

Cabinet 12th November Public Questions and Answers

Name of person submitting	Questions
Goff Welchman	<p>The first public consultation on the Grand Western Canal proposal, one of the forward planning officers were told that weakening the conservation area in anyway would invite developers to submit planning application, the reply was “not to worry and that the land would never be built on.” The reply was either astonishing naïve or deliberately misleading, a few weeks later the Secretary of State who was in charge of planning hates the green belt and who was forcing housing to be increased and had over ruled at least one Planning inspector.</p> <p>The officer’s statement was rubbish, it was a reserved housing site and the Council already know this. This Council were already building on it, we cannot afford to weaken the protection any further. The word “rubbish” was used in to a response to the Leader who attempted to discredit the petition to save the Conservation area and an apology for using this word was demanded. The Leader should apologies in regards to his attitude towards the deep concerns that has been expressed from a large number of local residents and visitors to the town who supports our local business.</p> <p>The petition should be debating in accordance to the Council’s constitution at Full Council not denigrated.</p> <p>In view of the above that the proposal should be called into Scrutiny and trust that any decision taken at Scrutiny has not been pre- determined from the current Chairman of that Committee</p> <p>Question 1: If the Council reduced the Grand Western Canal Conservation area in view of the background above, how can the residents of Tiverton trust the Council to continue to protect the site to enjoy.</p> <p>Response from Cabinet Member for Planning Economic and Regeneration: The questioner’s views of the Secretary of State are his own. As was discussed at length during the item, the various planning and environmental protections afforded to this area are extensive and are separate to that of the Conservation Area status.</p> <p>Question 2: Will you adhere to the Constitutional rules and debate the petition at Full Council?</p>

	<p>Response: The Council has adhered to the constitutional rules. The Council will not debate this at Full Council as the Cabinet made their decision at the meeting of Cabinet on the 12 November, and the decision had not been called into Scrutiny within the required timeframe.</p> <p>.</p>
<p>Paul Elstone</p>	<p>Question 1: The wording of the Canal Conservation Area petition, which was unfairly criticised by the Council Leader, was to raise public concerns with the Council about developers, or landowners, taking advantage of the removal of conservation area status.</p> <p>It was ironic that tonight the Cabinet was being presented with a Tiverton EUE Area B map that shows the overall development plan boundaries. A boundary that fully includes a thick wooded area plus other land that was previously protected by conservation status.</p> <p>While it may be suggested that it would be public open space – this could still impact established wildlife habitats therefore impact on the immediately adjacent canal.</p> <p>Would Cabinet understand why there was an increasing and widespread lack of public trust in what this Council says and what it actually does?</p> <hr/> <p>Response from Cabinet Member for Planning Economic and Regeneration: The Council can confirm that the ‘thick wooded area’ lies within and forms part of the southern boundary of the allocated land for the Tiverton EUE (Policy TIV1) and is identified as an area for Green Infrastructure (GI) within the Tiverton EUE. This has been the case since the adoption of the Local Plan in 2020 and so changes to the conservation area boundary do not fundamentally change the way this land is considered in planning terms, or any future use of the land. The detailed arrangement of the use of this land, including public access, has not been resolved and will form part of the masterplanning of Area B of the EUE.</p> <p>The canal itself is a country park with public access for dog walking and other recreation. The inclusion of the thick wooded area within the GI of the EUE will no more impact on established wildlife habitats, including the canal country park, which itself has public access.</p> <p>Furthermore, the area of woodland does not lie within the settlement limit of Tiverton (Policy S10). The woodland therefore benefits from a presumption against development (Policy S13) and will also benefit from other protections,</p>

as recently extensively set out through reports relating to the Canal Conservation area review. Removal of the woodland from the conservation area does not give landowners, developers or others advantage to develop it.

The public can therefore demonstrably trust this Council as it continues to work within the spirit of the published and adopted Local Plan which was subject to a full and detailed public consultation exercise.

Question 2: The feedback from the Council to the various objections, to conservation area status being removed from what the public consider are sensitive areas, was effectively: - Don't worry, the importance of the canal would be protected when considering future planning applications.

Such statements are meaningless unless the Council actually enforces these protections.

An industrial sized operation had been allowed within 100 meters of the Canal Conservation Area at Crownhill, Halberton.

