

FULL COUNCIL

24 SEPTEMBER 2019

Present:

Councillors Austen, Bradford, Bullivant, Clarence, Colclough, Connett, Cook, D Cox, H Cox, Daws, Dewhurst, Foden, Goodman-Bradbury, Gribble, Haines, Hayes, G Hook, J Hook, Jeffery, Jeffries, Keeling (Chairman), Kerswell, MacGregor, Morgan, Mullone, Nuttall, Orme, Parker-Khan, J Petherick (Vice-Chairman), L Petherick, Phipps, Russell, Swain, Taylor, Thorne and Wrigley

Apologies:

Councillors Eden, Evans, Hocking, Jenks, Nutley, Parker, Patch, Peart, Purser, Rollason and Tume

Officers in Attendance:

Sarah Selway, Democratic Services Team Leader & Deputy Monitoring Officer
Phil Shears, Managing Director
Paul Woodhead, Solicitor & Deputy Monitoring Officer

50. MINUTES

The minutes of the Full Council on the 29 July 2019 were approved as correct and signed by the Chairman.

51. CHAIRMAN'S ANNOUNCEMENTS

The Chairman brought Members attention to the recent visit by HRH Prince of Cambridge visit to Chudleigh fire station and asked Members to support Andy's Man Club a charity that supports men with who are at risk of suicide and helps them to deal with their mental health issues.

52. DECLARATIONS OF INTEREST

None.

53. PUBLIC QUESTIONS SESSION UNDER COUNCIL PROCEDURE RULE 4.5(J)

The public questions and members responses are attached to the minutes.

Members of the Public asked the following supplementary questions, the answer to which some would be provided in writing later in the week. *[For ease of reference these answers are set out in square brackets below]:-*

In response to the supplementary question regarding many local peoples concerns over the use of the car park late at night with shouting, slamming car doors and tooting horns, which would affect the amenity of the whole area. The questioner suspected that residents should have been notified by Planning Law. If that was the case does it invalidate the decision made at the February Planning meeting, which agreed to the DCFA request?

Response from the Portfolio Holder for Planning

[I would refer you to the Mid Devon Advertiser of 14th September 2018 (filed on page 5 of the TDC Planning Portal on the same day under 'Advert') in which the relevant public notice reads "18/01690MAJ NEWTON ABBOT - Devon County Football Association, Coach Road. Construction of an external 3G Artificial Turf Pitch (ATP) with fencing and associated hard standing and car parking area".

Alongside this published public notice, further notification would have appeared in the form of a standard site notice which would have been affixed to adjoining fencing, a telegraph pole or a street lamp. You will note that the block plan of the application shows neither the pitch nor the car park directly abutting any residential properties. If, as suggested, no residents had received direct mail from the Council, then this may have been the reason for such an omission. I would note however that Coach Road residents living close to site were amongst the first to contact the authority regarding the proposals, which would seem to point to some properties nearby receiving individual notices.

Finally, I would refer you to the Conditions Discharge Summary on the Planning Portal dated 4th June 2019. This shows that a number of conditions relating to site acoustics which are required are yet to be undertaken. It would be my expectation that these conditions will soon be met - and to this end I will forward ask the Planning Department for these measures to be followed up as quickly as possible, to the benefit of all those living near to the football pitch.]

In response to the supplementary question regarding the questioners shared 50 metre access boundary with the Devon County and the playing field being surrounded by trees which will made it an acoustic bowl. Car fumes would linger and will be blown over into the path of houses in Coach Road. Surely this goes against the local authority air quality plan.

The Leader responded that it was the council's responsibility to monitor air quality in the area.

In response to the supplementary question regarding refusal in February 2019 of the Wolborough Barton development what steps are the council taking to ensure full transparency?

The Leader responded that it was important that the Council was as transparency as possible and he is working hard to ensure that this was the case.

54. COUNCILLOR QUESTIONS UNDER COUNCIL PROCEDURE RULE 4.5(K)

The Members' questions and responses are attached to the minutes.

Members asked the following supplementary questions, the answer to some which would be provided in writing later in the week. [*For ease of reference the answers are set out in square brackets below*]:-

Further to his questions, Councillor Bullivant commented that the Council had zero debt when the current administration took over and refuted the claims of financial mis-management in the previous administration. He was disappointed with the lack of information in the responses to his questions.

The Portfolio Holder for Corporate Services referred to the Audit Scrutiny Committee 21 March 2019 minutes which stated Council's net exposure to external borrowing in the four year period of 2019-2023, would be around £45 Million if all the proposed projects went into the Capital Programme.

Further to his questions, Councillor Connett asked supplementary questions with regards to what action the Council would take to improve the relationship with the Environment Agency, what action was being taken to bring the Environment Agency to account for the dumping of 10.000 tonnes of soil, and assurance to Whitstone residents if the Environment Agency do not enforce their own legislation.

[The Portfolio Holder for Planning thanked Councillor Connett for the supplementary questions. He had every sympathy with local residents on the subject of the threat of flooding from run off from this land, having witnessed at first-hand how rapidly water levels can rise in this area during adverse weather conditions. He would therefore very much hope that these supplementary questions and other questions can be properly resolved at the meeting arranged with Business Manager Strategic Place to which local residents and the Environment Agency have also been invited.]

