

E-mail: comsec@teignbridge.gov.uk

10 February 2022

FULL COUNCIL

A meeting of the **Full Council** will be held on **Tuesday, 22nd February, 2022** in the **Buckland Athletic, Kingskerswell Road, Newton Abbot, TQ12 5JU** at **10.00 am**

PHIL SHEARS
Managing Director

Membership:

Councillors Austen, Bradford, Bullivant, Clarence, Colclough, Connett, Cook, D Cox, H Cox, Daws, Dewhirst, Eden, Evans (Vice-Chair), Foden, Goodman-Bradbury, Gribble, Haines, Hayes, Hocking, G Hook, J Hook, Jeffery, Jeffries, Jenks, Keeling, Kerswell, MacGregor, Morgan, Mullone, Nutley, Nuttall, Orme, Parker-Khan, Parker (Chair), Patch, Peart, J Petherick, L Petherick, Phipps, Purser, Rollason, Russell, Swain, Taylor, Thorne, Tume and Wrigley

Please Note: The public can view the live streaming of the meeting at [via our Youtube Page](#) with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public.

A G E N D A

Part I

6. **Public Questions (if any)** (Pages 3 - 10)

Members of the public may ask questions. A maximum period of 15 minutes will be allowed with a maximum period of three minutes per questioner.

The deadline for questions is no later than 12 noon two working days before the date of the meeting.

19. **Councillor Questions**

(Pages 11 - 14)

Members of the Council may ask questions of the Council subject to procedural rules.

The deadline for questions is no later than three clear working days before the meeting.

If you would like this information in another format, please telephone 01626 361101 or e-mail info@teignbridge.gov.uk

Public Questions

22 February 2022

Questions from Lisa Goudie

1. *Please explain in detail what kind of services are included in over 60% of council tax that goes to Devon County Council and if ALL these services have been listed in the council tax contract they are asking people to enter into?*

Response from the Leader

Devon County Council provides a wide range of services including Children's Services, for those who are vulnerable or have special needs, adult health and social care services, highways, it is a Planning Authority in its own right, it has oversight of the Coroners' Service, and is the Waste Disposal Authority for its area. For a comprehensive overview of the County Council's services, you should contact Devon County Council directly. There is not, as far as I am aware, a 'Council Tax Contract'.

2. *Please provide evidence to the public that you have put in place risk assessments for masks, tests and experimental vaccines. The MRHA have revealed shocking adverse reactions from vaccines. Why as a council would you even remotely consider subjecting children to be used as guinea pigs in an experimental stage of vaccine trials yet to be revealed?*

Response from the Leader

Matters of Public Health vaccinations and mask risk assessments etc are not within this council's responsibilities. The vaccination programme has been undertaken by the NHS and many millions of people have chosen to be vaccinated both to minimise the risk to themselves and others of Covid 19. Your questions regarding vaccination programmes for children and young people should be directed to the appropriate authorities.

3. *Why is the council not taking it upon themselves to check data regarding covid health matters? The public are requesting this to be transparent and not ignore facts revealed from Freedom of Information responses. Is the council forgetting its Duty of Care policies?*

Response from the Leader

Matters of Public Health are not within this council's responsibilities. However, we rely on the professional advice and guidance of, for example, the NHS, Public Health and the Government's professional advisors. The data is reviewed on a national basis which influences legislation and guidance the district council applies. I understand the COVID-19 data we have used is publicly available via Devon County Council website.

Questions from the Newton Abbot & District Civic Society

Please find our request to have questions presented at the Full Council Meeting on 22 February 2022. One concerns the Theatre - these questions can be read in any suitable order.

1) On 5 December 2021 the Society made a formal request for Undesignated Heritage Asset Status, the least option available at this point, for the Bradley Lane Mill buildings, (including the leat), and have had no response or confirmation. Can you confirm they will be given this status?

Response from the Executive Member for Economy and Jobs

The Design and Heritage team has been in correspondence with the Civic Society and they are not clear why the Society feels that it has had no response. The Bradley Lane Mill Buildings and associated structures are non-designated Heritage Assets therefore it is not a status that can be formally conferred.

