

TORRIDGE DISTRICT COUNCIL

FULL COUNCIL MEETING

Caddsdow Business Support Centre - Bideford

Tuesday, 20 December 2022 - 5.30 pm

PRESENT Councillor D Bushby (Chair)
 Councillor P Christie (Vice-Chair)
 Councillors R Boughton, D Brenton, C Bright, R Clarke,
 P Hackett, P Hames, S Harding, K Hepple, R Hicks, C Hodson,
 D Hurley, T Inch, K James, N Laws, C Leather, J McKenzie,
 S Newton, P Pennington, R Wiseman and C Woodhouse

ALSO PRESENT	S Hearse	- Chief Executive
	S Kearney	- Head of Communities & Place
	D Heyes	- Finance Manager (Section 151 Officer)
	A Redwood	- Major Projects & Estates Manager
	R Haste	- Operational Services Manager
	J Wells	- Revenues & Benefits Manager
	K Brown	- Democratic Services Officer
	S Cawsey	- Democratic Services Officer

83. APOLOGIES FOR ABSENCE

Apologies for absence were received from S Dorey (Head of Legal & Governance and Monitoring) and Councillors: M Brown, C Cottle-Hunkin, R Craigie, A Dart, L Ford, J Gubb, D Jones, C Hawkins, J Manley, S Langford, R Lock and P Watson

84. COUNCIL MINUTES

It was proposed by Councillor D Bushby, seconded by Councillor R Clarke and -

Resolved: That the minutes of the meeting held on 31 October 2022 be agreed subject to the following amendments:

Minute 76 – Active Travel

Councillor Hames requested the following information be included in his update:

Page 7 - 6th paragraph down - detailed proposed cycle walking routes “as part of the Barnstaple Bideford and Northam Local Cycling and Walking Infrastructure Plan (LCWIP)”

Page 7 –10th paragraph down – taken into “full consideration in the report going with the results of the LCWIP Consultation”.

Following a question as to whether the chronological order for minutes 78 and 81 was correct and clarification given by the Chief Executive, Members believed an amendment was not required.

(Vote: For - unanimous)

85. ACTION LIST

The Action List was reviewed and updated.

86. PUBLIC CONTRIBUTIONS

The Chair informed the meeting of two public contributions, both wishing to speak on the proposed housing development at South Street Car Park, Gt. Torrington.

Councillor Inch made it clear that at the present time it is not a proposed housing development site.

The first speaker was Anne Tattersall who thanked certain Councillors for responding to the letter she had previously circulated and expressed her displeasure at those who did not respond. She spoke vehemently objecting to the above, outlining reasons which included –

- Going against the Gt Torrington Neighbourhood Plan
- Not sustainable for Gt Torrington if car park is taken away
- The Council have stripped assets for too long – already taken away two car parks
- Proposal not viable therefore wasting taxpayers money by having Viability Study undertaken

and finally suggesting the proposal be taken off the table.

The second speaker was Yvonne Matthews who said they were not objecting to affordable housing but was objecting to the proposed plan to build houses on South Street Car Park. It is prime land with glorious views and if affordable now, they will not be further down the line. She outlined her reasons for objecting to the development and the key issues identified by the Planned Steering Group in 2018. There is a major issue with public car parking in the Town Centre due to loss of part of New Road Car Park and proposed restrictions on the street parking. She highlighted how essential existing car parks are to the well being of the Town and how they often reach full capacity when events are organised.

87. DECLARATIONS OF INTEREST

Members were reminded that declarations of interest should be made as and when the specific agenda item to which they related was under discussion.

88. AGREEMENT OF AGENDA ITEMS PART I AND II

It was proposed by Councillor D Bushby, seconded by Councillor T Inch and –

Resolved:

That the Agenda as circulated be agreed.

(Vote: For – unanimous)

89. TO CONSIDER CORRESPONDENCE OR OTHER BUSINESS ESPECIALLY BROUGHT FORWARD BY THE DIRECTION OF THE CHAIR

The following matters were raised by the Chair:

Wanted to send his and Members condolences and thoughts to Councillor Lock at this very sad time.