Further to Councillor Bullivant's supplementary question regarding the Fur Trade, the Portfolio Holder for Waste Management & Environmental Health commented that the notice of motion was to support the Market Inspectors and Trading and Standards.

Councillor Daws asked a supplementary question with regards to his three times asked question of why was it publicly stated in 2012 that the population forecasts in 2033 were 151k when the 2012 ONS forecasts were 138k. He had communication from the 18th December 2012 from APC that delivered these numbers to you and the rationale that supported the fact that the housing numbers creating an oversupply. Something that is now apparent.

[The Portfolio Holder for Planning responded that his answer to this was as noted in my earlier written response - but for the record, it was not possible to

prepare this report until the Executive had considered whether an update of the 2013-2033 Local Plan was required at the 5-year review point. As has been pointed out since, due to the legal requirement under the National Planning Policy Framework (NPPF) to comply with the Government's increased housing need calculation of 760 houses per year, we continue to have a 5-year land supply, albeit with a reduced margin.

You are correct in saying the five year land supply is a live document in that it should assess our year-on-year housing completions (with windfalls) together with our unbuilt allocations. You are incorrect, I am sad to say, in continuing to refer to the 2012 figure of 620 houses per year in any workable sense. While you dispute this figure, I am sure you would acknowledge it was found sound by the Planning Inspector in 2014 - however the only number which any Planning Appeal Inspector would recognise today is the one with which we are now obliged to move forward in our review - the Government's housing need calculation for our District of 760 houses per year.]

Councillor Daws asked a supplementary question to his second question, he commented that to halt the environmental disaster that is the current Local Plan, could the Council commit to a full and proper review of the Local Plan? One that looks at sites and housing numbers and balances these fully against an holistic zero carbon planning approach that puts the protection of the natural world at its centre. As Sir David Attenborough outlined recently, crimes against the natural environment will soon be seen as morally defensible as the slave trade. Can the council do everything it can to halt our currently flawed Local Plan and stop Teignbridge District Council being rolled out as worst practice in legal case law for decades to come.

[The Portfolio Holder for Planning confirmed that the Council was committed to a full and proper review of the Local Plan, looking at all sites and the quantum of housing within them. This review will also be informed by those external and local organisations (such as ClientEarth and ACT) whereby best science can be encouraged and employed to help us towards our ambitious zero carbon 2025 target for our district.]

In response to Councillor Parker-Khan supplementary question, the Leader commented that he shared the Councillors concerns regarding the Devon and Somerset Fire Authorities consultation process and that they did not accept the Council's invite to address Members.

In response to Councillor Parker-Khan supplementary to her second question, the Portfolio Holder for Climate Change Emergency and Housing commented that the Council was committed to look at all its services to address the climate change emergency and the appointment of a Climate Change Officer would support this commitment going forward.

Councillor Mullone asked a supplementary question regarding the process of entering into Section 106 agreements before planning permissions were approved, was this pre-determination of planning applications and questioned the five year land supply and housing numbers.

The Portfolio Holder for Planning commented that in the case that mentioned that the Section 106 agreement was necessary to protect the Council should an application be determined at appeal.

55. NOTICES OF MOTION UNDER COUNCIL PROCEDURE RULE 4.5(L)

Members considered a Notice of Motion submitted by Councillor Dewhirst supported by Councillors H Cox, J Hook, H Cox, Foden, Goodman-Bradbury, Nutley, Nuttall, J Petherick, L Petherick and Wrigley that:-

This Council notes that:

- *The United Kingdom has outlawed the farming of animals for their fur on ethical grounds since 2000 and that the use of one of the most common traps used to catch animals for their fur has been illegal for many years.*
- *Nonetheless fur products are imported from overseas nations, particularly China, where such bans do not operate and where there is virtually no animal welfare legislation in force.*
- *Real fur comes from animals raised in deplorable conditions or trapped in the wild and killed inhumanely.*
- *Regrettably these products are often found for sale on public markets in the UK and customers can inadvertently buy them thinking them to be made of imitation fur.*

Accordingly Council resolves to:

- *Prohibit the sale of any product wholly or partially made with real animal fur on Council owned land and at Council run or Council leased markets. This ban to cover such items as fur coats, vintage fur, fur shawls, garments with fur trim, fur pompom hats, and fur accessories and trinkets.*
- *Support the Fur Free Markets campaign of the animal welfare charity, Respect for Animals, the UK's leading anti-fur organisation, by:*
 - *Becoming a signatory to the initiative.*
 - *Seeking the advice and assistance of the charity in the enforcement of this ban.*

Councillor Dewhirst stated that this Notice of Motion would assist the Market Supervisors and Trade and Standards to enforce prohibiting the sale of animal fur products on Council owned land and at Council run or Council leased markets. He proposed and seconded by Councillor Connett that the Notice of Motion stand adjourned to Executive for a report on the matter to detail what policies the Council could put in place to support the Notice of Motion. The proposal was carried unanimously.

RESOLVED that the Notice of Motion stand adjourned and be referred to Executive.

56. 2018/19 STATEMENT OF ACCOUNTS INCLUDING THE ANNUAL GOVERNANCE STATEMENT

The Chairman of Audit Scrutiny Committee presented the Statement of Accounts 2018/19 which had been considered by Audit Scrutiny Committee for Council approval.

