

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.