

9 June 2024

OVERVIEW AND SCRUTINY COMMITTEE

A meeting of the **Overview and Scrutiny Committee** will be held on **Tuesday, 18th June, 2024 at 10.00 am** in the **Council Chamber, Forde House Offices, Newton Abbot, TQ12 4XX**

PHIL SHEARS
Managing Director

Membership:

Councillors Atkins, Bullivant, D Cox, Dawson, Hall, Hayes, Henderson, James, Major, Nuttall, Parker, P Parker, Parrot (Vice-Chair), Radford, Rogers, Ryan, Sanders (Chair), Steemson, Swain and Thorne

Please Note: The public can view the live streaming of the meeting at [Teignbridge District Council Webcasting](#) (public-i.tv) with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public.

Please Note: Filming is permitted during Committee meeting with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public. This meeting will be livestreamed on Public-i. By entering the meeting's venue you are consenting to being filmed.

AGENDA

1. **Apologies**

2. **Minutes**

(Pages 5 - 8)

To approve the Minutes of the meeting held on 28 May 2024

3. **Declaration of Interests**

4. **Public questions (if any)**

Members of the public may ask questions of the Chair. 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 three working days before the date of the meeting i.e. should the meeting be on a Thursday the deadline would be the Friday before at 5pm.

5. **Councillor Questions (if any)**

Members of the Council may ask questions of the Chair of the Committee subject to procedural rules. The deadline for questions is no later than three clear working days before the meeting.

6. **Executive Forward Plan**

To note forthcoming issues anticipated to be considered by the Executive over the next 12 months. The Executive Forward Plan can be found [here](#).

7. **Scrutiny of Executive Decisions 4 June 2024**

The Minutes can be found at [Agenda for Executive on Tuesday, 4th June, 2024, 10.00 am - Teignbridge District Council](#)

8. **Overview and Scrutiny Forward Plan**

To review the Committee's forward plan which can be found [here](#)

9. **Executive member biannual update**

To receive a biannual update from Executive Member for Recycling Household Waste & Environmental Health

10. **Outside organisation updates from the Council's appointed representatives**

The Chair to invite the Councils appointed representatives on outside organisations who have advised they will report to Committee on:

- any meetings of their appointed outside organisation in the past few months, which they attended to report on the meeting,
- the role the outside organisation(s) they represent plays in promoting and aligning with the Council's priorities, policies and strategies, and
- advising on partnership discussions which are open and in the public domain.

11. **Referral from Audit Committee Webcasting of Meetings** (Pages 9 - 16)

The Committee is requested to consider the Notices of Motion relating to webcasting of council meetings.

The report presented to the Audit Scrutiny Committee on 22 March 2024 is attached and the Minute is below.

11. NOTICES OF MOTION - WEBCASTING

The Committee considered that a decision on the motion did not fall into their terms of reference and would be more appropriately decided elsewhere. It was suggested that decision could be deferred until after the current contract is complete.

It was proposed by Cllr Purser and seconded by Cllr Radford that the motion report be sent to the Overview and Scrutiny Committee for consideration.

12. **Notices of Motion referred from the Former Overview and Scrutiny Committee 2** (Pages 17 - 36)

To consider the attached reports relating to Notices of Motion (NOM) referred from the former Overview and Scrutiny 2 Committee on 9 April 2024 and deferred from then last meeting of the Committee:

Loss of section 106 contributions

Green improvements in conservation areas

Public speaking procedure at Planning Committee

The OS agenda for the former OS2 Committee meeting 9 April 2024 for background information on the NOMs can be found at

[Agenda for Overview and Scrutiny Committee 2 \(until May 2024\) on Tuesday, 9th April, 2024, 10.00 am - Teignbridge District Council](#)

13. **Feedback on task and finish groups**

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

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OVERVIEW AND SCRUTINY COMMITTEE

TUESDAY, 28 MAY 2024

Present:

Councillors Bullivant, D Cox, Dawson, Hall, Hayes, Henderson, James, Major, C Parker, P Parker, Parrot, Radford, Ryan, Sanders, Swain and Thorne

Members Attendance:

Councillors Daws, MacGregor, Mullone, Palethorpe and G Taylor

Apologies:

Councillors Atkins, Nuttall, Rogers and Steemson

Officers in Attendance:

Trish Corns, Democratic Services Officer
Christopher Morgan, Trainee Democratic Services Officer
Amanda Pujol, Head of Community Services and Improvement
Phil Shears, Managing Director
Jack Williams, Performance Data Analyst

1. ELECTION OF CHAIR AND VICE CHAIR

Election of Chair

Cllr C Parker proposed that Cllr Sander be elected Chair for the 2024/25 municipal year, this was seconded by Cllr Hayes.

Cllr Hall proposed that Cllr Bullivant be elected Chair for the 2024/25 municipal year, this was seconded by Cllr P Parker.

RESOLVED that Cllr Sanders be elected Chair for the 2024/2025 municipal year.

Election of Vice Chair

Cllr C Parker proposed that Cllr Parrott be elected Vice Chair for the 2024/25 municipal year, this was seconded by Cllr Henderson.

Cllr Bullivant proposed that Cllr Hall be elected Vice Chair for the 2024/25 municipal year, this was seconded by Cllr P Parker.

RESOLVED that Cllr Parrott be elected Vice Chair for the 2024/2025 municipal year.

2. MINUTES

a) It was proposed by Cllr Parrott, seconded by Cllr Sanders and

RESOLVED

The Minutes of the former Overview and Scrutiny 1 Committee held on 26 March 2024 be approved as a correct record and be signed by the Chair.

b) It was proposed by Cllr C Parker, seconded by Cllr Hayes and

RESOLVED

The Minutes of the former Overview and Scrutiny 2 Committee held on 9 April 2024 be approved as a correct record and be signed by the Chair.