Members were advised of the delay by Grant Thornton in the annual audit of the accounts and that there had been an increase in fees caused by the additional work that Grant Thornton had had to undertake to look at the potential impact of the McCloud Pension case judgement. This unprecedented case could possibly impact all Local Authorities, a note had been added to the Council's accounts regarding the potential financial liability impact to the Council of £1.2 million. Council officers were continuing dialogue to look to mitigate or reduce the proposed increase in fees.

The recommendation was proposed the Chairman of Audit Scrutiny Committee seconded by Councillor J Petherick and carried.

RESOLVED that:-

- 1) the 2018/19 Statement of Accounts be approved including the Annual Governance Statement and letter of representation as recommended by the Audit Scrutiny Committee subject to any final adjustments agreed with the external auditors to be reported to Council; and
- 2) the Audit Findings Report from Grant Thornton be note and the actions arising from the action plan be approved.

57. PROGRESSING CARBON NEUTRAL

The Portfolio Holder for Climate Change Emergency and Housing presented the report which set out the Council's initial response to its declaration of a Climate Change Emergency made on the 18 April 2019 and the proposed framework for moving towards a Carbon Neutral District by 2025. The Council was making good progress and the report proposed the appointment of a dedicated officer to take forward the Councils work to address its declaration of a Climate Change Emergency. The Council would be working with Devon County Council, Towns and Parishes, community groups including Action for Climate in Teignbridge (ACT) and individuals to identify how they could engage with the Council's work and to offer advice and assistance. Public meetings would be held across the district so the Council could engage with all to work towards a Carbon Neutral District by 2025.

During discussion Members raised the following:-

- Welcome the declaration of the Climate Change Emergency
- Every single decision the Council took should be examined to ensure that it addressed the real emergency of Climate Change
- Need to consider the loss of amenity and green space and the effect this will have on climate change

- Need for all of us to change and challenge ourselves and do all we can
- Right housing in right place
- Part of the challenge was to lobby central government for change
- There was a need for a National Framework
- The Council needs to clear what it could achieve

The Leader thanked all the members for their commitment in the Council's fight against Climate Change and the need to support all the residents of Teignbridge to look at their way of life and see where they could make changes to help address this emergency.

The Portfolio Holder for Climate Change Emergency and Housing concluded that the current planning policy system was created by central government and that huge changes were required at that level to address the climate change emergency. It was the district council role to do what they could and also to lobby central government. There would be engagement with residents on the review of the Local Plan.

The recommendation was proposed by the Portfolio Holder for Climate Change Emergency and Housing, seconded by the Leader and carried unanimously.

RESOLVED that the

- (1) the progress made be noted; and
- (2) the appointment of a dedicated officer for this work be approved.

58. CONSTITUTION WORKING GROUP REPORT

The Leader presented the report which set out the Constitution Working Group's (CWG) recommendations on changes to the Constitution. This was work in progress, the CWG would meeting again over the coming months and further reports would be presented to Council in due course. This report extended the 'call-in' for planning applications to cover district councillors of contiguous wards and parish / town councils. The CWG would keep the number of call-ins under review over the coming 6 months and any significant issues would then be considered by the CWG and, if it is so minded to do so in response to the review findings, may recommend to full Council that the right may be removed.

The recommendation was proposed by the Leader seconded by Councillor Haines and carried unanimously.

RESOLVED that the Constitution amends be approved as follows:-

1. (a) The format (including content) of the Constitution be revised as outlined in Section 3; and
 - (b) Delegated authority be given to the Monitoring Officer to make such minor amendments to the Constitution as they consider appropriate (including changes to reflect current legislation, organisational

arrangements, to promote clarity and to enable the Constitution to be kept up to date).

2. The Scheme of Delegations be amended to:
 - (a) Reflect current legislation and operational arrangements;
 - (b) Extend the 'call in' procedure for planning applications as detailed in Section 4.3 to cover district councillors of contiguous wards and parish / town councils for at least six months subject to a review of its application not revealing significant resource implications for the Council as outlined in Section 4.3; and
 - (c) Delegate operational matters to CMT as detailed in Section 4.4;
3. The Constitution Working Group reconvene to consider the additional matters outlined in section 5 of the report and report back with its recommendations (if any) to full Council before the end of the municipal year.

59. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - EXCLUSION OF PRESS AND PUBLIC

The Leader proposed, seconded by the Portfolio Holder for Corporate Resources that, because of the financial sensitivity and staffing negotiations and in the public interest, the Council go into Part II session and exclude the press and public. This was carried.

RESOLVED that under Section 100 (A) (4) of the Local Government Act 1972 that press and public be excluded from the meeting of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 and 4 of Part 1 of Schedule 12 A of the Act and such restricted consideration was in the public interest.

60. SHERBORNE HOUSE, NEWTON ABBOT

The Portfolio Holder for Corporate Resources presented the report on Sherborne House, Newton Abbot, to advise Members of continuing negotiations and to ensure that the necessary authority and delegated powers were in place to further advance this regeneration project.

The recommendation was proposed by the Portfolio Holder for Corporate Resources, seconded by Portfolio Holder for Waste Management & Environmental Health and carried unanimously.

