

# Public Document Pack

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **AUDIT COMMITTEE** held on 11 August 2020 at 5.30 pm

### **Present**

#### **Councillors**

R Evans (Chairman)  
Mrs C Collis, B A Moore, D F Pugsley,  
A Wilce and F W Letch

### **Apologies**

#### **Councillor(s)**

J Wright and A Wyer

### **Also Present**

#### **Councillor(s)**

N V Davey, R M Deed, R J Dolley, Ms E J Wainwright,  
B G J Warren and A White

### **Also Present**

#### **Officer(s):**

Andrew Jarrett (Deputy Chief Executive (S151)), Andrew Busby (Group Manager for Corporate Property and Commercial Assets), Ian Chilver (Group Manager for Financial Services), Catherine Yandle (Group Manager for Performance, Governance and Data Security), Dean Emery (Group Manager for Revenues and Benefits) and Sarah Lees (Member Services Officer)

## 27. **APOLOGIES**

Apologies were received from Cllr J Wright and also Cllr A Wyer who was substituted by Cllr F Letch.

## 28. **PROTOCOL FOR REMOTE MEETINGS**

The protocol for remote meetings was noted.

## 29. **PUBLIC QUESTION TIME**

Mr Nick Quinn, a local resident, stated that his questions concern: Agenda Item 12 – Grant Thornton Findings 2019/20.

Firstly; on page 21 of the report, at the bottom of the 'Findings' column, the auditors refer to '3 Rivers Governance Reports' and 'the 17 recommendations approved by Cabinet'.

The Auditors state that the most critical of these recommendations is:

*"That 3 Rivers Developments Ltd suspends any new site purchases and the commissioning of work relating to sites where construction has yet to be started, until the appointment of new Directors, in accordance with recommendations 3 and 4, has been completed and their subsequent updated business plan has been approved".*

They continue: *“For clarity, recommendations 3 and 4 relate to the recruitment of a Finance Director with construction industry experience to replace Mr Jarrett, as soon as possible, and a suitable Director or Non-Executive Director with regional property development experience to complement and strengthen the existing board arrangements”*.

My question on this section is:

**If the Auditors were confident that these recommendations are suitable to be made in an open report - why did Audit Committee judge, at their last meeting, that they should be withheld from the Mid Devon Public?**

Secondly; on page 27 - in the ‘Impact of Unadjusted Misstatements’ section, the Auditors make reference to the agreed settlement of a ‘longstanding contractual dispute’ which is likely to cost the Council around £600,000.

The loss of £600,000 will have a significant impact on the Council finances this year and it will, no doubt, affect the Mid Devon Council Tax payer.

My question on this section is:

**In the light of this loss - Will Audit Committee be asking for any actions to be taken?**

The Chairman thanked Mr Quinn for his two questions and stated that he would begin by responding to the first question:

The meeting held on the 23rd June 2020 was a special Audit meeting to consider the 3RDC governance review documents.

The report was some 122 pages in total and encompassed an amount of detail that is considered exempt, this included details of commercial confidentiality and personal data.

The approach taken was consistent with that taken across all MDDC meetings when considering part two discussions, that being committee are asked to consider the item to be discussed and to decide if they wish to hear the item in part two.

At the meeting of the 23rd June this was the approach taken by myself as chair and after a round table discussion committee voted to hear the report in part two.

This was again consistent with the discussions and outcomes at the Cabinet and scrutiny meetings that had previously considered the same reports.

With regard to the second question, the Chairman stated that, save for the fact of settlement and the amount, the details of the dispute are subject to a settlement agreement – and therefore confidential.

This was a longstanding contractual dispute which could have resulted in high-risk, high stakes litigation. The dispute has now been settled to provide certainty and minimise the risk to the Council. A confidential briefing paper will be provided to Members shortly and the Audit Committee may follow this up as they then see fit.

The settlement has been made from the Housing Revenue Account (HRA) and the deduction backfilled from the HRA reserves. For those reasons, there will be no direct impact upon the Council's finances this year and no direct impact upon the Mid Devon Council Tax payer.