For reference, the National Planning Policy Framework (NPPF) defines a Heritage Asset as: "A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).

And it confirms that:

"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

When an application is received for the Bradley Lane area, Officers and Members of Planning Committee will take these requirements into account in our decision making.

2) In local press (MDA 10 February 2022) the architects working with TDC are quoted in the cover story article as saying "Mr Barnfield added that one aim was the preservation of the town centre heritage including sites such as Tucker's Maltings and the Mill at Bradley Lane which, he said, 'deserves to be emphasised' ". Can you confirm you will not be demolishing the Mill buildings?

Response from the Executive Member for Economy and Jobs

The Council has appointed expert urban designers and architects to assist with the Garden Community programme using funding that was awarded by Homes England. Our advisors provide advice and have rightly identified that heritage is an

important consideration as Newton Abbot continues to adapt and ready itself for a successful future. Decisions on development proposals are made through the preparation of a Local Plan and when determining planning applications. As part of those processes we consider a range of (often competing) issues, including heritage impacts and opportunities for enhancement.

3) Could you tell us why there is such a determined attempt to empty the interior of the Alexandra Theatre, when you are overwhelmed with evidence of the local community wanting it to remain as a fully functioning theatre?

Response from the Executive Member for Economy and Jobs

The vision is to create an asset for the whole community that functions during the day and evening. The final scheme proposal has not been made. Further engagement will be carried out and the matter will be considered further as part of a planning application.

Question from Amy Hedger

*I would be grateful if the following question could be put to the Full Council meeting being held on 22nd February regarding **Agenda Item 7: Future High Street Fund Newton Abbot Market.***

Please could full details of the Council's business plan regarding the redevelopment and operation of the proposed changes to Newton Abbot Market and creation of a cultural and arts multifunctional space be shared with the public so a transparent view of how the space will function and be managed, and whether the plan includes practical consideration for use such as:

- *Who will manage the space - how many new jobs will be created for setting up, putting away, cleaning, front of house, access, stewarding etc.?*
- *Who will be responsible for managing bookings and facilities, will a new department / website be set up?*
- *Will the space be accessible during the day for setting up, sound and lighting check, rehearsals - how will this be managed in a mixed use space of retail and hospitality?*
- *How will noise from performances impact the operation of retail / hospitality space, and how will noise from those spaces impact the performance space?*
- *Where will equipment be stored, both items for hire such as stage and seating, and that of visiting performers?*
- *If the performance is for more than one night how will equipment be accommodated - will everything have to be packed away each night and if so where will items be stored?*
- *Will the stage be big enough to accommodate large productions and if so how will that be managed ie. backstage changing, storage, rehearsal, access for setting up etc.?*
- *If the space is intended for use by children and young adults how will safeguarding requirements be managed i.e. changing / toilets and chaperoning?*

- *What consideration is being made for the size and construction of the stage, will it be suitable for dance as well as music / theatre performances?*
- *What consideration is being made for acoustics within the space?*
- *Will there be additional rooms to hire for groups similar to those at the Teignmouth Pavilion redevelopment i.e. fitness classes, martial arts, art groups*

Response from the Executive Member for Economy and Jobs

This is the next stage of detailed design that will need to be worked up alongside future engagement. As you have indicated there are multiple elements to be considered in how the final proposals will work. Currently the vision is to have a dedicated role to promote the market and facilitate performance, arts and craft use in the building. There are also specialists, including an acoustician, appointed as part of the design team who will be working with the architect to ensure the details are worked through.

Questions from Question by Newton Abbot Community Interest Company Director John Pike.

Newton Abbot CIC recognizes the shortcomings of the existing Business Plan: it undersold the potential of the Theatre. Newton Abbot CIC would like to participate collaboratively in the final development of the Market Quarter scheme. It would bring to the design process simple, transformative ideas that would result in the creation of a vital Cultural Hub. This would embrace a highly complementary range of cultural facilities – namely, the entertainment envisaged in the Market Hall, the cultural offer of the multi-screen Cinema and a much wider range of activities in the Alexandra: a Hub for various different audiences. Key elements are, firstly, making the Alexandra’s performance space much more flexible and, secondly, creating a physical covered link between the Cinema, the Alexandra and the Market Hall.