RESOLVED that Portfolio Holder for Corporate Resources, Interim Head of Commercial Services and Chief Financial Officer be given delegated powers to approve the final scheme as outlined in the preceding Council report and detailed in the circulated report.

61. APPOINTMENT OF HEADS OF SERVICE TO THE SENIOR LEADERSHIP TEAM (SLT)

The Leader presented the recommendation from the Appointment & Remuneration on 4 September 2019 to approve the Senior Management Structure following a consultation and recruitment process.

The recommendation was proposed by the Leader, seconded by Councillor J Petherick and carried unanimously.

RESOLVED that the internal permanent appointments to the Senior Leadership Team of Head of Operations, Head of Community Services & Improvement and Head of Corporate Services be approved.

The meeting started at 10.04 am and finished at 12.05 pm.

Chairman

This page is intentionally left blank

Public Questions

Full Council 24 September 2019.

1) Member of Public

Question

1) I note that TDC has produced

a) A Communication Strategy 2017-2021 and

b) A Statement of Community Involvement – May 2019

Are these documents a statutory requirement or recommended best practice?

2) Can you describe how the requirements of these documents are put into practice, monitored and enforced - with examples?

Response from the Portfolio Holder for Planning

1 b) - The Statement of Community Involvement (SCI) is a Statutory Requirement

2 b) - Plan Making

The SCI policies are used as the basis for our consultation procedures on all planning policy documents including local plans, supplementary planning documents and Community Infrastructure Levy Charging Schedules. Achievement of the SCI is therefore built in from the start. A consultation plan specific to each local plan will go into more detail. The Planning Inspector considering a local plan will consider whether the SCI requirements have been met.

Neighbourhood Plans

The SCI policies indicate the level of support for neighbourhood planning which the council will offer to parishes, towns and neighbourhood planning forums, and those groups can use the SCI to ensure that they are receiving their appropriate level of support. In addition to this, the council now offers a paid-for service on neighbourhood planning to supplement the free support.

Planning Applications

The SCI policies are incorporated into the council's procedures and systems as standard. The council's complaints system can be used where any of the requirements are not met in a particular case.

Response from the Leader

Questions 1a) and 2.

The communications strategy 2017-21 is a non-statutory document but is based on best practice, and recommendations from professional bodies, including the Local Government Association.

It is based on seven principles that require our publicity to be lawful, cost effective, objective, even handed and appropriate, to show regard for equality and diversity, and to be issued with care during periods of heightened sensitivity.

The principles of the code closely reflect our current and proposed practices. In particular value for money is a priority in all our work. As we continue to deliver communications we will do this within the law and with regard to the guidance contained within the Code of Recommended Practice.

The strategy is implemented through a combination of a proactive annual programme of activity and supporting Teignbridge Council's services with their communications as part of their role of providing a public service. It is monitored using a number of key data insights including Google Analytics, Site Improve, Social media insight, media coverage evaluation, external customer surveys and internal staff surveys which provide feedback about the service and areas for improvement.

We will be reviewing our communications strategy this year.

2) Member of Public

Questions

- 1) How will the local infrastructure (in terms of education, health, retail, leisure and transport) cope with the additional dwellings and if there is to be extra provisions put in place, would they come first (before the residential aspect)?*
- 2) What considerations have been put forward to compensate for the ever-increasing number of cars on the road - which will explode with NA3 - especially those using the Decoy area as a rat-run into and around the centre of town at peak times?*
- 3) What would make residents in the area not be anxious of this new development - what are the benefits and advantages to the development going ahead?*

3) Member of Public

Questions

In anticipation of the upcoming Teignbridge council meeting I would like some questions to be raised regarding the NA3 development, specifically in terms of the carbon neutral policy.

- 1) How will potential developers be held to account over public transport to town from the proposed NA3 site?*
- 2) The roads of Newton Abbot are already congested. If the NA3 plans go ahead how will this be addressed?*
- 3) Will any trees be planted/ new public green spaces/parks be created to replace what has been lost if NA3 goes ahead?*

Response to the 6 questions above from the Portfolio Holder for Planning

The local infrastructure as described above is expected to be commensurate with the number of additional dwellings coming forward for NA3 as defined in the 2013-2033 Teignbridge Local Plan. The NA3 allocation is currently formed of 3 mixed-use development sites, which feature a link road leading towards the A381 Totnes Road to the west, with a junction with the Kingskerswell Road to the east.

While access to the development area adjoining East Ogwell will be from the Totnes Road and the development area adjoining Langford Bridge from the Kingskerswell Road, the central Wolborough site would require the formation of a section of the link road before any construction there could begin. The commencement and completion of the link road (which will be welcome in helping relieve local congestion) will be conditioned via the planning approval process or will be otherwise legally bound.

Schools (primary and secondary), public open spaces, communal facilities and retail outlets - alongside housing and additional employment areas - are all expected to feature within the allocations as a whole, however it is important to note that the proportion of each element is about to be revisited. Due to the legal requirement to review the Local Plan at its 5-year anniversary (and to accept the Government's

22.5% higher housing need calculation as required under NPPF legislation) existing allocation sites are now to be reviewed.