3. COUNCILLOR QUESTIONS

None.

4. DECLARATION OF INTERESTS

None.

5. PUBLIC QUESTIONS

None.

6. EXECUTIVE FORWARD PLAN

The Executive Forward Plan listing items to be considered over the next few months was noted.

7. OVERVIEW AND SCRUTINY FORWARD PLAN

The committee's forward plan showing issues to be considered by the committee over the next few months was noted.

8. DIGITAL CONNECTIVITY FOR HOUSEHOLDS

The Chair referred to the proposal for a matter to be brought before the committee at a future meeting as detailed on the proposal form circulated with the agenda.

RESOLVED

That representation from BDUK (Building Digital UK)/Connecting Devon & Somerset at a future O&S meeting be requested to provide evidence with regard to how 99% of premises in Teignbridge will have gigabit or superfast connectivity in Teignbridge by March 2025 and to ensure they are prioritising the 3.6% of premises (approximately 3,100 properties) that do not even benefit from a basic broadband connection.

9. EXECUTIVE MEMBER BIENNIAL UPDATE

The Executive Member for estates, assets and parking presented a biennial update to Committee. The current review of the Council's Strategy, and the draft Strategic Asset Plan 2024-2029 which would be considered by the Executive at its meeting on 4 June 2024 were particularly referred to. The Asset Plan would corporately review all council assets to identify which assets are important to the community and how that asset should be funded. In reviewing, the council would challenge why assets are in the council's ownership, consult with the community on options, look at the wider economic benefit and potential uses, and make a decision on the future of the assets.

The full presentation can be found at the link below:

<https://democracy.teignbridge.gov.uk/ieListDocuments.aspx?CIId=418&MIId=3535&Ver=4>

10. COUNCIL STRATEGY Q4 PERFORMANCE MONITORING REPORT

Consideration was given to the agenda report.

Issues of concern related to matters around national targets and the provision of housing which the Council was largely dependent on third parties to provide.

RESOLVED

The report and actions being taken to rectify any performance issues detailed in the appendix be noted.

11. OUTSIDE ORGANISATIONS UPDATES FROM COUNCIL REPRESENTATIVES

The Chair advised that outside organisation updates from the Council's appointed representatives was a standard agenda item to enable the representatives to report on:

- any meetings of the appointed outside organisation in the past few months, which they attended to report on the meeting,
- the role the outside organisation(s) they represent plays in promoting and aligning with the Council's priorities, policies and strategies, and
- advising on partnership discussions which are open and in the public domain.

The Council's representative on the Devon Rail Forum, Cllr Parrott advised that there were items of interest within the Teignbridge area for discussion at this group such as the Dawlish sea wall. Councillors would be asked through the Members Newsletters for items and questions to put forward for the forum's next meeting agenda, when questions could be asked of representatives of Network Rail.

The Council's representative on the Devon Building Control Partnership referred to the Councillors briefing for all Councillors by the Head of Building Control on 3 June at 2pm, which would provide an update on the service.

12. REFERRAL FROM AUDIT COMMITTEE - WEBCASTING OF MEETINGS AND NOTICES OF MOTION REFERRED FROM THE FORMER OVERVIEW AND SCRUTINY 2 COMMITTEE

The Chair referred to:

- The agenda report regarding the Notices of Motion relating to webcasting of meetings referred from the Audit Scrutiny committee and
- The Notices of Motion referred from the former Overview and Scrutiny 2 committee at agenda item 14.

The proposers of the Notices of Motion were not present at the meeting. The Chair therefore proposed that consideration of all matters above be deferred until the next meeting of the agenda to enable the councillors concerned to be present. This was seconded and

RESOLVED

Consideration of the Notices of Marion at agenda items 13 and 14 be deferred to the next meeting.

13. FEEDBACK ON TASK AND FINISH GROUPS

It was acknowledged that the task and finish groups are the front line of supporting the community and improving services.

The mid-term financial plan task and finish group was continuing its work and it was anticipated that the Chair of the group, who was not present would provide an update at the next meeting.

RESOLVED

Task and finish group updates be deferred to the next meeting.

Cllr S Sanders
Chairman

**Teignbridge District Council
Audit Scrutiny Committee
22 March 2023
Part i**

Video Recording and Retention of Council Meetings

Purpose of Report

To consider the following Notices of Motion submitted to full Council. The Motions did not secure the required votes to be discussed at full Council, hence referral to this Committee for consideration.

Recommendation(s)

It is recommended that the Audit Scrutiny Committee considers the information presented in this report and makes a recommendation to Council on future video streaming and retention policy.

Financial Implications

Financial implications where known, are included in the report. There is no additional budget for these, so any costs arising from changes to current policy would be a budget pressure requiring savings to be found elsewhere.

Legal Implications

There is no legal requirement for any Council meetings to be live streamed. The written minutes provide the formal record of the meeting in accordance with the [Local Government Act 1972](#). There are also Data Protection implications arising from the fact that the images and voices constitute personal data under the Data Protection Act 2018 and UK GDPR. These considerations are outlined in the report.

Risk Assessment

There is a possible risk from non-compliance with Data Protection legislation should the Council not manage data lawfully.

Live streaming of meetings can also increase potential for legal exposure relating to any inappropriate behaviours of those in attendance, such as defamatory statements that could give rise to civil action. In mitigation, Councillors and Council Staff should be guided by their Codes of Conduct and refrain from making such statements.

Environmental/ Climate Change Implications

Webcasting meetings may prevent the need for the public to travel unnecessarily, however, public participation is low for the meetings not currently live streamed, as can be seen by the statistics in the report, therefore any positive impact would be minimal in this respect.