### **30. DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

Cllr A Wilce declared a personal interest in that he had asked a question with regard to the 3 Rivers Development Company at the last meeting.

No other interests were declared under this item.

### **31. MINUTES OF THE PREVIOUS MEETING**

The minutes of the special meeting held on 23 June 2020 were confirmed as a true and accurate record.

### **32. CHAIRMAN'S ANNOUNCEMENTS (00:07:25)**

The Chairman informed the Committee that the Devon Audit Partnership had met virtually on 14 July 2020. The Chairmanship of this group was undertaken on a rolling basis each year. In the previous financial year he had been the Chairman but this had now passed to Cllr George Gribble from Devon County Council. He and Cllr A Moore would continue to attend future meetings as the Mid Devon District Council representatives.

### **33. UPDATE ON CLIMATE CHANGE DECLARATION AND ASSOCIATED RISKS (00:08:35)**

The Cabinet Member for Climate Change had been invited to attend the Audit Committee to provide an update and to explain what actions had been identified as 'easy to do', what may be more medium term, plus any high investment opportunities whilst also recognising the severe restrictions on the Council's budget.

She explained that the emerging Climate Plan had passed through the Environment PDG and it was hoped that the final version would be brought before the Cabinet next month. This plan looked at where the Council was now within the context of the Council's finances and examines what it would cost to make small changes right away. She was in regular contact with different Council departments where changes could be made and this work had already thrown up some opportunities.

The Plan also set out an approach where by an opportunity was examined in terms of what the benefits could be and what the financial cost would be to the Council.

There was a great deal of collaborative work taking place across Devon and a Citizens Assembly was planned for 2021.

As a priority, carbon literacy training would be taking place across the Council in areas such as housing and waste collection. Currently there were lots of conversations taking place regarding cycling and walking and they were working with the Solar Together Scheme.

Additionally a large part of the work in this area centred around the communication of all these initiatives. Plans and opportunities needed to be relayed both in terms of what the Council was doing but also what was happening in local communities to push this agenda forwards.

The Group Manager for Corporate Property and Commercial Assets explained that the Emergency Action Plan had been considered by the Scrutiny Committee in June and that there was a tracking process within the document to monitor the progress of actions within the plan, for example, identifying the 'end of life' of particular assets such as old boilers that could be replaced by gas boilers that could also be run on hydrogen.

Grant funding was being applied for to help improve the housing stock with a view to reducing our emissions on our housing stock, enhancing the assets energy efficiency further. Procurement and the supply chain was also being examined as part of this process. He reiterated the point that all officers would be trained and he informed the Committee that the website would be constantly updated regarding the actions taking place.

Discussion took place regarding:

- How the Leisure Centre recharging scheme was going? It was explained that the electric recharging points were very well used. Monthly data could be circulated to Members. This was an important element in trying to encourage green travel within the district.
- The comment was made that it was vital to look at the 'whole life' costs of introducing new initiatives, for example, the manufacture of a hydrogen boiler took three times the amount of energy than a traditional type, although the long term benefits needed to be weighed up against this.
- A guide book would be created to assist the public and residents.
- A lot of learning would take place with the Hydro Mills project that had been approved by the Cabinet in the previous week.

#### **34. PROCEDURES USED FOR THE CHECKING OF THE COVID 19 GRANTS ADMINISTERED BY MDDC (00:21:13)**

The item had been brought to the Committee as a result of the Chairman attending a DAP meeting and needing his Committee to discuss whether, given the amount of money involved, there were adequate checking procedures in place for the administration of Covid 19 grants undertaken by this authority.

The Group Manager for Revenues and Benefits informed the Committee that approximately 1,700 grant payments had been made using a system called Spotlight which was the Government recommended tool and was free. The Group Manager for Performance, Governance and Data Security had signed the Council up to the National Fraud Initiative (NFI) to help identify fraud in this area. The results so far had been extremely favourable with just a few applications being identified as a potential risk. This Council's approach had been to request more information from an applicant than the Government had required it to do prior to payment.

The Council had been pushed by the Government to release grants as quickly as possible. The Government had also issued guidance on how it wanted fraud tracked with any instances needing to be reported back to central Government.