All three need going out for an afternoon or evening in the town to be a great experience, combining cultural interest with the town’s cafés, pubs, restaurants and attractive townscape. The customer numbers for the Alexandra are no more of a gamble than those for the Cinema and Market Hall. If that common experience is great, the economics of a well-managed Cinema, Theatre and Market Hall will all be on a strong footing, and it will create a great sense of a lively, culturally-connected community. That’s our vision. It’s transformational.

Please don’t forget that what is at issue is the destruction of an iconic, functioning, 140-year old Grade II listed theatre – to make space for a street food eatery. That’s a big responsibility.

1. *Does the Council expect Historic England and the Theatres Trust to approve the proposals?*

Response from the Executive Member for Economy and Jobs

A decision on any proposal will be made by our Planning Committee, taking into account comments from all consultees - which may include Historic England and the Theatres Trust. Before plans are finalised and an application made, it would be inappropriate to speculate on what their position may be.

- 2. What will the Council's response be if Historic England or the Theatres Trust advise that the Alexandra Theatre should not be destroyed?*

Response from the Executive Member for Economy and Jobs

A decision on any proposal will be made by our Planning Committee, taking into account comments from all consultees - which may include Historic England and the Theatres Trust. Before plans are finalised and an application made, it would be inappropriate to speculate on what their position may be and therefore what our response to that would be.

- 3. Will the Council allow the project detailed in section 4 of the FHSF – Newton Abbot Market Report to be amended pursuant to the collaboration with Newton Abbot CIC proposed above?*

Response from the Executive Member for Economy and Jobs

It is not clear why a physical connection between the Market Hall, Cinema and Alexandra is being proposed and why Newton Abbot CIC feel this should be an amendment to the proposal made in section 4 of the report.

In respect of further engagement the Council would encourage a representative from the CIC to attend future sessions.

Question from Sarah Mallett

I understand from recent communication from Councillor Dewhirst that FOTATs business plan was reviewed by independent theatre consultants. Can I ask who conducted these reviews, as my understanding is that it has only been looked at by Quarterbridge who are purely market consultants.

Response from the Executive Member for Economy and Jobs

The review of the Friends of the Alexandra Business Case was carried out by Quarterbridge in their capacity as a consultant on the Market Hall project.

Question from Friends of the Alexandra Theatre – Richard Ward

1. Can the council expand on and justify, through evidence, their claims that the multifunctional space supports all types of performance when the overwhelming evidence currently gathered suggests otherwise?

Response from the Executive Member for Economy and Jobs

The final design has not been prepared yet. The vision is to create a facility that can benefit the widest possible catchment of people and users locally.

To which evidence gathered does this refer. How can this statement be made when the final proposal hasn't been made.

2. Will the council commit to grant additional and reasonable time for FoTAT's alternative plans to be further developed, as the initial plan submitted was as a work-in-progress, and the feedback from Quarterbridge (which has taken 8 months to surface) has only just been published and thus gives no time to address and refine and then be compared to the council's own, as yet unpublished, plans?

Response from the Executive Member for Economy and Jobs

We cannot grant time for consideration of an alternative plan. The proposal for a standalone theatre has been considered prior to submitting the bid to the Future High Street Fund and again as part of the business case. There is not a viable business case for this proposal.

Acceptance of the FoTAT proposal for a stand alone theatre would require a complete restart on the business case. The FoTAT business case is silent on the Market Hall, Market Square and new build Cinema element of the proposals, and would fundamentally undermine the business case.

The aim of the Future High Streets Fund is to **renew and reshape town centres** and high streets in a way that drives **growth**, improves **experience** and ensures future **sustainability**. It will do this by providing **co-funding** to successful applicants to support **transformative** and **structural** changes to **overcome challenges** in their area.

