

COUNCIL MEETING

30 November 2021

Member Questions

Questions from Cllr Bullivant

Given the known financial issues facing the council can the Executive confirm the following:-

1) How much has the Council spent since May 2019 on unbudgeted costs resulting from planning decisions made by the planning committee being overturned on appeal and were any of these costs the result of Councillors not following the NPPF, Teignbridge Local Plan Policies and the advice of officers and statutory consultees.

Response from the Executive Member for Corporate Services

The table below provides details of Appeals determined since May 2019 in relation to decisions made by Planning Committee and the amount of formal costs awards involved with these appeals. It also notes where applications for costs have been refused or not made. There have been two awards made, totalling £11,757.95. This does not account for the opportunity cost of Officer time – if the appeals had not been required, we would have saved approximately 40 days of Officer time, which would amount to an additional c. £15,000 of cost. This also does not include the cost of legal advice in relation to the Second Wolborough Appeal (£8,434) as this was withdrawn – the decision was also made prior to May 2019.

Paperwork relevant to these decisions can be viewed online by searching by address or reference number: [View and comment on planning applications and appeals - Teignbridge District Council](#)

Application Reference	Site	Description	Recommendation to Committee	Appeal Decision	Appeal Procedure	Appeal Reference	Costs – awarded or refused and relevant comments from Inspector
18/01603	Hettor Barn Ipplepen	Siting of mobile home for three years to support an	Permission be granted	ALLOW	Informal Hearing	18/00060	£4,736.45 (Full Award) “...no substantive evidence was provided as to why the clear conclusions of the

		existing rural enterprise					<p>various appraisals, should not be followed.</p> <p>...no substantive counter evidence has been provided. Planning committees are not bound to follow the advice of their officers However, it is necessary to provide robust evidence to support a contrary view particularly given the extent of specific specialist evidence in support of the proposal in this case.</p> <p>... there is equally no substantive evidence that the separation would prevent effective supervision of the enterprise, or prevent a worker being aware of and able to respond to emergencies.</p>
19/01877	Moorwood Moor Road Ipplepen	<p>Appeal against the refusal of planning permission 19/01877/FUL -</p> <p>The temporary stationing of a log cabin for 3 years to serve as a key worker supervisory dwelling in connection with equestrian use</p>	Permission be granted	ALLOW	Informal Hearing	20/00015	<p>£7,021.50 (Full Award)</p> <p>... the members considered the proposal to be contrary to Policy WE9, a view at odds with the professional opinions of the appellants' consultants, the planning officer, and the Council's own consultant. It is especially important that when members reach a view which runs contrary to the weight of expert opinion, that they do so for sound planning</p>

							<p>reasons that can be rationalised in the evidence.</p> <p>5. The members made their decision on the basis that the proposed equine enterprise at Moorwood has not commenced. However, the Council failed to explain how this situation runs counter to local or national planning policy, both in its written evidence and at the hearing. This is unsurprising as I see nothing in policy to justify the member's position either. Moreover, members would or should have been aware that the PPG identifies the potential for a temporary dwelling to be permitted where an enterprise has not commenced.</p> <p>... the proposed development would be inherently temporary, occurring over a three-year period well before 2030, I see no rational basis for the finding of conflict with Policies S7 and EN3. Furthermore, concerns raised regarding the reuse of the temporary dwelling after its removal from Moorwood are beyond the scope of a</p>
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							reasonable assessment of the appeal proposal.
18/01497	1 Kits Close Chudleigh Newton Abbot	Single storey rear extension, two storey side extension and raising of roof to form additional accommodation with dormer and roof lights	Permission be granted	ALLOW	Fast Track (no further submissions permitted)	19/00016	No Costs Awarded “... it is incumbent on the Council to be able to substantiate the reasons given. When this happens in an appeal against an application for a ‘householder’ development, there is a difficulty for the Council as they do not have the opportunity to submit a statement of case. ... although I have found against its reasoning in my appeal decision, the Council’s decision notice set out clearly those areas of concern on which the Planning Committee based its case. ... it was a finely balanced decision and the fact that committee members took a different position is not evidence of unreasonable behaviour.