If increased data storage caused a requirement for additional servers this may have a minor negative impact. Generally, the energy consumption of data centres is a growing concern, with some studies suggesting data centres account for around 1-2% of electricity used globally. YouTube is estimated to store over 500 hours of uploaded video every minute, which requires large scale data storage. The more we store the more we contribute this statistic.

Report Author

Christopher Morgan
Email: Christopher.Morgan@teignbridge.gov.uk

Executive Member

Councillor Richard Keeling – Executive Member for Corporate Resources

1. Introduction

The Motions are set out below. One calls for the reinstating of webcasted footage held by the council onto a free, public website, for an indefinite period of time. One calls for live streaming of **all** Council meetings (as opposed to the current practice of doing this for just Full Council, Executive, Planning and Overview and Scrutiny Committees):

[17th October 2023](#) (item 63)

The following motion on recordings of meetings has been presented by Cllr Daws and supported by Cllrs Hall, J Taylor, P Parker, Gearon, Bradford, Macgregor, Mullone, Radford and Ryan.

Recordings of council meetings. The council records public meetings for ease of access for residents. To maintain a full public record of meetings it is proposed that the council halts with immediate effect its current policy of deleting recordings of meetings after a set number of years and maintains public access

to meetings on streaming platforms, such as YouTube currently. It is proposed that all meetings currently in the possession of the council or in existence, are reinstated to a free publicly available platform and that all future meetings saved and are uploaded in a similar manner.

[27th February 2024](#) (item 13)

The following motion on live streaming of public council meetings has been presented by Cllr J Taylor and supported by Cllrs Gearon, Hall, Bradford, Daws, Ryan, Radford, Macgregor, Atkins, P Parker

“I would like to discuss the issue of the live streaming of public council meetings.

I first identified that all meetings were not live streamed when attending a Standards meeting, which I expected to be live streamed but was not. My understanding was that this was due to an error and I wrongly assumed that all public meetings held in the Council Chamber were live streamed. Again, at the latest Procedures Committee, which covered many of the motions not debated in Full Council, which were of public interest, was not live streamed.

I raised this at that meeting and was informed that live streaming is not governed by a policy which rationalises or prioritises which meetings are to be live streamed and it was believed it was purely based on cost.

In the interest of transparency and public engagement, I propose that all public meetings which are held in the council chamber should be live streamed and that all public meetings, not to be live streamed have the reason recorded in the minutes.”

2. Background Information for Consideration

Whilst there is currently no legal requirement for public meetings to be video recorded, from 2020 onwards, meetings were held using Zoom and livestreamed on YouTube as a result of the Covid-19 pandemic. From mid-2021 public meetings returned to the Council Chamber where they have been recorded in person and uploaded to the Public-I Webcasting library on the Teignbridge website. From mid-2022 to May 2023 meetings were held in Buckland Athletic Football Club and were livestreamed to YouTube.

The current data retention policy for this footage is **two years** with our Webcasting provider, Public-I. This retention period was carefully chosen on the advice of relevant officers, to strike a balance between transparency, and data protection principles.

UK GDPR (General Data Protection Regulations) relevant provisions include:

- the Data Minimisation Principle: data should be adequate, relevant, and limited to what is necessary in relation to the purposes for which it is processed. We should therefore identify the MINIMUM amount of personal data required and hold no more.
- the Storage Limitation Principle: data must not keep data longer than required. Individuals have the right to be forgotten.

If footage is kept an unreasonable amount of time, we risk claims from individuals who did not expect their recorded presence to persist indefinitely under the right to erasure (council members, staff, public speakers). This could involve lengthy and potentially costly work to redact footage.

The prospect of being permanently recorded may also have a chilling effect, discouraging some individuals from participating freely in discussion.

Costs of Retention

The current cost of retaining meetings for two years is **£3,087.60** per year. The cost of increasing this to indefinite online retention is an additional **£1,926.72** per year. Currently the webcasting is provided under a contract with Public-I who provide services to 150+ other councils.

YouTube

The motion proposes using YouTube as a streaming platform and uploading all recordings currently in the possession of the Council to YouTube.

Use of YouTube is currently free, however there is a likelihood charges will be introduced in the future (amount unknown at present). There is also a degree of internal resource required to do this, as it takes some time to upload files. To reinstate an entire archive of files would be quite a considerable task.

Benchmarking

Comparison with other Devon authorities found West Devon, North Devon, South Hams, and East Devon Councils livestream all meetings to Youtube. Exeter City Council only record Executive, Planning, and Full Council, also using Youtube. Mid Devon record the audio of meetings and upload it to Soundcloud.

The main difference between these authorities and Teignbridge is that Teignbridge uses the Public-I system and webcast library as part of a signed contract.

Benchmarking with our CIPFA nearest neighbour group revealed:

- West Norfolk and New Forest Councils upload all meetings to YouTube with no specified retention
- Fylde livestream full Council and upload (not livestream) planning meetings
- Arun and Lewes record all meetings but only keep for 6 months
- Fareham and Wyre don't record any meetings

Viewing Statistics

The viewing figures for the past 6 months of livestreamed meetings highlight the variances between committees in terms of public interest. For example, September's Overview and Scrutiny 1 and 2 were watched live by 21 and 15 individual viewers respectively whereas October's Full Council meeting was viewed live by 232 people. When further analysed, the data reveals that at least half of those live viewers are from areas other than Teignbridge. The table below provides a breakdown of meetings held since May 2023 including views. It should be noted that the data includes repeat viewers, bots, and viewers from outside the county.