Thanks was also given to Councillor Hutchings following his resignation as Ward Member for Holsworthy.

In response to a query raised by Members, the Chief Executive confirmed the reasons as to why Brunswick Wharf was not on the agenda, and that it would be brought forward on the agenda for the 30 January.

90. TO ANSWER QUESTIONS SUBMITTED UNDER PROCEDURAL RULE A9

A Question had been submitted by Councillor C Hodson under Procedural Rule A9.

In accordance with the Constitution a written answer to the question had been circulated to Members.

Question from Councillor Hodson

Concerns have been raised by Members of this Council about the perceived lack of enforcement action relating to derelict buildings in the Ward of Westward Ho! These premises are a blight on the landscape of Torridge's principal tourist resort.

Atlantic Flats, in private ownership, would appear to be only fit for demolition.

Despite continuous reports of trespass by young persons and alleged illegal practices and transactions taking place within the ruins, neither the Council, the Police or the owner have been able to progress a resolution.

The West Beach site, currently in the hands of the Receiver, has remained as a partly constructed block of flats, which although fenced has attracted trespassers who have entered the grounds, have climbed up several floors and graffiti tagged the windows.

The perpetrators, that have been witnessed by residents of neighbouring properties, are exposed to considerable risk of injury or indeed fatality. It is not perceived as acceptable to the community that none of the statutory bodies are able to remedy this significant issue.

I am therefore asking for a written response which outlines the powers of the Local Authority and any constraints or limitations in taking enforcement action.

Answer

Planning Powers – Town and Country Planning Act 1990

From a planning perspective, the only option open to us is a S215 Notice. The wider development options, including the suggestion that the landowner gets a developer on board, which would clearly be the best way forward have been discussed with him and discounted at this time.

Interestingly, the Council has not received a public complaint regarding Atlantic Flatlets and a s215 notice has not been discussed in recent history.

Planning Enforcement Officers have advised that they drive past this site on a reasonably regular basis. They consider that this building may be suitable for a s215 notice subject to the usual discussions (the largest of these is ascertaining what the Council could reasonably demand of the landowner through the notice and the appropriate time for compliance) and consideration of the following:

Good Practice Guide

“Local Planning Authorities (LPAs) would be well advised to ensure that the notices they issue are clear, precise and unambiguous. The letters should aim to achieve a good quality, lasting solution. Where necessary, specialist input should be sought at an early stage, for example from the LPA’s Conservation or Building Control Officers, or independent engineers with expertise. It would be prudent for all letters to be subject to scrutiny by the LPA’s legal advisers. Provided the notice is skilfully composed, the requirements are clear, and the LPA has a precise timescale then, if anything goes awry, the LPA has certain formal remedies provided within law to which it can resort. Section 215 action should not be taken against land the poor condition of which is attributable in some way to the carrying out of operations or a use of land in accordance with Part III of the Town & Country Planning Act 1990”.

Evidence Base

A clear and well-presented case that stresses the adverse impact of the site on the local street scene has proven more effective than an overly technical presentation regarding the definition of ‘loss of amenity’. The use of site visits and photographic evidence can carry a lot of weight in presenting the LPA’s case to magistrates. Because of the appeal route – the burden of proof would need to be beyond reasonable doubt.

Right of Appeal

The manner of appeal is via Magistrates Court on the following grounds:

- (a) that the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;
- (b) that the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III;
- (c) that the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the local planning authority who served the notice, or of any adjoining area;
- (d) that the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.

Once an appeal has been heard by a Magistrates Court, a further appeal may be brought to the Crown Court by either the appellant or the LA.

Risk to the Council

Section 215 allows an LPA to take positive action and unlike, for example, stop notices or Article 4 directions, would not place any prohibition or restriction upon the land. Loss or injury attributable to the imposition of the notice would be at best minimal and it would be unlikely therefore that an LPA would be liable for compensation should the s215 notice not be upheld.

