

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **CABINET** held on 3 September 2020 at 6.00 pm

Present

Councillors

R M Deed (Leader)
R J Chesterton, R Evans, D J Knowles,
B A Moore, C R Slade, Ms E J Wainwright
and Mrs N Woollatt

Also Present

Councillor(s)

G Barnell, J Cairney, S J Clist, L J Cruwys, Mrs C P Daw,
R J Dolley, Mrs S Griggs, B Holdman, F W Letch,
Mrs M E Squires, B G J Warren, A Wilce, J Wright and
A Wyr

Also Present

Officer(s):

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy
Chief Executive (S151)), Jill May (Director of Corporate
Affairs and Business Transformation), Maria De Leburne
(Legal Services Team Leader), Jenny Clifford (Head of
Planning, Economy and Regeneration), Aarron Beecham
(Forward Planning Officer), Christie McCombe (Area
Planning Officer) and Sally Gabriel (Member Services
Manager)

221. APOLOGIES (00-03-50)

There were no apologies.

222. PROTOCOL FOR REMOTE MEETINGS (00-03-55)

The protocol for remote meetings was **NOTED**.

223. PUBLIC QUESTION TIME (00-04-20)

The Chairman read a letter from Mr Quinn referring to Item 10 on the agenda which stated that:

In June last year, I asked Cabinet to consider changing the 3 Rivers programme to deliver affordable housing. I did not receive a direct answer, from Cabinet, at that meeting - but you did promise to reconsider my question when the programme was next on the agenda.

Fifteen months have passed and things have moved on quite a bit at the Council.

You have agreed your Mid Devon Corporate Plan for 2020-24, in which you say: "Our villages and towns need more affordable houses for local people. We aim to build more social rented housing and housing for purchase that is truly affordable". You

now have a Cabinet Member for Climate Change, a Strategy and Action Plan - as well as a target for the Council to be Carbon Neutral by 2030.

These are positive aims for the Council - but not for your 3 Rivers Company. It is clear from the report, that 3Rivers is still a commercial operation, where cost and profit are the only considerations.

However, the Company has not been able to deliver on its high profit aims - and changes are being undertaken. But why not take even more positive action....

Ditch the big-profit goals and use this Council resource for the Community.

Make use of 3 Rivers to deliver your affordable housing plans and bring about those long-term community benefits you are aiming for.

Specify the construction materials and fittings for the homes you build, to ensure they meet the 'greenest' standards available. You cannot possibly ask other commercial enterprises in the District to do this, if you don't. Provide the lead!

Implement your aims by using 3 Rivers to build low-cost and low-carbon homes, and sell them to local people at minimal profit levels - making them truly affordable.

I repeat my June 2019 question: Will the Cabinet consider changing the aims of the 3 Rivers programme - from "Build for Maximum Profit" to "Build for Maximum Community Benefit"?

The Chairman then read a question on behalf of Cllr Wilce referring to Item 10 on the agenda. You will be aware that part of the recording of the cabinet meeting held on the 9th July, which was open to the public, was edited by Officers, without any precedent, policy, or regulation, to remove reference to the potential liability to the Council of its loans to 3 Rivers. Members of the public were present, as was a member of the press. Since it is not possible to erase the memories of those persons present and given that the purpose of the recording is to provide a true and accurate record of the meeting, do you agree with me that this action is undemocratic and that the full recording of the meeting should be made public?

And, that having recently acknowledged that the loans made to 3 Rivers were 'substantially without security' can you update members on the current level of potential indebtedness of the Council and the security of those loans, given that the build at St George's Court has not resumed?

Liz Pole referring to Item 8 on the agenda - Tiverton Eastern Urban Extension - Area B stated that she was concerned with the return to a Conservative Cabinet through what appears to be a grab of control, I am concerned about the level of competence and the confidence that local residents and taxpayers alike should be placing in the plan and the administration of it. The Tiverton Eastern Extension Masterplan is not going to be receiving any Community Infrastructure Levy and the so called affordable housing promised at 35% is now suggested in the document to be under threat from viability assessments. Last year I spoke to the Planning Committee about my concerns for the Cullompton Urban Extension Masterplan, where affordable housing was slashed from a promised 28% to just 10% and at that time I mentioned that the

2016 - 2020 Corporate Plan which had promised 250 new council houses had by that time last year only delivered 6 out of those 250 promised council houses.