With some policies already well advanced to meet the requirements of development (such as the protection of endangered species and their habitats) and now with the added consideration of Newton Abbot's Garden Communities status, NA3 will be the first development allocation to go forward for review.

An invitation to take part in this process has just been issued to the Wolborough Residents Association and to local Town and Parish Councils. Through these organisations, members of the public will be able to help shape future development in their area on subject matters such as scale, quantum of housing and location. We look forward to working with these organisations and others over the plan review period in order that better-considered, well-designed and appropriate schemes can come about in Newton Abbot and the wider District.

One final point that should be noted is that both Planning Applications which have come forward to date which include the central Wolborough site have since been refused by Teignbridge District Council's Planning Committee - and are now subject to appeal proceedings.

If an Appeal Inspector was to uphold refusal, development and the link road would be thrown into doubt, with the possibility that new sites more remote from the many facilities Newton Abbot offers would over time become developed instead. Without further mitigation, such an outcome may have a negative impact on congestion and Teignbridge's carbon neutral policy aims.

4) Member of Public

Question.

- 1) The decision by PCL Planning this week to appeal a duplicate application for NA3 is a timely reminder to us all that planning officers face an antagonistic developer who will stop at nothing to place the interests of short-term profit above the long-term wellbeing of Newton Abbot and its residents.*

Despite warm words from the new council leadership, I have yet to see any firm measures to counter the overdevelopment of our town, beyond a rather nebulous declaration of a climate emergency. If we can't save our own town, I think saving the planet might be a stretch. Will the council leader therefore please tell us how his declaration of a climate emergency translates into actionable measures to reduce or stop the NA3 and general overdevelopment of the town?

Response from the Leader

The Declaration of a Climate Emergency was not made by the Council Leader alone but by a unanimous decision of the Council. Far from “nebulous” the progress and Framework for Action reported at this Full Council meeting, outline clear and ambitious actions. Most importantly we propose that an Officer be appointed to take forward our ambitious programme of actions. Next month, Executive will consider a report on the tightening up of our low carbon planning policies. We have developed a good working relationship with Towns, Parishes and the community via Action for Climate in Teignbridge. Many in our community have already risen to the challenge, initiated low carbon projects of their own and are offering their ongoing active help and support to enable us to reach our goal.

We have lobbied government (see Appendix B of the Carbon Progress report) and we must all continue to lobby government to provide the right policies and funding for us to reach the target. Our target of reaching carbon neutral by 2025 is ambitious but we are committed to play our part as a Council to match that challenge, and ask the rest of our community to also play their part.

Our journey to a carbon neutral District will require action from government, Council's, businesses, and individuals. If we are to reach our target it will require a fundamental shift in the way we live our lives, the way we heat our homes, generate our energy, how we travel, and of course the type of homes we build, and where we build them. Going forward we must build quality energy efficient low carbon homes in sustainable locations with good public transport links.

The task is much greater than a question of saving one set of fields versus building elsewhere. A concentration on this alone will not reduce our carbon emissions or make a fundamental change to the quality of life in the town. The nature of the challenge ahead demands that we collectively concentrate on saving our planet, and in doing so we will also “save our town”.

COUNCIL MEETING

24 September 2019

Member Questions under Council Procedure Rule 4.5 (K)

1. The following questions have been asked by Cllr Bullivant

1a, Can the council confirm that there were no debts at the end of the financial year?

Response from the Portfolio Holder for Corporate Resources

The underlying need to borrow recognised by our capital financing requirement was £17.163m million at 31.3.19. However, as previously identified, overall, to support the programme set out by the previous council a borrowing commitment of approximately £45million was identified over this four-year period, as confirmed to Audit Scrutiny in April.

1b, Can the council confirm that no projects requiring external finance are approved and any financial commitments are given before such projects are approved by the appropriate committee?

Response from the Portfolio Holder for Corporate Resources

See my response to question 1

1c, That the list of projects included in the forward plans are not commitments by the council and will not become commitments until the authorisation is given by the appropriate committee.

Response from the Portfolio Holder for Corporate Resources

The budget put forward by the previous Conservative administration included a number of items which would require council borrowing if progressed.

1D, Are there any projects approved at the year-end which will require external borrowing

Response from the Portfolio Holder for Corporate Resources

Yes

1e, Re 4) are any such projects covered by prudential borrowing requirements.

Response from the Portfolio Holder for Corporate Resources

Yes

2. The following questions have been asked by Cllr Connett

Serious concerns about the implementation of and subsequent enforcement of Planning Application 11/02310/Full at Lyson, near Oxtan, Kenton, and Devon

Background for Information of the Executive Councillor, Officers and Members of the Council

The above application was submitted to the council in August 2011 for the construction of three huge bunds in fields situated above the properties at Lyson and to use agricultural land for landfill purposes.