In the initial stages of Covid 19, fraud had been rife but had now settled at a national average of between 3 to 5%.

Discussion took place with regard to:

- The amount paid out, which totalled circa £22m and this included both primary and discretionary payments.
- Large rather than small batches would be processed through the NFI system which would help to reduce costs.

The Deputy Chief Executive (S151) wished to place on record his thanks to the Revenues and Benefits team and also the Economic Development team for all their hard work in recent months. Most people had received their grant within 24 hours of applying for it. The Chairman also requested that the thanks of the Committee be taken back to the relevant teams.

### 35. **PERFORMANCE AND RISK (00:31:54)**

The Committee had before it, and **NOTED**, a report \* from the Group Manager for Performance, Governance and Data Security updating it on performance against the Corporate Plan and local service targets for 2020/21 as well as providing an update on the key business risks.

The contents of the report were outlined and a brief discussion took place regarding:

- The data before the Committee presented the first results for the 2020/2021 financial year.
- The Environment and Climate Change splits were identified within the report.
- Recommendations in relation to an external review of the 3 Rivers Governance Arrangements appearing to be behind schedule in the risk mitigating actions. This was partly due to the limitations of the SPAR system which was the software used to record performance data. However, the Leader informed the Committee that the Cabinet would be monitoring all 17 recommendations made regarding this issue. There would be no hold up but due to the large number of recommendations it would take some time to work through them.

Note: Report \* previously circulated; copy attached to the signed minutes.

### 36. **ANNUAL GOVERNANCE STATEMENT FOR 2019/2020 AND CORPORATE GOVERNANCE FRAMEWORK (00:39:55)**

The Committee had before it a report \* from the Group Manager for Performance, Governance and Data Security presenting it with the finalised Annual Governance Statement (AGS) and Action Plan and accompanying Corporate Governance Framework.

The contents of the report were outlined and consideration was given to:

- Feedback had been sought from Members at a training session in July.
- Section H was new and had been inserted to take consideration of Covid 19 implications on governance and the Council's response.
- Clarification had been provided within the Statement about Part II business and meeting recordings. However, discussions were on-going with Members about the treatment of Part II reports going forwards since it was felt that 'other limited circumstances' had not yet been fully identified. A question was asked as to what percentage of business had actually been undertaken in Part II? An answer would be circulated to all Members after the meeting.
- Members had requested that the majority of reports presented to them in the future would be in Part I with any Part II information presented in a separate appendix.
- The AGS now had an update in relation to equalities and it included reference to the appointment of a new Cabinet Member with responsibility for Climate Change.
- Mention was also made of the fact that the Executive arrangements of the Council were currently under review.
- The Main Accounting system had received a good audit although the internal audit of the Development Control system for monitoring S106 agreement had identified the need for improvements.
- The Corporate Risk Register would closely monitor risks in relation to 3 Rivers.
- The Action Plan would monitor the roll out of the HR 'Evolve' programme and the new Appraisal and Competency processes.
- The Corporate Governance Framework column in relation to 'Periodic Documents' now included Register of Interests and Statement of Community Involvement. Also under 'Contributory Processes' the Equalities Forum and Net Zero Advisory Group were included.
- Phishing emails presented a considerable risk and should not be opened but forwarded to the IT security email address and then deleted.

**RESOLVED** that the Annual Governance Statement be approved and that the Leader of the Council and the Chief Executive sign the Statement as per the statutory guidance.

(Proposed by the Chairman)

Reason for the decision:

Regulation 6(1)(a) of the Accounts and Audit Regulations 2015, require an authority to conduct a review at least once in a year of the effectiveness of its system of internal control, and to include a statement reporting on the review with any published Statement of Accounts. Regulation 6(1) (b) of the Accounts and Audit Regulations 2015 require that for a local authority in England the statement is an Annual Governance Statement (AGS). The AGS must be signed by the Leader and Chief Executive and be published with the Statement of Accounts.

Note: \* Report previously circulated; copy attached to the signed minutes.