Additionally communities have been subject to unwanted development due to failures in maintaining a 5 year land supply, evidence points to tax payers subsidy having to prop up the Council's 3 Rivers commercial investments to the tune of potentially millions of pounds. Other evidence indicates that council tenants may ultimately have to pay for a £600k settlement which may possibly relate to the Turner Rise element or wherever that applies because there is a confidentiality agreement apparently. If that £600K has gone to the Housing Revenue Account, then presumably it will have to be recouped through rents from Council tenants? So I am concerned about the management of these housing projects and would like to have some assurance from the Cabinet that the people of Tiverton will be receiving the 35% of affordable housing that they are due under the current Eastern Urban Extension Masterplan.

The Chairman then read a letter he had received from the Liberal Democrats Group which again referred to Item 10 on the agenda:

In the year or more since you have been Leader, the Council has given unsecured loans to 3 Rivers in excess of £9 million. During the same period the financial losses being incurred by the Company have increased at a rate that are now alarming.

These losses are primarily the result of continuing delays and cost overruns on the St George's site in Tiverton. The losses being incurred on the St George's site have increased from £250k a year ago to more than £1 million today. It is understood the main contractor on the St George's site has not been on site for nearly six months and is in dispute with the Council. It is not clear when they might resume work. We understand that this may be 7th September.

In consequence it very likely that the losses forecast for the St George's site will be considerably in excess of the £1 million loss already incurred. These losses have to be paid for by the taxpayer and now threaten the future delivery of key public services.

You have responded to this crisis by commissioning various reports, by changing the governance and financial control arrangements of the Company and, above all, by continually passing the blame onto senior officers and the Directors of the Company. None of this has addressed the fundamental issues relating to the losses being incurred by this Company.

You failed to stop the flow of Council loans to 3 Rivers until some £9 million had been lent. You have also failed to take the action necessary to deal with the continuing problems on the St George's site.

During this period Cabinet Colleagues have repeatedly asked you to present and discuss your plans for the future of the Company and, in particular, for your plans for dealing with the problems on St George's site. These requests have been met by your making yet more requests for reports from Senior Officers. Previous members of your Cabinet have put forward their own proposals for addressing these issues. These have not been responded to.

This prevarication is putting the Council at risk and must come to an end.

Four questions now require urgent answers:-

1. When will the main contractor be returning to the St George's site and what is the revised date of completion of the building works there?
2. What is the current revised forecast for the losses being incurred on the St George's site?
3. What is your plan as Leader for controlling these losses?
4. What is your plan as Leader for the future of the 3Rivers Company?

The Chairman indicated that answers to questions would be provided when the items were debated.

224. DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (16-18-00)

Members were reminded of the need to make any declarations of interest when appropriate.

225. MINUTES OF THE PREVIOUS MEETING (00-16-38)

The minutes of the previous meeting were approved as a correct record.

226. CONTAMINATED LAND COST RECOVERY POLICY (00-17-51)

Following consideration of a report of the Group Manager for Public Health and Regulatory Services reviewing the Contaminated Land Cost Recovery Policy, the Community Policy Development Group had made the following recommendation that: the revised Contaminated Land Cost Recovery Policy be adopted.

The Cabinet Member for Community Well-Being outlined the contents of the report stating that minor amendments were incorporated into the revised policy which included the following:

- Reformatting the policy in-line with current policy document templates and changing reference to the 'local authority' to 'the Council' where necessary for clarity.
- Minor legislative updates (EU Exit regulations on Environmental Regulations in 2019 and repeal of Housing Act 1996 in England)
- Pending changes to updated Environment Agency Guidance (Land contamination: risk management (LCRM – due to replace current model procedures called CLR11 in 2020)
- Closure of the Defra Contaminated Land Capital Projects Programme in March 2017
- The updated Housing Assistance Policy 2019-22 (availability of Healthy Homes Grants in addition to the on-going Wessex Home Improvement Loan product)

- Cost recovery

Consideration was given to:

- The number of sites that had the potential to meet the definition of contaminated land
- How many times had the council secured remediation
- The financial implications for the Council.