Webcast	Live date	All views	Live views	Archive views	Total length	Times shared
Full Council	23/05/23	46	114	354	237:06:24	0
Full Council	25/07/23	36	32	334	95:46:24	0
Full Council	17/10/23	34	232	116	233:02:13	0
Planning	13/06/23	32	80	248	86:43:39	0
Executive	12/09/23	19	27	164	38:39:28	1
Full Council	28/09/23	18	46	141	36:28:12	0
Scrutiny	11/07/23	18	36	145	37:30:10	0
Full Council	05/09/23	17	91	86	67:19:25	0
Planning	18/07/23	16	27	140	29:13:20	0
Executive	06/06/23	15	19	136	32:57:10	0
Planning	19/09/23	15	52	100	48:25:55	0
Planning	22/08/23	13	40	96	23:34:09	0
Executive	22/08/23	13	28	105	45:45:19	0
Executive	10/07/23	13	25	105	20:00:38	0
Executive	03/10/23	90	12	78	13:12:36	0
Scrutiny	20/06/23	72	19	53	08:33:30	0
Scrutiny	26/09/23	69	21	48	16:00:05	0
Scrutiny	26/09/23	63	15	48	09:52:35	0
Full Council	29/04/23	47	0	47	04:28:13	0

Request to live stream all meetings (NOM 27th February 2024)

Currently Teignbridge live stream:

- Full Council
- Executive
- Planning
- both Overview and Scrutiny committee meetings

Committee meetings not currently live streamed:

- Appointments and Remuneration
- Audit Scrutiny
- Devon Building Control Partnership
- Licensing and Regulatory
- Licensing Sub Committee
- Procedures

- Standards
- Strata – joint Executive
- Strata – joint Scrutiny

Live streamed meetings require at least two Democratic Services staff to facilitate. The team is already stretched and would require additional resources to be brought in to assist, should all meetings need to be webcast. It is estimated this could cost in the region of **£17,100** (including on cost) for a part time post.

Public-I charges would also increase. It currently costs £38.59 per hour per meeting and we have a contract for 80 hours. A very crude estimate based on the likely frequency of these additional meetings taking an average 2 hrs each would require an additional 60 hours added to the contract, costing approximately **£2,315**.

Options Summary

Councillors are reminded that there are 3 aspects to the Notices of Motion:

- the online retention of future meetings indefinitely
- the reupload of any meetings held over 2 years ago
- the livestreaming and retention of recordings for **all** Council meetings

The choices for this Committee to consider are:

- to continue the current cycle of keeping recorded meetings online for 2 years
- to change the retention period to a longer time frame
- to make all future livestreamed meetings uploaded indefinitely but not reupload meetings from over 2 years ago
- to live stream **all** meetings as opposed to just key meetings, i.e. full Council, Executive, Planning and Overview and Scrutiny
- to keep to the current recording practice of just the key meetings mentioned above, or consider which, if any further meetings should be added

3. Conclusion

The Local Government Act 1972 requires meetings to be open to the public however this is specifically for in-person attendance. The written minutes are the legal record of the meeting. There is no legal requirement for the livestreaming of council meetings. The retention period of meetings must be balanced when considering the good governance of data. There are costs to both retention of data and for webcasting additional meetings to those already covered. The decision made by Councillors must balance the desire for openness and transparency with a realistic understanding of the costs of administering webcasting.

**Teignbridge District Council
Overview and Scrutiny Committee
18 June 2024 (deferred from 28 May 2024 meeting)
Part i**

Notices of Motion relating to Planning

Purpose of Report

To provide a response to the issues raised by Notices of Motion raised at Full Council relating to Planning matters.

Recommendation(s)

The Committee RESOLVES to:

- (1) Note the report and debate the issues in relation to the Notice of Motion
- (2) Make recommendations to Full Council based on the conclusion of the debate

Financial Implications

There are no direct financial implications arising from this report. Please see 3.1 for further detail.

Martin Flitcroft
Head of Corporate Services
Email: martin.flitcroft@teignbridge.gov.uk

Legal Implications

There are no Legal implications arising from this report, save that the Council's processes and procedures should recognise the distinct roles of officers and members and operate to mitigate risk to the Council of its decisions and those of its committees being successfully challenged.

Paul Woodhead
Head of Legal Services and Monitoring Officer
Email: paul.woodhead@teignbridge.gov.uk

Risk Assessment

Risks are set out in Section 3 of this report.

Neil Blaney
Head of Place and Commercial Services
Email: neil.blaney@teignbridge.gov.uk

Environmental/ Climate Change Implications

There are no environmental or climate change implications arising from this report.

Neil Blaney
Head of Place and Commercial Services
Email: neil.blaney@teignbridge.gov.uk

Report Authors

Sim Manley, Interim Head of Development Management
Neil Blaney, Head of Place and Commercial Services
Email: sim.manley@teignbridge.gov.uk

Executive Member

Cllr Gary Taylor

Appendices/Background Papers

Background Paper 1: [Agenda for Overview and Scrutiny 2 Committee – 9 April 2024](#)

1. Introduction/Background

At the meeting of the Overview and Scrutiny 2 committee of 9 April 2024 three Notices of Motion (NoM) were considered, having been referred from the Procedures Committee.

The full details of those NoMs can be viewed via the link in Background Paper 1.

This report sets out a response to the NoM relating to ‘the loss of Section 106 contributions’.

In section 2 the NoM is responded to on a paragraph-by-paragraph basis, with the text of the NoM in italics.

2. Notices of Motion – Loss of Section 106 contributions

NoM: “I would like your support for the following motion, which I believe will improve transparency within the planning process and give councillors more decision making in regards to planning applications and amendments of major developments. It is particularly important that all decisions relating to the loss of agreed 106 affordable units, are made by the Planning Committee.

Response: Each application is dealt with on its merits and the current Constitution allows for applications to be called into Committee.