### 37. ANNUAL REPORT AND ACCOUNTS FOR 2019/2020 (01:04:36)

The Committee had before it a report \* from the Deputy Chief Executive (S151) presenting the final version of the annual Statement of Accounts highlighting any areas which have been amended since the draft accounts were published on the website and presented for external audit in June.

The Deputy Chief Executive (S151) outlined the contents of the report and provided the following summary of the main points:

He stated that here were four reports that need to be jointly considered; the AGS; the accounts; the Audit Findings Report from Grant Thornton and the Letter of Representation, supplied to Grant Thornton.

He continued....we are now arriving at the conclusion of the annual audit process. In a separate agenda item to be discussed you will hear from the external auditors, Grant Thornton, when you will be asked to consider their Audit Findings and the Letter of Representation.

- The statements themselves are on pages:
  - 44 being the Movement in Reserves Statement
  - 46 being the Comprehensive Income and Expenditure Statement
  - 47 being the Balance Sheet
  - & 48 being the cash flow
- These statements account for the General Fund, the Housing Revenue Account and the Collection Fund.
- General Fund
  - Deficit in the year of £232k
  - General Fund balance at 31 March - £2.252m satisfying the requirement set by Cabinet in January that a balance of at least £2m should be held
  - EMR utilisation in the year £683k – after also allowing for the transfer of Brexit funding received in 2018/19 to the General Fund of £18k balance of GF EMR at 31 March was £13.688m.
  - This represents a healthy level of balances for known future expenditures
  - Details note 6 – page 61
- HRA
  - Surplus in year was £608k
  - After this was transferred to the Housing Maintenance Fund the HRA balance remained at £2m
  - HRA also carries ear marked reserves of £18.310m
  - This includes the 30 year modernisation reserve of £14.198m. Officers are working on plans to increase the housing stock over the coming years.
  - HRA notes P113–125
- Collection Fund
  - Mid Devon is a collection authority for council tax and national non-domestic rates (NNDR), and as such, is required to produce a

collection fund account for the Mid Devon area. The Council collects council tax on behalf of Devon County Council, Devon Fire and Rescue Service, Devon & Cornwall Police and the Town/Parish Councils, as well as Mid Devon Council itself.

- The **council tax collection rate for 2019/20 was 97.8%** (97.8% in 2018/19). This demonstrates how our Revenues section has consistently been effective in collecting the annual charge in extremely challenging economic times. The **Non Domestic Rates collection rate was 98.8% for 2019/20** (99.3% in 2018/19)
- Collection Fund notes P126-129
  
- Pension Fund – Note 21 – page 72
  - Net liability from the defined benefit obligation relating to the LGPS reduced £541k to £57.785m.
  - Fair value of plan assets £5.375m lower at £60.635m largely due to a downward revaluation of assets caused by economic concerns arising from the pandemic.
  
- PPE – Note 22 – page 80
  - £198m 2019 to £194m 2020
  - Relatively flat year with no major asset purchases.
  - Construction of 26 properties at Palmerston Park – now Turner Rise – completed – then immediately revalued to 35% being existing use social housing valuation.
  - Similar for 3 RTB properties repurchased in year.
  - Also commencement of new finance lease arrangements for vehicles.
  
- Covid 19 – Note 59 – page 112
  - Little impact in year due to limited overlap of crisis with the reporting period.
  - Expectations of negative economic impacts led to increase in bad debt provisions.
  - Financial statements given an ‘except for’ audit opinion in respect of material valuation uncertainty. The District Valuer who completed the annual valuation of the Council’s assets applied this qualification to his work, once again in view of the market uncertainty caused by Covid 19 and to a lesser extent Brexit.
  - Note 59 describes the ongoing financial implications of the crisis. As members are acutely aware the implications of Covid 19 continue to unravel. The prudent financial management of this Council means that it is able to place some reliance, in the short term, on its reserves. Those reserves were however accumulated to counter other more foreseen threats to funding in the coming years. It must be the objective of this Council therefore to maintain its reserve level. With this in mind the Authority continues to lobby government for substantial compensation for its losses.
  