RESOLVED that the recommendation of the Policy Development Group be approved.

(Proposed by Cllr D J Knowles and seconded by Cllr C R Slade)

Reason for Decision – there is a need for the Contaminated Land Cost Recovery Policy to be in place.

Note: *Report previously circulated, copy attached to minutes.

227. **REVIEW OF DEVELOPMENT MANAGEMENT POLICIES ON PARKING (00-23-19)**

The Cabinet had before it and **NOTED** a * report of the Head of Planning, Economy and Regeneration providing an update and proposed next steps in response to Motion 560 (Review of Development Management Policies on Parking).

The Cabinet Member for Planning and Economic Regeneration outlined the content of the report stating that the report provided an update and proposed next steps in response to his Motion 560 (Review of Development Management Policies on Parking). The Motion was agreed at Full Council on 8 January 2020 and stated that:

“...Officers start work on undertaking a review of Mid Devon’s development management policies regarding parking on new estates. These should include the number of parking spaces per property as well as how development management can help ease the transition to electric or hybrid vehicles in the future”

The paper highlighted some of the possible changes members may wish to consider and the most appropriate mechanisms to bring those forward.

The report also provided a detailed review of the evidence in relation to the number of parking spaces per property. It set out the Council’s current standard of 1.7 spaces per dwelling and the methodology applied to calculate that figure. It then considered any changes to the evidence base that had arisen since that standard was formulated. The report noted that there had been very little change in household car ownership between 2002/03 and 2017/18. Whilst car ownership had seen little change, the number of journeys being made by each car was falling. The report also recognised that Mid Devon was a rural area and therefore many areas had limited transport choices.

Taking all of those factors into account, it was considered that the current minimum parking standards were still justified and appropriate at this time. There was a need to keep this under review as the next Local Plan was progressed. Should no up-to-

date evidence be available nationally, the Council might wish to consider producing a local evidence study to understand car ownership and usage in more detail.

The report also considered how development management could help ease the transition to electric or hybrid vehicles in the future. The Local Plan included minimum standards for the provision of electric vehicle charging infrastructure.

In terms of possible changes members might wish to consider that evidence indicated that the number of ultra-low emissions vehicles was rising rapidly in Mid Devon. It was therefore considered that a planning policy which required a higher proportion of EV charging points within new housing and commercial developments could be justified. The most expedient way of achieving this was to consider a EV charging infrastructure policy through the next development plan.

Consideration was given to:

- Whether certain evidence was required if Council sought to increase the number of cars per dwelling.
- The need to review the parking policies regularly, specifically with regard to climate change issues and the impact of the Covid 19 pandemic where the use of the car to travel to work may change
- The need to increase the use of public transport
- Charging points in public spaces
- The parking policies within the adopted Local Plan Review and the need for a further review of the Local Plan to begin as soon as possible as well as reviewing the transport strategy and other associated guidance
- Whether new development should have wider roads to allow for more parking
- The Government had recently consulted on an amendment to Building Regulations for electric vehicle charging point installation
- The desire to deliver further electric charging points in the district and possible negotiations with developers
- The idea of drafting a policy now that could be adopted in the future as part of a review of the Local Plan

Note: *Report previously circulated, copy attached to minutes.

228. TIVERTON EASTERN URBAN EXTENSION (AREA B) MASTERPLAN

The Cabinet had before it a *report of the Head of Planning, Economy and Regeneration informing members of the outcome of the Stage 2 public consultation and the draft masterplan that has subsequently been produced taking these comments into account and to seek a recommendation to Council to adopt the Tiverton Area B Masterplan Supplementary Planning Document (SPD).

The Cabinet Member for Planning and Economic Regeneration outlined the contents of the report stating that: masterplanning of proposed development at the Tiverton Eastern Urban Extension was now well advanced. A masterplan for Area A had already been adopted, but did not go into detail over the area of the application to the south- east known as Area B. A further masterplan had now been produced in draft in order to guide development, and in particular provide greater clarity over the development allocated, but also the extensive green infrastructure areas.