Yes, the Council did impose conditions in the Planning Permission but it had allowed this site to continue to operate in blatant breach of all operating planning conditions since 2019 , creating noise, odours and dust as well as significant disruption even damage to the fragile road network and yes road traffic and pedestrian safety risk as well.

Despite repeatedly being made aware of serious planning condition breaches, the Council had done nothing meaningful about it.

This demonstrates the reality of what this Council says it would do to protect areas and then doesn't or can't.

Would Cabinet include in any recommendations on the Canal Conservation Area, a guarantee that all the Planning conditions which apply to any development neighbouring the Canal Conservation Area would be fully enforced - and without any delay?

Response from Cabinet Member for Planning Economic and Regeneration:

The National Planning Policy Framework (NPPF) sets out that Planning Conditions should only be attached to a planning permission where they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. In terms of enforcement action in relation to planning conditions; action will be taken where the Authority considers it necessary and expedient to do so.

Question 3: The Council Leader was on record as saying ‘Why let facts get in the way of a good petition’ this when bad mouthing the integrity of the petition wording or lack of wording.

Accept, it or not, the Council Leader when challenging the integrity of the petition was also effectively challenging the intelligence of all those who signed it, it was his garbage moment. Once again why let the real facts get in the way when defending this Councils position or making political gain. The real facts follow.

The petition wording says, and I quote *‘end the protection of parts of the canal area’* it does not say the removal of the complete conservation area protection.

Will the Council Leader now publicly apologise to those who signed the petition and without any reservation?

Response from the Leader of the Council:

As was clear from the range of public questions including about the need to protect mice, bats and a range of other wildlife from development, all of which are afforded separate legal protections from those under discussion relating to the Conservation Area status, the petition quite obviously misled people. It was therefore an evidenced statement of fact that it was misleading.

The petition also stated that, and again I quote...

Our elected councillors at Mid Devon District Council want to end the protection for parts of the canal area, and to open the door for protected woodlands and open areas to be developed for housing. A developer has already submitted plans for large-scale housing right next to the canal around Tidcombe Hall. These plans have previously failed due in large part to the Conservation Area designation.

It is not a fact that elected Councillors want to end the protection for parts of the canal conservation area to open the door for protected woodlands and open areas to be developed for housing. That is an opinion and one which is not shared by any of the Councillors who serve the residents of Mid Devon. As has already been stated, this Council has now twice stopped development at Tidcombe Hall and would robustly defend our position should an appeal come.

If the petition organiser would like to clarify that such misleading wasn’t deliberate, then I would of course accept this clarification.