18/01383	Trinity Lodge Buckeridge Road Teignmouth	Demolition of existing building and replacement with six dwellings	Permission be granted	ALLOW	Written Representations	19/00021	No Costs Awarded “...even if the Council had properly justified its case, the appellant would still have likely appealed and incurred at least the same necessary costs in doing so. Consequently, it has not been put to any additional expense.”
16/02976	Cypress Thornley Drive Teignmouth	Dwelling in garden	Permission be granted	DISMIS	Written Representations	19/00026	No Costs Awarded “... It is evident that, regardless of the outcome of this costs application, the Council could have done more to explain their objections precisely and to substantiate their reasoning... in my view the Council’s opposition to the current scheme was reasonable and founded on appropriate judgement.”
18/02312	Pathfield Dacombe	Appeal against the refusal of Planning permission for 18/02312 - Use of land for Class B8 storage (caravans, trailers and motor vehicles)	Permission be granted	ALLOW	Written Representations	19/00037	No Costs application made

18/01276	Land At Wolborough Barton Coach Road Newton Abbot	Appeal against the refusal of planning application 18/01276/MAJ - Mixed use (hybrid application) proposal involving: (1) Outline Mixed use development comprising circa 1,210 dwellings (C3), a primary school (D1), up to 12,650 sq. m of employment floorspace	Outline Permission be granted	WITH (first Appeal Allowed)	Public Inquiry	19/00059	Second appeal Legal advice £8,434 (Appeal Withdrawn following advice form Planning Inspectorate)
19/01476	Land Adjacent 6 Mulberry Street Teignmouth	Appeal against the refusal of planning permission for 19/01476 - Two dwellings	Permission be granted	ALLOW	Written Representations	20/00028	No costs Awarded "Members are not required to accept the professional advice of Officers so long as a case can be made for the contrary view. In this case, the Council's refusal reasons are complete, precise, specific and relevant to the development proposed. The Decision Notice details the alleged harm and the local planning policies that Members considered the development conflicts with. The minutes of the Committee meetings indicate

							that the merits of the development were discussed and various issues considered and debated, including the matters covered by the refusal reasons... the Council's appeal statement subsequently elaborates on the refusal reasons and the Council's concerns with the proposed development, and includes sufficient detail and evidence to substantiate its position."
19/00122	Land Adjacent To Little Liverton Business Park Liverton	Appeal against the refusal of planning application 19/0122/MAJ - Outline - Business units (Use Classes B1, B2 and B8) (approval sought for access and landscaping)	Outline Permission be granted	ALLOW	Informal Hearing	20/00052	No Costs application made
20/00434	Trago Mills Liverton	Appeal against the refusal of planning application 20/00434/FUL - Construction of a new secondary access to rear of site	Permission be granted	ALLOW	Written Representations	21/00007	No Costs Awarded "... The local concerns which formed the basis of the Council's decision were sufficiently robust insofar as they referred to practical issues such as school parking at Staplehill Road and the age of the traffic flow

							<p>data relied upon by the applicant. Indeed, these concerns were not dispelled until the applicant's evidence was fortified by the Addendum, which augments the traffic data, confirms the unrecorded incidents referenced in representations and by Council and delves into greater detail about issues concerning BPS. In this sense, whilst I have ultimately agreed with the applicant, the Addendum offers a sense of legitimacy to the concerns raised at the application stage. Whilst members could have deferred their decision to seek out the further information contained within the Addendum, I cannot be sure that this would necessarily have resolved the concerns in the Council's view and thus prevented the appeal."</p>
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2) How much has the Council spent since May 2019 on unbudgeted costs resulting from the need to investigate standards complaints against Councillors where these complaints have been (a) found to be unwarranted following independent investigation (b) where the complaint has been partly or wholly upheld following independent investigation.

Response from the Executive Member for Corporate Services

The cost to the Council is £13,750.

Questions from Cllr Macgregor

1) At the Executive meeting held on the 2nd November, Cllr Dewhirst presented a series of report items relating to driver shortages. During that exchange, Cllr Purser asked specifically about training programmes, which Cllr Dewhirst stated was no longer an initiative. Can he explain to the full council why that decision has been taken when there is clearly a shortage of drivers and he is placing a huge burden on the rest of the team?