Commencing the usual process would involve contacting the landowner to express our concerns and intentions to move towards a 215 Notice. This often results in the desired outcomes taking place even without a formal notice being served. We will need to consider the condition of the site, the impact on the surrounding area and the scope of our powers in tackling the problem before we decide to issue a notice. Careful consideration about what it is we are requiring the owner to do – e.g. site clearance or demolition could in itself require planning permission – and whether the main issue of concern would be best dealt with via the routes available under the Building Act.

The S215 process can be costly and take time to prepare and the Council has historically had set aside £111,000 to support the issuing of S215 notices but that was repurposed by full Council in September 2022 to help the Council balance its budget.

The Council could consider its position in terms of S215 if that is something the members wished but it is likely the improvements achieved would be small in scale. In addition, a budget for this activity would need to be identified.

Building Control and The Building Act

To provide some context, Dangerous Structures in terms of the Building Act and Dangerous structure in terms of if a site is accessed are separate issues. The Council has limited powers under sections 77 and 78 of the Building Act in that we can make safe when there is a clear danger to members of the public i.e., bits

about to fall off or over onto a public highway/ right of way. This doesn't cover if the building is unsightly.

The owner has ultimate responsibility to make the structure safe but if they don't, The Council can apply to the magistrate if a lesser sense of urgency under section 77 or section 78 allows us to act immediately and recharge the owner if they are unable/unwilling and there is an imminent threat. If the Building is within its own curtilage and doesn't affect the public, we would not usually take action as the danger can fall on its own land. The securing of the site to prevent unauthorised entry is something that the Environmental Protection team have been seeking to have the owner of Atlantic Flatlets achieve and, whilst agreed is dangerous, it is to people making a choice to enter rather than walking past going about their business.

If the Council believes there to be a major structural issue, we can apply to the magistrate for demolition. The problem is that it's not in my opinion safe to access inside to carry out the assessment due to the fire at first floor and the evidence that unauthorised entry/ drug use may have taken place.

Officers have not inspected the interior of Atlantic Flatlets but have visited site in the past week and had a look where possible at the building without accessing inside.

There are no signs of major structural movement evident externally and apart from a small section of upvc at first floor which should really be remove, if possible (this will be raised with the owner). Officers will continue to monitor the site on an ongoing basis and react to any further issues that arise.

One avenue of that might warrant exploration is section 79 of the Building Act as below. The Council has no recent experience of serving notice under the provisions of this act but it remains an option to consider should the owner fail to improve the site.

SECTION 79 Ruinous and dilapidated buildings and neglected sites.

(1) If it appears to a local authority that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood, the local authority may by notice require the owner thereof—

(a) to execute such works of repair or restoration, or

(b) if he so elects, to take such steps for demolishing the building or structure, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition,

as may be necessary in the interests of amenity.

(2) If it appears to a local authority that—

(a) rubbish or other material resulting from, or exposed by, the demolition or collapse of a building or structure is lying on the site or on any adjoining land, and

(b) by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood,

the local authority may by notice require the owner of the site or land to take such steps for removing the rubbish or material as may be necessary in the interests of amenity.

(3) Sections 99 and 102 below apply in relation to a notice given under subsection (1) or (2) above, subject to the following modifications—

(a) section 99(1) requires the notice to indicate the nature of the works of repair or restoration and that of the works of demolition and removal of rubbish or material, and

(b) section 99(2) authorises the local authority to execute, subject to that subsection, at their election either the works of repair or restoration or the works of demolition and removal of rubbish or material.

(4) This section does not apply to an advertisement as defined in [F156 section 336(1) of the Town and Country Planning Act 1990].

[F157(5) This section has effect subject to the provisions of [F158 the Planning (Listed Buildings and Conservation Areas) Act 1990] relating to listed buildings, buildings subject to building preservation [F158 notices] and buildings in conservation areas.]