Any FoTAT business case would need to be prepared in the same way as the Council's original FHSF submission. This would include following a HM Treasury Green Book evaluation, compliance with the Government's own appraisal guide for the fund, the use of a five-case business model (for strategic, economic, commercial, financial and management), compliance with HM Treasury's Magenta Book guidance on evaluation assessed on Value for Money, Land Value Uplift, and consideration of all aspects of the Future High Street Fund projects as a whole cumulative package.

This work took 18 months to complete before the funding award was given, and was supported by £125,000 funding from government. The funding, awarded for the proposals before Council, needs to be drawn down and spent by the end of March 2024. The project is already on a very tight timescale and there is no time available to pause the current project to undertake a full reappraisal for a matter that has already been considered.

Question from V. Diggines.

Why are you not listening to the people? Nearly 6,000 signatures speaks volumes, We need a Theatre. The Alexandra.

Response from the Executive Member for Economy and Jobs

The Future High Street Fund was based on ideas, plans and projects over the last 12 years, which were all subject to significant consultation. We have and continue to listen to a wide range of people and groups, and our proposals strike the balance between meeting the cultural needs of our residents and what we can realistically do. We will continue to develop the plans for the multi-use space with a wide range of local groups who will use the space in the future, to make sure we can meet a wide range of needs. However, there will always need to be a degree of compromise, as not everyone's needs can be met exactly how they would like them to be.

This page is intentionally left blank

Full Council 22 February 2022

Members Questions

Question from Cllr Wrigley

At the full council meeting in September 2021, it was claimed that the planning process had been subverted by the registration of 'fake' objectors filling the two available slots to speak against an application at planning committee. This question, however, relates only to the planning procedures of this council, and not to any specific case.

If the limited places to speak against an application at committee are allocated on a first come first served basis, it would be possible to lock out other objectors with early registration of bogus objectors.

What is the process used to decide who is allocated to the speaking slots at a planning meeting?

Response from the Leader

It is not a "first come first served" system and the system we have is quite robust.

All who wish to speak must register before noon on the Thursday before the meeting.

If there are more registered speakers than the procedure allows, then we put them in touch with one another to agree on a spokesperson, (provided we have authority from them to pass details onto a third person). The spokesperson is asked to mention all objectors' concerns in their address to the committee.

If a spokesperson is not agreed then priority is given to a speaker from the Town or Parish Council since they are elected representatives.

As a last resort remaining places are selected randomly. This is very rare.

Question from Cllr H Cox

At the full council meeting in September 2021, serious allegations were made about the operation of this council in relation to a planning application at Langford Bridge. I am sure all responsible members would expect these allegations to be investigated thoroughly.

Immediately following these allegations, the council's head of legal services asked for evidence to be provided so that it could be properly considered and investigated.

The following day, the Leader of the council also asked for evidence to be disclosed to the Council or taken to the Police.

Has any evidence been provided to this council by any party, to support the claims that were made at the full council meeting in September?

Response from the Leader

No.

Question from Cllr Swain

At the full council meeting in September 2021, serious allegations were made about the way this council selected speakers to object to the Langford Bridge NA3 application when it came to planning committee on 21 January 2020.

How were the speakers selected for that meeting and did this council correctly follow procedure when selecting the speakers?

Response from the Leader

It is important to note that the deadline for registering to speak is noon the Thursday before the meeting, on this occasion, 16 January. In this case by the deadline two objectors had registered to speak. The Democratic Services Officer has advised that at 18.16 hrs on 16 January, the Wolborough Residents' Association emailed to advise they wished to register two individuals to speak.

The following day, at 08.52 hrs the officer emailed the Association thanking them for their email and advising that "unfortunately the deadline for speaking was noon 16 January, and there are already two objectors registered to speak. However, I will contact these individuals and ask if they are prepared to discuss the speaking with you. They can step down from speaking and allow someone else to address the committee on their behalf. So that I can put you in touch with one another could you confirm that you authorise me to pass on your email to them and phone number, and if so could you advise the latter".