Response from the Executive Member for Recycling, Household Waste and Environmental Health

The waste and cleansing team are pursuing routes to train existing staff as LGV drivers with Class C licenses. This includes through the original national apprenticeship scheme which we have 5 members of staff involved in currently at various stages of theory/practical testing. This program changed recently to deliver training for Class CE licenses, not just Class C licenses – effectively a higher category enabling operation of articulated HGV's. As TDC have no requirement for this qualification and as it increases the risk of employees leaving to work elsewhere as pay levels are higher for Class CE work a decision was taken not to enrol any further candidates on this scheme. Instead TDC are funding the training for 5 further members of staff to undertake Class C training as a means to address the issue.

2) The additional black bin charge also included in the Exec meeting report of £300 is in most cases a positive move to reduce non-recyclable waste and subsequently improve recycling rates. However, as most residents in low income deprivation are more likely to be forced to purchase items that cannot easily be recycled due to cost v budget issues, this appears to be a heavy punishment for those least well off. What mitigation's will be made for low income households?

Response from the Executive Member for Recycling, Household Waste and Environmental Health

I believe there is an incorrect assumption within the question i.e. 'most residents in low income deprivation are more likely to be forced to purchase items that cannot easily be recycled' but would welcome and consider any evidence that supports this statement. Most day to day items can be presented for recycling from home through the Council's recycling service. Measures are in place to deal with additional waste free of charge, both recycling and residual, from households with genuine reasons for the additional waste. The standard waste and recycling containers issued provide sufficient capacity for households to present their waste if used correctly.

3) The move to increase recycling is positive, however if all neighbouring district and unitary authorities follow suit, then the waste that will be used to provide fuel for the 'waste to power/heating' initiative detailed under the leadership of Gordon Hook, will reduce. What data has been assessed to understand the impact of the reduction in waste as fuel, on costs and volumes available? Will there be, as highlighted at the time, a resultant demand for 'waste as fuel' which leads to waste being imported from elsewhere in the UK, or as non-recyclables reduce, the burning of recyclable waste?

Response from the Executive Member for Recycling, Household Waste and Environmental Health

Whilst Teignbridge District Council is not the responsible authority for the reasons of transparency a response is below – no supplementary question will be allowed.

The responsibility for the Energy from Waste (EfW) facilities and related contracts sit with the Unitary authorities and Devon County Council in their role as Waste Disposal Authorities. We work closely through the Devon Authorities Strategic Waste Committee (DASWC) to monitor waste trends and levels. With the projected growth in households and opportunities to feed locally produced commercial waste into the facilities to ensure sufficient throughput is maintained I do not believe that there will be a need to import waste from outside of the county or to burn recyclable waste.

4) Bearing in mind the portfolio holder/Exec member has been in place since May 2019, and his party campaigned against Brexit warning of skills shortages in 2017, 2019 (twice), can he detail what discussions took place with officers, the Senior Leadership team and fellow Exec members in the period prior to the first full lockdown to prepare for this eventuality and what measures he put in place to start the recruitment process, pay reviews and training from May 2019?

Response from the Executive Member for Recycling, Household Waste and Environmental Health

The staff resources of the service are, and have been, discussed on a monthly basis through the Executive Member/Service Manager/Head of Operations meetings. Benchmarking of salaries has been co-ordinated by TDC across the Devon Authorities to help monitor and inform decisions. The shortage of drivers and recruitment issues only began for TDC during 2021 and we have acted swiftly to address what is a national challenge. It is worth reminding that TDC were the only authority in Devon to maintain all waste collection services during the lockdowns

5) What impact is the increase on pay likely to have in respect of planned fleet updates, in terms of financing and schedule?

Response from the Executive Member for Recycling, Household Waste and Environmental Health

There is no likely impact on the fleet management programme resulting from the pay award.

Questions from Cllr Eden

Housing.

1) I note the recent press release stating that landlords can be fined up to £5000 per property for failing to meet energy standards.