<p>Barbara Downs</p>	<p>The Council know of all the wildlife in snake's wood which also include deer's, bats, water voles, badgers, kingfishers, owls, herons, wild birds and mice.</p> <p>Are you aware of the following? All bat species are legally protected by domestic and international legalisation. This means the Council maybe committing a criminal offence if you disturb a bat in the roost. Do the Council know HS2 which was government and tax payers had funded and recently constructed a £100 million giant shed to protect the bats in the local patch of the woodland bisected by HS2.</p> <p>In 1992 the protection of badgers act made badgers a protected species and were protected under a dedicated piece of legislation.</p> <p>Barn owls are a scheduled one species and also had legal protection.</p> <p>Dormice were protected under schedule 5 of the Wildlife and Countryside Act 1981.</p> <p>The owner of the wonderful canal barge company, Mr Phil Brind had said that if any reduction of the conservation area leads to the eventual development of housing between Tidcombe Hall and snakes wood, then his business would be forced to close, resulting in the loss of Tiverton's main tourist attraction and the revenue for other traders in the town.</p> <p>Question 1: Would you wish to be responsible for that?</p> <p>To be assured that the Council knew all the factors above that the removal of the conservation status from snakes wood would cause.</p> <p>Response from the Cabinet Member for Planning and Economic Regeneration: The Council recognised the value of the canal for ecology. However, this matter was not relevant to the designation of the conservation area in terms of its special historic or architectural interest. Species and habitats are legally protected. This was included through the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. National planning policy and policies in the adopted Mid Devon Local Plan (including Policies S1 Sustainable development priorities, S9 Environment, and DM28 Other protected sites) also seek to protect and enhance habitats and biodiversity. The canal was a designated Country Wildlife Site and also a designated Local Nature Reserve and Country Park.</p>
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	<p>Snakes Wood was designated as an area of Ancient Woodland and also a Country Wildlife Site. The canal and Snakes Wood were protected and managed through these designations.</p> <p>This was discussed during the item, the various protections afforded to this area in planning terms are extensive and are separate to that of the Conservation Area status.</p>
<p>Chris Downs</p>	<p>Question 1: The Mid Devon District Council (MDDC) Constitution Annex D section 5 was very clear stating that a public petition with over 1500 Mid Devon residents signatures must be debated at Full Council.</p> <p>Also that a petition had to be submitted 10 days in advance of the meeting. The text of the Canal Conservation Area Petition was sent to Democratic Services on the 16th October or 14 days in advance, with the stated expectation that it would be debated at Full Council on the 30th October.</p> <p>Democratic Services only responded 5 days later, on the 21st October, when stating the requirements of Appendix D - including the need to supply details of the Mid Devon residents signing the petition, of which there were 1,791 out of a total of 4,200.</p> <p>This signatory information was fully extracted and provided to Democratic Services in easy access format early on the 29th October, or nearly 2 working days before the Full Council Meeting.</p> <p>Given this information and with the proper will, why was the petition not debated at the Full Council meeting?</p> <p>Response: The Council has adhered to the constitutional rules. The constitution requires a minimum of 1500 signatures from a Mid Devon resident or a person who works or studies in Mid Devon for it to be debated at Full Council. The Council was notified that a petition would be presented, however, a link to the Petition was provided on the 22 October (which had over 4000 signatures). The Council made repeated attempts to contact the petitioner in advance to ask about the signatory details i.e. where they resided etc to confirm they were as required. However, this was only provided on the 29 October, less than 48 hours before the meeting on the 30 October, which confirmed that the signatures were from all over the UK, and other countries around the world, which did not meet the requirements in the Councils Constitution. The Council was therefore unable to check and verify the legitimacy of the over 4000 names i.e. checking they were Mid Devon electors. This is why the constitution specifically requires 10 days' notice – to ensure officers can verify for members that it is a valid petition.</p>

	<p>In this case, the Council was unable to verify that it was valid, so the petition was not in compliance with the Councils constitution. The Council rather than reject it completely on a technicality, permitted the petition organiser to speak for 5 minutes to speak to it. The Leader did respond and speak to this at Full Council and explained the item would be coming to cabinet for discussion, so the petitioners knew exactly what would be happening. There were also a couple of other members who commented after the Leaders comments.</p> <p>Question 2: Rather than call for a debate the Council Leader took it upon himself to denigrate the wording of the petition and used the meeting privilege to do this without allowing any response.</p> <p>When the Council Leader stated that the petition was to be considered at Cabinet - preventing the petition from being debated at Full Council, neither the Monitoring Officer or the Chair intervened to remind him of the Constitution requirements.</p> <p>Bringing the Conservation Report before Cabinet for approval without the Full Council debate on the petition in the first instance was not only going against the MDDC Constitution, it was showing complete disrespect to those 1791 Mid Devon residents who signed the petition in good faith. Mid Devon residents who, I believe, fully understood the meaning of the petition - despite what the Council Leader had implied. I understand that the MDDC Scrutiny Chair had already predetermined the position of the Scrutiny Committees on any possible call-in by stating (ahead of any Cabinet decision) that “he was not minded to call in the Conservation Report recommendations”.</p> <p>Would the Monitoring Officer please provide a full and unambiguous opinion (ahead of any Cabinet discussion and recommendation) regards to the requirement for the Full Council to debate the Conservation Area petition before any Cabinet decisions were taken?</p> <p>Response: As per response to Question 1.</p>
<p>Robert Wilks</p>	<p>I am very interested in preserving our natural environment and Snakes Wood is one of the best in our vicinity. To hear that there is an intention to dispense it of its current status as a conservation area is unbelievable unless a survey, of which I am unaware, has been conducted. My time spent there of an evening this last summer surrounded by bats was a delight.</p> <p>I believe that bats are a protected species and that their roosting’s are protected. If those roosting’s are natural, i.e. not in a loft space, I thought that they could not be interfered with.</p>