NoM: Planning is a process tied up in legislation, including the committee decision making element. Councillors are, when an application comes to committee, presented with recommendations, accompanied by detailed reports and are expected to adopt an open mind when deciding on the merits of that application. Often, the officer presenting the report has anticipated where concerns might lie and along with technical aspects listed conditions that will apply should the application be passed.

On large sites, those conditions might relate to aspects such as the number of affordable homes, children's play areas and green landscaping. Thus, typically, the committee members make a decision based on what is in front of them but in reality the ends product looks nothing like the approved application. That application may then change beyond recognition by a process of amendments, submitted by the applicant and approved by delegated authority. It may never come back to the Planning Committee.

Response: The planning process allows for negotiation and changes to be made. In entering these negotiations in accordance with the provisions of statute, guidance and advice, the officers are discharging the statutory duty of the Council as a Local Planning Authority.

Consideration could be given to requesting a detailed schedule from each application for a variation, specifically identifying every change being requested.

However, it should be noted that this is not a requirement for validating an application or a reason to delay or withhold a decision.

NoM: This is a well-established practice by Developers which enables the Plans to be passed and then amended so that the maximum profit can be achieved. It is called value engineering. I call it disingenuous and it's time it stopped.

Response: No evidence was provided to support this statement in relation to applications within Teignbridge. It has not, therefore, been possible to quantify or qualify the validity of this statement or the scale of the stated problem.

In scrutinising this NoM Members may wish to request further details on the number of applications that this NoM relates to, to allow further investigation of specific cases to understand what the differences in proposals were and why, what the Ward Member and Town/Parish Council views were, and whether there was a request for the application to go before Committee.

NoM: The council are well aware of this process but choose to engage with it for fear of the monetary consequences of non-compliance. It is no secret that this

council, along with many others, has an unhealthy dependency on the money provided by major house builders.

Response: No evidence is presented to support these statements or any qualification of what is meant by them.

Planning is a quasi-judicial process which is governed by strict rules, processes, and procedures, along with the council's officer code of conduct to preclude inappropriate behaviour and/or such matters as potential fraud, etc. In addition, the Planning officers of the Council are professional, most are members of the Royal Town Planning Institute and bound by a professional code of conduct. Officers making recommendations other than fully in accord with material planning considerations would be behaving contrary to their professional code of conduct.

NoM: It is time to draw the line and take the first steps to breaking the cycle and distancing ourselves from this unhealthy relationship, by developing a transparent process and sending a clear signal to Developers. We will not be bartering to build houses. Submit, approve, build. We will no longer be engaging in planning ping pong.

Response: Reference to 'unhealthy relationship' has ramifications for the reputation of the Council, and for the officers dealing with applications made under delegated authority. If there are examples of where it is believed that an 'unhealthy relationship' exists and what it is consider this to be, then this should be raised as a specific complaint. If there are not examples, then this accusation should be retracted.

NoM: The motion calls for additional transparency by ensuring that on all major developments (over 20 homes,) where variations to conditions are applied for, must be brought to the planning committee.

This is to apply to all 106 changes and any visible amendments, eg. change of materials, removal of garages, landscaping, etc.

All amendments on the grounds of viability, must come to the Planning Committee. (However, it should be an exception rather than the rule. Viability should covered at the initial planning application stage. If a development is not viable then it should be withdrawn)."

Response: We do not require a viability assessment in support of an application at the initial planning stage unless there is a validation requirement to do so (when the Local Validation checklist is adopted) where it relates to a policy

exception i.e., not meeting our affordable housing requirements at submission stage, or the application is seeking that amendment to a S106.

Requiring one to be submitted at the initial planning stage, where one is not required, would result in appeals and costs for unreasonable behaviour through the non-valid application procedure route.

It is for the applicant to decide if a scheme is viable or not. They seek permission and if the scheme is not viable that is the concern of the developer and not for the Council to consider. We cannot refuse an application because we consider the scheme to be economically unviable, that is the risk taken by the developer in bringing forward a development and it must be assumed that they have run a viability assessment before the submission.

If, however, a developer has obtained permission and it transpires that they consider that, for whatever reason the scheme is no longer economically viable they can seek to vary the S106 i.e., a reduction in the affordable housing provision. The developer would have to prove this through the submission of a detailed viability assessment produced by a professionally qualified person. Once received this is then assessed by an independent, professionally qualified, expert appointed by the Council.

Where an application is refused against expert advice it would be difficult to sustain at appeal, as we would be unlikely to get another expert witness to stand against the agreed position of two qualified experts, who would have had to have followed the national guidance and advice in reaching that decision.

Currently this is picked up by paragraph 1.3 of Section 6 of the Scheme of Delegation (Feb 2022 Version 1), which says that applications may not be referred to committee if it concerns a matter of a technical appraisal.

3. Implications, Risk Management and Climate Change Impact

3.1 Financial – There are no direct financial implications from this Notice of Motion. However, the responses do set out situations where the Council may be exposed to costs related to its process or decision making.

3.2 Legal – The Constitution sets out the processes to be followed for calling in a planning application. The issues identified in the Notice of Motion are considered to be adequately covered by the current process.

3.3 Risks – There are no direct risks associated with the Notice of Motion. However, the responses do set out where potential risks may occur.

3.4 Environmental/Climate Change Impact – There are no environmental or climate change impacts in relation to this report or the Notice of Motion.

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**Teignbridge District Council
Overview and Scrutiny Committee
18 June 2024 (deferred from 28 May 2024 meeting)
Part i**

Notices of Motion relating to Planning

Purpose of Report

To provide a response to the issues raised by Notices of Motion raised at Full Council relating to Planning matters.