Will the officers be taking a broadly robust approach to enforcement, and what will be the potential issues in terms of loss of private rented property should we pursue that line?

Response from the Executive Member for Homes and Communities

In line with our enforcement policy we will be providing both advice to landlords, referral to financial assistance for necessary works, where appropriate and taking a robust approach where the landlord continues to be non-compliant. Our aim is to improve housing conditions in the private rented sector. This funding will allow us resource to set up robust policy and procedures ensuring that this can be incorporated into our day to day enforcement work going forward beyond the end of the project, as well as develop advice and information for landlords.

2) Do we know how many properties are privately rented and how many fail the energy standard currently? If not, why not?

Response from the Executive Member for Homes and Communities

We know, through our Building Research establishment house condition modelling and Home analytic data (energy data), that we have potentially over 1000 private rented properties that may be non-compliant with the minimum energy efficiency legislation, i.e. EPC rating of an F or G. This data will be further analysed to ensure that our resources are targeted appropriately to those properties in the worse condition.

3) How many private landlords - other than registered providers of social housing - have we arranged accommodation for, for residents and were these assessed beforehand? What will be the impact of enforcing in respect of those properties and if we don't enforce, what form will engagement take?

Response from the Executive Member for Homes and Communities

Where we have supported tenants through SPRINT we ensure that the property is compliant with this legislation (as well as other Housing legislation) and where a client secures their own accommodation or access a deposit and advance rent the tenant is requested to get a copy of the EPC (and other certificates).

4) What steps have been taken to replace the portfolio holder for Sport, Leisure and Recreation since Cllr MacGregor was summarily removed from the role?

Response from the Leader

The appointment of Cllr John Nutley as the Executive Member for this Portfolio was advised last week and reported in the Members Newsletter.

5) What handover was carried out when you (Cllr Connett) summarily removed Cllr MacGregor from that role?

Response from the Leader

As far as I am aware, the previous Executive Member has not provided a handover.

6) What does teignbridge district council's risk assessment for health and safety of councillors and staff at public meetings advise regarding situations where one councillor engages physically and roughly with another in the manner of an assault?

Response from the Leader

I would encourage all councillors to observe the Code of Conduct for councillors.

7) Of complaints against councillors that have been accepted for action by the MO or interim MO how many of those standards complaints have involved an independent investigator since the start of this administration?

Response from the Chair of Standards Committee

Three

Question from Cllr Daws

Could the Leader and Deputy Leader of the Council make a matter of public record what actions they would take if we were made aware of threats, online abuse and criminal actions made against elected members of their own council?

Responses from the Leader

Any allegations of threats, online abuse or other actions which could be subject to a criminal investigation should be reported to the police.

Questions from Cllr Macgregor

1) Air Quality in Bitton Park Road is by any standard, poor at best. Whilst not 'illegal' as was pointed out in a recent planning meeting, the levels are still higher than those legislated for by both the UK Govt and the EU and are referred to as 'limit values'. Local Authorities with responsibility for Environment matters are required to identify areas where NO2 concentrations are higher than the 'limit values' and develop local measures to put things right. What local measures are the Authority taking to actively reduce NO2 and NOx around Bitton Park Road and to 'make things right'?

Executive Member for Recycling, Household Waste and Environmental Health

You are correct there are levels in the district, including Teignmouth that exceed the limit values which is why the authority has declared air quality management areas and we are required in these areas to have an Air Quality Action Plan. Officers are currently reviewing the existing plan and have consulted with Teignmouth Town Council and colleagues at Devon County Council to work on a suite of measure to include in a revised plan. I am looking forward to bringing a draft action plan to colleagues in Overview and Scrutiny 1 in the new year.

2) At the recent planning meeting, the impression was that the limits were acceptable and that the levels were reducing. In 2018, the level was higher (@57.99) than the original notified level (@56.83) with a small drop into 2019 (@54.85). The figure for 2020 was (46.00) a significant drop? What do you put that significant reduction down to?