- 3 Rivers – group p130-141
  - 3 Rivers is the wholly owned subsidiary to the Authority. This development company is consolidated into the accounts which are available on pages 130-141.

- In the year development and working capital loans to 3 Rivers increased from £2.613m to £9.061m or by £6.448m.
  - These loans are largely represented within the Group Accounts as work in progress being the construction costs for projects not yet completed.
  - During the year 3 Rivers returned to MDDC £251k by way of interest charges. Whilst this is funded during the construction period through the mechanism of the working capital loan from Mid Devon, ultimately it will be repaid from profits arising from the development projects. As such it represents a significant increase on alternative investment returns.
  - The accounting team have assessed and made provision for likely repayment and non-payment of loans within the 19/20 accounts.
- Audit
    - Auditors worked on these financial statements over a 3 week period in June.
    - Since then there have been outstanding queries which the finance team have worked with them to resolve.
    - Due to Covid 19 this has involved remote working and I think both teams would agree that in the circumstances the arrangements have worked well, thanks largely to a committed and cooperative attitude all around.
    - A couple of outstanding issues which are out of our hands relating to pension fund reporting.
    - Reference to the auditors' report to this committee in the form of the Audit Findings Report.
    - They have given the financial statements a clean audit report except for the material valuation uncertainty described above. Once again this does not reflect on these financial statements but rather the circumstances we find ourselves in.
    - Finally the auditors intend to apply an "except for" audit opinion in respect of the value for money audit reflecting their concerns regarding group governance arrangements.

The Chairman extended the thanks of the Committee to the Deputy Chief Executive (S151) and his team for their hard work and dedication in producing the Accounts. He would be writing to staff individually to reiterate this.

**RESOLVED** that the Statement of Accounts be approved (subject to the recommendations made by the external auditor, Grant Thornton) and that the letter of representation attached at the back of the Accounts be signed by the appropriate people.

(Proposed by Chairman)

Reasons for the decision:

There was a legal requirement to produce and publish audited accounts for the year to 31 March 2020, by 30 November and for those accounts to be considered by a committee and approved by the person providing at the committee.

The Accounts had been confirmed as true and fair by auditors Grant Thornton with an “except for” opinion relating to material valuation uncertainty.

The Letter of representation was provided to Grant Thornton for the purposes of expressing their opinion.

Note: \* Report previously circulated; copy attached to the signed minutes.

38. **GRANT THORNTON AUDIT FINDINGS 2019/2020 (01:17:34)**

The Committee had before it, and **NOTED**, a report \* from Grant Thornton summarising the key findings arising from the statutory audit of the Council’s financial statements for the year ending 31 March 2020.

The following issues within the report were highlighted:

- The audit process had been carried out remotely, everybody involved had been very flexible and used different types of IT to progress the audit.
- ‘Headlines’ within the report were referred to and it was stated that Grant Thornton were proposing to issue an unqualified opinion on the Financial Statements. However, in relation to the ‘Value for Money’ arrangements they anticipated issuing a qualified “except for” conclusion.
- As was the case with a lot of council’s, the external auditors hadn’t received reassurance regarding the Pension Fund. This was still outstanding.
- Factors in relation to ‘materiality’ were set out within the report and it was stated that the materiality percentage with regard to 3 Rivers had been revised to reflect the increased risk.
- Covid 19 would have a significant effect upon the Financial Statements for the following financial year. There had been no significant issues to report this year other than financial sustainability in relation to loss of income.
- Findings in relation to 3 Rivers were set out within the report.
- Estimates and judgements in the areas of NNDR appeals and ‘Land and Buildings’ had been deemed to be ‘reasonable’.
- A Letter of Representation had been requested from the Council. This included specific representations in relation to:
  - Assumptions regarding the impairment of loans to 3 Rivers and all remaining loans being fully recoverable
  - The preparation of the Group Accounts on a going concern basis
  - Confirmation of reasons for not processing the unadjusted misstatement set out in Appendix C.
- Financial Sustainability continued to be a significant risk as was an anticipated budget gap for 2021/2022.

Note: \* Report previously circulated; copy attached to the signed minutes.