Recommendation(s)

The Committee RESOLVES to:

- (1) Note the report and debate the issues in relation to the Notice of Motion
- (2) Make recommendations to Full Council based on the conclusion of the debate

Financial Implications

There are no direct financial implications arising from this report. Comment on potential budget implications is set out in paragraph 3.1 of this report.

Martin Flitcroft
Head of Corporate Resources
Email: martin.flitcroft@teignbridge.gov.uk

Legal Implications

There are no Legal implications arising from this report, save that the Council's processes and procedures should recognise the distinct roles of officers and members and operate to mitigate risk to the Council of its decisions and those of its committees being successfully challenged.

Paul Woodhead Head of Legal Services and Monitoring Officer
Email: paul.woodhead@teignbridge.gov.uk

Risk Assessment

There are no risks arising from this report.

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Environmental/ Climate Change Implications

Environmental and climate change implications are set out within the report and summarised in Section 3 of this report.

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Executive Member

Cllr Gary Taylor

Appendices/Background Papers

Background Paper 1: [Agenda for Overview and Scrutiny 2 Committee – 9 April 2024](#)

Background Paper 2: [National Planning Policy Framework - 16. Conserving and enhancing the historic environment - Guidance - GOV.UK \(www.gov.uk\)](#)

Background Paper 3: [Conservation Area Character Appraisals](#)

Background Paper 4: [Climate Change and Historic Building Adaptation - draft for consultation \(historicengland.org.uk\)](#)

1. Introduction/Background

At the meeting of the Overview and Scrutiny 2 committee of 9 April 2024 three Notices of Motion (NoM) were considered, having been referred from the Procedures Committee.

The full details of those NoMs can be viewed via the link in Background Paper 1.

This report sets out a response to the NoM relating to 'green improvements in Conservation Areas'.

In section 2 the NoM is responded to on a paragraph-by-paragraph basis, with the text of the NoM in italics.

2. Notice of Motion – Green improvements in Conservation Areas

The Notice of Motion states:

NoM: Large parts of residential Teignbridge are designated Conservation Areas. The rules for a conservation area come under Article 4 Directions that, unlike listed status for an individual building which are nationally codified, may be set and amended by a district council.

Response: There are 35 Conservation Areas in Teignbridge. These are locally designated areas with special architectural and historic interest, the character or appearance of which it is desirable to preserve or enhance. Conservation Area Consent from the Council can be required for demolition within a Conservation Area, including partial demolition.

Designation of a Conservation Area is a formal process undertaken by a Local Authority.

Guidance on designating Conservation Areas and how to consider proposals affecting heritage assets are set out in Section 16 of the National Planning Policy Framework (NPPF). A link to the NPPF is included as Background Paper 2.

Article 4 directions relate to permitted development rights. Permitted development rights are described in The Town and Country Planning (General Permitted Development) (England) Order 2015. This Article gives local councils powers to restrict or remove permitted development rights from sites or areas within their authority.

There are no Article 4 Directions in place in Teignbridge.

NoM: The rules for Conservation Areas in Teignbridge have not been re-examined for a long time. They do not take into account the sweeping changes in technologies, materials or group aesthetics. Neither do they account for the Climate Emergency that has been declared by many councils including this one.

Response: Proposals that require permission within Conservation Areas in Teignbridge are assessed against several documents. Alongside the NPPF, which was originally published in 2012 and is continuously updated, there is the Local Plan, adopted in 2014 and due to be superseded by the version submitted to the Planning Inspectorate this year.

There are also Conservation Area Character Statements and Management Plans, which were originally published in 2000 and updated in 2010. These have not been updated due to a lack of resource and capacity.

In 2022 Historic England undertook a consultation on a proposed advice note relating to Climate Change and Historic Building Adaptation. A link to the

document is included as Background Paper 4. The post-consultation version is yet to be published. Page 15 sets out some lenient parameters for changing windows and installing PV in unlisted dwellings located within conservation areas. It also provides guidance on EV charge points, heat pumps, and other energy efficiency measures. The advice uses uncertain language, so for anyone living in a conservation area and considering these measures, they will still need to consult with the LPA to gain certainty on planning advice.

Below is a chart from a Passivhaus Trust report showing the carbon footprint of various window construction approaches. With the right care, a wooden window can be expected to last 75 years, whilst a upvc window may need to be replaced three times over the same timescale.