It is apparent that whilst there was no obligation to do so, the officer also went out of their way over the weekend of 18 – 19 January to try to contact the two individuals who had registered to speak. Unfortunately this proved unsuccessful. Despite this they also then contacted the Association on Monday 20 January to advise that they would continue and if unsuccessful would arrange for discussions between all parties before the meeting to sort out the speakers although the two who registered within the deadline would actually have the right to speak.

I note that the Association accepted the situation by email at 08.29 on 21 January as follows "Thank you...much appreciated. Do not worry about speaking to them. We were going to ask our Ecologist to speak but as he lives in Oxford we do not want to drag him down on the off chance. Thanks for trying anyway."

Shortly after this time the two registered speakers withdrew from speaking at Committee. The officer then immediately made efforts to speak with the Association contact to advise that there was now an opportunity to speak. The officer spoke with two representatives from the Association before the meeting, guided them on their address to Committee, advised them to read out factual and detailed emails they had received from their Ecologist, advised them to go to reception area to discuss what they wished to say; and offered a request to the Chairman to adjourn the meeting for

a short while if they were not ready by the time the Committee came to consider the application.

All this assistance from the officer was clearly well above and beyond any requirement and enabled the speakers to attend the chamber fully prepared, and speak, before the application was considered.

Questions from Cllr Clarence

Question 1

Following yesterdays Planning Committee meeting of the 15th Feb can the leader of the council confirm through his legal team that Teignbridge is not complicit in continuing to grant planning permissions, which could well be construed to be causing further public nuisance, when already we have been told on the 15th November 2021 by SWW, that 185 stress discharges occurred in the Teign Estuary itself in 2020?

Response from the Executive Member for Planning

The Council as the Local Planning Authority must determine planning applications in accordance with the statutory framework and with the Governments housing targets in mind. Any self-imposed stay on determining planning applications would be contrary to its statutory duty, increase the risk of challenge and would have a significant effect on the Council's ability to meet its housing target which would likely result in sanctions being applied.

Question 2

Could the leader confirm please through his legal team that we dont even have to be negligent to be liable for public nuisance, as a local authority with the above issue as in Common Law under a well known test case (Rylands V Fletcher) that we have granted permission for something that is put onto land and that thing escapes and causes damage, then that person is liable even in the absence of negligence?

Response from the Executive Member for Planning

The questioner is misguided concerning the relevance and his application of the tortious rule in Rylands and Fletcher. In any event, any such pollution incident would be a matter for SWW and the Environment Agency to resolve.

Question 3

Members were told yesterday, by officer advice, at the Planning Committee meeting that despite SWW being a consultee on planning applications that SWW seem to sit outside the planning process. If this is the case does the leader agree with me that this authority could challenge SWW to come up with a betterment plan to avoid such a number of stress discharges by rejecting all further large planning applications for a period of two months to allow SWW to come up with and implement a betterment plan to avoid these excessive stress discharges into the River Teign?

Response from the Executive Member for Planning

As was confirmed in response to a Member Question in November 2021, South West Water proactively reach out to us where there are concerns with regard to specific planning applications. Their website states:

“Whilst we are not a statutory consultant for planning applications, we endeavour to review all applications for planning permission that are submitted to local authorities. We do this to ensure that any development does not compromise our assets including water and waste water networks, which ultimately protects the service we supply to our customers.”

In addition, and as was noted both in November and at the recent planning committee meeting, it is indeed the case that South West Water largely sit outside the planning process as connection and capacity issues are addressed through separate discussions with SWW who publish significant information in this regard on their website.

[Developer services \(southwestwater.co.uk\)](http://southwestwater.co.uk)

As this process addresses both capacity and connection issues and as responsibility for overseeing the work of SWW does not fall to Teignbridge, it would not be reasonable for the Local Planning Authority to decline to determine planning applications where no cause for concern has been raised by either SWW or the Environment Agency.

Indeed, to do so would put us at substantial risk of appeals with the resources costs associated with this as well as the possible risk of formal costs awards as an outcome.