The report dealt with the representations received from the second stage public consultation on the emerging masterplan document, the amendments to the draft document as a result and the next steps for the masterplan towards its adoption as a Supplementary Planning Document.

Public consultation had taken place over an extended period between 27th February and 23rd April 2020. Details of the consultation measures and how they needed to be adapted to take account of the COVID-19 pandemic were provided in the report.

The Area Planning Officer then provided the meeting with a presentation which highlighted the confirmed boundary of the Area B masterplan, a summary of the key elements of the plan, that of the number of units, the employment area, the formal sports area, the allotments, the country park and public open space which included children's play areas and the principal point of access to the site. She outlined the consultation process and the consultation feedback, also the areas of concerns that had been raised and the responses to those concerns and where the plan had been amended to accommodate those concerns.

The Head of Planning, Economy and Regeneration then answered questions posed in public question time: with regard to affordable housing proposed on the site, this had been established via a policy in the adopted Local Plan Review. The provision of a 5 year land supply had been tested by the Local Plan Inspector. Further, with regard to proposals for affordable housing as part of planning applications, those would be assessed against policies within the adopted Local Plan Review as all affordable housing percentages rested within the Local Plan.

Consideration was given to:

- The need for careful project management for the site following approval of the masterplan
- The need for members to have an oversight of large developments and the role of the Development Delivery Advisory Group
- The need to fulfil the commitment to becoming net zero
- The new Local Plan needed to be ambitious with regard to climate change
- The approved Statement of Community Involvement included a paragraph on publishing viability information
- The views of local residents in the area of the masterplan had been considered and acted upon
- The legacy of the Covid 19 pandemic and the need for the provision of local sports areas for local residents

It was requested that the conscientious work of the Area Planning Officer and her colleagues be recognised and recorded.

RESOLVED that: the comments received at the Stage 2 public consultation (Appendix 1) and proposed changes as a result be **NOTED**;

RECOMMENDED to Council that:

- i) Subject to the updating of the policy section and policy references following the adoption of the Local Plan Review, the Masterplan Supplementary Planning

Document for Tiverton Eastern Urban Extension Area B (Appendix 2) is adopted; and

- ii) Delegated authority be given to the Head of Planning, Economy and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration prior to publication to
 - a) update the policy section and policy references following the adoption of the Local Plan Review and;
 - b) make any typographical, grammatical and formatting changes to the Tiverton EUE Area B Masterplan SPD

Proposed by Cllr R J Chesterton and seconded by Cllr C R Slade)

Reason for the decision – the approval of the masterplan for Area B of the Tiverton Eastern Urban Extension as a supplementary planning document is necessary to control and guide development on this part of the development allocation in this area.

Note: *Report previously circulated, copy attached to minutes.

229. **FINANCIAL MONITORING (1-27-46)**

The Deputy Chief Executive (S151) presented a verbal report presenting financial information in respect of income and expenditure so far in the year.

He stated that the forecasted deficit for the year had now been reduced to £1,218m an improvement of £285k. The forecast recognised the 3 tranches of Covid grant from the Government and the furlough monies but it did not make any allowance for amounts that would be received under the Income Compensation Scheme of which guidance had only just been received on what could be claimed over the remainder of the financial year. An emergency budget would be brought to the Cabinet meeting on 1 October 2020.

He highlighted the significant underspends on equipment and utilities within the leisure service. The movement within the Housing Revenue Account of £593K largely related to a settlement agreement of £600k which related to a long standing contractual dispute, the conditions of which were subject to a confidentiality agreement.

Consideration was given to:

- The use of confidentiality agreements
- The impairments with regard to 3 Rivers Developments Limited
- The details set out in the approved Accounts for 2019/20 and the Auditors approval on how the transactions had been shown within the Accounts.