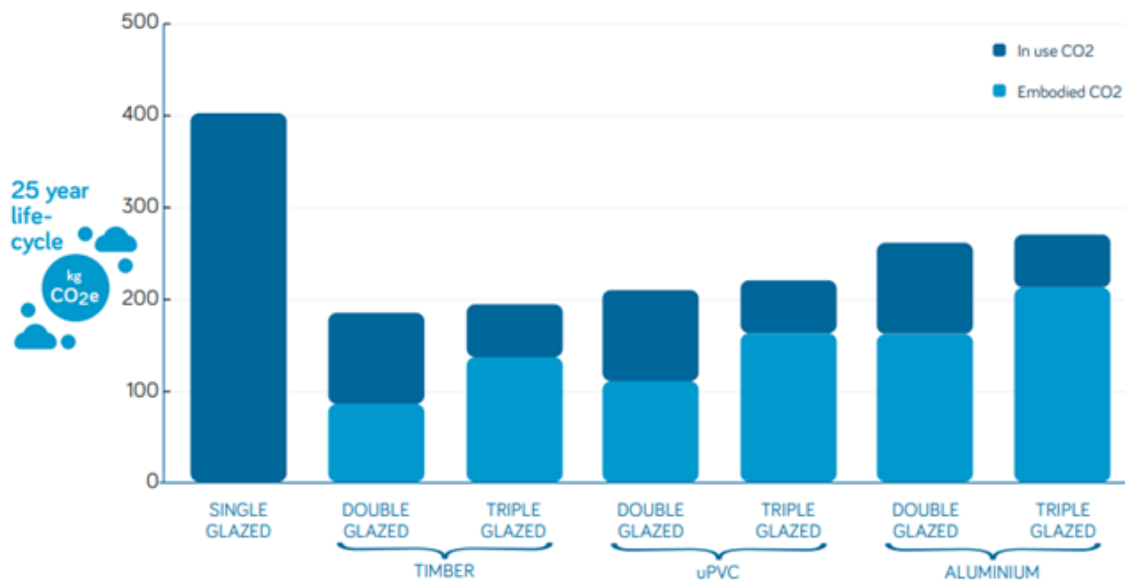


Figure 3 - The impact of frame type on whole life carbon calculations

NoM: Amendment to these rules is seriously overdue, most urgently in regard to windows and solar panelling. The rules on windows were drafted to stem the tide of shiny white plastic PVC windows being installed without thought in Georgian and Victorian houses that began to detract from areas of architectural heritage in the 1980s. These insist on like-for-like replacement of timber frame louvre windows. Today windows are being made from airtight, scientifically advanced materials that are, to any observer, entirely in keeping with older houses and which would bring them up to environmental standards with no loss of area aesthetics.

Response: The Conservation Area Character Appraisals and Management Plans do need to be updated.

Where permission is required, each application is considered on its own merits. This includes policies relating to climate change and sustainability.

Any development within a Conservation Area must preserve or enhance the special historic character of the area. It should be complementary to the character of the area and make a positive contribution to the appearance of the area through siting, scale, design and use of materials. It would normally require the use of traditional materials such as single glazed timber windows, although there may be occasions where a contemporary design is suitable.

'Sustainability' can also include protecting our heritage assets with great weight being given to this. Green issues do not override heritage concerns, which is why things that might otherwise be 'permitted development' outside Conservation Areas are specifically excluded. Many of these 'green' permitted developments are either excluded or restricted by being in a conservation area.

In respect of the example given in the NoM and to clarify, upvc windows are development in and outside of conservation areas in flatted development. Upvc windows in flats are development for which permission is required. The fact that some have become lawful is immaterial if a complaint is received. The fact is they need permission and should be regularised through an application.

Central to this is that, where development requires permission, the Council has a legal requirement to assess each application in a Conservation Area having regard to the provision of the legislation and, in particular the tests within the National Planning Policy Framework relating to the significance of the heritage asset, substantiality of the harm, and the wider public benefit.

Each application is assessed on its own merits with the Conservation Area Character Appraisal providing and informing the significance of the heritage asset against which the level of harm is assessed e.g. replacement windows in a modern dwelling in a Conservation Area would be assessed very differently from a non-listed but historic dwelling in that same conservation area.

The historic nature of the dwelling and its features may be an important contributory factor to the character of the conservation area and the introduction of upvc windows may cause significant harm by introducing a discordant and intrusive feature. The impact of introducing upvc windows in that dwelling would be far more harmful than a newer modern building where upvc would otherwise be appropriate and not out of character with its age.

It is for the Council to then decide if the harm caused is outweighed by the wider public benefit of the introduction of upvc. In some cases, it will be acceptable and in others it will not, dependent upon these considerations.

NoM: Solar panels, meanwhile, may need a change in our culture. We have decided as a society that wind turbines do not ruin a landscape; in fact most of us are pleased to see them. We might adjust our sensibilities to accommodate solar panels on the roofs of older, architecturally attractive dwellings. None of them, after all, have the original roof anymore so it seems somewhat contrarian to object to solar panels being installed on them.

We need to permit sensible ecological adjustment in Conservation Areas, as blanket bans make no sense, run contrary to our declared Climate Emergency and the rules are currently being applied with no consistency at all. At the Forde Park Conservation Area in College Ward we have residents being persecuted for high quality modern upgrades next to houses full of PVC that have got away with it for years, seemingly because they weren't 'dobbled in' by a neighbour within the required time.

Response: There is no 'blanket ban' in Conservation Areas. The previous response sets out how proposals are considered.

NoM: I therefore propose that:

A task and finish group be put together to look at reassessing the limits of remodelling in the area's Conservation Zones with an eye to allowing green improvements."

Response: What is being sought through this NoM appears to look more fundamentally at what does and does not require planning permission. This is a matter for legislation and the appropriate route would be to lobby the government to allow more permitted development for 'green' developments in Conservation Areas.

The assessment of a Conservation Area is something which needs to be done by a suitably qualified Heritage Officer. The Conservation Area Character Appraisal is an assessment of the heritage assets of an area and its constituent parts which, collectively, contribute to the whole and justify its designation as a Conservation Area - the character of that area.

3. Implications, Risk Management and Climate Change Impact

3.1 Financial – There are no financial implications arising from the Notice of Motion. However, if the Conservation Area Character Appraisals are to be updated it will require budget to bring in a suitably qualified person or company to undertake the work and consultations.

3.2 Legal – There are no legal implications arising from the Notice of Motion.

3.3 Risks – There are no risks arising from the Notice of Motion.

3.4 Environmental/Climate Change Impact – The Notice of Motion highlights a significant issue in seeking to support homeowners in making changes to their properties to improve their efficiency. The Council has a conflict in its ambitions to support climate change adaptation measures and its duty to protect the historic environment.

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**Teignbridge District Council
Overview and Scrutiny Committee
18 June 2024 (deferred from 28 May 2024 meeting)
Part i**

Notice of Motion (NOM) - Public Speaking at Planning Committee

Purpose of Report

To provide information as requested by the Overview and Scrutiny Committee on 9 April 2024, on the Planning Committee's current public participation scheme (PPS) and consequences of the amendment to the scheme as proposed by the NOM, to enable consideration of the NOM.