A key point to consider is that if a notice is served and ignored, carrying out the works in default of the owner maybe costly as realistically demolition and clearing the site would be the sure-fire way to stop ongoing enforcement. Whilst a charge can be made on the property it may take time to recoup the costs.

S79 would require the Council to evidence to the Court that demolition was necessary. If the Council wasn't successful in that argument then it would not be possible to recover sums expended.

The Council does not, at this time, have the available resource to pursue this option.

Environmental Protection

Notice to prevent unauthorised people entering a property or dangers to public health from an empty property - Section 29 Local Government Miscellaneous Provisions Act 1982

This act enables local authorities to undertake works to an unoccupied building or one whose owner is temporarily absent, to prevent unauthorised entry or prevent it becoming a danger to the public's health. 48 hours' notice is required after describing any proposed works to secure a building unless it is necessary to undertake the works immediately or it had been impossible to ascertain the owner. Note, all costs are recoverable. However, the first port of call would always be to encourage building owners to take on maintenance and repairs themselves, and

Environmental Protection Officers are always available to provide expert advice on these matters.

With regard to the Atlantic Flatlets site in Westward Ho! the responsibility for safety sits firmly with the owners of the site. This even extends to a duty to trespassers. Where issues are apparent these have been raised with the owners, and action has been taken by them to try to deter and prevent access. However, it is acknowledged that this is a difficult site to secure fully, especially in the face of persons determined to gain access.

Following the most recent reports of unauthorised access in June 2022, an inspection by an Enforcement Officer from Regulatory Services was carried out and this found that although the premises were secured by 2-meter-high Heras Fencing and chip boarding at several ground floor windows, access was still being gained. We therefore contacted the owners to advise them of remedial steps that need to be taken to address this issue, and an action plan was developed. This plan involved the owner commissioning a local business manufacturer to design, build and instal metal shutters to all the ground floor and 1st floor doors and windows. Unfortunately, on the 13th October 2022 we were informed by the owners that the company providing the contract were not able to complete the works and therefore the owners are now searching for an alternative company to complete the works. Officers continue to work closely with the owners and will continue to do so while undue risks remain at the site.

West Beach.

In general terms it is recognised that West Beach development is unsightly in its incomplete state and that there are potentially irregularities between what has been consented by the Council and what is partially constructed. We await the conclusion of the Receivership process, at which point there will be an interested party with whom matters can be addressed.

Until this process has been undertaken it is not possible to make assessment of the relevant powers, requirements or appetite of the Council to intervene in any way.

In addition and on the matter of community safety, Regulatory Services were contacted on 1st November 2022 by a concerned resident who stated that the site was unfinished, and pigeons were entering open units within the construction. An inspection by an Enforcement Officer from Regulatory Services was carried out and the site is adequately secured with no signs of unauthorised access to units of accommodation (by pigeons or people), advice has also been given to the complainant regarding the pigeons in the area.

It is clear that people have been accessing the site in general, the graffiti tags are clear evidence of that. This matter, and the risks associated with it have been raised to the Receivers as the responsibility for site security is theirs or the site owner's.

Following a supplementary question asked by Councillor Hodson in relation to enforcement budgetary powers, she was advised by the Chief Executive that the

rules on A9 questions state that a supplementary question can only be asked if it directly relates to the subject of the question already asked.

Councillor Hodson then asked the following supplementary question:

“Where is the budget to take these actions that have been outlined”.

The Chief Executive agreed to provide a separate response.

Councillor Laws stated the above information would be published on the Westward Ho! website.

91. PETITIONS

There were no petitions.

92. LOCAL COUNCIL TAX SUPPORT - BANDED INCOME SCHEME

The S151 Officer presented the report, the purpose of which was to seek Member approval to introduce a banded income scheme for Local Council Tax Support (LCTS) with the intention that it is introduced from the 1 April 2023.

The Revenues & Benefits Manager assisted with the presentation of the report.