	<p>Question 1: Has the Council had Snakes Wood surveyed?</p> <p>Response from Cabinet for Planning and Economic Regeneration:</p> <p>There has not been an ecological survey conducted for Snakes Wood as part of the review of the Conservation Area, as this is not required or relevant to its designation as a Conservation Area. A conservation area is designated because of its special architectural or historic interest. The National Planning Policy Framework (NPPF) cautions local planning authorities to ensure that an area justifies designation so that the concept of conservation is not devalued through the designation of areas that lack special interest. Species and habitats are legally protected and supported by different legislation including the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017.</p>
<p>Mr Drew</p>	<p>Noting that my wife runs Manleys B&B, which is the only hospitality business of its type within the Canal Conservation Area, the Council has consistently failed to engage with us in relation to this and numerous other matters. It is astonishing that we only became aware of this review because it was reported on Devon Live.</p> <p>Despite reaching out to Mr Marsh personally in an effort to negotiate a compromise and saying “I look forward to your constructive response”, I have never had a reply. Indeed the reason I am unable to address the meeting today is because we are on holiday and I naively thought that I would hear from the Council before it reported the matter to Councillors. Clearly the Officer’s agenda is to get this passed under the radar so that the Council can remove a constraint to its house building plans. The fact Officers resort to Machiavellian tactics should be called out by Members.</p> <p>I might be naive in trusting the Council despite all that has gone before but I am not stupid enough to believe the claim that this is some dry technical exercise without consequences. Councillors need to be careful what they wish for. If they do not want to destroy the flora and fauna that make the Canal the jewel in the crown of Mid Devon then they should oppose the Officer’s recommendation.</p> <p>To be clear, without the Conservation Area status almost 1,000 trees could be removed from my garden by a future owner. As I made clear in my submission, none of them are veteran trees and so that advice is not relevant and not a reason to de-designate. Given their track record I have no confidence that Officers would attend my property or impose a TPO as that is an option I suggested to Mr Marsh.</p>

Mark Baker, the Canal Ranger, has confirmed that the only record of several types of bats, including Barbastelle, Brown or Grey Long-eared, Leislars, Nathusius' pipistrelle or Natterers, have been recorded in my garden. This and other wildlife depend on owners like me working to enhance habitat. In contrast, the Council has harmed the canal by its failure to monitor the Edenstone development, which has resulted in silt and sewage entering the canal from Turnpike. In that context the Council's claim it "recognises the value of the canal for ecology" rings hollow.

Having regard to the above, and my detailed submission on pages 318 to 334 of the Public Pack, my question is: By reference to quotes from the report to the relevant public meeting held by Mid Devon District Council in 1994, why did the Council designate No 16 Turnpike to be part of the Canal Conservation Area and, given that the statutory test has not changed in the interim, why have Officers now reached the opposite conclusion in respect of the identical site that retains its attractive sylvan character?

Response from the Cabinet Member for Planning and Economic Regeneration:

The Council designated the Grand Western Canal in 1994, the Cabinet Report from October 94 is not a detailed document and makes no specific mention to No.16 Turnpike. There are no other records held by the Council on the decision from 1994 to include No.16 Turnpike. Nevertheless, the review of the Conservation Area is part of the Council's duty to review their conservation areas in accordance with Section 69 (2) of The Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework (NPPF). Specifically when reviewing the Conservation Area, Paragraph 197 of the NPPF is relevant which states:

'When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.'

Nos. 16 and 16A Turnpike are modern buildings which do not contribute to the Grand Western Canal Conservation Area's special interest or significance. There is no known association to the Grand Western Canal in terms of the canal's construction, use for transportation, its history and significance as a heritage asset. The Council recognises the value of the canal for ecology, however this matter is not relevant to the designation of the Conservation Area in terms of its special historic or architectural interest. Species and habitats are legally protected. This includes through the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. National planning policy and policies in the adopted Mid Devon Local Plan also seek to protect and enhance habitats and biodiversity. The canal is a designated

