendation to an objection.</p> <p>The Report continued that there had been 9 letters of support received and 55 letters of objection. Reasons included the potential noise impact, the traffic impact on unsuitable roads, and the site was within a Conservation Area and would be unsuitable. The Officer highlighted that this was not however correct – the site was <i>not</i> within a Conservation Area.</p> <p>Regarding the potential impact on Residential Amenity, the Officer Report advised that objections to the proposal</p>	Josh Cawsey

had suggested that the proposal would result in a harmful noise impact on the nearby neighbouring properties due to the elevated position of the existing barn. However, as per the Noise Impact Assessment submitted with the application, subject to the Noise Impact Assessment being complied with as conditioned, it had been satisfactory demonstrated that the proposal would not have an undue adverse impact on the neighbouring and nearby properties in regard to noise impact.

Objections had also been raised that the proposal would have a harmful impact on the nearby road network, which was not suitable for the proposed traffic numbers. The Report stated that the applicant had submitted a Transport Assessment with the application, with a revised Addendum received at a later date. The SCC Highways responded that harm had been identified in relation to the existing site access point as well as the increased traffic and difficult junction with Old Wells Road. However, weight could be given to the proposal being limited to 18 calendar days per year.

The Officer Report also gave details of a potential fallback position which would allow an adjacent agricultural field to be used for events for up to 28 days under Permitted Development. With the additional weight given to this fallback position, no objections were made by SCC Highways so long as conditions were added to ensure the development rights were removed to ensure the fallback could not be implemented.

The Planning Officer then drew Members attention to the Updating which gave details of some changes to the proposed conditions and noted that 2 further letters of objection had been received.

The Chair invited Mr Richard Cronin to speak. He made a number of points, including the following:

1. There was nothing in the application about generating local economic benefits.
2. The benefits given were that the applicant would not operate his fallback position. He said the Planning and Highways Officers had given this substantial weight which was unrealistic.
3. Highways had said the site was not safe or suitable but had not objected due to the weight given to the fallback position.
4. The noise levels that were considered acceptable were taken from a code of practice created for

large concerts taking place in open air stadiums and arenas - not a small village. The noise consultant he had appointed had written several letters but not all had been reviewed by the Environmental Officer.

5. The possibility of granting temporary planning permission along with a number of conditions would not fix all the shortcomings of the application.
6. A better and more thorough application in a different and more suitable location should be required.

Mr Cronin said the application should be refused because the economic benefits had not been demonstrated, there were unacceptable noise levels, and the removal of the applicants right to a fallback option did not outweigh the planning harm from highway safety and noise impacts.

Mr Fletcher Robinson from the Campaign to Protect Rural England was invited to speak. He said that the location was unsuitable for holding these events and that the noise consultant had not taken into account that the barn was located atop a hillside overlooking the village. The topography of the valley would mean the low beats of the music would travel right across and be heard by all the residents of Croscombe. He also spoke about the very limited number of car parking spaces at the venue and the access was via a long, steep, narrow and unlit lane. Although Highways had concerns about this, they had given too much weight to the fallback position. He concluded that at the very least, CPRE Somerset would want the application to be deferred.

On behalf of Croscombe Parish Council, Councillor Mick Rogers then spoke. He said that initially, the Parish Council were in support of the application but when further consideration had been given to the noise impact, changed their minds and recommended refusal. Croscombe was a serene and calm village within a V shaped valley. This meant that sound from one side of the valley would travel across to the other side. The proposed sound mitigation offered by the applicant was not feasible as it relied on guests staying indoors. However, this was not realistic on a warm summers evening and people would bound to spill outdoors. He said that at a recent public meeting there had been over 60 residents in attendance, and the majority vehemently opposed the application. He also spoke about the difficult and dangerous access to the venue and that the peace

	<p>and tranquility of the village would be spoiled if the application was approved.</p> <p>Mr Matt Williams as agent for the applicant was then invited to speak to the Board. He spoke about the applicants and how they lived locally and raised money for the NHS. He said that the Highways Agency and the Environmental Protection Officers had not objected to the application, subject to conditions. The fallback position had been demonstrated as lawful and the proposal itself would give the Council some controls over the use of the venue. He concluded that there were no reasonable grounds to refuse the application.</p> <p>Ward Councillor Nigel Hewitt-Cooper then addressed the Board. He spoke about the topography of the village, being in a steep sided valley. This meant that sound carried right across the open bowl of the valley. Although the Environmental Protection Officer did not have any issues with this, the residents of Croscombe had gone to great lengths to prove otherwise and had appointed their own sound experts. They had provided a very full report in which their opinions differed with the findings of the report provided by the applicant. He said that the economic benefit to the village would be quite limited. He added that the Highways report was rather flimsy and that the access lanes were exceedingly steep, narrow and included a dangerous junction. To conclude, Councillor Hewitt-Cooper proposed to refuse the application on the basis of noise disturbance on the residents of Croscombe.</p> <p>In the discussion that followed, Councillor Mike Pullin added that in addition to the noise disturbance, the issues with access and parking should also be reasons for refusal and seconded the proposal to refuse.</p> <p>Many Members were in agreement that there would be significant impact on the residents of Croscombe due to the noise disturbance from the events. One Member pointed out that most events would be held in the summer months when villagers would be trying to enjoy peaceful evenings outside. Members also raised the issue of light pollution and that the site was in a Ramsar area.</p> <p>Another Member gave details on how sound travels during the evening, and that it deflected downwards and travelled along the ground.</p>	
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	<p>Discussions turned to the parking and access issues. It was pointed out that there would be insufficient parking at the site and that visitors would be forced to park on the very narrow and steep lanes which could lead to traffic chaos as well as being very dangerous. There were long stretches of the lane with no passing places for cars.</p> <p>Some Members also agreed that the benefit of a condition regarding the removal of fallback position was meaningless, as the 28 days afforded by this would still be subject to obtaining the correct licences etc. which they may not be granted anyway.</p> <p>Councillor Nigel Hewitt-Cooper repeated his proposal to refuse due to the impact of noise disturbance on properties within Croscombe with additional reasons. These were an inadequate site layout, difficult access and parking and that the economic benefits of the proposal did not outweigh the harm.</p> <p>A vote was taken and it was unanimously agreed to refuse the application.</p> <p>RESOLVED:</p> <p>Refused contrary to Officer Recommendation due to the impact of noise disturbance on properties within Croscombe, an inadequate site layout, difficult access and parking and that the economic benefits of the proposal did not outweigh the harm.</p>	
8	<p>Appeals Report</p> <p>The Interim Head of Planning had provided appeals report which Members noted.</p>	
9	<p>Urgent Business</p> <p>None</p>	

The meeting finished at approximately 9.00 pm