A detailed slide presentation was delivered highlighting the following salient points:

- the new proposal and the advantages;
- findings from the consultants;
- thresholds for support;
- impact of proposed changes;
- results of the consultation to which 186 people responded.

Councillor Hodson, Lead Member for Finance, updated Members on the work carried out by the Member Budget Working Group in order to create this Scheme. Covid had delayed the implementation, however the new scheme had now been finalised and was fully supported. She recommended the Scheme be approved.

Councillor Newton, Lead Member for Revenues & Benefits, addressed the meeting also conveying his support for the Scheme.

It was proposed by Councillor C Hodson, seconded by Councillor S Newton and
—

Resolved:

That Officers be authorised to introduce, effective from 1 April 2023, an Income Banded Scheme for Local Council Tax Support, subject to available resources from the Council’s software provider Capita. In the event that Capita cannot provide significant resources to allow implementation by 1 April 2023, the introduction of a band scheme effective from 1 April 2024 be approved.

(Vote: For – unanimous)

93. COUNCIL TAX BASE 2023/24

The purpose of the report, presented by the Finance Manager and Section 151 Officer, was for Member approval to set the Council Tax baseline for 2023/24.

It was proposed by Councillor T Inch, seconded by Councillor R Clarke and –

Resolved:

That the Council Tax Base for 2023/24 be agreed.

(Vote: For – unanimous)

94. UPDATED PROPOSALS OF THE MEMBER BUDGET WORKING GROUP (MBWG)

A report from the Member Budget Working Group (MBWG) was presented jointly by the Deputy Leader, Councillor Hodson and the Finance Manager (S151 Officer). The purpose of the report was to update Members on further proposals from the MBWG to reduce Torridge Council's Financial deficit.

Prior to the presentation Appendix A referred to in the report – Pre Planning Application Charges – had been circulated to the meeting.

Councillor Hodson reminded Members of the recommendations from the Group, previously approved by Full Council and which had improved the Council's budgets. It was acknowledged however, that further work was still required to find additional income savings in order to facilitate the setting of a balanced budget for 2023 – 24.

The next meeting of the Working Group will be held on 6 January 2023 and all Members were invited to attend.

During the discussion, questions/queries raised included:

- The increase in Pre-Planning Applications. The Finance Manager advised this service is discretionary, and a planning application can be submitted without using this service.
- Review of fees and charges. The Chief Executive confirmed fees and charges are reviewed annually and reported to Community & Resources as part of the budgetary process.
- Expenditure on Listed Buildings in the ownership of the Authority - the Chief Executive reminded Members that at a previous Full Council meeting Members approved works for the Torrington Pannier Market to be funded out of the Rural Prosperity Fund. The Shared Prosperity Fund has been

announced, now awaiting confirmation of the allocation of the Rural Prosperity Fund.

The Leader expressed his thanks to the Planning Manager for the substantial contribution she had made to this work.

It was proposed by Councillor C Hodson, seconded by Councillor K James and –

Resolved:

- That the reduction in the resident discount for cemetery charges to 25% as detailed in 2.2 of the report be approved.
- That the increase to pre planning application advice in line with the proposed charges detailed in Appendix A tabled at the meeting be approved.
- That the release of the Capital PiDs as detailed in 2.5 of the report be agreed.

(Vote: For – 21, Abstention – 1)

95. UPDATE OF THE COUNCIL'S MEDIUM TERM FINANCIAL STRATEGY (MTFS)

The Finance Manager and Section 151 Officer presented the report, the purpose of which was to update Members on the Council's MTFS, reflecting emerging financial pressures and the work of the Member Budget Working Group (MBWG) to address the council's current financial position.

A slide presentation was delivered highlighting the salient points detailed in the report.

Following a brief discussion, Members noted the report.

96. MID-YEAR REVIEW OF TREASURY MANAGEMENT & UPDATE FOR RESONANCE

The Finance Manager & S151 Officer presented the report, the purpose of which was to report on the Treasury Management Action in the year to date and to update the Treasury Management Policy to include £500k investment in Resonance.