Executive Member for Recycling, Household Waste and Environmental Health

The general trend of nitrogen dioxide levels shows reductions year on year. This can be attributed to engine technology improvements, fuel improvements, the uptake of electric and hybrid vehicles and a modal shift to encourage people away from the single occupancy use of vehicles to other more sustainable forms of transport. During the Pandemic officers continued to monitor air quality and the Council only missed one month's data (May 2020) when the laboratory was closed. Due to the unique circumstances in 2020 government guidance states that we should not make any decisions or changes that would rely on the 2020 data set. This approach has been agreed by Defra in their approval of our 2020 Annual Status Report, which is available on our website.

3) There seemed to be more concern for putting the idea forward that the levels were not illegal, and that they were coming down, than addressing the impact of increased vehicular loading on roads in Teignmouth particularly around school times, when children are more at risk. What active local measures will be taken, should further developments in Teignmouth occur to ensure that the air quality does not return to 2018/2019 levels or higher?

Executive Member for Recycling, Household Waste and Environmental Health

All planning applications are assessed for air quality impact. In accordance with national guidance air quality assessments are required for applications that could create a significant adverse impact on air quality. These are assessed by officers and if necessary changes are made to the application or conditions recommended to mitigate the impacts.

Questions from Cllr Clarence

Would the leader agree with me, having heard the presentation given to O/S, on the 15th November by South West Water, that the number of stress sewage discharges directly into the River Teign Estuary as being 197 in 2020, which includes the Teign Estuary streams, is unacceptable? Plus the practice of discharging at the outfall buoy at sea, from time to time, isnt also acceptable after just primary treatment?

Response from the Leader

I am grateful to Cllr Clarence for raising these issues, which are the responsibility of South West Water to deal with. I attended the recent Overview & Scrutiny Committee meeting at which there was a presentation from the water company and Environment Agency on these matters. Water quality concerns us all and this may be an area the Scrutiny Committee wishes to continue to pursue. I know many people were hugely disappointed that at an amendment to the Environment Bill which would have put a greater obligation on water companies was not supported by Members of Parliament.

Does the leader agree with me that its simply not good enough when SWW believe what they are practising is acceptable believing that the Buckland Works is sufficient till 2035? Surely now Teignbridge have been told of the above figures we cant simply ignore the situation and fail in our duties having now been told the facts?

Response from the Leader

I am grateful to Cllr Clarence for raising these issues, which are the responsibility of South West Water to deal with. I attended the recent Overview & Scrutiny Committee meeting at which there was a presentation from the water company and Environment Agency on these matters. Water quality concerns us all and this may be an area the Scrutiny Committee wishes to continue to pursue. I know many people were hugely disappointed that at an amendment to the Environment Bill which would have put a greater obligation on water companies was not supported by Members of Parliament.

Does the leader agree with me that this authority, in the light of this presentation, Teignbridge has a chance to make a name for itself, by implementing via the planning process, an embargo of no more than 5 sewer connections, per annum on any one multiple major planning application until such time as SWW come up with a sound plan to stop so many stress discharges, as to date all we have been told is that investigations and small remedial works are on going especially at Shaldon? If no such action is forthcoming surely Teignbridge would be compounding the problem of a major health hazard and if we didnt act are we complicit in law in what is a public nuisance under Rylands v Fletcher?

Response from the Leader

I know that Cllr Clarence appreciates the twin challenges facing us and many other councils. Members of Parliament did not support an amendment to the Environment Bill which would have placed greater obligations on water companies for water quality improvement. The Government also sets the housing targets which councils must achieve and for which there are significant penalties for not meeting the level of housing the Government demands.

Questions from Cllr Macgregor

1) At the recent planning committee the supporter of one application suggested the development he was supporting was critical to meeting the land supply. What is the current land supply status?

Response from Executive Member for Planning

This information is published online each April. Our Supply at this point was 6.3 years.

Evidence facts and infrastructure - Teignbridge District Council

2) What is the land supply minimum requirement?

Response from Executive Member for Planning

We are required to maintain a supply of 5 years plus 5% whilst our delivery pipeline is maintained.

We are also measured on housing delivery.

5 Year Land Supply

- Forward looking review of what development can come forward.