*TEIGNBRIDGE COUNCIL and ENVIRONMENT AGENCY were **aware of the risk of flooding** from these fields that had occurred occasionally since 1947 with two serious events that caused damage in excess of £400,000 to the properties at Oakdene Barns in 2007. Local residents have consistently raised their concerns since the application was approved.*

*ENVIRONMENT AGENCY accepted the proposal was to alleviate (i.e. reduce, ease, relieve) surface water run-off and thereby reduce the risk of flooding but suggested **any failure ...' would increase the risks for third parties downslope'**. The application was not one ENVIRONMENT AGENCY would recommend and if constructed the applicant should be responsible for its design, implementation and subsequent performance.*

*TEIGNBRIDGE COUNCIL's own engineer stated the construction for flood alleviation has not been proven and stated **the proposal was NOT reasonable**. Despite this advice from qualified engineers, TEIGNBRIDGE COUNCIL approved the application and in due course the Operator gained approval for the depositing of inert waste material which it is understood, for the purpose of providing planning approval, was to be from developers building sites within TEIGNBRIDGE COUNCIL area.*

*ENVIRONMENT AGENCY discovered in 2017 the amount of waste received onto the site exceeded the permitted amount by over 60% and ENVIRONMENT AGENCY's Flood Risk Engineer confirms they believe this construction **is more of a flood risk than leaving the fields as they were**. TEIGNBRIDGE COUNCIL were aware of the size and positioning of the bund and that it was not in accordance with the planning permission.*

An access road was constructed along the length and parallel to the public highway serving Lyson and Oxtan. The public highway, a country lane, runs from the Ivy Cottage junction on the Mamhead road to Oak Farm.

Since then, there have been incidents of serious flooding in the lane which have been reported to DEVON COUNTY COUNCIL. The access road is to be removed after construction of the bunds but 50% of its length is now being used to deliver waste milk products to a huge tank. Local residents have complained to the ENVIRONMENT AGENCY regarding offensive smells emanating from it and during the reported spreading of the waste over adjoining fields

Evidence of the manifest failure of the scheme has been provided to TEIGNBRIDGE COUNCIL and ENVIRONMENT AGENCY noted the excess waste that was originally to be removed so it is now incumbent on TEIGNBRIDGE COUNCIL to discuss remedial action with the operator and the engineer responsible for the design of the bunds to ensure these are constructed in accordance with the planning permission and further to require removal of the road.

2. On behalf of the many concerned residents I submit these five questions:

- 1) *What action has Teignbridge District Council taken to monitor the site since the application was submitted?*

Response from the Portfolio Holder for Planning

Permission was granted for “Alteration of existing ground levels by forming a series of bunds and level areas using imported inert material” in early 2012. It is important to note here that whilst the Teignbridge Engineering team originally objected to the proposals (through not considering them “reasonable”), their second consultation response instead recommended conditions, the only applicable one of which was applied to the permission.

As a reminder, planning enforcement activity is necessarily a reactive process in line with our policies which are available on line at www.teignbridge.gov.uk/planningenforcement

A concern that the development was not taking place in accordance with the approved plans was received in 2014. The site was visited by the Planning Enforcement team 4 times in 2014 as a response to this concern. Discussions with the Environment Agency identified limited concern at that stage and so the case was closed.

Concerns were again raised in spring 2015 about the site.

The site has been visited at least 6 times since this time including a multi-agency visit in March 2019 with Devon County Council and the Environment Agency and a more recent visit in June 2019 to review the situation in wet weather.

It is not the Local Planning Authority’s role to monitor the importation of waste under an Environment Agency permit, making the ongoing liaison between the various parties important in this case.

- 2) *Did TEIGNBRIDGE COUNCIL approach the applicants engineer to discuss the ENVIRONMENT AGENCY's report in 2017 (Ref 20170817) and, if so, what was the result of any and all discussions?*

Response from the Portfolio Holder for Planning

We understand the referenced report was an internal Environment Agency report that was not shared with Teignbridge Officers.

Teignbridge Drainage and Planning Enforcement Officers have however been in close liaison with the Environment Agency over the course of discussions and concerns around the site.

- 3) *The ENVIRONMENT AGENCY decided to accept that the excess waste deposited (10,000 tonnes) could remain in place in order not to cause a nuisance on the roads, despite some 28,800 tonnes being transported into the site.*
- a) *What action for removal of the excess waste will be taken by TEIGNBRIDGE COUNCIL as lead authority following receipt of the ENVIRONMENT AGENCY report dated October 2017?*

Response from the Portfolio Holder for Planning

None – Waste matters are within the Environment Agency's purview and at the current time it has not been determined that there is a breach of planning control in relation to which there it would be expedient to take any enforcement action.

- b) *Why has TEIGNBRIDGE COUNCIL accepted incorrect positioning and size of the first bund that has failed, not carried out enforcement procedures and what are the plans for rectifying this situation?*

Response from the Portfolio Holder for Planning

The works onsite are currently incomplete. We are not aware that the bund has "failed".

- c) *Will TEIGNBRIDGE COUNCIL issue an enforcement notice for removal of the entire length of the access road and, if so, when?*

Response from the Portfolio Holder for Planning

The access is in place as a temporary access way whilst the works are incomplete, under permitted development rights. Following completion of the works it will need to be removed or an application will be needed for its retention. If neither of these occurs, consideration will need to be given to the expediency of enforcement action.

- 4) *What action did Teignbridge Council consider following the Environment Agency engineers report 'that it would be better not to have implemented the scheme'.*

Response from the Portfolio Holder for Planning

As noted under the response to question 2, we understand this was an internal report that not shared with TDC.