Members noted the report.

Following a brief discussion it was proposed by Councillor K James, seconded by Councillor R Clarke and –

Resolved:

That the investment of £500k in Resonance to deliver 10 one bed properties at Local Housing Allowance (LHA) rates be approved, and the Council's counterparty limited accordingly be updated.

(Vote: For – Unanimous)

97. MEMBER ALLOWANCES

The Chief Executive presented the report, the purpose of which was for Members to decide whether to increase Councillor Allowances.

Councillor James referred to the Member Budget Working Group and the work they are undertaking to improve the financial viability of the Council, and said he would find it difficult to justify an increase in allowances at this time. He therefore proposed recommendation number 3 – no increase in Member Allowances.

Councillor Christie seconded the motion.

Councillor Woodhouse raised the matter that, although not disagreeing with the above motion, if wanting to potentially diversify the Council, there is a possibility that not everyone could give their time for free. Therefore, the idea of not increasing the allowance could influence that.

Councillor Hodson said this had been given consideration and suggested adding to the recommendation that a process be started looking at allowances, not the fixed amount, but the recompense given to people who have to arrange child minders, the mileage rate that has not been increased for some time and those who lose a day's work or have to take a day's holiday. It must be recognised that if wanting to encourage a wider representation from the communities, these matters need to be considered.

Following further discussion Councillor Hodson withdrew her above amendment to the recommendation.

Councillor Inch proposed that Member Allowances be increased by 2%. There was no seconder to the proposal, so Councillor Inch withdrew his Motion.

Councillor D Hurley proposed recommendation 1, Councillor Clarke seconded this Motion.

A vote was taken on the first proposal by Councillor James and as this Motion was carried, no vote was taken on Councillor Hurleys proposal.

It was proposed by Councillor K James, seconded by Councillor D Brenton and –

Resolved:

That the Councillor Basic Allowance and Councillors Special Responsibility Allowances be kept at the current rate as set out in the Members Allowance Scheme.

(Vote: For – 19, Against – 3, Abstentions - 0)

Member Allowances to be brought back to Full Council in the Spring.

98. NOTICES OF MOTION

(a) Written Notice of Motion from Councillor Brenton

With the large numbers of cruise ships being scrapped or laid up due to a fall in demand following Covid. I propose that TDC explore the feasibility of forming a partnership with our neighboring authorities i.e NDDC, Exeter CC etc. with a view to leasing or renting a vessel to accommodate emergency or other housing list people. Cruise ships have a high standard of habitation and self-contained servicing and a suitable craft which would fit into Middle Dock could provide a quick solution for some of our desperate citizens needing housing.

Councillor Brenton presented his Notice of Motion.

A brief discussion took place.

It was proposed by Councillor D Brenton, seconded by R Clarke.

(Vote: For – 17, Against – 4, Abstentions – 1)

The Motion was carried.

99. EXCLUSION OF PUBLIC

It was proposed by Councillor K James, seconded by Councillor C Hodson and –

Resolved:

That under Section 100(a)(4) of the Local Government Act (as amended) the public be excluded from the meeting for the following items of business because of the likely disclosure of exempt information by virtue of Paragraph 3 of Part 1 and Paragraph 10 of Part 2 of Schedule 12A of the Local Government Act 1972.

(Vote: For - unanimous)

100. PART II - (CLOSED SESSION)

101. ENVIRONMENT CENTRE FINANCE COSTS UPDATE

The Majors Projects Manager presented the report the purpose of which was to brief Members on the status of the Environment Centre project and to provide a finance cost update.

Following a lengthy discussion, it was proposed by Councillor K James, seconded by S Newton and –

Resolved:

That all the recommendations detailed in the report be approved.

(Vote: For – 17, Against – 3, Abstentions – 2)

It was proposed, seconded and –

Resolved:

That the meeting return to Part 1 and that any press and public be readmitted.

(Vote: For – unanimous)

The meeting commenced at 5.30 pm and closed at 8.15 pm