39. **LETTER OF REPRESENTATION TO GRANT THORNTON (01:36:09)**

The Committee had before it, and **NOTED**, a draft Letter of Representation from Grant Thornton which was provided in connection with the audit of the financial statements of Mid Devon District Council and its subsidiary undertaking, 3 Rivers Development Limited.

It was further **NOTED** that this needed to be signed by the Deputy Chief Executive (S151) and the Chair of the Audit Committee once all outstanding issues had been resolved.

40. **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (01:37:20)**

The following was requested to be on the agenda for the next meeting (in addition to the items already identified within the work programme):

- Consideration of a Housing Infrastructure Fund (HIF) report as recommended by the Scrutiny Committee
- Security issues associated with using Outlook as an email system and in particular the risks in relation to 'phishing' emails.

(The meeting ended at 7.15 pm)

**CHAIRMAN**

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# Minute Annex

The reply to this question, from the Deputy Chief Executive, has been published as a supplement to minutes of the meeting held on 23 June 2020, being the meeting at which the question was first put.

## Question from Cllr Wilce – PQT – Audit Committee – 23 June

*Cllr A Wilce stated that the MDDC Constitution section 9.1, Audit Committee: General Role says:*

*Within their terms of reference, the Audit Committee may:*

*(a) Provide independent assurance of the adequacy of the risk management framework and the associated control environment including (from the perspective of the Council) those partnership or joint working arrangements the Council has with other bodies and how their risk management and controls might impact the Council.*

*I find it bizarre that this function is permissive according to the Constitution and not a duty or function specifically directed by the Council, to be carried out by this Committee. Certainly, in my mind, the Audit Committee has a duty to examine and comment on risks to the Council.*

*With this in mind, I ask members to carefully consider what was said in the report to the Cabinet of the previous administration, setting up 3RDL on 30th March 2017.*

*This report was about 3RDL was considered in private, as usual, but it was released on the order of the Information Commissioner. Notwithstanding that, it is not available in the meeting pack. In it, in as many words, it was stated 3RDL would not be allowed to fail.*

*5.5 .....There may be a risk that it may not be able to recover any loans or property which has transferred to the company but it is very unlikely a council owned wholly owned company would be willing to allow the company to reach the point of insolvency.*

*This Council has to date paid 3RDL circa £10M of public money, with an option for many millions more; originally another £99 million but reduced to £12.1 million by the current administration.*

*Is this Committee able to give taxpayers assurance that this was done with due diligence and competence by MDDC officers, fully in accordance with the usual business risk management processes and in particular, in accordance with Section 5.17 of that report, in which it was stated that:*

*5.17..... The council will develop robust agreements between the council and the company to ensure the council does not cover the company's full liabilities and indebtedness.*

*The Deputy Chief Executive and S151 Officer stated that a full and thorough response would be provided to Cllr Wilce and the members of the Committee as soon as was practicable.*

Response from the Deputy Chief Executive (S151) – 13 August 2020

I can confirm that the Council has 6 individual project loan agreements with its wholly owned property development company, 3Rivers, totalling £9.061m, as at the 31 March 2020. 4 of them are for individual development projects, 1 is for an individual property acquisition and 1 is for their working capital requirements. The loan agreements stipulate: the project name, start and finish dates, all payments dates, type of loan, interest rate, full amount of the loan, repayment frequency, completion date + a schedule of all estimated drawdowns in amounts and months when required. In addition there is a single working capital loan agreement which covers staffing costs, external consultancy, when required, office accommodation and other associated overheads.

All of these loan agreements comply with amounts agreed in 3Rivers Business Plan approved by Cabinet in February of each year and then reflected in the Council's Capital Programme and Treasury Management Strategy.

All of these loan agreements comply with the overarching Funding Agreement agreed by Cabinet and signed by the 3Rivers MD, the Chief Executive and the Leader on the 8 January 2018.

Qualified accountants within the Council's finance team review the amounts included within all of the loan agreements, are responsible for making any payments requests (after they are duly authorised) and also calculate any impairment provision required, if there is any perceived risk that full recovery may not be forthcoming, in full compliance with Local Authority accounting code.