	<p>County Wildlife Site and also a designated Local Nature Reserve and Country Park. Additionally, it remains for the Council to assess whether any of the existing trees, or groups of trees merit the making of a Tree Preservation Order (TPO).</p>
<p>Dermot Elworthy</p>	<p>The review of the status Grand Western canal conservation area, there was no statutory compulsion to affect any changes to the existing arrangements. The current plan was drawn up in 1994.</p> <p>To propose a proportion of the existing area to be excluded from the revised plans due to a claimed absence of architectural or historical interest in isolation of the contiguous areas and miss understand the ethos underlying the 1994 scheme. Where the authors had the wisdom and foresight to construct as defined in the present plan.</p> <p>There was historical area and architectural quality in the conservation area building and spaces which contribute to a sense of place. This was parallel with section 72 of the Planning and listed building conservation area act of 1990 and the Mid Devon Local Plan 2020.</p> <p>I submit that the sense of place should not only be preserved but extending to include snake wood, the area of architectural land like east wood of the hall and shared a boundary of little Tidcombe farm.</p> <p>Those that seek to make those changes to the conservation area, had over looked the matter of Tidcombe farm of historical interest.</p> <p>The Grand Western Canal was possibly the attraction of Tiverton, the canal was important to the residents for many good reason as a feature. The land of the Canal for a more than a mile was the first open space and views to the South were a change and vital the land remains in the existing area.</p> <p>The area revision should not be in isolation and should be protect from expected developers. Over 4000 public objection in respect to the proposal and dismissed at a previous meeting and was be to the proposal to the Grand Western Canal and therefore would ask the committee to support this.</p>
<p>Barry Warren</p>	<p>Mr Warren had registered to speak at the meeting as from the published agenda to have some clarification on some of these items. However due to procedures and processes of the administration in relation to responses that had been received following the recent Scrutiny Committee and had been copied and pasted.</p>

	<p>As Mr Warren statement was not in relation to an item on the agenda, the Chair advised him to use an alternative method.</p> <p>Question 1: Why?</p> <p>Response: The Deputy Leader as Chair reminded the questioner a number of times that his question needed to relate to the agenda. When asked by the chair to move on to his question, the questioner declined to say anything other than one word. He also failed to provide his question in advance, meaning that no response was able to be given.</p>
<p>Tim Bridger</p>	<p>Any petition with over 1500 signatures should be debated by full council, over 4000 signatories from around the world the majority of whom had visited or lived in Mid Devon over 1700 were still residents.</p> <p>The basis for the review was your contention that the revised NPFF contained startling new rules regarding conservation areas, and that there was an active body of case law allowing appeals on the basis that an established conservation area lacked historical merit. Whilst I'd happily bet that a vanishingly few people had read the actual text of the NPFF, there was not in fact any new direction within them regarding revaluation of existing conservation areas. There was one mention of conservation areas, paragraph 197 on page 57 of 64 - and it refers to the practice of making NEW conservation areas to try to thwart developers, not to existing conservation status areas. Still, why let facts get in the way of a good little land grab?</p> <p>I can understand the Leader not wanting to read what other people had to say, but indeed even whilst Officers were recommending that Tidcombe Hall fields be retained within the conservation area. Again, details matter why let the fact that the Officers recommended we should be listened to, stand in the way.</p> <p>Should the Cabinet wish to actually read the revised NPFF, they would find written through it the concept of 'beauty', 'place', and 'local character and distinctiveness'. These were the elements of the conservation area that had been successfully defended up until this point, and the threat to Snakes Wood and the knock-on effect of opening up adjoining land to development would severely undermine the local character and distinctiveness that add to the beauty of the place.</p> <p>Therefore contend that Cabinet cannot take any decision today on the Conservation area, without contravening their own Constitution, minor detail for this administration, no doubt - and that when it would correctly brought before them at a future date, they follow the clear instructions of the public and take off the table any reduction to the Conservation Area.</p>

In relation to item 14 no update on the unfair increases to leisure charges that was asked for at Full Council, and further note that the exclusion of press and public goes against the supposed 'commitment' to transparency which was such a notable absence for this administration.

Finally with regard to item 9, Budget Monitoring, there was a charge of £38k for a 'leadership restructure' – I am sure I am not the only Mid Devon resident who can see a much more simple and cost effective alteration to the leadership, that would benefit every person and would precipitate the necessary sea-change in culture, transparency, and accountability that this Council so badly needs. Your conduct demeans the office of leader.

Response: The Deputy Leader as Chair had to interrupt numerous times on the basis of content or conduct unbecoming of the council chamber. This is viewed as a statement.