230. 3 RIVERS DEVELOPMENTS LIMITED - PROJECT UPDATE (1-42-15)

The Cabinet had before it and **NOTED** a *report of the Chief Executive produced in accordance with recent Cabinet decisions to request a quarterly update from 3RDL, to provide Cabinet with an update on current project performance and any key risks. In addition, the report provided a quick overview on the progress of the Action Plan worked up resulting from previous Cabinet decisions.

The Leader answered the question posed in Public Question Time:

With regard to Mr Quinn's question about affordable housing, he stated that he knew that along with Mr Quinn, many others had been following the company's progress and he welcomed the recognition that changes had been made to ensure greater oversight on these important issues. The company had already delivered a number of homes for social rent as well as market housing and there was nothing to prevent the company doing more of this in the future.

The Cabinet had the opportunity to approve the company's business plan each year and this could include market, affordable and social housing. To do more of this would align with the Council's ambitions to deliver high quality and deliverable social housing for local people and it was hoped to bring forward some exciting proposals shortly to meet those objectives.

With regard to Cllr Wilce's question; he was aware that Cllr Wilce had spoken with the Monitoring Officer about this issue and he knew that she had expressed her concern that the council were being subsequently forced to publish information that its members had voted to treat as restricted and not in the public domain. When Part II restrictions were breached, whether in error or otherwise, the minutes should not have to compound that error by publishing it as a report after the event. The Monitoring Officer was considering bringing a revised protocol on the recording of meetings forward for Council to discuss, so that all members could be clear on this in future.

The second question from Cllr Wilce referred to the amount of the current loans to 3 Rivers which was at £9,401,000, currently there was no form of security held against any of those assets or developments and Members were aware that ACS have been instructed to provide more detailed loan agreements and all the necessary securities required. EBC, the main contractors on the St Georges site had returned to site that week.

With regard to questions from the Liberal Democrat Group: with regard to the return of the main contractor to the St Georges site and what was the revised date of completion for the building works there. The contractors had returned to site and the agreed completion date as agreed in August 2019 remained December 2020, although it was expected that the Covid shutdown would have some impact on that once construction was underway and that we would be working to understand the completed work schedule once they returned to site. The company was not in contractual dispute with the contractor, discussions were continuing about the cost of unplanned works and site dormancy throughout Covid and whether those costs were client side or contractors side costs. Such negotiations were normal within standard construction contracts even if the pandemic had delivered an entirely abnormal set of circumstances.

The current revised forecast for the losses being incurred on the St Georges site, this information was contained within the confidential section of the report along with a range of other detailed information on the commercially sensitive aspect of the company's business.

Plans for the Leader to control those losses - his first priority was to strengthen the issue of Governance, following the completion of 2 external reviews, which made a number of recommendations to make improvements, the then Cabinet made sure that those recommendations went before the Council's Scrutiny and Audit Committees to ensure that the whole council was content with the new governance arrangements. The action plan referred to in the report provided details of the progress made with implementing those, and as a recent member of the Cabinet Cllr Barnell would know that some had already been completed whilst others had required the drafting of new documentation and were in the process of being finalised prior to implementation.

Plans of the Leader for the 3Rivers company - he referred Cllr Barnell to the decisions made by the Cabinet which included the Liberal Democrats in June and July. The Council's Forward Plan identified an item on the SPV due at the end of September. He looked forward to discussing this with the new Cabinet in a productive way.

He continued by informing the meeting that the Cabinet would be having discussions in the following week to review the outstanding issues.

Consideration was given to:

- Whether the work of the 3 Rivers company was purely commercial or whether there were a good procurement opportunities to reflect on climate change issues
- The need to revisit the objectives of the company
- The planning process for the Bampton site.
- A request for a more detailed forecast for losses and how those losses were being addressed
- The difference between impairment and write off
- The construction issues at the St Georges site
- Design specifications and planning applications

Note: *Report previously circulated, copy attached to minutes.

231. **NOTIFICATION OF KEY DECISIONS (2-24-35)**

The Cabinet had before it and **NOTED** its *rolling plan for September 2020 containing future key decisions.

Note: *Plan previously circulated, copy attached to minutes.

(The meeting ended at 8.26 pm)

CHAIRMAN