Recommendation(s)

The Committee is recommended to consider the NOM detailed at paragraph 2.1 below.

Financial Implications

See 6.1 and 7.1 below for financial implications

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Legal Implications

There are no legal implications arising from this report save that the Council's adopted policies and procedures should operate to mitigate any risk to the risk by way of challenge or otherwise. Care should be taken when considering this matter to avoid unintended consequences.

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Risk Assessment

The risks with amending the PPS relate to legal implications as above.

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Environmental/ Climate Change Implications

No environmental or climate change implications.

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Executive Member

Councillor Keeling – Executive Member for Corporate Resources
Councillor G Taylor - Executive Member for Planning.

Appendices/Background Papers

Appendix – the current Planning Committee public participation scheme

1. BUDGET AND POLICY FRAMEWORK

- 1.1 The current PPS can be found at the Appendix. The impact of the scheme is that it enables the public to address the Planning Committee on planning applications as either a supporter or an objector. The scheme is a procedure and has no budget allocation.

2. BACKGROUND

- 2.1. The NOM was presented to Council by Cllr P Parker as follows:

“In light of recent presentations by supporters and objectors at recent planning committee meetings it is apparent that the quality and clarity of presentations can vary.

There are instances where councillors would benefit from being able to request clarification for a point made during a presentation enabling a better decision to be reached.

*For this reason I request **that standing orders for planning committee meetings are altered to allow, through the chair, questions requesting clarification of a point made during the presentation to be put to an applicant/objector and answered by them.**”*

- 2.2. The NOM was referred by Council to the Procedures Committee. The Procedures Committee referred the matter to the Overview and Scrutiny (OS) Committee as set out on the agenda for the OS meeting on 9 April [Agenda](#)

3. CURRENT POSITION

- 3.1. The current PPS is detailed at the Appendix.
- 3.2. Legal advice was sought on interpretation of the proposed amendment to the PPS as set out in the NOM and is detailed below.
- 3.3. Should there be more speakers registered to speak than the scheme permits a spokesperson(s) is agreed by those registered who speaks on behalf of the others registered. I

4 ADVICE & OPTIONS

- 4.1 Advise in relation to risk management is set out at paragraphs 5 to 8 below.
- 4.2 The options for consideration are:
 - No change to the current PPS.
 - An amendment to the PPS in accordance with the NOM.
 - An amendment to the current Committee debate practice whereby Cllrs continue to ask planning related questions of the Planning Officer for points of clarification and then through the Chair allowing the Planning Officer to direct the question to an objector or supporter in instances where the Planning Officer is unable to provide an answer.

5. RISK MANAGEMENT

- 5.1 Risk implications include:
 - Incorrect information being provided by an objector or supporter which could be taken into account by Cllrs when reaching a decision.
 - The supporter or objector being perceived as being part of the debate.
 - The Meeting evolving into a magistrate's court room environment.
- 5.2 The Council is open to challenge in relation to a planning application decision if it is considered that a public speaker(s) has unduly influenced a decision.
- 5.3 Questions that the objector, supporter or Planning Officer cannot answer could result in an application being deferred for the information and therefore affecting the Council's national and local performance targets.

6. FINANCIAL IMPLICATIONS

- 6.1 The Council could incur costs should it be challenged in relation to a planning decision considered to be unduly influenced by a public speaker(s).

7. RESOURCE IMPLICATIONS

- 7.1 There is the potential for increased staff time with any increase in the average time for a planning Committee meeting to deal with all matters on the agenda at a meeting. Any issue that cannot be answered at the meeting could result in the application being deferred and resources required to research the matter and take back to Committee for a decision to be made.

Appendix

Current procedure for Speaking at Planning Committee

What do I do if I wish to speak at Planning Committee

If you wish to speak at a Planning Committee Meeting on an application please email democraticservicestdc@teignbridge.gov.uk by 12 noon on the Thursday before the meeting giving your full name, email address, mobile telephone number and quote the planning reference number. If more than one person requests to speak your email address will be sent to all who wish to speak for you to arrange a spokesperson between yourselves.

Members of the public who speak at a committee will have their name published within the minutes and they will be recorded where a meeting is broadcast live. Should members of the public wish to remain anonymous then they should contact comsec@teignbridge.gov.uk to make this request.

What is the order of speakers on an application at a Planning Committee

- Planning Officer presenting the report
- Objector(s)
- Supporter(s)
- Discussion by Councillors
- Decision (which may be approve, refuse, or defer to a subsequent meeting e.g. to allow for a site visit).

Who may speak and for how long

For major applications up to two objectors and two supporters may speak for 5 minutes each. The time between objectors and supporters is balanced. For example if there are two objectors but only one supporter the supporter will be able to speak for 10 minutes.

For other applications one objector and one supporter may speak for a maximum of 3 minutes each.

What may I speak about

Only planning related matters can be considered and any comments regarding disability, race or ethnicity, religion or belief, sexual orientation or gender reassignment or that are defamatory, prejudiced or otherwise likely to cause offence to the subject of the comments or any other reader will be removed. Any comments that are considered to constitute hate incidents or hate crimes may be passed to the police.

Examples of planning related comments include:-

- Overlooking/loss of privacy
- Design/effect on appearance of area
- Access, parking, traffic, road safety
- Trees/Biodiversity/Landscape/Heritage
- Noise/disturbance
- Local or Government Policy/Economic benefits
- Flooding issues

Comments which should not be made and cannot be considered include:-

- Loss of property value/loss of view
- Boundary/land ownership/neighbour disputes
- Impact on private drainage systems
- Inappropriate or personal comments
- Doubts as to integrity of applicant
- Breach of covenant
- Principle of development when outline consent exists

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