- 5) *What action will TEIGNBRIDGE COUNCIL take to enforce removal of excess waste and removal of any and all materials and machinery from the site (e.g. brick rubble, machinery and general road making materials) which is not strictly required for the works for planning consent was provided?*

Response from the Portfolio Holder for Planning

As noted above, matters relating to waste come under the Environment Agency's responsibilities.

If it becomes apparent as the works move towards completion / are completed that it would be expedient to take enforcement action, then proportionate action will be undertaken.

At present, the Environment Agency are leading on determining the next appropriate steps for the site. Teignbridge Planning Enforcement and Drainage Officers continue to liaise with our external partners and monitor activity on the site on a regular basis.

When The Planning Enforcement Team has reached a conclusion as to whether or not they would recommend any planning enforcement action, a Report for the consideration of the Ward Member will be prepared and an opportunity will be provided for the matter to be referred to Planning Committee if necessary. In the meantime, Officers would be happy to take an interim / update report to Planning Committee for information if Members consider this would assist.

3. The following questions have been asked by Cllr Clarence

1) Would the leader agree with me please that what I can only describe as an unwarranted tirade against me by Councillor Connett, at the recent Executive meeting on the 5th Sept when I spoke on the Council Tax reduction scheme, was uncalled for?

2) Does the leader recognise at the Full Council meeting on the 14.1.2019, only 9 months ago the decision was unanimous by 41 of us to support the council tax reduction scheme proposed by the Conservatives and supported by myself, yourself, plus Councillors Connett, Dewhirst, Hook(J) and Wrigley, therefore to describe my criticism of this newly proposed scheme by Councillor Connett as simply tosh was total uncalled for on his part, and nothing more than a political outburst, when the new proposals appear to take away the benefit from those most in need of it?

3) Would the Leader agree with me that these new proposals do need an in depth look at, at O/S, in view of the fact that it was only 9 months ago you and your colleagues were totally supportive of what I believe was a better set of proposals for a Council Tax Reduction scheme delivered by the Conservatives?

Response from the Leader to all 3 questions

In thanking Cllr Clarence for his questions I must say I am surprised that he feels he was the victim of "an unwarranted tirade" from Cllr Connett at the most recent Executive meeting. My recollection of the events are that prior to his questioning Cllr Parker-Khan asked some perfectly reasonable questions and made informed comment. This was followed by clearly party politically motivated questions, which suggested that the accompanying papers had neither been read nor understood. In the circumstances therefore I believe Cllr Connett had every right to imply the comments made were less than well researched, as no account seemed to have been made for the fact that a) the paper presented was for consultation; that b) OnS would hopefully be engaged in that consultation process and that c) no account was being made of the fact that under the proposals put forward more of our residents would gain than lose and the poorest would benefit at the expense of the better off. This is not the impression given either by his comments nor those of his party Leader, who similarly seems to have significantly misunderstood the content of the paper.

Cllr Clarence and others must recognise that circumstances have changed significantly with his Governments introduction of Universal Credit, while it will produce some winners it has also produced a large number of losers. The facts are that those in the lowest-income 10% of the population on average lose the most from UC, a 1.9% fall in their income, equivalent to £150 pa per adult. Changed circumstances necessitate a different reaction and a review of procedures. However, the average masks the fact that many people win and lose from UC, some quite substantially.

76% (8.7 million adults) of those entitled to means-tested benefits and 84% (7.2 million) of those in working households see a change in their entitlements of at least £100 pa. 17% (1.9 million) see a loss of at least £1000 pa while 14% (1.6 million) see an equivalent gain.

The full facts can be found at <https://ifs.org.uk/uploads/publications/bns/Universal%20credit%20and%20its%20impact%20on%20households%20incomes%20the%20long%20and%20the%20short%20of%20it%20BN.pdf>

I very much hope that a constructive consultation can be held in which a mutually agreeable outcome for the benefit of the poorest in our community can be achieved. That may necessitate the need to put aside petty attempts to score points; it will require prior reading and understanding of the paper

I have every confidence in Cllr Connetts ability to lead this consultation and I hope all members will contribute their views in a spirit of constructiveness.

4. The following questions have been asked by Cllr Bullivant

A) in light of the claims made re the farming of animals for fur, can the council confirm that there are NO farming activities carried out in humane conditions, and that ALL animals caught by trappers are caught using inhumane methods that do not kill instantly and if not, why does the motion make these claims?

Do the executive recognise the damage caused by the illegal release of Mink by activists and the resulting decimation of wild life that resulted and that catching these invasive species requires the use of traps.

Will the proposed bans extend to the use of rabbit fur and sheep wool and leather from Cattle and pigs?

Will leathers from sources such as Crocodiles, alligators Kangaroos and ostriches be included? And will the use of fish skins be part of the process.

Response from the Portfolio Holder for Waste Management & Environmental Health

The Notice of Motion states clearly that the farming of animals for their fur has been banned in the United Kingdom. It goes on to say that where animals are farmed for their fur they are raised in deplorable conditions or trapped in the wild and killed inhumanely. It is not possible to be more specific because fur farms are not in the UK jurisdiction.

The Executive deplores any illegal activities and notes that wild Mink in the UK are trapped in humane traps.

Clearly animals farmed for their meat are considered to be kept in humane conditions in the EU and so rabbit fur, wool and hides are not covered by this notice of motion.