- Must keep a **rolling** 5 year housing land supply
- Having adequate supply today doesn't mean we can stop plan making for 5 years
- Less than 5 years' supply makes it much easier to bring forward unallocated sites
- We can't refuse allocated development because our land supply exceeds 5 years.

Housing Delivery Test

- Rolling review of how many homes have been delivered over the past 3 years.
- Formula based on nationally assessed annual housing need for the area. Includes a Covid 19 reduction
- Penalties as delivery rates diminish.
 - 85%: 'Buffer' added to 5YLS increases from 5% to 20% (additional ~110 homes per year)
 - 75%: 'presumption in favour of sustainable development'

A further note on the Housing Delivery Test was provided with Members Newsletter No 108 and is available at the following link [the planning team has produced a summary note](#)

3) If the land contained in TE3 were removed from the calculation what impact would that have on land supply in the current plan?

Response from Executive Member for Planning

As above, we are required to maintain a supply of land on an ongoing basis, regardless of the position or status of our Local Plan.

Our current Housing Land Supply requirement calculated through the Government's formula is 751 homes per annum. 255 homes is therefore 1/3 of a year's supply.

Together, all of the sites in the Local Plan contribute towards meeting our overall housing targets for both land supply and housing delivery, including of new affordable homes.

4) Privacy is a material consideration in granting planning applications. At the recent planning meeting on the 23rd November 2021, it was stated that 20m was considered a significant gap, however if you consider that the driving test requirement for eyesight means being able to read a number plate with letters 8cm by 5cm from 20 metres, this puts some question into the idea that 20m is significant.

What weight, if any is applied to privacy when considering a planning application, particularly for changes to existing buildings or infill construction where privacy is under threat?

Questions from Cllr Eden

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Response from the Leader

See response to Cllr Clarence questions.

Does the leader agree with me that its simply not good enough when SWW believe what they are practising is acceptable believing that the Buckland Works is sufficient till 2035? Surely now Teignbridge have been told of the above figures we cant simply ignore the situation and fail in our duties having now been told the facts?

Response from the Leader

See response to Cllr Clarence questions

Does the leader agree with me that this authority, in the light of this presentation, Teignbridge has a chance to make a name for itself, by implementing via the planning process, an embargo of no more than 5 sewer connections, per annum on any one multiple major planning application until such time as SWW come up with a sound plan to stop so many stress discharges, as to date all we have been told is that investigations and small remedial works are on going especially at Shaldon? If no such action is forthcoming surely Teignbridge would be compounding the problem of a major health hazard and if we didnt act are we complicit in law in what is a public nuisance under Rylands v Fletcher?

Response from the Leader

See response to Cllr Clarence questions

Questions from Councillor Daws

Question

Can the Chair explain the allocation of substitute slots when a committee member is not able to attend. Specifically can he explain if the Member themselves or the Leader of the political group has the authority to appoint the substitute?

Response from the Chair of Planning

The substitutes are appointed by the Group Leaders and can be arranged to substitute by either the Group Leader or the member, and advise the Democratic Services Officer the prior working day.

(Constitution paragraph 3.13 gives the details)

Question

Can the Chair of the Planning Committee explain why he did not declare, or that is was not declared in the report that he had a pre existing professional working relationship with Richard Crawley of the Planning Advisory Service, the PAS lead appointed by the to investigate the Langford Bridge Planning decision reached on the 21st January 2020?

Response from the Chair of Planning

I believe this question is contrary to the Constitution (4.7.3) insofar as it is on a matter which does not fall within the terms of reference of the planning committee (3.9). Therefore, I will not be answering the question, but I am prepared to make the following statement:

My role with the LGA as a peer mentor is listed in my Register of Interests, and I advised the Full Council meeting of my involvement with PAS when Council was considering the planning committee decision on the Langford Bridge application -

<http://democracy.teignbridge.gov.uk/documents/s8968/Minutes%2024022020%20Full%20Council.pdf> .

The Teignbridge Code of Conduct applies to my relationship with officers and members at the LGA and Councils that I work with in the same way that it does for Teignbridge officers and members. Thus, I would not consider further declaration of interest to be required.