This Motion is about stopping the sale of furs from wild animals and supporting our Trading Standards and Market Supervisor.

B) in the financial report the borrowing by the Council in the year ending 2019 has been confirmed as ZERO, and the resources available for investment has grown by £2.5 million in the year and now stands at £14.5 million without any borrowing.

In light of these FACTS will the council acknowledge the claims made by the executive that the outgoing administration had left a debt pile of £60 million and that this attempt to mislead the public by the executive member should be deplored.

Response from the Portfolio Holder for Corporate Resources

I simply refer Cllr Bullivant to previous responses on this matter. It is he who uses the phrase of Teignbridge having a 'debt pile of £60million' not me.

5. The following questions have been asked by Cllr Daws

- 1) *Can TDC offer an explanation to the residents of Teignbridge, a very large number whom are concerned about the rampant and environmentally destructive over-development of the district, why the annual 5 year land supply statements were, despite many requests for publication by NSN, released shockingly late. In late July, rather than in April in previous years?*

Response from the Portfolio Holder from Planning

The five year housing supply calculations show the position as at 1st April of each year and that is included in their titles. However, they are not published in April. Publishing them that early would not be possible because they use information on housing completions that is not received until a few months later. In fact, publication dates have historically been in May, June or July. This year, because the local plan is over 5 years old, its housing target cannot be used in the calculation. Therefore, publication of the five year supply calculation was not possible until the formal local plan review had been considered by the Executive in July. You will, of course, be very pleased to hear that we continue to have a five year supply of housing.

Q2: Can TDC confirm that it will be making the contents of letter it received on the 2nd September from ClientEarth (the Legal Charity that uses the power of the law to protect the planet and people who live on it) and their response to this a matter of public record.

Response from the Portfolio Holder from Planning

The council is happy to publish the letter from Client Earth, and I have asked that it is placed on our website. Once we have considered the various complex issues in full and sent our response, we will be publishing that also. Members will be aware that our local plan already contains a carbon reduction target (one of only a very few to do so) and that we monitor its achievement every year. Our latest information shows we are ahead of our current local plan target with 17.4% reduction in carbon emissions, which I know will be welcome. I am also able to advise that in a report going to Executive in October will be a recommendation that we tighten targets still further with immediate effect to reflect the new national zero carbon law and to aid Teignbridge in its ambitious zero carbon aims.

6. The following questions have been asked by Cllr Parker-Khan

1. At Full Council on 29th July, Councillor Hook agreed to contact Devon & Somerset Fire & Rescue Service to come and talk to members. When DSFRS contacted and what were was their response?

Response from the Leader

Thank you for the questions.

I wrote a letter to the DSFRA immediately after the last Full Council meeting on Monday 29 July. Seeking cross chamber support I contacted the other party/group Leaders and invited them to join with me in signing, which they did. The letter was sent on the first of August and a reply received on August 21. The letter from the Fire Authority declined our invitation to attend a meeting here but directed me to a web site or invited attendance at a meeting.in either Minehead (later that day); Bridgewater; Yeovil; Frome; Ilfracombe or Paignton. The only local (Newton Abbot) meeting was the day before the letter arrived (20/08/19)

I would be happy to make all correspondence available to Cllr Parker-Khan (or indeed any other member) if she would like copies.

2. In light of the Climate Emergency declaration what is the Council doing to ensure that all of its investments are not only made ethically but advance the aim of Carbon reduction?

Response from the Portfolio Holder for Climate Change Emergency and Housing

The Framework for Action which forms Appendix A (<https://democracy.teignbridge.gov.uk/documents/s6041/Appendix%20A%20Framework%20for%20action.pdf>) of the Progressing Carbon Neutral report outlines a summary of action areas. These will be fleshed out as work progresses on our carbon neutral journey. Included in the Framework is a commitment to review our Sustainable Procurement Policy and Procedure and consider increasing the weighting for sustainability. Also included is a commitment to develop guidance and give staff training to ensure all Council decisions consider their climate impact, this would include investment decisions by the Council.

7. The following question has been asked by Cllr Mullone

We were disappointed but not surprised to hear that PCL Planning are appealing the outcome of their second application to develop NA3, rebuffed unanimously at the time and pursued in a duplicate application, the outcome of which we are all awaiting . We are surprised because the time limit since refusal has expired, that being 12.2.19. But we discover that the decision notice was not published until 25.3.19 – a full 29 working days later! Does the executive find it acceptable that a cut and paste exercise was delayed this long - and so clearly to the benefit of a developer TDC is spending large amounts of public money trying to contain - by its own planning department?

Response from the Portfolio Holder for Planning

The delay in issuing the decision notice in this instance was longer than would normally be expected in a case such as this. However, there is no obvious benefit to the applicant as a consequence of the delay, and the questioner is wrong to suggest otherwise.

The appeal has been submitted within the prescribed 6 month period from the issuing of the decision notice and the effect of this is no different to the hypothetical scenario of the process having taken place 6 weeks earlier; the Inquiry for the first Appeal was closed in mid-July and the Inspector's Report is expected to be passed to the Secretary of State in late November.

The Applicant was always likely to submit a second appeal due to the nature of the proposals and the fact that the first Appeal was "recovered" by the Secretary of State and the precise timing of our decision has no bearing on this.